

# LOCAL RECOVERY AND RESILIENCE **COMPETITION PROGRAM**



## Program Guidelines



## Version Control

Version Number	Date	Summary of Changes	Approved By
1.0	12/26/2023	Original Version	Kenneth W. Boswell

## Version Policy

Version history is tracked in the Version History Table, 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.).

## 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

In 2022, the State of Alabama was awarded a Community Development Block Grant – Disaster Recovery (CDBG-DR) grant through the US Department of Housing and Urban Development (HUD) to address remaining unmet disaster recovery needs in areas impacted by Hurricane Sally or Hurricane Zeta, both of which made landfall in Alabama toward the end of 2020.

Federal Register Vol. 87, No. 23 (87 FR 6364) and Federal Register Vol. 87, No. 100 (87 FR 31636) allocated a combined total of **\$501,252,000** in disaster recovery and mitigation funds to the State of Alabama.

While the unmet needs assessment included in the Sally/Zeta Action Plan revealed that housing-related recovery efforts constitute the most pressing needs in the most impacted and distressed (MID) areas of the state, the assessment also revealed that significant unmet need in the infrastructure and economic sectors of the MID areas still remains.

The Alabama Department of Economic and Community Affairs (ADECA) has allocated approximately **\$22.2 million** of its grant amount to the Local Recovery and Resiliency Competition Program (LRRCP), which ADECA designed to approve activities that will preserve and improve critical infrastructure and public facilities, support the recovery of commercial areas, restore economic activity, and increase resilience to future disasters that may occur in the MID areas.

This document serves as the program guidelines for the LRRCP and was developed to provide guidance to subrecipients on program implementation – from project application submission to project closeout – and follows HUD standards and established best practices.

This document may also serve as a reference for applicants and other interested parties who want to understand how the LRRCP will be administered. Note that this program guideline only describes the LRRCP. Each of the other ADECA recovery programs contained in the Alabama Action Plan for Disaster Recovery (“Action Plan”) is governed by its own Program Guidelines document.

## 2 Definitions

**100-year floodplain:** The area subject to inundation from a flood with a 1% or greater chance of being equaled or exceeded in any given year.

**500-year floodplain:** The area subject to inundation from a flood with a 0.2% or greater chance of being equaled or exceeded in any given year.

**Action Plan:** A document created by ADECA that outlines its plan for using CDBG-DR funds to support disaster recovery and mitigation initiatives as a result of Hurricanes Sally and Zeta. The Action Plan describes how ADECA will use CDBG funds to address long-term recovery and mitigation needs and priorities, outlines the specific projects and activities that will be funded, the expected outcomes, and the timeline for implementation. The plan also provides details on how the local government will meet national objectives, including the provision of decent housing, the creation of suitable living environments, and the expansion of economic opportunities for low- and moderate-income individuals and communities.

**ADECA:** The acronym for the Alabama Department of Economic and Community Affairs; the grantee and administering entity for CDBG-DR funds allocated to the State of Alabama for recovery from Hurricanes Sally and Zeta.

**Applicant:** An eligible recipient of Local Recovery and Resiliency Competition program funding. This includes the governments of Clarke, Escambia, Dallas, Marengo, Perry, Washington and Wilcox counties, or a municipality located within those counties.

**CDBG-DR:** The acronym for the Community Development Block Grant-Disaster Recovery program by which HUD has awarded federal disaster recovery funding to Alabama.

**Critical Actions:** Any activity for which even a slight chance of flooding would be too great because such flooding might result in loss of life, injury to persons, or damage to property. Critical actions include activities that create, maintain, or extend the useful life of those structures or facilities that (1) produce, use or store highly volatile, flammable, explosive, toxic or water-reactive materials; (2) provide essential and irreplaceable records or utility or emergency services that may become lost or inoperative during flood and storm events; or (3) are likely to contain occupants who may not be sufficiently mobile to avoid loss of life or injury during flood or storm events (e.g., persons who reside in hospitals).

**Duplication of Benefits:** A duplication of benefits (DOB) occurs when a person, household, business, or other entity receives disaster assistance from multiple sources for the same recovery purpose, and the total assistance received for that purpose is more than the total need. The amount in excess of the total need is the DOB, which is prohibited by federal law.

**Environmental Review:** Consists of the responsible entity determining the appropriate level of review needed to obtain environmental clearance for an approved CDBG-DR project, and then determining the impact of that project on the environment. Each CDBG-DR funded activity must be environmentally cleared prior to commencement of the project.

**Federal Register Notice (FRN):** The Federal Register is the official journal of the Federal government of the United States that contains government agency rules, proposed rules, and public notices. 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.

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

**Full-Time Equivalent Jobs (FTE):** For projects requiring the creation of FTE jobs, FTE refers to a permanent job that meets forty (40) hours per week. Multiple part-time jobs can be combined to account for an FTE job. For example, two 20-hour part time positions can count as one FTE position.

**Grant Administration Manual:** The ADECA Grant Administration Manual contains grant-wide policies applicable to ADECA staff and its subrecipients across all programs and aspects of grant management. Subrecipients must update their policies and procedures in order to comply with policies contained in the ADECA CDBG-DR Grant Administration Manual.

**Household:** A household is defined as all persons occupying the same residential structure, regardless of their relationship to each other. The occupants could consist of a single family, two or

more families living together, or any other group of related or unrelated persons who share living arrangements.

**HUD:** The acronym for the United States Department of Housing and Urban Development—the federal agency that administers the CDBG-DR program.

**Impact and Unmet Needs Assessment:** A significant part of ADECA’s disaster recovery action plan that included an objective, quantitative assessment of the damage Hurricanes Sally and Zeta caused in the most impacted and distressed areas of Alabama and identified the locations and sectors where the state’s recovery needs remain. The assessment served as the basis for the recovery programs ADECA developed, the budget amounts ADECA allocated to each program, and determined the state’s direct allocation subrecipients (Baldwin County, Mobile County, and the City of Mobile) and their allocation amounts.

**Interlocal Agreement:** An agreement between governmental entities that is established as a contract to provide services to residents, typically at a lower cost. The agreements often increase the effectiveness and efficiency of providing local government services.

**Low- to Moderate-Income (LMI) National Objective:** Activities that benefit persons whose total annual gross income does not exceed 80% of Area Median Income (AMI), adjusted for family size. Income eligibility is determined and verified in accordance with HUD guidance.

**Local Recovery Planning (LRP) Program:** ADECA’s CDBG-DR funded recovery program by which MID counties will develop a local recovery plan that identifies the highest priority recovery and mitigation projects resulting from the Hurricanes Sally and Zeta natural disasters.

**LRRCP:** The acronym for ADECA’s Local Recovery and Resiliency Competition Program.

**Memorandum of Understanding (MOU):** An agreement between two or more parties outlined in a formal document that describes the broad outlines of an agreement that those parties have reached and communicates the mutually accepted expectations of all the parties involved.

**Mitigation Activities:** 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 hardship, by lessening the impact of future disasters.

**Mitigation Needs Assessment:** A risk-based assessment ADECA completed to identify and analyze all significant and current future disaster risks in the most impacted and distressed areas of Alabama, a summary of which is included in ADECA’s disaster recovery action plan. All mitigation activities LRRCP applicants propose must align with the mitigation needs identified in the assessment.

**Most Impacted and Distressed (MID) Areas:** Areas of highest impact as determined by HUD or the state, using the best available data sources to calculate the amount of disaster damage. The MID-designated areas include Clarke, Escambia, Dallas, Marengo, Wilcox, Perry, and Washington counties.

**Most Impacted and Distressed (MID) Recovery Zones:** Most Impacted and Distressed Area identified by the local unmet needs assessment within an MID county, where project or program activities will be concentrated.

**Neighborhood Revitalization Strategy Area (NRSA):** A Community Development Block Grant (CDBG) grantee-designated area, usually a low-income neighborhood or community, targeted for comprehensive revitalization efforts. An NRSA is different from other local targeted areas in that the designation is reviewed and approved by HUD. The goal of an NRSA is to improve the physical, economic, and social conditions of the area, often through a combination of community involvement, public-private partnerships, and government investment.

**Non-Residential Structures:** A building or structure that is not designed or intended for temporary or permanent residential purposes, but rather for commercial, industrial, or institutional purposes, such as office buildings, retail stores, factories, warehouses, hospitals, schools, and government buildings.

**Notice of Grant Application (NOGA):** The document ADECA will publicize to provide specific information about the LRRCP application process, submission instructions, application deadlines, evaluation criteria, and scoring methodology. The NOGA will be released shortly after the completion of the Local Recovery Planning Program to open the application submission period for the LRRCP.

**Opportunity Zones:** Designated low-income areas in the United States that have been identified by the federal government as needing economic investment. These zones were created as part of the Tax Cuts and Jobs Act of 2017 to encourage private investment in these areas. The goal of the Opportunity Zones program is to stimulate economic growth and job creation in underserved communities.

**Program Income:** The gross income received by the grantee and its subrecipients directly generated from the use of CDBG funds.

**Project:** An activity with a discrete combination of one entity, one eligible activity, one project service area, and one HUD National Objective. The LRRCP is designed to award and implement projects rather than programs.

**Promise Zones:** High poverty communities where the federal government partners with local leaders to increase economic activity, improve educational opportunities, leverage private investment, reduce violent crime, enhance public health, and address other priorities identified by the community.

**Public Use:** Use of program funds that does not primarily benefit private entities but rather public entities. Examples include infrastructure and services, like public schools, public utilities, parks, and transit operations.

**Reasonable Accommodations:** HUD defines a reasonable accommodation as a change, adaptation, or modification to a policy, program, service, or workplace which will allow a qualified person with a disability to participate fully in a program, take advantage of a service, or perform a job.

**Resilience:** A community's ability to minimize damage and recover quickly from extreme events and changing conditions, including natural hazard risks.

**Section 3:** A HUD provision of the Housing and Community Development Act that requires that employment and other economic opportunities generated by certain HUD financial assistance shall, to the greatest extent feasible, 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.

**Service Area:** A project's service area is the geographic area or region that will benefit from the project's activities and services. When applying for CDBG-DR funds, applicants must define the geographic boundaries of the service area that will benefit from the project. The service area can encompass an entire community, neighborhood, or region, depending on the scope and outcomes of the project.

**Subrecipient Manual:** A policy guide available to ADECA CDBG-DR program subrecipients. The Manual summarizes policy regarding ADECA management and oversight of subrecipients' activities and provides subrecipients with general information and expectations for HUD compliance.

**Tie Back, or Disaster Tie Back:** Activities funded under the CDBG-DR program must be related to a specific disaster event that caused damage or destruction to a community. For this program, CDBG-DR funds must be used to address the impacts of Hurricanes Sally and/or Zeta, which led to the federal funding, rather than for unrelated community development activities. The tie back helps ensure that the funds are used in a way that is consistent with the intended purpose of the CDBG-DR program, which is to help communities recover from disasters and rebuild their infrastructure, housing, and economy.

**Qualifying Storms:** Hurricane Sally or Hurricane Zeta.

**Vulnerable Populations:** Defined by HUD as a group or community whose circumstances present barriers to obtaining or understanding information or accessing resources. These include, but are not limited to, women, racial or ethnic minorities, low-income individuals and families, individuals who are or have been incarcerated, individuals with disabilities, individuals with mental health conditions, children, youth and young adults, seniors, immigrants and refugees, persons with limited English proficiency, and LGBTQIA+ communities, or combinations of these populations.

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### 3 Program Overview

To maximize the use of grant funding to the HUD- and state-identified MID areas and to assist the state in its long-term recovery from the qualifying storms, ADECA has created the \$22.2 million Local Recovery and Resiliency Competition Program to fund a wide range of high-impact infrastructure, economic revitalization, and mitigation activities<sup>1</sup>.

The LRRCP has been designed to aid the Federally designated MID counties of Clarke and Escambia and State-designated MID counties of Dallas, Marengo, Perry, Washington, and Wilcox in their long-term infrastructure and economic recovery from Hurricanes Sally and Zeta, and to aid those areas’ mitigative efforts to lessen the impact of future disasters<sup>2</sup>.

The LRRCP will fund projects<sup>3</sup> that support recovery and mitigation strategies defined in the ADECA-accepted local recovery plan created from the Local Recovery Planning Program, a companion ADECA-administered disaster recovery program. As part of that LRP planning process, MID recovery zones will be established to magnify the impact of recovery to the vulnerable populations and areas with greatest storm impacts and needs within the seven MID counties. The identification of these recovery zones will inform the projects submitted to the LRRCP, allowing the program to make investments that will benefit the most storm impacted areas, vulnerable populations, and underserved communities throughout each MID county.

Since the LRRCP has a limited budget, ADECA will identify—through a competitive selection process—projects that best align with the recovery and mitigation strategies defined in the LRP. Awarded projects will be those that best allow the MID counties to address recovery and resiliency needs through a wide range of infrastructure, economic revitalization, and mitigation projects.

Types of projects eligible for this program include, but are not limited to:

Water control, drainage improvements	Improvements to commercial areas
Stormwater management	Acquisition, demolition, rehabilitation
Resilience and elevation	Commercial façade improvements
Repairs and modernization of buildings	Rehabilitation assistance for businesses
Green infrastructure	Workforce training
Communications infrastructure	Commercial corridor improvements
Public improvements, such as roads, bridges, curbs, gutters, utilities	Public services activities such as health care, public safety services, senior services

The LRRCP will be centrally administered by ADECA. However, eligible entities will carry out the approved recovery and mitigation activities via executed subrecipient agreements with ADECA.

<sup>1</sup> The LRRCP excludes housing activities. Housing projects will be served by ADECA’s Home Recovery Alabama Program, or the Local Recovery Housing Competition Program. Please refer to those guidelines for housing program-related information.

<sup>2</sup> The hardest hit most impacted and distressed areas of Baldwin and Mobile counties and the City of Mobile will be served by their own separate direct allocation programs.

<sup>3</sup> Emphasis on “project”. The LRRCP will fund stand-alone projects, rather than recovery or mitigation programs. Applicants should contact ADECA for technical assistance if there is uncertainty regarding whether the proposed activity is a project or a program.

## 4 Program Budget

The program budget and award range are as follows:

<b>Total Program Budget:</b>	<b>\$22,248,789</b>
<b>Minimum Project Award:</b>	<b>\$500,000</b>
<b>Maximum Project Award:</b>	<b>\$3,000,000<sup>4</sup></b>

Each project application must include a cost estimate that aligns with the requested amount of LRRCP funding, with considerations for contingencies and overruns, plus any additional funding sources needed to complete the project. The applicant will be required to indicate commitment of all other funding needed to complete the entire scope of the proposed project. ADECA will not require matching funds from the applicants; however, ADECA encourages applicants to leverage additional funding sources whenever possible.

### 4.1 Method of Distribution

Program funding will be directly awarded to eligible entities via a competitive evaluation process. Applications will be scored and ranked on several evaluation criteria discussed later in these guidelines. Each awarded entity will enter into a subrecipient agreement with ADECA to carry out approved projects.

To maximize the program’s reach with its limited budget, ADECA will fund at least one project located within each eligible county—provided that the project meets threshold requirements. The remaining allocation will be awarded as the evaluation rankings and program budget dictate. ADECA encourages collaboration between the MID areas, the local governments within the MID Recovery Zones, and non-profit organizations, to identify and develop projects that serve the areas’ most pressing recovery or mitigation needs.

## 5 Program Eligibility

In order for a project to be evaluated in the LRRCP, the following requirements must be met:

### 5.1 Be an Eligible Entity

Eligible program applicants include the governments of **Clarke, Escambia, Dallas, Marengo, Perry, Washington and Wilcox** counties, or any municipality located within those counties.

If a project involves multiple jurisdictions, one of the eligible entities must be designated as the lead LRRCP applicant and must enter a contractual relationship with ADECA that identifies the entity(ies) that will have project implementation, management, and compliance responsibilities.

Applications for projects that involve multiple jurisdictions must, at a minimum, provide a draft of an Interlocal Agreement, a Memorandum of Understanding, or a similar document, which defines each entity’s roles and responsibilities regarding the project including for such items as ongoing maintenance, transfer of any property that needs to be acquired for the project, etc.

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<sup>4</sup> Awards may exceed the maximum amount on a case-by-case basis if the project is evaluated favorably, makes a compelling case for achieving program goals, and program funding is available. The maximum award is subject to a review of duplication of benefits and cost reasonableness or cost-benefit analysis.

## 5.2 Connect to the Local Recovery Plan (LRP)

Prior to entering the LRRCP, the MID counties will collaborate on the completion of a local recovery plan via ADECA's companion Local Recovery Planning Program. This CDBG-DR funded planning effort will result in the development of strategies that will identify the types of activities that will best serve the needs of the vulnerable populations and ultimately lead to the development of projects submitted to the LRRCP.

In order for an LRRCP project to be eligible for consideration, it must be a project that aligns with a recovery or mitigation strategy detailed in the LRP. If a project is submitted to the LRRCP that cannot deliver on the strategies and goals detailed in the plan, that project will **not** be accepted.

## 5.3 Identify a Recovery or Mitigation Relationship

Any project that is funded by the LRRCP must have a demonstrable tie back to disaster recovery impacts or propose future mitigative efforts. Depending on the activity proposed, a project will either need to demonstrate how it will address an unmet recovery need from Hurricanes Sally and/or Zeta or demonstrate how it will address current and future disaster risks.

### 5.3.1 For Recovery Activities: Demonstrate a Tie Back to the Storm

For recovery activities, HUD requires that CDBG-DR activities demonstrate a tie back – either direct or indirect – to the disaster which served as the basis for the grantee's allocation. In accordance with Federal Register Vol. 87, No. 23 (February 3, 2022), 87 FR 6371, "all CDBG-DR funded activities must clearly address an impact of the disaster for which funding was allocated".

Through the application process, the LRRCP will require that recovery projects have a clear, justifiable tie back to the disaster. Applicants will be required to document a disaster connection by linking their proposed activities to a disaster recovery need described in the impact and unmet needs assessment in the action plan.

Sufficient documentation of physical loss (i.e., a direct impact) must include damage or rebuilding estimates, insurance loss reports, images, or similar information that documents damage caused by the disaster.

Sufficient documentation for non-physical disaster-related impacts must clearly show how the activity addresses the disaster impact (e.g., for economic development activities, data about job loss or business closing after the disaster, or data showing how pre-disaster economic stressors were aggravated by the disaster).

### 5.3.2 For Mitigation-Focused Activities: Addressing Resilience and Risks

As mentioned above, the LRRCP may also implement projects that are mitigation-focused rather than being a recovery activity. As part of its disaster funding allocation to Alabama, HUD mandated that at least 15 percent of Alabama's total grant be used towards mitigation activities (referred to as the Mitigation Set-Aside). While the LRRCP is not a dedicated mitigation program, activities undertaken with mitigative aspects will help ADECA meet its mitigation set-aside funding requirement.

Unlike disaster recovery activities, mitigation activities do not require a direct tie back to the disaster. Rather, a mitigation project will be required to demonstrate how it will 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 hardship, by lessening the impact resulting from future disasters. Mitigation projects must also demonstrate how they will address current and future risks as identified in ADECA’s mitigation needs assessment.

### 5.4 Perform an Eligible Activity

All projects awarded CDBG-DR funding must meet the criteria for a HUD eligible activity as defined by Section 105(a) of the Housing and Community Development Act (HCDA), as amended.

The activities in the table below have been included to allow and encourage subrecipients to think broadly in how to use program funds to address community revitalization and resilience through infrastructure and economic development improvements. All projects must meet the criteria for at least one of the following activities to be eligible for LRRCP funding:

105(a)(1)	Acquisition of Real Property
105(a)(2)	Public Facilities and Improvements
105(a)(4)	Clearance, Rehabilitation, Reconstruction, and Construction of Buildings
105(a)(5)	Architectural Barrier Removal
105(a)(7)	Disposition of Real Property
105(a)(8)	Provision of Public Services
105(a)(9)	Payment of Non-Federal Share
105(a)(11)	Relocation Assistance
105(a)(14 & 15)	Activities Carried Out through Nonprofit Development Organizations
105(a)(16)	Energy Use Strategies
105(a)(17)	Economic Development Assistance to For-Profit Business
105(a)(21)	Assistance to Institutions of Higher Education
105(a)(22)	Microenterprise Assistance

If an activity is not listed above but meets the criteria for one or more of the eligible Section 105(a) activities listed above, it may be eligible for LRRCP funding.

#### 5.4.1 Ineligible Activities

Unless permitted by a waiver issued by HUD, the following activities may **not** be assisted with LRRCP funds:

- Buildings or portions thereof used for the general conduct of government as defined in HCDA Section 102(a)(21)
- Expenses required to carry out the regular responsibilities of the unit of general local government, except as otherwise specifically authorized under 2 C.F.R. Part 200.
- Political activities
- Enlargement of a dam or levee beyond the original footprint of the structure that existed before the disaster, event – unless pre-approval from HUD and any Federal agencies that HUD determines are necessary based on their involvement or potential involvement with the levee or dam has been obtained (87 FR 6375).
- Assisting a for-profit business in any activities (including expansions, infrastructure projects, incubation, etc.) that will result in relocation or significant loss of jobs from one labor market to another, unless a business can demonstrate that it was operating in the area before the disaster and was forced to move to another labor market area to continue business.

- Assist a privately-owned utility for any purpose.

## 5.5 Meet a National Objective

All LRRCP funded activities must meet at least one of the three national objectives defined in the authorizing statute of the CDBG-DR program:

1. Benefit to low- and moderate-income persons (**LMI**) (24 C.F.R. § 570.483 (b))
  - Area Benefit
  - Limited Clientele
  - Job Creation and/or Retention
2. Aid in prevention or elimination of Slums or Blight (**SB**) (24 C.F.R. § 570.483 (c))
  - Addressing slums/blight on an area basis
  - Addressing slums/blight on a spot basis
3. Urgent Need (**UN**) activities (24 C.F.R. § 570.483 (d))

ADECA has a goal to expend the majority of LRRCP funds on projects that result in a benefit to LMI individuals, or that demonstrably serve LMI areas. To that end, the use of LMI Area Benefit (LMA) national objective is expected to be the most commonly used national objective for LRRCP projects.

To meet the LMA national objective, the project must have a defined service area that is appropriate to the scope and beneficiaries of the project and use HUD census data to assess if at least fifty-one percent (51%) of those beneficiaries in the service area are LMI persons.

Activities carried out using Urgent Need (UN) national objective will be required to provide details as to what the urgent need is, why it is of specific urgency, and how the conditions pose a serious threat to the health and/or welfare of the community. Documentation will also require direct applicability to the local unmet needs assessment identified in the LRP, including urgency, type, scale, and location of the disaster-related impact.

Although the LMA national objective will be utilized whenever possible, projects have the ability to meet any of the national objectives listed above. Please refer to Section III, Part 1 of the ADECA Subrecipient Manual for more details on the HUD National Objectives and how each is achieved.

### 5.5.1 Determining a Project's Service Area

In addition to informing the LMI Area National Objective, the defining of a project's service area will also play a significant role in the evaluation of project applications. A project's service area is the area in which the project's benefits can be realized by residents. Service areas can range from very small (for a local street repair or community playground) to large multi-jurisdictional areas (for large critical infrastructure projects). Applicants will be required to indicate and justify a project's service area. Technical assistance will be provided as needed to assist applicants with this important project design aspect.

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

<b>Nature of the Activity</b>	The size and the equipment associated with the activity should be taken into consideration. For example: A small park with a limited number of slides and benches would not be expected to serve a large neighborhood. In the same way, a larger park that can accommodate a considerable number of people would not be expected to serve just the immediately adjacent properties. The same applies to improvements or assistance to an alleyway versus a small two-lane street versus an arterial four-lane street within the same neighborhood. The service area for each of these infrastructure projects will be different in size and population.
<b>Location of the Activity</b>	The immediate area surrounding a facility or improvement is expected to be included in the service area. Additionally, when a facility is located near the boundary of a particular block group, its service area could likely include portions of the adjacent block groups as well as the one in which it is located. If the activity's service area overlaps into multiple block groups, the entirety of the data for all block groups may be used. If the service area is smaller than a block group, beneficiary data may be collected via in-person surveys.
<b>Accessibility</b>	Geographic barriers can separate and preclude persons residing in a nearby area from taking advantage of a facility or improvement. Other limits to accessibility can include access fees, language barriers, time, or duration that an activity is available, access to transportation and parking, etc.
<b>Availability of Comparable Activities</b>	Comparable activities within the service area should be taken into account so that the service area does not overlap with the service area of another comparable activity.
<b>Boundaries for Facilities and Public Services</b>	The service area for some public facilities and services are determined based on specified and established boundaries or districts. Examples of such services and facilities are police precincts, fire stations, and schools.

## 5.6 Incorporate Mitigation Measures for Non-Residential Structures

HUD has programmed their funding in such a way that many recovery-focused projects will also include mitigation measures. As part of their allocation to ADECA, HUD is imposing the following standard:

**Per Federal Register Notice 87 FR 6371, LRRCP projects that involve the construction, reconstruction, or rehabilitation of non-residential structures must incorporate mitigation measures.**

The term “non-residential structures” also includes all newly constructed public infrastructure projects that will assist the development of the physical assets that are designed to provide or support services to the general public.

When determining which mitigation measures to incorporate into a project, structures should be designed and constructed to withstand existing and future climate impacts expected to occur over the service life of the project. Applicants will be required to indicate in their application the projected risks that the project may face, and the mitigation measures that will address said risks.

ADECA may choose to count these types of activities towards their mitigation-set aside goal (see section 5.3.2) so long as those activities and the incorporated mitigation measures will meet HUD's definition of mitigation.

## 5.7 Flood Control Structures

As stated in section 5.4.1 above, the enlargement of a dam or levee beyond the original footprint of the structure that existed before the disaster is expressly prohibited by HUD.

Grantees that implement allowable levee and dam projects are required to (1) register and maintain entries regarding such structures with the USACE National Levee Database or National Inventory of Dams; (2) ensure that the structure is admitted in the USACE PL 84-99 Program (Levee Rehabilitation and Inspection Program); (3) ensure the structure is accredited under the FEMA National Flood Insurance Program; (4) enter the exact location of the structure and the area served and protected by the structure into the DRGR system; and (5) maintain file documentation demonstrating that the subrecipient has conducted a risk assessment before funding the flood control structure and documentation that the investment includes risk reduction measures.

## 5.8 Entity Vendor Registration

**SAM.gov:** The System for Award Management (SAM) is an Official U.S. Government system for all U.S. and International Businesses that would like to do business with the Federal Government. Any person, company or entity that will be receiving funds from the federal government must be registered and currently be in good standing on the SAM database. Awarded entities who are not registered in SAM, or who procure contractors not registered in SAM, will not be in compliance with the program and may have to return funds to ADECA.

**STAARS:** The STAARS Vendor Self Service (VSS) system allows vendors to register an account to do business with the State of Alabama, subscribe to bid notifications, and view financial transactions online. The State of Alabama will only accept and fund bids from subscribed vendors with an active VSS account.

Applicants are encouraged to verify their registration and standing on the [SAM.gov](https://sam.gov) and [STAARS](https://procurement.staars.alabama.gov) <sup>5</sup> systems as early as possible and take proactive steps to rectify any issues that may hinder their ability to receive funding timely.

# 6 Requirements for Economic Development Projects

As stated above, economic development projects are also eligible for approval under the LRRCP. There are several ways that CDBG-DR funds can be used for economic recovery. This includes (but is not limited to) acquiring, constructing, reconstructing, rehabilitating, or installing commercial or industrial buildings, structures, and other real property equipment and improvements that support economic development endeavors. Economic development activities are subject to these additional HUD requirements:

## 6.1 Underwriting Standards

Economic development projects must demonstrate a sufficient benefit in return for the CDBG-DR investment. To achieve this objective, HUD has established guidelines for selecting special economic development projects in 24 CFR 570.209. These underwriting guidelines provide the framework for financial underwriting and selecting CDBG-assisted economic development projects which are financially viable and will make the most effective use of the CDBG funds. In alignment with that guidance, ADECA will ensure that any approved economic project meets the following factors:

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<sup>5</sup> <https://sam.gov/content/home>, <https://procurement.staars.alabama.gov/PRDVSS1X1/AltSelfService>



1. That project costs are reasonable;
2. That all sources of project financing are committed;
3. That to the extent practicable, CDBG funds are not a substitute for non-Federal financial assistance;
4. That the project is financially feasible;
5. That to the extent practicable, the return on the owner's equity investment will not be unreasonably high; and
6. That to the extent practicable, CDBG funds are disbursed on a pro rata basis with other finances provided to the project.

## 6.2 Public Benefit Standards

Historically, HUD required that economic development activities meet certain public benefit standards<sup>6</sup>, such as creating/retaining a job per every \$35,000 in CDBG-DR funding spent or providing a good or service to an LMI resident for every \$350 in CDBG-DR funding. HUD has found that those stringent public benefit standards can actually impede recovery by limiting the amount of assistance the grantee may provide to a critical activity and has subsequently approved a waiver of those public benefit standards for ADECA's CDBG-DR grant. Although these target amounts were waived, ADECA will keep those in consideration when determining a reasonable amount of assistance.

Subrecipients must collect and maintain documentation in the project file on the creation and retention of total jobs; the number of jobs within appropriate salary ranges, as determined by the subrecipient; the average amount of assistance provided per job, or by activity; and the types of jobs—in lieu of complying with the public benefit standards under the existing regulatory requirements.

## 6.3 Advancing Equity

As required in 87 FR 6375, when funding activities that support economic revitalization, applicants must also prioritize those underserved communities that have been impacted by the disaster and that were economically distressed before the disaster (i.e., a Promise Zone, Opportunity Zone, a Neighborhood Revitalization Strategy, a tribal area, or those areas that meet at least one distress criteria established for the designation of an investment area of Community Development Financial Institution at 12 CFR 1805.201(b)(3)(ii)(D)).

ADECA will award more points to projects that benefit these HUD-defined underserved communities during the competitive evaluation process, in order to achieve HUD's objective of advancing equity.

## 6.4 LMI Jobs National Objective

Economic development projects have the potential to meet all three of the CDBG national objectives. LMI Job Creation objective (**LMJ**), however, will be the most commonly used national objective for LRRCP-funded economic revitalization activities.

To meet the LMJ national objective, a project must create new, permanent, full-time equivalent (FTE) jobs, of which fifty-one percent (51%) must be held by or made available to LMI persons.

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<sup>6</sup> Public benefit standards regulation can be found at 24 CFR 570.209(b)

For ADECA's grant, HUD has approved a waiver (Federal Register Vol. 87, No. 23, 87 FR 6375) that allows for an alternative, more streamlined method for documenting compliance with the LMJ national objective. The waiver allows for the collection of wage data for each position created or retained from the assisted businesses, rather than from each individual household. HUD will consider a 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<sup>7</sup>.

## 7 Use of Funds as Match

HUD allows CDBG-DR funds to be used as a match, share, or contribution, for any other Federal program when the funds are used to carry out a CDBG-DR-eligible activity. For all LRRCP match activities approved, subrecipients must document that CDBG-DR funds (1) have been used for the actual costs incurred for the assisted project and for costs that are eligible, (2) meet a national objective, and (3) meet other applicable CDBG requirements.

Projects identified by subrecipients of the LRRCP could potentially be used as a match for Federal Emergency Management Agency (FEMA) or U.S. Army Corps of Engineers (USACE) projects. Appropriations acts, however, prohibit the use of CDBG-DR funds for any activity reimbursable by, or for which funds are also made available by FEMA or USACE.

For USACE projects, HUD has limited the non-Federal (i.e., LRRCP match) cost-share of the project to **\$250,000** (or less) for this grant. Also, FEMA-funded projects must be both FEMA- and CDBG-DR-eligible.

LRRCP funds could also potentially be used as the local match for a program the Economic Development Administration administers.

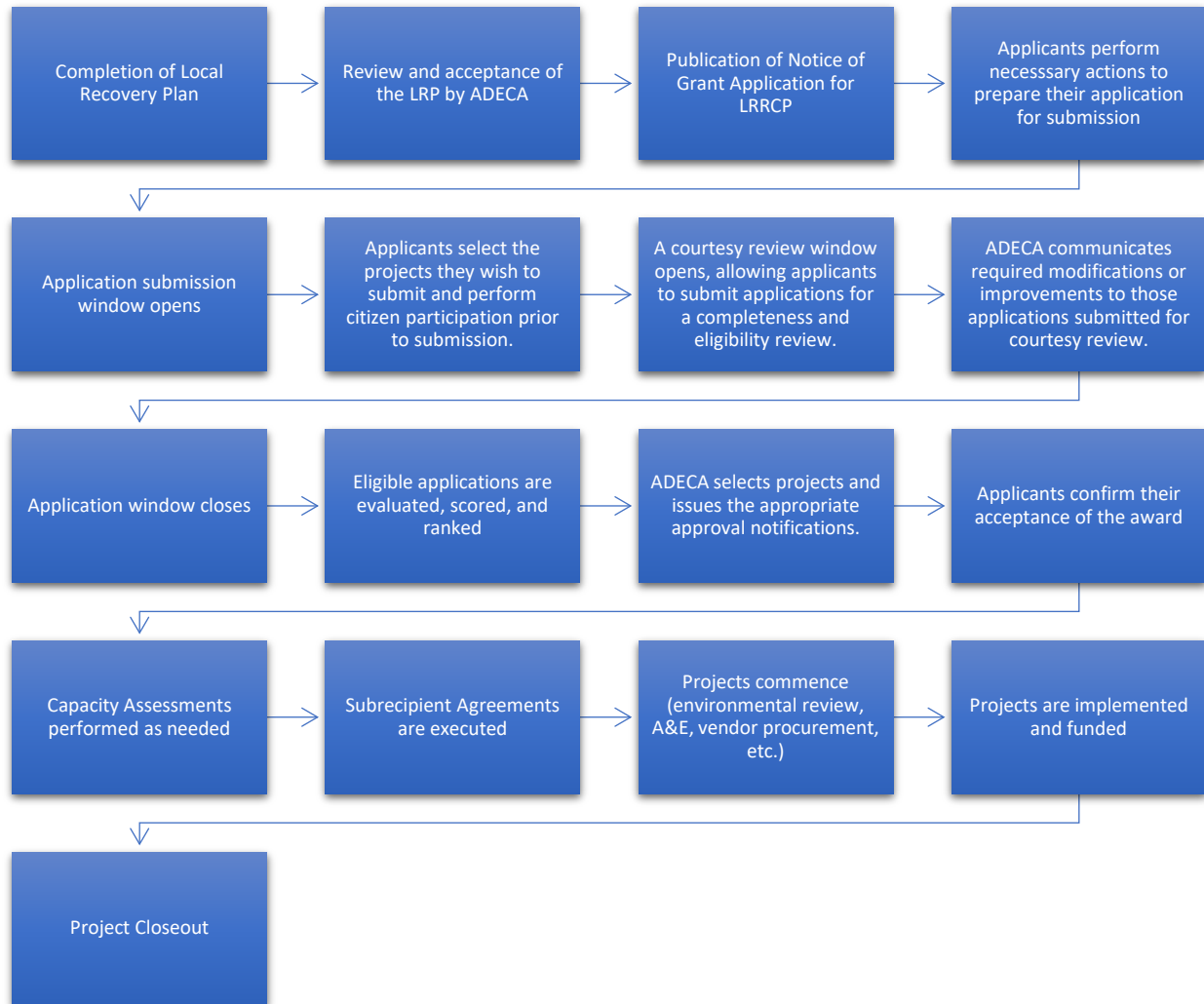
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<sup>7</sup> Income data is updated yearly by HUD, and can be found at <https://www.huduser.gov/portal/datasets/il.html>

## 8 Project Application Workflow

The following section provides an overview of the project workflow from application submission, evaluation, selection, to implementation. The general process is summarized in the following chart:



### 8.1 Technical Assistance by ADECA

ADECA understands that questions may arise at any time during the program’s lifespan and will host informational sessions, webinars, and one-on-one meetings, etc., as needed to ensure that applicants receive assistance throughout the process.

Applicants requiring technical assistance should submit a request to Tammy Perdew at: [tammy.perdew@adeca.alabama.gov](mailto:tammy.perdew@adeca.alabama.gov).

All program documentation, forms, manuals, etc., will be available on ADECA’s website at <https://adeca.alabama.gov/cdbg-disaster-recovery/>.

## 8.2 Project Application Submission

Shortly after the completion and acceptance of the Local Recovery Plan, ADECA will publish a Notice of Grant Application to the eligible counties of this program. That Notice will declare the project application submission window, provide application submission instructions, specify documentation submission requirements, and clarify the final evaluation and scoring criteria by which the LRRCP will use to rank and award projects.

Prior to submission of an application(s) to the LRRCP, each applicant must conduct **at least one** public hearing that publicly discusses the selection of the projects that the Applicant has chosen to submit to the Program. **See section 9.1 for more details on these citizen participation requirements.**

ADECA will receive applications only during the defined application submission window via the methods identified in the Notice of Grant Application, or any subsequently approved extension.

Applications will undergo the following levels of review:



All applications will be reviewed first for completeness. The completeness review is not an analysis of the submitted information and documents, but rather to confirm that application files include all required information and documents and that nothing is left blank. Only complete applications will undergo an eligibility review to confirm that all minimum LRRCP program eligibility and threshold requirements are met. Only eligible applications will advance to a full evaluation.

Due to the competitive nature of this program and the types of projects that are anticipated, ADECA understands that applications will be complex and that applicants may benefit from receiving technical assistance prior to the submission deadline. Thus, ADECA will provide a defined courtesy review window prior to the submission deadline in which applicants will be able to submit their project applications for a preliminary review for completeness and eligibility. Applicants that wish to take advantage of this service must submit their application during a defined submission window. ADECA will review and communicate any identified deficiencies to the applicant, who will then have time to bolster their application prior to the submission deadline.

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***PLEASE NOTE:*** Once a project application is submitted to the Program, the applicant ***must avoid committing any choice-limiting actions*** in relation to the project. Failure to do so may put the eligibility of the project at risk.

See section 9.2.1 for more details.

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**ADECA will treat the submission deadline as the hard deadline for complete and eligible applications. After that deadline, incomplete and ineligible applications will be disqualified and will not advance to a full evaluation.** Applicants that choose to not submit applications for a courtesy review assume full responsibility to submit applications without an opportunity for remediation and assume the risk of disqualification.



### 8.3 Full Evaluation and Ranking

Only the applications that meet program eligibility thresholds will undergo a full evaluation using the evaluation methodology detailed in the Notice of Grant Application.

The following table provides *examples* of the areas that projects may be evaluated. The Notice of Grant Application, and an accompanying Application Evaluation Guide, will provide the final approved evaluation methodology, specific categories, questions, point ranges and scoring increments, and category scoring weights, but will generally consider the following:

Category	Example of Items to Be Evaluated
<b>Benefits of the Project</b>	<ul style="list-style-type: none"> <li>• If the project will meet the LMI national objective</li> <li>• The level of which the project addresses a stated priority from the LRP plan.</li> <li>• The number of persons that will benefit from the project</li> <li>• The population of the project’s defined service area</li> <li>• The amount of low-to-moderate income persons in the project’s service area</li> <li>• The social vulnerability of the area within the project’s service area</li> <li>• If the project’s service area encompasses a strategic recovery area or a HUD-identified underserved community</li> </ul>
<b>Financial Aspects</b>	<ul style="list-style-type: none"> <li>• Project budget</li> <li>• Public benefit per CDBG dollar</li> <li>• Infusion and commitment of other funding sources</li> </ul>
<b>Project Aspects</b>	<ul style="list-style-type: none"> <li>• If the project is a recovery or mitigation project, or if it meets the standards of both.</li> <li>• If the project is an economic development activity</li> <li>• Alignment with other planned development efforts</li> <li>• Addressing a disaster-related system</li> </ul>
<b>Acquisition/Relocation</b>	<ul style="list-style-type: none"> <li>• If acquisition of properties is required</li> <li>• If relocation/displacement of occupants will occur</li> <li>• Site control status for the project</li> <li>• The number of affected properties</li> </ul>
<b>Implementation Considerations</b>	<ul style="list-style-type: none"> <li>• Readiness to implement</li> <li>• Project feasibility</li> <li>• Operations and maintenance plans</li> <li>• Applicant’s prior experience implementing similar projects</li> <li>• Applicant’s staff experience</li> <li>• Outstanding findings from audits, HUD, OIG, etc.</li> </ul>

Once all eligible applications are evaluated by ADECA, the entire application portfolio will be ranked from highest to lowest by score.

### 8.4 Project Selection and Award

To ensure equity in program participation and to ensure that HUD funding reaches all MID areas, ADECA will select the highest-scoring eligible project from within each county, provided that the project meets threshold requirements. The remaining projects will then be selected in order of

ranking, no matter the county in which the project is located, as the program's budget allocation allows. A project that is not selected may later be funded as an alternate in the event an awarded project is not implemented. *(See Appendix A for a visualization of a hypothetical project selection methodology.)*

Once an application has been selected for funding, ADECA will send the applicant a Letter of Conditional Commitment, notifying the applicant of its successful application, and specifying the amount of funding to be awarded and documents required to be returned to ADECA prior to receiving an agreement. The applicant will be expected to review, sign, and return the Letter of Conditional Commitment to ADECA to confirm intent to move forward with the project.

After the Letter of Conditional Commitment has been reviewed and countersigned, ADECA will conduct any necessary capacity assessments and execute a subrecipient agreement (SRA) with the county (or execute an amendment if an existing SRA is already in place). The SRA will contain the period of performance, the federal and state laws and regulations that will govern the CDBG-DR activity(ies), and other items.

## 8.5 Project Commencement and Implementation

The subrecipient is expected to initiate the activities necessary to implement the project immediately following execution of the SRA. These may include procuring the necessary professional services for project management, completion of the environmental review, architectural and engineering and design work for the project, etc.

The completion of the appropriate environmental review is especially important since program funds cannot be disbursed until the subrecipient has received environmental clearance for each eligible activity. *(Please note that no choice-limiting actions can be undertaken before the environmental review process is completed. See section 9.2.1 of these guidelines for more details.)*

Upon completion of the environmental review process and receipt of an Authority to Use Grant Funds form (for construction activities and other hard costs), the subrecipient will carry out the approved activity(ies) in accordance with the SRA. The subrecipient must validate that all construction work (if applicable to the project) meets the criteria for construction standards established in Section 5.6 of these guidelines.

Throughout the implementation phase, the subrecipient will be responsible for monitoring of the activity(ies), data collection, and quarterly reporting, to ensure compliance with ADECA's federal grant requirements. ADECA will provide technical assistance and training to subrecipients, as needed, throughout the life of the project.

Subrecipients are encouraged to refer to ADECA's Subrecipient Manual and Grant Administration Manual, which contain grant-wide policies applicable to ADECA staff and its subrecipients across all programs.

## 8.6 Project Closeout

HUD requires that all activities that used CDBG-DR funds be closed out in the Disaster Recovery Grant Reporting (DRGR) system. Closeout of a project may only occur after all of the following have been met: (1) the entire scope of a project has been completed; (2) a CDBG national objective has been met; (3) all project funds (CDBG-DR and all others) have been expended; (4) and any monitoring review that included the project has been closed.

ADECA will make the final determination regarding whether the completed activity complied with the terms of the subrecipient agreement and can move to the closeout phase. Program staff will perform a complete review of the project file to ensure all necessary documentation is present and to ensure that the activity is ready for closeout.

If ADECA or another authorized entity identifies instances of non-compliance that occurred throughout the SRA period, ADECA may require repayment of grant funds from the subrecipient to remedy the specific instance(s) of misuse. Additional details about Closeout can be found in the ADECA Subrecipient Manual.

## 9 Other Applicable Program Requirements

ADECA's subrecipients must comply with requirements that are specific to the CDBG-DR program as well as the federal grant ADECA received from HUD for the qualifying storms. Pertinent requirements that apply to the LRRCP are:

- Uniform Administrative Requirements located at 2 CFR 200
- Community Development Block Grant Program Regulations located at 24 CFR Part 570
- Federal Register Notices allocating funds to Alabama as a result of Hurricanes Sally and Zeta: 87 FR 6364 and 87 FR 31636 (and any future notices or amendments)
- Any applicable state regulations

In addition, several federal statutes outside the CDBG program apply to CDBG-funded activities. These "cross-cutting" requirements cut across agencies to apply to all activities delivered by the Federal Government. Subrecipients must follow all cross-cutting requirements, as applicable, for all CDBG-DR funded activities. **More details on applicable federal regulations can be found in the ADECA Subrecipient Manual.**

### 9.1 Citizen Participation

Prior to submission of an application(s) to the LRRCP, each applicant must conduct **at least one** public hearing that covers the project(s) being submitted to the Program as well as other local community development and housing needs (including affirmatively furthering fair housing).

The applicant must provide at least 14 days' notice of the hearing(s) and it must be held at a time and accessible location convenient to potential or actual beneficiaries, with accommodations for persons with disabilities. All public hearings must be conducted in a manner to meet the needs of non-English speaking residents where a significant number of non-English speaking residents can reasonably be expected to participate.

Please note the LRRCP public hearing may be performed in conjunction with the applicant's public hearing for the Local Recovery Housing Competition Program (LRHCP), which will allow both competition programs to satisfy this citizen participation requirement concurrently. The public hearing(s) for the competition programs must be conducted separately from the hearings conducted for the **Local Recovery Planning Program**, however.

ADECA will require the LRRCP application to include a resolution that is passed by the jurisdiction's governing body approving submission of the project application to the program.

Each local government applicant that receives assistance from ADECA will be required to certify that it is following a detailed citizen participation plan that satisfies the requirements of 24 CFR 570.486 and that sets forth the jurisdiction's policies for facilitating citizen participation.

### 9.1.1 Four-Factor Analysis and Language Access Plan

Prior to conducting the public hearing(s), each applicant must conduct a Four-Factor Analysis and, if necessary (i.e., a population exceeding 1,000 LEP persons was determined to exist within the service area), develop a Language Access Plan (LAP) for persons with Limited English Proficiency (LEP).

If an applicant's LAP reveals that an LEP population(s) of 1,000 or more persons (or five percent of the total population but at least 50 persons) exists within the jurisdiction, the applicant must provide appropriate language assistance through the posting of public hearing notices in areas frequented by LEP persons of the threshold population(s) in the language(s) spoken.

All Citizen Participation materials must also be made accessible through all means identified in the grantee's LAP.

Additional details about Citizen Participation requirements can be found in ADECA's (2023 revised) Citizen Participation Plan, which is published on the [ADECA public website](#).

## 9.2 Environmental Review

Each LRRCP project, and all activities related to the project, is subject to the provisions of the National Environmental Policy Act of 1969 (NEPA), as well as HUD environmental review regulations at 24 CFR Part 58. Subrecipients will be responsible for ensuring that the appropriate level of review is completed prior to executing each project.

Environmental clearance for the CDBG-DR funds must be obtained prior to the firm commitment of Federal or non-Federal funds. **Note LRRCP funding will NOT be disbursed to a subrecipient until the appropriate environmental review has been completed for the approved activity(ies).**

In instances where another Federal agency (e.g., FEMA) has already completed an environmental review for the project, a subrecipient may elect to adopt that review if it covers all project activities proposed by the LRRCP project. In this situation, the subrecipient must first contact ADECA for technical assistance and directions regarding how to proceed.

Additional details about environmental review requirements can be found in the ADECA Subrecipient Manual.

### 9.2.1 Avoiding Choice-Limiting Actions

To avoid the disqualification of a project, it is imperative that no choice-limiting actions be performed after the date an applicant submits a project application to LRRCP. Applicants are prohibited from undertaking or committing any non-HUD funds on choice-limiting actions, including property acquisition, demolition, movement, rehabilitation, conversion, repair, construction, or leasing or disposition prior to the execution of the "Authority to Use Grant Funds" (HUD 7015.16) form or equivalent letter having been received.

**Violation of this provision may result in the denial of the proposed project. Additionally, entering a contract that obligates the applicant to any of the above activities constitutes a choice-limiting action and puts the eligibility and fundability of the project at risk.**

### 9.3 URA- Acquisition and Relocation

In accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA), 42 U.S.C. § 4601 et seq., and the government-wide implementing regulations found at 49 C.F.R. part 24, all acquisition activities undertaken in the LRRCP are subject to URA regulations.

LRRCP funds may **not** be used to support any Federal, state, or local project that seeks to use the power of eminent domain, unless eminent domain is employed only for public use. Public use does not refer to economic development that primarily benefits private entities but instead refers to:

1. Mass transit, railroad, airport, seaport, or highway projects;
2. Utility projects that benefit or serve the general public, including energy related, communication-related, water related, and wastewater-related infrastructure;
3. Other structures designated for use by the general public, or which have other common-carrier or public-utility functions that serve the general public and are subject to regulation and oversight by the government;
4. Projects for the removal of an immediate threat to public health and safety, including the removal of a brownfield as defined in the Small Business Liability Relief and Brownfields Revitalization Act (Pub. L. 107-118).

Subrecipients that implement acquisition activities should seek to minimize the displacement of persons as much as possible. Acquisition activities, including those that involve displacement, are considered high-risk activities.

Projects that involve (1) acquisition, and (2) displacement, will be evaluated less favorably during the competition phase than those that do not involve the acquisition of real property.

Additional details about URA requirements can be found in the ADECA Subrecipient Manual.

### 9.4 Labor Standards

Program subrecipients that undertake construction activities will be subject to various federal labor laws, including but not limited to the Davis-Bacon and Related Acts (DBRA), the Fair Labor Standards Act of 1938 (FLSA), the Contract Work Hours and Safety Standards Act (CWHSSA), and the Copeland “Anti-Kickback” Act (Copeland Act).

Subrecipients must appoint a Labor Compliance Officer (LCO) to oversee subrecipient and contractors’ compliance with federal labor standards, including the weekly submission and spot-check review of certified payroll reports, for their LRRCP projects.

The DBRA requires payment of prevailing wages (including any required fringe benefits) to workers on federally funded or assisted construction projects for any contract more than **\$2,000** for the construction, alteration, or repair (including painting and decorating) of public buildings or public works.

The Federal Labor Standards Provisions (HUD-4010) and federal wage decision(s) that is applicable to the LRRCP project must be included in all construction contracts that trigger DBRA requirements.



Additional details about labor standards compliance can be found in the ADECA Subrecipient Manual.

## 9.5 Procurement

When purchasing services, supplies, materials, or equipment, subrecipients must comply with the State of Alabama's procurement laws and codes,<sup>8</sup> ADECA's state procurement policies and procedures, Section IV.B. of Federal Register Notice 87 FR 6364 and local policies and procedures based on full and open competition pursuant to 24 CFR 570.489(g). Where procurement requirements differ among federal, state, and local requirements, subrecipients must comply with the strictest requirement. Additionally, subrecipients must perform a cost or price analysis of each product or service to be procured prior to initiating the procurement, as required by Section III.A.1.a.(2)(a)(ii) of Federal Register Notice 87 FR 6364.

Subrecipients may choose from multiple procurement methods when obtaining goods or services, including informal procurement methods (small purchase), and formal procurement methods (RFP/Q and sealed bids). However, the cost and type of goods/services to be provided will determine the most appropriate type of procurement for subrecipients to conduct.

Federal procurement regulations establish standards and guidelines for the procurement of supplies, equipment, construction, engineering, architectural, consulting, and other professional services for Disaster Recovery CDBG programs. These standards are furnished to ensure that such materials and services are obtained efficiently and economically and in compliance with the provisions of applicable Federal and State laws and executive orders. **Non-compliance with procurement requirements may result in the execution of contracts and agreements that are not eligible for reimbursement from CDBG-DR funds.**

Please refer to the ADECA Subrecipient Manual for additional details regarding procurement, including the various procurement methods that may be used to procure goods or services.

## 9.6 Duplication of Benefits

The Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. § 5121 et seq., prohibits any person, business concern, or other entity from receiving Federal funds for any part of such loss as to which they have received financial assistance under any other program, from private insurance, charitable assistance, or any other source. Duplication of Benefits (DOB) verification and analysis ensure that program funds compensate applicants for damages and needs that have not been addressed by an alternate source, either through funding or assistance. Federal Register Notice 84 FR 28836 describes the requirements to prevent duplications of benefits applicable to the LRRCP.

Since CDBG-DR funding may only be used as the funding of last resort, ADECA must consider disaster recovery aid received or reasonably anticipated to be received by subrecipients from any other federal, state, local, private, or other source, to determine if any assistance is duplicative. ADECA will require that all sources (federal, state, local, and private) and amounts of disaster assistance received or reasonably anticipated to be received are documented with submission of an application for CDBG-DR funding.

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<sup>8</sup> Code of Alabama 1975 and the State of Alabama Administrative Code Chapter 355-4-03

Any assistance determined to be duplicative will be deducted from the Program’s calculation of the applicant’s total need prior to awarding assistance. If a subrecipient receives additional (non-CDBG-DR) funding for the approved LRRCP project prior to the start of construction, it must notify ADECA of the additional funding so that the program award can be re-calculated. Any additional funds paid to subrecipients for the same purpose as the assistance awarded after the project has been completed must also be returned to ADECA.

Please refer to the ADECA Subrecipient Manual for additional details about Duplication of Benefits.

### DOB Calculation Framework

DOB is calculated by subtracting non-duplicative exclusions from the total assistance. After determination of the total need and assistance, non-duplicative sources are amounts that are either: 1) provided for a different purpose that LRRCP does not assist; or 2) assistance provided for the same purpose, but for a different allowable use. An overview of the DOB calculation process is described below.



Therefore, to calculate the total maximum amount of the CDBG-DR award, ADECA will:

1. Identify the total funding need for the project;
2. Identify total assistance received by or available to the applicant;
3. Identify the amount to exclude as non-duplicative (amounts used for a different purpose, or same purpose, different allowable use);
4. Subtract exclusions from total assistance to determine the amount of the DOB; and
5. Subtract the amount of the DOB from the amount of the total need to determine the maximum amount of the CDBG-DR award (subrecipient award may not exceed program cap of \$3 million).

### Common Duplicative Sources

Common disaster assistance sources include, but are not limited to:

- Federal Emergency Management Agency (FEMA)
- Small Business Administration (SBA)
- National Flood Insurance Program (NFIP)
- Department of Housing and Urban Development (HUD)
- Increased Cost of Compliance (ICC)
- United States Army Corps of Engineers (USACE)
- Private Insurance
- Private and nonprofit disaster assistance
- Other public or private source

Applicants will be required to provide support documentation, including award letters, decline letters and other documentation supporting the amount, sources and uses of funding received/declined to assist in the completion of the project that was provided in the recovery from the qualifying storms.

### Non-Duplicative Sources

It is important to note that assistance must be determined to be “*for the same purpose, same allowable use*” as the CDBG-DR award to be determined to be duplicative.

There are types of assistance received by an applicant which will not constitute a duplication of benefits. The Program will allow for reductions of DOB totals if applicants can prove that the use or control of the funds meet certain criteria. In accordance with 84 FR 28836, the DOB calculation may exclude assistance that was:

1. Provided for a different purpose;
2. Provided for the same purpose (eligible activity), but for a different, allowable use (cost);
3. Not available to the applicant;
4. A private loan not guaranteed by SBA;
5. A subsidized loan (including SBA) that is declined or cancelled; or
6. Any other asset or line of credit available to the applicant.

#### 9.6.1 Subrogation

The Stafford Act requires grantees to ensure that subrecipients agree to repay all duplicative assistance to the agency that provided the Federal assistance. To address any potential DOB, each subrecipient must also enter into an agreement with ADECA to repay any assistance later received for the same purpose for which the CDBG-DR funds were provided. This may be in the form of a subrogation agreement (or similar document) and must be fully executed before ADECA will disburse LRRCP funds to a subrecipient.

#### 9.6.2 Recapture

All subrecipient files will be reviewed and reconciled for accuracy to ensure that a DOB did not occur on the LRRCP project. If a subrecipient has been identified as one that received a duplicative or improper payment, the program will document the amount and basis for the repayment in writing via a Repayment Notification.

Subrecipients who disagree with a repayment amount determined by LRRCP may challenge the determination within **thirty (30) days** of receipt of the Repayment Notification. The program will review and consider any subrecipient claims of financial hardship and may make limited accommodations in some cases.

If the subrecipient’s request is denied or if there is failure on the part of the subrecipient to contest within the allotted timeframe, the program will proceed with collecting the repayment amount.

All returns of LRRCP funds must be made timely and, in a lump sum amount. All funds recovered due to the occurrence of a DOB will be tracked in the Disaster Recovery Grant Reporting system (**DRGR**) and returned to the CDBG-DR account, or to U.S. Treasury—if the CDBG-DR grant has been closed out.

## 9.7 Program Income

Program Income is defined by 24 CFR 570.500(a) as any gross income received by a subrecipient that was directly generated from a CDBG-DR activity. In situations where Program Income is generated by an activity that is only partially funded by CDBG-DR funds, the prorated amount (the income attributable to the CDBG-DR portion) would be considered Program Income.

Subrecipients will be required to report program income quarterly and will be subject to all grant requirements related to Program Income. If any program income remains at closeout of the program, ADECA may return these funds to HUD or transfer the balance to the State's annual CDBG program, as HUD may allow.

Examples of program income include, but are not limited to:

- Proceeds from the disposition of real property or equipment acquired or purchased with CDBG-DR funds.
- Payments of principal and interest on loans made using CDBG-DR funds.
- Proceeds from the sale of loans made with CDBG-DR funds.
- Proceeds from special assessments levied to recover the cost of constructing a public work or facility to the extent such cost was paid with CDBG-DR funds.
- Gross income from the use or rental of real or personal property acquired by a state, local government, or subrecipient thereof with CDBG-DR funds, less costs incidental to generation of the income.

HUD's program income threshold is \$35,000 received in a single year. Subrecipients may be required to return those funds to ADECA.

For additional information on Program Income, refer to ADECA's Financial Management and Program Income Policies and Procedures located on the ADECA public website, as well as the ADECA Subrecipient Manual.

## 9.8 Elevation Requirements

Subrecipients must elevate or floodproof all structures, including infrastructure, assisted with program funds, in accordance with FEMA floodproofing standards at 44 CFR 60.3(c)(3)(ii) or successor standard, up to at least two feet above the 100-year (or one percent annual chance) floodplain.

All Critical Actions, as defined at 24 CFR 55.2(b)(3) (see Section 2 above), within the 500-year (or 0.2 percent annual chance) floodplain must be elevated or floodproofed (in accordance with FEMA floodproofing standards at 44 CFR 60.3(c)(2)-(3) or successor standard) to the higher of the 500-year floodplain elevation or three feet above the 100-year floodplain elevation.

If the 500-year floodplain or elevation is unavailable, and the Critical Action is in the 100-year floodplain, then the structure must be elevated or floodproofed at least three feet above the 100-year floodplain elevation.

Subrecipients using CDBG-DR funds as the non-Federal match in a FEMA-funded project may apply the alternative requirement for the elevation of structures, which allows for elevation of the structure below the 100-year or 500-year flood level but provides for improvements that would ensure the substantial impermeability of the structure below flood level.

This alternative requirement is subject to FEMA approval and is detailed at 44 CFR 9.11(d)(3)(iii).

## 9.9 Building Standards

To ensure compliance with the state's nondiscrimination obligations, including the Americans with Disabilities Act and Section 504 of the Fair Housing Act, all LRRCP construction activities must meet federal accessibility mandates, which require that reasonable accommodations for persons with disabilities be implemented.

HUD defines a reasonable accommodation as a change, adaptation, or modification to a policy, program, service, or workplace which will allow a qualified person with a disability to participate fully in a program, take advantage of a service, or perform a job.

Site inspections will be performed for all buildings that are assisted with CDBG-DR program funds to ensure the completion of quality work, and compliance with building codes and contractual terms. Subrecipients are encouraged to place an emphasis on high-quality, durable, sustainable, and energy efficient construction methods and materials, in accordance with HUD guidance.

To the extent practicable, ADECA will require the implementation of Alabama State Building Code for all newly constructed buildings.

## 9.10 Section 3

Section 3 is a provision of the Housing and Community Development Act of 1968 whose purpose 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.

Subrecipient contractors must comply with Section 3 and implementing regulations at 24 CFR part 75, including making efforts to recruit, target, and direct employment and contracting opportunities to Section 3 residents and businesses, as well as notifying Section 3 residents about training opportunities.

Additional details about Section 3 requirements can be found in the ADECA Subrecipient Manual.

## 9.11 Minority- and Women-Owned Business Enterprises (M/WBE)

2 CFR 200.321 requires ADECA, as a non-Federal entity defined in 2 CFR 200.321, to take necessary affirmative steps to ensure that all recipients, subrecipients, contractors, subcontractors, and/or developers funded in whole or in part with CDBG-DR financial assistance ensure that, when possible, contracts and other economic opportunities are directed to small and minority business enterprises (MBE), women-owned business enterprises (WBE), and labor surplus area firms.

Subrecipients must make best efforts and take affirmative steps to achieve minority business enterprises and women-owned business enterprises (together M/WBE) utilization goals.

Additional details about M/WBE requirements can be found in the ADECA Subrecipient Manual.



## 9.12 Civil Rights and Non-Discrimination

Title VII of the Civil Rights Act of 1964 was enacted as part of the landmark Civil Rights Act of 1964, 42 U.S.C. § 2000d et seq. and prohibits discrimination on the basis of race, color, or national origin in programs and activities receiving federal financial assistance.

When determining which recovery or mitigation project(s) to submit to ADECA to request program funding, subrecipients should consider the impact of their planned use of CDBG-DR funds on other protected class groups under fair housing and civil rights laws, vulnerable populations, and other historically underserved communities. HUD defines vulnerable populations as a group or community whose circumstances present barriers to obtaining or understanding information or accessing resources. This includes women, racial or ethnic minorities, children, immigrants, refugees, LMI persons, individuals with disabilities, persons with limited English proficiency, or combinations of these populations.

When addressing unmet needs, subrecipients are encouraged to attempt to overcome prior disinvestment in infrastructure and public services for protected class groups (e.g., disabled persons), and areas in which residents belonging to such groups are concentrated. Additionally, subrecipients are encouraged to meet the program objective of equitably benefitting protected class groups in the MID areas, including racial and ethnic minorities, and sub geographies in the MID areas in which residents belonging to such groups are concentrated.

Additional details about civil Rights and non-discrimination compliance can be found in the ADECA Subrecipient Manual.

## 9.13 Monitoring

As stated in 24 CFR 570.501(b), recipients of federal funds are responsible for ensuring that CDBG-DR funds are used in accordance with all program requirements and are responsible for determining the adequacy of performance under subrecipient agreements and procurement contracts, and for taking appropriate actions when performance problems arise.

All subrecipients will be subject to routine monitoring and compliance reviews by ADECA (or designated parties). Monitoring may include, but is not limited to, evaluation of the subrecipient's organization; policies and procedures, including duplication of benefits and financial management; recordkeeping; and compliance with these guidelines, the subrecipient agreement, and any other applicable laws and regulations.

All monitoring results will be recorded in detail for compliance, use of funds, etc. Issues of non-compliance may be categorized as either findings, concerns, or observations. Subrecipients found to be in non-compliance, or which received funds in error, may be required to repay grant funds to ADECA, in accordance with the subrecipient agreement.

Additional details about monitoring requirements can be found in the ADECA Subrecipient Manual.

## 10 General Provisions

### 10.1 Program Oversight

ADECA is ultimately responsible for the overall compliance of its CDBG-DR funded programs, including subrecipient compliance and performance. With respect to subrecipient oversight and management, ADECA will be responsible for:

- Establishing policies and procedures to allow for a clear understanding of requirements;
- Developing written guidance and trainings, and providing technical assistance to strengthen subrecipient capacity and understanding of requirements;
- Monitoring subrecipients for compliance throughout the lifecycle of the grant; and
- Maintaining open lines of communication between ADECA and subrecipient staff to ensure a successful and compliant recovery effort.

### 10.2 Noncompliance

In the event a subrecipient does not comply with these program guidelines, applicable policies and procedures, the SRA, and all other requirements, ADECA may take such actions as may be appropriate to prevent a continuance of the deficiency, mitigate any adverse effects or consequences, and prevent a recurrence. Additional remedies<sup>9</sup> may be required if the subrecipient presents a risk, a history of noncompliance, or fails to meet performance goals. Through documented oversight efforts, grant managers will ensure that necessary actions are followed when instances of possible noncompliance are identified. In such cases, ADECA may generally proceed as follows:

- Written notification sent to subrecipient which may include a statement and explanation of instance of possible noncompliance and corrective action(s) with a deadline to remedy the instance of noncompliance. ADECA and the subrecipient may work together to identify a solution and will develop a plan to meet the performance requirements.
- ADECA may impose a recovery plan in the event that the subrecipient is unable to complete corrective action based on the above; and/or initiate suspension or termination<sup>10</sup> of the SRA and recapture of funds in accordance with the provisions found therein.

### 10.3 Complaints

At any time throughout the course of the LRRCP, a citizen may directly contact ADECA or HUD to submit a complaint related to a local government's work pertaining to its CDBG-DR grant application, grant administration, or program implementation processes. Citizens are, however, encouraged to attempt to resolve their complaints at the local government level, if possible, prior to involving ADECA or HUD.

In accordance with guidance outlined in 87 FR 6384, ADECA will provide a timely written response to every written complaint it receives. Complaints will be addressed within **fifteen (15) working days** of receipt, when practicable. If a complaint cannot be addressed within fifteen (15) working days, ADECA will notify the complainant of the need for additional time and provide an estimated resolution/response timeframe.

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<sup>9</sup> 2 C.F.R. § 200.208.

<sup>10</sup> 24 C.F.R. § 570.503(b)(6) – Suspension and Termination.

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

- Via Email: [disasterrecovery@adeca.alabama.gov](mailto:disasterrecovery@adeca.alabama.gov)
- In Writing: Alabama Department of Economic and Community Affairs  
401 Adams Ave  
P.O. Box 5690  
CED Division, Suite 500  
Montgomery, AL 36093-5690

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

- Via telephone: (334) 353-3409
- In person at: Alabama Department of Economic and Community Affairs  
401 Adams Ave  
CED Division, Suite 500  
Montgomery, AL 36093-5690

## 10.4 Appeals

Applicants who wish to contest a program determination may submit a written appeal to their program point of contact via electronic or postal mail, within **thirty (30) calendar days** from the date of the determination in question. Appeals received after the **thirty (30)-day** window has expired will not be considered.

Applicants may file an appeal to contest:

- Eligibility determination;
- Duplication of Benefits determination
- Award amount; or
- Application Evaluation and Selection

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

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

## 10.5 Anti-Fraud, Waste, Abuse or Mismanagement

ADECA, 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 87 FR 6364, ADECA implements adequate measures to create awareness and prevent fraud, waste, abuse, or mismanagement among other irregularities in all programs administered with CDBG-DR funds as well as encourages any individual who is aware or suspects any kind of conduct or activity that may be considered an act of fraud, waste, abuse, or mismanagement, regarding the CDBG-DR Program, to report such acts to the CDBG-DR Internal Audit Office, directly to the Office of Inspector General (OIG) at HUD, or any local or federal law enforcement agency.

HUD has developed the following training related to the [Prevention of Fraud, Waste, and Abuse](#)<sup>11</sup> for subrecipients of CDBG-DR funds.

### 10.5.1 Reporting Fraud, Waste, Abuse or Mismanagement

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

Any person, including any employee of the CDBG-DR Program, who suspects, witnessed, or discovered any fraud, waste, abuse, or mismanagement, relating to the CDBG-DR Program, should report it immediately to the ADECA Audit Section by calling the number below or completing the form at the following website. If you give permission to ADECA to contact you regarding the matter, please provide your contact information when calling or completing the form online.

Reporting Fraud, Waste, Abuse, or Mismanagement to ADECA	
Phone	1-877-219-9592
Internet	<a href="https://adeca.alabama.gov/fraud/">https://adeca.alabama.gov/fraud/</a>

Allegations of fraud, waste or abuse can also be reported directly to the OIG by any of the following means:

Reporting Fraud, Waste, Abuse, or Mismanagement to HUD OIG	
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	<a href="mailto:HOTLINE@hudoig.gov">HOTLINE@hudoig.gov</a>
Internet	<a href="https://www.hudoig.gov/hotline">https://www.hudoig.gov/hotline</a>

### 10.6 Exceptions to Program Policies

These Guidelines set forth the policy governing the program. Approved Standard Operating Procedures (SOP) set forth the procedures by which policy will be enacted. The Guidelines and the SOPs are intended to guide program activities and enforce compliance with applicable federal regulations. While Program Guidelines and SOPs govern the program, neither should be considered exhaustive instructions for every potential scenario that may be encountered by the LRRCP.

<sup>11</sup> <https://files.hudexchange.info/course-content/2019-cdbg-dr-problem-solving-clinic-days-2-and-3-active-cdbg-dr-grantees/Prevention-Fraud-Waste-Abuse-2019-CDBG-DR-Clinic-Slides.pdf>

At times, exceptions to program policies and/or procedures may be warranted. All exception requests will be reviewed and adjudicated on a case-by-case basis as the need arises, at the sole discretion of ADECA. Exceptions may be granted to program policy or process. However, exceptions to federal regulations, laws, or statutes shall not be authorized.

(END OF GUIDELINES)



## Appendix A: Project Selection Approach

The following is an illustration of the project selection approach as stated in Section 8.4, Project Selection and Award. In order to encourage equity of funding throughout the designated MID areas, ADECA will award at least one project within each eligible county—provided that the project meets all program requirements. Additional projects will be funded in rank order as the program budget allows, no matter the location.

Project Application	County Located Within	CDBG Funding Requested	Application Evaluation Score (out of 350, plus bonus)
Project 16	County 6	\$ 1,900,000.00	365
Project 1	County 1	\$ 3,000,000.00	345
Project 7	County 3	\$ 2,250,000.00	340
Project 2	County 1	\$ 1,250,000.00	325
Project 8	County 3	\$ 3,000,000.00	325
Project 4	County 2	\$ 2,000,000.00	315
Project 5	County 2	\$ 2,750,000.00	310
Project 19	County 7	\$ 2,300,000.00	300
Project 10	County 4	\$ 2,500,000.00	290
Project 6	County 2	\$ 3,000,000.00	285
Project 13	County 5	\$ 1,000,000.00	280
Project 17	County 6	\$ 400,000.00	280
Project 20	County 7	\$ 1,300,000.00	275
Project 3	County 1	\$ 1,500,000.00	270
Project 18	County 6	\$ 1,750,000.00	270
Project 11	County 4	\$ 2,250,000.00	265
Project 12	County 4	\$ 500,000.00	260
Project 14	County 5	\$ 900,000.00	250
Project 9	County 3	\$ 1,400,000.00	245
Project 15	County 5	\$ 1,500,000.00	240
Project 21	County 7	\$ 500,000.00	230

Based on the example above:

- The projects in **green** represent the highest-scoring projects from each of the seven eligible counties. Those would be the first projects selected for equity purposes.
- The projects in **yellow** represent the next projects to be selected based on their score and the availability of the program's remaining overall budget.
- The remaining projects will not move forward unless any of the highlighted counties do not accept their award. In that scenario, ADECA will update the selections and ensure that each county is still awarded its highest-scoring project, with remaining projects selected in order of ranking, as the program budget allows.