



ReBUILD NC

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Affordable Housing Development Fund – Round 2 Program Manual

State of North Carolina

For U.S. Department of Housing and Development
CDBG-DR and CDBG-MIT Funds



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Section 312 of the Robert T. Stafford Disaster Assistance and Emergency Relief Act (42 U.S.C. §5155) prohibits any person, business concern, or other entity from receiving financial assistance with respect to any part of a loss resulting from a major disaster for which he has received financial assistance under any other program or from insurance or any other source. In accordance with the Stafford Act, Disaster Recovery funds issued through the Department of Housing and Urban Development's CDBG-DR program may not be used for any costs for which other disaster recovery assistance was previously provided for the same purpose.

Generally, financial assistance received from another source that is provided for the same purpose as the CDBG-DR funds is considered a duplication of benefit.

As mandated by law, all NCORR projects receiving CDBG-DR funding must evidence an analysis of funds potentially received for the same purpose as the intended CDBG-DR grant, otherwise known as a Duplication of Benefits Analysis (DOB). All Partners must submit all funding sources, including FEMA awards and private insurance proceeds, to be analyzed. NCORR conducts an analysis to establish that there is no duplication of benefits.

The total DOB is calculated by subtracting non-duplicative exclusions from total assistance. Calculation of the total maximum amount of the CDBG-DR award is determined after the grantee (1) identifies total need; (2) identifies total assistance; (3) subtracts exclusions from total assistance; and (4) subtracts the amount of the DOB from the amount of the total need to determine the maximum amount of the CDBG-DR award.

Three considerations may change the maximum amount of the CDBG-DR award.

First, the grantee may impose a program cap that limits the amount of assistance an applicant is eligible to receive, which may reduce the potential CDBG-DR assistance available to the applicant.

Second, the grantee may increase the amount of an award if the applicant agrees to repay duplicative assistance it receives in the future (unless prohibited by a statutory order of assistance, as discussed in section V.C.). Section 312(b) of the Stafford Act permits a grantee to provide CDBG-DR assistance to an applicant who is or may be entitled to receive assistance that would be duplicative if: (1) The applicant has not received the other assistance at the time the CDBG-DR grantee makes its award; and (2) the applicant agrees to repay the CDBG-DR grantee for any duplicative assistance once it is received (subrogation). The agreement to repay from future funds may enable a faster recovery in cases when other sources of assistance are delayed (e.g., due to insurance litigation). HUD requires all grantees to enter agreements with applicants that require applicants to repay duplicative assistance before receiving CDBG-DR assistance.

Third, the applicant's CDBG-DR award may increase if a reassessment shows that the applicant has additional unmet need.

8.1 New Construction – Analysis

With the exception of certain Federal Emergency Management Agency grants, FEMA, National Flood Insurance Program (NFIP), Private Flood Insurance proceeds, and Small Business Administration (SBA) Loans are generally not considered to be intended for the purpose of new construction of affordable housing. However, NCORR requires that all developers of new affordable housing funded under this program disclose all sources of funding.

8.2 Repair – Analysis

In instances where the Program identifies critical resiliency needs, information is requested from Program partners to determine if funding was available for the same purpose.

8.3 Potential List of Duplicative Benefits

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

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

NCORR will use documentation supplied by the Applicant/Developer. If an Applicant can provide documentation demonstrating that the insurance proceeds amount provided by the FEMA database includes items not covered in the evaluation or not paid to cover structural loss, NCORR will use the documentation provided by the Applicant to adjust the insurance payout considered in the DOB analysis. The documentation provided by the Applicant must come from the insurance company that issued the payments.

9.0 Public Participation

As the agency administering the ReBuild NC Program, NCORR is committed to furthering fair housing through established affirmative marketing and outreach activities. As a subrecipient of federal CDBG-DR funds, NCORR is required to take steps based on the Fair Housing Act of 1968 to reduce disparities in housing choice, access, and opportunities based on protected class (e.g., race, color, religion, familial status, sex, national origin, or disability). Toward achieving that objective, NCORR will ensure that its outreach, communication, and public engagement efforts are comprehensive in order to reach as many eligible Applicants as possible.

North Carolina's Citizen Participation Plan provides North Carolina citizens with an opportunity to participate in the planning, implementation, and assessment of the State's CDBG-DR recovery program. The Plan sets forth policies and procedures for citizen participation, in accordance with federal regulations, that are designed to maximize the opportunity for citizen involvement in the community development process. The State has attempted to provide all citizens with the opportunity to participate, with particular emphasis on LMI individuals, individuals with limited English proficiency, and individuals requiring special accommodations due to disabilities. The State's Citizen Participation Plan ensures that there is reasonable and timely access for public notice, appraisal, examination, and comment on the activities proposed for use of CDBG-DR grant funds.

The State uses news outlets, print and social media in addition to means such as press releases, posting notices on the North Carolina State Governor's website and/or NCORR's website, to maximize access of program information to the impacted citizens and businesses.

The Citizen Participation Plan can be accessed at:

<https://www.rebuild.nc.gov/media/1550/open>

9.1 Limited English Proficiency

Federal Executive Order 131661 requires NCORR and all satellite offices, programs, subrecipients, contractors, subcontractors, and/or developers funded whole or in part with CDBG-DR financial assistance to ensure fair and meaningful access to programs and services for families and individuals with Limited English Proficiency (LEP) and/or those deaf/hard of hearing.

As the CDBG-DR administrator, NCORR is required to ensure meaningful access to agency services, Programs, and activities for persons who have Limited English Proficiency (LEP). When applicable, NCORR will identify Applicants who have difficulty speaking or reading English and will ensure that the following services are available to them in accordance with the NCORR Language Access Policy:

- Provision of an interpreter who translates to and from the person's primary language.
- Translation of Program documents.

9.2 Accessibility, Reasonable Accommodations and Special Needs

The ReBuild NC Affordable Housing Development Fund Program - Round 2 selected subrecipients will ensure accessibility to persons with special needs and will operate in a manner that does not discriminate or limit access to Program services and benefits to persons with disabilities. Additionally, to ensure that the ReBuild NC Affordable Housing Development Fund Program - Round 2 is operating in compliance with Section 504 requirements of the Rehabilitation Act of 1973 and the Americans with Disabilities Act (ADA), selected subrecipients will be required to assign staff in accordance with its Section 504 Compliance Plan who will:

- Ensure that all facilities where clients will have face-to-face interaction with Program staff are readily accessible and usable by persons with disabilities.
- Appropriately address any identified hearing, visibility, or mobility limitations of the Applicant as required by Section 504 and the Americans with Disabilities Act (ADA).
- Work with a disabled Applicant's designee who has power of attorney or any non-profit organization that is representing the Applicant as needed.

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

In addition, NCORR and its subrecipients will comply Section 508 requirements regarding the accessibility to electronic and information technology for individuals with disabilities. NCORR's Program management vendor assists with ensuring that all public communications, including its ReBuild NC website, meet Section 508 requirements.

9.3 Fair Housing

The Fair Housing Act requires all grantees, partners, subrecipients, and/or developers whose capital projects are wholly or partially funded with federal assistance to certify that no person was excluded from participation in, denied the benefit of, or subjected to discrimination in any housing Program or activity because of their age, race, color, creed, religion, familial status, national origin, sexual orientation, military status, sex, disability, or marital status. NCORR and its contractors shall ensure that no Applicant is treated in any way that does not comply with the federal Fair Housing Act, the Civil Rights requirements of Title I of the Housing and Community Development Act, and the North Carolina Fair Housing Act (Chapter 41A of the North Carolina General Statutes). NCORR has assigned staff who will ensure that:

- ReBuild Programs affirmatively further fair housing;
- Fair Housing complaints are directed to HUD or other appropriate agency; and
- ReBuild Programs are administered in accordance with NCORR's Fair Housing Plan.

10.0 Environmental Review

CDBG-DR funding from HUD is contingent on compliance with the National Environmental Policy Act (NEPA) and related environmental and historic preservation legislation and executive orders. Projects are also subject to State Environmental Quality Review (SEQR). NCORR will assess the knowledge, understanding and capacity of all subrecipients within this Program and will provide any needed technical assistance. NCORR recommends that all potential subrecipients review 24 CFR Part 58 for further details and requirements for compliance. All projects which involve new construction, change of use (as in adaptive reuse projects), or increase the floor area of an existing residential structure by 20% or more must successfully complete an Environmental Assessment (EA) prior to entering into a funding commitment for projects. For projects which involve substantial rehabilitation of existing residential structures, an abbreviated environmental review may be applicable. Pre-

application technical assistance is available to discuss these matters further. All awards will be considered conditional until the environmental review is complete.

An environmental review must be completed for all project activities prior to obligating Program funds. The HUD rules and regulations that govern the environmental review process can be found at 24 CFR Part 58. The provisions of the National Environmental Policy Act (NEPA) and the Council on Environmental Quality (CEQ) regulations in 40 CFR Parts 1500 through 1508 also apply. Other federal and state laws and regulations (some of which are enforced by State agencies) also apply depending upon the type of project and the level of review required.

11.0 Program Administrative Requirements and Cross-Cutting Federal Regulations

NCORR and its beneficiaries, subrecipients and contractors must adhere to federal and state requirements, as applicable, and provide confirmation of compliance upon request. This section provides a summary of the significant and applicable Federal regulations generally applicable to related Program activities.

11.1 Americans with Disabilities Act

The Americans with Disabilities Act of 1990 (ADA) prohibits discrimination and ensures equal opportunity for persons with disabilities in employment, State and local government services, public accommodations, commercial facilities, and transportation. It also mandates the establishment of telecommunications device for the deaf (TDD)/telephone relay services. NCORR takes affirmative steps to ensure that people with disabilities have equal access to the programs offered by NCORR, and that any services are delivered in the most integrated manner possible. Qualified persons with disabilities are informed of the availability of program services and activities, and NCORR's programs or services are readily accessible to, and usable by, individuals with disabilities. NCORR also ensures that reasonable modifications or changes to policies, practices, or procedures are made to guarantee people with disabilities equal access to services and programs. Additionally, all programs and activities are accessible, both structurally and administratively, to persons with disabilities. NCORR's mandate to conform to the requirements of ADA, flows down to all its stakeholders, including subrecipients, vendors and developers.

11.2 Davis-Bacon Labor Standards

The Davis-Bacon Act and Related Acts (DBRA) applies to contractors and subcontractors carrying out federally funded or assisted contracts in excess of \$2,000 for corresponding work on similar projects in the area. In some cases, North Carolina Prevailing Wage Law is in effect. In these cases, the higher prevailing wage rate between the Federal and State must be adhered to and made applicable. For prime contracts in excess of \$100,000, contractors and subcontractors must also, under the provisions of the Contract Work Hours and Safety Standards Act, as amended, pay laborers and mechanics, including guards and watchmen, at least one and one-half times their regular pay for all hours worked over 40 in a work week.

Additionally, NCORR, its subrecipients, and contractors must follow the reporting requirements per HUD and U.S. Department of Labor regulations.

The NCORR Monitoring and Compliance Team ensures that NCORR's CDBG-DR program and services are in compliance with DBRA through the submission of certified payroll records and interviews of prime and subcontractor laborers. NCORR currently utilizes SharePoint to track, review, and monitor weekly payroll submissions by contractors. NCORR will utilize SharePoint or a similar system of record to collect, review and report all regulatory compliance requirements.

11.3 Equal Employment Opportunity

Executive Order 11246, Equal Employment Opportunity, as amended, prohibits federal contractors and federally assisted construction contractors and subcontractors, who do over \$10,000 in government business in one year from discriminating in employment decisions on the basis of race, color, religion, sex, sexual orientation, gender identity or national origin. The Executive Order also requires government contractors to take affirmative action to ensure that equal opportunity is provided in all aspects of their employment.

11.4 Fair Housing

The Fair Housing Act requires all grantees, subrecipients, and/or developers funded in whole or in part with HUD financial assistance for housing related activities to certify that no person was excluded from participation in, denied the benefit of, or subjected to discrimination in any housing program or activity because of their age, race, color, creed, religion, familial status, national origin, sexual orientation, military status, sex, disability, or marital status. For Public Housing projects NCORR enforces the Fair Housing Act by ensuring that all subrecipients, and/or developers meet the applicable Fair Housing and Affirmative Marketing requirements, provide a marketing plan, and report on compliance in accordance with the Fair Housing Act and the associated forms on NCORR's or the RebuildNC.gov website, as applicable. The Affirmative Marketing Plan must be in compliance with applicable Fair Housing Laws and demonstrate how the Applicant or subrecipient will affirmatively further fair housing throughout applicable NCORR disaster recovery programs.

11.5 Fair Labor Standards Act of 1938, as Amended

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

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

- Construction contracts of \$2,000 or less;
 - Real property acquisition;
 - Architectural and engineering fees;
 - Other services (such as legal, accounting, construction management);
 - Other non-construction items (such as furniture, business licenses, real estate taxes);
 - Rehabilitation of residential property designed for fewer than eight families; and
 - Debris removal, demolition, and/or clearance activities, unless related to construction (demolition and clearance as independent functions are not considered construction).
- Contact a NCORR CDBG-DR Labor Specialist for assistance.

11.6 Minority- and/or Women-Owned Business Enterprises

Federal Executive Order 12432 guidelines require selected federal agencies to promote and increase the utilization of Minority-Owned Business Enterprises (MBEs). 2 CFR 200.321 requires the Non-Federal entity to take all necessary steps to ensure that all subrecipients, contractors, subcontractors, and/or developers funded in whole or in part with HUD CDBG-DR financial assistance ensure that contracts and other economic opportunities are directed to small and minority firms, women-owned business enterprises (WBEs), and labor surplus area firms when possible.

North Carolina wants to ensure that public entities utilize M/WBE firms through its HUB program managed at the Division of Administration. As noted in Executive Order 25, Section 5, the HUB program works to incorporate HUD's programmatic requirements into contracting opportunities. As such, NCORR ensures compliance with these goals by requiring, as applicable, subrecipients and contractors to make best efforts to achieve the overall M/WBE participation goal that the State has set for the entire contract value.

For all projects and agreements, NCORR will be required to make best efforts to achieve an overall M/WBE participation goal of 10% of the entire contract, per Executive Order 25. NCORR verifies with DOA HUB the M/WBE certification, and that MCG monitors to ensure compliance with all reporting requirements through SharePoint M/WBE

For all Community Development projects, the NCORR Monitoring and Compliance Team works with applicants and subrecipients to provide the TA, guidance, and one-on-one support, required to implement good faith efforts and meet applicable M/WBE thresholds. The NCORR Monitoring and Compliance Team monitors the level of M/WBE utilization and provides additional support as required.

11.7 Section 3

Section 3 of the Housing and Urban Development Act of 1968 requires that grantees, subgrantees, subrecipients, contractors, subcontractors, and/or developers funded in whole or in part by CDBG-DR funding, to the greatest extent feasible, extend hiring opportunities and contracts to Section 3 eligible residents and businesses. The new Final Rule for Section 3 was

adopted in November 2020 and is found at 24 CFR Part 75. For those entities that receive more than \$200,000 in HUD CDBG-DR assistance (24 CFR 75.3(a)) NCORR requires that an approved Section 3 plan be in place before the project is awarded and approved.

The final rule defines Section 3 workers as any worker who's:

- Income for the previous or annualized calendar year is below the income limit established by HUD;
- Employed by a Section 3 business concern; or
- A YouthBuild participant.

The final rule further defines Targeted Section 3 workers, for public housing financial assistance, as a Section 3 worker who is also:

- A worker employed by a Section 3 business concern; or
- A worker who currently is, or who was when hired, as documented within the past five years:
 - A resident of public housing or Section 8-assisted housing;
 - A resident of other public housing projects or Section 8-assisted housing managed by the public housing authority that is expending assistance; or
 - A YouthBuild participant.

HUD has established Safe Harbor compliance and grantees and subrecipients will be considered to have complied with the Section 3 requirements and met the safe harbor, in the absence of evidence to the contrary, if they certify that they have followed the required prioritization of effort and met or exceeded the applicable Section 3 benchmarks.

If a grantee and/or subrecipient does not meet the benchmark requirements but can provide evidence that they have made qualitative efforts to assist low- and very low-income persons with employment and training opportunities, the subrecipient is considered to be in compliance with Section 3, absent evidence to the contrary (i.e., evidence or findings obtained from a Section 3 compliance review).

On a quarterly basis, the Monitoring and Compliance Team reviews and tracks quarterly reports as well as calculates utilization rates. The Team informs the NCORR Community Development staff of outstanding quarterly reports and of current utilization rates.

Subrecipients of financial assistance must report annually and periodically as requested:

- The total number of labor hours worked.
- The total number of labor hours worked by Section 3 workers.
- The total number of labor hours worked by Targeted Section 3 workers.

The NCORR Monitoring and Compliance Team may also provide training, TA, and one-on-one support for all projects, especially in terms of developing and reviewing Section 3 plans, as well as implementing best efforts to meet Section 3 goals. The Monitoring and Compliance Team also reviews Section 3 goal attainment and provides additional on the ground support where required.

For the ReBuild NC Affordable Housing Development Fund Program - Round 2, projects are required to meet Section 3 requirements as shown above. Section 3 goals and objectives are set depending on the date of completion of each project and project bid dates. NCORR staff ensures that Section 3 objectives are addressed through direct TA with individual applicants and file reviews of projects.

11.8 Appeal

An appeal is defined as a formalized written request by an applicant or tenant, as applicable, asking for a reversal or revision of a program determination that affects their eligibility and/or assistance they may receive from the ReBuild NC program. This policy refers to applicants to a ReBuild NC program and includes those persons actively applying to or participating in any ReBuild NC program or individuals empowered to act on an applicant's behalf. It also applies to persons who may be relocated involuntarily, either temporarily or permanently, due to the activities of a federally funded ReBuild NC program; such persons are referred to here as tenants.

Applicants and tenants may submit a written appeal related to any determination made by a ReBuild NC program that affects their eligibility or assistance they may receive, except in cases of potential fraud, recapture, or revocation of assistance, as determined by NCORR. Additional information about NCORR's Appeals Policy Manual is located at [Appeals Policy Manual \(nc.gov\)](#).

11.9 Uniform Relocation Act and Real Property Acquisition

11.9.1 Residential Anti-Displacement

NCORR, and all subrecipients must follow a Residential Anti-Displacement Policy. The policy can be accessed in Appendix A of the NCORR Uniform Relocation Act (URA) Policy Manual here:

<https://www.rebuild.nc.gov/media/1560/open>

Subrecipients or contractors must provide the following benefits to households or businesses that they displace:

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

In order to carry out Program activities in compliance with URA requirements, NCORR has adopted the *Uniform Relocation Act (URA) Policy Manual*. This document provides program staff and contractors with Standard Operating Procedures to meet URA requirements for the temporary and permanent displacement of tenants. The document can be accessed here: <https://www.rebuild.nc.gov/media/1560/open>.

11.9.2 Real Property

If CDBG-DR funds are used to acquire real property, NCORR ensures that the property continues to be used for its intended (and approved) purpose, proper records are maintained to keep track of it, steps are taken to protect and maintain it, and that if the property is sold, NCORR is reimbursed for the CDBG-DR share of the property's value.

This approach to the ownership, use, management, and disposition of property is complicated by two facts. First, the rules about property management and disposition differ slightly depending on whether a grantee is a public-sector subrecipient (the rules are generally more explicit for governmental grantees) or a private-sector subrecipient. Second, real property (e.g., land, buildings) is treated differently than personal property, as required in 2 CFR 200.

The federal requirements relating to real property are organized according to title (ownership), use, and disposition. In general, the property management system must provide for accurate records, the performance of regular inventories, adequate maintenance and control and proper sales procedures. Grantees must follow sales procedures that provide for competition, to the extent practicable, and that result in the highest possible return. For the sale of property owned by local governments, competitive disposal procedures are required under Article 12 of Chapter 160A of the North Carolina General Statutes, and generally include public notice of the intended sale, price competition, contract award to the highest responsive, responsible bidder, and governing board approval of the conveyance.

11.9.3 Acquisition of Real Property

Upon notification of permission from NCORR, the subrecipient may proceed with efforts to acquire any real property, including easements and rights-of-way, required for the project. CDBG-DR federal funds, administered by NCORR and disbursed to subrecipients and direct contractors and/or beneficiaries, are subject to the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (Uniform Act or URA) and/or Section 104(d) of the Housing and Community Development Act of 1974 as waived by (81 FR 83254) and (82 FR 5591). The applicable federal regulations are located at 49 CFR Part 24 (URA), and in the Real Estate Acquisition and Relocation Policy and Guidance Handbook (HUD Handbook 1378).

A purchase option agreement on a proposed site or property prior to the completion of the environmental review is allowed if certain actions have been taken ahead of time: 1) the option agreement must be subject to a determination by the subrecipient on the desirability of the property for the project; 2) an environmental review must have been completed; and, 3) the cost of the option must be a nominal portion of the purchase price. Prior to advertising for bids, the subrecipient must have obtained all lands, rights-of-way and easements necessary for carrying out the project. More detailed information regarding real property acquisition follows below.

For the purposes of this manual, "property to be acquired" refers to any kind of permanent interest such as fee simple title, land contracts, permanent easements, long-term leases (20 years or more), and rights-of-way. Temporary easements are also subject

- Proves necessary to the overall operation of the organization, even though a direct relationship to any particular program activity cannot be readily shown (i.e., indirect costs)

The cost may benefit both the funded program activities and other activities, in which case it must be assigned to the respective activities in reasonable proportion to the benefits received.

11.10.3.3 Allowable

To be allowable, a cost must meet all of the following requirements:

- Included within the description of eligible activities in the applicable HUD regulations
- Incurred directly or indirectly for the benefit of an eligible HUD client
- Comply with any limitations or exclusions set forth in these principles or as specified in the HUD grant award process (and codified in the grant agreement)
- Be treated consistently, determined in accordance with generally accepted accounting principles (GAAP) and documented adequately
- Determined to be necessary, reasonable, allocable to the HUD grant, and otherwise in conformance with the general criteria for allowable costs set forth in 2 CFR 200 Subpart E.
- Not be included as a cost or used to meet cost sharing or matching requirements of any other federally financed program in the current year or prior periods.

11.11 CLOSEOUT

Closeout is undertaken by the Program once the final project closeout checklists are completed. The project closeout is the process by which NCORR determines that all requirements of the agreement between NCORR and the Subrecipient for a specific project have been completed in accordance with the terms and conditions of the agreement. Project closeout begins when:

- All project expenses (including those to be paid with non-CDBG-DR funds) to be paid have been completed and payment requested;
- Approved work has been finished;
- Any other responsibilities detailed in the Subrecipient Agreement (SRA) have been fulfilled; and
- All monitoring or audit findings have been cleared.

Project closeout consists of:

- A closeout request, with applicable project documents attached, submitted to NCORR by the partner;
- A project closeout checklist completed and approved by the Program and other departments within NCORR; and
- A project closeout letter sent to the partner and to NCORR departments.

In addition, the project's status must be updated in HUD's Disaster Recovery Grant Reporting (DRGR) system, and a final HUD quarterly narrative report must be submitted by NCORR to reflect the project's status. For projects financed by NCORR's CDBG-DR funds as well as other funds,

project closeout occurs when all funds are spent and every dollar of NCORR's CDBG-DR is associated with a National Objective.

11.12 Insurance and Property Management

For all projects in the ReBuild NC Affordable Housing Development Fund Program - Round 2, all subrecipients must procure and maintain insurance for the duration of the subrecipient agreement to protect all contract assets from loss due to any cause, such as theft, fraud, and physical damage. If CDBG-DR funds are used to acquire real property or personal property, the subrecipient is responsible for ensuring that:

- The property continues to be used for its intended (and approved) purpose; and
- The subrecipient keeps track of, and takes care of, the property.

Applicants must follow and comply with HUD requirements. At a minimum, subrecipients must comply with the bonding requirements at 2 CFR 200.325, as applicable, and with the requirements of their subrecipient agreement.

NCORR subrecipient agreements require that subrecipients incorporate all necessary terms and conditions in any contract entered into under the subrecipient agreement. The terms and conditions require that any contractor providing services to a NCORR subrecipient must obtain and maintain certain types and amounts of insurance coverage. The terms and conditions also provide that NCORR may waive, decrease, alter, or amend these insurance requirements in writing. It is typically the responsibility of NCORR's Chief Financial Officer to approve a waiver or alteration of insurance requirements.

11.13 Recordkeeping, Retention and File Management

In accordance with HUD regulations, NCORR follows the records retention requirements cited in 2 CFR 200, which includes financial records, supporting documents, statistical records, and all other pertinent records. The subrecipient must retain all financial records, supporting documents, statistical records, and all other records pertinent to the Agreement for three (3) years from the time of closeout of HUD's grant to the State or for the period provided in the CDBG regulations at 2 CFR 200.333. Notwithstanding the above, if there is litigation, claims, audits, negotiations, or other actions that involve any of the records cited and that have started before the expiration of the retention period, then all such records must be retained until completion of the actions and resolution of all issues, or the retention period, whichever occurs later.

Every subrecipient and contractor is required to establish and maintain at least three major categories of records: Administrative, Financial, and Project/Case Files.

11.13.1 Administrative Records

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

- a. Personnel files;
- b. Property management files;

- c. General program files: Files relating to the subgrantee, subrecipient's, or contractor's project
- d. Information form to NCORR, the subrecipient agreement, program policies and guidelines,
- e. Correspondence with NCORR and reports, etc.; and
- f. Legal files: Articles of incorporation, bylaws of the organization, tax status, board minutes,
- g. Contracts and other agreements.

11.13.2 Financial Records

These include the chart of accounts, a manual on accounting procedures, accounting journals and ledgers, source documentation (purchase orders, invoices, canceled checks, etc.), procurement files, bank account records, financial reports, audit files, etc.

11.13.3 Project/Case Files

These files document the activities undertaken with respect to specific individual beneficiaries, property owners, and/or properties.

11.13.4 Reporting

As a subrecipient of CDBG-DR funds, NCORR has established reporting requirements for all subrecipients and contractors in their respective subrecipient and contractor agreements and contracts in accordance with 2 CFR 200. The Program reviews reporting requirements for stand-alone affordable housing projects at five different intervals, as applicable:

1. At execution of agreements;
2. Monthly;
3. Quarterly;
4. Annually; and
5. As required.

Subrecipients and contractors submit the required documents and reports to the State at the times indicated in the subrecipient agreement, and in the format prescribed by the Program staff. Deviations from this requirement must be pre-approved by program staff.

NCORR's ReBuild NC Affordable Housing Development Fund Program - Round 2 will review reports for projects that are ongoing according to HUD reporting requirements. At the discretion of the NCORR Housing Opportunities Manager, large projects may instead follow the reporting requirements for stand-alone projects as described above.

11.13.5 Record Retention

Record retention is a requirement of the Program. Records are maintained to document compliance with Program requirements and Federal, State, and local regulations and to facilitate a review or audit by HUD. Records are maintained in accordance with Section 2.9.15. The NCORR Records Management Program seeks to ensure that:

- NCORR complies with all requirements concerning records and records management practices under federal and state regulations;
- NCORR has the records it needs to support and enhance ongoing business and citizen service, meet accountability requirements and community expectations;

- These records are managed efficiently and can be easily accessed and used for as long as they are required; and
- These records are stored as cost-effectively as possible and when no longer required they are disposed of in a timely and efficient manner.

11.13.6 Access to Records

24 CFR 570.490 Recordkeeping requirements:

“(c) Access to records.

(1) Representatives of HUD, the Inspector General, and the General Accounting Office shall have access to all books, accounts, records, reports, files, and other papers, or property pertaining to the administration, receipt, and use of CDBG funds and necessary to facilitate such reviews and audits.

(2) The State shall provide citizens with reasonable access to records regarding the past use of CDBG funds and ensure that units of general local government provide citizens with reasonable access to records regarding the past use of CDBG funds consistent with State or local requirements concerning the privacy of personal records.”

The availability of records is subject to the exemptions to public disclosure set forth in North Carolina Public Records Law. All Freedom of Information Act (FOIA) requests must be made in writing to NCORR and will be processed in accordance with these procedures.

11.14 Audit Trail

All records defined by the organization as important are captured in NCORR’s System of Record so they can be appropriately managed. The system of record contains both grantee and project level files, providing immediate tracking and imaging of Program documentation, including but not limited to, project selection, development and implementation activities, subrecipient agreements and other agreements, financial management and citizen participation data, ensuring data security and oversight creating a clear audit trail of the Programs. The system also includes all M/WBE, Section 3 and Labor compliance (Davis-Bacon) report submissions from NCORR subrecipients and direct contractors.

All applicant data is secured in the system for a specified period of time in accordance with the current Record Retention and Disposition Schedule.

Recordkeeping, including scanning, uploading to NCORR’s management information system, and filing of pertinent Program documentation retention policies, provides an electronic record of activities so that documentation is accessible for audit purposes. Auditors and other parties can request physical, paper copies as needed.

Data security measures are in place to protect non-public personal information. This includes hardware and software data security protocols and contractors having signed non-disclosure agreements. NCORR also requires that hard copy files containing non-public personal information

are kept in locked file cabinets to ensure their physical security and passes this requirement onto subrecipients as well.

11.14.1 Audit Requirements

In accordance with Subpart F of 2 CFR 200, non-Federal entities⁸ that expend \$750,000 or more during their fiscal year in Federal awards must have a single or program-specific audit conducted for that year in accordance with the provisions therein. NCORR’s Monitoring and Compliance Team is responsible for conducting reviews of these single or program-specific audit reports and for coordinating the issuance of management decisions for audit findings relating to NCORR-provided Federal funds.

11.14.2 Conflicts of Interest and Confidentiality

Conflicts of interest between covered persons (e.g., applicants, subrecipients, program administrator, contractors, and program staff) and other parties are strictly prohibited by Federal law.

A “covered person” is an employee, agent, consultant, officer, or elected official or appointed official of the State, or of a unit of general local government, or any designated public agencies, or subrecipients that are receiving CDBG-DR funds. Generally, no person who is a covered person, and who exercises or has exercised any functions or responsibilities with respect to CDBG-DR activities and who are in a position to participate in a decision making process or gain inside information with regard to such activities, may obtain a financial interest or benefit from the activity, or have an interest in any contract, subcontract or agreement with respect thereto, or the proceeds thereunder, either for themselves or those with whom they have family or business ties, during their tenure or for one year thereafter.

The conflict of interest regulations contained in the contract between the subrecipient and the State prohibit locally elected officials, state staff, subrecipient employees, and consultants who exercise functions with respect to CDBG-DR activities or who are in a position to participate in a decision-making process or gain inside information with regard to such activities, from receiving any benefit from the activity either for themselves or for those with whom they have family or business ties, during their tenure or for one year thereafter.

11.14.2.1 Conflicts of Interest

The Program requires all program staff to disclose any relationship with an Applicant or contractor. NCORR staff, subrecipients, program administrators, and contractors who disclose such relationships are placed in roles where there is no opportunity for them to display favoritism or collude in order to financially or otherwise benefit themselves, the Applicant, or the contractor. For example, a customer representative may not perform work on the project information form of family. For purposes of this regulation, “family” is defined at 24 CFR 570.489(h).

NCORR may consider granting an exception to the conflict of interest provisions per 24 CFR 570.489(h)(4) if NCORR has determined that the subrecipient has adequately and publicly addressed all of the concerns generated by the conflict of interest and that an exception would serve to further the purposes of Title I of the Housing and Community

Development Act of 1974, as amended and the subrecipient has complied with the requirements listed in 24 CFR 570.489(h)(4)(i) and (ii).

NCORR considers whether the exception provides a significant cost benefit or essential degree of expertise; whether the opportunity was provided for under open competitive bidding or negotiation; whether the person affected is LMI, whether the affected person has withdrawn from his or her functions or responsibilities; whether the interest or benefit was present before the affected person was in a position to benefit from the conflict of interest; or whether undue hardship results from failure to grant the exception. In addition, NCORR will take into account conflict of interest prohibitions under state law, including the prohibition against self-benefiting under a public contract (G.S. 14-243) and misuse of nonpublic information for private financial gain (G.S. 14-234.1).

11.14.2.2 Confidentiality/Privacy

The NCORR Affordable Housing Development Fund Program – Round 2 is committed to protecting the privacy of all individual stakeholders, including the public and those individuals working on the Program. The Program’s policies describe how information is to be handled and protected. The purpose of this privacy policy is to establish when and under what conditions certain information relating to individuals may be disclosed.

The data collected from applicants for the Affordable Housing Development Fund Program – Round 2 may contain personal information on individuals that is covered by the Federal Privacy Act of 1974 and North Carolina state laws. These laws provide for confidentiality and restrict the disclosure of confidential and personal information. Unauthorized disclosure of such personal information may result in personal liability with civil and criminal penalties. The information collected may only be used for limited official purposes:

1. Program staff may use personal information throughout the award process to ensure compliance with program requirements, reduce errors and mitigate fraud and abuse.
2. Independent Auditors, when hired by the program to perform a financial or programmatic audit of the program, for use in determining program compliance with all applicable HUD and Federal regulations, including the Stafford Act, CDBG-DR requirements and State and Local law.
3. NCORR may disclose personal information on an Applicant to those with official Power of Attorney for the Applicant or for whom the Applicant has provided written consent to do so.
4. Organizations assisting the State in executing the CDBG-DR Program must comply with all Federal and State Law Enforcement and Auditing requests. This includes, but is not limited to, HUD, FEMA, FBI, and the Office of the Inspector General.

12.0 Acronyms and Definitions

12.1 Acronyms

Acronym	Name
A/E	Architecture/Engineering
ADA	Americans with Disabilities Act
AMI	Area Median Income
CDBG-DR	Community Development Block Grant – Disaster Recovery
CEQ	U.S. Council on Environmental Quality
CFR	U.S. Code of Federal Regulations
DBRA	Davis Bacon and Related Acts
DOA	North Carolina Division of Administration
DOB	Duplication of Benefits or Duplication of Benefits Analysis
DRGR	Disaster Recovery Grant Reporting System
EA	Environmental Assessment
EPA	Environmental Protection Agency
ERR	Environmental Review Record
FBI	Federal Bureau of Investigation
FEMA	Federal Emergency Management Agency
FLSA	Fair Labor Standards Act of 1938
FR	Federal Register (Notice)
G.S.	North Carolina General Statutes
HUB	Historically Underutilized Businesses (program), N.C. DOA
HUD	U.S. Department of Housing and Urban Development
HUSM	HUD Utility Schedule Model
ICC-700-2020	National Green Building Standard (published by International Code Council)
LEED	Leadership in Energy and Environmental Design – green building certification
LEP	Limited English Proficiency
LIHTC	Low Income Housing Tax Credit
LMH	Low/Moderate Housing
LMI	Low/Moderate Income
LURA	Land Use Restriction Agreement
M/WBE	Minority/Women-Owned Business Enterprise
MBE	Minority-Owned Business Enterprise
MID	Most Impacted and Distressed
NCDPS	North Carolina Department of Public Safety

NCHFA	North Carolina Housing Finance Agency
NCORR	North Carolina Office of Recovery and Resiliency
NEPA	National Environmental Policy Act
NFIP	National Flood Insurance Program
NOFA	Notice of Funding Availability
QAP	Qualified Allocation Plan
SBA	U.S. Small Business Administration
SEQR	North Carolina State Environmental Quality Review
TA	Technical Assistance
UGLG	Unit of General Local Government
URA	U.S. Uniform Relocation Act
WBE	Women-Owned Business Enterprise

12.2 Definitions

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

Affordability Period - The ensure that the CDBG-DR investment in rental properties yields affordable rental housing, NCORR is imposing rent and occupancy requirements over the length of a compliance period, known as the Affordability Period. All NCORR-assisted rental units must be restricted during the Affordability Period for LMI persons/households.

Applicant – Any entity that submits an application for assistance to the NCORR ReBuild NC Affordable Housing Development Fund Program.

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

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

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

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

and new construction of residential property only if such property contains not less than eight (8) units.

Demolition – The planned razing, or tearing down, of properties acquired under the Program. Demolition will be followed by clearance and safe disposal of the remnants of the former structure.

Developer – Developer is defined by HUD as “[a] for-profit or private nonprofit individual or entity that the grantee provides HUD assistance for the purpose of (1) acquiring homes and residential properties to rehabilitate for use or resale for residential purposes and (2) constructing new housing in connection with redevelopment of demolished or vacant properties.”

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

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

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

Family - A household composed of two or more related persons. The term “family” also includes one or more eligible persons living with another person or persons who are determined to be important to their care or well-being.

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

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

Federal Register - The official journal of the Federal government of the United States that contains government agency rules, proposed rules, and public notices. It is published daily, except on

federal holidays. A Federal Register Notice (FRN) is issued for each CDBG-DR funded disaster. The FRN outlines the rules that apply to each allocation of disaster funding.

Flood Hazard Area - Areas designated by FEMA as having risk of flooding.

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

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

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

Green Building Standards - All construction-related activity that meets the definition of substantial improvement, reconstruction, or new construction must meet an industry-recognized standard that has achieved certification under at least one of the following programs: (1) ENERGY STAR (Certified Homes or Multifamily High-Rise), (2) LEED (New Construction, Homes, Midrise, Existing Buildings Operations and Maintenance, or Neighborhood Development), (3) ICC-700-2020 National Green Building Standard.

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

Household Income - The anticipated gross amount of income from all sources for all adult household members during the upcoming twelve (12) month period in accordance with the definition of annual (gross) income at 24 CFR Part 5.

HUD - United States Department of Housing and Urban Development.

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

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

- **Extremely Low:** Household’s annual income is up to 30% of the area median family income, as determined by HUD, adjusted for family size.
- **Very Low:** Household’s annual income is between 31% and 50% of the area median family income, as determined by HUD, adjusted for family size.
- **Low:** Household’s annual income is between 51% and 80% of the area median family income, as determined by HUD, adjusted for family size.
- **Moderate:** Household’s annual income is between 81% and 120% of the area median family income, as determined by HUD, adjusted for family size.

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

Low Income Housing Tax Credits (LIHTC) – The LIHTC Program is an indirect Federal subsidy used to finance the development of affordable rental housing for low-income households.

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

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

National Flood Insurance Program (NFIP) – The National Flood Insurance Program (NFIP) is managed by the Federal Emergency Management Agency and is delivered to the public by a network of approximately 60 insurance companies and the [NFIP Direct](#). The NFIP provides flood insurance to property owners, renters, and businesses.

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

Notice of Funding Availability (NOFA) – A notice describing the type and amount of funding available on a competitive basis that provides information regarding how to apply, when to apply, and where to submit requests for funding.

Partner – Various entities will be responsible for implementing program activities. The term Partner is used throughout to denote the relationship between NCORR and entities like subrecipients and developers.

Qualified Allocation Plan (QAP) – Details the selection criteria and application requirements for Housing Credits and tax-exempt bonds. It lists all deadlines, application fees, restrictions, standards, and requirements for rental developers to be eligible for funding under the applicable plan. In North Carolina, QAPs are issued by NCHFA.

Special Flood Hazard Area (SFHA) –An area identified by FEMA as an area with a special flood or mudflow, and/or flood related erosion hazard, as shown on a flood hazard boundary map or flood insurance rate map.

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

Subrogation – The process by which duplicative assistance paid to the Partner after receiving award are remitted to the Program to rectify a duplication of benefits.

Uniform Relocation Act (URA) – A federal law that applies to all acquisitions of real property or displacements of persons resulting from federal or federally assisted programs or projects. URA’s objective is to provide uniform, fair, and equitable treatment of persons whose real property is acquired or who are displaced in connection with federally funded projects.

U.S. Department of Housing and Urban Development (HUD) – Federal department through which Program funds are distributed to grantees.