

# MITIGATION PROGRAM POLICY

CDBG-DR

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## Version History

Version	Date	Summary Description	Approved By
1.0	12.11.2025	Original Document	
			

## Table of Contents

1. Introduction .....	6
2. Program Overview .....	7
3. Alignment with the Universal Notice .....	8
A. Required Policies and Procedures (Universal Notice Section III.A.2) .....	9
B. Infrastructure Requirements (Universal Notice Section III.A.4) .....	9
4. Roles and Responsibilities .....	11
A. Grantee – Maui County .....	11
B. Subrecipients .....	12
C. Contractors and Vendors .....	13
5. Program Requirements .....	14
A. Eligible Entities .....	14
B. Eligible Activities .....	15
C. Use of Funds .....	17
I. Eligible Uses of Funds .....	17
II. Ineligible Use of Funds .....	20
III. Areas Requiring HUD Review or Additional Justification .....	21
D. Mitigation Connection .....	21
E. National Objectives .....	23
I. Low- and Moderate-Income Area Benefit (LMA) .....	23
II. Low- and Moderate Job Creation or Retention (LMJ) .....	26
III. Urgent Need (UN) .....	27
III. National Objective Documentation and Compliance .....	28
F. Infrastructure Standards and Resilient Construction .....	28
G. Mitigation Requirements for Public Facilities and Non-Residential Buildings .....	29
H. Flood Control Structure Requirements .....	30
I. Limitation on Use of Funds for Eminent Domain .....	30
6. Project Selection .....	31
A. Selection Methodology .....	31

B. Project Submission Requirements .....	32
C. Preliminary Project Review .....	33
Completeness Verification.....	33
Threshold Eligibility Determination .....	33
Project Snapshot Preparation.....	33
Priority Group Assignments.....	34
D. Evaluation Review Committee .....	34
Scoring.....	35
Ranking .....	35
Selection .....	35
Alternate Projects .....	36
E. Award Determination .....	36
F. Project Commencement and Implementation .....	37
7. Duplication of Benefits .....	38
A. DOB Framework .....	38
B. Common Sources of Available Assistance .....	39
C. Assistance Not Considered Duplicative .....	39
D. Subrogation .....	40
E. Supplanting.....	40
8. Environmental Review .....	40
A. Environmental Clearance .....	41
B. Choice-Limiting Actions .....	42
C. Environmental Review Record (ERR) .....	42
D. Responsible Entity and Oversight.....	43
E. Level of Review Based on Activity Type .....	43
F. Adoption of Other Federal Reviews .....	43
G. Technical Assistance .....	44
9. Payment and Reimbursement .....	44
A. Eligibility for Reimbursement .....	44

B. Request for Reimbursement Process .....	44
C. Payment Sequencing and Funding Coordination .....	45
D. Retention and Final Payment .....	45
E. Recordkeeping.....	45
10. Compliance and Monitoring .....	46
A. Grantee Responsibilities .....	46
B. Monitoring Methods .....	47
C. Monitoring Period .....	48
D. Quality Assurance and Recordkeeping .....	48
E. Non-Compliance .....	48
11. Timeliness.....	49
12. Closeout.....	50
A. Project Closeout.....	50
B. Program Closeout .....	51
13. Other Program and Cross-Cutting Requirements .....	52
A. Uniform Relocation Act (URA) and Acquisition .....	52
B. Procurement .....	54
C. Labor Standards .....	54
D. Section 3.....	55
E. Civil Rights and Non-Discrimination .....	56
F. Program Income .....	56
G. Elevation Standards.....	56
14. Debarment and Suspension .....	57
15. General Provisions.....	57
A. Fraud, Waste, and Abuse .....	57
I. Reporting Fraud .....	58
B. Conflict of Interest .....	58
C. Complaints .....	59
D. Appeals .....	59

E. Exceptions and Special Considerations to Program Policies.....	61
F. Administrative Policies.....	61
Appendix A – Terms and Definitions .....	63

## 1. Introduction

This policies and procedures manual outlines the operational framework for the implementation of the Mitigation Program (the Program), administered by the County of Maui Office of Recovery in response to the Hawai‘i Wildfires (Maui Wildfires), DR-4724-HI. The purpose of this document is to provide clear, consistent guidance to program staff, partners, and stakeholders on the administration of the Mitigation Program ensuring compliance with applicable federal, state, and local requirements. It is intended to serve as a reference for those involved in program delivery and oversight, including case managers, contractors, subrecipients, and auditors.

The content of this manual includes eligibility criteria, application intake and review processes, award determination, construction standards, compliance monitoring, and closeout procedures. It is designed to ensure that all activities are carried out in a transparent and efficient manner. The policies and procedures are subject to change as program needs evolve or as new guidance is issued by the U.S. Department of Housing and Urban Development (HUD).

In accordance with HUD’s Universal Notice as amended<sup>1</sup>, the Program must maintain written policies and procedures as a Community Development Block Grant - Disaster Recovery (CDBG-DR)-funded program. This document fulfills that requirement and will be updated to reflect any substantive changes in program design, regulatory requirements, or operational practices. All updates will be documented in the version control section of this manual.

The Program has been developed in alignment with County of Maui’s long-term recovery strategy, including the Maui County Hazard Mitigation Plan and the Lahaina Long-Term Recovery Plan, and is informed by the unmet needs assessment and community engagement efforts described in County of Maui’s Action Plan for Disaster Recovery.

Users of this manual are encouraged to consult the most recent version of the County of Maui Action Plan which can be accessed online at <https://hookumuhou.mauicounty.gov/31/Document-Library> and any applicable amendments for additional context and strategic priorities guiding the implementation of the Program.

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<sup>1</sup> *Common Application, Waivers, and Alternative Requirements for Community Development Block Grant Disaster Recovery Grantees: The Universal Notice*, published on January 8, 2025, at 90 FR 1754, as amended by Memorandums 2025-02 and 2025-03 (“The Universal Notice”).

## 2. Program Overview

HUD has allocated \$1,639,381,000 in CDBG-DR funds to the County of Maui in response to Hawai‘i Wildfires (Maui Wildfires), DR-4724-HI, through the Allocation Announcement Notice published in the Federal Register at 90 FR 4759. This allocation was made available through the Public Law 118-158. These funds are intended to address unmet needs in housing, infrastructure, and economic revitalization, with a particular focus on benefiting low- and moderate-income (LMI) households and communities within the County of Maui.

This Program is a CDBG-DR initiative designed to support the long-term recovery, resilience, and safety of the County of Maui communities impacted by the 2023 Maui Wildfires. Administered by the County of Maui Office of Recovery (County OOR), the Program addresses forward-looking mitigation needs, ensuring that essential systems are strengthened against future wildfire, flood, and other hazard risks.

This Program is established to reduce future disaster risks and increase the long-term resilience of communities. The Program implements the County of Maui Action Plan and fulfills HUD’s mitigation set-aside requirement.

The Program is designed to:

- Reduce long-term disaster risk through targeted capital improvements and mitigation investments;
- Protect critical public infrastructure and community lifelines from future hazards;
- Integrate hazard mitigation, climate adaptation, and energy resilience into public infrastructure projects;
- Prioritize projects that serve low- and moderate-income (LMI) residents and HUD-designated Most Impacted and Distressed (MID) areas; and
- Coordinate with federal and state recovery programs, including FEMA Public Assistance (PA) and HMGP, to maximize the use of available resources.

The Program is structured to support two complementary components:

**FEMA Hazard Mitigation Grant Program (HMGP) Match Component:** The County OOR may use mitigation funds to provide the required non-federal cost share for FEMA-approved mitigation projects. This HMGP Match component enables the County OOR to leverage federal disaster recovery resources and accelerate implementation of projects that have already undergone FEMA’s technical review and benefit-cost analysis.

**Community Resilience Set-Aside Component:** The remaining portion of mitigation funds is reserved for projects that strengthen the County’s long-term resilience to natural hazards and climate-related threats. These projects may not meet FEMA’s hazard-specific definitions but are essential to protecting community systems, sustaining housing, and supporting economic stability.

Eligible projects may include, but are not limited to, flood control, wildfire mitigation, or fire-resistant infrastructure; wind and seismic retrofits for public facilities; energy resilience

measures such as microgrids or solar and battery storage; water system upgrades; transportation and transit improvements that enhance mobility and emergency access; housing resilience initiatives that reduce hazard exposure; and parking or access improvements that ensure the functionality and safety of eligible CDBG-DR projects serving low- and moderate-income (LMI) populations. The County may also offer voluntary buyouts in high-risk areas to reduce future hazard exposure and promote resilient land use, consistent with HUD, FEMA, and URA requirements.

The Program budget is allocated as follows:

<b>Program Allocation</b>	<b>\$213,832,000.00</b>	
<b>Community Resilience Set-Aside Budget</b>	\$198,832,000	\$50 million maximum grant amount for MIT set-aside projects
<b>HMGP Match Budget</b>	\$15,000,000	No maximum, so long as it meets the HMGP local match requirement

Funding for projects under this program will primarily be awarded as grants and implemented either through formal agreements with applicable County of Maui departments or directly by the County OOR, in compliance with CDBG-DR requirements. The amount of assistance for each project will be determined based on documented costs, unmet needs, and anticipated recovery and resilience outcomes. Exceptions to the maximum award may be considered on a case-by-case basis in accordance with program policies and procedures. All projects are subject to a duplication of benefits review, cost reasonableness analysis, and compliance with all cross-cutting federal requirements.

This Program Policy document establishes the framework for program administration, including roles and responsibilities, eligibility and compliance requirements, project selection and funding parameters, implementation and oversight procedures, and performance monitoring standards. By advancing a strategic portfolio of mitigation investments, the program plays a central role in protecting public safety and ensuring a more resilient and sustainable future for the residents of the Maui County.

### 3. Alignment with the Universal Notice

The Mitigation Program has been designed to comply with the applicable requirements of the April 5, 2025, Universal Notice (FR-6489-N-01), relevant Allocation Announcement Notices (AANs), the Housing and Community Development Act (HCDA) of 1974 (Public Law 93-383), and HUD regulations at 24 CFR part 570. The program's policies incorporate the following required elements and align with the program commitments outlined in the County of Maui Action Plan.

## A. Required Policies and Procedures (Universal Notice Section III.A.2)

The Program adheres to the general requirements for all CDBG-DR-funded programs, including:

- **Minimizing Displacement (Section III.A.2.a):**  
The Program will seek to minimize displacement to the greatest extent feasible; however, certain projects may involve property acquisition or activities that result in relocation. In such cases, the County OOR will fully comply with the Uniform Relocation Assistance and Real Property Acquisition Policies Act (URA) at 49 CFR part 24 and Section 104(d) of the HCDA, including adoption of a Residential Anti-displacement and Relocation Assistance Plan (RARAP), provision of relocation assistance and advisory services, and planning and budgeting for associated costs. The County OOR will assess potential displacement during project planning and environmental review, incorporate strategies to avoid or reduce impacts, and ensure accessibility needs of displaced persons with disabilities are met.
- **Mitigation and Resilience (Section III.A.2.b):**  
The Program will integrate mitigation measures and resilience strategies into all CDBG-DR investments. Projects will be encouraged and, where practicable, required to incorporate design features that reduce vulnerability to natural hazards, such as wildfire hardening, floodproofing, stormwater diversion, and hazard-resistant construction standards. Projects will align with the Maui County Hazard Mitigation Plan and other resilience strategies and will be designed and constructed to withstand chronic stresses and extreme weather events. Resilience performance measures will be identified in the Disaster Recovery Grant Reporting (DRGR) system to demonstrate compliance with HUD requirements and to promote long-term durability of CDBG-DR investments.
- **Timeliness and Projections (Section III.A.2.c):**  
The County OOR has developed quarterly projections for expenditures and outcomes, which are uploaded into the DRGR system. These projections are monitored throughout the program's lifecycle and publicly posted in accordance with Section III.B.8.a. of the Universal Notice. The program will use these projections to measure performance against planned outputs.

## B. Infrastructure Requirements (Universal Notice Section III.A.4)

As an infrastructure and public facilities initiative, this program also complies with Section III.A.4 of the Universal Notice, including:

- **Construction or Rehabilitation of Disaster-Related Systems (III.A.4.i):**

The program supports the construction, repair, and rehabilitation of infrastructure and public facilities directly impacted by the 2023 Maui Wildfires. Eligible activities include stormwater and drainage systems, transportation networks, water and sewer utilities, emergency response facilities, and other community-based mitigation systems. The County OOR will work with County departments and partners to document wildfire-related impacts, identify unmet needs, and determine associated costs, consistent with HUD's requirements.

- **Operation and Maintenance Planning (III.A.4.ii):**

Because CDBG-DR funds cannot be used for ongoing operations, maintenance and repair, all funded projects will include a sustainability plan for long-term operation and maintenance. The County OOR will require funding recipients to designate the responsible entity for ongoing operations and maintenance, document how these costs will be budgeted, and identify the governmental or utility body responsible for ensuring the facility remains functional over its expected lifespan.

- **Alignment with Hazard Mitigation and Resilience Plans (III.A.4.iii):**

The program will align CDBG-DR investments with objectives outlined in the Maui County Hazard Mitigation Plan and other locally adopted resilience strategies. Priority will be given to projects that integrate hazard mitigation measures such as wildfire hardening, flood reduction, and emergency preparedness improvements, thereby reducing future risks to County of Maui communities.

- Maui County Hazard Mitigation Plan

<https://www.mauicounty.gov/1832/Hazard-Mitigation>

- **Alignment with Other Infrastructure Development Efforts (III.A.4.iv):**

The program will align CDBG-DR infrastructure investments with other federal, state, and local capital improvements and infrastructure development efforts. Where feasible, the County OOR will coordinate with FEMA Public Assistance projects, State of Hawai'i infrastructure initiatives, and private sector investments to maximize leverage and reduce duplication. This coordination ensures CDBG-DR funds complement broader recovery and development efforts and foster opportunities to attract additional funding sources.

- **Duplication of Benefits Framework (III.A.4.v & Appendix C of Universal Notice):**

The program will follow the DOB framework outlined in Appendix C of the Universal Notice. The County OOR will also require documentation that no local or state capital improvement funds are already designated for the same activity. Where such funds were previously planned but are no longer available, the County OOR will maintain written justification confirming their unavailability. All subrecipients must execute subrogation agreements to ensure repayment if future duplicative assistance is received.

## 4. Roles and Responsibilities

### A. Grantee – Maui County

As the direct recipient of Community Development Block Grant–Disaster Recovery (CDBG-DR) funds from HUD, the County of Maui, via the Office of Recovery (**County OOR**), is responsible for overall administration, oversight, and compliance of the Program.

The County OOR retains ultimate legal, financial, and programmatic responsibility, even when projects are delivered by subrecipients, contractors, or vendors. The County OOR may directly implement eligible projects. In these instances, County OOR may engage contractors, vendors, or professional service providers to perform day-to-day implementation activities. Activities include, but are not limited to, procurement, construction management, and reporting, to ensure compliant delivery of the project scope.

Core responsibilities include:

#### 1. Program Planning and Governance

- Develop, implement, and maintain program policies, procedures, forms, and templates that guide program operations in compliance with HUD requirements and disaster recovery objectives.
- Establish staffing, systems, and protocols to support program delivery, including project intake, compliance review, and monitoring.
- Ensure program alignment with mitigation set-aside requirements and local hazard mitigation priorities.

#### 2. Program Oversight

- Execute formal grant agreements with applicable subrecipients to carry out program-funded projects or directly implement projects by the County OOR where appropriate.
- Conduct pre-award risk assessments, provide training and technical assistance, and monitor entity performance.
- Retain oversight of responsibility for all entity operations, including procurement, construction, and compliance.

#### 3. Financial Management

- Administer the program budget and financial processes, including processing draw requests, reviewing expenditures, and reporting through HUD’s Disaster Recovery Grant Reporting (DRGR) system in accordance with 2 CFR Part 200.
- Ensure subrecipients maintain accurate financial records and comply with allowable cost principles.

#### 4. Compliance and Monitoring

- Ensure that all projects meet CDBG-DR eligibility and national objective requirements, as defined in Section 5.E.
- Oversee compliance with cross-cutting federal regulations, including duplication of benefits, procurement, URA/acquisition, environmental review, Davis-Bacon (as applicable), Section 3, and fair housing/civil rights requirements.
- Monitor program performance using a risk-based approach, including desk reviews, site visits, and quarterly reporting from subrecipients, contractors, or implementing partners.
- Track performance metrics such as project milestones achieved, funds disbursed, percent completion by phase, and number of beneficiaries served, particularly within HUD-designated Most Impacted and Distressed (MID) areas.
- Conduct compliance reviews to verify adherence to HUD requirements and program standards, including environmental clearance, labor standards, procurement, and DOB compliance.
- Take corrective actions when projects do not meet timelines, scope, or compliance standards, which may include increased oversight, withholding funds, or reallocation.

## 5. Reporting

- Maintain accurate program records in compliance with HUD recordkeeping requirements.
- Prepare and submit HUD-required reports, including beneficiary data, project outcomes, financial status, and other DRGR submissions.
- Ensure transparency by posting program information, quarterly performance updates, and financial reporting summaries on the County OOR's disaster recovery website, <https://hookumuhou.mauicounty.gov/31/Document-Library>.

## 6. Program Closeout

- Reconcile all project expenditures and verify documentation completeness prior to closeout.
- Submit final financial and programmatic reports to HUD.
- Retain records for at least three (3) years after HUD closeout, or longer if required.

## B. Subrecipients

Subrecipients may include County of Maui departments, public agencies, state agencies, or nonprofit organizations designated under formal grant agreements with the County OOR. The County OOR may directly implement eligible projects through agreements with participating departments. The County OOR and its subrecipients are responsible for carrying out program-funded projects in compliance with HUD requirements, federal cross-cutting laws, and the County OOR's program guidelines. Key responsibilities include:

- **Program Implementation:** Deliver day-to-day operations of assigned mitigation projects, including procurement, construction management, contractor oversight, and project reporting.
- **Compliance:** Ensure compliance with CDBG-DR requirements, including national objective documentation, duplication of benefits, URA/acquisition, environmental review coordination, Davis-Bacon, Section 3, and procurement rules.
- **Financial Management:** Maintain accurate records of expenditures, contracts, and invoices; submit reimbursement requests to the County OOR with required documentation.
- **Recordkeeping and Reporting:** Track and report progress, milestones, and beneficiary data; submit quarterly reports to the County OOR.
- **Oversight and Accountability:** Demonstrate capacity and internal controls prior to executing subrecipient agreements; address monitoring findings or corrective actions in a timely manner.

Subrecipients remain legally and financially responsible for all activities under their agreements, even when contractors or vendors are engaged to support project delivery.

## C. Contractors and Vendors

Subrecipients may procure contractors, vendors, and professional service providers to support implementation of CDBG-DR mitigation projects. Similarly, County OOR may procure contractors, vendors, and implementation partners directly when acting as the implementing entity for projects. Contractors and vendors must adhere to federal procurement and performance requirements.

### **Contractor and Vendor Responsibilities include:**

- Deliver construction, professional, or technical services per an executed contract with a subrecipient or the County OOR.
- Comply with applicable procurement standards at 2 CFR §§ 200.317–.327 and HUD-specific procurement requirements.
- Follow all contract provisions, including those related to Davis-Bacon, Section 3, nondiscrimination, and conflict of interest.
- Submit required documentation such as certified payrolls, invoices, progress reports, and compliance certifications.
- Cooperate with County OOR and HUD monitoring and audits.

The County OOR and its subrecipients retain oversight authority for all contracted activities and are responsible for ensuring contractors perform in compliance with program requirements.

## 5. Program Requirements

### A. Eligible Entities

To be eligible to receive CDBG-DR funding under the Program, subrecipients must meet defined criteria that ensure compliance with HUD regulations, alignment with County of Maui's Action Plan, and the capacity to implement large-scale mitigation and resiliency projects.

#### **Direct Implementation by County OOR**

If a county department or eligible subrecipient does not have sufficient capacity to carry out a project, County OOR may serve as the implementing entity. In such cases, the County OOR may directly procure and manage contractors, vendors, or implementation partners to complete the project scope in compliance with HUD and County requirements.

#### **Eligible Subrecipient Entities**

Eligible subrecipients under this program are limited to public and nonprofit entities authorized by County OOR to carry out mitigation projects. Eligible subrecipients include:

- **County of Maui departments or agencies** (e.g., Department of Public Works, Department of Water Supply, Department of Fire and Public Safety, Department of Environmental Management, Department of Human Concerns, etc.);
- **State of Hawai'i departments or agencies** (e.g. Department of Transportation)
- **Other public entities**, such as housing authorities, utilities, or special districts; and
- **Nonprofit organizations** carrying out mitigation-related projects, only where such participation is expressly permitted under HUD regulations and authorized by the County OOR.

Subrecipients must (as applicable):

- Must have been in operation at the time of the fire (non-profit organizations);
- Be legally established and authorized to operate within the State of Hawai'i;
- Possess a valid and current **Unique Entity Identifier (UEI)** registered in **SAM.gov**;
- Must be registered with the State of Hawaii Department of Commerce and Consumer Affairs;
- Demonstrate capacity to comply with federal requirements under 2 CFR Part 200 and CDBG-DR regulations, including financial management, procurement, recordkeeping, and reporting;
- Not to be listed on SAM.gov's exclusion list or **HUD's Limited Denial of Participation (LDP)** list.

#### **Operational and Compliance Criteria**

To qualify for funding, a subrecipient must (as applicable):

- Be designated by the County through an official executed agreement;
- Demonstrate programmatic and administrative capacity to implement mitigation projects, including procurement, contract management, and compliance oversight;
- Be current on all federal, state, and local tax obligations through a Certificate of Compliance from Hawaiian Compliance Express or provide documentation of an approved payment plan in good standing;
- Not have unresolved audit findings, pending litigation related to prior federal program participation, or a documented history of noncompliance with federal awards;
- Demonstrate readiness to proceed with eligible projects, including commitment of all funding sources, planning, permitting, or pre-development documentation, as required.

### **Geographic Eligibility**

All projects must be physically located within the County of Maui, which has been designated as a Most Impacted and Distressed (MID) area under the HUD allocation.

### **Participation Limits**

- Each subrecipient may manage multiple projects, but each project must be independently documented, justified, and approved by the County OOR to ensure compliance with HUD eligibility and national objective requirements.
- Subrecipients must maintain separate financial accounts, records, and reporting for each project funded under this program.

### **Minimum Capacity and Risk Standards**

Prior to executing a subrecipient agreement, the County OOR will conduct a pre-award risk assessment to verify organizational capacity, staffing, and internal controls. The County OOR may impose additional requirements, such as enhanced reporting or technical assistance, for higher risk subrecipients.

This approach ensures that only eligible entities with the capacity to meet federal requirements and deliver mitigation projects are eligible to receive funding under the program. County OOR may directly implement the project, in whole or in part as determined by the executed agreement, using contracted implementation partners or vendors.

## **B. Eligible Activities**

All activities funded through the Program must qualify as eligible activities under Section 105(a) of the Housing and Community Development Act of 1974 (HCDA), as amended (42 U.S.C. § 5305), and as defined at 24 CFR 570.201 and 202, or pursuant to an applicable waiver or alternative requirement established by HUD through the April 5, 2025, CDBG-DR Universal Notice, Allocation Announcement Notices, or a grantee-specific waiver approved by HUD.

The following sections of the HCDA provide the statutory basis for eligible program activities:

- **Section 105(a)(1): Acquisition of Real Property**

Acquisition of real property, easements, or rights-of-way for public purposes, including but not limited to ingress and egress routes critical to disaster response and community recovery, risk mitigation activities.

- **Section 105(a)(2): Public Facilities and Improvements**

Construction, repair, or reconstruction of public facilities and infrastructure, including but not limited to:

- Roads, bridges, and transportation systems;
- Water, wastewater, and stormwater management systems;
- Public health, safety, and wellness facilities (e.g., fire stations, emergency shelters, health centers);
- Drainage and flood control improvements; and
- Other essential public facilities, excluding buildings used for the general conduct of government.

- **Section 105(a)(3): Code Enforcement**

Code Enforcement in deteriorated or deteriorating areas in which such enforcement, together with public or private improvements or services to be provided, may be expected to arrest the decline of the area.

- **Section 105(a)(4): Clearance, Demolition, Removal, Reconstruction, and Rehabilitation**

Activities necessary to clear or rehabilitate disaster-damaged buildings and improvements, including those that promote energy efficiency, hazard mitigation, and resilience.

- **Section 105(a)(5): Architectural Barrier Removal**

Removal of architectural barriers that restrict accessibility for elderly persons or persons with disabilities in public facilities.

- **Section 105(a)(7): Disposition of Real Property**

Costs related to disposition of property acquired with CDBG-DR funds, including preparation for reuse as a public facility or infrastructure project.

- **Section 105(a)(9): Payment of Non-Federal Share**

Use of CDBG-DR funds to meet the non-federal cost share requirement for eligible federal grant programs, such as FEMA PA or HMGP.

- **Section 105(a)(11): Relocation Payments and Assistance**

Provision of relocation of payments and assistance to individuals, families, businesses, nonprofit organizations, and farm operations displaced by acquisition, rehabilitation, or demolition of real property for CDBG-DR-funded projects.

- **Section 105(a)(12): Planning Activities**

Activities necessary to develop a comprehensive community development plan and to develop capacity of funding recipients to effectively carry out management, coordination, and monitoring of activities necessary for planning implementation.

- **Section 105(a)(13): Payment of Reasonable Administrative Costs**

Payment of reasonable administrative costs and carrying charges related to the planning and execution of community development and mitigation activities.

- **Section 105(a)(16): Energy Use Strategies**

Infrastructure improvements and facility designs that incorporate renewable energy, energy efficiency, and sustainable practices to strengthen resilience and reduce long-term operating costs.

- **Section 105(a)(17): Economic Development Assistance to For-Profit Businesses**

Provision of assistance to private, for-profit entities for the purpose of carrying out economic development activities that create or retain jobs, increase resilience, or restore essential local economic functions following the disaster.

All program activities must be clearly documented, demonstrate alignment with the approved County of Maui Action Plan, align with one or more eligible activity categories under the HCDA or applicable HUD waiver, and meet at least one of the CDBG-DR national objectives identified in the Universal Notice. Activities not explicitly authorized by the HCDA, or an approved HUD waiver cannot be funded through this program.

## C. Use of Funds

### I. Eligible Uses of Funds

Allowable uses of Program funds may include, but are not limited to, activities that reduce long-term disaster risk, strengthen critical community systems, and improve the County of Maui's overall resilience to wildfires and other natural hazards. Examples include:

#### 1. Infrastructure Improvements

Program funds may be used to construct, expand, enhance, and strengthen infrastructure to withstand future disasters, protect essential public services, and provide for increased community resiliency, particularly for LMI communities. Eligible uses may include:

- Construction, repair, or reconstruction of flood control and drainage improvements.
- Construction of wildfire mitigation improvements and fire-resistant infrastructure.

- Transportation infrastructure, including traffic flow enhancements, that improve or enhance mobility and emergency access.
- Upgrades to critical infrastructure systems and utilities (i.e. water, wastewater, etc.) to improve access, distribution, and storage and increase resiliency of community lifelines.

All projects must meet CDBG-DR eligibility and national objective requirements; clearly demonstrate alignment with the County of Maui Action Plan mitigation needs assessment, Maui County Hazard Mitigation Plan, and/or other documented resilience objectives; and demonstrate compliance with duplication-of-benefits (DOB) requirements.

## **2. Public Facility Enhancements**

Program funds may be used to repair, construct, or enhance critical public facilities that provide essential public services in accordance with HUD requirements. Eligible uses may include:

- Construct or reconstruct critical public facilities, such as health and wellness facilities, fire stations and emergency shelters.
- Hardening or retrofitting of public facilities to meet wind, fire, or seismic safety standards.
- Parking or access improvements required to ensure the safety, functionality, or accessibility of eligible CDBG-DR facilities, including those serving low- and moderate-income (LMI) populations.

All projects must meet CDBG-DR eligibility and national objective requirements; clearly demonstrate alignment with the County of Maui Action Plan mitigation needs assessment, Maui County Hazard Mitigation Plan, and/or other documented resilience objectives; and demonstrate compliance with duplication-of-benefits (DOB) requirements.

## **3. Property Acquisition and Voluntary Buyouts**

Program funds may be used for the acquisition of real property, easements, or rights-of-way necessary to support mitigation and resilience projects, including:

- Acquisition of land for drainage, wildfire buffers, utility corridors, or emergency access routes;
- Voluntary buyouts of properties in high-risk areas to reduce long-term hazard exposure and restore natural buffers; and
- Site preparation, grading, or stabilization to support construction of eligible public infrastructure.

All acquisition and buyout activities must comply with environmental review requirements and the Uniform Relocation Assistance and Real Property Acquisition Policies Act (URA). The County OOR may also reimburse eligible pre-award acquisitions, provided all HUD requirements are met.

#### 4. Pre-Development

Program funds may support pre-development activities directly tied to eligible mitigation projects that meet a national objective. Allowable activities include:

- Engineering, architectural, and design services;
- Feasibility studies, benefit-cost analyses, and environmental assessments; and
- Other technical studies are necessary to plan and implement risk-reduction projects.

#### 5. Energy, Sustainability, and Climate Adaptation Measures

Program funds may support mitigation-related improvements that promote energy efficiency, renewable energy integration, and climate adaptation, including:

- Solar or hybrid energy systems for public facilities;
- Battery storage, microgrids, and other distributed energy resources that enhance resilience; and
- Sustainable infrastructure design features that reduce long-term operating costs and environmental impacts.

#### 6. Administrative and Program Delivery Costs

The County OOR and its subrecipients may use a portion of CDBG-DR funds to cover reasonable administrative and activity-delivery costs directly related to program implementation. Eligible costs include:

- Project intake, review, and eligibility determinations;
- Procurement, contract management, and construction oversight;
- Financial management, monitoring, and HUD-required reporting; and
- Staffing, training, or technical assistance necessary to ensure compliance with HUD and FEMA requirements.

Administrative expenditures must comply with 2 CFR part 200 and HUD's CDBG-DR administrative cost guidance.

#### 7. Reimbursement of Pre-Award Costs

In accordance with HUD's Universal Notice, the County OOR may reimburse itself or its subrecipients for otherwise allowable mitigation costs incurred on or after August 8, 2023, the incident date of the qualifying disaster, provided that the environmental review and all other cross-cutting federal requirements are completed prior to reimbursement.

All expenses must be reasonable, necessary, and directly tied to the recovery objectives of the Program. Activity delivery costs must comply with federal cost principles under **2 CFR Part 200, Subpart E** and will be tracked separately from direct project costs. In accordance with HUD requirements, program delivery costs may not exceed 15 percent of the total CDBG-DR award amount for the project.

## II. Ineligible Use of Funds

The following activities, expenses, and uses of funds are expressly ineligible under the Program, regardless of subrecipient or project type:

### 1. Ineligible Activities and Uses of Property

- **General Government Buildings:** Construction, rehabilitation, or improvement of buildings used for the general conduct of government (e.g., county administration buildings, police stations, correctional facilities, or courthouses) [24 CFR 570.207(a)(1)].
- **Political Activities:** Lobbying, campaigning, voter registration drives, or any activity of a political nature [24 CFR 570.207(a)(3)].
- **Religious Activities:** Facilities primarily used for religious worship or instruction.
- **General Government Expenses:** Routine costs of operating government that are not directly attributable to an eligible CDBG-DR activity.
- **Publicly Owned Utilities Not Demonstrating Public Need:** Improvements to privately owned utility infrastructure without sufficient documentation of public purpose, cost reasonableness, and alignment with eligible CDBG-DR activities.
- **Operation and Maintenance:** Routine maintenance activities and operating expenses for infrastructure or facilities after construction is completed.
- **Luxury or Non-Essential Facilities:** Construction or expansion of facilities not directly tied to disaster recovery, mitigation, or essential community services.

### 2. Ineligible Costs and Expenses

- **Revenue Replacement:** Reimbursement for lost revenue, net income, or tax receipts.
- **Debt Obligations:** Refinancing of existing debt, repayment of delinquent loan balances, or payment of judgments, penalties, fines, or legal settlements.
- **Supplanting Funds:** Activities already funded by other federal, state, insurance, or philanthropic sources.
- **Duplication of Benefits (DOB):** Costs already reimbursed or expected to be reimbursed by FEMA, insurance, SBA, or any other disaster assistance programs.
- **Non-Public Uses:** Expenditures that benefit private entities without demonstrating public purpose, community benefit, or compliance with HUD national objectives.
- **Non-Recovery Expenditures:** Entertainment, social events, gifts, or fundraising activities.
- **Unrelated Investments:** Purchase of financial instruments (e.g., stocks, bonds, mutual funds) or other investments not directly tied to an eligible project.

### III. Areas Requiring HUD Review or Additional Justification

Certain project types or cost categories may be allowable under the CDBG-DR Mitigation Program only with additional justification or prior to HUD review. Examples include:

- **Privately Owned Utilities:** Improvements where ownership is private, but service area benefits the public. Additional documentation must establish public need, proportional CDBG-DR investment, and cost reasonableness.
- **Mixed-Use Projects:** Projects that combine eligible public improvements with ineligible or private uses. Funding eligibility will apply only to the proportional share of project costs that directly benefit the public and meet mitigation objectives.
- **FEMA Cost Share Projects:** Use of CDBG-DR funds for FEMA Hazard Mitigation Grant Program (HMGP) match requires clear documentation that CDBG-DR funds are limited to the non-federal share and do not duplicate FEMA assistance.
- **Innovative or Pilot Resilience Projects:** Mitigation activities involving emerging technologies, climate adaptation pilots, or nontraditional infrastructure delivery models may require HUD review to confirm eligibility, cost reasonableness, and compliance with mitigation objectives.

The County OOR will consult with HUD and maintain written documentation for any activity in these categories to ensure compliance. Any expenditures later determined to be ineligible may be subject to repayment to HUD.

## D. Mitigation Connection

Any project funded under the Program must clearly demonstrate how the activity meets the federal definition of a mitigation activity and addresses the current or future risks identified in the Maui County FEMA-approved Hazard Mitigation Plan. Unlike recovery activities, mitigation projects are not required to tie back to the specific 2023 Maui Wildfires.

### Definition of Mitigation Connection

For purposes of this Program, a mitigation activity is defined as one that increases resilience to disasters and reduces or eliminates the long-term risk of loss of life, injury, damage to and loss of property, and suffering and hardship by lessening the impact of future disasters.

Each activity funded under the Program must demonstrate that it:

1. **Meets the definition of a mitigation activity** as outlined in the HUD Universal Notice;
2. **Addresses current or future risks** as identified in the Maui County Hazard Mitigation Plan or County of Maui Action Plan mitigation needs assessment;
3. **Is an eligible activity** under title I of the Housing and Community Development Act (HCDA) or an approved waiver or alternative requirement; and

4. **Meets a HUD national objective** (Low- and Moderate-Income Area Benefit, Low- and Moderate Job Creation or Retention, or Urgent Need).

### Examples of Eligible Mitigation Connections

A mitigation connection may be demonstrated through project scope, design, or location when it clearly reduces future hazard exposure or strengthens system-level resilience. Examples include, but are not limited to:

- **Wildfire Mitigation:** Creation of defensible space, installation of fire-resistant public infrastructure, or establishment of buffer zones that reduce ignition risk.
- **Flood and Stormwater Management:** Construction of drainage, detention, or diversion systems to prevent future flooding or erosion in hazard-prone areas.
- **Seismic and Wind Resilience:** Retrofitting public facilities or infrastructure to withstand earthquakes or hurricane-force winds.
- **Energy and Water Resilience:** Installation of microgrids, solar and battery systems, or resilient water storage and distribution improvements that maintain service during future disasters.
- **Critical Access and Mobility:** Road or bridge projects that enhance emergency access, evacuation routes, and continuity of operations during disaster events.
- **Community Lifelines:** Upgrades to facilities that provide essential services (e.g., emergency shelters, health centers, or water utilities) to ensure continuity under hazard conditions.

### Acceptable Documentation

Sufficient documentation must be provided to demonstrate that the proposed activity directly addresses a known hazard and contributes to long-term risk reduction. Acceptable forms of documentation include, but are not limited to:

- Excerpts from the mitigation needs assessment;
- Excerpts from the Maui County Hazard Mitigation Plan identifying relevant hazards and strategies;
- Engineering or planning studies documenting risk exposure, vulnerability, or potential loss avoidance;
- FEMA, State, or County hazard maps and GIS data showing project location relative to risk zones;
- Technical design specifications or modeling demonstrating how the project will reduce the likelihood of future damages;
- Environmental or climate resilience assessments; and
- Endorsements or consistency statements from County departments or FEMA confirming alignment with approved mitigation priorities.

### Alignment with Hazard Mitigation Planning

All mitigation-funded activities must align with the Maui County Hazard Mitigation Plan and, where applicable, other FEMA-approved or locally adopted resilience or long-term recovery

plans. Projects that are inconsistent with these plans, or that cannot demonstrate measurable risk reduction, are not eligible for funding under this Program.

## E. National Objectives

All activities funded under the Program must meet one of the national objectives established by the U.S. Department of Housing and Urban Development (HUD), as required by Section 104(b)(3) of the Housing and Community Development Act of 1974 (HCDA), codified at 42 U.S.C. § 5304(b)(3), or pursuant to a waiver or alternative requirement issued by HUD under the CDBG-DR Universal Notice or related guidance:

- **Low- and Moderate-Income Area Benefit (LMA)** – 24 CFR § 570.483(b)(1)
- **Low- and Moderate Job Creation or Retention (LMJ)** – 24 CFR § 570.483(b)(4)
- **Urgent Need (UN)** – 24 CFR § 570.483(d)

In accordance with the County of Maui Action Plan, this program is designed to primarily benefit **low- and moderate-income (LMI) persons** through mitigation investments. County OOR will make the final determination of which national objective applies to each funded activity. The preferred national objective for this program is **low- and moderate-income Area Benefit (LMA)**, given the program's focus on infrastructure and risk mitigation that broadly serve residential communities.

### I. Low- and Moderate-Income Area Benefit (LMA)

To qualify under the LMA national objective, a project must:

- Serve a defined service area that is primarily residential in nature;
- Be located in, or provide services to, an area where at least **51% of residents are LMI**, as determined by HUD's Low- and Moderate-Income Summary Data (LMISD) or a HUD-approved income survey; and
- Provide services or access that are broadly available to all residents within the service area, without exclusion.

#### Required documentation:

- Service area map or written description;
- LMISD confirmation or income survey data; and
- Narrative explaining how the facility or infrastructure benefits the service area.

#### *HUD-approved Action Plan and Determination of LMI Area*

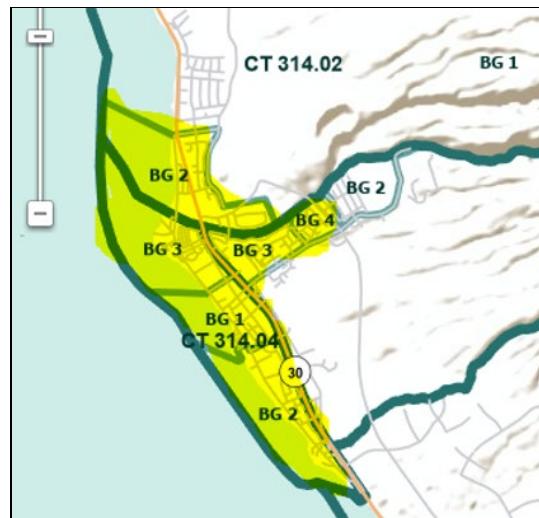
HUD's Office of Policy Development and Research approved a tailored approach for determining Low- and Moderate-Income (LMI) Area (LMA) benefit specific to the Lahaina fire-impacted area as shown in the table and map below. Although the Lahaina place boundary falls slightly below the 51% LMI threshold in both ACS 2011–2015 and 2016–2020 datasets (each showing 48%), HUD allowed the County OOR to use more recent and detailed Block

Group-level data for the fire-impacted area. When isolating the fire-impacted area at the Block Group level, the data supports LMA qualification, allowing CDBG-DR investments serving this area to receive LMI benefit credit under HUD's requirements.

**Summary of Fire Impacted Block Groups – ACS 2016-20 data**

<b>geoname</b>	<b>lowmod</b>	<b>lowmoduniv</b>	
Block Group 1, Census Tract 314.02, Maui County, Hawaii	725	1,595	
Block Group 2, Census Tract 314.02, Maui County, Hawaii	600	1,560	
Block Group 1, Census Tract 314.04, Maui County, Hawaii	420	755	
Block Group 2, Census Tract 314.04, Maui County, Hawaii	895	1,805	
Block Group 3, Census Tract 314.04, Maui County, Hawaii	860	1,070	
Block Group 3, Census Tract 314.05, Maui County, Hawaii	970	1,645	
Block Group 4, Census Tract 314.05, Maui County, Hawaii	630	1,510	
<b>Total</b>	<b>5,100</b>	<b>9,940</b>	<b>51.3%</b>

**Table 1:** County of Maui Action Plan – Lahaina Low- Moderate-Income (LMI) Area Benefit (LMA)



**Map 1:** County of Maui Action Plan – LMI Area Benefit Map

#### *Determining a Project’s Service Area*

A project’s service area is the area in which the project’s benefits can be realized by residents. This defines whether a project is able to be considered an LMI project. Service areas can range from very small (for a local street repair or community playground) to large multi-jurisdictional areas (for large critical infrastructure projects). Applicants will be required to indicate and justify a project’s service area. Technical assistance will be provided as needed to assist applicants with this important project design aspect.

The following considerations must be made when making a determination regarding the service area:

<b>Nature of the Activity</b>	The size and the equipment associated with the activity should be taken into consideration. For example: A small park with a limited number of slides and benches would not be expected to serve a large neighborhood. In the same way, a larger park that can accommodate a considerable number of people would not be expected to serve just the immediately adjacent properties. The same applies to improvements or assistance to an alleyway versus a small two-lane street versus an arterial four-lane street within the same neighborhood. The service area for each of these infrastructure projects will be different in size and population.
<b>Location of the Activity</b>	The immediate area surrounding a facility or improvement is expected to be included in the service area. Additionally, when a facility is located near the boundary of a particular block group, its service area could likely include portions of the adjacent block groups as well as the one in which it is located. If the activity’s service area overlaps into multiple block groups, the entirety of the data for all block groups may be used. If the service area is smaller than a block group, beneficiary data may be collected via in-person surveys.

<b>Accessibility</b>	Geographic impediments can separate and preclude persons residing in a nearby area from taking advantage of a facility or improvement. Other limits to accessibility can include access fees, language impediments, time, or duration that an activity is available, access to transportation and parking, etc.
<b>Availability of Comparable Activities</b>	Comparable activities within the service area should be taken into account so that the service area does not overlap with the service area of another comparable activity.
<b>Boundaries for Facilities and Public Services</b>	The service area for some public facilities and services is determined based on specified and established boundaries or districts. Examples of such services and facilities are police precincts, fire stations, and schools.

## II. Low- and Moderate Job Creation or Retention (LMJ)

The LMJ benefit national objective addresses activities designed to create or retain permanent jobs, at least 51 percent of which (computed on a full-time equivalent basis) will be made available to or held by LMI persons.

### Documentation Requirements:

For activities qualifying under the LMJ national objective, the following records must be maintained. Requirements differ depending on whether the activity creates **jobs available to LMI persons**, **jobs held by LMI persons**, or **jobs retained**. Requirements are outlined pursuant to 24 CFR 570.506(b)(5) and (6), respectively.

#### 1. Job Creation – Jobs Made Available to LMI Persons:

Each assisted business must provide a written agreement which includes:

- Commitment by the business that at least 51% of new FTE jobs will be available to LMI persons, including a commitment to provide training when special skills/education are required.
- List of permanent jobs to be created, identifying jobs available to LMI persons, jobs requiring special skills or education, and part-time positions.
- Description of actions the subrecipient and business will take to ensure LMI persons receive first consideration for these jobs.
- List of permanent jobs filled, identifying which were available to LMI persons, and documentation of the hiring process showing how first consideration was provided (e.g., hiring process used, LMI applicants interviewed, LMI applicants hired).

#### 2. Job Creation – Jobs to be Held by LMI Persons

Each assisted business must provide a written agreement that includes:

- a. Commitment that at least 51% of new permanent FTE jobs will be held by LMI persons.
- b. List of permanent jobs to be created, specifying any part-time positions.
- c. List of jobs filled, identifying which were initially held by LMI persons.
- d. Documentation of family size and income at time of hire, or evidence the individual qualifies as presumed LMI based on business or residential location, for each LMI person hired.

3. Job Retention

For activities qualifying on the basis of job retention, the following must be documented and maintained:

- a. Evidence that the jobs would be lost without CDBG-DR assistance.
- b. List of permanent jobs retained, identifying part-time positions and which jobs are held by LMI persons at the time the assistance is provided.
- c. Identification of any retained jobs other than those already held by LMI persons, that are projected to become available to LMI persons through turnover within two years, and an explanation of how turnover projections were calculated.
- d. Documentation of family size and income or other evidence of presumed LMI status for each job claimed as held by LMI persons.
- e. For jobs projected to become available to LMI persons based on turnover:
  - i. Required documentation described under “jobs available to LMI persons,” and
  - ii. A listing of jobs that have turned over to date, including whether they were filled by or made available to LMI persons and how first consideration was provided.

### III. Urgent Need (UN)

While not expected to be the primary national objective for this program, the Urgent Need (UN) national objective may be used for projects where conditions pose a serious and immediate threat to the health, safety, or welfare of the community and cannot otherwise be addressed with available resources.

Use of the UN objective is subject to HUD’s waiver and alternative criteria under Section III.B.2 of the CDBG-DR Universal Notice. This includes assistance for households above 80% of Area Median Income (AMI) when projects are necessary to protect community health, safety, and stability. The County of Maui Action Plan identifies urgent conditions that may be addressed under this objective.

#### **Restrictions and Priorities:**

- The County OOR has a target to expend 70% of its total CDBG-DR funds to activities benefiting low- and moderate-income (LMI) households, unless HUD issues a waiver.
- UN projects must directly respond to conditions identified in the County's unmet needs assessment and must demonstrate that no other financial resources are available to address the need.
- Projects must be time-sensitive, feasible within program expenditure deadlines, and not duplicative of assistance from other federal, state, local, or private sources.

#### **Required Documentation:**

To qualify under Urgent Need, subrecipients must provide:

- A narrative describing the nature of the urgent threat, how it arose from the 2023 Maui Wildfires, and why it poses a serious and immediate risk to health, safety, or community welfare;
- Evidence that the condition is not being addressed by other sources of assistance (e.g., documentation of ineligibility or insufficiency of FEMA, insurance, SBA, or state programs);
- Certification from the County OOR confirming that the threat results from the disaster and that CDBG-DR funding is required to address it;
- Connection to the unmet needs assessment or other data identifying the urgent condition;
- Project schedule and scope demonstrating timely response and completion.

### **III. National Objective Documentation and Compliance**

The County OOR is responsible for verifying that each funded activity meets an eligible national objective and for maintaining complete documentation in accordance with HUD recordkeeping standards. Each subrecipient agreement will specify the applicable national objective, required documentation, and the timeline for compliance.

National objective compliance will be:

- Verified prior to project approval;
- Monitored during project implementation; and
- Reconfirmed at project closeout.

Failure to meet a national objective may result in recapture of funds. The County OOR will provide technical assistance to subrecipients as needed to ensure consistent compliance.

### **F. Infrastructure Standards and Resilient Construction**

Any infrastructure projects funded under this program must be designed and constructed to withstand the impacts of extreme weather events and natural hazards. The County OOR and its Subrecipients are encouraged to adopt and apply the most recent edition of the

**International Building Code (IBC)**, or an equivalent standard, for public facility construction.

Resilience performance measures must be identified and implemented in accordance with the Universal Notice (Section III.D.3). These measures may include hazard-resistant design features, fire- and flood-resistant construction materials, and integration of energy efficiency or renewable energy systems.

For purposes of this program, “infrastructure activities” include any investment that develops or supports physical assets designed to provide or support services to the general public. Examples include, but are not limited to:

- Roads, bridges, and transit facilities;
- Water, wastewater, and stormwater systems;
- Ports and navigational channels;
- Energy production, transmission, and distribution systems;
- Broadband and communications infrastructure;
- Schools, hospitals, and emergency shelters.

The County OOR and/or Subrecipients must demonstrate compliance with applicable codes and standards as it relates to the type of project proposed. The County OOR and/or Subrecipients must maintain related documentation in their project files.

## G. Mitigation Requirements for Public Facilities and Non-Residential Buildings

All projects involving the construction, reconstruction, or rehabilitation of public facilities and other non-residential buildings funded through this program must incorporate mitigation and resilience measures as a condition of eligibility. These requirements are intended to ensure that facilities built with CDBG-DR funds are designed to withstand both current hazards and future risks associated with extreme weather events and changing climate conditions.

The County OOR and its Subrecipients are required to:

1. **Integrate Mitigation Strategies** – Each project must incorporate mitigation measures that reduce the risks of natural hazards such as flooding, high winds, wildfire, or coastal impacts. These strategies may include, but are not limited to, elevating structures, hardening building envelopes, installing impact-resistant windows and doors, and incorporating fire-resistant materials.
2. **Design for Resilience** – Projects must demonstrate that design and construction standards account for both existing and projected natural hazards expected over the useful life of the facility. This may involve adopting higher flood elevations, applying wind and seismic standards beyond minimum code requirements, or integrating backup power systems for critical facilities.

3. **Document Resilience Performance Measures** – Projects must identify all mitigation measures used and report related resilience performance measures in HUD’s Disaster Recovery Grant Reporting (DRGR) system. This documentation must be maintained in the project file and is subject to review by the County OOR and HUD.

By requiring mitigation measures for public facilities and non-residential buildings, the County OOR CDBG-DR investments will create stronger, more sustainable infrastructure that reduces long-term disaster risk and ensures continuity of essential services for residents during and after future disasters.

## H. Flood Control Structure Requirements

Pursuant to HUD’s CDBG-DR requirements, funds may only be used to repair or rehabilitate flood control structures (dams and levees) under strict conditions. Specifically, such structures must be registered in the U.S. Army Corps of Engineers (USACE) National Levee Database or National Inventory of Dams, admitted into the USACE PL 84-99 Rehabilitation Program, and accredited under FEMA’s National Flood Insurance Program (NFIP). In addition, grantees must document risk reduction measures and enter structure information into HUD’s Disaster Recovery Grant Reporting (DRGR) system.

The County does not have any dams or levees subject to these requirements. Accordingly, while this restriction is not anticipated to affect local project eligibility, it remains included here to ensure alignment with HUD’s federal requirements should circumstances change or future projects involve such structures.

## I. Limitation on Use of Funds for Eminent Domain

CDBG-DR funds may not be used to support projects that rely on the use of eminent domain unless the acquisition is solely for a public use. For the purposes of this program, “public use” does not include economic development activities that primarily benefit private entities or buyouts of private property.

The following project types are considered valid public uses for eminent domain purposes:

- Mass transit, railroad, airport, seaport (including harbors), or highway projects;
- Utility projects that benefit or serve the general public, including energy, water, wastewater, and communications infrastructure;
- Public structures or facilities with a common-carrier or public-utility function, subject to government oversight and regulation;
- Projects to remove an immediate threat to public health and safety, including removal of brownfields as defined by the Small Business Liability Relief and Brownfields Revitalization Act (Pub. L. 107-118); and
- Development of housing for low- and moderate-income (LMI) persons.

Any use of eminent domain under this program must be fully documented by the County OOR or subrecipient, including justification of necessity and confirmation of the public purpose, and retained in the project file in accordance with HUD recordkeeping requirements.

## 6. Project Selection

### A. Selection Methodology

The County OOR will use a direct selection methodology to identify and fund projects under the Mitigation Program. Direct selection allows the County OOR to identify and prioritize projects that most effectively address risk reduction needs and advance the goals established in the County of Maui Action Plan. Under this methodology, the County OOR will not issue an open solicitation. Instead, the County OOR will evaluate projects submitted by eligible entities to determine funding selections.

Each proposed project will be evaluated for eligibility, alignment with the County of Maui Action Plan goals, and consistency with factors such as service to low- and moderate-income populations, urgency of need, cost-effectiveness, and community benefit. The County OOR will then exercise discretion to prioritize those projects that most effectively advance resilience and leverage other funding sources, while designating other eligible projects as alternates.

Eligible HMGP Match projects will be prioritized based on funding availability, according to program allocations.

A structured selection process will be completed, as outlined below.

- (1) **Preliminary Project Review** – County staff, or designees will review each application for completeness and threshold eligibility. A Project Snapshot will then be prepared for each application, summarizing key elements such as scope, cost, mitigation justification, funding, dependencies, risks and timeline. The projects will then be grouped by priority and readiness to proceed.
- (2) **Evaluation Committee Review** – All eligible projects then advance to an Evaluation Committee. The Committee members will evaluate each project in the highest priority groups and score them according to established criteria. These projects will then be ranked for funding consideration and selected for award based on the ranking

The final ranked recommendations and award decisions will be documented in the program record, made publicly available, and conducted in compliance with Hawai‘i Sunshine Law and HUD citizen-participation requirements.

In making selections, the County OOR will give priority to projects that mitigate wildfire, flood, or storm risks, enhance community resilience by upgrading critical infrastructure,

protect low- and moderate-income communities, and protect essential public services; as well as support HUD-designated Most Impacted and Distressed (MID) areas, leverage other funding sources such as FEMA Public Assistance, Hazard Mitigation Grant Program funds, State of Hawai‘i resources, or private investment, and demonstrate readiness and alignment with the County’s Capital Improvement Program or other long-term recovery plans. Alternate projects may be designated for future funding if prioritized projects are withdrawn, delayed, or deemed infeasible.

This process ensures that funds are directed toward projects that repair and replace critical infrastructure while integrating resilience and mitigation measures. All scoring tools, rankings, and award rationales will be retained in the system of record, and summary information will be posted publicly to ensure transparency and accountability.

## B. Project Submission Requirements

Each project under consideration must submit a completed and signed application with certifications and supporting documents to allow for eligibility verification, scoring and evaluation. At a minimum, the project application must include:

- **Project Description** – A clear narrative describing the purpose, scope, and location of project activities.
- **Mitigation Justification** – Documentation establishing how the project directly addresses a known hazard and contributes to long-term risk reduction.
- **Area of Benefit (AOB) and National Objective** – A description of the geographic area served, identification of beneficiaries, and documentation supporting the applicable CDBG-DR national objective (e.g., LMI Area Benefit or Urgent Need).
- **Budget and Cost Information** – A complete cost estimate, broken down by project phases, with all known or anticipated funding sources identified. Applicants may not request CDBG-DR funds to supplant other funding sources that have been allocated for the project.
- **Operations and Maintenance (O&M) Plan** – A preliminary plan describing how the project will be operated and maintained for its useful life, including responsible entities and estimated costs.
- **Readiness to Proceed Documentation** – Status of environmental review, permits, site control and land acquisition (if applicable), project design, and anticipated implementation schedule.
- **Environmental and Floodplain Compliance** – Documentation to demonstrate compliance with Executive Orders 11990 and 11988 and 24 CFR Part 58, as applicable.

## C. Preliminary Project Review

Following submission, each application will undergo a preliminary project review, conducted by the County OOR or its designee. This stage ensures that only complete, eligible, and feasible projects advance to the Evaluation Committee. The preliminary project review includes 4 key components:

### Completeness Verification

County OOR staff, or designee, will confirm that the application is complete, signed, and includes all required certifications and supporting documentation. Applications that are incomplete or missing essential information may be returned to the applicant for correction before advancing.

### Threshold Eligibility Determination

Each project must satisfy basic program eligibility requirements before advancing. Threshold eligibility includes the verification of:

- **Eligible Entity** – Applicant must be an eligible subrecipient, such as a County department, public agency, utility, housing authority, or qualified nonprofit organization.
- **Eligible Activity** – The proposed activity must be consistent with CDBG-DR eligible uses identified in these guidelines.
- **Mitigation Justification** – Documentation establishing how the project directly addresses a known hazard and contributes to long-term risk reduction.
- **National Objective** – Each project must meet and document one of HUD's CDBG-DR national objectives.
- **Project Cost Limitation** – The proposed project must fall within applicable program funding caps.
- **Operations and Maintenance Plan** – Subrecipients and/or participating department or agency must submit a preliminary O&M Plan demonstrating long-term sustainability.
- **Readiness to Proceed** – Projects must demonstrate capacity to advance within HUD expenditure deadlines.

### Project Snapshot Preparation

For each project that meets threshold eligibility, County OOR staff, or designee, will prepare a Project Snapshot summarizing the key project characteristics including:

- **Project Summary** – Title and brief description of the project's scope, purpose, need and location.
- **Cost & Funding** – CDBG-DR request amount, leveraged or committed funding sources, and any unresolved funding gaps.

- **CDBG-DR Program Fit** – Eligible activity type, mitigation connection, national objective alignment, area of benefit, including LMI considerations.
- **Alignment with Recovery Priorities** – Consistency with the County of Maui Action Plan, Long-Term Recovery Plan, Maui County Hazard Mitigation Plan, Capital Improvement Plan, or other relevant planning documents.
- **Timeline and Readiness** – Current stage of project development, readiness to proceed, and anticipated implementation timeline.
- **Complexity Level** – Anticipated project complexities, such as land acquisition, displacement, permitting, or environmental challenges.
- **Dependencies** – Related or dependent projects, internal and external partners and interagency coordination needs.
- **Key Risks** – Potential risk factors such as environmental constraints, land acquisition obstacles, cost uncertainty, community concerns, or cultural sensitivities.

## Priority Group Assignments

Each project will be assigned to one of four priority groups.

- **Group A** – Feasible and Ready to Proceed
  - Projects demonstrating strong eligibility, clear funding strategies, minimal risks, and the ability to advance promptly.
- **Group B** – Feasible, but not Ready
  - Projects that meet eligibility requirements, but require additional planning, funding commitments, permitting, or design advancement before implementation.
- **Group C** – Not Feasible at this Time
  - Projects with significant risks, insufficient funding strategies, or unclear timelines that may conflict with program requirements.
- **Group D** – Not Feasible or Eligible
  - Projects that do not meet program requirements or have significant risks and are not eligible for funding

Groups A, B and C will advance to the Evaluation Committee for review and approval of priority assignment. Only projects in Group A and B will be scored and ranked. Projects in Group C will not be scored, but may be reconsidered in future program phases as readiness improves or funding becomes available. Projects in Group D will not be scored and will not be considered for funding.

## D. Evaluation Review Committee

All projects in Groups A, B, and C will advance to the Evaluation Committee (EC) for formal review. The EC will consist of County staff with relevant programmatic, professional, and community expertise.

## Scoring

For each project, the EC will receive the full and complete application and the Project Snapshot. The EC will confirm priority group assignment and score all Priority Group A and B projects using the scoring rubric.

Criteria	Available Points
Align with identified Recovery Needs and Community Resilience Goals	25
Population Served	25
Project Impact	20
Financial Considerations	15
Applicant Attributes and Readiness to Launch	15
<b>Total Available Points</b>	<b>100</b>

**Table 3:** Scoring Rubric

## Ranking

After completing individual scoring, the EC will consider qualitative factors not fully captured in numerical scoring, such as:

- Interdependencies with other recovery projects
- Geographic location or critical-service coverage
- Urgency of community unmet needs
- Timeliness relative to HUD's expenditure deadlines

Qualitative factors may be used to distinguish between similarly scored projects or adjust final ranking where justified. All rationales will be documented in the program record.

## Selection

Using scores and qualitative considerations, the EC will establish a ranked list of priority Group A and B projects. This ranking will guide funding recommendations and support transparent award decisions.

- Projects at the top of the ranked list will be recommended for funding, subject to availability of funds, completion and approval of the Environmental Review and all other program requirements.
- Projects with lower rankings, or those requiring additional development before implementation, may be designated as alternates.

All scoring results, reviewer notes, and ranking documentation will be maintained in the County OOR's system of record to ensure transparency, traceability, and full auditability. The County OOR may issue updates to prioritization criteria or project selection guidance through amendments to these Program Policies to ensure strategic, reasonable, and impactful use of funds. The final ranked recommendations and award determinations will

be documented in the program record and made publicly available in compliance with Hawai‘i Sunshine Law and HUD citizen-participation requirements.

## Alternate Projects

Projects that were not selected for funding will be designated as alternates. Alternate projects will not receive funding at this time and may be reconsidered as the program progresses. These projects may be advanced if priority projects withdraw, become infeasible, or fail to demonstrate timely progress.

If a selected project does not begin design activities or meet progress benchmarks within the timelines established in the executed agreement, the County OOR may reallocate funding to an alternate project.

## E. Award Determination

Following the Evaluation Committee’s ranking and funding recommendations, the County OOR will finalize project awards in accordance with program requirements and HUD regulations. The activities below describe the required steps for issuing commitments.

**Capacity Assessments:** The County OOR will conduct capacity assessments, for Subrecipient sponsored activities, to verify that selected entities can manage federal funds and implement their projects in full compliance with program requirements.

**Action Plan Amendment:** Following project selection, the County OOR will prepare and submit a Substantial Action Plan Amendment. In accordance with HUD requirements for direct-selection funding methodologies, this amendment will formally identify the selected projects and incorporate any necessary budget adjustments. The amendment will follow HUD publication, public participation and comment, and submission requirements.

**Notification of Selection:** Once a project is approved for funding, the County OOR will issue a Letter of Conditional Commitment to the subrecipient. This letter will identify the proposed award amount, outstanding documentation requirements, conditions that must be satisfied prior to agreement execution, and deadlines for demonstrating readiness.

**Award Agreements:** All awards made to subrecipients will be formalized through a Subrecipient Agreement (SRA) between the County OOR and the implementing entity. The SRA will establish the approved scope of work, award amount, period of performance, applicable federal and state requirements, and all reporting and compliance obligations. The SRA serves as the binding legal instrument governing project implementation, financial management, and performance monitoring under the Program.

The County OOR may implement activities directly. Such activities will not require a Subrecipient Agreement. In these instances, the County OOR and the participating department will enter into an agreement which outlines the County OOR’s commitment to implement the project on the respective department’s behalf.

**Conditions of Award:** All funding commitments are contingent upon receipt of HUD environmental review clearance, demonstration of project readiness, satisfaction of all program conditions, and verification that no duplication of benefits will occur.

The County OOR reserves the right to withdraw or adjust awards if conditions are not met, or if a project fails to maintain progress.

## F. Project Commencement and Implementation

Following the award of an activity, the implementing entity is expected to promptly initiate all necessary steps for project implementation. These steps may include, but are not limited to:

- **Procurement of Professional Services** – Engaging qualified contractors, architects, engineers, and other professionals consistent with federal procurement requirements at 2 CFR 200 and program-specific procurement policies.
- **Project Design Milestone and Environmental Review** - When sufficient project information or design is available, the subrecipient must submit the design package to the County OOR to initiate the site-specific Environmental Review Record (ERR) and, where applicable, the Environmental Assessment (EA) under 24 CFR Part 58.
  - Design and pre-development activities may proceed under the County OOR's Exempt Environmental Review for activity delivery costs, which provides broad clearance for pre-development activities and design phases of Mitigation projects. However, no choice-limiting actions (e.g., acquisition, demolition, or construction) may occur until the site-specific review is complete and HUD has issued an Authority to Use Grant Funds.
- **Choice Limiting Actions** – Any activity that reduces or eliminates the opportunity to choose project alternatives that would avoid or minimize environmental impacts or enhance the quality of human environment. More information regarding choice-limiting actions can be found in Section 8.B.
- **Project Design and Permitting** – Advancing architectural, engineering, and permitting activities necessary for construction or implementation.
- **Notice to Proceed (NTP)** – Once all required pre-construction conditions are satisfied, including completion of environmental clearance, County procurement concurrence, and confirmation of match funding (if applicable), County OOR will issue written concurrence to proceed. The NTP serves as the formal authorization for the subrecipient or implementing agency to begin construction or implementation activities and to incur eligible expenses.
- **Implementation of Approved Activities** – Carrying out project activities in compliance with the SRA, if applicable, including adherence to federal construction standards, Uniform Relocation Act (URA) requirements, and all other applicable cross-cutting federal requirements.

- **Monitoring and Reporting** – Subrecipients will be responsible for ongoing monitoring of project progress, maintaining documentation in project files, and submitting quarterly performance and financial reports to the County OOR. Subrecipients are subject to all monitoring and reporting as required by the executed agreement from County OOR.
- **Technical Assistance** – The County OOR will provide technical assistance, as needed, to subrecipients throughout implementation to support compliance and timely progress.

The County OOR will monitor and retain oversight of all subrecipient activities to ensure compliance with federal requirements and timely expenditure of CDBG-DR funds. Projects that fail to demonstrate progress toward commencement or timely implementation may be subject to reallocation of funds.

## 7. Duplication of Benefits

The Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act), as amended, 42 U.S.C. §5121 et seq., prohibits any person, business concern, nonprofit organization, or governmental entity from receiving federal funds for any part of a loss for which financial assistance has already been provided by another source, such as private insurance, FEMA, charitable organizations, or other federal or state programs.

The purpose of this requirement is to ensure that CDBG-DR program funds serve as funding of last resort, filling unmet needs without duplicating other assistance already received for the same purpose.

All applicants must report assistance received or available from other sources for the same purpose as the requested CDBG-DR funding. The County OOR will conduct a Duplication of Benefits (DOB) review for every project prior to award.

### A. DOB Framework

To ensure compliance with the Stafford Act and HUD policy, the Program will use the following framework:

1. **Assess Total Project Need** – Identify the total cost required to complete the infrastructure or facility project, including all eligible mitigation and resilience measures.
2. **Identify Total Assistance Received or Available** – Determine the value of all reasonably identifiable assistance already received or committed from other sources.
3. **Exclude Non-Duplicative Assistance** – Deduct assistance that was provided for a different purpose, or for the same purpose but expended on an allowable different use.

4. **Calculate DOB Amount** – Determine the total duplicative amount of assistance.
5. **Determine Program Award** – Subtract the DOB amount from the project’s total need to calculate the final eligible award, subject to program caps.
6. **Reassess Unmet Need** – Adjust award amounts if new information becomes available regarding additional assistance or revised project costs.

If a duplication of benefits occurs (i.e., total assistance received exceeds the total need), the applicant’s Program award will be reduced accordingly.

## B. Common Sources of Available Assistance

The following sources of funding are commonly provided for disaster recovery and will be reviewed as part of DOB analysis:

1. **FEMA Public Assistance (PA)** – Funds provided to governmental entities for repair, restoration, or replacement of public facilities and infrastructure.
2. **Insurance Proceeds** – Property or casualty insurance settlements covering repair or replacement of damaged facilities.
3. **Small Business Administration (SBA) Disaster Loans** – Approved loans provided to nonprofit or public entities for repair or reconstruction of facilities.
4. **State or County Recovery Programs** – Other disaster recovery or mitigation grants provided by the State of Hawai‘i or local government agencies.
5. **Charitable or Nonprofit Assistance** – Contributions from philanthropic organizations or other nonprofits for recovery of public facilities.
6. **Legal Settlements** – Funds received through litigation or settlement related to the August 2023 Maui wildfires or other qualifying disasters.
7. **Other Federal or State Grants** – Any additional funding sources available for the same scope of work.

If a subrecipient receives additional assistance for the same project scope after CDBG-DR funds are awarded, those funds must be reported and may require repayment to the Program.

## C. Assistance Not Considered Duplicative

Not all assistance received constitutes a DOB. Non-duplicative assistance includes:

- Assistance provided for a different purpose (e.g., debris removal, contents replacement, temporary facilities).
- Assistance provided for the same purpose but used for a different eligible use (e.g., FEMA funds spent on emergency protective measures rather than permanent repair).
- Funds not legally available to the applicant (e.g., insurance proceeds applied by a lender directly to reduce outstanding debt).

Applicants may document non-duplicative uses through receipts, contracts, or certifications.

## D. Subrogation

As a condition of receiving CDBG-DR funds, applicants must sign a Subrogation Agreement acknowledging that if additional assistance for the same project purpose is later received from another source (e.g., FEMA, insurance, other programs), such funds must be returned to the County OOR.

This ensures that Program funds remain the funding of last resort and that no project receives duplicative assistance. Subrogation enforcement will continue throughout the useful life of the project.

## E. Supplanting

CDBG-DR funds may not be used to supplant or replace other funding sources that a subrecipient has already committed, budgeted, or is otherwise legally obligated to use for the same project purpose. The intent of this prohibition is to ensure that federal disaster recovery funds supplement—rather than substitute for—existing local, state, or other federal resources.

Subrecipients must certify that CDBG-DR funds are not being used to offset costs that are already covered by another funding source or required local match. The County OOR will review project budgets, funding commitments, and financial statements to verify compliance. Projects found to have supplanted other committed funds may have their awards reduced or be required to repay CDBG-DR funds.

# 8. Environmental Review

Every project undertaken with Federal funds, and all activities associated with such project, are subject to the provisions of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. §4231et seq., as well as to the HUD environmental review regulations at 24 C.F.R. § 58 on Environmental Review Procedures for Entities Assuming HUD Environmental Responsibilities.

The Program conducts an environmental review on every project, prior to issuing a program award to ensure that the proposed activities do not negatively impact the surrounding environment and that the property itself will not have an adverse environmental or health effect on end users. Specifically, 24 C.F.R. § 58.22 limitations on activities pending clearance prohibit the commitment or expenditure of federal or non-federal funds on any activity that could have an adverse environmental impact or limit the choice of reasonable alternatives

prior to completion of an environmental review. The Program environmental review is subject to guidance outlined in the following:

- Environmental Responsibilities (24 C.F.R. § 58)
- Protection of Historic Properties (36 C.F.R. § 800).
- Floodplain Management and Protection of Wetlands (24 C.F.R. § 55 ).
- Sections 307 (c) and (d) of the Coastal Zone Management Act of 1972 (CZMA), as amended, (16 u.s.c. § 1456).
- Sole Source Aquifers (40 C.F.R. § 149).
- Interagency Cooperation - Endangered Species Act of 1973, as amended (50 C.F.R. § 402).
- Section 7 (b)(c) of the Wild and Scenic Rivers Act of 1968 (WSRA), as amended, (16 U.S.C. § 1278 - Restrictions on Water Resources Projects).
- Air quality provisions as found in Sections 176 (c) and (d) of the Clean Air Act, as amended, (42 U.S.C. § 7506) and in Title 40 of the Code of Federal Regulations (40 C.F.R. Parts 6, 51, and 93).
- Farmland Protection Policy Act (FPPA) (7 U.S.C. § 4201et seq., implementing regulations 7 C.F.R. Part 658, of the Agriculture and Food Act of 1981, as amended)
- Environmental Criteria and Standards.
- Noise Abatement and Control (24 C.F.R. §§ 51.100 - 51.106)
- Siting of HUD-Assisted Projects Near Hazardous Operations Handling Conventional Fuels or Chemicals of an Explosive or Flammable Nature (24 C.F.R. §§ 51.200 - 51.208)
- Siting of HUD Assisted Projects in Runway Clear Zones at Civil Airports and Clear Zones and
- Accident Potential Zones at Military Airfields (24 C.F.R. § 51 §§ 51.300 - 51.305)
- Toxic/Hazardous Materials (24 C.F.R. § 58.5(i)(2)(i)).

## A. Environmental Clearance

Environmental clearance must be obtained for each project prior to the commitment of federal or non-federal funds. A violation of this requirement may jeopardize federal funding for the project and disallow all costs that were incurred before completion of the environmental review.

- For activities subject to NEPA, this means that HUD may only issue an **Authority to Use Grant Funds (AUGF)** (HUD Form 7015.16) following publication and completion of required notices and comment periods.
- For activities not subject to NEPA, the review must still demonstrate compliance with applicable authorities under **24 CFR §§ 58.5 and 58.6**.

Issues identified during the environmental review may be mitigated before or after the construction process, if feasible. Eligible environmental mitigation measures may be paid

for through the Program. If a condition discovered during the environmental review cannot be cleared within program award caps or schedule constraints, the property may be ineligible for assistance.

During the environmental review, the program may determine that, due to extraordinary environmental conditions, the site is not feasible for reconstruction. In these cases, the property may be determined to be ineligible for assistance.

## B. Choice-Limiting Actions

**Subrecipients and applicants must avoid undertaking or committing funds to choice-limiting actions before environmental clearance is granted.** Prohibited actions include, but are not limited to:

- Acquisition of property, including entering into a Purchase and Sale Agreement and other property acquisition commitments
- Demolition or site clearance
- New construction or rehabilitation
- Leasing or disposition of real property
- Contracts or agreements that legally obligate a project site to these activities

**Undertaking any choice-limiting action prior to receipt of the AUGF will render the project ineligible for CDBG-DR assistance and may result in repayment of costs.**

## C. Environmental Review Record (ERR)

Each funded project must maintain a complete **Environmental Review Record (ERR)** documenting compliance with federal requirements. At minimum, the ERR must include:

- Description of the proposed activity
- Determination of the required level of review (Exempt, CENST, CEST, Environmental Assessment, or Environmental Impact Statement)
- Documentation of compliance with applicable laws and authorities
- Mitigation measures to be implemented, if applicable
- Public notices, comment periods, and all correspondence with agencies or stakeholders
- Copies of all completed forms (e.g., Exempt/CENST forms, Request for Release of Funds, AUGF)

The ERR must be retained in project files and made available for public inspection as required under 24 CFR Part 58.

## D. Responsible Entity and Oversight

The County OOR will serve as the Responsible Entity (RE) for purposes of environmental review and compliance, unless HUD or another agency designates an alternate RE. The County OOR is responsible for:

- Preparing and maintaining the ERR
- Ensuring accuracy, completeness, and compliance with 24 CFR Part 58
- Coordinating with federal, state, and local agencies to address cross-cutting environmental and historic preservation requirements

The County of Maui's Mayor as **Chief Executive Officer**, or designee, will sign all certifications and assume legal responsibility for environmental determinations.

## E. Level of Review Based on Activity Type

The level of environmental review is determined by the nature and scope of the proposed activity:

- **Exempt Activities** – Activities with no physical impact on the environment (e.g., administrative costs).
- **Categorically Excluded Not Subject to 58.5 (CENST)** – Activities such as technical assistance or supportive services.
- **Categorically Excluded Subject to 58.5 (CEST)** – Activities such as minor rehabilitation of facilities, public infrastructure improvements, or removal of architectural barriers.
- **Environmental Assessment (EA)** – Required for activities not Exempt or Categorical, to determine whether the project will have significant environmental impacts.
- **Environmental Impact Statement (EIS)** – Required only if the EA determines that a project will significantly affect the quality of the human environment.

The County OOR will make determinations on a case-by-case basis and provide technical assistance to applicants.

## F. Adoption of Other Federal Reviews

Where another federal agency (e.g., FEMA) has already conducted an environmental review for substantially the same site and scope of work, the County OOR may adopt that review in compliance with HUD's Universal Notice requirements. Adoption requires:

1. Retention of the full federal agency review file in the ERR.
2. Verification that the scope of work is substantially identical, documented with a memorandum to file.

3. Submission of a Request for Release of Funds (RROF) and notification to HUD identifying the adopting agency, project name, and date of the original review.

## G. Technical Assistance

Subrecipients are required to consult with the County OOR **prior to undertaking any project activity** that may trigger environmental review requirements. Technical assistance will be provided to ensure compliance with federal, state, and county environmental regulations. HUD resources such as the Environmental Review Toolkit will be made available, alongside state-specific guidance and County OOR program manuals.

# 9. Payment and Reimbursement

Funds will be disbursed on a reimbursement basis. Subrecipients must first incur eligible costs, maintain supporting documentation, and submit a request for reimbursement to the County OOR for review and approval. The reimbursement method ensures compliance with 2 CFR § 200.305 and HUD's financial management standards. For activities implemented by the County OOR, payment process will follow the County OOR internal financial policies and procedures.

## A. Eligibility for Reimbursement

Only costs that:

1. Are eligible per these program guidelines;
2. Are reasonable and necessary to accomplish approved project objectives;
3. Are allowable pre-award costs incurred on or after the 2023 Maui Wildfires, August 8, 2023, provided environmental review and all cross-cutting requirements are met;
4. Have been incurred after execution of a Subrecipient Agreement (SRA) or other formal agreement in cases of direct implementation; and
5. Have received environmental clearance and an Authority to Use Grant Funds (AUGF) are eligible for reimbursement.

## B. Request for Reimbursement Process

Subrecipients must submit reimbursement requests through the County OOR's management system (Canopy). Each request must include:

- Line-item expenditures by budget category and phase;
- Supporting invoices, contracts, or certified payrolls;
- Proof of payment (e.g., check, ACH confirmation);

- Certification that costs are accurate, allowable, and non-duplicative.

The County OOR reviews all requests for accuracy, cost reasonableness, compliance with HUD requirements, and alignment with the approved project budget and timeline. Approved requests are processed in the County's accounting system and drawn from HUD's Disaster Recovery Grant Reporting (DRGR) system.

## C. Payment Sequencing and Funding Coordination

CDBG-DR funds may be disbursed using different methods depending on the structure, pace, and funding mix of each project. The program's general approach is reimbursement-based, aligned with verified milestones and documented progress. However, alternative methods, such as proportional pari passu drawdowns alongside other funding sources, last-in strategies, or other sequencing approaches may be used when appropriate to maintain expenditure timelines, support multi-funded projects, or address slow spending risks. All disbursement methods will remain consistent with the County of Maui Action Plan, duplication-of-benefits requirements, and federal cost principles under 2 CFR 200. For HMGP Match projects, the County OOR may coordinate with HIEMA to establish a funding approach that meets the needs of both programs.

## D. Retention and Final Payment

The County OOR may withhold up to ten percent (10%) of the total award amount until project completion and County OOR verification that:

- The approved scope of work is complete;
- All compliance requirements have been satisfied; and
- Final documentation has been received.

Final reimbursement will occur after issuance of a project closeout letter.

## E. Recordkeeping

All reimbursement documentation, including requests for reimbursement, approvals, invoices, proof of payment, and audit trails, must be retained by both the County OOR and subrecipients in accordance with 24 CFR § 570.506 and 2 CFR §§ 200.334–338. Records will be maintained in Canopy as the County OOR's system of record and made available for review by HUD other oversight entities. The County OOR will maintain hard-copy files that will be made available to HUD.

In accordance with 24 CFR 570.502(a)(7) and 2 CFR 200.334, all subrecipients and implementing entities must retain records on CDBG-DR-funded activities for the longer of the following:

1. Three years after the expiration or termination of the subrecipient agreement or other executed agreement.
2. Three years after the County OOR's submission of the annual performance and evaluation report in which the specific activity is reported on for the final time.

If any litigation, claim, audit, negotiation or other action involving your records has started before the expiration of the three-year record retention period, your records must be retained until all findings involving your records have been resolved and final action is taken.

In addition to federal requirements, all records must be retained in compliance with Hawai'i Revised Statutes (HRS) § 94-3 and the State Archives' General Records Schedules. These schedules may require retention periods up to 7 years or longer. If any federal or state requirement specifies a longer retention period, the longer period applies. Records may not be destroyed without prior authorization from the State Comptroller through the Records Disposition Authorization process governed by HRS § 94-3. For detailed guidance, refer to the State Archives' General Records Schedules.

## 10. Compliance and Monitoring

The County OOR will implement a comprehensive risk-based compliance and monitoring framework to ensure that all Program activities are carried out in accordance with applicable federal, state, and local requirements, including but not limited to 2 CFR Part 200 (Uniform Guidance), 24 CFR Part 570 (CDBG regulations), 24 CFR Part 58 (Environmental Review), and the County of Maui Action Plan. The compliance framework safeguards program integrity, prevents misuse of funds, and supports transparency, accountability, and continuous improvement throughout the program lifecycle.

### A. Grantee Responsibilities

The County OOR, as the grantee and program administrator, is responsible for oversight of all subrecipients, contractors, and program activities. Monitoring will follow a risk-based approach, prioritizing higher-risk entities and activities for increased scrutiny. Responsibilities include, but are not limited to:

- **Policies and Procedures Compliance** – Adhering to published program policies, guidelines, and federal cross-cutting requirements.

- **File Review and Eligibility Verification** – Routine checks of subrecipient and project files to confirm eligibility, award calculations, duplication of benefits compliance, and supporting documentation.
- **Duplication of Benefits (DOB) Compliance** – Verification of all funding sources to ensure compliance with Section 312 of the Stafford Act and HUD DOB guidance, including periodic re-verification.
- **Environmental Compliance** – Ensuring that all projects have completed required reviews under 24 CFR Part 58 prior to obligation of funds, and that environmental clearance documentation is maintained.
- **Financial and Procurement Oversight** – Reviewing financial records, procurement processes, invoices, and cost allocations to confirm compliance with 2 CFR Part 200 and County procurement standards.
- **Performance and Outcome Validation** – Evaluating progress toward program outcomes such as improved infrastructure resilience, service delivery to low- and moderate-income (LMI) populations, and alignment with County of Maui Action Plan objectives. Accuracy of data in HUD's Disaster Recovery Grant Reporting (DRGR) system or other designated systems of record will also be validated.
- **Civil Rights and Fair Housing Compliance** – Ensuring compliance with applicable civil rights laws, Section 3, Americans with Disabilities Act (ADA), and related nondiscrimination obligations.
- **Post-Closeout Monitoring** – Oversight of any long-term obligations after project closeout, such as deed restrictions, subrogation enforcement, or continuing public use conditions.

## B. Monitoring Methods

Monitoring will be conducted using a combination of desk reviews, remote reviews, and on-site (or virtual) visits. Reviews will be guided by standardized monitoring checklists and coordinated among program, financial, and compliance staff. The County OOR's monitoring will assess:

- Organizational capacity, staffing, and internal control systems
- Subrecipient compliance with contract terms and program requirements
- Participant eligibility documentation and project file completeness
- Financial management systems, drawdown practices, and fund controls
- Procurement processes and documentation of competitive practices
- Accuracy of performance metrics, outcomes, and DRGR reporting

Subrecipients will receive advance notice of scheduled monitoring and a request for documentation. After each review, the County OOR will issue a written monitoring report identifying any observations, concerns, or findings. Subrecipients must provide a written response, including corrective action plans, and demonstrate timely resolution of issues.

Failure to adequately address findings may result in enforcement actions such as suspension of funds, disallowance and repayment of costs, or termination of the subrecipient agreement.

### C. Monitoring Period

The County OOR will monitor projects from selection and award through construction, closeout, and for at least five (5) years after the closeout date to ensure compliance with HUD regulations (24 CFR 570.505 and 570.509). Under 24 CFR § 570.505, when CDBG-DR funds are used to acquire real property, the property must continue to be used for the original assisted purpose during the specified compliance period. Subrecipients are required to reimburse to the program if the use changes before the end of the compliance period.

The County OOR will verify fulfillment of all long-term obligations as applicable to each project. Such examples may include, but are not limited to, deed restrictions, continued use requirements, operations and maintenance commitments, and insurance requirements. Remaining obligations and associated post-closeout monitoring requirements will be outlined in the respective grant closeout agreement.

### D. Quality Assurance and Recordkeeping

Monitoring results will be tracked in a centralized compliance management system to promote accountability and support continuous improvement. Results will be shared with program leadership and relevant stakeholders to inform staff training, technical assistance, and policy updates.

All compliance and monitoring records must be retained in accordance with **HUD recordkeeping requirements (24 CFR 570.506 and 2 CFR 200.334–338)** and made available to HUD or other authorized oversight entities.

### E. Non-Compliance

In accordance with federal regulations (2 C.F.R. §§ 200.339–200.343), the County OOR will take timely and appropriate action in response to any instance of subrecipient noncompliance. This includes failure to comply with these Program Guidelines, applicable federal and state requirements, or the terms of the executed agreement between the County OOR and awardee.

Noncompliance may be identified through monitoring, audits, financial reviews, or reporting discrepancies. Upon identification, the County OOR will issue written notification outlining the nature of the deficiency, required corrective actions, documentation standards, and a deadline for resolution. The County OOR may work directly with the subrecipient to develop a corrective action plan with specific milestones and timelines.

If deficiencies are not corrected within the established timeframe, or if the subrecipient demonstrates a pattern of noncompliance, the County OOR may escalate remedies. These may include withholding or delaying reimbursements, imposing additional reporting requirements, restricting program activities, amending or suspending the agreement, or recapturing unallowable funds. In severe cases, termination of the agreement may occur. All actions will be documented in the official program file, and subrecipients will receive written confirmation once compliance has been restored.

## 11. Timeliness

Timely implementation and expenditure of funds are critical components of the Program. County OOR is responsible for meeting all HUD-mandated deadlines for obligation and expenditure of CDBG-DR funds, as outlined in the applicable Federal Register Notice, Grant Agreement, and the Universal Notice. Failure to meet required timelines may result in HUD recapturing unspent funds, issuing findings, or placing the grantee on a corrective action plan.

Projections will be monitored to align with program goals and will be uploaded into DRGR and the public website. Quarterly projections will be monitored on an ongoing basis and will be adjusted as necessary to reflect accurate estimates.

Timeliness projections are reported as follows:

Year	Projected Expenditure (\$)	Cumulative (\$)	Share of Total (%)	Cumulative (%)
1	\$ -	\$ -	0%	0%
2	\$ 59,206.00	\$ 59,206.00	0.03%	0.03%
3	\$ 4,572,012.00	\$ 4,631,218.00	2%	2%
4	\$ 30,662,082.00	\$ 35,293,300.00	14%	17%
5	\$ 81,487,063.00	\$ 116,780,363.00	38%	55%
6	\$ 97,051,637.00	\$ 213,832,000.00	45%	100%

**Table 4:** Expenditure Projections

## 12. Closeout

### A. Project Closeout

The closeout phase ensures that each project funded under the Program has been fully executed in compliance with HUD requirements and program guidelines. Closeout will only be initiated once the following criteria have been satisfied:

- **Completion of Scope of Work** – The approved project scope has been completed in accordance with the Subrecipient Agreement (SRA) or executed agreement, program guidelines, and all applicable federal requirements.
- **National Objective Compliance** – A CDBG-DR national objective (e.g., LMI Benefit, Urgent Need) has been met and fully documented.
- **Funds Expended and Accounted For** – All CDBG-DR funds, as well as any leveraged or matching funds, have been properly disbursed and documented. Any unexpended balances must be de-obligated or returned.
- **Required Permits and Certifications** – All applicable permits, licenses, and certifications of completion (e.g., Certificate of Occupancy, final engineer's certification) have been secured.
- **Resolution of Compliance Issues** – Any HUD or County OOR monitoring findings, audit issues, or other compliance concerns related to the project have been addressed and closed.
- **Operations and Maintenance Plan Finalization** – A finalized O&M plan confirming long-term sustainability of the infrastructure investment has been submitted.

#### Closeout Documentation

Each project's closeout package must include, at minimum:

- Final financial summary and expenditure report
- Evidence of national objective compliance
- Final Duplication of Benefits (DOB) verification
- Required certifications of completion (e.g., engineering sign-offs, occupancy certificates)
- Documentation of project outcomes (e.g., populations served, facilities improved, resilience benefits)
- Updated O&M plan, where applicable
- Confirmation that all required documentation has been uploaded to the system of record

The County OOR will review the complete closeout package and determine whether the project is eligible for closure.

## Closeout Confirmation

Once validated, the County OOR will:

- Update the Disaster Recovery Grant Reporting (DRGR) system to reflect project completion and closeout status
- Issue a Closeout Confirmation Notice to the subrecipient
- Archive project documentation in accordance with federal and County records retention requirements

If instances of non-compliance, ineligible costs, or misuse of funds are identified during the closeout review, the County OOR may require corrective action or initiate recapture procedures as outlined in the program's Monitoring and Compliance Policies.

## B. Program Closeout

Program closeout represents the formal conclusion of the Program as a whole. This process ensures that all individual projects have been closed and that the County OOR is in compliance with HUD closeout requirements.

Program closeout will be initiated once the following conditions are met:

- All funded projects have been completed and closed at the project level.
- All program funds have been fully expended, reconciled, or returned in accordance with federal requirements.
- The DRGR system reflects accurate financial and performance data across all activities.
- Final program accomplishments have been aggregated and reported, including compliance with HUD national objectives and mitigation integration.
- All SRA's and executed agreements have been closed and documented.
- All audit, monitoring, and oversight findings have been resolved.
- Final financial and performance reports have been submitted to HUD.
- Any long-term compliance obligations (e.g., URA monitoring, deed restrictions, O&M reporting) are assigned and tracked.

The County OOR will prepare and submit a formal program closeout package to HUD in accordance with DRGR procedures and HUD guidance. Once HUD reviews and approves the closeout documentation, the Program will be considered officially closed.

## 13. Other Program and Cross-Cutting Requirements

Subrecipients and implementing entities of the Program and the County OOR must comply with requirements specific to the CDBG-DR program as well as the federal grant award received by the County OOR from HUD in response to the 2023 Maui Wildfires. Key requirements include:

- **Uniform Administrative Requirements** at 2 C.F.R. Part 200
- **Community Development Block Grant Program Regulations** at 24 C.F.R. Part 570
- **Federal Register Notices** allocating funds to the County of Maui for disaster recovery, including 90 FR 1754 and any subsequent notices, waivers, or amendments issued by HUD
- **Applicable State of Hawai'i laws and regulations** governing procurement, contracting, and financial management

In addition to these program-specific requirements, subrecipients and implementing entities must also comply with federal statutes and regulations outside of the CDBG-DR program. These “cross-cutting” requirements apply broadly to federally funded activities and include, but are not limited to, environmental review, fair housing and civil rights, labor standards, and anti-discrimination protections. Compliance with all applicable cross-cutting requirements is mandatory for participation in the Program and must be documented throughout project implementation. Notable requirements are detailed below:

### A. Uniform Relocation Act (URA) and Acquisition

All acquisition and relocation activities carried out under the Program are subject to the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA), as amended, 42 U.S.C. § 4601 et seq., and implementing regulations at 49 C.F.R. Part 24. The Program is also subject to Section 104(d) of the Housing and Community Development Act of 1974 (HCDA), as applicable, and any waivers or alternative requirements contained in HUD’s Universal Notice (FR-6489-N-01) or related guidance.

#### Acquisition of Real Property

- Subrecipients and implementing entities that undertake projects involving acquisition must comply with all URA requirements for appraisal, review, negotiation, and purchase.
- CDBG-DR funds may not support projects that use the power of eminent domain for development that primarily benefits private entities. However, eminent domain may be used when acquisition is strictly for public use, such as:
  - Mass transit, airport, seaport, or highway projects.
  - Utility projects (energy, communications, water, wastewater) serving the general public.

- Public facilities and other structures designated for public use.
- Projects that remove an immediate threat to public health and safety (e.g., removal of contaminated property or brownfield conditions).
- All acquisition costs and activities must be tracked and documented in accordance with 2 CFR Part 200 cost principles and HUD cross-cutting requirements.

### **Relocation and Displacement**

- Subrecipients and implementing entities must plan projects in a manner that avoids or minimizes displacement to the maximum extent feasible. This will include evaluating alternative designs and sites during planning and environmental review, considering phased construction to reduce impacts, and incorporating mitigation measures such as temporary relocation where feasible.
- If displacement is unavoidable, subrecipients and implementing entities must identify the needs of potentially displaced persons through site visits, interviews, and orientations, and ensure accessibility needs of displaced persons with disabilities are addressed.
- Persons and entities determined to be “displaced persons” under 49 C.F.R. § 24.2 are eligible for relocation assistance, which must be incorporated into project budgets prior to initiation of acquisition or construction activities.

### **Residential Anti-Displacement and Relocation Assistance Plan (RARAP)**

The County OOR maintains a Residential Anti-Displacement and Relocation Assistance Plan (RARAP), which applies to projects involving demolition or conversion of occupied low- and moderate-income dwelling units. Subrecipients must coordinate with the County to ensure replacement housing assistance and other RARAP provisions are implemented.

### **Subrecipient and Implementing Entity Responsibilities**

Subrecipients and implementing entities implementing projects that include acquisition or relocation must:

- Develop and follow written acquisition and relocation procedures consistent with URA and HUD requirements.
- Provide timely notice, advisory services, and assistance to affected persons.
- Plan and budget for relocation costs in advance, considering housing market conditions, acquisition costs, relocation payments, and related professional services.
- Maintain complete records of compliance, including notices, benefit calculations, payment records, and appeals.

Subrecipients must consult with the County OOR prior to initiating any acquisition or displacement activities to ensure compliance and minimize program risk.

## B. Procurement

All procurement of goods and services under the Program must comply with federal standards in **2 C.F.R. §§ 200.317–200.327** and applicable State of Hawai‘i and County of Maui procurement laws. Where these requirements differ, subrecipients must follow the strictest applicable standard. Subrecipients may use their own written procurement procedures if consistent with federal requirements, or they may adopt or reference the County of Maui’s procurement standards. Further, when using CDBG-DR grant funds as the non-Federal match for projects receiving other Federal funds, the County OOR may adopt the procurement policies and procedures that satisfy the other Federal agency’s requirements to promote consistency and seamlessly leverage their funding, so long as they meet other cross-cutting requirements that apply to the CDBG-DR funds.

Procurement must be conducted in a manner that provides full and open competition and uses methods appropriate to the size and scope of the contract, including micro-purchases, small purchases, sealed bids, and competitive proposals. A cost or price analysis is required for every procurement action, including modifications, to ensure that costs are fair and reasonable. Prohibited contracting methods, such as cost-plus-percentage-of-cost contracts or time-and-materials contracts without a ceiling price, are not allowable.

Subrecipients and implementing entities must maintain complete procurement records documenting the solicitation, evaluation, selection, and award process. Executed contracts and related documentation must be submitted to the County OOR prior to requesting reimbursement with CDBG-DR funds. The County OOR will monitor procurement activities to confirm compliance; non-compliance may result in costs being deemed ineligible for reimbursement.

## C. Labor Standards

All subrecipients and implementing entities undertaking CDBG-DR–funded construction activities under the Program must comply with applicable federal labor laws, including but not limited to:

- **Davis-Bacon and Related Acts (DBRA)** – Requires payment of prevailing wages (including any applicable fringe benefits) to laborers and mechanics employed under federally funded or assisted construction contracts in excess of \$2,000 for the construction, alteration, or repair (including painting and decorating) of public buildings or public works.
- **Hawaii Revised Statutes (HRS) Section 104**– Requires payment of prevailing wages and overtime on State- or county-funded public works construction projects over \$2,000. Chapter 104 applies broadly to laborers and mechanics working on public work job sites, including owner-operators, and covers activities such as construction, repair, renovation, installation, landscaping, demolition, and warranty work. The law also governs certified weekly payrolls, recordkeeping,

and required postings. Work performed at dedicated off-site facilities (e.g., batch plants, fabrication sites, or tool yards) is covered when integral to the project. Public works include any project that uses State or County funds or tax-exempt financing, including affordable housing development under HRS 46-15 and 201H.

- **Fair Labor Standards Act of 1938 (FLSA)** – Establishes minimum wage, overtime pay, and recordkeeping requirements.
- **Contract Work Hours and Safety Standards Act (CWHSSA)** – Requires payment of overtime compensation for laborers and mechanics working in excess of 40 hours in a workweek.
- **Copeland “Anti-Kickback” Act** – Prohibits improper wage deductions and kickbacks of wages on federally funded or assisted construction projects.

Subrecipients and implementing entities must designate a Labor Compliance Officer (LCO) or equivalent staff to oversee compliance with labor standards. Responsibilities include ensuring that contractors and subcontractors submit weekly certified payroll reports, conducting spot-check reviews, and addressing any identified deficiencies.

The Federal Labor Standards Provisions (HUD-4010) and applicable federal wage decision(s) must be incorporated into all construction contracts subject to DBRA requirements. Subrecipients are also responsible for maintaining complete labor compliance records and making them available for review by the County OOR, HUD, or other authorized oversight agencies.

## D. Section 3

Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u), as implemented through HUD’s regulations at 24 CFR Part 75, applies to CDBG-DR-funded infrastructure projects that meet the definition of a Section 3 project. The purpose of Section 3 is to ensure that, to the greatest extent feasible, employment, training, and contracting opportunities generated by HUD financial assistance are directed to low- and very low-income persons and to Section 3 business concerns.

Subrecipients, implementing entities, and their contractors must take proactive steps to comply with Section 3 requirements. This includes making efforts to recruit and hire Section 3 workers, notify residents of available employment or training opportunities, and contract with Section 3 businesses where feasible. All subrecipients must maintain documentation of compliance efforts and report Section 3 outcomes in accordance with HUD’s established benchmarks and the County OOR’s reporting protocols. Information will be entered into HUD’s Disaster Recovery Grant Reporting (DRGR) system and made available for monitoring and oversight.

## E. Civil Rights and Non-Discrimination

All activities funded under the Program must be carried out in compliance with applicable civil rights laws and regulations, including Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq.), Section 109 of the Housing and Community Development Act of 1974, the Fair Housing Act, Section 504 of the Rehabilitation Act of 1973, and the Americans with Disabilities Act (ADA). These statutes collectively prohibit discrimination on the basis of race, color, national origin, religion, sex, age, familial status, or disability in programs and activities receiving federal financial assistance.

Subrecipients and implementing entities must ensure that program funds are used and administered in a manner that provides equal access to all eligible participants and avoids disproportionate adverse impacts on protected classes or vulnerable communities. Any individual who believes they have been subjected to discrimination may file an administrative complaint with HUD's Office of Fair Housing and Equal Opportunity or pursue relief through federal court. The County OOR will monitor subrecipient compliance with civil rights requirements and may provide additional guidance or technical assistance to ensure full adherence.

## F. Program Income

Program Income is defined at 24 CFR 570.500(a) as any gross income directly generated from the use of CDBG-DR funds. This may include proceeds from the sale or lease of property purchased with program funds, payments on loans made with CDBG-DR assistance, or fees and charges related to CDBG-DR funded activities. In cases where an activity is only partially funded with CDBG-DR resources, the prorated portion of income attributable to the federal investment must be treated as Program Income.

Subrecipients and implementing entities are required to track and report all Program Income in accordance with HUD regulations and the terms of their Subrecipient Agreement. Reports must be submitted at least quarterly and include documentation of the source, amount, and use of funds. Program Income must be used before additional grant funds are drawn for eligible activities, unless otherwise directed by HUD. Any Program Income remaining at closeout will be subject to HUD's requirements, which may include return to HUD or transfer to the County of Maui's annual CDBG program.

## G. Elevation Standards

All structures, including public facilities and infrastructure, assisted with CDBG-DR funds must be elevated or floodproofed in compliance with FEMA floodproofing standards at 44 CFR 60.3(c) or successor standards. At minimum, structures located within the 100-year (1% annual chance) floodplain must be elevated or floodproofed to at least two feet above the base flood elevation (BFE).

For **Critical Actions**, as defined at 24 CFR 55.2(b)(3), located within the 500-year (0.2% annual chance) floodplain, subrecipients must elevate or floodproof to the higher of:

- The 500-year floodplain elevation, or
- Three feet above the 100-year floodplain elevation.

If 500-year data are unavailable, and a Critical Action is located within the 100-year floodplain, the structure must be elevated or floodproofed at least three feet above the BFE.

Non-structural infrastructure must also be designed to be resilient to flood hazards. Resiliency measures may include structural or nonstructural methods to reduce or prevent damage or designing facilities to withstand and rapidly recover from flood events. In selecting appropriate measures, subrecipients must consider flood depth, velocity, duration, erosion, subsidence, and the function of the facility. Where local codes or standards are more stringent than federal requirements, the more protective standard applies.

Subrecipients using CDBG-DR funds as the non-federal match in a FEMA-funded project may apply FEMA's alternative elevation requirement under 44 CFR 9.11(d)(3)(iii), subject to FEMA approval.

## 14. Debarment and Suspension

Regulations restrict entering into awards, subawards, and contracts with certain parties that are debarred, suspended, or otherwise excluded from or ineligible for participation in Federal assistance programs or activities. A contract award must not be made to parties listed on the government wide exclusions in the System for Award Management (SAM). In accordance with HAR 3-122-112, entities must be eligible to conduct business in the State of Hawai'i and remain in good standing for the duration of the program or activity, verified through Hawai'i Compliance Express.

## 15. General Provisions

### A. Fraud, Waste, and Abuse

The County OOR, as grantee, is committed to the responsible management of CDBG-DR funds by being a good advocate of the resources while maintaining a comprehensive policy for preventing, detecting reporting, and rectifying fraud, waste, abuse, or mismanagement.

Pursuant to FR-6489-N-01, County OOR implements adequate measures to create awareness and prevent fraud, waste, abuse, or mismanagement among other irregularities in all programs administered with CDBG-DR funds as well as encourages any individual who is aware or suspects any kind of conduct or activity that may be considered an act of fraud,

waste, abuse, or mismanagement, regarding the CDBG-DR Program, to report such acts to the County OOR - CDBG-DR internal auditor, directly to the Office of Inspector General (OIG) at HUD, or any local or federal law enforcement agency.

For more information, see the County OOR Fraud, Waste and Abuse Policy.

## I. Reporting Fraud

Any allegations of fraud, waste, abuse, or mismanagement related to CDBG-DR funds or resources must be reported to the CDBG-DR Internal auditor, directly to the OIG at HUD, or any local or federal law enforcement agency.

In accordance with 2 CFR 200.113, the County OOR and subrecipients must promptly notify the HUD Office of Inspector General (OIG) and HUD in writing when there is credible evidence of:

- Violations of federal criminal law involving fraud, bribery, or gratuities, or
- A violation of the civil False Claims Act that could potentially impact the federal award.

Reports should be submitted at: <https://www.hudoig.gov/hotline/report-fraud>

**Note:** Subrecipients must also notify the County OOR in addition to the OIG.

For all other instances of suspected fraud, waste, abuse, or mismanagement, reports should be directed to the HUD OIG Fraud Hotline:

- **Phone:** 1-800-347-3735
- **Email:** [hotline@hudoig.gov](mailto:hotline@hudoig.gov)

Alternatively, a person may contact any local or federal law enforcement agency. Allegations of fraud, waste or abuse can also be reported directly to the HUD OIG by any of the following means:

- **HUD OIG Hotline:** 1-800-347-3735 (Toll-Free), 787-766-5868 (Spanish)
- **Mail:** HUD Office of Inspector General (OIG) Hotline  
451 7th Street  
SW, Washington, D.C. 20410
- **Email:** [HOTLINE@hudoig.gov](mailto:HOTLINE@hudoig.gov)
- **Internet:** <https://www.hudoig.gov/hotline>

## B. Conflict of Interest

The County OOR is committed to minimizing and removing any conflicts of interest in its programs, policies, procedures and utilization of federal disaster recovery funds. The County OOR will adhere to the conflicts of interest provisions referenced at 24 CFR 570.611. In addition, the County OOR will comply with the County of Maui Charter, Code of Ethics

(January 2025, Article 10), which establishes high ethical standards consistent with federal requirements.

For more information, see the County OOR Conflict of Interest Policy.

## C. Complaints

Applicants may submit a complaint to the Program at any time. In accordance with the guidance outlined in FR-6489-N-01, the Program will provide a timely written response to every written citizen complaint. Complaints will be addressed within **fifteen (15) working days** of receipt when practicable. If a complaint cannot be addressed **within fifteen (15) working days**, the Program will notify the complainant of the need for additional time and an estimated resolution/response timeframe.

People who wish to submit formal written complaints related to the Program may do so through any of the following avenues:

- Via Email: [cdbg-dr@mauicounty.gov](mailto:cdbg-dr@mauicounty.gov)
- In Writing to the County of Maui - Office of Recovery:
  - Attention: Ho'okumu Hou - CDBG-DR Program Complaints  
Office of Recovery, CDBG-DR  
200 S High Street  
Wailuku, HI 96793

Although formal complaints must be submitted in writing, complaints may also be received verbally and by other means necessary, as applicable, when it is determined that the citizen's particular circumstances do not allow the complainant to submit a written complaint. These alternate methods include, but are not limited to:

- Via telephone: 808-270-MCOR (6267)
- In person at any Program service center

## D. Appeals

Persons who wish to contest a Program determination may request an initial appeal directly with the Program by submitting a written request via electronic or postal mail or via the web portal at [www.Hookumuhou.mauicounty.gov](http://www.Hookumuhou.mauicounty.gov) within thirty (**30**) **calendar days** from the date of the determination being contested. Applicants may request an appeal to contest:

- Eligibility determination;
- Duplication of Benefits gap determination;
- Program Scope of Work; or
- Recapture Amount.

Appeals to rating and ranking decisions are limited to factors related to a violation of established process or program policies. Disagreement with the results of a ranking that followed appropriate processes will be deemed invalid and the appeal will not be considered. Appeals are limited to:

- Technical error of eligibility determination, award calculation, or scoring, such as mathematical miscalculation by the technical or Evaluation Committee. Errors in data submitted by the applicant do not qualify for an appeal.
- Violation or variation from established policies or processes.

People who wish to request an initial appeal related to the Program may do so through any of the following avenues:

- Via the web portal at [www.Hookumuhou.mauicounty.gov](http://www.Hookumuhou.mauicounty.gov)
- Via Email: [info@mauioor.com](mailto:info@mauioor.com)
- In Writing at any of the Program Service Centers

The OOR Appeals Coordinator will conduct an initial review using the request and supporting information submitted by the applicant and make a determination. When practicable, the determination will be made within ten (10) business days. Applicants will be notified in writing of the determination made on their initial appeal via an Initial Appeal Determination Notification.

If the applicant believes that the Initial Appeal determination was made in error, the applicant may request a Secondary Appeal directly with the OOR Appeals Coordinator within **fifteen (15) calendar days** of the date of the Initial Appeal Determination Notification. A written determination of the secondary review will be made and issued within ten (10) business days when practicable. Applicants will be notified in writing of the determination made on their appeal.

All appeal determinations made by the County OOR are final with no further administrative review and are not subject to judicial review.

An applicant cannot appeal program policies, federal regulations, or state statutes. Appeals filed based on these reasons will be denied.

People who wish to request a Secondary Appeal related to the Program may do so through any of the following avenues:

- Email:
  - [cdbg-dr@mauicounty.gov](mailto:cdbg-dr@mauicounty.gov)  
ATTN: CDBG-DR Appeals Coordinator
- In Writing:
  - Office of Recovery, CDBG-DR  
Attn: CDBG-DR Appeals Coordinator  
200 S High Street  
Wailuku, HI 96793

An applicant can withdraw the request for appeal at any time by providing written notice to the County OOR of this decision. Such a written notice must be delivered to County OOR at the address(s) referenced above.

Program requirements established by the County OOR and approved by HUD as dictated by law may not be waived or nullified.

Applicants who choose to file a request for appeal are encouraged to provide individual facts or circumstances, as well as supporting documents to justify their petition. In adjudication of the appeal, the Program will only review facts and information already included in an Applicant's file, unless the Applicant submits new documentation. The Program has the discretion to accept or reject new documentation based upon its relevance to the appeal.

## E. Exceptions and Special Considerations to Program Policies

The Program policies and procedures set forth the policy governing the Program and approved Standard Operating Procedures set forth the procedures by which policy will be enacted. The Policies and Procedures and the SOPs are intended to guide program activities and enforce compliance with applicable federal regulations. While Policies, Procedures and SOPs govern the program, neither should be considered exhaustive instructions for every potential scenario that may be encountered by the Program. At times, exception to program policies and/or procedures may be warranted. All exception requests are reviewed and adjudicated on a case-by-case basis as need arises, at the sole discretion of the County OOR. The case-by-case analysis may consider an applicant's remaining unmet need and would include documentation of cost reasonableness to confirm costs incurred are necessary and reasonable. Exceptions may be granted to program policy or process. However, exceptions to federal regulations, laws, or statutes shall not be authorized.

## F. Administrative Policies

The County OOR is required to make publicly available all **policies and procedures (P&Ps) that affect applicants, beneficiaries, and the general public**. These postings ensure transparency, compliance with HUD requirements, and accountability in the use of disaster recovery funds.

The following P&Ps must be posted to the County's CDBG-DR website:

- **Action Plan for Disaster Recovery and Amendments** – All substantial and non-substantial amendments.
- **Citizen Participation Plan (CPP)** – Public input process, comment periods, and complaint resolution.
- **Program Policies & Procedures** – For each active program (housing, multifamily, infrastructure and public facilities, public services, economic revitalization, and mitigation).

- **Cross-Cutting Federal Requirements** – Fair Housing and Equal Opportunity, Section 3 Plan, Uniform Relocation Assistance and Anti-Displacement, Language Access/LEP, and Section 504/ADA accessibility policies.
- **Financial and Administrative Policies** – Duplication of Benefits (DOB), Conflict of Interest, Fraud/Waste/Abuse reporting, Recordkeeping/Retention, and public-facing summaries of procurement standards.
- **Monitoring and Compliance Policies** – Subrecipient/contractor monitoring, corrective action procedures, and recapture/enforcement policies.

Each posted policy will include:

- **Version control history** with a summary of changes;
- **Cross-references/links** if core applicant content is located in another document; and
- **Alignment with all amendments** (substantial or non-substantial) to the County of Maui Action Plan.

## Appendix A – Terms and Definitions

**100-Year Floodplain (1% Annual Chance Floodplain):** The area subject to inundation from a flood that has a 1% or greater chance of being equaled or exceeded in any given year.

**500-Year Floodplain (0.2% Annual Chance Floodplain):** The area subject to inundation from a flood that has a 0.2% or greater chance of being equaled or exceeded in any given year.

**Applicant:** An eligible governmental entity or subrecipient that submits a project proposal for consideration under the Mitigation Program.

**Base Flood Elevation (BFE):** The elevation of surface water resulting from a flood that has a 1% chance of equaling or exceeding that level in any given year, as determined by FEMA.

**CDBG-DR (Community Development Block Grant – Disaster Recovery):** Federal funding administered by HUD and allocated to the County OOR to support long-term recovery, restoration of infrastructure, housing, and mitigation activities following the August 2023 Wildfires.

**County of Maui Action Plan:** The HUD-approved document prepared by the County OOR describing how CDBG-DR funds will be used to address recovery and mitigation needs from the August 2023 Maui Wildfires. The Action Plan outlines eligible activities, program requirements, and allocation amounts.

**Critical Actions:** Activities for which even a slight chance of flooding would be too great, due to the potential for loss of life, injury, or damage. Examples include hospitals, emergency shelters, utilities, and facilities that house vulnerable populations.

**Cross-Cutting Requirements:** Federal statutes, regulations, and executive orders that apply across federally funded programs. These include labor standards, environmental review, fair housing, Section 3, and nondiscrimination laws.

**Duplication of Benefits (DOB):** Occurs when a person, business, or entity receives financial assistance from multiple sources for the same recovery purpose, and the total assistance exceeds the total need. DOB is prohibited under the Stafford Act.

**Environmental Review:** A review process required under the National Environmental Policy Act (NEPA) and 24 CFR Part 58 to evaluate the environmental impacts of all CDBG-DR funded projects before implementation.

**Federal Register Notice (FRN):** An official HUD-issued notice published in the Federal Register establishing the rules, waivers, and alternative requirements governing each allocation of CDBG-DR funds.

**Floodplain:** FEMA-designated geographic areas subject to varying levels of flood risk, including special flood hazard areas.

**HUD:** The U.S. Department of Housing and Urban Development, the federal agency that administers the CDBG-DR program.

**Implementing Entity:** The department, division, or organization designated by the County OOR to carry out a CDBG-DR activity. Implementation may be led directly by the Office of Recovery in partnership with other County departments serving in a subject-matter support role. The implementing entity is responsible for day-to-day project delivery and ensuring compliance with all applicable federal, state, and local requirements.

**Infrastructure Project:** A public facility or improvement, such as roads, water systems, wastewater treatment, drainage facilities, or community-serving buildings, funded under the CDBG-DR Mitigation Program.

**Low- to Moderate-Income (LMI) National Objective:** Activities that benefit households whose income does not exceed 80% of the Area Median Income (AMI), adjusted for family size, in accordance with HUD guidance.

**Mitigation Activities:** Actions taken to reduce or eliminate long-term risk to people and property from future disasters, including resilient infrastructure, elevation of facilities, and natural hazard protections.

**Most Impacted and Distressed (MID) Areas:** Geographic areas designated by HUD as having experienced the greatest disaster impacts. For this allocation, County of Maui is the HUD-designated MID area.

**Notice to Proceed (NTP):** A written concurrence issued by the County OOR authorizing a subrecipient or implementing agency to begin project implementation or construction activities. The NTP is issued only after all pre-construction conditions, such as environmental clearance, Authority to Use Grant Funds, and procurement concurrence, are satisfied.

**Pari Passu:** A proportional funding method in which multiple funding sources are used concurrently and at the same percentage rate throughout a project's implementation. Each source pays its share of eligible costs in equal proportion to its total commitment.

**Program Income:** Gross income received by a subrecipient directly generated by a CDBG-DR funded activity, as defined in 24 CFR 570.500(a). Examples include loan repayments, proceeds from property sales, and rental income from CDBG-DR funded assets.

**Service Area:** The geographic area that directly benefits from a CDBG-DR funded project. Applicants must clearly define and document the service area when submitting project proposals.

**Subrecipient:** A public agency, nonprofit organization, or other eligible entity that receives CDBG-DR funds from the County OOR to implement activities on behalf of the program, as outlined in a Subrecipient Agreement (SRA).

**Subrecipient Agreement (SRA):** A public or nonprofit entity that receives CDBG-DR funds from the County to carry out eligible program activities on the County's behalf. Subrecipients

operate under a Subrecipient Agreement (SRA) and must comply with all federal, state, and local requirements applicable to CDBG-DR funds.

**Uniform Relocation Assistance (URA):** The federal law (42 U.S.C. § 4601 et seq.) governing fair treatment and assistance to persons displaced by federally funded projects, including CDBG-DR funded acquisition or demolition activities.

**Universal Notice:** The HUD Community Development Block Grant – Disaster Recovery (CDBG-DR) Universal Notice [FR-6489-N-01,] establishes the standard requirements, waivers, and alternative procedures that apply to all CDBG-DR grants. It serves as the governing federal framework for program design, financial management, and compliance across all disaster recovery activities.