



OREGON HOUSING *and*
COMMUNITY SERVICES

**Planning, Infrastructure, and
Economic Revitalization (PIER)
Program Guidelines**

Version 1.0

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Use of this Document

This document is a user guide for the Planning, Infrastructure, and Economic Revitalization (PIER) program for subrecipient and/or grantees and grant administrators. This program is funded with Community Development Block Grant Disaster Recovery (CDBG-DR) funds from the Department of Housing and Urban Development (HUD). Additional resources for subrecipients and/or grantees and grant administrators can be found and used as applicable in the State's CDBG [Grant Management Handbook 2020 Edition \(CDBG Handbook\)](#), as many of the same cross-cutting federal rules apply to CDBG and CDBG-DR funds. The applicable use of the CDBG Handbook will be referenced throughout the document. Processes and programmatic requirements that are specific to PIER and/or CDBG-DR are described in this document; when the PIER and/or CDBG-DR descriptions are in conflict with the content in the CDBG Handbook, then subrecipient and/or grantees and grant administrators must follow the guidance included in the PIER program guidelines.

Version History and Version Policy

The version history of the policy guidelines is tracked in the table below, with notes for each change. The dates of each publication are also tracked in the table.

OHCS will publish a new version after making substantive changes that reflect a policy change. The updated policy manual will be assigned a new primary version number such as 2.0, 3.0, etc.

After making non-substantial changes, such as minor wording and editing or clarification of existing policy that do not affect the interpretation or applicability of the policy, OHCS will publish a version of the document with a sequential number increase behind the primary version number such as 2.1, 2.2, etc.

Amendments made to policy may go into effect on the date of the revision or may be applied retroactively, depending on the applicant pipeline and status of applicants in the program intake and recovery process. Whether a policy will be applied proactively or retroactively will be detailed in the version history below and/or within the relevant program sections.

| Version Number | Date Revised | Key Revisions |
|----------------|-------------------|----------------------------------|
| 1.0 | March 2023 | Original PIER Program Guidelines |

1. Program Description

The program will provide direct grant allocations to counties, municipalities, nonprofit organizations, school districts, public housing authorities, special districts or other public or quasi-public entities in the eight most impacted counties by the 2020 Labor Day fires.¹ Projects or programs will address the unmet planning, infrastructure, and economic revitalization recovery and mitigation needs that fall within their counties. Budgetary allocations have been made at the county level; counties and organizations within the impacted areas will work together to define the specific projects or programs to be funded.

The program allows for a wide range of CDBG-DR-eligible infrastructure, economic revitalization, and planning activities and mitigation activities (i.e., projects or programs that will reduce the impact of anticipated future natural disasters or hazards).

- A. Any recovery activity must clearly relate to the recovery needs resulting from the 2020 Labor Day fires and directly or indirectly support new housing and/or replacement of damaged housing. OHCS intends this language to be read broadly to include economic revitalization activities and creation of public facilities, such as parks, to the extent the local partners determine that these actions are important to supporting demand for housing in the impacted area.
- B. Mitigation activities can be more forward looking and must reduce the expected loss of life or property in the face of identified natural hazards. Sample mitigation activities include community resilience plans, applying ignition-resistant materials to public facilities, and other infrastructure projects that clearly result in increased resilience to future disasters.

PIER is designed to promote sound, sustainable long-term recovery and projects which account for the unique hazards, opportunities, land use restrictions, urban grown boundaries, underserved communities, and disaster impacts within Oregon's impacted communities. Applicants are required to describe the data and/or planning analysis of hazard risk, including climate-related natural hazards they used in the design of their projects and programs.

Eligible counties for the PIER program are:

¹ HUD requires funding to be used for costs related to unmet needs in the MID areas resulting from qualifying disasters. Oregon is required to spend at least 80%—or \$337,828,800—of all CDBG-DR funds to benefit the HUD-identified MID areas. The PIER Program will help meet this requirement through the dedication of \$42,117,170 to the HUD-identified MIDs.

- Clackamas County
- Douglas County
- Jackson County
- Klamath County
- Lane County
- Lincoln County
- Linn County
- Marion County.²

The total program allocation is \$42,117,170 as shown in the table below.

| Budget | HUD-Identified MID Budget (Clackamas, Douglas, Jackson, Lane, Lincoln, Linn, Marion) | | Grantee MID Budget (Klamath) | |
|--------------|---|-----|------------------------------|----|
| | | | | |
| \$42,117,170 | \$40,414,073 | 96% | \$1,703,097 | 4% |

1.1. Method of Distribution and County Allocations

In response to local feedback received during the public comment and public hearing period of OHCS's Initial CDBG-DR Action Plan (April-June 2022), OHCS modified its approach to funding local planning, infrastructure, and economic revitalization projects and programs. In the first draft of the Action Plan, OHCS planned on selecting local recovery and mitigation infrastructure projects through a competitive process, with a focus on infrastructure needed for housing recovery and mitigation against future disasters. However, given the varied statuses of recovery, the spectrum of recovery and

² HUD provided Oregon with the following **HUD-identified MID areas** in the Allocation Announcement Notice:

- Clackamas County
- Douglas County
- Jackson County
- Lane County
- Lincoln County
- Linn County*
- Marion County

* For Oregon, HUD-identified a ZIP Code (97358) in Linn County as a MID area. Within the Consolidated Notice, HUD allows grantees to expand eligibility to the whole county when HUD designates a ZIP Code as a HUD-identified MID area. Oregon has expanded eligibility to include all of Linn County as a HUD-identified MID area.

Through its consultation and data analysis process, OHCS has included Klamath County as a **grantee-identified MID areas**. Klamath County will receive 4% or \$1,703,097 of the program's allocation.

mitigation needs, the need to reduce further delays for local organizations and governments as they plan their projects, and the overwhelming need for economic revitalization in certain communities, OHCS modified the PIER method of distribution to make regional allocations at the county level.

For each county allocation, a regional body (Selection Committee) will be established with representatives, at a minimum, of the municipal and county governments, the economic development district (or identified substitute), and the long-term recovery group to select projects for OHCS approval.

Table 1: County PIER Allocations

| MID County | Percent of Total PIER Program Allocation | PIER Allocation |
|----------------------|--|----------------------|
| Clackamas | 5.7% | \$ 2,415,826 |
| Douglas | 5.7% | \$ 2,399,446 |
| Jackson | 32.9% | \$ 13,849,117 |
| Klamath | 4.0% | \$ 1,703,097 |
| Lane | 18.8% | \$ 7,926,980 |
| Lincoln | 6.4% | \$ 2,684,967 |
| Linn | 7.4% | \$ 3,110,691 |
| Marion | 19.1% | \$ 8,027,045 |
| Total of MIDs | 100.0% | \$ 42,117,170 |

See Appendix A for the data analysis that informed these allocations.

1.2. Project and Subrecipient and/or Sub-grantee Award Amounts

The maximum award per project is subject to a review of duplication of benefits and necessary and cost reasonableness review. No individual project or program award shall exceed the amount of the applicable county allocations. The Selection Committee (SC) will review and approve project and program costs, including activity delivery costs.

The county allocations include the costs necessary to carry out the programs or projects (activity delivery costs). Activity delivery costs may include staff time, grant management services, and other costs necessary for the successful administration and implementation of the CDBG-DR project or program. No additional CDBG-DR funds will be made available to PIER subrecipients beyond the total amount allocated through county allocations.

OHCS will not enter into a grant agreement for less than \$500,000 per subrecipient, including activity delivery costs. OHCS may approve exceptions to this threshold for planning projects and other projects on a case-by-case basis if the activity delivery costs are reasonable compared to the value of the project or program. When Selection Committees choose projects, they should factor in the activity delivery costs when making project and/or programmatic allocation decisions; federal funds, in general, incur significant administrative costs that may mean that they are not an efficient method of funding smaller projects. Selection Committees should also be aware, when considering mixing PIER awards with other monies, they are likely to “federalize” the entire project, i.e., compliance with the various federal requirements (such as NEPA and Davis-Bacon prevailing wage rules) is likely to be required for all aspects of the program or project, not just the proportion or element for which PIER funds are paying.

All construction projects must include at least a 15% contingency within their budgets. All planning projects must include a 5% contingency within their budgets.

If subrecipients and/or sub-grantees are administering a program (e.g., local economic revitalization or microenterprise program), the subrecipients and/or sub-grantees shall describe their award calculation methodology and any program maximum or minimum awards in their project description form and program guidelines.

1.3 Roles and Responsibilities

1.3.1 Direct Awards to Subrecipients and Subrecipient Awards with Sub-Grantees

There are two methods of contracting that are available under PIER:

- A) Direct awards to subrecipients from OHCS
- B) Subrecipient awards with sub-grantees

Under direct award scenarios, OHCS is responsible for all administration, monitoring and compliance of the subrecipient.

When using subrecipient awards with sub-grantees, the subrecipient assumes the role of project administrator (PA) for all sub-grantees. Under all scenarios, OHCS retains the responsibility for monitoring the subrecipient, but this will primarily be limited to monitoring and oversight of the subrecipient itself (i.e., monitoring activities directly carried out by the subrecipient and/or ensuring that the subrecipient is carrying out appropriate administrative controls, monitoring and compliance, of their sub-grantees). OHCS reserves the right to make monitoring visits or take other actions to monitor sub-grantees. Any such monitoring will take place in addition to subrecipient monitoring of sub-grantees and does not eliminate the subrecipient's obligations to monitor and oversee sub-grantees.

Projects will be selected by the Selection Committee (SC-see below). To the extent feasible, OHCS prefers to limit the number of subrecipients and will therefore seek to maximize use of subrecipient awards with sub-grantees, particularly if Selection Committees are funding multiple projects. OHCS reserves the right to structure projects as direct awards to subrecipients or as sub-grantees to subrecipients.

1.3.2 OHCS and Subrecipient Roles

As the HUD grantee, OHCS serves as lead agency and will contract subrecipients to (a) implement and manage individual projects or programs and/or (b) contract with and administer sub-grantees. OHCS's roles and responsibilities include:

- Subrecipient monitoring.
- Prior to award, OHCS will review all projects and programs (including those that may ultimately become sub-grantee led) for CDBG-DR compliance and eligibility, ensuring they comply with federal requirements, the Action Plan, and program guidelines. Subrecipient shall not enter into any agreements for administration of programs or projects without prior written notice to OHCS.
- Perform pre-award budget review, and additional budget reviews as needed in the event of change orders and/or performance or contractual amendments. This applies to both subrecipient and sub-grantee led projects.
- Perform risk assessments of all subrecipients to ensure they have the capacity, expertise, and authority to implement the PIER project or program.
- All subrecipient project or programmatic amendments, contract changes, and exceptions requests are subject to prior OHCS review and approval.
- Coordinate and consult with State partners, such as Oregon Department of Emergency Management (OEM), Oregon Department of Transportation (ODOT), Business Oregon, DLCD, and the Department of Environmental Quality (DEQ), when applicable, to ensure that recovery and mitigation projects are coordinated with related projects and programs.
- Cancel and recapture funding from subrecipients when projects are non-compliant with federal or programmatic rules or requirements.

When the subrecipient has sub-grantees, the subrecipient's roles and responsibilities include:

- Sub-grantee monitoring.

- Perform risk assessments of all sub-grantees to ensure they have the capacity, expertise, and authority to implement the PIER project or program.
- Perform pre-award budget review, and additional budget reviews as needed in the event of change orders and/or performance or contractual amendments.
- All sub-grantee project or programmatic amendments, contract changes, and exceptions requests are subject to prior OHCS review and approval. The subrecipient shall not enter into any contracts with any agency or individual in the performance of this Agreement without the written consent of OHCS prior to the execution of such Agreement.
- Coordinate and consult with State partners, such as Oregon Department of Emergency Management (OEM), Oregon Department of Transportation (ODOT), Business Oregon, DLCD, and the Department of Environmental Quality (DEQ), when applicable, to ensure that recovery and mitigation projects are coordinated with related projects and programs.
- Cancel and recapture funding from sub-grantees when projects are non-compliant with federal or programmatic rules or requirements.

1.3.3 Selection Committees

Each Selection Committee (SC) will be responsible for selecting eligible projects or programs for their communities. The SC will review and score or prioritize projects at the local level based on a process defined by the SC. The SC or designated project lead agencies submit selected Project Description Forms to OHCS for their review and approval. SCs also approve project and program budgets, as well as the amounts approved for activity delivery costs.

Each Selection Committee must designate a primary point of contact for OHCS to communicate questions and information related to SC roles, responsibilities, and matters.

1.3.4 Subrecipients

Funding from PIER will be awarded to eligible subrecipients. Subrecipients are defined as the agencies or organizations that OHCS awards CDBG-DR funds to carry out agreed-upon activities on its behalf (see 24 CFR 570.500(c)). By administering CDBG-DR activities and meeting the federal administrative requirements, subrecipients provide OHCS and Oregon with flexibility in accomplishing its recovery and mitigation goals and help to strengthen its ties with the community. Subrecipients may contract vendors to assist with the subrecipient responsibilities laid out in these guidelines. However, the compliant administration of CDBG-DR funds is still ultimately the responsibility of the subrecipient, and they should be aware of and manage progress on all these

responsibilities. Subrecipients should be capable and qualified to manage federal funding. Additional information on the roles and responsibilities of CDBG-DR subrecipients can be found in [HUD's Playing by the Rules: A Handbook for CDBG Subrecipients on Administrative Systems](#).

Subrecipients are required to:

- Comply with all applicable federal requirements, including:
 - Financial Management
 - Procurement and Contracting
 - Property Management and Disposition
 - Record-Keeping and Reporting Requirements
 - Other Administrative and Program Requirements
 - Audits
 - Closeout
- Document performance
- Follow effective management practices

Each subrecipient must designate a primary point of contact for OHCS to communicate questions and information related to subrecipient roles, responsibilities, and matters.

1.4. Program Eligibility

1.4.1 Eligible Subrecipient and Sub-grantee Entities

As the SC reviews and selects projects, it must identify which eligible entity will serve as the project lead. OHCS reserves the right to structure awards to project leads as direct awards to a subrecipient or to include the project lead as a sub-grantee to a subrecipient. Subrecipients will enter into grant agreements directly with OHCS and will be responsible for the compliant implementation and maintenance of approved projects and programs, in line with program and federal cross-cutting requirements. Future operation of a project may be undertaken by another entity with their written agreement and commitment to do so.

Eligible entities should have the capacity, systems, and expertise in place to carry out the proposed project or program. Eligible entities to serve as subrecipients or sub-grantees include:

- Tribal, State, county, and municipal governments, agencies, districts, and authorities
- Schools (K–12)
- Public housing authorities

- Other public or quasi-public entities, including Councils of Government (COGs)
- Nonprofit entity with a specific public role described in an Oregon revised statute (e.g., soil and water conservation districts)

Privately-owned for-profit utilities may be eligible to receive CDBG-DR funding. HUD updated its guidance for the eligibility of private utilities to receive CDBG-DR funds on December 12, 2022. The updated guidance can be found at [CDBG-DR-Private-Utility-Req-for-grants-Public-Law-117-43 final.pdf \(hud.gov\)](#). HUD requires that any funding for for-profit utilities (which includes, by extension, any privately owned public facilities or infrastructure) must prioritize those utilities that serve or benefit populations that are predominantly low- and moderate-income (LMI).

1.4.2 Geographic Eligibility

Eligible projects and programs must be located in one of the FEMA IA-declared counties for DR-4562:

- HUD-identified MID counties: Clackamas, Douglas, Jackson, Lane, Lincoln, Linn, and Marion
- Grantee-identified MID county: Klamath

1.4.3 Eligible Activities

PIER allows most CDBG-DR eligible activities for the purposes of recovery in the areas of Planning, Infrastructure, Economic Revitalization, and Mitigation. Housing projects are not eligible under PIER."

The table below provides some additional detail on the eligible activities drawn from the state (Housing and Community Development Act) and entitlement (24 CFR Part 570) CDBG regulations. CDBG-DR allows States to use both sets of regulations. The table also includes references to some of the applicable waivers within the [Allocation Announcement Notice and Consolidated Notice](#).

Table 2: CDBG-DR Regulatory crosswalk for eligible activities

| Eligible Activity | HCDA | 24 CFR Part 570 | Waiver (if applicable) |
|--|---|--|--|
| Acquisition of real property | 105(a)(1) | 570.201 (a) | |
| Public facilities and improvements | 105(a)(2) | 570.201 (c) | |
| Privately-owned facilities, utilities, or infrastructure | 105(a)- as modified by HUD private utility waiver | 570.201 (l)- as modified by HUD private utility waiver | CDBG-DR-Private-Utility-Req-for-grants-Public-Law-117-43 final.pdf (hud.gov) . |

| Eligible Activity | HCDA | 24 CFR Part 570 | Waiver (if applicable) |
|---|------------|--|--|
| Clearance rehabilitation, reconstruction, and construction of buildings and remediation activities | 105(a)(4) | 570.201 (d)-clearance 570.202-rehab, reconstruction, and new construction | When a CDBG-DR grantee carries out a new housing construction activity, 24 CFR 570.202 shall apply and shall be read to extend to new construction in addition to rehabilitation assistance. (87 FR 6364 Section II.B.1) |
| Removal of architectural barriers | 105(a)(5) | 570.202(b)(11) | |
| Disposition of real property | 105(a)(7) | 570.201 (b) | |
| Public services | 105(a)(8) | 570.201 (e) | |
| Payment of non-Federal Share | 105(a)(9) | 570.201 (g) | |
| Relocation | 105(a)(11) | 570.201 (i) | <i>Waivers regarding relocation activities can be found in 87 FR 6364 Section IV.F.</i> |
| Planning and capacity building | 105(a)(12) | 570.205(a) | |
| Provision of assistance (loans and grants) for activities carried out by public or private nonprofit entities | 105(a)(14) | 570.202(a)(3) | |
| Special activities by Community-Based Development Organizations/nonprofit development organizations | 105(a)(15) | 570.204(a) | |
| Energy efficiency activities | 105(a)(16) | 570.202(b)(4) 570.202 (b)(5), 570.202(b)(9) | |
| Special economic development activities | 105(a)(17) | 570.203(b)(c) | <i>Waivers on public benefit standards and alternative requirements for these activities are detailed in 87 FR 6364 Section II.D.</i> |
| Assistance to microenterprises | 105(a)22 | 570.201 (o)(1) | |

1.4.3.1 All Activities

Budget Sources and Uses

All Project Description Forms must include a proposed budget with a detailed description of anticipated costs by category, including support services and program management and administration. All project sources must be committed and demonstrate there are no duplication of benefits. See Section 3.4 for more details and guidance on the duplication of benefits requirements.

All project costs must be necessary and reasonable. Subrecipients and sub-grantees must perform an independent cost estimate prior to procuring services, goods, or construction activities. See Section 3.5 for additional information on the procurement requirements.

Additionally, for all mitigation projects, subrecipients and sub-grantees are encouraged to perform a cost benefit analysis to confirm the cost effectiveness of the proposed mitigation benefits from the project. Subrecipients and sub-grantees may use the [FEMA Benefit-Cost Analysis](#) as a guide to calculate the benefit cost analysis.

Analysis of Effects on Members of Protected Classes, HUD-identified Vulnerable Populations, and Historically Underserved Communities

OHCS will require subrecipients and sub-grantees to describe how their projects provide the essential public planning or infrastructure necessary for housing and/or will protect life and property, including for members of protected classes, HUD-identified vulnerable populations, and historically underserved communities. While there are not Racially and Ethnic Concentrated Areas of Poverty from the Affirmatively Furthering Fair Housing mapping tools within the fire-impacted areas, OHCS will work with subrecipients and sub-grantees to review their projects to determine if they would have an unjustified discriminatory effect on members of protected classes, HUD-identified vulnerable populations, and historically underserved communities.

Questions to ask while conducting the analysis can include:

- Who are the vulnerable and other impacted populations in the affected areas?
- How many members of vulnerable communities live in disaster-affected counties and MID areas? When possible, data should be further broken down to include municipalities, ZIP codes, census tracts, neighborhoods, and other localities.
- Are there residents who meet multiple vulnerable community characteristics and thus may be in the greatest need of recovery resources?
- Where do people live relative to natural and man-made hazards?
- What are the communication needs and most-used communication sources of these populations? What languages or dialects are spoken?
- Which communication channels will be down versus operational after a disaster? Which are most likely to be restored first?

- What are the functional needs of people with physical, developmental, auditory, or visual disabilities for planning engagement events?
- To what extent are people in these populations eligible for income-targeted benefits?

Operations and Maintenance Beyond the Life of the CDBG-DR Grant

To ensure the longevity of a federal funded project, applicants will be required to demonstrate how projects, programs, or plans will be operated, maintained, or implemented beyond the life of the CDBG-DR grant. Different activities might have different lifecycles and should be explained in the program application. For example:

- The useful life of an infrastructure project might be 30 years before requiring upgrades but would need regular annual maintenance and repairs and ensuring the project is insured or adequate reserves are in place for future disaster events.
- Another example could be a plan that goes out 20 years but needs to be presented, adopted, and updated every 1-2 years to ensure it is usable and current.
- For an economic revitalization program to be effective into the future, organizations will have portfolio management plans that will allow the funds to continue to provide community benefits, in line with the organization's mission and applicable policies and procedures.

Additional HUD requirements

Generally, all subrecipients and sub-grantees will be required to demonstrate how their proposed projects or programs meet all or most of the following requirements, depending on the activity type, through their project descriptions.

- Are designed to mitigate hazard risk, including climate-related natural hazards. Applicants are required to describe the data and/or planning analysis of hazard risk, including climate-related natural hazards they used in the design of their projects and programs
- Protect public health
- Conserve lands, waters, and biodiversity
- Address environmental injustice
- Spur economic growth and create jobs

OHCS will work with subrecipients to define and track project and program performance metrics for each of these categories, as applicable. Subrecipients will work with their sub-grantees to define and track the same, as applicable.

1.4.3.2 Planning

Project forms under this activity must describe the planning activity to be funded and address how and why it needs to be created, updated or integrated to help impacted communities recover and/or mitigate risks attributable to threats identified in the local or State hazard mitigation plans and/or the OHCS Action Plan Mitigation Needs Assessment.

Examples of eligible planning activities include, but are not limited to:

- Housing recovery planning
- Regional mitigation plans
- Modernization and resiliency planning
- Comprehensive, capital improvement and community development planning related to disaster recovery
- Floodplain and wetland management plans
- Upgrading mapping, data and other capabilities to better understand evolving disaster risks
- Education and outreach campaigns designed to alert communities and prospective beneficiaries to opportunities to further mitigate identified risks through insurance, best practices and other strategies

1.4.3.3 Infrastructure

Eligible activities are related to rebuilding or replacing impacted infrastructure and/or building infrastructure that will help communities rebuild housing or mitigate against current or future hazards.

Examples of infrastructure activities include, but are not limited to:

- Repair, replacement or relocation of damaged public facilities such as rehabilitation of schools, roads, publicly or nonprofit-owned utilities
- Rebuild or build new public facilities or improvements such water or wastewater facilities, emergency communications systems, drainage improvements, and/or other projects that address specific current or projected hazards
- FEMA PA or HMGP match, provided the FEMA-approved project meets all CDBG-DR eligible and applicable federal cross-cutting requirements.

In addition to meeting a CDBG-DR eligible activity, all infrastructure project description forms must address and meet the following requirements, where applicable:

- (1) How the project will address the construction or rehabilitation of disaster-related systems (e.g. stormwater management systems) or other disaster-related, community-based mitigation systems. This could be accomplished through using FEMA's community lifelines or by addressing an indispensable service.

- (2) How mitigation measures and strategies to reduce natural hazard risks, including climate-related risks, will be integrated into rebuilding activities.
- (3) The extent to which funded activities will achieve objectives outlined in regionally or locally established plans and policies that are designed to reduce future risk.
- (4) How the activity will align with other planned federal, state, or local capital improvements and infrastructure development efforts, and will work to leverage multiple sources of funding, including state and local capital improvement projects, and the potential for private investment.
- (5) How the project will employ adaptable and reliable technologies to prevent premature obsolescence of infrastructure.
- (6) How the project will support restoration of infrastructure and related long-term recovery needs within historically underserved communities who have lacked adequate investments in housing, transportation, water, and wastewater infrastructure prior to the disaster.
- (7) How the project will be designed and constructed to withstand chronic stresses and extreme events by defining and tracking resilience performance metrics from project approval through project closeout.

Critical Actions and Elevation Requirements for Non-Residential Structures

Critical Actions are defined as “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.” For example, Critical Actions include hospitals, nursing homes, emergency shelters, police stations, fire stations, and principal utility lines.

All Critical Actions, as defined at 24 CFR 55.2(b)(3), 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 is unavailable, and the Critical Action is in the 100-year floodplain, then the structure must be elevated or floodproofed (in accordance with FEMA floodproofing standards at 44 CFR 60.3(c)(2)–(3) or successor standard) at least three feet above the 100-year floodplain elevation.

Floodproofing for Non-Residential Structures

Per 44 CFR 60.3(c)(3)-(4), non-residential structures must meet the following FEMA floodproofing standards:

(3) Require that all new construction and substantial improvements of non-residential structures within Zones A1-30, AE and AH zones on the community's firm

(i) have the lowest floor (including basement) elevated to or above the base flood level or,

(ii) together with attendant utility and sanitary facilities, be designed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;

(4) Provide that where a non-residential structure is intended to be made watertight below the base flood level,

(i) a registered professional engineer or architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the applicable provisions of [paragraph \(c\)\(3\)\(ii\)](#) or [\(c\)\(8\)\(ii\)](#) of this section, and

(ii) a record of such certificates which includes the specific elevation (in relation to mean sea level) to which such structures are floodproofed shall be maintained with the official designated by the community under [§ 59.22\(a\)\(9\)\(iii\)](#)

1.4.3.4 Economic Revitalization

Economic revitalization refers to activities that address job losses, impacts to tax revenues, and impacts to businesses in a disaster-impacted area. Funds can be used to assist in the retention and return of businesses, microenterprises, and jobs to a disaster impacted area, as well as helping new businesses and microenterprises open in an impacted area. Economic revitalization may include any CDBG-DR eligible activity that demonstrably restores and improves the local economy through job creation and retention, providing opportunities to low-income microenterprises, and/or by expanding access to goods and services for a defined residential service area in the impacted community.

Examples include, but are not limited to:

- Assistance to microenterprises, defined as businesses with 5 or fewer employees (including the owner[s]). Assistance to microenterprises include:
 - Grants, loans, loan guarantees and other forms of financial support for the establishment, stabilization, and expansion of microenterprises
 - Technical assistance, training, counseling, and business support services to owners of microenterprises and persons developing microenterprises,

including assistance, advice and support relating to developing business plans, securing funding, conducting marketing and other microenterprise activities

- General support, such as peer support programs, counseling, childcare, and transportation, to owners of microenterprises and persons developing microenterprises
- Provision of assistance to a private for-profit business for any activity where the assistance is appropriate to carry out an economic development project, such as job training and workforce development, loans, or grants to businesses.
- Installation or improvements to public facilities that will provide a benefit to one or more commercial business to create employment and/or economic opportunities for the impacted community(ies).
- Provision of assistance to an eligible organization to carry out a community economic development program or project.
- For additional information on how other activities – including business incubators - may be assisted or meet eligible activities and national objectives, please review [HUD's Economic Development Toolkit manual](#)

1.4.3.4.1 Program Income Generated by Economic Revitalization Programs

OHCS will provide comprehensive guidance on program income (e.g., loan principal and interest payments) generated by economic revitalization activities.

1.4.3.4.2 Economic Revitalization Underwriting

HUD outlines the Guidelines and Objectives for Evaluating Project Costs and Financial Requirements for economic revitalization activities in [Appendix A to Part 570 of the CFR](#). All subrecipients and sub-grantees conducting such activities must include their processes for how they will carryout these underwriting requirements in their economic revitalization program guidelines and individual project reviews:

- **Project costs are reasonable.**
 - Reviewing costs for reasonableness is important. It will help the subrecipient avoid providing either too much or too little CDBG-DR assistance for the proposed project. Therefore, it is suggested that the subrecipient obtain a breakdown of all project costs and that each cost element making up the project be reviewed for reasonableness. The amount of time and resources the recipient expends evaluating the reasonableness of a cost element should be commensurate with its cost.
 - The recipient should pay particular attention to any cost element of the project that will be carried out through a non-arms-length transaction. A

non-arms-length transaction occurs when the entity implementing the CDBG assisted activity procures goods or services from itself or from another party with whom there is a financial interest or family relationship. If abused, non-arms-length transactions misrepresent the true cost of the project.

- **Commitment of all project sources of financing.**
 - The subrecipient should review all projected sources of financing necessary to carry out the economic development project. This is to ensure that time and effort is not wasted on assessing a proposal that is not able to proceed. To the extent practicable, prior to the commitment of CDBG-DR funds to the project, the subrecipient should verify that: sufficient sources of funds have been identified to finance the project; all participating parties providing those funds have affirmed their intention to make the funds available; and the participating parties have the financial capacity to provide the funds.
- **Avoid substitution of CDBG funds for non-Federal financial support.**
 - The subrecipient should review the economic development project to ensure that, to the extent practicable, CDBG-DR funds will not be used to substantially reduce the amount of non-Federal financial support for the activity. This will help the subrecipient to make the most efficient use of its CDBG funds for economic development. To reach this determination, the recipient's reviewer would conduct a financial underwriting analysis of the project, including reviews of appropriate projections of revenues, expenses, debt service and returns on equity investments in the project. The extent of this review should be appropriate for the size and complexity of the project and should use industry standards for similar projects, taking into account the unique factors of the project such as risk and location.
 - A subrecipient should familiarize itself with the lending practices of the financial institutions in its community to understand whether the need/award is one that would normally fall within the range that financial institutions participate.
 - If the subrecipient is assisting a microenterprise owned by a low- or moderate-income person(s), in conducting its review under this paragraph, the subrecipient might only need to determine that non-Federal sources of financing are not available (at terms appropriate for such financing) in the community to serve the low- or moderate-income entrepreneur.
- **Financial feasibility of the project.**
 - The public benefit a subrecipient expects to derive from the CDBG-DR assisted project will not materialize if the project is not financially feasible. To determine if there is a reasonable chance for the project's success, the subrecipient should evaluate the financial viability of the project. A project would be considered financially viable if all of the assumptions

about the project's market share, sales levels, growth potential, projections of revenue, project expenses and debt service (including repayment of the CDBG-DR assistance if appropriate) were determined to be realistic and met the project's break-even point (which is generally the point at which all revenues are equal to all expenses).

- The subrecipient should evaluate the experience and capacity of the assisted business owners to manage an assisted business to achieve the projections. Based upon its analysis of these factors, the recipient should identify those elements, if any, that pose the greatest risks contributing to the project's lack of financial feasibility.
- **Return on equity investment.**
 - To the extent practicable, the CDBG-DR assisted activity should provide not more than a reasonable return on investment to the owner of the assisted activity. This will help ensure that the subrecipient is able to maximize the use of its CDBG-DR funds for its economic development objectives. However, care should also be taken to avoid the situation where the owner is likely to receive too small a return on his/her investment, so that his/her motivation remains high to pursue the business with vigor. The amount, type and terms of the CDBG-DR assistance should be adjusted to allow the owner a reasonable return on his/her investment given industry rates of return for that investment, local conditions and the risk of the project.
- **Disbursement of CDBG funds on a pro rata basis.**
 - To the extent practicable, CDBG-DR funds used to finance economic development activities should be disbursed on a pro rata basis with other funding sources. Subrecipients and sub-grantees should be guided by the principle of not placing CDBG-DR funds at significantly greater risk than non-CDBG-DR funds. This will help avoid the situation where it is learned that a problem has developed that will block the completion of the project, even though all or most of the CDBG-DR funds going in to the project have already been expended. When this happens, a subrecipient may be put in a position of having to provide additional financing to complete the project or watch the potential loss of its funds if the project is not able to be completed. When the subrecipient determines that it is not practicable to disburse CDBG-DR funds on a pro rata basis, the subrecipient should consider taking other steps to safeguard CDBG-DR funds in the event of a default, such as insisting on securitizing assets of the project.

1.4.3.5 Ineligible Activities

The following activities are generally not eligible for CDBG-DR funding (24 CFR 570.207, 24 CFR 570.482) or under PIER:

- Buildings such as city halls or other administrative buildings primarily for the general conduct of government (except for the removal of architectural barriers)
- General government expenses
- Political activities
- Equipment that is not an integral part of a public facility
 - Fire protection equipment is considered to be an integral part of a public facility, and is thus eligible
- Operating and maintenance expenses
- New residential housing construction, except in special circumstances
- Income payments such as payments to individuals or families for food, clothing, or rent, except in certain circumstances
- Use of assistance for employment relocation activities from one labor market area to another labor market area if the relocation is likely to result in a significant loss of jobs in the labor market area from which the relocation occurs
- General promotion of the community as a whole (as opposed to the promotion of specific areas and programs)
- Assistance to professional sports teams
- Assistance to privately-owned-for-profit utility companies that do not meet requirements stated in HUD's guidance (CDBG-DR-Private-Utility-Req-for-grants-Public-Law-117-43) linked in Section 1.4.1 regarding eligible activities.
- Assistance to privately-owned recreational facilities that serve a predominantly higher-income clientele, where the recreational benefit to users or members clearly outweighs employment or other benefits to low- and moderate-income persons
- Acquisition of land for which the specific proposed use has not yet been identified
- Assistance to a for-profit business while that business or any other business owned by the same person(s) or entity(ies) is the subject of unresolved findings of noncompliance relating to previous CDBG assistance provided by the recipient.

1.4.4 National Objectives

Assistance provided under this program will meet the national objectives of benefiting low and moderate income (LMI) persons or households or addressing an urgent need. Reasonable efforts should be taken to develop projects and programs that benefit low- and moderate-income persons through LMI Area (infrastructure/public facilities), LMI Limited Clientele (public facilities, microenterprises), or LMI Job Creation or Retention (economic revitalization).

The urgent need national objective will only be used when an LMI national objective cannot be achieved through the project, but the project has demonstrable recovery or

mitigation benefits within the HUD- or grantee- identified MID. Each approved Project Description Form will describe the urgency, type, scale, and location of the disaster-related impact that will be addressed through the project.

For planning activities, in accordance with 87 FR 6364: "To assist state grantees, HUD is waiving the requirements at 24 CFR 570.483(b)(5) and (c)(3), which limit the circumstances under which the planning activity can meet a low and moderate-income or slum-and-blight national objective. Instead, as an alternative requirement, 24 CFR 570.208(d)(4) applies to states when funding disaster recovery-assisted, planning-only grants, or when directly administering planning activities that guide disaster recovery. In addition, 42 U.S.C. 5305(a)(12) is waived to the extent necessary so the types of planning activities that states may fund or undertake are expanded to be consistent with those of CDBG Entitlement grantees identified at 24 CFR 570.205."

1.4.4.1 Urgent Need

When using the urgent need national objective subrecipients and sub-grantees must:

- Describe the specific need and its related urgency the project is addressing and how the existing conditions pose a serious and immediate threat to the health or welfare of the community in which the project takes place, and
- How the project responds to the urgency, type, scale, and location of the disaster-related impact as described in the OHCS unmet or mitigation needs assessments.

1.4.4.2 LMI Area

There are multiple conditions that must be reviewed and documented to determine whether a project can qualify under LMI Area Benefit:

- The subrecipient must review and approve the geographic boundary (map) of the service area of the project
 - The service area may align - but does not need to align - with census tracts or block grants
 - Subrecipients and sub-grantees may use either HUD-provided data comparing census data with appropriate low- and moderate-income levels or survey data that is methodologically sound
 - When defining the service area, the subrecipient must consider comparable services provided by other projects in the service area and consider accessibility
 - The project services must be available to all residents in the defined service area
 - There must be documentation that the project is providing goods and services to that are available to all residents in the service area.
- The service area must be primarily residential

- At least 51 percent of the residents in the defined service area must be low- and moderate- income persons.

1.4.4.3 LMI Limited Clientele for Microenterprises

Assistance to microenterprises meet the LMC- Microenterprise (LMCMC) National Objective if the business meets the definition of a microenterprise and the owner(s) of the business is(are) LMI. A microenterprise is defined as a commercial enterprise that has five or fewer employers, one or more of whom owns the enterprise.

- Use of national objective eliminates the need to review job creation or retention numbers, and also eliminates the need to review the income of the jobs created or retained employees.
- A microenterprise owner(s) is considered to be LMI for 3 years after the income is verified, so the subrecipient is not required to re-validate their income during that 3-year presumption period.
- However, if additional financing is required, the business must still meet the definition of a microenterprise, as defined by HUD.
- More information on using CDBG assistance to support microenterprises can be found in in HUD's CDBG Microenterprise Assistance Toolkit.

To document the LMCMC, the subrecipients and sub-grantees must document that all owners of the microenterprise are LMI persons, based on their household size and income.

PLEASE NOTE: If a microenterprise owner is **not** LMI, they may be able to meet another LMI national objective – LMI Jobs, LMI Area, or Urgent Need – provided they meet the conditions of those national objectives.

1.4.4.4 LMI Job Creation and Retention

To use the LMI Job Creation or Retention national objective, HUD regulations require that at least 51 percent of jobs to be held by or made available to persons who are low- or moderate-income.

Subrecipients and sub-grantees may follow the “regular” CDBG requirements for documenting LMI Job Creation and Retention or they may follow the process described below, which is allowable through a waiver provided by HUD. Subrecipients and sub-grantees must follow a consistent methodology for each job created or retained by an individual business.

Regular CDBG Process

Generally, the CDBG LMI Job Creation or Retention national objective is met when an activity creates or retain jobs, and at least 51% of the jobs (computed on a full-time basis) will be made available to or held by LMI persons. This approach requires

subrecipients and sub-grantees and business owners to review the household income of their employees and job applicants to determine if their household makes the employee an LMI person.

For additional information on how to determine whether the position is made available to or held by LMI persons, please see the chapter on LMI Job Creation and Retention in [HUD's Economic Development Toolkit](#).

CDBG-DR Waiver Process

The waiver in the Consolidated Notice allows subrecipients and sub-grantees to identify the LMI jobs benefit by documenting, for each person employed, the name of the business, type of job, and the annual wages or salary of the job. OHCS 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. This method replaces the standard CDBG requirement—in which subrecipients and sub-grantees must review the annual wages or salary of a job in comparison to the person's total household income and size (i.e., the number of persons).

Only direct, permanent, full time equivalent jobs may be counted.

Subrecipients and sub-grantees must define the number of hours worked in a week for a job to be considered full time. Part time jobs may be aggregated to calculate the total number of jobs created or retained.

1.4.4.5 LM Job Creation

Created jobs are only considered to be held by LMI persons when the job is actually filled by a LMI person, per the waiver requirements listed above.

Documentation on availability of jobs for LMI persons should include evidence of affirmative marketing efforts by the business (e.g., advertisements, fliers, postings, outreach). Recordkeeping requirements include documenting the financial status of the business, the projected total number of jobs created, and the projected number of total LMI persons benefiting from the activity.

The following is an outline of the documents that should be maintained by subrecipients and sub-grantees:

- Written agreement specifying a commitment from the assisted business to hire LMI persons:
 - The type of job(s) and whether the job(s) will be full or part time
 - Actions that the business will take to ensure that at least 51 percent of the hires will be held by or made available to LMI persons
- For created jobs that will be held by LMI persons, the records maintained by subrecipients and sub-grantees must contain:
 - A listing by job title of the jobs created and the jobs filled

- The name of the person who filled each position
- The full-time equivalency status of the jobs
- The salary or annual wages of the job

1.4.4.6 LM Job Retention

For job retention activities, subrecipients and sub-grantees must document that the jobs would be lost without the CDBG-DR assistance. Businesses may meet this national objective if either or both of the following conditions apply:

- At least 51 percent of the jobs at risk are held by LMI persons; or
- At least 51 percent of the jobs retained can reasonably be expected to turn over within the following two years and steps will be taken to ensure that the jobs will be filled by or made available to LMI persons upon turnover.

There must be clear and objective documentation that permanent jobs will be lost without CDBG-DR assistance. For these purposes, “clear and objective” evidence would include:

- Evidence of a public announcement or publication regarding potential job reduction, or
- Documentation to support job retention claim, including but not limited to financial statements, supplier statements, inventory records, newspaper articles, demonstrating that, in all likelihood, the business would need to reduce employees in the near future without the planned CDBG-DR intervention, or
- Evidence of notice issued to potentially affected employees

Additional document that should be maintained by subrecipients and sub-grantees includes:

- Written agreement specifying a commitment from the assisted business to retain a total number of jobs, of which at least 51% must be retained by LMI persons
 - The type of job(s) and whether the job(s) will be full or part time
 - The name of the person who filled each position
 - The full-time equivalency status of the jobs
 - The salary or annual wages of the job
 - Actions that the business will take to ensure that at least 51 percent of the jobs will be held by LMI persons

1.4.5 Activity Delivery Costs

The costs to administer projects or deliver projects and programs are eligible expenses under the PIER allocations. Selection Committees must discuss and decide upon the amount of funding that will be allocated for activity delivery by project leads. If project leads anticipate using a portion of their PIER award for activity delivery costs, those should be included in the Project Description Forms as a separate budget line item. OHCS will provide technical assistance to project leads to determine a reasonable

amount for activity delivery, given the scope of work and the nature of the project or program. For example, additional activity delivery costs may be considered for programs that require more substantial applicant processing and/or activity delivery costs (e.g., small business loan or grant programs). Applicants must include a description and justification for the amount of activity delivery costs in their Project Description Forms.

1.4.6 PA Activity Delivery and Program Administration Costs

The costs incurred by a subrecipient to administer sub-grantees are eligible costs. The amount set-aside for PA activity delivery costs will be negotiated by OHCS and the PA subrecipient.

Subrecipients will be required to identify which costs qualify as Activity Delivery costs and Administrative costs per HUD guidance. The following linked guidance provides additional information regarding allocating costs between Activity Delivery and Program Administration.

[Guidance on CDBG-DR Costs \(hudexchange.info\)](https://www.hudexchange.info)

<https://www.hud.gov/sites/documents/13-07CPDN.PDF>, *Allocating Staff Costs Between Program Administration Costs vs. Activity Delivery Costs in CDBG*

2. Process

This section outlines the process and associated requirements for PIER projects and programs from development to project completion. The diagram below reflects cases where subrecipients are acting as project administrators. When subrecipients are acting as the PA, OHCS will conduct a preliminary review of project eligibility and budget prior to giving approval for a subrecipient agreement that includes the relevant sub-grantee project. The subrecipient shall not enter into any contracts with any agency or individual (sub-grantee) without the written approval of the OHCS prior to the execution of such Agreement. In any case, the subrecipient remains responsible for project compliance review and project approval.



2.1 Local Project Selection

For each fire-affected area, the designated entities will form a Selection Committee. In most areas the SC will be by county.

The respective SC will be responsible for choosing eligible projects or programs for their communities, establishing the award amount, and which entity or organization will serve as the project lead.

The SC or designated project-lead agency will submit Project Description Forms (Form) to OHCS for their review and approval. The forms will include the eligible entity that will be the project lead responsible for implementing the project and the agency or organization responsible for operating and maintaining the project or program.

Additional information on the Project Description Forms, review, and approval processes is included in Section 2.3.

The SCs may include voting members and non-voting, *ex-officio* members.

The SCs may draw upon prior public discussions or public engagement processes and experience needed to determine the needs of their community in order to recover from the 2020 Wildfires and/or mitigate against future disasters for some or all project selections. The Committees may also choose to carry out additional public engagement activities, either jointly or separately, to inform the selection of some or all

projects. Projects may be selected in one or more rounds. The selection process for each round does not have to be the same.

Each SC must include one voting representative from each of the following entities:

- Each general-purpose local government within the fire perimeter (one representative per county and disaster-impacted municipality(ies))
- Long-term recovery group (LTRG)
- Economic development district or OHCS-approved substitute economic development entity
- Federally Recognized Tribe, if applicable. The required tribal participants, respectively are:
 - Douglas County: Cow Creek Band of the Umpqua Tribe of Indians
 - Klamath: The Klamath Tribes of Oregon
 - Lincoln County: Confederated Tribes of the Siletz Indian Representation
 - Marion/Linn: Confederated Tribes of the Warm Springs Indian Reservation of Oregon

The voting members may add voting members from government (e.g., special districts) or other organizations and/or *ex-officio* non-voting members. No entity may have more than one voting member on the Selection Committee.

The voting members of the SC may establish whatever rules, processes or structures, i.e., chair structure, voting procedures, etc., they see fit. Minutes of official meetings including essential decisions (such as adding voting members, establishing project selection processes, or making project selections) will be kept and provided to OHCS.

Each SC must appoint one point of contact on the committee for communications with OHCS. Should OHCS have any questions or information to share about project selections and programming, they will contact the SC main point of contact and the appointed person will share the information and communications with the rest of the committee.

Final project selection decisions must be made by a minimum of the equivalent of two-thirds (2/3) of the voting members. Assent may be reflected by voice vote at a meeting or in writing after-the-fact.

2.1.1 Initial Project Selection Maximum

It is expected that funds allocated to projects will cover project delivery costs. The SC may not be able to anticipate all activity delivery costs and/or Program Administration costs particularly when using a subrecipient PA. Therefore, unless otherwise approved, SC shall allocate no more than 70% of funds in their first round of project selection.

2.1.2 Outreach and Engagement

Through the development of the Action Plan that ultimately led to the creation of the programs, OHCS and local stakeholders conducted a significant amount of research and robust outreach and public engagement.

Projects and program selection and design will, where feasible, be informed by a robust outreach and engagement process. All SC must document their project selection methodology.

OHCS recognizes that some urgent recovery or mitigation needs may have already been identified through prior work including the development of OHCS's Action Plan and through the unmet needs assessment process since the event of the 2020 Wildfires. SCs and applicants/subrecipients and sub-grantees must document their outreach and engagement efforts – including those undertaken prior to the development of the PIER program - and make intentional efforts to specifically engage historically underserved or marginalized areas and locations. OHCS staff are available to advise and assist with such outreach efforts. For additional guidance and best practices, SCs and applicants are encouraged to review [HUD's Citizen Participation and Equitable Engagement \(CPEE\) Toolkit](#).

2.1.3 Citizen Participation Requirements

At a minimum, the SC and/or the project lead must post or publish public notices and hold a public hearing to discuss the project/program and encourage feedback from the public. Each comment received during the public comment period must be recorded and addressed. Every reasonable effort must be made to make the information accessible (physical access, language translations, published online, etc.). Selection Committee and/or subrecipients and sub-grantees may develop their own Citizen Participation Plan (CPP) that satisfies these requirements or may adopt the [State's CDBG-DR CPP](#).

Selection Committees must use a current Language Access Plan (LAP) to determine in which languages materials need to be translated and must describe which documents will be translated. Selection Committees may adopt the local government's CDBG LAP or OHCS's CDBG-DR LAP. Reasonable accommodation must be given to those wishing to participate and give their input, including individuals living with disabilities.

The following information must be covered at the public hearing. Each point must be reflected in the published public hearing minutes:

- The nature of the proposed activities
- How the need for the proposed activities was identified
- How the proposed activities will be funded and sources of funds
- Requested amount of federal funds
- Estimated portion of federal funds that will benefit persons of low to moderate income families
- Where the proposed activities will be conducted
- Plans to minimize displacement of persons and businesses as a result of the funded activity
- Plans to assist persons actually displaced (if applicable)

2.1.4 Form Requirements

- Project title, primary contact name, address, and federal and unique entity identification numbers for lead agency
- The national objective(s) that will be met by the described project and narrative justification and all support documentation available to demonstrate the project meets a national objective
- Short project description
- CDBG-DR eligible activity and demonstration the project meets the other applicable eligibility requirements described in Section 1.4 Program Eligibility
- Project location
- FEMA FIRM map of the project location
- Description of alignment and coordination with any existing or planned recovery or mitigation projects, plans and goals
- Indicate whether OHCS's Citizen Participation Plan and Language Access Plan will be adopted and followed or if the subrecipient will use local adopted equivalent plans. If creating separate, unique plans, an outline should be included with the application.
- Engagement with underserved populations in project development (include both completed and planned activities)
- Subrecipient Capacity & Risk Assessment. Provide enough detail about the subrecipient and its ability to carry out the activity. Address the criteria OHCS risk

assessment. If subrecipient does not score as low risk, OHCS will contact the SC to discuss risk mitigation approaches, including possible alternative lead agencies.

- Record of required public hearing, including all required elements.
- Implementation plan. Include key project tasks and milestones with dates.
- Development budget (include all sources and uses of funds). Written documentation of commitment of any non-CDBG-DR funds. In the case of most public entities, this would take the form of an approved budget document or Resolution passed by the governing body. All construction projects must include at least a 15% contingency. All planning projects must include a 5% contingency.
- List of all funding sources and certification to no duplication of benefits, and commitment to review each project for duplication of benefits prior to award of CDBG-DR funds and prior to closeout.
- Infrastructure: Operations and maintenance budget and plan for the projected useful life of the project
- Economic Revitalization: Plan for post-CDBG-DR activities, if applicable
- Plan: plan for adopting and/or implementing components of the plan and maintaining the plan after completion
- List any public documents that identify or prioritize the project
- Damage reports/engineering studies
- Subrecipient agrees to comply with state and federal register regulations as outlined in 87 FR 6364 and all applicable federal, state, and local requirements
- Most recent audited financial statements
- Description of any outstanding HUD findings or concerns
- Form is signed and dated by the responsible entity/eligible applicant

2.1.5 Local Project Selection

1. SCs can approve projects or programs for OHCS review on a rolling basis, pending funding availability and time remaining to implement projects. OHCS may institute funding deadlines based on program demand and time constraints.

2. SCs select potential PIER projects or programs. Each local SC can develop their own project selection process, including use of pass/fail requirements and/or weighted scoring. Projects can be included for consideration through a nomination or application process.
3. The SC must document their candidate list development process and any scoring, rating or rankings completed by the committee. The SC is required to complete and document an analysis of several factors, per HUD CDBG-DR requirements:
 - a. Identify and describe the effectiveness of the proposed project within a defined service area in protecting the public, including members of protected classes, HUD-defined vulnerable populations, and historically underserved communities, from the risks in each of the respective impacted communities.
 - b. Perform the analysis and demonstrate how the project or program supports historically underserved communities that lacked adequate investments in housing, transportation, water, wastewater, and/or other infrastructure systems prior to the disaster.
4. The SC will review the project's budget including activity delivery, indirect, and overhead. The SC will determine whether the non-direct amounts are reasonable considering the overall budget.
5. Final selection:
 - a. A quorum of at least more than 50% of Voting Committee Members is required to select a project.
 - b. At least 2/3 Voting Committee Members must vote (or approve in writing) to move a project forward for OHCS compliance review and approval.
 - c. Any meeting of the SC that is held for the purpose of making a final selection must be open to the public and notice must be provided to the public by the general local government entities participating.

2.2 Compliance Review and Approval

There are three different Project Description templates for each of the categories of activity: planning, infrastructure, and economic revitalization. Most mitigation projects would fall into either a planning or infrastructure category.

Project Description Forms will be submitted to OHCS for preliminary review after a SC selects a project. Many of the components contained in each form must be

substantiated with support documentation. This review is prior to and additional to screening by a subrecipient PA reviewing sub-grantee projects for eligibility.

2.2.1 OHCS Project Compliance Review

1. OHCS reviews project for eligibility and compliance with the SC's adopted selection process.
2. If needed, OHCS may request clarification and/or additional information from the project lead agency or SC.
3. OHCS determines whether the project is best carried out as a subrecipient-managed project or as a sub-grantee-managed project subject to subrecipient PA oversight.
4. If the project lead will be a subrecipient, OHCS performs a capacity and risk assessment of the proposed lead project agency. If the plan to maintain the project after the life of the CDBG-DR grant includes transferring the project to another entity, that should be clearly indicated in the Project Description Form and OHCS may conduct a risk assessment of that entity as well. OR

If the project lead will be a sub-grantee of a subrecipient, OHCS performs a capacity and risk assessment of the subrecipient PA. (The responsibility of conducting the capacity and risk assessment of the sub-grantee and any future owner of the project asset is the responsibility of the PA.)

5. OHCS will issue an award letter to the subrecipient project lead and include information on award pre-conditions. The project or program will only be denied if it is CDBG-DR ineligible, does not meet program requirements, and/or if the subrecipient does not have the minimum capacity to implement and maintain the project. OR

If the project will be led by a sub-grantee, the award letter issued by OHCS shall be a preliminary award letter and the pre-conditions will include additional review steps necessary for the subrecipient PA to fulfill their monitoring and oversight responsibilities. Once the PA is satisfied, the PA will issue an award letter to the sub-grantee.

6. If OHCS or the PA have concerns based on their respective risk and/or capacity assessments, they will engage in conversations with the SC and/or proposed project lead to see if any identified issues can be resolved through use of an alternative project lead, alternative contracting structure, or other methods to minimize project risk.

2.2.2 Capacity & Risk Assessment

OHCS will perform a capacity and risk assessment of each subrecipient before signing a subrecipient agreement. Any subrecipient PA shall perform a capacity and risk assessment of any sub-grantee. The purpose of the risk and capacity assessment is to assure that the entity has minimum capacity required to carry out the proposed program or project. The risk assessment will also determine the level and frequency of monitoring and reporting that OHCS or PA will require from subrecipients or sub-grantees, respectively. OHCS will provide technical assistance in the form of tools and trainings to help subrecipients and sub-grantees new to CDBG projects and programs to lower the risks of non-compliance.

Capacity and risk assessments are useful tools in identifying ways to improve capability, efficiency and effectiveness of disaster recovery operations prior to awarding CDBG-DR funds. The capacity and risk assessment report is conducted and prepared by the OHCS Compliance Unit. It provides the needed information by considering key functions such as:

- Grant Management history (track record)
- Financial systems and capacity
- Subrecipient monitoring reports and history
- Internal and external audits
- Ability to comply with federal rules and regulations
- Staffing (new or experienced staff and turnover rate)
- Program and activity experience/knowledge of federal regulations
- Management of similar program activities

2.2.3 Approval, Grant Award and Project Set-Up

1. OHCS will issue a Grant Award letter to approved subrecipients. Subrecipients will issue Grant award letters to sub-grantees.
2. OHCS or the Subrecipient provides pre-project compliance technical assistance to subrecipients. Subrecipients provide such technical assistance to any sub-grantees. In addition, technical assistance from OHCS on project compliance is available on an ongoing basis throughout the life of the CDBG-DR grant to both subrecipients and sub-grantees.
3. OHCS and subrecipient(s) agree upon key elements of grant agreement, including project budget, a program schedule (and milestones), performance metrics, and reporting requirements. And, where necessary,

- a. Subrecipient PA and sub-grantee agree upon key elements of grant agreement, including project budget, a program schedule (and milestones), performance metrics, and reporting requirements.
4. Subrecipient identifies the authorized representatives to clearly designate separation of duties, including those individual(s) who have:
 - a. Authority to sign documents and request reimbursements on behalf of the subrecipient
 - b. Authority to represent the organization on matters of grant compliance
5. The subrecipient and OHCS execute the grant agreement. And, where necessary,
 - a. The subrecipient and sub-grantee(s) execute the respective grant sub-agreement.
6. Subrecipient or sub-grantee develops program guidelines, if implementing a locally-run program (e.g., economic revitalization). Guidelines will be submitted to OHCS or PA for review and comment to ensure the guidelines are compliant with program and CDBG-DR requirements.
7. Subrecipient sets up project account in financial management system.
 - a. Regardless of the financial management system used, separate accounting records must be maintained for CDBG-DR funds to distinguish them from all other funds. CDBG-DR revenues and expenditures must be readily identifiable within accounting records.
 - b. For activity delivery costs, all entities are required to charge actual time and materials to OHCS for reimbursement. OHCS will provide forms, training and technical assistance to ensure that subrecipients report time and other costs accurately.
 - c. Subrecipient (and sub-grantees) must follow financial management procedures that comply with 2 CFR Part 200, including ensuring adequate internal control of funds.
 - d. All financial transactions must be documented so they can be clearly tracked in an audit.
8. Subrecipient is set-up in OHCS System of Record.

2.3 Project Delivery Phase

2.3.1 Environmental Review Records

All CDBG-DR funded activities are subject to an environmental review. Each grant recipient is responsible for carrying out its project in accordance with 24 CFR Part 58.

After there is intent to apply for federal funds and before the environmental review record is complete, no choice-limiting actions can be committed by the unit of general local government, subrecipient, sub-grantee or any partners. These include actions to commit or spend CDBG-DR or non-HUD funds for activities including but not limited to:

- Purchase of property or structures (including executing an option agreement)
- Bidding (or advertisement of bids)
- Executing any contracts that are needed to complete the work contained in the environmental review
- Construction, demolition, rehabilitation, repair, conversion, site improvements, and any phase of construction activities
- Platting and rezoning land (can work on preliminary plats and rezoning needs)
- Apply for building permits
- If there are any questions about whether an action constitutes a choice-limiting action, please contact OHCS before undertaking the action

2.3.1.1 Levels of Environmental Review

The different levels of Environmental Review that must be completed depend on the overall nature of the project. A first step in the Environment Review process will be the subrecipient and/or OHCS's determination of the level of review needed. The five (5) levels of review and their applicable rules are:

1. Exempt—24 CFR 58.34(a)
2. Categorical exclusions not subject to 24 CFR 58.5—24 CFR 58.35(b)
3. Categorical exclusions subject to 24 CFR 58.5—24 CFR 58.35(a)
4. Environmental Assessment (Finding of No Significant Impact)—24 CFR 58.36
5. Environmental Impact Statement (Finding of Significant Impact)—24 CFR 58.37

Refer to [CDBG Chapter 3 - Environmental Review \(oregon.gov\)](https://www.oregon.gov/CDBG/Chapter3-EnvironmentalReview) for more information and guidance on each of these five levels of review. Subrecipients are encouraged to reach out to OHCS for technical assistance and guidance prior to initiating environmental review processes.

VERY IMPORTANT NOTICE! No project funds, either federal or local, may be committed until the environmental review is complete (with the exception of activities allowable under environmental clearance, see below). Failure to properly complete the required environmental review prior to commitment of project funds will result in severe consequences, i.e. the State being federally prohibited from providing grant funds for part of or the entire project.

2.3.1.1 Environmental Clearance for Design, Planning and Non-Construction Activities

1. Subrecipients and sub-grantees may obtain environmental clearance for design and soft costs to help pull together the information needed to define the scope of work of a construction-related project. In such cases, the environmental clearance will allow the subrecipient to enter into design and soft cost contracts to complete only those design and related planning and permitting activities. This information is then used when completing the environmental review record for the planned construction activity.
2. If the subrecipient or sub-grantee will carry out a program (e.g., economic revitalization) or a planning activity and the program or plan does not include construction activities, the entire program can be cleared through a programmatic environmental review. OHCS will review the program guidelines to confirm there are no construction or construction-related activities allowable within the subrecipient's program design.

2.3.1.2 Responsible Entity for Environmental Review Record for Construction Activities

Whether the environmental review is approved by OHCS or by HUD will depend on if the project will be completed by a unit of general local government. Units of general local government can assume the role of Responsible Entity (RE) and prepare the appropriate Environmental Review Record (ERR), to be submitted to OHCS for review and approval. Subrecipients that are not a unit of local government cannot assume this responsibility, and instead work closely with OHCS to complete the ERR. OHCS acting as RE will then submit the ERR to HUD for review and approval. An environmental review is an analysis of the impacts of a project on the surrounding environment and the environment's impact on the project itself. Subrecipient award contracts will specify the RE for each project or program.

2.3.1.4 Adopting other Federal Environmental Reviews

When other federal funds are already involved in a project and the activity has already been reviewed for environmental compliance by another federal agency (such as FEMA) and CDBG-DR funds will be used for a portion of the same activity, in accordance with the Consolidated Notice, the OHCS subrecipient will obtain a copy of

the prior environmental review. **The subrecipient must verify that the prior review matches the current project scope.** They will submit to OHCS a Request for Release of Funds (RROF) including the name of the federal agency, the name of the project and the date of when the project was reviewed by the other Federal Agency. No other public review or comment period will be required.

See [Section IV.D.2 Adoption of another agency's environmental review within the Consolidated Notice](#) for additional information on the requirements and conditions of adopting other federal environmental reviews.

2.3.2 Procurement

1. For all subrecipients and sub-grantees, all services and goods must be procured per the requirements at 2 CFR 200.318-326 and the requirements described in [CDBG GMH Chapter 5 \(oregon.gov\)](#). Subrecipients and sub-grantees are also encouraged to review [HUD's Buying Right CDBG-DR and Procurement: a Guide to Recovery](#) for additional guidance.
2. Subrecipients and sub-grantees must perform the applicable price and/or cost analysis on each procurement. Procurements requiring an independent cost analysis must have the independent cost analysis performed prior to receiving bids, proposals, and contract modifications.
3. Procurement methods are based on full and open competition, with very limited exceptions. Competitive methods of procurement (e.g., micro-purchases, informal quotes/proposals, and formally advertised sealed bids/competitive proposals) are specified in state procurement laws. Cost plus a percentage of cost and percentage of construction cost methods of contracting are prohibited by federal standards. Recipients, subrecipients, and sub-grantees are prohibited from using geographical preferences in evaluating bids or proposals. A subrecipient's or subgrantee's policies and procedures must include standards of conduct governing employees engaged in the award or administration of contracts. In their purchase orders and contracts, subrecipients must include all clauses required by Federal statutes, executive orders and implementing regulations.
4. 2 CFR 200 also covers the need for audits, bonding, conflict of interest regulations, debarment checks, and prevention of fraud, waste, and abuse.
5. Subrecipients and sub-grantees are encouraged to submit procurement documents to OHCS or the PA, respectively, for pre-advertisement compliance review and approval.

6. Local procurement records must include copies of all procurement documents, provide justification for the contractor's selection, and document the basis for the cost if negotiated.

2.3.3 Implementation, Ongoing Compliance and Monitoring

1. All subrecipients are required to maintain their project or program files within the OHCS System of Record (SOR) per OHCS instructions and reporting requirements. OHCS will provide subrecipients with training on the SOR. These records are to be maintained by the subrecipient. All OHCS-required project-related documents, correspondence and records must be in the file.
2. Subrecipients must have monitoring plans in place for overseeing their projects, contractors, and any sub-grantees, as applicable. The monitoring plans must include the milestones and frequency of desk reviews, site visits and interim inspections. OHCS will monitor subrecipients for compliance with their published monitoring plans. OHCS reserves the right to conduct monitoring of sub-grantees or contracts. This does not alleviate the subrecipient of any monitoring requirements.
3. All construction projects must include at least a 15% contingency. All planning projects must include a 5% contingency. Economic revitalization programs must operate within the approved program budget. Subrecipients and subgrantees must have clear processes for reviewing and approving budget adjustments and change orders. Selection Committees must approve any grant-level budget amendments.
4. OHCS will work with subrecipients to establish a schedule of regular calls and/or meetings to discuss compliance or performance challenges or support needs.
5. Subrecipient submits reports through the OHCS provided System of Record or other means, as required by OHCS, including but not limited to:
 - Regular progress reports measuring performance metrics
 - Quarterly reports for HUD QPR reporting
 - Financial and Uniform Administrative Requirements (2 CFR 200) reporting
 - Reporting demonstrating subrecipients meet their contracting requirements
 - Section 3 reporting
 - MBE-WBE-DBE (contracting)
 - Excluded parties (debarment and suspension of contractors)
 - Davis-Bacon and Oregon prevailing wages reporting
 - Other compliance reports, as needed including:
 - Asset management
 - Civil Rights Act and non-discrimination

- Uniform Relocation Act
 - Lead Safe Housing Rule
 - Uniform Relocation Act
 - Section 504
 - Affirmatively Furthering Fair Housing
 - Duplication of benefits
- Program income reports, if applicable
6. Monitoring will be performed per the outcomes of each subgrantee's or subrecipient's capacity and risk assessment and the respective PA or OHCS Monitoring and Compliance plan. Sample monitoring checklists can be found through the following sites:
- a. [HUD CPD Monitoring Handbook](#)
 - b. [GMH Chapter 10 Exhibits – Monitoring Checklists](#)

2.3.4 Record Keeping Requirements and Retention

All applicants, sub-recipients, or sub-grantees of grant/loan funds shall be required to conduct all aspects of the program in an open manner with access to records on the proposed and actual use of funds for all interested persons. All records of applications and grants must be kept at the entity's offices and be available during normal business hours. Any activity of OHCS regarding the CDBG-DR project, except for confidential matters relating to housing and economic development programs, will be made public upon request.

Subrecipients and sub-grantees must maintain records for a minimum of 5 years from closeout of the program. Access to all records must be given to representatives of OHCS and other State representatives. Policies and procedures must include a record retention plan indicating where records are kept and who has access.

For additional information regarding these requirements, see [HUD's Playing by the Rules: A Handbook for Subrecipients on Administrative Systems, Chapter 5: Recordkeeping and Reporting Requirements](#).

2.3.5 Project Completion and Closeout

1. Subrecipient performs final inspection and submits a grant completion report
2. Subrecipient performs a final report on program income and returns any final program income, as applicable
3. OHCS reviews grant completion report

4. Files must be retained by subrecipient for a minimum of 3 years after date of grant closeout between OHCS and HUD. Please note that HUD or OHCS may monitor projects after project closeout.

3. Additional Federal Cross-Cutting Requirements

3.1 Duplication of Benefits Process

Identifying all applicable duplication of benefits (DOB) is one of the core components of calculating an eligible CDBG-DR award. The DOB requirements ensure CDBG-DR funds are used as intended – as funds of last resort. Compliance with DOB regulations also protects subrecipients from making unnecessary and unreasonable expenditures and providing a person or entity with more than the cost to repair from their damages or complete a mitigation project.

Subrecipients and subgrantees that do not develop adequate DOB policies and procedures risk audit findings and recapture of funds. Selection Committees and subrecipients should adopt DOB policies and procedures prior to issuing any awards. OHCS can provide model language for a DOB policy. The application of DOB requirements is generally consistent across jurisdictions, so materials can be shared and adapted to fit each local context. DOB requirements apply to state, local, and Indian tribal governments, as well as any public funding sources provided by those entities for the same purposes.

Subrecipients and subgrantees are required to ensure their disaster recovery programs comply with the Robert T. Stafford Disaster Relief and Emergency Assistance Act, (42 U.S.C. 5121–5207), which has been clarified by HUD through the requirements provided in [84 FR 28836](#) and [84 FR 28848](#) and should be used as a basis for developing effective policies and procedures.

When making an award determination for an eligible activity, subrecipients and subgrantees should factor in the total unmet need and all available assistance before completing a DOB analysis; after completing the activity, subrecipients and subgrantees should follow up with beneficiaries or project managers to confirm that they did not receive additional assistance for the same activity. The process for verifying whether there is or is not a DOB is outlined below:

1. Assess Unmet Need
2. Identify Available Assistance
3. Exclude Non-duplicative Funds
4. Calculate Award
5. Subtract any funds that duplicate the same purpose as the CDBG-DR funds

6. Make Award
7. Post Award:
 - a. Confirm eligible Use of CDBG-DR Funds
 - b. Re-evaluate available assistance, recapture DOB if applicable
- Assistance is duplicative when two sources exceed need for the same recovery item. Assistance would not be duplicative when two sources contribute to the same need, but the total assistance did not exceed the total need. OHCS or the PA will require the following information from each subrecipient or sub-grantee, respectively; Follow a consistent documentation and award calculation process for each award determination
- Perform a duplication of benefit analysis before issuing any award and at award closeout
- Document every award calculation, with proof of verified assistance and expenditures.
- A signed affidavit that indicates (1) the applicant acknowledges the DOB requirements and their obligation to report all funding that has been received, and (2) the subrecipient PA or OHCS may inquire about other assistance received (for example: from an insurance company or FEMA), and
- A signed subrogation agreement. Any business or sub-grantee receiving awards must sign a subrogation agreement as part of their contract or loan/grant agreement with the subrecipient or sub-grantee.

When the subrecipient is carrying out a project directly, OHCS will work with the subrecipient to review the total project sources and uses prior to subrecipient award and contract execution and prior to closeout.

3.2 HUD Section 3 Compliance

Section 3 (Section 3 of the Housing and Development Act of 1968) 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.

The Section 3 program requires that recipients of certain HUD financial assistance, to the greatest extent possible, provide training, employment, contracting and other economic opportunities to low- and very low-income persons, especially recipients of government assistance for housing, and to businesses that provide economic opportunities to low- and very low-income persons.

OHCS will provide technical assistance and training to local organizations to help them achieve Section 3 goals and to the greatest extent feasible, and consistent with existing

federal, State, and local laws and regulations, ensure that employment and other economic opportunities be directed to low- and very low-income persons and business concerns that provide opportunities to low- or very low-income persons, particularly those who are recipients of government assistance for housing or residents of the community in which the federal assistance is spent.

Refer to [CDBG GMH Chapter 5 \(oregon.gov\)](#) for more information and guidance.

3.3 Labor Standards/Prevailing Wage

All laborers and mechanics employed by the contractors and subcontractors in the performance of construction work exceeding \$2,000 that is financed in whole or in part with Community Development Block Grant assistance shall be paid wages at rates no less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended.

Refer to [CDBG Chapter 6 - Labor Standards \(oregon.gov\)](#) for more information and guidance.

3.4 Fair Housing and Section 504

Fair Housing. Fair housing choice is the ability of persons of similar income levels to have available to them a like range of housing choices regardless of race, color, national origin, religion, sex, familial status or disability. Local governments, because of their influence and power, are in the most effective position to promote fair housing. CDBG grant recipients make a commitment to Affirmatively Further Fair Housing in the community as a recipient of CDBG funds. Although OHCS has a minimum specific action requirement (see Chapter 7, link provided below), it is important for recipients to be aware of this commitment to understand every individual's fair housing rights and ensure all local policies and practices do not hinder fair housing and when appropriate actively further fair housing.

Information about Fair Housing can be obtained by contacting the Fair Housing Council of Oregon (FHCO) at 1-800-424-3247 (Hot Line) or at <http://www.fhco.org/>. The FHCO also has resource packets with a host of materials summarizing the fair housing laws, resource lists and contact information available upon request. Grant recipients are encouraged to obtain a copy of this resource packet as early as possible in the project, to use as a resource in complying with Federal and the State of Oregon fair housing laws.

Section 504 Nondiscrimination against individuals with disabilities. Section 504 of the Rehabilitation Act of 1973 is a federal law, codified at 29 U.S.C. § 794, that prohibits discrimination based on disability in federally assisted programs or activities. Specifically, Section 504 states: No otherwise qualified individual with a disability in the United States

shall, solely by reason of her or his disability, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program, service or activity receiving federal financial assistance. This means that Section 504 prohibits discrimination on the basis of disability in any program or activity that receives CDBG-DR financial assistance from HUD.

Refer to [Chapter 7 \(oregon.gov\)](#) for more information and guidance.

3.5 Uniform Relocation Act

In accordance with 49 CFR 24.2(a)(22) the requirements of the URA apply to any project where federal financial assistance is received or anticipated in any phase for acquisition, rehabilitation or demolition. This includes the acquisition of both temporary construction and permanent easements and long-term leases of 50 years or more for CDBG-DR assisted projects. The purpose of the URA is to ensure the fair, equitable and consistent treatment of owners and occupants of real property assisted with federal funds.

Refer to the checklist and flowchart located here [Acquisition Checklist \(oregon.gov\)](#) when starting your project, before any acquisition occurs, to ensure compliance.

Refer to [Uniform Relocation Assistance and Real Property Acquisition \(oregon.gov\)](#) and all exhibits for more information and guidance.

In addition, OHCS is requiring its subrecipients to minimize the displacement of households wherever possible, when using CDBG-DR funds. Additional information is included in OHCS's Residential Anti-Displacement and Relocation Assistance Plan. If a subrecipient plans any activities that include the displacement of residents or businesses, OHCS will provide technical assistance and guidance on the URA and applicable waivers and alternative requirements required to protect displaced persons.

3.6 Program Income

The Action Plan says the following: *Unless otherwise specified, all program income shall be remitted to OHCS.*

OHCS is considering alternative policies and procedures for subrecipient-operated loan programs to allow subrecipients to retain repayments of loan principal and interest, provided the subrecipient qualifies under 105(a) 15 of the Housing and Community Development Act.

3.6.1 Program Income: Introduction

Program income is gross income* generated from the use of CDBG-DR funds received by a state (*see formula below for calculating program income), a unit of general local government, or a subrecipient of a unit of general local government. The following

Federal Register Notice provides grant-specific definitions on Program Income: [87 FR 6364 III.E](#). For OHCS and its units of general local government, HUD has waived all applicable program income rules at [42 U.S.C. 5304\(j\)](#), [24 CFR 570.489\(e\)](#), [24 CFR 570.500](#), and [24 CFR 570.504](#) and provided new alternative requirements that are detailed below.

Program income can include:

1. Proceeds from the sale or long-term lease of real property purchased or improved with CDBG-DR funds.
2. Proceeds from the disposition of equipment purchased with CDBG-DR funds.
3. Gross income from the use or rental of property acquired by the grantee or subrecipient with CDBG-DR funds, less the costs incidental to the generation of such income.
4. Gross income from the use or rental of property owned by the grantee or subrecipient that was constructed or improved with CDBG-DR funds, less any costs incidental to the generation of such income.
5. Payments of principal and interest on loans made using CDBG-DR funds.
6. Proceeds from the sale of loans made with CDBG-DR funds.
7. Proceeds from the sale of obligations secured by loans made with CDBG-DR funds.
8. Interest earned on program income, pending the disposition of such program income; including interest earned on funds held in revolving fund account
9. Funds collected through special assessments made against properties owned and occupied by households not of low- and moderate-income, where such assessments are used to recover part or the entire CDBG portion of a public improvement.
10. Gross income paid to a state, local government, or subrecipient thereof, from the ownership interest in a for-profit entity in which the income is in return for the provision of CDBG-DR assistance.

When income is generated by an activity that is only partially assisted with CDBG-DR funds, the income shall be prorated to reflect the percentage of CDBG-DR funds used. If CDBG funds are used with CDBG-DR funds on an activity, any income earned on the CDBG portion would not be subject to the waiver and alternative requirement in the Consolidated Notice.

Program income does NOT include:

1. Income received in a single program year by the recipient and all its subrecipients if the total amount does not exceed the **\$35,000** threshold. Once the threshold is exceeded, all of the money is considered program income, including the first \$35,000.

2. Amounts generated by activities eligible under section 105(a)(15)³ of the HCDA and carried out by an entity under the authority of section 105(a)(15) of the HCDA.

3.6.2 Program Income Calculation

Revenue is essential in that it can allow OHCS, units of general local government, or subrecipients to defray program costs where appropriate. The regulations at [2 CFR §200.307](#) specify what can be deducted from gross income to calculate real program income.

Below is a formula to be used to calculate program income from gross income received.

+ GROSS INCOME EARNED ON A PUBLIC FACILITY

- REBATES
- CREDITS
- DISCOUNTS
- GOVERNMENT REVENUES (taxes, special assessments, levies, fines, etc.)
- EARNED INTEREST ON ADVANCES
- Costs of generating program income (e.g., costs to operate and maintain the facility or activities that generate program income)

PROGRAM INCOME

- = (includes, but not limited to, service fees, use or rental of acquired property, sale of commodities, license fees, or principal and interest on loans)

3.6.3 Program Income Policy

OHCS does not anticipate any program income from its programs; however, the use of CDBG-DR funding may generate program income. If applicable, any program income that is recognized by the unit of general local government, subrecipient or sub-grantee can either be reinvested into existing activities⁴, transferred to a CDBG entitlement community, or transferred to the State's CDBG program administered by Business

³ Section 105(a)(15): assistance to neighborhood-based nonprofit organizations, local development corporations, and nonprofit organizations serving the development needs of the communities in nonentitlement areas, or entities organized under section 301(d) of the Small Business Investment Act of 1958 to carry out a neighborhood revitalization, community economic development, or an energy conservation project.

⁴ If the program income is retained by the unit of general local government or subrecipient to be reinvested into a PIER approved activity, there is no need to go through re-approvals for the use of program income. The activity will need to comply with national objective and MID requirements such that if an activity generates large amounts of program income, OHCS may require funds to be invested into activities that primarily benefit LMI persons.

Oregon. Subrecipients must submit their program income plan to OHCS for review and approval prior to obligating any program income.

OHCS, the units of general local government, and the subrecipients must follow specific guidelines around how to treat and apply program income. These following guidelines must be adhered to:

- Ensure that program income is accounted for and spent in accordance with federal and state requirements.
- Any program income received must be reinvested into eligible activities at the local level.
- Any program income received must be used first to meet immediate cash needs for grant activities, before using grant funding (before additional withdrawals from the U.S. Treasury). Program income must be used for CDBG-DR eligible activities that meet a National Objective and is subject to all cross-cutting federal requirements.
- Program income is subject to CDBG spending caps. Up to five percent of the grant (plus five percent of program income generated by the grant) can be used for administrative costs by the grantee, units of general local government, or subrecipients. Thus, the total of all costs classified as administrative for a CDBG-DR grant must be less than or equal to the five percent cap (plus five percent of program income generated by the grant).

3.6.4 Subrecipient Accounting System

Subrecipients or sub-grantees that receive approval to use program income locally must develop and follow written procedures which explain how they will account for and manage program income and assure OHCS that all federal and state requirements will be met, particularly those relating to eligibility and national objectives.

Subrecipients or sub-grantees must also establish a process to identify and account for program income. It is not necessary to establish a separate bank account, although it could be helpful. A subrecipient may include program income cash in its bank account with other cash, provided its accounting records can adequately distinguish the program income portion of each cash balance.

3.6.5 Subrecipient Reporting

As part of the Quarterly Performance Reporting (QPR), OHCS will require its subrecipients to submit a report certifying that they or their sub-grantees have or have not generated program income. If there is program income reported, the subrecipient will be asked to identify how they plan to treat the program income. If the report is not

received at the time requested, OHCS will consider withholding further draw requests until the subrecipient responds.

The report should include the following:

1. Information about the program income recipient
2. Amount of program income to be reinvested at the local level or turned over to either a CDBG entitlement community or the State's CDBG program. If the program income is turned over, OHCS will require that subrecipients or sub-grantee to pass the program income directly to a CDBG entitlement community or the State's CDBG program administered by Business Oregon.

OHCS will also conduct annual program income assessments with subrecipients to verify that the total amount of gross income received has not passed the \$35,000 threshold. Subrecipients will conduct a similar or equivalent verification process for sub-grantees. For the purpose of tracking program income and "miscellaneous income" the annual reporting period shall begin on July 1 and end on June 30 of each year.

1. At the end of the annual reporting period, if the income does not exceed \$35,000, it is not program income and not subject to the requirements. Subrecipients or sub-grantees shall not expend any income anticipated to be less than \$35,000 until after the end of the applicable annual period.
2. If program income has passed the threshold, a determination must be made on whether the program income will be reinvested at the local level or turned over to either a CDBG entitlement community or the State's CDBG program. The annual assessment may include provision of technical assistance and on-site monitoring of activities and local records by OHCS or the Subrecipient, as appropriate.

When applicable, program income earned and received is reported by OHCS to HUD through HUD's DRGR system. Subrecipients will be required to report on program income to OHCS in a manner that allows OHCS to report to HUD within DRGR, on OHCS provided-forms with instructions. Once receipted into the DRGR system, the DRGR system requires grantees to use program income before drawing additional grant funds.

3.6.6 Treatment of Program Income at Closeout

Program income received before or after closeout of the grant that generated the program income, and used to continue disaster recovery activities, is treated as additional CDBG-DR funds subject to the requirements of the Consolidated Notice. Closeout agreements governing the use of program income will be entered into by the state and subrecipients that have, or expect to receive, program income. Subrecipients are responsible for ensuring a similar or equivalent practice is in place for any sub-grantees for future expected program income. The following rules will apply:

1. OHCS may transfer program income to the State's CDBG program before closeout of the grant that generated the program income or to any annual CDBG-funded activities carried out by a local government within the state.
2. Program income received after closeout of the grant that generated the program income may also be transferred to the State's annual CDBG award.
3. Program income received that is not used to continue the disaster recovery activity will not be subject to the waivers and alternative requirements of the Consolidated Notice. Rather, those funds will be subject to the regular CDBG program rules.
4. Any other transfer of program income not specifically addressed in the Consolidated Notice may be carried out if the grantee first seeks and then receives HUD's approval.

3.6.7 Designating an Organization under 105(a)15

PIER allows subrecipients or sub-grantees to carry out activities under Section 105(a)(15) of the Housing and Community Development Act. Section 105(a)15 provides assistance to neighborhood-based nonprofit organizations, local development corporations, nonprofit organizations serving the development needs of disaster-impacted communities to carry out neighborhood revitalization or community economic development activities.

The process OHCS will follow to designate an entity under 105(a)15 to allow for such activities is described below:

Step 1: Determine the entity selected qualifies as a nonprofit development group under HCDA Section 105(a)(15);

- 1) Can it be established that the organization is considered to be a nonprofit organization serving the development needs of a particular target community?
 - a. Please note: There is nothing to prevent a regional or even a statewide entity from qualifying, on the condition the services provided by the organization in the context of the CDBG-DR program are isolated to a particular target community.
- 2) Does the nonprofit development group have the capacity to carry out complex development activities without substantial involvement from the state grant agency?

Step 2: Determine whether the *project(s)* that the nonprofit development group will undertake qualifies under HCDA Section 105(a)(15). It should fit within one of the definitions listed below:

Neighborhood revitalization: Activities undertaken under this provision must be of sufficient size and scope to have an impact on the decline of a designated geographic location within the jurisdiction of the community. The activities to be considered for this purpose are not limited to those funded (or to be funded) with CDBG assistance.

Community economic development: This type of project must include activities that increase economic opportunity, principally for low- and moderate-income persons, or that are expected to create or retain businesses (including microenterprises) or permanent jobs within the community.

Energy conservation: Activities carried out under this provision are clearly designed to conserve energy for the benefit of residents within the grant recipient's jurisdiction. An example of this type of project may involve the construction of energy efficient housing where substantial savings in heating and/or cooling costs can expect to be realized.

Step 3: Determine that the nonprofit development group will be “*carrying out*” the activities:

- 1) Will the nonprofit development group undertake the activity directly or through contracts with an entity other than the state grant recipient? The litmus test is whether the entity has the authority, independent of the state grant recipient or other involved/related entities, to stop the project if something is going wrong.

Step 4: Determine if the nonprofit development group is *not* carrying out an activity that is specifically ineligible under the CDBG program:

- 1) The documentation from the organization that proves they have been designated as a Community Housing Development Organization (CHDO), Community Development Financial Institution (CDFI), or other designation
- 2) Organization's Mission Statement
- 3) A copy of the organization's bylaws
- 4) Documentation proving their current designation from the IRS of nonprofit status or other status

- 5) Their certificate of incorporation

Step 5: Review and Determination Process:

- 1) OHCS will review and consider the documentation necessary to support the designation of an entity under 105(a)15.
- 2) The determination will be based on the following criteria:
 - a. Are all documents submitted valid?
 - b. Is the entity a community development-based entity?
 - c. If the nonprofit is associated with another entity (governmental or non-governmental entity) can they display their ability to make decisions independently from the other entity?
 - d. Has this entity been designated previously by the state as a 105 (a)15 agency?
 1. If yes, is the entity in good standing with the state?
 2. In previous relations with the state, was the entity able to fulfill all monitoring and reporting goals?
- 3) Once a determination on the designation has been made in a timely manner, the OHCS will notify the requesting entity in writing, and retain a copy in the appropriate program file.

3.6.8 Revolving Loan Funds

A revolving fund is a separate fund (with a set of accounts that are independent of other program accounts) established to carry out specific activities. These activities must generate payments used to support similar activities going forward. These payments to the revolving fund are program income and must be substantially disbursed from the revolving fund before additional grant funds are drawn from the U.S. Treasury for payments that could be funded from the revolving fund.

Such program income is not required to be disbursed for nonrevolving fund activities. A revolving fund established by a CDBG-DR grantee shall not be directly funded or capitalized with CDBG-DR grant funds, pursuant to 24 CFR 570.489(f)(3).

Any revenue (such as loan repayments) paid to a nonprofit development organization and generated by an activity carried out by that nonprofit under HCDA Section

105(a)(15) is not considered to be CDBG program income. The nonprofit organization may use these repayments to carry out activities in line with their organization's mission, by-laws and policies and procedures. If, for example, the organization administers a regional revolving loan fund, the repayments could be used to fund additional loans in communities other than the one to which the state's grant was awarded.

Appendix A

County Allocation Methodology

OHCS assessed the relative infrastructure, small business, and housing damages in each of the eight most impacted and distressed counties (MIDs- Clackamas, Douglas, Jackson, Klamath, Lane, Lincoln, Linn, and Marion), using the best available data as of the second quarter of 2022.

Infrastructure

To assess relative infrastructure damages, OHCS relied on FEMA Public Assistance (PA) Categories C-G data. FEMA PA Categories C-G represent the permanent infrastructure and public facilities work needed to recover from DR-4562, as assessed by FEMA. There are known limitations to this information, as there are infrastructure costs that are ineligible for FEMA PA, including those costs related to deferred maintenance and to upgrade or expand damaged systems to meet current demands.

The FEMA PA data includes figures on the number of damaged sites and the value of the damages of projects eligible under Categories C-G. Additional counties impacted by DR-4562 were eligible for FEMA PA Categories C-G, but the table below is limited to the relative damages across the eight MIDs based on FEMA PA number of sites and value of recovery costs.

| MID County | Factor A | | Factor B | |
|------------|-----------------------------|-----------------------------|------------------------------------|-------------------|
| | # FEMA C-G PA Damaged Sites | % FEMA C-G PA Damaged Sites | Sum of FEMA PA Best Available Cost | % of FEMA PA Cost |
| Clackamas | 21 | 7% | \$ 333,271 | 0% |
| Douglas | 12 | 4% | \$ 890,386 | 1% |
| Jackson | 49 | 16% | \$ 6,178,438 | 8% |
| Klamath | 2 | 1% | \$ 119,941 | 0% |
| Lane | 60 | 20% | \$ 35,625,221 | 45% |

| | | | | |
|----------------------|-----|------|---------------|------|
| Lincoln | 10 | 3% | \$ 232,138 | 0% |
| Linn | 34 | 11% | \$ 8,116,531 | 10% |
| Marion | 109 | 37% | \$ 27,049,247 | 34% |
| Total of MIDs | 297 | 100% | \$ 78,545,172 | 100% |

Housing Damages

To assess relative housing damages, OHCS relied on figures from FEMA IA, local damage assessments, OEM damage assessments, and updated assessments from local governments. The numbers below include single-family, multi-family, and manufactured homes. These figures do not include recreational vehicles or boats and may not include all accessory dwellings or other non-compliant structures that served as a primary residence at the time of the disaster.

| MID County | Factor C | |
|----------------------|----------------------------|--------------------|
| | Damaged or Destroyed Homes | % of Damaged Homes |
| Clackamas | 62 | 1.43% |
| Douglas | 138 | 3.19% |
| Jackson | 2,508 | 57.98% |
| Klamath | 11 | 0.25% |
| Lane | 615 | 14.22% |
| Lincoln | 288 | 6.66% |
| Linn | 71 | 1.64% |
| Marion | 633 | 14.63% |
| Total of MIDs | 4326 | 100% |

Small Business Damages

To assess relative economic damages, OHCS reviewed the number of small business applications to SBA. This includes all applications, regardless of whether they were approved or executed.

| |
|----------|
| Factor D |
|----------|

| MID County | Number SBA Business Applications | Percent of MID SBA Applications |
|----------------------|----------------------------------|---------------------------------|
| Clackamas | 7 | 5.3% |
| Douglas | 6 | 4.5% |
| Jackson | 65 | 48.9% |
| Klamath | 4 | 3.0% |
| Lane | 21 | 15.8% |
| Lincoln | 6 | 4.5% |
| Linn | 6 | 4.5% |
| Marion | 18 | 13.5% |
| Total of MIDs | 133 | 100% |

Mitigation Needs

All impacted counties have significant mitigation needs to address current and future hazards, including, but not necessarily limited to, wildfires, earthquakes, flooding, tsunamis, extreme weather events, and volcanoes. As such and as demonstrated in the table below, the allocation methodology assigns equal weighting to mitigation needs across each of the eight counties.

| MID County | Factor E Mitigation Even Divide Across 8 MIDs |
|----------------------|--|
| Clackamas | 12.5% |
| Douglas | 12.5% |
| Jackson | 12.5% |
| Klamath | 12.5% |
| Lane | 12.5% |
| Lincoln | 12.5% |
| Linn | 12.5% |
| Marion | 12.5% |
| Total of MIDs | 100% |