



MULTIFAMILY RENTAL HOUSING NEW CONSTRUCTION PROGRAM POLICY

CDBG-DR

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Version History

Version	Date	Revision Description	Approved By
1	12/12/25	Initial Policy	

Version Policy

Version history is tracked in the Version History Table (above), with notes regarding version changes. Dates of each publication are also tracked in this table. Substantive changes in this document that reflect a policy change will result in the issuance of a new version of the document. For example, a substantive policy change after the issuance of Version 1.0 would result in the issuance of Version 2.0, an increase in the primary version number. Non-substantive changes such as minor wording and editing or clarification of existing policy that do not affect interpretation or applicability of the policy will be included in minor version updates denoted by a sequential number increase behind the primary version number (i.e., Version 2.1, Version 2.2, etc.).

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1. INTRODUCTION

This document serves as the program guidelines for the County of Maui's Multifamily Rental Housing New Construction Program. These policies and procedures were developed to serve as a basis for the County's program and to provide guidance on program implementation that follows HUD standards and best practices. This document may also serve as a reference for applicants and other interested parties who want to understand how the program operates. Note that these policies and procedures are only intended to address the Multifamily Rental Housing New Construction Program ("the Program").

Each of the other recovery programs outlined in the County of Maui Action Plan for the U.S. Department of Housing and Urban Development (HUD) Community Development Block Grant – Disaster Recovery (CDBG-DR) Funding ("Action Plan") is governed by its own Program policies and procedures document.

In 2025, the County of Maui was awarded a Community Development Block Grant – Disaster Recovery (CDBG-DR) grant through the U.S. Department of Housing and Urban Development (HUD) to address remaining unmet disaster recovery needs in areas impacted by the Maui Wildfires in 2023. Federal Register Vol. 90, No. 10, published January 16, 2025, allocated a total of \$1,639,381,000 in disaster recovery funds to the County¹. CDBG-DR funds have been allocated to housing, economic revitalization, infrastructure, public services, and mitigation programs. Program budgets were determined based on information gathered during the unmet needs assessment, as outlined in the County of Maui Action Plan. The County of Maui, Office of Recovery (County OOR) is the agency responsible and accountable to HUD for the administration of CDBG-DR funding.

The County has allocated \$185,000,000 in CDBG-DR funding for construction of new multifamily rental housing to increase and/or replace units lost as a result of the 2023 Maui Wildfires.

a. Contact Information

The County OOR is responsible for ensuring compliance with HUD CDBG-DR funding.

To connect with County OOR regarding these efforts, please contact:

Email: cdbg-dr@mauicounty.gov

Phone: 808-270-6267

¹ For full text of the Federal Register Notice, see: <https://www.govinfo.gov/content/pkg/FR-2025-01-16/pdf/2025-00943.pdf>

2. PROGRAM OVERVIEW

In response to the substantial loss of rental housing resulting from the 2023 Maui Wildfires, the County of Maui Office of Recovery (County OOR) is prioritizing the development of new, resilient affordable rental units to support long-term recovery. The Multifamily Rental Housing New Construction Program is intended to expand the supply of safe, durable, and affordable multifamily housing while incorporating design and construction standards that reduce future hazard vulnerability.

The Program provides financial assistance to eligible developers and housing partners for the new construction of affordable multifamily rental housing units that serve low- and moderate-income (LMI) households. Projects may be located within or outside of the burn zone, provided that they contribute to recovery by replacing or increasing housing stock lost due to the disaster or by supporting displaced households. Program funds may support reasonable costs necessary for new construction, including mitigation and resilience measures such as fire-resistant building techniques or elevation in special flood hazard areas.

The Program is administered by the County of Maui Office of Recovery (County OOR) in accordance with the HUD approved CDBG-DR Action Plan. Awards will be made based on project feasibility, cost reasonableness, and alignment with program objectives, and are subject to funding availability. CDBG-DR funds will be awarded in two rounds. Phase 1 is limited to projects destroyed by the 2023 Maui Wildfires that have new ownership structure and/or new land on which the housing will be constructed. Phase 2 is open to all eligible new multifamily construction projects. More information on eligible projects and applicants can be found in Section 5, Program Requirements.

All entities will enter into a binding agreement specifying statutory and regulatory compliance obligations, performance benchmarks, and reporting requirements. All activities are subject to HUD approval of the County of Maui Action Plan and any subsequent amendments.

The Program provides gap funding to support the new construction of eligible affordable multifamily rental developments containing five (5) or more units. Program funds are intended to supplement other committed sources, such as insurance proceeds, FEMA Public Assistance, tax credit equity, and state or local housing resources, to achieve financial feasibility and support timely project delivery. All developments must meet the long-term affordability requirements and comply with applicable federal standards for disaster recovery, resilience, and sustainability. Completed developments will provide long-term affordable rental housing for income-eligible households.

3. PROGRAM DESIGN

The Program is structured to provide gap funding for the development of resilient affordable multifamily rental housing, using clear eligibility standards, and defined affordability and compliance requirements. Funding is allocated to eligible projects and aligned with HUD CDBG-DR regulations to ensure that resources support feasible projects and address the documented housing unmet needs.

a. Program Phases

The Program will be implemented in two phases:

Phase 1: Limited to projects that are rebuilding affordable multifamily housing developments damaged or destroyed by the 2023 Maui Wildfires. Eligible projects may include acquisition of additional parcels of land or a change in ownership structure. The direct-award approach is being used to respond to an urgent and well-documented unmet housing need in Maui County that was compounded and exacerbated by the 2023 Maui Wildfires. Phase 1 selections will be made in accordance with program criteria and all federal CDBG-DR requirements.

Phase 2: Administered through a competitive Notice of Funding Availability (NOFA) Process open to all eligible developers and subrecipients proposing new affordable rental housing projects that align with CDBG-DR recovery goals.

b. Form of Assistance

The County OOR will provide gap funding to eligible subrecipients or developers in the form of a long-term loan. CDBG-DR funds are intended to fill verified financing gaps and must be supported by underwriting demonstrating that assistance is reasonable and necessary and does not duplicate any benefits already received.

Loan terms, repayment provisions, and other conditions may be adjusted based on underwriting results, project needs, and alignment with County OOR priorities.

c. Maximum and Minimum Awards

Awards for the Multifamily Rental Housing New Construction Program are capped at the lesser of:

- **\$400,000** per unit (units restricted to households earning $\leq 120\%$ Area Median Income), or
- **\$70,000,000** per development

The per unit subsidy must encompass all eligible project costs necessary to deliver the assisted units, including land acquisition, site development, infrastructure, construction, and allowable soft costs. Applicants must demonstrate that total project development

costs fall within these limits and that CDBG-DR funds are essential to achieving financial feasibility.

The County OOR may consider exceptions to the maximum award amount or per-unit subsidy on a case-by-case basis, when a project presents a clear, well-documented need for additional assistance and when the increased subsidy is both reasonable and necessary to achieve program objectives. Exception requests must include supporting documentation and will be reviewed by Program staff and the County OOR financial team. The review will evaluate:

- **Accessibility or Design Requirements:** Projects required to meet ADA, UFAS, or other accessibility standards that result in higher per-unit costs.
- **Demonstrated Financial Need:** Documented financing gaps after all other sources are committed, verified through project pro forma and cost reasonableness analysis.
- **Construction or Site Conditions:** Extraordinary site, infrastructure, or resiliency requirements directly related to disaster impacts (e.g., floodplain elevation, wildfire mitigation, or geotechnical challenges).
- **Public Benefit or Priority Population:** Projects that provide a significant increase in low- and moderate-income (LMI) units or serve priority populations identified in the County of Maui Action Plan.

All exception requests and determinations will be documented in the project file and must be approved in writing by the Program Manager (or designee) prior to final award.

d. Eligible Activities

Eligible activities must be undertaken on the island of Maui, Hawaii and must comply with the CDBG-DR eligible activity categories established under 24 CFR 570.201 through 570.207. For the purposes of CDBG-DR funds, multifamily housing is defined as five or more units per structure.

CDBG-DR funds may be used for reasonable and necessary costs directly related to the new construction of affordable multifamily rental housing serving households earning $\leq 120\%$ Area Median Income (AMI). The following activities under the Housing and Community Development Act of 1974 (HCDA) are eligible for multifamily housing activities within this program:

- **New Housing Construction** - (Universal Notice: III.D.5.a.) New construction of multifamily housing includes the soft and hard costs necessary to produce restricted units (e.g. demolition, mobilization, site preparation, materials, labor, and construction-related expenses).
- **Acquisition of Real Property** – Acquire real property through purchase, donation or long-term lease.
- **Architectural and Engineering Services** – Design, Geotechnical evaluations, and construction documents required for eligible development

- **Permitting and Associated Fees** – Permits and fees necessary to complete eligible multifamily new construction
- **Developer Fee** – Consistent with HUD guidance and program underwriting standards
- **Required green building, resiliency, and durability measures** – Compliance with HUD CPD Notice 16-04, Hawai'i State Energy Code, wildfire-resistant design, and other Program mandated construction standards.
- **Required elevation and hazard mitigation measures** – Compliance with FEMA floodplain standards, the Federal Flood Risk Management Standard (FFRMS), and locally adopted elevation or floodproofing requirements when applicable.

All eligible costs must be directly tied to the production of CDBG-DR units, must be reasonable and necessary, and must align with the Program's construction, environmental and affordability requirements.

e. Ineligible Activities

Ineligible activities are defined in 24 CFR 570.207, and include, but are not limited to, buildings or portions thereof used for conduct of government; general government expenses; political activities; or purchase of equipment.

Ineligible costs include:

- Pre-application costs and application development costs that are not permitted in accordance with section III.B.14. of the Universal Notice
- Hard and soft costs associated with the new construction of housing units that will not be occupied by households that earn 120% AMI or less.
- Advances of any type, including construction
- Facility operating or maintenance expenses
- Infrastructure that does not result in the production of housing
- Funding for supportive services
- Offsite Improvements
- Maintenance or operating costs

The County OOR reserves the right to approve or deny the applicability and eligibility of costs on a per payment basis. The County OOR requires that costs are reasonable and consistent with current market costs for the area where the multifamily new construction will take place.

i. Pre-Award Costs

Pre-award costs are not eligible under the Multifamily Rental Housing New Construction Program. Only costs incurred after execution of a Subrecipient or Developer Agreement and the County's receipt of HUD's Authorization to Use Grant Funds (AUGF) are eligible for CDBG-DR reimbursement.

This means that expenses such as architectural and engineering fees, site surveys, environmental studies, permitting, or demolition activities undertaken before HUD environmental clearance and County approval cannot be reimbursed with CDBG-DR funds.

Applicants who have initiated project design or construction prior to the official award must identify those costs separately; these expenses will be considered non-federal contributions or match, but not reimbursable under this Program.

f. Affordability Requirements

To meet the Low/Moderate Income Housing (LMH) national objective, a minimum of fifty-one percent (51%) of the total rental units in the newly constructed property must be occupied by households earning at or below 80% AMI, and the remainder of total rental units must be occupied by households earning at or below 120% AMI following project completion for the duration of the restrictive covenants. Affordable rents will be established using HUD-published Area Median Income (AMI) limits for the County of Maui Metropolitan Statistical Area (MSA). The County OOR may utilize the Part 5 Income determination method for determining the LMI status of households seeking tenancy in the projects covered by this program. Other income calculation methods acceptable to HUD may be reviewed and approved by County OOR on a per project basis.

HUD requires the adoption and implementation of enforceable affordability standards that comply with or exceed HUD HOME Investment Partnerships Program (HOME) affordability periods for the new construction or rehabilitation of affordable rental housing in structures containing five or more units. Affordability periods must be enforceable and imposed by recorded restrictive covenants and deed restrictions, which shall apply without regard to the term of any loan or mortgage, repayment of the CDBG-DR funds, or transfer of ownership (Universal Notice III.D.5.d). The County of Maui will utilize a mortgage and note securing the terms of the loan. The Affordability Period for all projects is forty-five (45) years.

The County OOR has adopted the following affordability periods for activities funded under this program:

Activity	Affordability Period	Repayment
New Construction (5 or more units)	45 years	<ul style="list-style-type: none"> • Zero interest • Ten percent (10%) of Surplus Cashflow repayment annually for life of Affordability Period • Balloon repayment due at refinancing or end of Affordability Period for all missed surplus cashflow payments

g. Rent Limits

Multifamily rental projects must have rent and occupancy requirements that ensure that the units are affordable to and occupied by Low/Moderate Income households. Projects must use rents that are affordable to the AMI level that the unit is committed to, as described below:

- 120% AMI or less units: Rent that does not exceed 120% of High HOME Rent limit, effective for the current year, based on the applicable bedroom size as determined and published annually by HUD (High HOME Rents): <https://www.huduser.gov/portal/datasets/HOME-rent-limits.html>
- 80% AMI or less units: Rent that does not exceed the applicable High HOME Rent limit, effective for the current year, based on the applicable bedroom size as determined and published annually by HUD (High HOME Rents): <https://www.huduser.gov/portal/datasets/HOME-rent-limits.html>
- 50% AMI or less units: Rent that does not exceed the applicable Low HOME Rent limit, effective for the current year, based on the applicable bedroom size as determined and published annually by HUD (Low HOME Rents): <https://www.huduser.gov/portal/datasets/HOME-rent-limits.html>

Rents may be changed annually following HUD's release of the new rent limits or the beginning of the calendar year for which the rent limits are effective, whichever is later. However, subrecipients or developers cannot increase rents during the individual lease term, only at renewal or initial leasing. Rent limits will be imposed via a deed restriction.

The County OOR will perform rental affordability compliance checks annually, at a minimum, where the subrecipient or developer must supply the County OOR with rent rolls for each month since the previous compliance check, most recent tenant income certification documentation, and all current leases. Should the subrecipient or developer be found in non-compliance, the County OOR is authorized to take the corrective and remedial actions described in 24 CFR 570.910.

- a. Issue a letter of warning advising the recipient of the deficiency and putting the recipient on notice that additional action will be taken if the deficiency is not corrected or is repeated;
- b. Recommend, or request the recipient to submit, proposals for corrective actions, including the correction or removal of the causes of the deficiency, through such actions as:
- c. Establishing and following a management plan which assigns responsibilities for carrying out corrective actions
- d. Canceling or revising affected activities that are no longer feasible to implement due to the deficiency and re-programming funds from such affected activities to other eligible activities

h. Utility Allowances

If the tenants within the affordable rental housing units pay utilities (electricity, natural gas, propane, fuel oil, wood or coal, water and sewage service, as well as garbage collection), then, calculation of the Tenant Rent must include a utility allowance that deducts these utilities from the net Tenant Rent.

Local Public Housing Authorities (PHAs) are required to calculate and annually update the utility allowance used by their agency to calculate net Tenant Rent for their agency's tenants. HUD permits the use of this local PHA utility allowance calculation. If the PHA utility allowance cannot be obtained from the local PHA agency, HUD recognizes another tool, the HUD Utility Schedule Model (<https://www.huduser.gov/portal/resources/utilallowance.html>) that will effectively create a utility allowance for an affordable rental housing project. Please note that the utility allowance must be updated annually by the Applicant during the entire term of the Affordability Period. Additional training and/or technical assistance regarding utility allowance calculation will be provided to Applicants upon request.

i. Repayment Terms and Mechanisms

Assistance under the Multifamily Rental Housing New Construction Program will be provided in the form of a 0% interest loan secured by a recorded mortgage and promissory note. The loan will remain in effect for the duration of the project's required affordability period.

All Program funds shall be secured by a mortgage and promissory note recorded against the assisted property in a lien position subordinate only to permanent financing approved by the County OOR. The mortgage and note must be in a form acceptable to the County and will be recorded upon execution of the Loan Agreement, prior to commencement of construction or issuance of a Notice to Proceed.

A regulatory agreement governing affordability, income and rent restrictions, property compliance, reporting, and monitoring requirements will also be recorded and shall run with the land for the full affordability period.

i. Loan Terms

- **Interest Rate:** 0%
- **Payments:** The Subrecipient or Developer shall make an annual payment to the County equal to ten percent (10%) of Surplus Cash projected on the proforma operating budget submitted prior to closing. Surplus Cash payment, as defined herein, generated by the Project during each Fiscal Year, shall be due within ninety (90) days following the end of each Fiscal Year, accompanied by audited or County-approved financial statements demonstrating the calculation of Surplus Cash.

In any Fiscal Year in which the Project does not generate sufficient Surplus Cash to make the full required annual payment, the unpaid portion of the required Surplus

Cash payment shall not be forgiven, and shall be deemed accrued, deferred and recorded as a Deferred Surplus Cash Obligation.

The Deferred Surplus Cash Obligation shall accumulate annually and represent amounts that would have been payable to the County had sufficient Surplus Cash been available.

The total outstanding balance of any Deferred Surplus Cash Obligation shall become immediately due and payable upon the occurrence of any of the following events (each a “Capital Event”):

- Refinancing of the Project, including any replacement or restructuring of permanent debt;
- Sale or transfer of the Project or any ownership interest therein;
- Recapitalization or admission of new equity partners;
- Cash-out financing or equity take-out; or
- Any other transaction resulting in the receipt of net proceeds by the Borrower or ownership entity.

At the time of a Capital Event, the Subrecipient or Developer shall pay to the County, from available net proceeds, the full amount of all accrued and unpaid Deferred Surplus Cash Obligations, prior to any distribution of proceeds to owners or affiliates, subject only to senior debt requirements approved by the County.

The absence of Surplus Cash in any Fiscal Year shall not constitute a waiver, reduction, or forgiveness of the Subrecipient’s or Developer’s repayment obligation. The Deferred Surplus Cash Obligation shall remain a continuing obligation of the Project and shall survive until paid in full or until the expiration of the affordability or compliance period, as applicable.

The Subrecipient or Developer shall annually certify to the County the amount of Surplus Cash generated, any payment made, and the cumulative balance of any Deferred Surplus Cash Obligation. The County reserves the right to audit or review financial records to verify compliance.

- **Amortization:** The unpaid balance of the loan will remain in full until the expiration of the affordability period so long as the project remains in full compliance. The unpaid balance of the loan will become due and payable in the event of any uncured default, in accordance with the mortgage and note.
- **Term:** 45 years
- **Subordination:** Loan shall be subordinate only to approved permanent financing

Compliance with all affordability, income targeting, rent limits, and program requirements is a condition of loan forgiveness.

ii. Surplus Cashflow and Balloon Repayment Requirements

“Surplus Cashflow” is defined as all remaining cash at the end of the Borrower’s fiscal year after payment of:

- All operating expenses necessary to maintain the property in safe, sanitary, and habitable condition;
- All reserves required under the Loan Agreement or other lender agreements, including replacement reserves and operating reserves;
- Required payments on senior debt approved by the County;
- Reasonable asset management fees permitted under the project’s regulatory documents.

Any cash remaining after the above obligations is “Surplus Cashflow” for the purposes of calculating the annual repayment obligation. The Surplus Cashflow amount shall be calculated annually using the prior year’s approved operating pro forma. Each year during the Affordability Period, Borrowers must remit 10% of Surplus Cashflow to the County OOR. If in any year the full 10% payment is not made, whether due to insufficient Surplus Cashflow or failure to pay, the unpaid portion will be:

- Recorded as a deferred payment, and
- Added to a cumulative balance (“Balloon Repayment Balance”) tracked by the County OOR or designee.

Any outstanding Balloon Repayment Balance becomes immediately due and payable upon any refinancing of the property. This obligation applies annually for the full 45-year affordability period.

iii. Events Triggering Repayment

The unpaid principal balance shall become immediately due and payable if any of the following occur during the affordability period:

- Sale, transfer, or refinancing of the property without prior written approval from the County OOR
- Removal, violation, or expiration of rent or income restrictions
- Conversion to a non-affordable use
- Failure to maintain the project in compliance with HUD, State, or County program requirements
- Failure to comply with the terms of the Loan Agreement, Regulatory Agreement, mortgage, or note
- Failure to maintain required insurance or meet property-level compliance obligations

If the County OOR approves a sale, transfer, or refinancing, the affordability requirements must remain in place for the remainder of the affordability period.

j. Cost Reasonableness

All project costs must be reasonable, necessary, and compliant with 2 CFR 200.404 and the CDBG-DR requirements for financial feasibility and duplication of benefits. The County OOR will review all budgets, pro formas, and supporting documentation to ensure that the total development cost (TDC) and individual cost line items are consistent with market conditions.

i. Developer Fee Cap

Developer fees are allowable but shall not exceed 10 percent of the total development costs, inclusive of consultant fees, overhead, and profit. The developer fee must be fully disclosed in the project budget and pro forma.

Subrecipients are not entitled to a development fee.

k. Funding Alignment

The Multifamily Rental Housing New Construction Program will be implemented in alignment with HUD's Rapid Unsheltered Survivor Housing (RUSH) policy framework, where applicable (Universal Notice III.A.3). RUSH provides flexibility and guidance to accelerate permanent housing solutions for disaster-impacted individuals and households who are experiencing or at risk of unsheltered homelessness following a federally declared disaster.

In keeping with these objectives, the Program will prioritize new construction projects that restore or create affordable rental housing serving populations displaced or made homeless by the 2023 Maui Wildfires. The County OOR will coordinate with temporary and transitional housing providers to identify unmet housing needs that can be addressed through multifamily new construction, ensuring that newly developed units support long-term recovery and stability for affected residents.

The Program's evaluation and scoring process will also reflect RUSH-aligned principles by emphasizing project readiness, the inclusion of supportive housing components, and the location of developments near high-need or displacement areas. Wherever possible, CDBG-DR funds will be leveraged with other federal and state resources including FEMA, State of Hawaii, and local housing programs, to expedite the transition of households from temporary accommodations to safe, permanent housing.

Through these coordinated efforts, the Multifamily Rental Housing New Construction Program will not only replace lost and create new housing stock but will also advance HUD's broader RUSH objectives of accelerating housing stabilization, improving resiliency, and supporting long-term recovery for wildfire-impacted communities.

4. ROLES AND RESPONSIBILITIES

a. Grantee

The County of Maui's Office of Recovery (County OOR) is the HUD Grantee and lead agency responsible for administering all CDBG-DR funds allocated to the County of Maui and providing oversight to the subrecipient or developer agency to ensure compliance requirements with respect to its CDBG-DR funds are adhered to.

County OOR is responsible for the following:

- Grant Management;
- Daily program management;
- Provision of post-award technical assistance to subrecipients or developers and other County of Maui department staff carrying out approved activities, if applicable;
- Review of proposals for funding eligibility;
- Review and approval of all payment requests;
- Monitoring of outcomes/performance goals and project timelines;
- Serving as the Technical Review Team (for programs utilizing scored project selection);
- Facilitation of Evaluation Committee to ensure fair and transparent review of applications;
- Presenting evaluation summaries and recommended awards;
- Subrecipient or Developer Agreement development and execution;
- Monitoring of subrecipients, developers and other County of Maui departments, if applicable;
- Performance of on-site inspections of affordable housing developments and monitoring of subrecipients and developers during the affordability period;
- Management of vendors/contractors;
 - Disaster Recovery Grant Report (DRGR) reporting;
 - Recordkeeping and record retention; and
 - Grant closeout

b. Implementation Vendor

The County OOR's Implementation Vendor, in collaboration and with the lead agency, will provide general management services to include project implementation, staff augmentation, construction management and grant compliance and monitoring as needed. All activities must be carried out in full compliance with HUD requirements and under the general direction of the County OOR.

The Grant Administration team will be responsible for, but not limited to, the following:

- Ensuring compliance with 2 CFR 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards
- Ensuring compliance with 24 CFR Part 58 Environmental Review requirements.

- Providing all necessary equipment and supplies for its staff working under this contract.
- Establishing an organizational structure with proper administrative and construction oversight.
- Assisting in drafting procurement documents for County OOR review and approval prior to solicitation.
- Developing program standards and policies;
- Developing workflows;
- Assisting in developing program application and scoring processes and supporting forms;
- Developing intake and review processes;
- Completing a technical review of applications;
- Facilitating and supporting evaluation committee;
- Evaluating eligibility criteria;
- Providing technical assistance to applicants;
- Providing technical assistance to subrecipients, developers and County staff;
- Tracking project performance and monitoring project progress;
- Verifying and ensuring no duplication of benefits process;
- Creating the scoring and ranking structure for projects;
- Developing appeal criteria and processes
- Meeting at least monthly, potentially more frequently, with County OOR staff and cooperating on monitoring and compliance reviews for contract oversight; and
- Assisting with other County needs related to management of CDBG-DR programs, if requested.

c. Subrecipient(s) & Developer(s)

A subrecipient is defined by 2 CFR 200.93 as a non-Federal entity that receives a subaward from a pass-through entity to carry out part of a Federal program; but does not include an individual that is a beneficiary of such program. A subrecipient may also be a recipient of other Federal awards directly from a Federal awarding agency.

The County OOR may make awards to eligible subrecipients to administer eligible activities under the Multifamily Rental Housing New Construction Program. By entering into a written Agreement, the organization agrees to:

- Assume all areas of responsibility for administering the scope of work in accordance with established program guidelines, within approved budget, and within the approved timeline. The Subrecipient Agreement will contain all compliance and key requirements for the performance of the project;
- Actively participate in the County OOR-provided technical assistance sessions and regularly scheduled meetings;
- Provide complete reports on time;
- Ensure staff are available for the County OOR, HUD, HUD OIG, and other monitoring visits or audits;
- Maintain recordkeeping requirements;

- Submit all required documentation into the County OOR's system of record, ensuring files are always compliant and updated;
- Comply with local County of Maui code requirements and HUD's Minimum Property Standards (MPS);
- Comply with National Objective requirements, by submitting the tenant's income, rents, and other CDBG-DR rental requirements during the period of affordability.
- Maintain records for post-closeout compliance requirements; and
- Contact the County OOR if they need additional technical assistance to meet all compliance and performance requirements.

A developer is an entity that receives CDBG-DR funds to undertake an eligible project for its own account and not as an agent of the County. A developer may be a for-profit or non-profit organization, but does not receive a subaward to administer program funds on behalf of the County OOR. Developers are not considered subrecipients as defined in 2 CFR 200.93 and are not subject to the same subrecipient monitoring requirements.

The County OOR may make awards to eligible Developers to undertake eligible activities under the Multifamily Rental Housing New Construction Program. By entering into a written Developer Agreement, the organization agrees to:

- Undertake the approved project in accordance with the terms and conditions of the CDBG-DR Agreement, within the approved budget, and within the approved timeline;
- Comply with all applicable federal, state, and local laws, including but not limited to 24 CFR Part 570 and 2 CFR Part 200, as applicable;
- Ensure that all construction activities meet CDBG-DR requirements, including environmental review, procurement (if applicable), labor standards, and Section 3;
- Provide documentation demonstrating compliance with National Objective and affordability requirements throughout the period of affordability;
- Submit required project progress reports, draw requests, and completion documentation in the County's system of record;
- Permit the County OOR, HUD, HUD OIG, and other authorized representatives to conduct site inspections, reviews, or audits;
- Maintain accurate and complete project records for the duration of the agreement and required retention period; and
- Notify the County OOR of any issues, delays, or compliance concerns that could affect the project's timely completion or compliance status.

	Subrecipients	Developers
Definition	2 CFR 200.1 defines a subrecipient as a non-Federal entity that receives a subaward from a passthrough entity to carry out part of a Federal program; but does not include an individual that is a beneficiary of such program.	A for-profit or private nonprofit individual or entity that: (1) acquires homes and residential properties to rehabilitate for use or resale for residential purposes, and (2) constructs new housing in connection with the redevelopment of demolished or vacant properties. 24 CFR 570.202(b)(1)
Award Structure	Subrecipient Agreement: Subrecipients are not program beneficiaries but are responsible for programmatic decision-making and uses the federal funds to carry out a program for a public purpose.	Developer Agreement: Developers are program beneficiaries and thus distinct from subrecipients, grantee employees, and contractors. Developers may receive funds from either the grantee or a subrecipient. <i>It should be noted that Public Housing Authorities are public agencies and therefore are unable to be a developer.</i>
Procurement	Must adhere to all 2 CFR 200 requirements. 2 CFR 200 Subpart E (public agencies) 2 CFR 230 (nonprofit organizations)	Developers are not subject to 2 CFR 200-Procurement Standards, and do not have to procure subsequent entities/services (including contractor.) Cost reasonableness must still be documented
Construction Management	Provides oversight to ensure cost reasonableness and compliance with cross-cutting federal requirements.	Manage all activities related to constructing, rehabilitating or purchasing real estate for the purposes of developing affordable housing.
Activity Delivery	Can only charge actual costs to deliver activity and administration funds for all direct costs	May charge a developer's fee in accordance with 24 CFR 570.202(b)(1).
Public Facilities	May procure contractors to construct public facilities.	May not construct public facilities; this is distinct from public improvements.
Program Income	Must treat excess revenues as program income and return to grantee, or if the County permits, subrecipients may keep program income to implement other eligible activities	Excess revenues are not treated as program income; not required to return, may retain. May earn Developer's fee under 24 CFR 570.202(b)(1) in exchange for assuming some financial risk in the project.

5. PROGRAM REQUIREMENTS

a. National Objectives

All activities funded by Multifamily Rental Housing New Construction Program must meet the Low/Moderate Income Benefit (LMI) National Objective. More specifically, under the LMI Benefit National Objective, this Program will be identified as a Low/Moderate Income Housing Benefit (LMH) activity.

The LMH objective includes activities undertaken which improve or provide permanent residential structures that will be occupied by low/moderate income households.

To meet the housing LMI national objective, assisted multifamily housing structures must be at least 51 percent (51%) occupied by LMI households following new construction.

b. Applicant Eligibility Criteria

Applicants and proposed activities must meet all of the following requirements. Eligibility for Multifamily Rental Housing New Construction Program includes:

- Applicant is a unit of general local government, private non-profit or for-profit entity, or Public Housing Authority that owns, or possesses other legal contract for, property suitable for new construction of multifamily affordable housing units (5 or more units) located on the island of Maui;
 - Applicants that are reconstructing previously affordable rental housing
 - Projects in which ownership of previously existing affordable rental housing has changed after the 2023 Maui Wildfires, or where the Applicant has already acquired or intends to acquire additional land are eligible under the Multifamily New Construction Program Phase 1.
- In all cases, the principals or key members of the development team must have demonstrated experience operating, managing, or developing affordable housing within the thirty-six (36) months prior to the application deadline. The Applicant must be a legally formed entity qualified to do business in the state of Hawaii as of 14 calendar days prior to the application deadline.
- Applicant may not be presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in federal programs, as indicated by System for Award Management (www.SAM.gov). **Any applicant on the excluded parties list (www.sam.gov/SAMI) will be considered ineligible for funding.**
- Applicant must be in good standing with state and federal taxes (SUTA, FUTA, income, etc.) or in an approved and executed repayment plan. Applicant must be in good standing with the Hawaii Department of Commerce and Consumer Affairs (DCCA). The County OOR reserves the right, at its sole discretion, to permit an Applicant to resolve any outstanding compliance issues, including but not limited to delinquent property taxes and or unresolved financing obligations. When approved by the County OOR, the Applicant may be granted up to six (6) months to satisfactorily cure such issues as a condition of eligibility.
- Applicants may not be, at time of proposal submission, party to any active legal or court action related to fair housing and must disclose all legal or court actions in which the applicant is currently involved.

c. Property Eligibility Criteria

All projects under the Multifamily Rental Housing New Construction Program must meet the following eligibility criteria:

- Proposed property must be located on the island of Maui, HI and must be CDBG-DR eligible and meet a housing activity national objective, as defined in 24 CFR 570.208(a)(3)
- Proposed properties must have at least 5 residential units
- For projects requiring relocation – Applicant must ensure that an adequate number of decent, safe, and sanitary vacant units are available to temporarily relocate tenants (A Rehabilitation Relocation Plan is required if property is occupied. Please refer to Section 4.2.3 for more information).
- Property must be owned or proposed to be owned, as demonstrated by documentation. Acceptable documentation for documenting ownership (Universal Notice III.A.3) are:
 - Deed,
 - Title,
 - Mortgage documentation,
 - Tax receipts, or
 - Court documentation
- A minimum of fifty-one percent (51%) of the total rental units in the newly constructed property must be occupied by households earning at or below 80% AMI, and the remainder of total rental units must be occupied by households earning at or below 120% AMI following project completion for the duration of the restrictive covenants
- The building footprint (for buildings with residential units) may not be located within or partially within a regulatory floodway, unless footprint is located within a Special Flood Hazard Area (“SFHA”), in which case, the lowest residential floor must be elevated at least two feet above the FEMA Base Flood Elevation (BFE). If the building is located in the 100-year floodplain (Zone A), the ground floor must be elevated at least two feet above BFE. Parking is not required to be at or above the building elevation requirements.

All projects under Phase 1 of the Multifamily Rental Housing New Construction Program must also meet the following additional criteria:

- Property must have been affordable housing prior to the Maui Wildfires.
- A minimum of the greater of (1) fifty-one percent (51%) of the total rental units in the newly constructed property, or (2) the percentage of units that were restricted to households at or below eighty percent (80%) of Area Median Income (AMI) in the pre-Maui Wildfire property, must be occupied by households earning at or below 80% AMI following project completion. The remainder of total rental units must be restricted to households at 120% AMI or less.
 - Example: For a 100-unit property that previously had 60 units reserved for households at or below 80% AMI, the reconstructed property must include at least 60% of units reserved for households at or below 80% AMI, with the remaining 40% of units (maximum) at or below 120% AMI.
- There must be evidence of damage to the property caused by the 2023 Maui

Wildfires. Eligible applicants must provide documentation, including but not limited to, insurance claims or proof of application to FEMA for damage assistance related to the Maui Wildfires, or damage assessments with date-stamped pictures of the damage.

The same project may not receive funding under both Phase 1 and Phase 2 of the Multifamily Rental Housing New Construction Program.

d. Tie-Back to the Disaster

The CDBG-DR program requires all funded activities to demonstrate a direct tie-back to the 2023 Maui Wildfires. Maui County's housing stock suffered severe impacts from the wildfires. According to the Housing Unmet Need Assessment in the County of Maui Action Plan, 4,271 rental units were destroyed resulting in an estimated \$2.4 billion in remaining unmet housing needs. Both Phase 1 and Phase 2 projects under this Program must establish a qualifying tie-back, as described below. The new construction of affordable rental housing units on the island of Maui will expand the availability of housing and assist in offsetting the housing shortages.

Phase 1 Tie-back: Direct Physical Damage

Projects applying under Phase 1 must demonstrate that the multifamily housing structure sustained direct physical damage as a result of the 2023 Maui Wildfires. Eligible applicants must provide documentation, including but not limited to, insurance claims or proof of application to FEMA for damage assistance related to the Maui Wildfires, or damage assessments with date-stamped pictures of the damage.

Phase 2 Tie-Back: Loss of Housing Stock

For Phase 2, the required disaster tie-back is established at the programmatic level. The County of Maui Action Plan identifies a significant loss of rental housing and a resulting countywide shortage of affordable housing units from the 2023 Maui Wildfires. Based on this documented post-disaster housing deficit, new construction of affordable rental housing units satisfies the required disaster tie-back without additional documentation from applicants.

6. APPLICATION AND SELECTION PROCESS

a. Selection Methodology

Phase 1: The County OOR will use a direct selection process to identify and fund eligible projects under Phase 1 of the Multifamily Rental Housing New Construction Program. Participation will be limited to qualified owners or developers of multifamily affordable housing properties destroyed or severely damaged by the 2023 Maui Wildfires. These

applications will be open on a rolling timeline, allowing for eligible applicants to apply when the project is ready.

Phase 2: The County OOR will publicly release a Notice of Funding Opportunity (NOFO) that will invite qualified applicants with eligible projects to submit a Program Application under Phase 2 of the Multifamily Rental Housing New Construction Program. These applications will have a definitive opening and closing dates, which will be strictly adhered to. This allows for complete competition between projects.

All applications within their respective phases will be reviewed, scored, and ranked using objective criteria established by the County OOR. Rankings will determine the prioritization of awards within available program resources. This approach enables the County to direct funds to projects that best advance disaster recovery, mitigation, and long-term housing affordability objectives.

b. Program Application

The County OOR will distribute a Program Application to each qualified applicant under the appropriate phase. The application will outline the following:

- Program goals and available funding;
- Eligible applicants and activities;
- Submission requirements and threshold eligibility criteria;
- Evaluation and scoring rubric; and
- Submission instructions and timeline.

Applicants must submit a complete application with supporting documentation as outlined in Appendix 1 (Document List). Incomplete applications will not proceed to scoring.

c. Mandatory Pre-Application Meetings

Prior to submission, the County OOR will conduct two pre-application meetings, one for each phase, to present program eligibility, environmental requirements, duplication of benefits, affordability standards, and timeline expectations. Following the pre-application meetings, only prospective Applicants who attended will be provided with access to the Program Application and instructions for completing the submission.

d. Threshold & Eligibility Review

Upon receipt, applications will undergo a threshold review to confirm:

- Application Completion
- Applicant eligibility as set forth in Section 2.e.
- Project eligibility under 24 CFR 570.201(c) and applicable waivers granted under the Universal Notice;
- Evidence of site control;
- Feasibility of completion within three (3) years of start date; and
- Compliance with minimum affordability and disaster tie-back requirements.

Applications received after the deadline or missing required components may be disqualified from consideration. Only applications meeting all threshold requirements will advance to the formal scoring stage.

e. Application Review & Scoring

Eligible applications will be evaluated by a review panel of County staff and subject-matter experts. The panel will apply a standardized scoring rubric that measures capacity, financial soundness, readiness to proceed, affordability, resilience, and community benefit. Total scores will determine ranking and funding recommendations. Funding is subject to availability, environmental clearance, and County approval.

f. Exception Requests

Applicants may request an exception to certain program requirements outlined in the application, provided the request does not conflict with applicable federal regulations governing CDBG-DR, including 24 CFR Part 570 and the HUD CDBG-DR Universal Notice (90 FR 1754). Exception requests must be submitted in writing as part of the full application package, with detailed justification and supporting documentation.

The County OOR will review whether the exception is permissible under applicable regulations and whether it maintains fairness, consistency, and alignment with program goals and the County of Maui Action Plan. A written determination will be issued to the applicant.

Note: Exceptions that conflict with statutory or regulatory requirements will not be considered. Applications dependent on such exceptions may be deemed ineligible.

7. EVALUATION, SELECTION CRITERIA AND SCORING

a. Evaluation Committee

A review panel of County OOR staff or designees will review and score all complete applications in accordance with the approved scoring rubric. A County selected Evaluation Committee will then rank the applications by priority and recommendation for funding. All Evaluation Committee members must certify no conflict of interest (24 CFR 570.611) and document all scores and rationale for HUD monitoring purposes.

b. Goals and Selection Criteria

The Program emphasizes investments that most directly advance Maui's long-term housing recovery and address documented unmet needs resulting from the 2023 Maui Wildfires. Scoring will prioritize projects that meet the following priorities:

i. Preserve or Replace Government-Assisted Affordable Housing

Phase 1: Government-assisted affordable housing projects to include federal, state, local/county funds that are still active (i.e. Affordable Housing Trust Fund (AHTF), Low-Income Housing Tax Credits (LIHTC), project-based, housing choice vouchers, subsidized, government assisted contracts where the regulatory agreements are within 5 years of expiration).

Phase 2: Affordable housing projects that have been awarded other sources of government funding, including federal, state, and local/county funds (i.e. Affordable Housing Trust Fund (AHTF), Low-Income Housing Tax Credits (LIHTC), Section 8 project-based subsidy, etc.)

ii. Location in High-Need Areas (Lahaina Area & Central Maui)

Projects located in Lahaina will receive the highest geographic priority. Projects in Central Maui are also prioritized due to access to infrastructure, services, and employment.

iii. Delivery of a Balanced Affordability Mix

Priority is awarded to developments that provide a diverse range of AMI-restricted units (a mix of 50%, 60%, 80%, 100%, 120%) supported by a financially realistic pro forma. Projects that incorporate deeper affordability ($\leq 50\%$ AMI), while maintaining long-term operational sustainability, demonstrate stronger alignment with the County's goals of serving displaced and cost-burdened households across income levels. All units must serve households $\leq 120\%$ AMI with no market rate units permitted.

c. Threshold Criteria

Only applications that satisfy all eligibility and threshold requirements will advance to scoring.

Minimum Requirements for Application Consideration		
Criteria Category	Description	Points Available
Minimum requirements	<ul style="list-style-type: none"> • Complete application • Evidence of site control. Applicant must be named in documentation. • Feasibility of completion within 3 years • Compliance with minimum affordability period • Evidence of appropriate zoning or evidence of application for zoning change and/or density increases 	N/A

d. Scoring Criteria

All scored projects must receive at least 70 points to remain eligible for funding consideration. Applications will be scored using a 100-point scoring rubric:

Scoring Rubric		
Criteria Category	Description	Points Available
Alignment with Identified Recovery Needs	<ul style="list-style-type: none"> Location within or close to Lahaina or Central Maui (10 points) Preservation of government assisted affordable housing (5 points) Integration of Wildfire, flood, and hazard-mitigation design elements (5 points) Location supports safe evacuation or emergency response access (5 points) 	25
Population Served	<ul style="list-style-type: none"> Depth and Distribution of Affordability (10 points) Very-low-income and special-needs targeting (5 points) Prioritization of fire-displaced and FEMA households (5 points) Serving formerly homeless households (3 points) Programming for supportive services for residents (2 points) 	25
Project Impact	<ul style="list-style-type: none"> Total number affordable units produced (7 points) Affordability period exceeding 45 years (5 points) On-site amenities and community features (5 points) Proximity to jobs, schools and services (3 points) 	20
Financial Considerations	<ul style="list-style-type: none"> Project budget feasibility and CDBG-DR request (5 points) Leverage of other funding sources (5 points) 20-year operating pro forma demonstrating long-term sustainability and cost reasonableness (5 points) 	15
Applicant Attributes and Readiness to Launch	<ul style="list-style-type: none"> Experience with federal housing programs (CDBG, HOME, LIHTC) (5 points) Financial management capacity, procurement compliance and audit history (4 points) 	15

<ul style="list-style-type: none"> • Zoning and permits underway (3 points) • Ability to begin within 6 months of agreement execution. (3 points) 	100
Total Maximum Points Available	

e. Project Selection

Phase 1:

Phase 1 of the Program uses a rolling, direct-select process to support the rapid replacement of affordable rental housing units that were damaged or destroyed by the 2023 Maui Wildfires. Phase 1 will remain open for an extended application window. Applications will be accepted and reviewed on a rolling basis, and awards will be made individually as projects satisfy all eligibility, threshold, and due-diligence requirements. Applications must pass an underwriting analysis, verify all committed leveraged funds and have environmental clearance (AUGF received) before an agreement can be executed.

Phase 2:

Following threshold review and scoring, the County OOR will rank all eligible applications in descending order. Funding recommendations will be made according to rank order until all available funds are allocated, subject to:

- Successful completion of underwriting,
- Environmental review clearance (AUGF received)

Projects that meet all requirements but cannot be funded due to limited resources may be designated as alternates. Alternate projects may receive funding if awarded projects withdraw, become infeasible, or fail to meet requirements in a timeline manner.

All award decisions, scores and selection documentation will be retained for HUD monitoring and public transparency.

8. AWARD AND AGREEMENT

a. Project Approval

After a project is reviewed and scored, Staff will present the Evaluation Committee's recommendations to the Mayor's Advisory Counsel or Na Kupuna 'o Lahaina. Once the advisory board makes its' recommendation and the proposed budget and funding recommendation is approved, a draft budget will be incorporated in the County of Maui Action Plan as amended. A list of selected projects, including project description and allocated amount, will be made available on the CDBG-DR website.

b. Award Letter

A letter announcing the award recommendation will be sent to each proposer, regardless of whether the funds are awarded or not. The letter will state the next steps in the process. For those awarded funds, the letter will specify requirements for an environmental review of the projects, when an Agreement is expected to be executed, and technical assistance to be offered by the CDBG-DR staff.

c. Appeals Process

Entities that wish to contest a Program determination may request an appeal directly with the Program by submitting a written request via electronic or postal mail, or through the Program web portal at, within thirty (30) calendar days from the date of the determination being contested.

i. Grounds for Appeal

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 procedures will be deemed invalid and will not be considered.

Valid appeals are limited to:

- Technical error in eligibility determination, award calculation, or scoring, such as a mathematical miscalculation by the Technical Review or Evaluation Committee. Errors in data submitted by the applicant do not qualify.
- Violation or variation from established program policies or procedures.

Program requirements established by the County OOR and approved by HUD may not be waived or nullified. Only authorized representatives of the applicant organization may submit an appeal. The Program will review facts and information already contained in the applicant's file unless new documentation is submitted and deemed relevant by the Program.

ii. How to Submit an Appeal

Applicants may submit an appeal through any of the following methods:

- Email: cdbg-dr@mauicounty.gov
- In Writing: County of Maui Office of Recovery, CDBG-DR
200 S High Street
Wailuku, HI 96793

All appeals must clearly identify:

1. The specific decision being appealed;
2. The basis for the appeal, including reference to the program policy or scoring factor involved; and
3. Supporting documentation to substantiate the claim.

iii. Review and Determination

The Program Appeals Coordinator (or designated Program Contact) will review the request and supporting documentation and issue a written determination. When practicable, the determination will be made within ten (10) business days. Applicants will be notified in writing of the decision. All determinations made by the County OOR are final and not subject to additional administrative or judicial review.

d. Environmental Review

Prior to executing a written Agreement and moving forward with finalizing the scope of work and budget, the County will also complete an environmental review for the proposed activity location, with the agency's participation. No commitment or expenditure of funds will be made for the activity until the environmental review has been completed and Authorization to Use Grant Funds has been received from HUD, if applicable. A commitment is defined as the execution of a Subrecipient or Developer Agreement or obligation of funds with HUD's Disaster Recovery Grant Reporting (DRGR) system.

The County OOR must evaluate the proposed activity with respect to 24 CFR Part 58 as part of the environmental review process. Prospective Applicants are encouraged to analyze the implications of this part regarding their projects prior to submission, as compliance with the requirements can bear significant costs.

e. Pre-Award Risk Assessment

Prior to making a Federal award, the County OOR is required by 31 USC 3321 and 41 USC 2313 to review information available through any OMB-designated repositories qualification or financial integrity information, such as Federal Awardee Performance and Integrity Information System (FAPIIS), DUN and Bradstreet, and "Do Not Pay". (Please refer to suspension and debarment requirements of 2 CFR Part 180, as well as Federal agency suspension and debarment regulations in Title 2 of the Code of Federal Regulations).

In addition, for competitive grants or cooperative agreements, the County OOR must have in place a framework for evaluating the risks posed by subrecipient applicants before they receive Federal awards. This evaluation may incorporate results of the evaluation of the subrecipient's or developer's eligibility or the quality of the application. If the County OOR determines that a Federal Award will be made, special conditions that correspond to the degree of risk assessed may be applied to the Federal award.

In evaluating risk posed by subrecipient or developer applicants, the County OOR may use a risk-based approach and may consider items such as the following:

- Financial stability of the organization;
- Quality of management systems and ability to meet Federal management standards;
- History of the prior performance and the applicant's record in managing Federal awards (if any), including timeliness of compliance with applicable reporting requirements, conformance to the terms and conditions of previous Federal awards and, when applicable, the extent to which any previously awarded amounts will be

- expended prior to future awards;
- Reports and Findings from audits performed under Subpart F – Audit Requirements, or reports and findings of any other available audits;
- The applicant's ability to effectively implement statutory, regulatory, or other requirements imposed on non-Federal entities; and
- Quality of the Application.

In addition to this review, the County OOR must comply with the guidelines on government-wide suspension and debarment in 2 CFR Part 180 and must require non-Federal entities to comply with those provisions. The provisions restrict Federal awards, sub-awards and contracts with certain parties that are debarred, suspended or otherwise excluded from or ineligible for participating in Federal programs or activities.

Based on the criteria set forth in 2 CFR § 200.206, the Federal awarding agency must design and execute a review of risk posed by the subrecipient or developer applicant when an applicant has a history of failure to comply with the general or specific terms and conditions of the Federal award or failure to meet expected performance goals as described in §200.208.

f. Subrecipient & Developer Agreements

Projects selected for award will be required to execute a Subrecipient or Developer Agreement, depending on the project structure and role of the entity. This Agreement will outline the conditions of the CDBG-DR assistance for the approved project. The Agreement terms may include, but not limited to:

- Project Name
- Award amount
- Scope of Work
- Performance Monitoring & Reporting
- Period of performance and term
- Budget and Cost Reasonableness
- Payment Requests Requirements & Process
- Program Requirement & Award Conditions
 - Tie-back to disaster
 - Eligible Activity and National Objective
 - Environmental Review (24 CFR, Part 58)
 - Evidence of commitment of additional (leveraged) funds (as applicable)
 - Approved Federal and Local Procurement Policies (as applicable)
 - Conflict of Interest Compliance
 - Fraud, Waste, & Abuse Policy
 - Anti-Displacement and Relocation Plan
 - Cross-Cutting Compliance
 - Fair Housing and Civil Rights Law
 - Federal Labor Standards to include Davis Bacon and Related Acts

- Section 3
- Duplication of Benefits (DOB) and Subrogation Requirements
- Project Closeout
- Termination of Agreement
- Other requirements as applicable

g. Written Agreement Amendments

The County OOR reserves the right to amend written Agreements at any time. Awardees may request an amendment, including but not limited to, extend the period of performance, amend budgets, change the scope of work, or update project milestones. The County OOR will review the amendment request and determine if the amendment is warranted. Awardees are encouraged to submit the request to amend as soon as the need is identified. Requests to amend the written Agreement must be submitted within a reasonable timeframe.

h. Performance Period and Measures

The expected outcome of each award is that the subrecipient or developer will create or preserve affordable multifamily housing units, in compliance with all program and HUD requirements. The number of assisted and total units for each award will be specified in the scope of work and monitored by the County OOR throughout the project. The subrecipient or developer will be required to provide access to tenant income documentation and leases to confirm that constructed assisted units are occupied by income qualified tenants and being rented at an affordable rate.

Subrecipients and developers will also be required to report on the demographic characteristics of tenants.

The performance period and measures for all approved activities will be defined in the written Agreement, and/or project file, as applicable. County OOR may approve an extension to the period of performance, contingent on overall grant timeline and HUD approval if the subrecipient or developer demonstrates reasonable justification.

The subrecipient or developer will be required to provide County OOR the tenant selection policies and procedures for determining tenant eligibility, selecting eligible tenants upon vacancy, and for certifying and annually recertifying tenants based on household income and size. Additionally, and on an annual basis, the subrecipient or developer will submit tenants' incomes, rents, and other CDBG-DR rental requirements to County OOR throughout the period of affordability. County OOR will perform on-site inspections of the affordable housing developments and monitoring of the subrecipients at some agreed upon interval as defined in the written Agreement, typically determined by the number of CDBG-DR assisted units. Inspections will also include the common areas and the building exteriors, not just the DR-assisted units. Any deficiencies seen in these areas must be addressed.

i. Subrogation Agreement

County OOR will complete DOB Review prior to closing. This review is to ensure that duplicative funds were not received since the proposal was selected to receive a project award. Applicant awardees will be required to sign a Subrogation Agreement as part of their grant agreement with the Program.

j. Credit Underwriting

The County OOR CDBG-DR Multifamily Rental Housing New Construction Program credit underwriting process involves evaluating projects for financial viability and compliance with the program's affordable housing requirements, including specific income and compliance periods. Developers must submit detailed project information, such as unit mix, building specifications, and amenities, as part of a comprehensive application.

Key components of the underwriting process:

- **Application submission:** Applicants must submit a detailed application that includes the project's building type, unit mix (by bedroom size), building specifications, unit amenities, and parking plan.
- **Financial viability assessment:** The County OOR's underwriting team evaluates the project's financial feasibility to ensure it is a sound investment. This assessment likely includes analyzing the project's budget, operating pro forma, and the developer's financial strength which includes the ability to provide guarantees.
- **Affordable housing compliance:** The process ensures the project meets the County's affordable housing goals, such as setting aside a minimum percentage of units for specific income levels (e.g., below 80% of the Area Median Income).
- **Compliance period:** Projects must have a minimum compliance term for income restrictions, which is a minimum of 45 years for this Application.
- **Regulatory review:** The project is reviewed to ensure compliance with various regulatory requirements, though the specific regulations will depend on the project's financing structure.
- **Approval steps:** The application and project must receive approval from relevant authorities, which can include County OOR staff.

Once awarded the Applicant will receive a notice to enter credit underwriting and the development specific requirements for the process.

9. CONSTRUCTION MANAGEMENT

The County OOR requires all subrecipients and developers to plan, design, and construct CDBG-DR assisted multifamily housing in accordance with federal, state, and local construction standards. All work must meet HUD requirements; the Hawai'i State Building Code,; Maui County ordinances; and all specifications contained in the **County of Maui CDBG-DR Construction Standards Policy (County OOR Construction Standards)**. When multiple standards apply, the more stringent requirement governs.

The County of Maui CDBG-DR Construction Standards Policy can be found here:
<https://hookumuhou.mauicounty.gov/31/Document-Library>

a. Broadband Infrastructure in Housing

HUD requires that any substantial rehabilitation, reconstruction, or new construction of a building with more than four (4) units must include installation of broadband infrastructure. Additional information regarding Broadband Infrastructure installation can be found within the County OOR Construction Standards. Broadband infrastructure in common areas and units shall be installed to meet the requirements of Federal Register Notice 90 FR 1754.

b. Elevation, Floodplain, & Hazard Mitigation Standards

All CDBG-DR housing activities must incorporate hazard mitigation measures and flood-resilient design consistent with HUD, FEMA, and NFIP requirements. Projects located in the Federal Flood Risk Management Standard (FFRMS) floodplain must meet elevation or floodproofing requirements at two feet above Base Flood Elevation (BFE) or higher if required by State or local code. Developers must:

- Document compliance using a FEMA Elevation Certificate or Floodproofing Certificate.
- Apply FEMA definitions for “lowest floor” and floodproofing (44 CFR 59.1, 60.3).
- Elevate residential lowest floors to or above the FFRMS elevation or meet floodproofing standards for nonresidential structures.
- Comply with the Flood Disaster Protection Act (42 U.S.C. 4102a) and obtain and maintain NFIP flood insurance for structures in Special Flood Hazard Areas (SFHAs).

Hazard mitigation measures, including drainage, site grading, resilient materials, and mold-resistant construction, must be integrated into project design consistent with HUD’s Universal Notice and the County OOR Construction Standards.

c. General Construction Standards

All CDBG-DR-assisted multifamily new construction and demolition / new construction projects must meet applicable HUD construction requirements (24 CFR 570.202, Part 8, and 24 CFR 891.120), the 2010 ADA Standards for Accessible Design, the Fair Housing Act, the Hawai‘i State Building Code and Energy Code, and the County OOR Construction Standards. When multiple standards apply, the more stringent requirement will govern.

Developments must incorporate baseline health, safety, and durability features, including termite prevention and integrated pest management, grading that directs drainage away from structures, stormwater management controls such as gutters and splash blocks, and window coverings for all habitable rooms.

Projects must also provide standard resident amenities, including cable or satellite television hookups in each unit (or cost-comparable bulk service) and either in-unit washer and dryer hookups or access to on-site laundry facilities meeting program specifications.

d. Accessibility Standards

All activities funded under this Program must comply with federal accessibility laws and standards, including Section 504 of the Rehabilitation Act of 1973 (24 CFR Part 8), the Fair Housing Act (42 U.S.C. 3601 et seq.; 24 CFR 100.200 et seq.), the 2010 ADA Standards for Accessible Design, the Hawai‘i Building Code, and the County OOR Construction Standards. Newly constructed multifamily housing must, at a minimum, include:

- At least 5% of units designed and constructed to be fully accessible for individuals with mobility impairments
- An additional 2% of units must be accessible for individuals with sensory impairments; and
- Compliance with Fair Housing Act design and construction requirements for all covered units, including accessible routes, adaptable features, and common-area accessibility.

When multiple standards apply, the subrecipient or developer shall adopt the standard that affords the greatest accessibility to residents and visitors.

e. Green Building, Resiliency & Durability Standards

All developments funded under this Program must be designed and constructed in accordance with HUD CPD Notice 16-04, which establishes required green building and resilient construction standards for CDBG-DR housing activities. Projects must also comply with the Hawai‘i State Energy Code, the Hawai‘i Climate Adaptation Framework, and all locally adopted building codes. These combined standards ensure that newly constructed multifamily housing achieves long-term energy efficiency, environmental quality, hazard resistance, and durability appropriate for Hawai‘i’s climate and wildfire risk.

To meet these requirements, developers must incorporate site and landscaping practices that support ecological resilience—such as drought-tolerant native plantings, tree shading strategies, defensible space, and stormwater-conscious grading—along with exterior durability features that reduce exposure to wind, water, and fire hazards. Interior durability and indoor air quality measures, including low-VOC materials, sealed entryways, and enhanced ventilation or contaminant-control procedures, must also be integrated into the project’s design and specifications.

Given the wildfire risks demonstrated by the 2023 Maui Wildfires, developments must include fire-resistant building features that meet or exceed State of Hawai‘i code requirements. At minimum, this includes Class A roofing assemblies, ignition-resistant exterior materials, tempered or multi-pane glazing, and venting and eave protection designed to limit ember intrusion. Projects must also implement defensible-space practices, maintain proper clearances around structures, and comply with fire separation, egress, and alarm requirements appropriate for multifamily buildings.

All developments must incorporate energy and water efficient design and equipment

consistent with the Hawai'i Energy Code, the Hawai'i State Building Code, and the County CDBG-DR Construction Standards, which provide the full technical requirements.

Projects shall prioritize passive cooling, humidity control, and long-term system durability appropriate for Maui's climate. Mechanical, electrical, and plumbing systems must be designed to support efficient operation, minimize water use, and ensure indoor comfort and air quality.

Developments must incorporate water-efficient fixtures, efficient irrigation or smart-control systems, and energy efficient lighting and appliances. All detailed performance standards, equipment efficiencies and installation requirements are contained in the County CDBG-DR Construction Standards and must be fully integrated into project plans and specifications.

Developers are responsible for ensuring that all plans, specifications, and construction documents fully demonstrate compliance with these requirements and any higher standards imposed by current building codes or site-specific conditions. Detailed construction specifications, including wildfire-resilient materials, testing standards, and product performance criteria, are provided in the County OOR Construction Standards and must be followed unless superseded by stricter applicable codes.

f. Hazardous Materials

Lead Based Paint: All grants or loans made by the County OOR with assistance provided under this program shall be made subject to the provisions for the elimination or mitigation of lead-based paint hazards under this regulation. The subrecipient or developer shall be responsible for the notifications, inspections, and clearance certifications required under this regulation.

Asbestos: CDBG-DR asbestos testing requirements depend on the project type and location, but generally require a pre-renovation or demolition inspection for any structure that might contain asbestos and will be disturbed. A National Emission Standards for Hazardous Air Pollutants (NESHAP) asbestos inspection must be completed, and licensed asbestos abatement contractors must perform any removal necessary before demolition. Federal regulations like those from the EPA apply, but state and local authorities may have their own specific rules as well.

New construction projects that have existing buildings that have not yet been demolished are required to test for asbestos. This can be done in tandem with the Environmental Site Assessment (ESA) for the site. Any asbestos should be remediated according to the provisions of Hawaii administrative rules (HAR) chapter 11-501.

g. Construction Oversight

Subrecipients or developers shall maintain documentation demonstrating compliance with these standards, including manufacturer specifications, inspection reports, and certifications. County staff may perform on-site inspections during construction and prior to

project closeout to verify adherence to all applicable HUD, State, and County construction standards.

h. Inspections & Monitoring

The subrecipient or developer is responsible for monitoring the quality, completeness and conformity to specifications of all work performed by third party contractors. The County OOR Program staff will also conduct periodic site inspections to ensure continued progress toward completion of construction and to ensure continued compliance.

i. Retainage

The County OOR shall retain ten percent (10%) from each draw until satisfactory completion of the development or rehabilitation. The final request for disbursement of retainage will be submitted to The County OOR no later than sixty (60) days after the termination date of the written Agreement.

j. Warranties

HUD requires that grantees such as the County OOR provide a warranty period post-construction with a formal notification to beneficiaries on a periodic basis (e.g. 12 months and one month before expiration date of the warranty).

k. Construction Disputes

As a condition of receiving federal grant funding for construction-related activity under this program, subrecipients, developers and contractors acknowledge and agree that the County OOR shall have the right to:

- Periodically inspect Contractor's work;
- Verify Contractor's payment applications and request supporting documentation for payment applications;
- Review and approval of all change orders, claims for extra work or requests for time extension including requests for supporting documentation or schedule analysis;
- Request information concerning construction documents;
- Monitor Contractor's compliance with CDBG-DR rules;
- Assist in the resolution of any dispute between Contractor and owner;
- Review Contractor's good faith efforts under Section 3; and
- Review Contractor's compliance with Davis-Bacon and Related Acts.

Unless otherwise provided in the construction contract, counterclaims, disputes and other matters in question between the subrecipient or developer, owner or contractor, arising out of or relating to the construction contract, or breach of it, will be decided by arbitration, if the parties mutually agree, or in a Hawaii court of competent jurisdiction at the cost of the contractor, subrecipient or developer.

10. FINANCIAL AND PERFORMANCE MANAGEMENT

a. Regular Meetings

County OOR will coordinate with each subrecipient or developer as applicable to establish a regular meeting schedule. The frequency of these regularly scheduled meetings may vary, depending on the subrecipient or developer risk, need for technical assistance, project status, and/or status with meeting timelines and benchmarks.

b. Payment Method and Process

Funding will be provided on a cost reimbursement basis based on actual expenditures and percentage of project completion. Disbursement of CDBG-DR funds must occur on a pari passu basis with other sources of financing. The County OOR's payment terms are in accordance with Hawaii Statute 103-10.5 Prompt Payment. Cash discounts for prompt payment will be considered in determining the lowest net cost for fee proposal evaluation purposes. Notwithstanding the above, discount payment terms shall not be less than net 30 calendar days from receipt of correct invoice.

c. Payment Conditions

The subrecipient or developer must complete all conditions specified in the written Agreement before requesting payment. Upon execution of the written Agreement, the subrecipient or developer may proceed with implementation of the project. Conditions may include, but are not limited, the following:

- Requirements outlined in the written Agreement
- Procurement documentation, if applicable
- Contracts documentation
- Insurance and bonding documentation

d. Supporting documentation

Subrecipients and developers must verify all costs before submitting invoices to the County OOR for reimbursement and provide all required reporting and supporting documentation (e.g., detailed invoices, purchase order, proof of services, and paid itemized receipts requested by the County OOR). At a minimum, the supporting documentation should include:

- Vendor name and contact information
- Subrecipient or developer name and contact information
- Invoice number
- Invoice date
- Date of service
- Services performed
- Amount due

Additional documentation may be requested at any time before payments can be made.

e. Payment Requests

The subrecipient or developer is responsible for billing the County OOR for invoiced costs. The County OOR will review the invoices to ensure all required information is included before issuing payment. Payment requests must be submitted no more than monthly. Before submitting a payment request, the subrecipient must verify the invoices are accurate and complete, the activities and costs were incurred during the period of performance or pre-award, only as allowed by section III.B.14. of the Universal Notice, and all required supporting documentation is included in the payment request. Payment requests that do not include the required information or supporting documentation will be rejected and returned to collect the necessary information and resubmit.

f. Payment Monitoring and Reconciliation

The County OOR will monitor payment requests and reconcile any issues that may arise as a result. The quality assurance/quality control process will involve, but is not limited to, the following:

- Documentation reviews and data collection during the payment review process.
- Program monitoring to ensure that activities are within program guidelines.
- Program expenditure and payment request review for eligibility based on applicable laws, CDBG- DR requirements, and CDBG regulations.
- Follow-ups regarding identified compliance issues, initiation of corrective actions, and implementation of program controls, as necessary.

g. Fixed Assets: Reporting, Tracking, and Disposition

If a subrecipient or developer receives funds to purchase equipment or personal property with a life of more than one year and an acquisition cost of \$1,000 or more, they will be required to comply with 2 CFR 200.439 guidelines for the allowability of equipment and property.

h. Timely Expenditure of Funds

The County OOR will establish expenditure deadlines, milestones, and benchmarks for individual activities within the written Agreement. HUD has waived the provisions of 24 CFR 570.494 and 24 CFR 570.902 and established an alternative requirement. The Maui Wildfires funds appropriated under Public Law 117-328 must be expended within six years of the date HUD signs the grant agreement with the County of Maui. A projected expenditure schedule is available on the County of Maui website.

i. Reporting for Subrecipients & Developers

Each CDBG-DR subrecipient or developer will be required to submit quarterly progress reports to the County using the template provided. Reporting will be required after financial

closing to track the expenditures and progress of construction. These reports will begin at the end of the first quarter after the financial closing has taken place.

11. CROSS-CUTTING REQUIREMENTS

There are many cross-cutting federal regulations that apply to CDBG-DR and to the specific eligible programs and projects. The Multifamily Rental Housing New Construction Program will be implemented in compliance with cross-cutting federal regulations.

a. Accessibility, Reasonable Accommodations

Program subrecipients and developers will ensure accessibility to persons with special needs and will operate in a manner that does not discriminate or limit access to Program services and benefits to persons with disabilities. Additionally, to ensure that the Program is operating in compliance with Section 504 requirements of the Rehabilitation Act of 1973 and the Americans with Disabilities Act (ADA), subrecipients and developers will be required to adopt their own Section 504 Compliance Plan or adopt The County OOR's, and will assign staff in accordance with its Section 504 Compliance Plan who will:

- Ensure that all facilities where clients will have face-to-face interaction with Program staff are readily accessible and usable by persons with disabilities;
- Appropriately address any identified hearing, visibility, or mobility limitations of Program recipients;
- Work with disabled Program recipients and/or their designee, who has power of attorney or any non-profit organization that is representing the Program recipient, as needed.

All services listed above can be provided upon verbal or written request from the Program recipient. No additional documentation is required.

In addition, the County OOR and its subrecipient and developer partners under this Program will comply with Section 508 requirements regarding the accessibility to electronic and information technology for individuals with disabilities (<https://www.section508.gov/>). The County OOR's management assists with ensuring that all public communication, including the County OOR website, meets Section 508 requirements. Subrecipients and developers will ensure that any program-related application documents and marketing materials are available on their website and in compliance with Section 508 requirements.

b. Americans with Disabilities Act

The Americans with Disabilities Act of 1990 (ADA) prohibits discrimination and ensures equal opportunity for persons with disabilities in employment, State and local government services, public accommodations, commercial facilities, and transportation. It also mandates the establishment of telecommunications devices for the deaf (TDD / telephone relay services). The County OOR takes affirmative steps to ensure that people with disabilities have equal access to the programs offered by The County OOR, and that all

services are delivered in the most integrated manner possible. Qualified persons with disabilities are informed of the availability of program services and activities, and the County OOR's programs or services are readily accessible to, and usable by, individuals with disabilities. The County OOR also ensures that reasonable modifications or changes to policies, practices, or procedures are made to guarantee people with disabilities equal access.

Subrecipients and developers are required to develop an ADA policy or adopt the County OOR's, and are required to demonstrate compliance with the ADA through the provision of reasonable accommodations to ensure that housing units are accessible and useable by persons with disabilities. For more information, refer to the County of Maui ADA Policy.

c. Section 3

All projects funded under the Multifamily Rental Housing New Construction Program are subject to Section 3 requirements in 24 CFR Part 75. The County OOR is the responsible entity for Section 3 compliance and maintains a County-wide Section 3 Plan that governs the implementation, reporting, and prioritization of employment and contracting opportunities for low- and very low-income persons.

Subrecipients and Developers are not required to create their own Section 3 Plan, but must follow the County OOR's adopted policy, including:

- Using required contractor notices and bid packet inserts, as applicable;
- Incorporating Section 3 clauses and certifications into applicable contracts;
- Prioritizing, to the greatest extent feasible, employment and training opportunities for Section 3 workers;
- Ensuring that Section 3 clauses and certifications are included in all applicable contracts and solicitations;
- Meeting labor hour benchmarks; and
- Maintaining documentation of good-faith efforts and reporting required information to the County OOR

Section 3 applies to HUD-funded housing or public construction projects where the total amount of HUD assistance exceeds \$200,000. Projects below this threshold are not subject to Section 3 requirements and are encouraged to support the intent of Section 3 whenever feasible.

d. Davis-Bacon and Related Acts (DBRA) Labor Standards

HUD funded housing construction projects consisting of properties with eight (8) or more residential units are subject to Davis-Bacon regulations, which applies to contractors and subcontractors carrying out federally funded or assisted contracts in excess of \$2,000 for corresponding work on similar projects in the area.

Other related acts that could apply include:

- **Contract Work Hours and Safety Standards Act**- For prime contracts over

\$100,000, contractors and subcontractors must also pay laborers and mechanics, including guards and watchmen, at least one and one-half times their regular pay for all hours worked over 40 in a work week.

- **The Hatch Act**- A federal law passed in 1939, limits political activities of employees engaged in federally assisted programs to ensure nonpartisan administration.
- **Copeland “Anti-Kickback” Act** - Requires that workers be paid weekly, that deductions from workers’ pay be permissible, and that contractors maintain and submit weekly payrolls.

Additionally, the County OOR, its subrecipients, developers and contractors must follow the reporting requirements per HUD and U.S. Department of Labor (DOL) regulations. The County OOR will monitor to ensure that its CDBG-DR program and services are in compliance with DBRA through the submission of certified payroll records and interviews of prime and subcontractor laborers. The County OOR will track, review, and monitor weekly payroll submissions by contractors.

Information, Facts Sheets and General Information can be found at the link here:

- [Davis-Bacon and Related Acts | U.S. Department of Labor](#)
- <https://www.dol.gov/agencies/whd/government-contracts/construction>

e. Hawai‘i Revised Statutes (HRS) Chapter 104

HRS Chapter 104 requires the payment of State prevailing wages and overtime on State- or County-funded public works construction projects over \$2,000. Chapter 104 applies broadly to laborers and mechanics on public works job sites, including owner-operators, and covers activities such as construction, repair, renovation, installation, landscaping, demolition, and warranty work.

f. Fair Labor Standards Act of 1938, as Amended

The Fair Labor Standards Act of 1938, as amended (FLSA), establishes the basic minimum wage levels for all work and requires the payment of overtime at the rate of at least one and one-half times the basic hourly rate of pay for hours worked in excess of 40 per week. These labor standards are applicable to the entire construction contract whether or not CDBG-DR funds finance only a portion of the project. Excluding the exceptions listed below, all workers employed by contractors or subcontractors in the performance of construction work financed in whole or in part with assistance received under The County OOR’s CDBG-DR program, must be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended.

In some cases, Hawaii Prevailing Wages and Davis-Bacon Prevailing Wages both apply. In such instances, the higher of the two prevails. **Exceptions** to FLSA include:

- Construction contracts of \$2,000 or less;

- Real property acquisition;
- Architectural and engineering fees;
- Other services (such as legal, accounting, construction management);
- Other non-construction items (such as furniture, business licenses, real estate taxes);
- Rehabilitation of residential property designed for fewer than eight families; and
- Debris removal, demolition, and/or clearance activities, unless related to construction (demolition and clearance as independent functions are not considered construction).

g. Uniform Relocation Act (URA) and Real Property Acquisition

In order to carry out Program activities in compliance with URA requirements, the County OOR has adopted the *Uniform Relocation Act (URA) Policy*. This document provides program staff and contractors with Standard Operating Procedures to meet URA requirements for the temporary and permanent displacement of tenants.

Subrecipients and developers are required to comply with the URA in the event that any CDBG-DR funded activities result in a displaced person. Displaced person is defined as any person who moves from the real property or moves his or her personal property from the real property as a direct result of written notice of intent to acquire, the initiations of negotiations for, or the acquisition of such real property in whole or in part as a direct result of a federally funded project. A person can be an individual, family, partnership, corporation, or association.

In this program, URA requirements will apply where there is a tenant living in a property where CDBG -DR funds are used. The program aims to follow the URA guidelines established for temporary, and when applicable, permanent relocation. Eligible tenants are not considered voluntary participants in the program and will be eligible for either temporary or permanent URA assistance depending on the number of months the Tenant must be displaced.

i. Residential Anti-Displacement

In the event of relocation and in order to minimize displacement or the adverse impacts from displacement, the County OOR is requiring that all subrecipients and developers survey the residents to be displaced and create a relocation plan specific to the needs of those residents, including the prospective permanent or temporary housing for the tenants and a description of how it meets the needs identified in the resident surveys. Subrecipients and developers will also be required to maintain a log of the displaced residents and their temporary or permanent housing, contact information, and history of complaints and how they were addressed, if any.

Subrecipients and developers must adopt the County OOR's Residential Anti-Displacement and Relocation Assistance Plan (RARAP) or adopt a local RARAP that meets

the requirements established by the County OOR. Subrecipients, developers, and contractors must also provide the following benefits to households or businesses that they displace:

- Relocation advisory services;
- A minimum of 90-day notice to vacate;
- Reimbursement for moving expenses; and
- Payments for added cost of renting or purchasing comparable replacement housing.

Additional information and instructions can be found in the County of Maui Residential Anti-Displacement and Relocation Assistance Plan (RARAP).

h. Citizen Participation

All applicants are encouraged to engage the local community and intended beneficiaries in the planning, design, and development of affordable multifamily housing activities.

Subrecipients and developers must follow the Citizen Participation Plan (CPP).

i. Appeal Procedure

Subrecipients and developers must adhere to the County OOR's complaints policy (described below) or adopt a separate, but compliant, policy of their own. The policy must be posted online or in a publicly accessible area within the assisted property. The policy must contain the address, phone number, email address, and process for submitting complaints and grievances. The subrecipient or developer must provide timely written answers to written complaints and grievances within 15 business days, where feasible.

The County OOR is committed to meeting the needs of all beneficiaries and subrecipients while adhering to applicable Federal, State, and Maui County regulations. Beneficiaries and subrecipients have the right to raise concerns regarding eligibility determinations, service delivery, staff actions, or potential rights violations in a constructive manner.

Applicants and subrecipients are encouraged to first attempt to resolve concerns directly with the staff member involved. If the issue remains unresolved, they may proceed with the formal grievance procedure. For sensitive matters where direct communication feels uncomfortable, applicants or subrecipients should contact the Program Manager immediately.

The County OOR program staff or designee will address public grievances related to the County of Maui Action Plan or program implementation. A regularly updated directory for submitting concerns will be available on the CDBG-DR website to ensure prompt attention.

The County OOR currently accepts submissions through the following methods:

- In person at a public hearing
 - Email: cdbg-dr@mauicounty.gov
 - Online: hookumuhou.mauicounty.gov
 - Mail:

County of Maui Office of Recovery
Attn: CDBG-DR
200 South High Street
Wailuku, HI 96793

All submissions should clearly describe the relevant program or activity, detail the concern or issue, and include the submitter's name, address, and daytime and evening phone numbers.

The County typically responds within 15 calendar days from the date of receipt. If a full resolution is not possible within this timeframe, an acknowledgement and status update will be provided. If additional time is required, the reason will be documented, if necessary, grievances will be addressed by the County OOR CDBG-DR Programs Officer.

Complaints alleging violation of fair housing laws can be made to HUD's office of Fair Housing and Equal Opportunity by phone at (800) 669-9777 or online at <https://www.hud.gov/reporthousingdiscrimination>.

j. 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 CDBGDR 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

<https://hookumuhou.mauicounty.gov/DocumentCenter/View/117/Fraud-Waste-and-Abuse-PDF>

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

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
- **Internet:** <https://www.hudoig.gov/hotline>

k. Procurement

The County OOR, subrecipients, and any subrecipient's contractors funded through this Program must comply with all applicable federal, state, and local procurement requirements. CDBG-DR funds may only be used for costs procured in accordance with these standards. The following procurement requirements apply, as relevant, to subrecipients and the County OOR when carrying out procurement actions:

- Federal procurement standards 2 CFR 200.214 and 200.318-327
- The County of Maui Procurement Procedures Manual
- When procurement requirements conflict, the most stringent standards apply.
- All procurement actions funded with CDBG-DR must uphold the principles of:
 - Full and open competition
 - Independent Cost Estimates (ICE) and cost/price analysis completed before receipt of bids or proposals.
 - Documented procurement history sufficient for audit and monitoring purposes.

i. Applicability to Developers

Developers receiving CDBG-DR funds for multifamily construction are not subject to federal procurement standards, but must still:

- Demonstrate cost reasonableness
- Maintain documentation supporting all costs, and

- Comply with all Program requirements and conditions of award.

ii. Subrecipient Procurement Requirements

Subrecipients must complete all procurement actions in compliance with applicable federal, state, and local standards. Prior to the County OOR issuing a Notice to Proceed, subrecipients must submit:

- Procurement Policy
 - Subrecipients must submit their procurement policy to the County OOR for review and confirmation of compliance. Based on this review, subrecipients may be required to update their existing policies to ensure compliance with 2 CFR 200.214 and 200.318-327, HUD requirements and County OOR policies. Alternatively, subrecipients may elect to adopt the County of Maui's procurement policy in full.
- Procurement File
 - Subrecipients must submit all procurement solicitation packages for County OOR review before the County will authorize publication or approval to contract. The County OOR will use the HUD CPD Monitoring Handbook as the basis to determine compliance. Failure to meet procurement requirements may result in the procured service being deemed ineligible, non-reimbursement with CDBG-DR funds, and / or a requirement to re-procure, revise the budget, or identify alternative funding.

I. Conflict of Interest

There are two sets of conflict-of-interest provisions applicable to activities carried out with CDBG-DR funding. The first set, applicable to the procurement of goods and services by subrecipients and County divisions, is the procurement regulations located at 2 CFR 200.318. The second set of provisions is located at 24 CFR 570.611. These provisions cover situations not covered by Part 200.318.

With respect to procurement activities, the County OOR requires that a subrecipient must maintain written standards of conduct governing the performance of its employees engaged in the award and administration of contracts. At a minimum, these standards must:

- Require that no employee, officer, or agent may participate in the selection, award, or administration of a contract supported by Federal funds if a real or apparent conflict would be involved. Such a conflict would arise when any of the following parties has a financial or other interest in the firm selected for an award:
 - an employee, officer, or agent of the subrecipient;
 - any member of an employee's, officer's, or agent's immediate family;
 - an employee's, agent's, or officer's partner; or
 - an organization which employs or is about to employ any of the in the preceding section.

- Require that employees, agents, and officers of the subrecipient neither solicit nor accept gratuities, favors, or anything of value from contractors, or parties to sub agreements. However, Subrecipients and County divisions may set standards for situations in which the financial interest is not substantial, or the gift is an unsolicited item of nominal value.
- Provide for disciplinary actions to be applied for any violations of such standards by employees, agents, or officers of the subrecipient.
- With respect to all other CDBG-DR assisted activities, the general standard is that no employee, agent, or officer of the subrecipient, who exercises decision-making responsibility with respect to CDBG-DR funds and activities, is allowed to obtain a financial interest in or benefit from CDBG-DR activities, or have a financial interest in any contract, subcontract, or agreement regarding those activities or in the proceeds of the activities. Specific provisions include that:
 - This requirement applies to any person who is an employee, agent, consultant, officer, or elected or appointed official of the grantee, a designated public agency, or a subrecipient, and to their immediate family members, and business partner(s).
 - The requirement applies for such persons during their tenure and for a period of 1 year after leaving the grantee or subrecipient organization.
 - Upon written request, exceptions may be granted by HUD on a case-by-case basis, after consideration of the cumulative effect of various factors listed at 24 CFR 570.611(d), and only with: (a) full disclosure of the potential conflict, and (b) a legal opinion of the grantee's attorney that there would be no violation of state or local laws in granting the exception.

m. Duplication of Benefits

Section 312 of the Robert T. Stafford Disaster Assistance and Emergency Relief Act (42 U.S.C. 5155) prohibits any person, business concern, or other entity from receiving financial assistance with respect to any part of a loss resulting from a major disaster for which he/she has received financial assistance under any other program or from insurance or any other source. Disaster Recovery funds issued through HUD's CDBG-DR program may not be used for any costs for which other disaster recovery assistance was previously provided for the same purpose. Subrecipients and developers are required to disclose all other benefits (cash, in-kind, grants, loans, etc.) received, or which will be received for the proposed project to ensure that federal funds do not duplicate funds received from other sources. They will also sign a subrogation agreement as part of any Subrecipient or Developer Agreement.

As mandated by regulation, all County OOR projects/activities receiving CDBG-DR funding must evidence an analysis of funds potentially received for the same purpose as the intended CDBG-DR award, otherwise known as a Duplication of Benefits (DOB) analysis. The County OOR will perform this analysis as outlined in Appendix C of the Universal Notice. All

funded projects / activities must disclose all funding sources, including FEMA awards and private insurance proceeds, to be analyzed.

i. New Construction – DOB Analyses

In instances where the program identifies critical resiliency needs, information is requested from subrecipients and developers to determine if funding was previously provided or made available for the same purpose.

ii. List of Potential Duplicative Benefits

The subrecipient or developer must consider the total assistance available to them. This includes all benefits, including cash, insurance proceeds, grants from FEMA, SBA loans, as well as any other assistance received by the applicant from other local, state, or federal programs, or private or public nonprofit charities. The County OOR should pay special attention to the following potential sources of benefits and confirm that the listed sources of these benefits have been exhausted or may be made available for the project/activity:

- **National Flood Insurance Program (NFIP):** Insurance proceeds received must be disclosed by the Applicant.
- **Private Insurance:** All insurance proceeds received must be disclosed by the Applicant. Where necessary, the program will look for “undeclared” insurance benefits as well as confirming those disclosed by the Applicant.
- **FEMA:** FEMA proceeds received must be disclosed by the Applicant.
- **Other:** Funds received from other sources must be disclosed by the Applicant and verified by the program. Examples include nonprofits, other governmental agencies, and social groups.

The County OOR will only use documentation supplied by the Applicant if source documentation is unable to be obtained. If an Applicant can provide documentation demonstrating that the insurance proceeds amount provided by the FEMA database includes items not covered in the evaluation or not paid to cover structural loss, the County OOR will use the documentation provided to adjust the insurance payout considered in the DOB analysis. The documentation provided by the Applicant must come from the insurance company that issued the payment(s).

For more information on how DOB is calculated and the documentation required please refer to the County OOR’s DOB policy:

<https://hookumuhou.mauicounty.gov/31/Document-Library>

n. Environmental Review

CDBG-DR funding from HUD is contingent upon compliance with the National Environmental Policy Act (NEPA) and related environmental and historic preservation legislation and executive orders; therefore, an environmental review record must be completed for all project activities prior to obligation of program funds. For the County OOR to proceed with the environmental review process, the subrecipient must provide the

County OOR with a project description, project location, and project budget. Subrecipients should provide maps, drawings, and other information as requested by the County OOR in a timely manner.

All projects that involve new construction, change of use (as in adaptive reuse projects), or increase the floor area of an existing residential structure by 20% or more must successfully complete an Environmental Assessment (EA) to receive the County OOR funding for their project. For projects that involve substantial rehabilitation of existing residential structures, the level of review will be assessed based on the scope of work.

All awards of funding will be considered conditional until the environmental review record is completed. Subrecipients and developers are prohibited from the obligation, expenditure, or disbursement of CDBG-DR or other project funds and must ensure that no “choice-limiting actions” occur prior to HUD’s issuance of an AUGF (24 CFR 58.22), and until the County OOR issues environmental clearance and Notice to Proceed.

The County OOR is the Responsible Entity for environmental review records through this Program.

o. Personally Identifiable Information and Client Confidentiality

The County OOR, subrecipients, and developers must take reasonable measures to safeguard protected personally identifiable information (PII) and other information that HUD or the County OOR designates as sensitive or that the subrecipients or developers consider sensitive consistent with applicable federal, state, and local laws regarding privacy and obligations of confidentiality.

12. RECORDKEEPING

Every subrecipient and developer is required to establish and maintain records under three major categories – Administrative, Financial, and Project / Case Files – in accordance with 24 CFR 570.506 and 570.490.

a. System of Record

To support record keeping and reporting for the County OOR Multifamily Rental Housing New Construction Program, staff will use the Canopy System to manage the application process from application submission to closeout.

Required levels of system access will be provided to all necessary program participants, such as the development teams, to document and track the construction process. In addition to records maintained in the Canopy System, the County OOR is required to maintain on-site records and documentation of all CDBG-DR activities, including eligibility information, beneficiary data, and cost data. The County OOR shall ensure that all program staff, contractors, and vendors comply with federal and state requirements for protection of Personally Identifiable Information (PII). Access to PII shall be limited to individuals with a

legitimate program need, and all records shall be secured, stored, and disposed of in accordance with data privacy and security standards.

b. Administrative Records

Administrative records include files and records that apply to the overall administration of the subrecipient or developer's CDBG-DR activities. They include the following:

- Personnel files;
- Property management files;
- General program files: files related to project;
- Subrecipient or Developer Agreement, program policies and guidelines;
- Correspondence with the County OOR and all reports;
- Legal files: Articles of Incorporation, bylaws, tax status, board minutes; and
- Contracts and other agreements related to the funded project.

c. Financial Records

Financial records include, and must be made available to the County OOR, HUD or any other entity reviewing records associated with a CDBG-DR funded project:

- The chart of accounts,
- A manual on accounting procedures
- Accounting journals and ledgers
- Source documentation (purchase orders, invoices, cancelled checks, etc.)
- Procurement files (if applicable)
- Bank account records
- Financial reports
- Audit files

d. Insurance and Property Management

For all projects in the Program, all subrecipients and developers must ensure that appropriate insurance is secured and maintained for, at a minimum, the duration of the applicable affordability period to protect all contract assets from loss due to any cause such as theft, fraud, and physical damage. If CDBG-DR funds are used to acquire real property or personal property, the subrecipient or developer is responsible for ensuring that:

- The property continues to be used for its intended (and approved) purpose; and
- The subrecipient or developer continues to monitor the condition of the property.

e. Project/Case Files

Project/Case Files are files that document the activities undertaken with respect to specific individual beneficiaries, tenants, property owners, and/or properties. Tenant files must include income eligibility documentation and demographic information required for HUD reporting. These files must be created, maintained and made available to the County OOR, HUD or any other entity reviewing records associated with the CDBG-DR funded project.

f. Record Retention

In accordance with HUD regulations, the County OOR follows the record-retention requirements cited in 24 CFR 570.506 and 24 CFR 570.490, as amended by the CDBG-DR Universal Notice waivers and alternative requirements. These provisions apply to all financial records, supporting documentation, statistical records, and other pertinent records related to the use of CDBG-DR funds. Each subrecipient or developer must retain all such records for five (5) years from the date of HUD's closeout of the County OOR's grant or for the period specified in 24 CFR 570.490(d), whichever is later. If litigation, claims, audits, negotiations, or other actions involving these records begin before the retention period expires, all records must be kept until those actions and all related issues are fully resolved, or until the retention period ends—whichever is later. The County OOR will seek to ensure that:

- The County OOR complies with all requirements concerning records and records management practices under federal and state regulations;
- The County OOR has the records it needs to support and enhance ongoing business and citizen service, meet accountability requirements and community expectations;
- These records are managed efficiently and can be easily accessed and used for as long as they are required; and
- These records are stored as cost-effectively as possible and when no longer required they are disposed of in a timely and efficient manner.

g. Access to Records (24 CFR 570.490)

Federal regulations include the following recordkeeping requirements:

- Representatives of HUD, the Inspector General, and the General Accounting Office shall have access to all books, accounts, records, reports, files, and other papers, or property pertaining to the administration, receipt, and use of CDBG (and CDBG-DR) funds and necessary to facilitate reviews and audits;
- The County OOR shall provide citizens with reasonable access to records regarding the past use of CDBG (and CDBG-DR) funds consistent with State or local requirements concerning the privacy of personal records.
- The availability of records is subject to the exemptions to public disclosure set forth in Hawaii Public Records Law. All Freedom of Information Act (FOIA) requests must be made in writing to the County OOR and will be processed in accordance with these procedures.

13. MONITORING

Monitoring activities for subrecipients and developers occur on a and annual basis to inspect, review and report on the entity's compliance with the terms and conditions of the Subrecipient or Developer Agreement, program policies, and to ensure satisfactory performance.

The overarching goal of monitoring is to determine compliance, prevent/identify deficiencies, and design corrective actions to improve or reinforce agreement performance. As part of this process, staff should be alert for fraud, waste and mismanagement or situations with potential for such abuse. Where possible, any identified deficiencies in need of corrective action should be handled through discussion, negotiation, or technical assistance in a manner that maximizes cooperation and compliance. Monitoring also provides opportunities to identify program participant accomplishments as well as successful management, implementation and evaluation techniques that could be replicated by other funding recipients.

The frequency at which the County OOR will monitor subrecipients and developers will be included in a monitoring work plan for each entity, which is informed by the risk assessment. The County OOR may adjust the monitoring work plan due to various factors, such as:

- Activity risk
- Any fiscal-related concerns, discrepancies, or invoicing/drawdown activity
- Concern(s) for timely activity completion
- Significant changes to the project or project staff
- Other compliance-related issues

Subrecipients, developers, and the County OOR are responsible for monitoring their vendors and contractors to ensure compliance with the terms and conditions of the contract. The results of the monitoring review may require corrective action by the subrecipient, developer or contracted vendor. A monitoring report will be issued which outlines the findings, concerns, and/or observations and identifies corrective actions to be carried out to remedy identified deficiencies.

a. Ongoing Monitoring

The subrecipient or developer shall be responsible for all management functions of the multifamily housing development including construction, rehabilitation, maintenance, selection of the tenants, annual recertification of household income and size, and managing the units in accordance with program requirements.

The subrecipient or developer is responsible for all repair and maintenance functions of the multifamily housing development, including ordinary maintenance and replacement of capital items. The subrecipient or developer shall ensure maintenance of residential units, commercial space and common areas in accordance with local health, building, and housing codes, and the management plan. The cost of ongoing maintenance is ineligible under CDBG-DR regulations.

The subrecipient or developer shall ensure that the Multifamily Housing Development is managed by an entity that is actively in the business of managing affordable housing. Any management contract entered into for this purpose shall be subject to the County OOR

approval and contain a provision allowing the subrecipient or developer to terminate the contract upon 30-days' notice.

14. CLOSEOUT

While planning for closeout begins at the time of project award of funding, completing closeout begins with completion of closeout checklists. The project closeout is the process by which the County OOR determines that all requirements of the Subrecipient or Developer Agreement between the County OOR and the subrecipient or developer for a specific project have been completed.

Project closeout checklist should be completed when:

- All project expenses (including payment of retainage held by the County OOR and expenses to be paid with non-CDBG-DR funds) have been paid or requested for payment.
- Approved work has been finished.
- Any other responsibilities detailed in the Subrecipient or Developer Agreement have been fulfilled.
- All monitoring or audit findings have been cleared.

Project closeout consists of:

- A closeout request, with applicable project documents attached, submitted to the County OOR by the Subrecipient;
- A project closeout checklist completed and approved by the Program and other departments within the County OOR; and
- A letter from the County OOR to the subrecipient or developer indicating that all closeout activities have been completed.

In addition, the project's status will be updated in HUD's Disaster Recovery Grant Reporting (DRGR) system, and a final HUD quarterly narrative report will be submitted by the County OOR to reflect the project's status. For projects financed by the County OOR's CDBG-DR funds as well as other funds, project closeout occurs when all funds are spent and every dollar of the County OOR's CDBG-DR is associated with a national objective.

15. Acronyms and Definitions

a. Acronyms

Acronym	Name
ADA	Americans with Disabilities Act
AMI	Area Median Income
AUGF	Authority to Use Grant Funds

CDBG	Community Development Block Grant
CDBG-DR	Community Development Block Grant – Disaster Recovery
CFR	Code of Federal Regulations
DBRA	Davis-Bacon and Related Acts
DOB	Duplication of Benefits
DOL	U.S. Department of Labor
DRGR	Disaster Recovery Grant Reporting System
EA	Environmental Assessment
EPA	U.S. Environmental Protection Agency
FEMA	Federal Emergency Management Agency
FFATA	Federal Funding Accountability and Transparency Act
FLSA	Fair Labor Standards Act
FUTA	Federal Unemployment Tax Act
GED	General Education Development
HOME	HOME Investment Partnerships Program
HUD	U.S. Department of Housing and Urban Development
HUD CPD	HUD Office of Community Planning and Development
HUD OIG	HUD Office of Inspector General
ICC	International Code Council
LBP	Lead-Based Paint
LAP	The County of Maui's Language Access Plan
LEP	Limited English Proficiency
LMH	Low/Moderate Income Housing
LMI	Low/Moderate Income
MBE	Minority Business Enterprise
NFIP	National Flood Insurance Program
NEPA	National Environmental Policy Act
OOR	The County of Maui Office of Recovery
PII	Personal Identifiable Information
RARAP	Residential Anti-Displacement and Relocation Assistance Plan
RFP	Request for Applications
SBA	U.S. Small Business Administration
SOP	Standard Operating Procedure
SUTA	State Unemployment Tax Act
TDD	Telecommunications Device for the Deaf
UFAS	Uniform Federal Accessibility Standards
URA	Uniform Relocation Act
U.S.C.	United States Code
WBE	Women Business Enterprise

b. Definitions

100-Year Floodplain – The geographic area defined by FEMA as having a one percent (1%) chance of being inundated by a flooding event in any given year.

Acquisition – The process of purchasing or obtaining Real Property at post-disaster fair market value (FMV) of land and/or structures.

Action Plan - Document adopted by the County of Maui and approved by HUD that outlines the sources and uses for CDBG-DR funds: [Maui County CDBG-DR Action Plan](#)

Affirmative Marketing and Outreach – making known that use of facilities, assistance, and services are available to all on a nondiscriminatory basis as defined in 24 CFR 576.407(b). If it is unlikely that the procedures that the subrecipient or developer intends to use to make known the availability of the facilities, assistance, and services will reach persons of any particular race, color, religion, sex, age, national origin, familial status, or disability who may qualify for those facilities and services, the subrecipient or developer must establish additional procedures that ensure that those persons are made aware of the facilities, assistance, and services. The subrecipient or developer must take appropriate steps to ensure effective communication with persons with disabilities including, but not limited to, adopting procedures that will make available to interested persons information concerning the location of assistance, services, and facilities that are accessible to persons with disabilities. Consistent with Title VI and Executive Order 13166, subrecipients and developers are also required to take reasonable steps to ensure meaningful access to programs and activities for limited English proficiency (LEP) persons.

Affordable Housing – In general, housing for which the occupant(s) is/are paying no more than 30 percent of their income for gross housing costs, including utilities.

Affordability Period – To ensure that the CDBG-DR investment in rental and/or homeownership properties yields affordable housing, the County of Maui is complying with the governing Federal Register Notice applicable to the HUD CDBG-DR allocation for the Maui Wildfires which imposes rent and occupancy requirements over the length of a compliance period, known as the Affordability Period, for all rental housing projects and all new construction homeownership projects. All the County of Maui-assisted units must be restricted during the Affordability Period for LMI persons/households.

Applicant – Any entity that submits an application for assistance to the County of Maui Affordable Housing Development & Preservation (AHD&P) Program.

Appeal – A written request by an Applicant asking for the reversal of a determination that affects the eligibility and/or amount of assistance the applicant may receive from the Program.

Area Median Income (AMI) – The median (midpoint) household income for an area, adjusted for household size, as published and annually updated by the U.S. Department of Housing and Urban Development (HUD). Once household income is determined, it is compared to HUD's income limit for that household size. Income limits are adjusted annually for all Metropolitan Statistical Areas (MSAs).

Award Structure – The manner in which funds are provided to the subrecipient or developer.

Community Development Block Grant – Disaster Recovery (CDBG-DR) – HUD funding allocated to eligible disaster recovery entities via congressional appropriations.

Construction Management - Monitoring progress of new housing development, which include program oversight for subrecipients and developers.

Davis-Bacon Act of 1931 (40 U.S.C. 3141, et seq.) and Related Acts – Federal law that requires that all laborers and mechanics employed by contractors or subcontractors in the performance of work financed in whole or in part with federal assistance shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the U.S. Secretary of Labor in accordance with the Davis-Bacon Act, as amended. This applies to rehabilitation, reconstruction and new construction of residential property only if such property contains not less than eight (8) units.

Developer- An entity, which may be a for-profit or non-profit organization, that receives CDBG-DR assistance from the County of Maui to undertake an eligible recovery project for its own account and not as an agent of the County.

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

Duplication of Benefits – Provision of the Robert T. Stafford Disaster Assistance and Emergency Relief Act (Stafford Act) that prohibits a person, business concern, or other entity from receiving financial assistance from federal disaster funds with respect to any part of a loss resulting from a major disaster as to which that person or entity has already received financial assistance under any other program, insurance, or other source.

Elevation Standards – Standards that apply to new construction, repair of Substantial Damage, or Substantial Improvement of structures located in an area delineated as the FFRMS Floodplain or a Special Flood Hazard Area

Environmental Review – A permanent set of files containing all documentation pertaining to the environmental review compliance procedures conducted and environmental clearance documents. All qualified projects must undergo an Environmental Review process. This process ensures that the activities comply with the National Environmental Policy Act (NEPA) and other applicable state and federal laws.

Fair Housing Act (FHA) – The Fair Housing Act of 1968 (42 U.S.C. 3601-3619), prohibiting discrimination against protected classes of people in the sale or rental of housing, in the provision of housing assistance, or other housing-related activities. The FHA obligates HUD grantees, their subrecipients and their developers to take reasonable steps to ensure meaningful access to their programs and activities for protected classes. The FHA also requires HUD and its program participants to affirmatively further the purposes of the FHA.

Federal Emergency Management Agency (FEMA) – The Federal Emergency Management Agency is an agency of the U.S. Department of Homeland Security. It was created by Presidential Order on April 1, 1979. The primary purpose of FEMA is to coordinate the response to a disaster that has occurred in the United States and that overwhelms the resources of local and state authorities.

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

FFRMS Floodplain – Those areas that result from adding an additional two feet to the base flood elevation as established by the effective FIRM or FIS or – if available – FEMA-provided interim or preliminary maps or studies or advisory base flood elevations.

Fire Resistant Building – Until such time that the State of Hawaii adopts building codes to accommodate this building type Architects should follow IWUIC 2024 design requirements.

Flood Insurance – The Flood Disaster Protection Act of 1973 (42 U.S.C. 4012(a)) requires that projects receiving federal assistance and located in an area identified by FEMA as being within a Special Flood Hazard Area (SFHA) be covered by flood insurance under the National Flood Insurance Program (NFIP). In order to be able to purchase flood insurance, the community where the property is located must be participating in the NFIP. If the community is not participating in the NFIP, federal assistance cannot be used.

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

Grantee – Any jurisdiction receiving a direct award of funding from HUD.

Green Building Standards – All construction-related activity that meets the definition of substantial improvement, reconstruction, or new construction must meet an industry-recognized standard that has achieved certification under at least one of the following programs: (1) Enterprise Green Communities; (2) LEED (New Construction, Homes, Midrise, Existing Buildings Operations and Maintenance, or Neighborhood Development (3) ICC-700 National Green Building Standard Green or Green+ Resilience; (4) Living Building Challenge; or (5) Any other equivalent comprehensive green building program acceptable to HUD.

Household – A household is defined as all persons occupying the same housing unit, regardless of their relationship to each other.

HUD – U.S. Department of Housing and Urban Development, a federal department through which program funds are distributed to grantees.

Limited English Proficiency (LEP) – A designation for persons who are unable to communicate effectively in English because their primary language is not English, and they have not developed fluency in the English language. A person with Limited English Proficiency may have difficulty speaking or reading English. An LEP person benefits from an interpreter who translates to and from the person's primary language. An LEP person may also need documents that are written in English to be translated into their primary language so that they can understand important documents.

Low- to Moderate Income (LMI) National Objective - One of three national objectives that any CDBG activity must meet. Activities that meet the LMI objective must benefit households whose total annual gross income does not exceed 120% of Area Median Income (AMI), adjusted for family size. Income eligibility will be determined and verified in accordance with HUD Guidance. The most current income limits, published annually by HUD, shall be used to verify the income eligibility of each household applying for assistance at the time assistance is provided.

Extremely Low: Household's annual income is up to 30% of the area median family income, as determined by HUD, adjusted for family size.

Very Low: Household's annual income is between 31% and 50% of the area median family income, as determined by HUD, adjusted for family size.

Low: Household's annual income is between 51% and 80% of the area median family income, as determined by HUD, adjusted for family size.

Moderate: Household's annual income is between 81% and 120% of the area median family income, as determined by HUD, adjusted for family size.

Low/Moderate Housing (LMH) - A subordinate HUD National Objective under the LMI (Low/Mod Income) objective.

Method of Distribution – Procedure by which funds are allocated from the County to the subrecipient or developer.

Metropolitan Statistical Area (MSA) – An area with at least one urbanized area of 50,000 or more population, plus adjacent territory that has a high degree of social and economic integration with the core, as measured by commuting ties.

National Environmental Policy Act (NEPA) - Establishes a broad national framework for protecting the environment. NEPA's basic policy is to assure that all branches of government consider the environment prior to undertaking any major federal action that could significantly affect the environment.

National Flood Insurance Program (NFIP) - The National Flood Insurance Program (NFIP) is managed by the Federal Emergency Management Agency and is delivered to the public by a

network of approximately 60 insurance companies and the [NFIP Direct](#). The NFIP provides flood insurance to property owners, renters, and businesses.

National Objective - A HUD criterion governing eligible uses of CDBG-DR funds.

Partner - Various entities will be responsible for implementing program activities. The term Partner is used throughout to denote the relationship between the County of Maui and entities like subrecipients, developers, and contractors.

Procurement - The process used by grantees and subrecipients to acquire goods, services, and property needed to carry out a CDBG-funded project.

Program Income – Program income is the gross income received by the grantee or subrecipient that is directly generated by grant-supported activities, except as provided in III.B.12.b. of the Universal Notice. Not applicable to a sub-grantee unless the sub-grantee is receiving program income funding from state or local governments as a source of funding to the project.

Program Application Package – A standardized set of materials issued by the County of Maui to pre-identified, eligible applicants under the Multifamily Rental Housing New Construction Program, outlining goals, eligibility requirements, threshold and scoring criteria, submission instructions and required forms or templates.

Reasonable Accommodation – Under the Fair Housing Act, a reasonable accommodation is a change, exception, or adjustment to a rule, policy, practice, or service.

Recapture of funds – The process in which benefits or funds were found to be duplicated and requiring repayment of partial or full CDBG-DR awarded funds amount.

Rehabilitation – The labor, materials, tools, and other costs of improving buildings, other than minor or routine repairs.

Special Flood Hazard Area (SFHA) - is the land in the flood plain within a community subject to a 1 percent or greater chance of flooding in any given year. The area may be designated as Zone A on the FHBM. After detailed ratemaking has been completed in preparation for publication of the flood insurance rate map, Zone A usually is refined into Zones A, AO, AH, A1-30, AE, A99, AR, AR/A1-30, AR/AE, AR/AO, AR/AH, AR/A, VO, or V1-30, VE, or V. For purposes of these regulations, the term “special flood hazard area” is synonymous in meaning with the phrase “area of special flood hazard” (44 CFR Part 59.1)

Special Needs Populations - A specified group of individuals including people experiencing homelessness or imminently at risk of homelessness; people with mental, physical or developmental disabilities; people with substance use disorders; children in foster care and youth aging out of foster care; survivors of domestic violence; adults re- entering the community after being released from correctional facilities; or as defined in local ordinances where the project will be located.

Subrecipient - A non-federal entity that receives CDBG-DR funding from the County of Maui to carry out recovery activities; but does not include an individual or entity that is a beneficiary of the program.

Substantial Damage – Damage of any origin sustained by a structure whereby the cost of restoring the structure to its pre-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Uniform Federal Accessibility Standards (UFAS) – Federal guidelines for designing, constructing, and altering buildings and facilities to ensure they are accessible to people with physical disabilities, used for federally funded projects.

Uniform Relocation Act (URA) - A federal law that applies to all acquisitions of real property or displacements of persons resulting from federal or federally assisted programs or projects.

URA's objective is to provide uniform, fair, and equitable treatment of persons whose real property is acquired or who are displaced in connection with federally funded projects.

Universal Notice – FR-6489-N-01, as amended. The notice that describes the processes, procedures, timelines, waivers, and alternative requirements that HUD intends to implement with each allocation of CDBG-DR funding after a qualifying presidential disaster declaration, which the County of Maui CDBG-DR allocation is subject to.