



STATE OF *Alabama*

CDBG-DR Frequently Asked Questions (FAQs)

Hurricanes Sally and Zeta



Version Control

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Version Policy

Version history is tracked in the Version History Table, with notes regarding version changes. The dates of each publication are also tracked in this table.

Policy Change Control

Policy clarifications, additions, or deletions may be needed during the course of the program to more precisely define the rules by which the Program will operate. Policy decisions will be documented and will result in the revision of the document in question.

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1. Introduction

1.1 Introduction and Purpose

This document is designed to address frequent questions related to the Community Development Block Grant Disaster Recovery Program (**CDBG-DR**) and its implementation. Additionally, it provides additional context about financial management, procurement, eligible activities, national objectives and other topics.

All Subrecipients, Contractors or Applicants should consult additional details with the Point of Contact (**POC**) of their corresponding Program.

1.2 General Questions About CDBG-DR

1.2.1 What is the CDBG-DR Program?

The Community Development Block Grant (**CDBG**) program is administered by the United States Department of Housing and Urban Development (**HUD**) Office of Community Planning and Development. CDBG-DR funds are made available when the President of the United States declares a major disaster, and Congress appropriates additional funds to HUD due to significant unmet needs for long-term recovery. The CDBG framework is utilized, adding specific rules, also referred to as waivers and alternative requirements, for disaster recovery grants to form CDBG-DR.

1.2.2 Which agency in Alabama administers the CDBG-DR program allocation from HUD?

The Alabama Department of Economic and Community Affairs (**ADECA**) has been designated as the entity responsible for administering CDBG-DR funds that will help with the State's recovery from the disasters caused by Hurricanes Sally and Zeta in 2020.

1.2.3 What is a Federal Register Notice (FRN) and which FRNs govern the ADECA CDBG-DR award?

The Federal Register is where HUD publishes CDBG-DR allocations, regulations, requirements, waivers, and alternative requirements. Different FRNs govern different disasters and CDBG-DR awards. The initial FRN for ADECA, 87 FR 6364, awarded the State of Alabama \$271,071,000 in response to FEMA disaster numbers 4563 (Hurricane Sally) and 4573 (Hurricane Zeta). FRN 87 FR 31636 increased the amount to \$501,252,000.

1.2.4 Where can I access Alabama's CDBG-DR website and what documents are available there?

The ADECA CDBG-DR website can be found here. The website includes:

- The CDBG-DR Action Plan created using HUD's Disaster Recovery Grant Reporting (**DRGR**) system (including all amendments);
- Each Quarterly Performance Report (**QPR**) generated by the DRGR system;
- ADECA's Citizen Participation Plan (**CPP**);
- The CDBG-DR Grant Administration Manual (**GAM**); *(Pending)*
- Program Guidelines;
- Procurement Policies and Procedures; and
- Summary of Procurement Actions and Contracts.

2. Compliance and Requirements

2.1 Grantees, Subrecipients, and Contractors

2.1.1 What is a Grantee?

A grantee, like ADECA, is a direct recipient of CDBG-DR funds from HUD.

2.1.2 What is a Subrecipient?

A subrecipient is typically a local government or nonprofit organization that independently administers a program on behalf of a grantee. A subrecipient receives a grant from a pass-through entity to carry out part of the CDBG-DR award. A subrecipient is not a person who is a recipient of an award, such as a homeowner that receives funds to repair their storm-damaged home. (2 C.F.R. § 200.1)

2.1.3 What is a pass-through entity?

a pass-through entity is a non-Federal entity that provides a subaward to a subrecipient to carry out part of a Federal program, such as the CDBG-DR program. ADECA is a pass-through entity to its subrecipients, and ADECA's subrecipients are pass-through entities to their own subrecipients, if allowed by ADECA. (2 C.F.R. § 200.1)

2.1.4 What is a contractor?

Contractors are entities that enter into a contract with ADECA or a subrecipient. Contractors have a procurement relationship with the pass-through entity and provide goods or services. (2 C.F.R. § 200.331)

2.1.5 What is a Unique Entity Identifier (UEI) number and who needs one?

In accordance with 2 CFR Part 25, on April 4, 2022 HUD transitioned from the use of DUNS Numbers (Dun and Bradstreet) for entity identification for Federal awards to new Unique Entity Identifier (UEI) Numbers issued directly by the federal government on SAM.gov. Effective April 4, 2022, all entities (grantees, cities, counties, subrecipients, contractors and subcontractors) that previously were required to obtain a DUNS Number, including those who receive federal funds such as the CDBG-DR award, must now obtain a UEI number. Information addressing the reasons for this transition is available at The New Unique Entity Identifier Update.

2.1.6 Where can I request a Unique Entity Identifier (UEI) number?

If your entity is registered in SAM.gov, you already have a Unique Entity Identifier. If your entity is not already registered, you can register at SAM.gov using the Entity Registration Checklist You will need all of the following information to obtain a UEI number:

- Legal business name
- Physical address
- Start year
- Country or state of incorporation, if applicable
- National identifier (non-U.S. entities only)

2.1.7 What is a suspension and debarment check?

Awards, subawards, or contracts cannot be made to parties listed on the governmentwide exclusions list in the System for Award Management (SAM). All subrecipients must perform a debarment and suspension check on SAM.gov prior to entering into a contract or a

subrecipient agreement. In addition to the name of the contracting firm, the name of the president and owner of the firm should also be checked.

2.2 Policies and Compliance

2.2.1 Where can I find all general policies for CDBG-DR?

All general policies that govern the CDBG-DR Program can be found in the ADECA CDBG-DR Grant Administration Manual (GAM) [add hyperlink] (*Pending*). Program-specific policies and requirements can be found in ADECA Program Guidelines [add hyperlink] (*Pending*).

2.2.2 How frequently are policies and program guidelines for CDBG-DR updated?

The policies are updated to the extent that local and/or federal regulations require it; for example, a FRN, CPD Notice, an amendment to the Action Plan, an extension granted by HUD, and other changes to federal and state policy and requirements. Subrecipients will be notified of updates to existing policies and program guidelines in the following ways: *[Email and posted to the ADECA website.]*

2.3 National Objectives

2.3.1 What are the different national objectives?

The three CDBG national objectives are:

- Benefit to low- and moderate- income (**LMI**) persons;
- Aid in the prevention or elimination of slums or blight; and
- Meet a need having a particular urgency (referred to as urgent need).

2.3.2 What are the different ways an activity can meet the LMI national objective?

The following pathways are available to meet the LMI national objective:

- Area benefit activities (**LMA**), which benefit all residents in the particular service area of the project, where at least 51 percent of the residents are LMI persons;
- Limited Clientele Activities (**LMC**), where at least 51 percent of the beneficiaries of an activity are LMI persons;
- Housing Activities (**LMH**), which provide or improve permanent residential structures that, upon completion, will be occupied by LMI households,
- Housing Incentive Activities (**LMHI**) which provide LMI households financial incentives to relocate to suitable housing in a lower risk area; and
- Job Creation and Retention Activities (**LMJ**), which create or retain permanent jobs, at least 51 percent of which (computed on a full-time equivalent basis) will be made available to or held by LMI persons.

2.3.3 Where can I find resources concerning National Objectives?

In addition to the ADECA Program Guidelines, national objective information can be found in:

- Housing & Community Development Act of 1974, as amended, 43 U.S.C. § 5301 et seq.
 - Section 101(c)
 - Section 104(b)(3)
 - Section 105(c)

- 24 C.F.R. § 570.208 - Criteria for national objectives
- 87 FR 6363 and other applicable FRNs
- Basically CDBG for States, Chapter 3: National Objectives

2.3.4 Does my CDBG-DR project have to meet a national objective?

Every CDBG-DR funded project (except for administration and planning activities), must be an eligible activity, have a tie to the disaster, and meet a national objective. An activity that does not meet a national objective is not compliant with CDBG-DR requirements and will be subject to repayment.

2.3.5 Are subrecipients required to meet all three of the national objectives?

No, individual projects administered by subrecipients with CDBG-DR funds only need to meet one of the national objectives. The ADECA CDBG-DR Action Plan, in the Program Guidelines, or SRA may limit which national objectives are allowable per program.

2.3.6 How do I choose which national objective my project will achieve?

Ultimately, ADECA (with their grant managers) will have the final decision on the proper national objective to assign to a particular project. Not every national objective may be available to every project. For example, an economic development project would likely use the LMJ or LMA national objectives, and not LMI Housing national objective; and a housing project will use LMH as opposed to LMJ. The applicable national objectives differ between programs, so consult the applicable Program Guidelines or your grant manager for more information.

In addition, activities may qualify for more than one national objective. If an activity meets the LMI benefit national objective and the Urgent Need national objective, for example, then subrecipients should use the LMI benefit national objective because at least 70 percent of CDBG-DR expenditures, not including expenditures for administration and planning activities, must benefit low- and moderate-income persons.

2.3.7 Which is the most common national objective used?

Activities benefiting low- and moderate-income persons is the most commonly used national objective, by design. Every disaster funding allocation contains a minimum expenditure requirement that the grantee must achieve. In ADECA's case, 70 percent of CDBG-DR expenditures, not including expenditures for administration and planning activities, must benefit low- and moderate-income persons.

2.3.8 Does every unit of a housing project have to be occupied by an LMI household?

The answer depends on the number of housing units in the structure. For structures with one housing unit, the unit must be occupied by an LMI household. If the structure contains two units, at least one unit must be occupied by an LMI household. Structures with three or more units must have at least 51 percent occupied by LMI households.

2.3.9 How is LMI service area documented?

An area is considered an LMI service area if there is a large percentage (51%) of LMI persons residing in the project's service area. Defining that area is crucial to making sure the proper LMI calculations are performed. Considerations should be made about the nature of the activity, the location of the activity, accessibility issues, avoiding overlaps with comparable existing activities, and specific or established boundaries for facilities and public services. The

justification of the service area should provide a clear, logical connection between the activity and the selected area.

Some are easy to document, such as a municipal park, or a school or police precinct, where the service area is the municipality, school district, and police precinct boundaries. Some projects are less straight-forward. Depending on the type of project, a service area might be as small as a few census tracts or as large as multiple cities or municipalities. ADECA grant managers are available to help subrecipients ensure that the service area used for the LMI calculation is accurate.

2.3.10 How is LMJ job creation documented?

For activities that create jobs, for each person employed, the name of the business, type of job, and the annual wages or salary of the job must be documented. HUD will consider the person income-qualified if the annual wages or salary of the job is at or under the HUD-established income limit for a one-person family.

2.3.11 What is the difference between LMA and LMC?

LMA projects provide benefits to all persons in a designated LMA area (area benefit), whereas projects provide benefits to a specific group of persons rather than everyone in the area (direct benefit). A public park is likely to serve all residents in a defined area (LMA), whereas a senior center is likely to only serve seniors who attend the center (LMC).

2.3.12 Do all economic projects have to meet the LMI Job Creation national objective?

Although LMJ is the most common national objective for economic development projects, other national objectives may be used if appropriate based on the type of project, eligible activity, goals of the project, and ease of qualifying under another national objective. For example, the LMI national objective can also be met using LMC if the business receiving benefits is low- and moderate income.

2.4 Duplication of Benefits

2.4.1 What is a duplication of benefits?

A duplication of benefits (**DOB**) occurs when a person, household, business, government, or other entity receives financial assistance from multiple sources for the same purpose and the total assistance received for that purpose is more than the total need for assistance.

2.4.2 What are common examples of DOBs?

Common examples include homeowners' insurance, and assistance received from FEMA, the Small Business Administration (SBA), state and local sources such as government programs or non-profits, and other charitable sources.

2.5 Eligible Activities

2.5.1 What is an eligible activity?

Eligible activities refer to the allowable activity types that may be implemented using CDBG-DR funds, such as "Planning", "Public Services" or "Infrastructure Improvements". HCDA Appendix A contains several eligible activities related to housing, community development, infrastructure, public facilities, economic development, planning and public services. The Federal Register also contains additional eligible activities for CDBG-DR grantees that are ineligible under the regular CDBG program. Additionally, only the eligible activities contained in ADECA CDBG-DR Action Plan, and those allowed in the SRA, may be carried out by

subrecipients. The Guide to National Objectives and Eligible Activities for CDBG Entitlement Communities, Chapter 2: provides additional information on eligible activities.

2.5.2 What does “end-use” refer to?

When selecting an eligible activity, subrecipients should consider the end-use of the project. For example, acquisition of land is, in and of itself, an eligible activity. If a subrecipient acquires land and constructs new affordable housing on the land, however, then the eligible activity is “housing new construction”, since it’s the end-use of the project.

2.5.3 What is the MIT Set-Aside?

MIT set-aside is the fifteen percent (15%) of allocated CDBG-DR funds that ADECA is required to set aside for mitigation activities. Mitigation activities are defined as those activities that increase resilience to disasters and reduce or eliminate the long-term risk of loss of life, injury, damage to and loss of property, and suffering and hardships, by lessening the impact of future disasters. Since mitigation activities are designed to impact future disasters, they do not require a “tie-back” to a specific disaster. See the CDBG-DR Action Plan for the proposed use of these funds and how they will meet the guidelines specified in the FRN.

3. Crosscutting Requirements

3.1 General

3.1.1 What are crosscutting requirements?

Crosscutting requirements refer to all the various other federal statutes, regulations, and requirements applicable to CDBG-DR grantees and subrecipients. They include, but are not limited to, the following:

- National Environmental Protection Act (NEPA)
- Uniform Relocation Act (URA)
- Anti-fraud, Waste, Abuse, or Mismanagement
- Personally Identifiable Information, Confidentiality, and Nondisclosure
- Conflict of Interest
- Citizen Complaints
- Fair Housing and Equal Opportunity (FHEO)
- Reasonable Accommodation
- Limited English Proficiency (LEP)
- Section 3
- Minority and Women-Owner Business Enterprise (M/WBE)
- Davis Bacon and Related Acts (DBRA)
- Financial Management
- Procurement
- Program Income
- Lobbying

- Recordkeeping, Management, and Accessibility

3.1.2 Which crosscutting requirements apply to which projects, and where can I find ADECA's crosscutting policies?

Certain crosscutting requirements, such as financial management, recordkeeping, and procurement, apply at the subrecipient level, meaning they are not necessarily project specific. Other crosscutting requirements, such as NEPA, apply to every CDBG-DR funded project, regardless of the eligible activity. Crosscutting requirements such as DBRA and Section 3 apply to construction projects, whereas URA is triggered when persons may be displaced as a result of a CDBG-DR funded project. ADECA's crosscutting policies can also be found in the CDBG-DR Grant Administration Manual (*Pending*).

3.2 Procurement

3.2.1 Which regulations govern subrecipients' procurement processes?

- When procuring goods or services with CDBG-DR funds, subrecipients must follow the Alabama State Code. If the procurement standards contained in the Uniform Administrative Requirements at 2 CFR 200.318 through 2 CFR 200.327 or local procurement policies and procedures are stricter than the Alabama State Code, the strictest requirement shall prevail.

3.2.2 What does full and open competition mean?

Procurement processes that promote full and open competition do not:

- Place unreasonable requirements on bidders, offerors or proposers to qualify to do business;
- Require unnecessary experience and excessive bonding;
- Allow noncompetitive pricing practices between bidders, offerors or proposers or between affiliated companies;
- Allow noncompetitive contracts to consultants that are on retainer contracts;
- Allow organizational conflicts of interest;
- Specify only a "brand name" product instead of allowing "an equal" product including a description of the item's essential characteristics so that competition is not restricted; and
- Allow any arbitrary action in the procurement process.

3.2.3 When should a procurement process be carried out?

When purchasing or contracting for any purchase of goods and/or services with CDBG-DR funds, regardless of the amount of CDBG-DR funds involved in the transaction.

3.2.4 Is it possible to contract directly for professional services with a preferred provider?

No. To acquire professional services, a procurement process must be carried out and the method of procurement will depend on the estimated amount of the cost for the services.

3.2.5 Can a subrecipient use a prior professional services contract for CDBG-DR professional services without having to reprocur?

No, unless it can be demonstrated that a procurement process was held for that prior professional service contract in accordance with the stricter of federal, state and local

requirements, and that resulting scope of work of that procurement allowed for CDBG-DR services to be performed without triggering a new procurement action.

3.2.6 Can a direct purchase of goods from a preferred nearby vendor be made?

No. To acquire goods of all types, a procurement process must be carried out and the method of acquisition will depend on the total amount of goods to be acquired.

3.2.7 What is the difference between informal and formal procurement methods?

Informal methods are those in which the acquisition of goods and/or services does not exceed \$25,000, the threshold for small purchases per the Small Purchase Ala. Code § 41-4-134 and Rule 355-4-3-.04. Formal methods are those in which the acquisition of goods and/or services exceeds \$25,000. These include sealed bids, request for proposals (RFPs) and request for qualifications (RFQs).

3.2.8 Does the State of Alabama allow for Micro-purchases?

No, per the Small Purchase Ala. Code § 41-4-134 and Rule 355-4-3-.04, the State of Alabama does not allow subrecipients to procure for goods and/or services using the micro-purchase procurement method at 2 C.F.R. § 200.320.

3.2.9 What is a Small Purchase?

Procurement of goods and/or services less than \$25,000. The procurement must be distributed equally among qualified suppliers. Price quotations or rates must be obtained from an adequate number of qualified sources.

3.2.10 What is a Sealed Bid and when should they be used?

Sealed Bids are typically used for construction projects. Bids are publicly solicited, and a fixed-price (lump sum or unit price) contract is awarded to the responsible bidder whose bid, in accordance with all material terms and conditions of the invitation to bid, is the lowest and responsive to the solicitation.

3.2.11 When should the Request for Proposals (RFP) be used?

The use of RFPs is common for the procurement of professional services, such as a consultant in excess of \$25,000. This method allows for consideration of technical factors in addition to price; discussion with offerors on bids submitted; negotiation of other terms and conditions of the contract; review of proposals prior to final selection of the offeror; and withdrawal of a bid at any time up to the time of award.

3.2.12 When should the Request for Qualifications (RFQ) be used?

Subrecipients may use RFQs for the procurement architectural/engineering (A/E) professional services whereby the offeror's qualifications are evaluated and the most qualified offeror is selected, subject to negotiation of fair and reasonable compensation. The method, where price is not used as a selection factor, can only be used in procurement of A/E professional services. It cannot be used to purchase other types of services through A/E firms that are a potential source to perform the proposed effort.

3.2.13 What should the award be based on in a Request for Proposals?

Award should be made based on the offer that represents the best overall value, considering price and other factors, such as technical expertise, experience, quality of proposed personnel and others, set forth in the solicitation and not just the lowest price.

3.2.14 What is an independent cost estimate?

An independent review of the cost estimate of the goods or services to be procured, prepared by the subrecipient, or a third party prior to issuing a request for bids. The independent cost estimate is a confidential document, and its publication may affect full and open competition. 2 C.F.R. § 200.324.

3.2.15 Do cost estimates have to be made for all procurement processes?

To comply with 2 C.F.R. § 200.323(a), Subrecipients must prepare an Independent Cost Estimate (ICE) for every procurement in excess of \$250,000 and must include the total estimated cost based on data and documentation. The ICE may be used to evaluate the reasonableness of the cost or prices. For Small Purchases, subrecipients must develop a Cost Estimate (CE) that includes the total estimated cost based on data and documentation that is adequate for budgetary purposes and could be used for determination of cost reasonableness.

3.2.16 How is a proposer's eligibility determined?

Pursuant to 2 C.F.R. § 200.318(h) subrecipients must verify and document the eligibility of contractors/vendors/supplies in the following databases:

- System of Award Management (**SAM**)- Requires Proposer's DUNS Number (<https://www.sam.gov/SAM/>)
- Limited Denial of Participation List (**LDP**) (https://www.hud.gov/topics/limited_denials_of_participation)

3.2.17 Which entities must be registered with SAM.gov?

All entities participating in a procurement process that use/receive federal funds must be registered with SAM.gov. Vendors submitting quotes for CDBG-DR Programs are also required to be registered with SAM to be considered. If not already registered, vendors must include evidence of registration when submitting quotes. Such registration is free of charge to the supplier.

3.2.18 What is included in the LDP?

The Limited Denial of Participation list excludes a specific person or entity from participating in a specific program or programs, within the geographic jurisdiction of a HUD field office, for a specific period.

3.2.19 Do all suppliers have to register with SAM?

For purchases that are greater than \$25,000, suppliers are required to be registered with SAM. For purchases under \$25,000 it is recommended to be registered with SAM, but it is not mandatory.

3.2.20 When and where should procurements for goods or services be published?

Any procurement in excess of \$25,000 requires public advertising. Publication may be made on the CDBG-DR website, on the subrecipient's website, in a newspaper of general circulation within the jurisdiction, or any other method allowed by the subrecipient's procurement policies and procedures. Small Purchase Ala. Code § 41-4-134 and Rule 355-4-3-.04.

3.2.21 What happens if only one bid is received?

Procurement processes must be fully and openly competitive. An adequate number of qualified participants is required, as determined by the subrecipient's policies and procedures, but no

less than two. In a competitive process, if only one quotation or proposal is received, it must be cancelled, and the solicitation re-evaluated to ensure the process is not too restrictive, then re-advertised. Any cancellation must be communicated to all participants and invitees of the process. If after the second solicitation, one quotation or proposal is received, contact your ADECA Grant Manager to determine if the second solicitation was fully and openly competitive, and if it is acceptable to make an award to the sole bidder.

3.2.22 What are the minimum documents to be kept in the procurement file?

Subrecipients, at minimum, must maintain the following documents related to procurement on file: solicitation documents; independent cost estimate; justification for the selected procurement method; evaluations, recommendations and determinations made by the procuring entity; advertisements; bids, quotes, or proposals received; and any information considered by the procuring entity. Other documents may be required, based on the procurement method.

3.3 Financial Management

3.3.1 What are applicable credits?

Applicable credits refer to those receipts or reduction-of-expenditure-type transactions that offset or reduce expense items allocable to the Federal award as direct or indirect costs. Examples may include purchase discounts or insurance refunds or rebates.

3.3.2 What is the difference between direct and indirect costs?

Direct Costs are costs that are specific, identifiable, and are incurred to provide services or products for a grant award. These costs can be directly assigned to such activities relatively easily with a high degree of accuracy. (2 C.F.R., § 200.413). Common examples of direct costs include construction costs, or staff costs to administer and implement a project.

Indirect Costs are costs that cannot be identified for a specific grant award, service, or activity of an organization, but are incurred, and ultimately support multiple grant awards, services, or activities. (2 C.F.R., § 200.413). Common indirect costs include office space and utilities.

3.3.3 How can indirect costs be charged to the grant award?

Indirect costs can be charged to the CDBG-DR federal award using one of the following 3 methods:

- **10% de minimis rate** - If the entity does not have an approved federally recognized indirect cost rate negotiated with a federal cognizant agency (NICRA), the entity may elect to charge a de minimis rate of 10% of modified total direct costs (MTDC).
- **Negotiated Indirect Cost Rate Agreement (NICRA)** - A negotiated rate based on identified indirect cost with a Federal cognizant agency. Federal cognizant agency is the Federal agency responsible for reviewing, negotiating, and approving cost allocation plans, or indirect cost proposals developed under this part on behalf of all Federal agencies (2 C.F.R. § 200.1)
- **Cost Allocation Plan** - An allocation plan (not a rate) based on approved methodologies for allocating each cost; for example, rent-based on square footage, HR & Accounting – based on hours worked, among others.

3.3.4 How are subawards considered in the MTDC base for de minimis?

The MTDC base can include costs up to the first \$25,000 of each subaward (regardless of the period of performance of the subawards under the award). (2 C.F.R. § 200.1)

3.3.5 How are contracts for professional services considered in the MTDC base for de minimis?

Professional service contracts are allowable MTDCs subject to the 10% de minimis plus-up.

3.3.6 What is considered a fixed asset?

Tangible property with a useful life of more than one year and a per-unit acquisition cost which equals or exceeds the lesser of the capitalization level established by the grantee for financial statement purposes of \$500.

3.3.7 When can I buy fixed assets?

Fixed assets can be acquired if the expense is considered necessary for the delivery of a program activity and there's an approved budget for the expense on the contract or SRA.

3.3.8 How should I track my fixed assets?

When acquired, all assets must be given a unique identification number to assure the asset is being properly accounted for and control procedures are in place to safeguard the assets.

3.3.9 What other actions are needed for fixed assets?

The following other actions must take place:

- A physical inventory of the property must be taken, and the results reconciled with the property records at least once every two (2) years.
- A control system must be developed to ensure adequate safeguards to prevent loss, damage, or theft of the property.
- Adequate maintenance procedures must be developed to keep the property in good condition.

3.3.10 When is a Single Audit required?

As per 2 C.F.R. § 200.501, a subrecipient that expends \$750,000 or more during the fiscal year in all Federal awards must have a single or program-specific audit conducted for that year. Which type of audit is conducted is an option of the subrecipient. Single audits must be conducted in accordance with 2 C.F.R. § 200.514. Program-specific audits must be conducted in accordance with 2 C.F.R. § 200.507.

3.3.11 Can I pay the Single Audit costs with CDBG-DR funding?

Yes, however, the cost must be included as allowable in the SRA, and the cost must be allocated equitably between the multiple sources of funding that will benefit from the Single Audit report and comply with the CDBG-DR procurement processes.

3.4 Section 3

3.4.1 What is Section 3?

Section 3 is a provision of the Housing and Urban Development Act of 1968. The purpose of Section 3 is to ensure that employment and other economic opportunities generated by certain HUD financial assistance shall, to the greatest extent feasible, and consistent with existing Federal, State, and local laws and regulations, be directed to low- and very low-income persons,

particularly those who are recipients of government assistance for housing, and to business concerns which provide economic opportunities to low- and very low-income persons.

3.4.2 What does "Section 3 Worker" Mean?

A Section 3 worker is any worker who currently fits, or when hired within the past five (5) years fit, at least one of the following categories, as documented:

- The worker's income for the previous or annualized calendar year is below the income limit established by HUD (see Question 6 of this part I of these FAQs, below);
- The worker is employed by a Section 3 business concern (see Question 5 of part I, below); or
- The worker is a YouthBuild¹ participant.

3.4.3 What does "Targeted Section 3 Worker" Mean?

A Section 3 targeted worker for Housing and Community Development Financial Assistance projects is a Section 3 worker who: (1) is employed by a Section 3 business concern; or (2) currently fits or when hired fit at least one of the following categories, as documented within the past five years: (i) Living within the service area or the neighborhood of the project, as defined in 24 CFR § 75.5; or (ii) A YouthBuild participant.

3.4.4 What does "Section 3 Business Concern" Mean?

A Section 3 business concern is a business that meets at least one of the following criteria, documented within the last six (6)-month period:

- At least 51% owned and controlled by low- or very low-income persons;
- Over 75% of the labor hours performed for the business over the prior three-month period are performed by Section 3 workers; or
- A business at least 51% owned and controlled by current public housing residents or residents who currently live in Section 8-assisted housing.

3.4.5 How are low-income and very low-income limits determined?

Low- and very low-income limits are defined in Section 3(b)(2) of the Housing Act of 1937 and are determined annually by HUD. HUD income limits can be found on the HUD website available at <https://www.huduser.gov/portal/datasets/il.html>.

3.4.6 What is a Section 3 project?

Section 3 projects are housing rehabilitation, housing construction, and other public construction projects assisted under HUD programs that provide housing and community development financial assistance when the total amount of assistance to the project exceeds a threshold of \$200,000. The threshold is \$100,000 where the assistance is from the Lead Hazard Control and Healthy Homes programs.

3.4.7 Can a non-profit organization be a business concern for the purposes of Section 3?

Yes. A non-profit organization can be a business concern. Non-profit organizations must meet the criteria of a Section 3 business concern as defined at 24 C.F.R. § 75.5 in order to receive Section 3 preference.

¹ YouthBuild is a community-based pre-apprenticeship program that provides job training and educational opportunities for at-risk youth ages 16-24 who have previously dropped out of high school. DOL: <https://www.dol.gov/agencies/eta/youth/youthbuild>.

3.4.8 What HUD assistance does Section 3 apply to?

Section 3 applies to financial assistance for Public Housing Financial Assistance and for Housing and Community Development Financial Assistance expended for housing rehabilitation, housing construction, or other public construction. CDBG-DR funds are considered Housing and Community Development Financial Assistance.

3.4.9 How can low- and very low-income persons and businesses locate recipient agencies that are required to comply with Section 3 in their area?

To find local recipients' agencies, Section 3 residents or businesses should contact their local HUD office. To find your closest office, visit: <https://www.hud.gov/localoffices>.

3.4.10 How can I find Section 3 business concerns in my area?

Subrecipients should contact local recipient agencies to find Section 3 business concerns in your area. Section 3 business concerns that have registered in the Section 3 Business Registry are also available at: <https://hudapps.hud.gov/OpportunityPortal/>.

3.4.11 How should complaints be made?

Complaints alleging failure of compliance may be reported to the HUD program office responsible for the public housing financial assistance or the Section 3 project, or to the local HUD field office. These offices can be found at <https://www.hud.gov/localoffices>.

3.5 Minority and Women-Owned Business Enterprise (M/WBE)

3.5.1 What is MBE?

MBE is defined as a business which is at least 51% owned, operated and controlled on a daily basis by one or more (in combination) American citizens that are identified as an ethnic minority group. It is a business that is owned or controlled by one or more individual(s) that are socially and/or economically disadvantaged by historic or chronic economic circumstances, as well as cultural, racial, disability or other similar causes. Such people include, but are not limited to: African Americans, Asian Americans, Hispanic Americans, Native Americans, Hasidic Jews, Persons with disabilities, and other individuals who can prove a social and economic disadvantage.

3.5.2 What is WBE?

A WBE is a business concern that is at least 51% owned and controlled by one or more women. Must be U.S. citizens or Legal Resident Aliens; whose business formation and principal place of business are in the U.S. or its territories; and whose management and daily operation is controlled by women.

3.5.3 What are the requirements of MBEs and WBEs?

The following requirements apply:

- The owner is required to have operated the business for at least a full year (365 days) either calendar or fiscal.
- The owner is required to have filed a federal business tax return consisting of a full year (365 days) either calendar or fiscal.
- The business must have been continuously operating for at least one year (365 days).
- The owner is required to have filed federal business and personal tax returns for the most recently completed tax year.

3.5.4 Who can be a Certified Minority or Women Owner Business?

Certified Minority or Women Owned Businesses can be those who have filed Applications with the Environmental Protection Agency (EPA) the Office of Small Business Programs (OSBP). Applications can be obtained from EPA OSBP, from regional Disadvantaged Business Enterprise (DBE) Coordinators, and from EPA OSBP's website, <https://www.epa.gov/resources-small-businesses>.

3.6 Davis Bacon and Related Acts

3.6.1 What is a Wage Determination?

A “wage determination” is the listing of wage rates and fringe benefit rates for each classification of laborers and mechanics which the Administrator of the Wage and Hour Division of the U.S. Department of Labor has determined to be prevailing in a given area for a particular type of construction (e.g., building, heavy, highway, or residential).

- **General Wage Determination:** Reflects those rates determined by the Wage and Hour Division to be prevailing in a specific geographic area for the type of construction described.
- **Modification to a Wage Determination:** Issued to update data in the original determination. Where a contract will be entered pursuant to competitive bidding procedures, a modification, notice of which is published on the Wage Determination On Line (WDOL) web site at <https://www.dol.gov/>; or in the Federal Register less than ten (10) days before the opening of bids shall be effective unless the agency finds that there is not a reasonable time still available before bid opening to notify bidders of the modification and a report of the finding is inserted in the contract file.

3.6.2 How can apprentices or trainees participate in a DBRA project?

Individuals who meet the following definition may be employed as apprentices on DBRA projects:

- A person employed and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training, or with a State Apprenticeship Agency recognized by the Bureau; or
- A person in the first ninety (90) days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been properly certified to be eligible for probationary employment as an apprentice.

3.6.3 What wage rates must be paid to apprentices or trainees?

Information on wage rates paid to apprentices and trainees is not reflected in Davis-Bacon wage determinations. The proper wage rates to be paid to apprentices and trainees are those specified by the particular programs in which they are enrolled, expressed as a percentage of the journeyman rate on the wage determination.

3.6.4 How can I submit questions related to DBRA directly to DOL?

You may submit any question related to DBRA utilizing the Frequently Asked Questions Line at <https://www.dol.gov/whd/programs/dbra/dfaqline.htm> or the Frequently Asked Questions Technical Line at: <https://www.dol.gov/whd/programs/dbra/tfaqline.htm>.

3.7 Uniform Relocation Act (URA)

3.7.1 When does URA Apply?

URA requirements apply if federal financial assistance is used in any phase of a project where real property is acquired or persons are displaced as a result of an acquisition, rehabilitation, or demolition.

3.7.2 What is considered Real Property Acquisition?

An acquisition is the transfer of ownership or rights of real property from one legal entity to another.

3.7.3 What types of acquisition are allowable under URA?

The following types of acquisition are allowable:

- **Voluntary acquisitions** are those that are carried out without threat or use of the right of expropriation and are subject to the acquisition requirements of the URA Law found in 49 C.F.R. § 24.101 (b) (1-5).
- **Involuntary acquisitions** are acquisitions that could be subject to the threat or use of the right of expropriation. These are subject to the requirements established in 49 C.F.R. § 24, Subpart B2.
- A **donation** occurs when a person whose property is to be acquired donates said property or any part of it to the Acquiring Agency, after having been duly informed by the agency of his right to receive just compensation for said property.

3.7.4 When should it be determined what acquisition method applies?

The acquiring agency must determine which approach applies to the project before starting any acquisition activity, whether it is a Voluntary or Involuntary Acquisition.

3.7.5 What is the fair market value of the property?

There is no specific value that will be used for all properties, taking into account that each property is different. In the case of a voluntary acquisition under the URA Act, there is nothing in the regulations that prevents negotiations from generating settlements that are above or even below the Agency's estimate of the property's market value afterwards. If the owner has been informed and all the corresponding requirements have been met.

Before the beginning of the negotiations, the Acquiring Agency must establish a sum that it considers as fair compensation for the acquisition of the property. This amount must not be less than the approved appraisal of the property's fair market value.

3.7.6 Does URA apply only to voluntary real estate acquisition?

No, URA applies even if a real property acquisition is involuntary.

3.7.7 Can an Agency use eminent domain to acquire real estate?

Yes. The use of eminent domain is only a possibility for involuntary acquisitions after negotiations are unsuccessful. The acquiring Agency may choose to withdraw or proceed with the expropriation through the court system. Expropriation is the legal process by which the property title is forcibly acquired through the eminent domain process. The Agency must

² The real estate acquisition requirements of Subpart B of the URA do not apply to involuntary acquisitions. A voluntary acquisition is not defined as a property for sale or a willing seller.

initiate a formal expropriation proceeding and the court will determine just compensation for the property.

3.7.8 Should an appraisal be made for all properties being acquired?

An appraisal and verification appraisal are required for properties that do not exceed \$10,000. An appraisal and verification appraisal are not required for properties less than \$10,000 unless the owner requests one, and for certain donations. In those cases where an appraisal is not required, a waiver valuation needs to be prepared by a qualified person (49 § CFR 24.102(c)).

3.7.9 Can URA apply to the relocation of an ongoing business?

Yes, they are known as non-residential displaced persons. URA can provide a business with the following options: Payment of actual and reasonable moving costs along with related expenses and payment of actual and reasonable reestablishment expenses or a fixed payment in lieu of moving and reestablishment costs.

Other non-residential displaced persons include farm or non-profit organizations who will also be eligible for relocation counseling services and will have the option to choose between receiving actual and reasonable expenses in relation to displacement or a lump sum payment instead.

3.7.10 Who is considered a displaced person?

Any person who moves out of a property or moves their belongings from that property as a direct result of acquisition, demolition or rehabilitation for a federally funded project.

3.7.11 What rights does a displaced person have?

Displaced persons have the right to receive adequate notifications related to their relocation or displacement, relocation counseling service, referrals to affordable replacement housing, replacement housing payments, and moving expenses. No person shall be required to move from a displacement dwelling unless comparable replacement housing is available to such person as required by 49 § CFR Part 24.404(b).

3.7.12 Can tenants be temporarily relocated under URA?

Yes, some projects require occupants to relocate temporarily, until they can return to their property. URA regulations provide minimum requirements and assistance, if applicable, for the temporary relocation of residential and non-residential tenants.

3.7.13 What notifications must tenant be given under the URA Act?

The following tenant notification are required:

- **General Information Notice (GIN):** Informs tenants that the program is providing assistance to support the rehabilitation, reconstruction or demolition of the property they currently occupy and indicates that they may have to move temporarily or permanently to facilitate construction or acquisition.
- **Notice of Non Displacement-No Relocation Required:** This notice informs the tenant they will not be required to move temporarily in order for this project to be completed. It guarantees that the tenant should be able to continue to lease and occupy the unit with no interruptions.

- **Notice of Non Displacement-Temporary Relocation Required:** This notice informs the tenant that they will be required to move temporarily in order for this project to be completed. However, this notice urges the tenant not to move out just yet. This notice also informs the tenant of all eligible expenses that will be covered by the Program for said relocation.
- **30-Day Move-In Notice (Temporary Relocation):** This notice informs tenants that they will have to relocate within thirty (30) days and provides them with a move-in date.
- **90-Day Notice of Move-In (Permanent Relocation):** Households that qualify as "Displaced Persons" and have received a Notice of eligibility are given a written notice with a minimum of ninety (90) days from the earliest date they may be required to permanently relocate.
- **Notice of Relocation Eligibility (NOE):** This notice informs the tenant that they qualify for relocation assistance for temporary or permanent relocation.

3.7.14 Must subrecipients keep a record of the acquisition and displacement activities?

Yes, all subrecipients must maintain records that indicate compliance with the requirements of the URA Act and these will be updated periodically. Refer to 49 § CFR 24.9.

3.8 Environmental

3.8.1 What is an environmental review?

The environmental review for CDBG-DR projects is a review that follows HUD's regulations at 24 C.F.R. Part 58 and can also require compliance with NEPA regulations. The environmental review must identify the project type and the activities that will be undertaken. The environmental review is used to determine if those activities could potentially have an adverse effect on the environment or people. Funds cannot be committed, obligated, or expended prior to the completion of the environmental review.

3.8.2 Who can complete the environmental review?

Any qualified person can prepare an environmental review for the project activities. However, for some review topics such as Historic Preservation, there could be a specially qualified individual needed to complete that portion of the review.

3.8.3 Are there different types of environmental reviews?

There are five different types of environmental reviews:

- Exempt
- Categorical Exclusion Not Subject to § 58.5
- Categorical Exclusion Subject to § 58.5
- Environmental Assessment
- Environmental Impact Statement

3.8.4 How do I know which type of environmental review is required?

For questions about the level of environmental review, contact your ADECA Grant Manager.