STATE OF NEW JERSEY
DEPARTMENT OF COMMUNITY AFFAIRS
DIVISION OF DISASTER RECOVERY AND MITIGATION

SUBJECT: Smart Move Program Phase I: Single-Family New Construction

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DCA-DRM

APPROVAL: ______________________
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OVERVIEW

The Smart Move Program is funded by Community Development Block Grant – Disaster Recovery ("CDBG-DR") funding to support long-term recovery and mitigation efforts following Hurricane Ida (DR-4614).

Smart Move is a pilot program designed to subsidize the development of quality, energy-efficient, resilient, and affordable single-family homes for owner-occupants in lower-risk areas near disaster-impacted communities. These areas participate in the Blue Acres buyout program or other buyout initiatives backed by various sources.

The program aims to provide safe housing for residents relocating from high-risk properties, enabling them to remain in or near their communities after selling their homes. It also offers first-time homebuyer opportunities for eligible households. Priority will be given to qualified primary residential occupants who sold their high-risk owner-occupied homes through a buyout program.

Smart Move Program Phase I: Single-Family New Construction

Policy

6-26-2026

DIVISION OF
Disaster Recovery
& Mitigation

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Version History and Version Policy

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

The State 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 edits or clarifications of existing policy that do not affect the interpretation or applicability of the policy, the State will publish a version of the document with a sequential number appended to the primary version number, such as 2.1, 2.2, etc.

Amendments to policy may take effect on the date of the revision or be applied retroactively, depending on the pipeline and the 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		Smart Move Program Phase I Single-Family New Construction Policy Manual
2.0	8/1/2024	Revised policy to a developer-led model.
3.0	6/26/2026	• Updated program deadlines to reference NOFA. • Updated environmental review tasks for developers. • Updated prioritization criteria for initial applicants. • Added language addressing involuntary acquisitions. • Added language regarding market-rate units. • Added a new section on the Subrogation Agreement. • Added a new section on Program Design Standards. • Added a new section on Withdrawn Projects. • Revised retainage requirements from 10% of each payment to 10% of the total award.

1 PROGRAM OVERVIEW

1.1 Introduction

Hurricane Ida occurred from September 1 through September 3, 2021, bringing lashing winds and torrential rains that caused powerful flash flooding and left a path of devastation, destroying homes and small businesses across many counties throughout the State of New Jersey. Consequently, the magnitude of destruction to homes, businesses, and public infrastructure prompted HUD to make an initial award in May of 2022 (FRN 87 FR 31636) to the State of New Jersey, through the New Jersey Department of Community Affairs (DCA), $228,346,000 in Community Development Block Grant – Disaster Recovery (CDBG-DR) funding to support long-term recovery and mitigation efforts following Hurricane Ida (DR-4614). HUD increased the award by $149,229,000 in January 2023 (88 FR 3198), bringing the total CDBG-DR award to $377,575,000.

To determine the areas eligible for financial assistance, the U.S. Department of Housing and Urban Development (HUD) designated Most Impacted and Distressed (MID) areas; in addition, the State was permitted to designate MIDs that may not have already been identified by HUD. The following counties are identified as HUD or State Designated Most Impacted and Distressed (MID) areas. Recovery efforts under this Program will exclusively target these counties for use of this CDBG-DR funding:

- **HUD-identified MID counties:** Bergen, Essex, Hudson, Middlesex, Passaic, Somerset, and Union.
- **State-identified MID counties:** Gloucester, Hunterdon, Mercer, Morris, and Warren.

The nature of the CDBG-DR funding is designed to address the needs that remain after all other forms of assistance have been exhausted; while the current funding levels are significant, unfortunately, the known and quantifiable needs still surpass the levels of funding. As a result, DCA has evaluated the collective need and determined how to strategically prioritize the use of CDBG-DR resources to bridge the disparity to provide relief most efficiently and effectively to the MIDs.

The purpose of this policy manual (policy) is to provide guidance for those who are participating in the Smart Move Program (Program) including but not limited to: developers, DCA employees, vendors, contractors, consultants, partners, citizens, external departments, and agencies doing business with DCA, as well as beneficiaries and others associated with, working for, accessing, or applying for benefits or assistance under the Program. To understand all provisions of the Program, it is recommended that this document be read in its entirety and that any inquiries be directed to Program representatives for assistance. In addition to this document, DCA will publish FAQs, fact sheets, Program checklists, and other documents to assist with Program administration and participation.

1.2 Program Description

Smart Move is a pilot program that will subsidize the development of quality, energy-efficient, resilient, and affordable single-family, owner-occupied housing in lower-risk areas within or near disaster-impacted communities participating in Blue Acres or other buyout programs supported by different funding sources. The Program will provide safe housing for relocating residents so they may stay in or near their communities after selling their high-risk properties and first-time homebuyer opportunities for eligible households. The qualified primary residential occupants who sold their high-risk owner-occupied homes through a buyout program will be prioritized.

Alternative resilient and green energy solutions may be incorporated into the development, including, but not limited to, fuel cells, solar farms, microgrids, and other innovative green technologies. The Program will adhere to HUD's Green and Resilient Building Standards, which require new construction to meet an industry-recognized green building standard that has achieved certification and a minimum energy efficiency standard. The standards prescribed by the Program will be discussed in Section 5.3 of this policy.

The new developments will be built outside the 500-year floodplain and the inland or coastal climate adjusted floodplain, as defined by the State of New Jersey Department of Environmental Protection (DEP).

During the initial round of applications in late 2023, the Program solicited proposals from local units of government. However, the two applications received did not meet the established criteria. Consequently, the Program has transitioned to a developer-led model to enhance efficiency and effectiveness. The original applications remain under consideration for funding, with increased responsibilities assumed by the developer and DCA.

1.3 Purpose and Scope

The purpose of the Program is to promote housing recovery and create affordable homeownership opportunities that foster the long-term sustainability of communities by building resilient housing less susceptible to damage and destruction from natural disasters. The Program will be funded with a total of $50 million from CDBG-DR funding resulting from Hurricane Ida to develop and construct new housing units.

Eligible developers may submit housing development proposals for sites within the MID-identified counties. If necessary, developers may also submit proposals for the sites identified during the initial application round. The Program reserves the right to limit the number of projects selected based on the available amount of funding. The application process will aim to allocate projects to ensure geographic distribution of housing and avoid concentrating low-income housing in a specific locale.

The premise of the Program is to creatively and intelligently use CDBG-DR funds to assist individuals whose homes were destroyed; individuals who were displaced and can no longer return to their previous residences because of a continued and/or increased threat of loss due to its location and proximity to high-risk flood areas; and/or first-time homebuyers. The Program will:

- Meet the Low- and Moderate-Income (LMI) national objective using the Low and Moderate Housing (LMH) strategy to create affordable homeownership opportunities for households impacted and/or displaced because of the disaster(s).
- The Program will also meet the Urgent Need (UN) national objective by targeting households earning between 81–120% of Area Median Income (AMI), thereby expanding access to moderate-income buyers and ensuring mixed-income communities.
- Prioritize impacted individuals/households who were homeowners prior to the disaster and participating in the Blue Acres Buyout Program or other buyout programs.
- Disburse funds in the most impacted areas to address unmet needs based upon unmet needs assessment.
- Replace the housing stock damaged or destroyed in the affected areas, where possible; in areas where replacement is not possible, create housing in more sustainable and resilient areas.
- Increase the number and quality of affordable housing units.
- Increase sustainability, energy efficiency, affordability, and resiliency of housing stock.
- Implement innovative design and development typologies, where possible.
- Reduce or eliminate the long-term risk of loss of life, injury, damage to and loss of property, and suffering and hardship by removing residents from areas at high risk of flooding.

1.4 Funding Sources

1.4.1 Tropical Storm Ida CDBG-DR

The funding for the Program is provided through HUD's CDBG-DR Program, as appropriated by Congress in the Disaster Relief Supplemental Appropriations Act of 2022, Public Law 117-43, and the Continuing Appropriation and Ukraine Supplemental Appropriations Act, 2023, Public Law 117-180. CDBG-DR grants are authorized under Title I of the Housing and Community Development Act of 1974 (HCDA) for necessary expenses related to disaster relief, long-term recovery, restoration of infrastructure and housing, and economic revitalization in the most impacted and distressed areas resulting from a major disaster.

On September 30, 2021, President Biden signed Public Law 117-43 directing $5 billion to the U.S. Department of Housing and Urban Development for recovery from disasters in 2020 and 2021, which HUD subsequently allocated $228.346 million to the State of New Jersey as a result of Hurricane Ida that impacted the state from September 1-3, 2021. Alternative requirements and waivers for the use of CDBG-DR funds are published in the applicable Federal Registers, including 87 FR 31636. Subsequently, after the execution of Public Law 17-180, an additional

$2,000,000,000 was appropriated by Congress to supplement this disaster relief, of which $149,229,000 was allocated to the State of New Jersey in 88 FR 3198, for a total CDBG-DR award amount of $377,575,000 at the time this Program was developed.

1.4.2 Interchangeability of CDBG-DR

Interchangeability of Disaster Funds

At any time, DCA may elect to utilize funds resulting from Hurricane Sandy for the Program. Should this occur, the funds will be used interchangeably, and DCA will ensure it complies with the proper rules and requirements as prescribed by each funding source. For example, if DCA is utilizing Ida funds, it will follow the Federal Register Notice (FRN) allocating that funding; however, if it is utilizing Sandy funds, it will follow the rules and requirements outlined in the FRN allocating Sandy funding. At this time, however, there are no Sandy funds allocated toward the Program.

1.5 Tie-Back to Disaster

In general, new construction or the rehabilitation of units not damaged by the disaster is an eligible use of funds if the activity clearly addresses a disaster-related impact (e.g., post-disaster housing need, displacement from disaster-affected areas to other places) and is located in a disaster-affected area. This impact can be demonstrated by the disaster's overall effect on the quality, quantity, and affordability of the housing stock and the resulting inability of that stock to meet post-disaster needs and population demands.

Hurricane Ida caused significant damage to the state's already fragile and strained housing stock, resulting in the loss of owner-occupied and rental units. The effects of Ida, compounded by the lingering effects of Hurricane Sandy, have depleted the housing stock, impacted affordability, and escalated the State's housing challenges and homelessness crises. The Program helps respond to these impacts.

1.6 Connection to Unmet Needs and Distribution of Funding

As required by the Federal Register, Vol. 87, No. 23, February 3, 2022 (87 FR 6364), the State will allocate at least 80% of the funds to address unmet needs within HUD-identified "most impacted and distressed" (MID) areas that have been Presidentially declared as a major disaster. These include Bergen, Essex, Hudson, Middlesex, Passaic, Somerset, and Union counties. The remaining 20% of the allocation may be used to address unmet needs in areas outside the HUD-identified MID counties, provided that they received a presidential disaster declaration and are designated as grantee-identified MIDs by the State.

Project selection criteria are discussed in Section 2 and will be key in ensuring projects that are selected and awarded funding are in these locations and possess characteristics (i.e. affordability, size, etc.) to address housing types, quantity of units, and other housing needs, as identified in unmet needs assessment.

1.7 Not Eligible for FEMA Reimbursement

CDBG-DR activities under the Program are not eligible for reimbursement by the Federal Emergency Management Agency (FEMA) or the Army Corps of Engineers. The Program will be used to address unmet housing needs not already covered by FEMA or other federal agencies.

1.8 Program Administration

DCA is responsible for the direct administration of the Program. As Responsible Entity, DCA will retain oversight of the Program, oversee all activities and expenditures of its developers, and ensure all statutory and regulatory Program requirements are met, including national objectives, fair housing, social equity and non-discrimination, procurement and labor standards, environmental regulations, compliance, construction standards, and eligibility.

1.8.1 Program Funding Deadlines

Funding Period

Program funding deadlines are established in each Notice of Funding Availability (NOFA).

DCA will not be held subject to the timely distribution and expenditure requirements typically imposed on CDBG funds; however, 100 percent (100%) of the CDBG-DR allocation must be expended prior to the expiration of the grant.

All funding awarded to a developer is also subject to these timelines. DCA may impose a more restrictive performance timeline of expenditures to ensure its ability to manage and meet statutory expenditure guidelines. DCA will include performance benchmarks, evaluation markers, and monitoring schedules in the Developer Agreement to ensure the statutory deadline is met.

Extension of Funding

HUD may extend the period of performance administratively. If extended to DCA, such an extension is not an automatic extension to the developer. Extensions to developers, if granted, will be on a case-by-case basis and determined by various factors such as project performance, developer performance, timelines, overall Program performance, national objective criteria, percentage of completion, total investment/expenditures at the time of the request for extension, etc. When the initial and/or extended period of performance has ended, DCA will close out the grant; any remaining funds not expended by the developer will be recaptured by DCA and returned to HUD.

1.8.2 Geographic Areas Served

HUD-identified MID counties: Bergen, Essex, Hudson, Middlesex, Passaic, Somerset, and Union.

State-identified MID counties: Gloucester, Hunterdon, Mercer, Morris, and Warren.

1.8.3 Developer Roles and Responsibilities

Some of the key roles of the developer will include but are not limited to:

- Create legal ownership and/or development entities (if applicable), negotiate agreements, negotiate a developer agreement with the Program, identify and accept legal and financial risks associated with development.
- Select and manage all members of the development team (i.e., architects, engineers, real estate professionals, general contractors, etc.).
- Obtain site control and negotiate terms of purchase and sale agreements.
- Manage all predevelopment activities, site selection, due diligence, land acquisition, title, survey, geotechnical, preparing plans and specifications, estimating construction costs, etc.
- Conduct marketing, advertising, and outreach regarding the development; manage functions related to outreach and engagement of the community.
- Manage all activities related to constructing, rehabilitating, or purchasing real estate for the purposes of developing affordable housing.
- Secure and leverage necessary funding, develop the finance plan and strategy, seek investors, negotiate terms of funding, adhere to underwriting and lending rules, close on lending, and manage funds.
- Manage all aspects of the construction process including procurement of the prime contractor, pre-construction meeting, award and manage construction contract(s), manage costs and budgets, review/process change orders, inspect work for construction draws, schedule inspections for sign-offs/permits finals, ensure adherence to federal regulations such as Section 3, Davis Bacon, fair housing, etc.; oversee releases of bonds, ensure site security/asset management and protection, compliance with OSHA and other federal, state, and local laws and requirements.
- Submit request for reimbursement to the Program for review and maintain project financial and budget records.
- Track/oversee project progress (i.e., status, time, and expenditure reports, etc.).
- Manage process of dedicating infrastructure to long-term responsible party.

- Ensure the fiscal viability and sustainability of the project during construction until disposition of all properties; maintain proper insurances, bonds, financial guarantees, etc.
- Maintain federal requirements to comply with Affirmatively Furthering Fair Housing (AFFH) and the creation of the Affirmative Fair Housing Marketing Plan (AFHMP).
- Conduct marketing, advertising, and outreach regarding the sale of homes.
- Work with Program-identified and income-qualified homebuyers.
- Facilitate sales/escrow processes for the sale of the homes to homeowners and implement measures to ensure the homebuyer's confidential, Personally Identifiable Information (PII) (i.e., name, birth date, social security number, age, etc.) is protected.
- Manage closeout of the development/project and aspects of Program closeout related to the development project.
- Participate in monitoring and auditing processes that may occur during Program implementation and/or after Program closeout, as required.
- Notify DCA of any material developments impacting project performance, timelines, or deliverables.
- Collaborate with Environmental Review consultants.

1.8.4 Applicable Rules, Statutes, Waivers and Alternative Requirements

As described in 87 FR 31636, II.B.1, grantees may utilize CDBG-DR funding for new construction. This FRN waives the previous prohibitions as found in 42 U.S.C. § 5305(a) and 24 CFR § 570.207(b)(3) to the extent necessary to allow the construction of new housing. DCA will administer the Program to develop new construction housing under the provisions of the applicable waiver citations and apply 24 CFR § 570.202 and extend to new construction in addition to rehabilitation assistance. The Program will remain compliant with federal accessibility requirements listed in 24 CFR § 1.4(b)(3) and § 8.4(b)(5). Guidelines pertaining to new construction standards and requirements will be further detailed in Section 5.3 of this policy.

1.9 Program Implementation Model

The Program will be implemented under a developer-led model with management and oversight provided by DCA. Developers will be responsible for all efforts necessary to carry out activities with the exception of those that are specific to DCA. The Program will select the qualified developers and proposed projects through a competitive application.

Once the proposed projects have been selected, the developer will enter into a Developer Agreement with DCA. The developer will control the site and retain ownership of the development project through Phase I.

The Program will conduct a thorough review of the experience and capacity of development team members to ensure they are able to carry out CDBG-DR activities. The result of the development team capacity review will determine whether an organization is able to participate in the Program.

In making its determination of capacity, the Program will consider all issues relevant to the development team members' ability to successfully develop/manage the project or properly expend all awarded resources in a timely and eligible manner. Approval of the development team, or parts thereof, will be at the sole discretion of the Program. The Program may check references and obtain feedback from other states and municipalities where relationships with members of the development team exist.

1.10 Social Equity and Vulnerable Populations

The developer will employ the following efforts to promote housing for vulnerable populations:

- Work closely with local governments to understand high-risk areas, social vulnerabilities, and community or public services that depend on residents.
- Work closely with community-based development organizations (CBDO) to conduct outreach and engagement.
- Work with DCA to facilitate access to housing counseling services for all Program applicants through supportive services (housing counseling services).
- Work with DCA to support equitable homeownership for buyout participants and eligible first-time homebuyers.

Intersectionality with Analysis of Impediments

As a homeownership program, the Program is positioned to not only serve low-income households and vulnerable populations by creating homeownership opportunities for the priority populations, but the Program also has the ability to strategically address many of the impediments to fair housing, as identified in the 2020 Analysis of Impediments to Fair Housing. The Program will help address the following impediments:

1. **Declining housing affordability –** The Program will target 70% of units funded through the Program to be occupied by LMI households.
2. **A rising proportion of people with Limited English Proficiency –** The Program will implement fair housing marketing practices that are intended to make information accessible and meaningful. It will implement communication

strategies in languages identified in the Limited English Proficiency (LEP) Plan that reflect the diversity of the target populations.

3. **A concentration of subsidized housing in neighborhoods with relatively high levels of poverty –** The Program will solicit projects from developers in the MID counties with mixed income levels comprising the community.
4. **Lack of public information about fair housing law rights and responsibilities and lack of dialogue among groups with similar interest in access to fair housing and fair housing protections –** The Program will require an Affirmative Fair Housing Marketing Plan (AFHMP) and a comprehensive marketing strategy to ensure information regarding housing opportunities is available and accessible. The developer will be responsible for creating the plan and submitting it to the Program for approval.
5. **The continuation of land use and zoning barriers to the production of housing for low-income households –** DCA and the developer will work with local governments that may have the ability to use variances within its administrative and legislative capacity to approve development/zoning variances, and amendments to General and Specific Plan to address challenges related to land use and zoning that may serve as barriers and impediments to development.
6. **Racial and ethnic housing concentration –** DCA will coordinate with the developer to make efforts, such as targeted marketing and outreach, to reduce racial disparities within communities by using the Program to increase the affordable housing supply and increase access to racial and ethnic groups that disproportionately may not have access.

2 APPLICATION

The Program will publish a Notice of Funding Availability (NOFA) for each round of funding, which will outline all required information to be included in the application. This information will be used to compare all applications consistently, calculate the amount of funding eligible to the project based on the proposed design, and allow the Program to underwrite the project and assess for readiness and cost reasonableness.

2.1 Application Process Overview

DCA is directly administering the Smart Move Program, identifying projects, and awarding funding through a competitive application process. The application will open through the issuance of a Notice of Funding Availability (NOFA). All eligible applicants, as defined in Section 3.6, will be able to apply for funding for projects located in jurisdictions within the designated MID counties. The maximum award amount for each round of funding will be established in the applicable NOFA.

All awards will be determined by an established ranking and scoring criteria that will be defined within the application and based on a variety of factors, including feasibility, cost reasonableness, community impact, and proximity to buyout properties. The Program reserves the right to alter funding awards based on funding availability and community need.

2.1.1 Scoring and Selection

Applications will first be reviewed for eligibility as specified in Section 3 and must meet minimum threshold criteria before moving to a technical evaluation. Applications will then be evaluated according to the technical scoring criteria. Should additional and/or clarifying information be needed to determine eligibility or to score a submitted application, those applicants may be given additional time to respond at the Program's discretion.

The Program will conduct an application evaluation (threshold criteria) which will determine whether the application is complete and potentially eligible for funding. DCA will further review only the applications that meet the threshold criteria listed below:

- Application was submitted on time.
- Application and all required forms are signed and complete.
- Application includes insurance policies from the developer and their contractor(s).
- Application includes a letter of municipal support.
- Applicant's project benefits HUD and/or State-identified MID counties.
- Applicant meets National Objective Requirement(s):
    - The unit mix must reasonably align with the Program target of 70% LMI and 30% UN units. While some flexibility is allowed, the proportion of units sold to LMI homebuyers must not fall below 65%.
- Application demonstrated site control or a plan to acquire the site.
- Application indicates development will not occur in a floodplain.
- Application indicates the development will contain a minimum of 6 units.
- Application indicates commitment to minimum Green Building Standards. Application indicates the development is in an area within or near disaster-impacted communities that are participating in buyout programs.

Additional threshold requirements may apply for each funding round. Applicants must review the applicable Notice of Funding Availability (NOFA) to ensure compliance with specific eligibility criteria and submission requirements.

Applications that meet the minimum threshold criteria will then be reviewed by a panel as part of a technical scoring process. The review panel will generate individual scores using the established score criteria. The review panel will consist of qualified professionals who will independently and objectively score applications consistent with the scoring criteria. The review panel will meet regularly during the scoring process to discuss any widely divergent scores. Ultimately, the average of their scores will become the official composite score for each application. Only the application itself (including requested attachments) will be scored. Any documents submitted with the application that were not requested will not be scored. Each element of the scoring criteria has a value associated with it. Scoring criteria will include, but are not limited to:

- **Project Site:** The application will be scored on how close the site is to services and amenities such as access to food, health and wellness services, education and cultural sites, transportation, retail, community, and civic facilities. Projects should demonstrate how walkable or accessible they are to transportation and illustrate walkability on a site plan or area map.
- **Demonstrated Experience:** Applications will be scored on their development team's ability to demonstrate experience with construction of new housing, housing developments similar in scale to what is proposed, federal funding programs such as CDBG-DR or HOME, federal labor standards, compliance and reporting requirements.
- **Project Readiness:** Projects that demonstrate their ability to proceed immediately upon selection will receive the most points. Project readiness will be assessed on multiple factors including site control (is the property currently owned by the development team or will an acquisition be required), financial readiness (are all assets needed for the project in place with letters of commitment from lenders or team assets), environmental clearance, (has the appropriate environmental review been started or completed), and project design development (how far along are architectural and engineering plans).
- **Resilient Design:** To receive the point allotment for this criterion, the application must describe how the project incorporates one or more resilient construction solutions, including those designed to harden and protect residential structures from hazards, leaving households and communities more resilient and prepared for future climate events. Resilient solutions use approaches that include, but are not limited to, solar power generation and storage, green roofs, on-site stormwater management, durable and storm-resistant exterior building materials, resilient infrastructure, etc.
- **Innovative Design:** To receive the point allotment for this criterion, the application must describe how the project incorporates one or more innovative construction solutions designed to demonstrate new, innovative, creative solutions to complex problems of durable and affordable housing. Such innovative design examples include but are not limited to structural 3-D printed homes, geothermal heating, electrochromic smart glass, net-zero housing, modular construction, adaptive reuse such as storage container housing, etc.
- **Community Need:** Applicants must demonstrate the local need for additional affordable housing units through the required Market Analysis.
- **Value of CDBG-DR investment:** While each project will have unique design and development characteristics, the Program will calculate the CDBG-DR investment based on the square footage of the development. Applications that produce the most square footage at the lowest CDBG-DR cost will score the highest.

- **Proximity to Buyout Properties:** The Program will place a priority on developments located within or near buyout locations which were hardest hit by Hurricane Ida. Applications that are closer to buyout locations will receive additional points.
- **Target Percentage:** Applicants will be required to submit a Sources and Uses Form and indicate the LMI or UN homes within the development. Applications that align more closely with the 70% LMI, 30% UN ratio will receive higher scores.

All scores and justifications will be documented and provided to applicants upon request to ensure transparency in the award process. A description of the scoring rubric will be provided in the NOFA. Failure to provide sufficient supporting documentation may result in the application being deemed incomplete or otherwise the score reduced in accordance with the missing information.

2.2 Site Requirements

2.2.1 Site Selection and Neighborhood Compatibility

All applications must clearly identify the site for their housing development project. Applications should include maps, photographs, and documentation about the existing site conditions, the surrounding land uses, and the availability or need for utilities and infrastructure to support this proposed housing development. Site selection documents should also provide information about the proximity of the proposed housing units to surrounding amenities and services.

2.2.2 Adverse/Negative Site Features

Applicants should avoid sites with known or identified negative or adverse site features. In general, such adverse site conditions will be identified in the Environmental Review, but applicants should pay close attention to sites with potential issues related to noise and environmental justice when identifying the site use for the new housing development.

2.2.3 Property Appraisal

The developer must obtain, at the developer’s cost, an independent full appraisal of the property’s market value if seeking reimbursement for land acquisition, following Authority to Use Grant Funds (AUGF). Property acquired prior to AUGF is not eligible for reimbursement. The developer may include the value of the land to be reimbursed by the Program in the project budget. The Program, at its discretion, may obtain another appraisal at its cost and determine a reasonable value for the contribution of the property.

The developer shall not undertake any involuntary acquisition of property, including acquisition through eminent domain, using Program funds unless such acquisition is for public use in accordance with applicable federal regulations.

2.3 Program Design Standards: Ensuring Ideal Development

To achieve the Program's objectives of creating resilient, energy-efficient, and affordable housing, the following design standards should be incorporated into all development projects. Adherence to these standards will align with the scoring criteria, ensuring that projects incorporating these elements are positioned to score the highest.

Disaster Resilient Home Energy Solutions

To enhance resilience in the event of an emergency or disaster, all developments should incorporate backup power solutions necessary to support the community power needs. Applications must indicate how long the system will function in the case of a power outage. These solutions may include, but are not limited to:

- Automation
    - Systems should be self-sufficient, automated, and require minimal maintenance.
- Power Generation
    - Natural Gas generators capable of maintaining critical systems (e.g., heating, refrigeration, and lighting).
    - Renewable energy sources such as solar panels or hydrogen power.
- Power Storage
    - Sufficient energy storage and distribution.

These energy solutions are critical in ensuring that housing remains safe and habitable during and after a disaster, contributing to the overall resiliency of the community.

Resilient Design

All projects should incorporate at least one enhanced resilient feature beyond the minimum program standards. The Program reserves the right to determine whether the proposed feature adequately advances long-term resilience objectives.

Square Footage Standards

The Program aims to build smaller homes which are affordable to the average NJ homeowner without excessive subsidy. To that end, the Program has incentivized housing developments that are more cost-effective on a per-bedroom basis, which is typically achieved by building smaller homes.

All residential units must adhere to the maximum square footage requirements as follows:

- 2-bedroom units: Maximum of 1,200 square feet
- 3-bedroom units: Maximum of 1,400 square feet
- 4-bedroom units: Maximum of 1,600 square feet

These standards are designed to ensure that all units provide adequate living space for families, promoting long-term sustainability and comfort.

Square footage calculations, as defined by the Program, will be based solely on areas that are heated, finished, and attached. Garages, attics, and unfinished basements are excluded from the square-footage calculations for units, although they remain eligible uses of Program funds.

Heating and Cooling Systems
All units must include adequate heating and cooling systems to ensure safe and comfortable living conditions in accordance with applicable building codes and energy efficiency standards.

Unit Mix
The ideal development should include a diverse mix of unit sizes to accommodate various family structures. The ideal housing community should consist of a majority of three-bedroom units, with the remaining units being two-bedroom. Where the market analysis indicates the need, an exception may be considered for a limited number of four-bedroom units.

Handicap Accessibility
Developments must comply with the accessibility standards outlined in the State's housing policy, including but not limited to:

- Designs must adhere to accessibility requirements, ensure access for persons with mobility, hearing, or vision impairments, and ensure that 5% of project units are accessible for persons with mobility impairments and 2% accessible for persons with hearing or vision impairments.
- The Program will require that each development has at least one (1) unit that meets the combined Section 504 accessibility requirements, for mobility and hearing/visual impairments.

2.4 Market Analysis

The market analysis will evaluate various aspects of the market conditions affecting the development, such as economic conditions, housing supply and demand, market trends such as pricing, existing resale inventory, and absorption rates, and other factors that may impact the proposed project. The analysis must synthesize the data and interpret the data with relevant conclusions to housing needs, the relevancy of the project to the market, and how the project addresses such needs. The analysis must be completed by a qualified third party and included with the application. This analysis must support and be consistent with the applicant's proposed development design, mix of housing type and size, and affordable sales price per unit.

2.5 Construction Plans

Applications must include detailed site and construction plans. The Program allows for a variety of housing sizes and types; however, all units should be designed and constructed to the same standard using consistent durable materials for all units. While plans do not need to be finalized, and the Program may request site/plan modifications, the applicant should at a minimum provide schematics that outline:

- Total number of housing units proposed for the development.
- Breakdown of housing units by bedroom size.
- Breakdown by attached or detached housing units.
- Breakdown of identified populations to be served / income targeting – assign the number of housing units by type to: at or below 80% AMI (LMI) and 81-120% AMI (UN).
- Anticipated need for infrastructure within and outside the proposed site.
- Detailed information about innovative and resilient building practices integrated into project design.
- Resilient infrastructure.

2.6 Project Plan Requirements

2.6.1 Project Budget with Cost Estimates

Applications must include a detailed project budget using the Smart Move Program's official Sources and Uses Form, which outlines all funding uses for the entire development project.

The budget must also clearly document all funding sources, including the requested CDBG-DR amount and all other leveraged funds, including developer fees, conventional lending, or other local, state, or federal funding allocated to this project. Project budgets will clearly document all funding sources, ensuring that all costs are equal to all sources.

The Sources and Uses Form will identify all required budget lines. In general, the budget will include:

- Land Acquisition Costs
- Infrastructure Costs
- Housing Construction Costs
- Soft Costs: Up to 28% of the Total Development Cost.
- Developer Fee: Up to 10% of the Total Development Cost.

Developers must provide a cost for the project, assume part of the project risk, and enter into a Developer Agreement, a written agreement with DCA where both their fees and processes are clearly outlined. As such, any cost overages are the responsibility of the developer. The Developer's fee can be used to cover cost overages or costs associated with acquiring necessary insurance, bonding, or other unanticipated expenses.

2.6.2 Project Schedule

The developer must submit a detailed project schedule that reflects all aspects of development from predevelopment, construction, and sale of the housing units. The project schedule must include all major milestones and be included in the application. The schedule must reflect the developer's ability to complete the project within the funding and expenditure timeframes, as imposed by the CDBG-DR funding source, and must demonstrate the developer's ability to perform in accordance with the schedule.

All projects will be subject to commencing within six (6) months from the execution of the Developer Agreement and the receipt of the Notice to Proceed and completed by the federal expenditure deadline, unless written approval to extend is provided by the Program.

Additionally, all projects funded with CDBG-DR funding must be completed and funds expended no later than 120 days prior to the expenditure deadline as identified by HUD. To ensure the expenditure requirements are met, the Program may impose mandatory milestone achievements that significantly precede this date to ensure the ability to perform and meet the funding requirements.

2.6.3 Development Team

Applications must outline in detail the members of their development team including but not limited to:

- Key Members/Qualifications
- Experience and capacity
- Partnership Structure and Ownership Details
- Legal: In-house/partner or General Counsel
- Fiscal Capacity/Liquidity/Credit Strength
- Past Performance
- Conformance with Construction Standards
- Professional References

The developer and any organizations comprising the development team that will be receiving federal funding will be subject to meeting federal debarment and suspension requirements.

2.6.4 Project Readiness

Shovel ready projects or projects that are in a considerably advanced stage of progress to be able to commence construction shortly after selection will be prioritized. Project readiness will include substantial completion of the following: NEPA/Environmental, local zoning/entitlement approvals, approval of construction drawings, and building permit readiness.

2.7 Due Diligence Documentation

All applications must include sufficient documentation to enable the Program to conduct a thorough due diligence review. This documentation should cover, but is not limited to, the following:

- Compliance with local zoning regulations;
- Any required variances, waivers, or necessary changes, along with the process for obtaining them;
- Environmental constraints;
- Survey irregularities;
- Title issues; and
- Geotechnical deficiencies. Providing this information is essential for a comprehensive review.

2.8 Underwriting

The Program will use all the detailed information provided in the application to underwrite the development project. Underwriting includes, but is not limited to, ensuring that all proposed costs are eligible, necessary, and reasonable. The Program will review application design details to ensure projects are feasible and reasonable. Housing finishes and construction materials identified should be durable and low maintenance. As such, some proposed building materials may be higher cost than standard builder grade but are designed for sustainable and resilient long-term affordable housing and therefore may be determined cost reasonable.

2.9 Withdrawn Projects

If a project is voluntarily or administratively withdrawn from the Program, the developer is required to return all previously disbursed grant award funds to the Program.

2.9.1 Voluntary Withdrawals

Projects may be withdrawn by a developer at any time. Developers who wish to withdraw must clearly provide a written notice of their intent to voluntarily withdraw and return any CDBG-DR funds. DCA will send the developer a written notice of acknowledgment of voluntary withdrawal.

2.9.2 Administrative Withdrawals

Projects may be administratively withdrawn for the following reasons:

- A developer fails to provide the required documentation or information within the deadline described in a written request;
- A developer is determined to have provided false or misleading information;
- A developer becomes unresponsive;

- A developer is determined to be out of compliance with the terms and conditions of the developer agreement and has failed or is unable to take corrective actions;
- A developer is unable to meet the project deadlines; and
- A developer fails to adhere to the conditions identified within the program policy.

3 ELIGIBILITY

3.1 National Objectives

HUD enforces compliance with the overall benefit requirements in the Housing and Community Development Act of 1974 and 24 CFR § 570.484, 24 CFR § 570.200(a)(3), and 24 CFR § 1003.208 and requires that all CDBG and CDBG-DR funded activities meet one of the specifically defined national objectives which ensures the funding is predominantly used to assist low- and moderate-income individuals, supports efforts to eliminate slums or blight, and address post-disaster urgent needs (within a prescribed timeframe). The Program will meet the following national objectives:

- Low and Moderate Housing (LMH)
- Urgent Need (UN)

The Program will use the LMI national objective to serve individuals and households at or below 80% AMI, targeting seventy percent (70%) of the Program funded homes in each of the Program's housing developments will be sold to LMI-designated individuals and/or households. The Program may also use the Urgent Need national objective to provide assistance to eligible households with incomes greater than 80% AMI but not exceeding 120% AMI. The Program may allocate eligible development costs based on the estimated cost per housing unit to determine the portion of project costs attributable to LMI and UN.

3.2 Homebuyer Application Prioritization

Prioritization

The Program has established the following prioritization categories for the disposition of housing units in Phase II:

1. Income-qualified households whose home was acquired through a Buyout Program within the jurisdiction of the new Smart Move housing development.
2. Income-qualified households who are relocating through a Buyout Program in another jurisdiction.
3. Hurricane Ida-impacted first-time homebuyers with household incomes at or below 120% AMI.

4. Non-Ida-impacted first-time homebuyers with household incomes at or below 120% AMI, only after the homes have been marketed exclusively to Ida-impacted homebuyers for a minimum period of six (6) months.

Following the homebuyer application period, developers will be responsible for evaluating eligible homebuyer applicants for occupancy within the developments. Additional information regarding the homebuyer selection process is provided in the Phase II Policy.

The Program shall have no responsibility for ensuring compliance with any local affordable housing requirements. The developer shall be solely responsible for complying with all applicable local requirements and Program requirements.

The Program and its partners will make reasonable accommodations to ensure access to the Program for persons with disabilities.

3.3 Eligible Activities

Eligible activities include those permissible for eligible entities under Section 105(a) of the Housing and Community Development Act of 1974and the CDBG federal regulations found at 24 CFR Part 570. The eligible entity carrying out the activities shall be and will remain in compliance with Section 105(a), 24 CFR Part 570 and CDBG-DR waiver or alternative requirements found in 87 FRN 31636. The Program will target the use of funds specifically for new construction and all activities related to the delivery of new construction single-family housing units for homeownership purposes only; this is not a rental program and will not offer single-family rental units.

New Construction

The Program will fund the construction of new housing units and related infrastructure, as needed. Such activity is made permissible by an alternative requirement under Section II.B.2 of 87 FR 31636. While the alternative requirement allows the carrying out of activities related to reconstruction and rehabilitation of residential structures with CDBG-DR funds, the Program will focus only on new construction and/or conversion of previously non-residential structures into housing units.

The Program will ensure all new construction activities are performed and delivered in accordance with applicable federal, state, and local building requirements. The Program has adopted ICC-700 National Green Building Standard and Energy Star as the basis to meet the Green and Resilient Building Standard to achieve the resiliency, energy efficiency, affordability, and quality goals of the Program.

Homeownership Assistance

The Program shall calculate 20% of each unit's proposed sales price to be reserved for down payment assistance to eligible buyout program participants and/or first-time homebuyers with a demonstrated need during Phase II of the Program.

To qualify as a first-time homebuyer, participants must meet the criteria below:

- Individuals who have had no ownership in a principal residence during the 3-year period ending on the date of purchase of the property. This may also include a spouse, so if either meets the above test, they are considered first-time homebuyers.
- Single parents who have only owned a property with a former spouse while married.
- Individuals who are displaced homemakers and have only owned with a spouse.
- Individuals who have only owned a principal residence not permanently affixed to a permanent foundation in accordance with applicable regulations.
- Individuals who have only owned property that was not in compliance with state, local or model building codes and which cannot be brought into compliance for less than the cost of constructing a permanent structure.

Homeownership assistance may be provided up to twenty percent (20%) of the affordable sales price for LMI households and up to five percent (5%) for UN households. Assistance will be awarded strictly based on demonstrated need. The homeownership assistance will be used to meet the national objectives defined in Section 3.1 of this Policy.

3.4 Ineligible Activities

Activities are not eligible for the use of CDBG-DR funds through the Program if they:

- Do not tie-back or correspond to an identified disaster-related impact;
- Are restricted by the appropriate legislation;
- Are ineligible according to the CDBG-DR requirement and an appropriate waiver has not been granted;
- Are not identified as eligible in the approved State Action Plan.
- Are located in a floodplain;
- Fail to meet a national objective; and
- Are illegal.

The following activities are ineligible:

- Purchase of equipment.
- Operating and maintenance expenses.

3.5 Eligible Costs

The Program funds may be used for all reasonable and necessary aspects of funding the development and disposition of the properties once complete. Funds may be reimbursed after the Authority to Use Grant Funds (AUGF) has been issued by HUD. Reimbursement is available for, but not limited to, the following items:

- Land acquisition costs (when land is acquired post AUGF)
- Clearance/Demolition

- Soft Costs (no more than 28% of the total development cost)
  - Architecture
  - Engineering
  - Market Analyst
  - Marketing Specialist
  - Consultancy Services
  - Legal
  - Realtor
- Hard Costs
  - Housing Development
  - Infrastructure
  - Resilient Infrastructure
- Construction Fees
  - Financing Fees
  - Developer Fees (no more than 10% of total development cost)
- Down Payment Assistance to Homebuyers (20% of sales price per unit)
- Any costs that are eligible and reasonably necessary to develop and sell the housing units.

3.6 Eligible Developers

The Program will award funding to developers directly for projects located within the designated MIDs. The developer and any organizations comprising the development team that receive federal funding will be subject to federal debarment and suspension requirements. The developer will be required to be registered with SAM at www.SAM.gov, possess a federal Unique Entity Identifier (UEI), and must not be included on any federal or state debarment and suspension list. Any entity listed as excluded in SAM is not eligible for federal funding.

3.7 Eligible Project Models

This Program is designed to construct needed housing in disaster impacted counties with a lack of available affordable housing. The Program will allow developers to select from one of these three project models:

- New Construction: Single-Family Subdivisions
- Infill and Scattered Site Development
- Rehabilitation/Reconstruction Adaptive Reuse Conversion

For more detail on eligible project models listed above, please refer to Section 3.10 of this Policy document.

3.8 Site Control

Applicants must demonstrate control of any site(s) that will receive funding. Site control must be documented at the time of application through a deed, an executed option to purchase, or other proof of ownership approved by the Program. Acting on an option prior to the completion of the Environmental Review will constitute a choice limiting action; therefore, applicants should ensure that options to purchase allow sufficient time for the Program to both review applications and conduct all required compliance. Applicants may need to extend options to prevent any violation of HUD environmental regulations.

3.9 Land Use Entitlements

Applicants must ensure that housing is an eligible land use for the proposed site and no entitlements or restrictive covenants prevent such development. If any zoning changes, lien releases, or other such land use procedures are known, the applicant must outline the steps necessary to make the parcel able to be developed.

3.9.1 Parcel and Tract Maps

The application should outline both the existing parcel for development along with the anticipated subdivision for single-family housing. Applications should demonstrate knowledge and understanding of all requirements to acquire, build, subdivide, and dispose of housing units for the identified site. Applicants should include details for:

- Lot Line Adjustments
- Prelim/Final Tract Maps
- Housing Development plan (i.e. 3D site plan)

3.10 Project Models

3.10.1 New Construction: Single Family Subdivisions

The Program will allow for the development of new residential subdivisions to create single-family homes. The Program is targeting 70% of new homes funded by the Program to be sold to LMI income qualified buyers and 30% sold to eligible UN income qualified buyers. The Program will allow the construction of infrastructure to support housing, as described in Section 3.13 below. The subdivision design must meet all applicable federal, state, and local requirements related to subdividing land for residential use.

3.10.2 Infill and Scatter-Site Development

The Program will allow for an infill and/or scattered-site strategy. This includes the construction of one or more housing units on an existing parcel of land within an existing neighborhood. For example, the redevelopment of a previously cleared site, the partitioning of oversized lot(s) to allow for greater housing density, or the development of a previously undeveloped parcel adjacent to existing public utilities. Building housing as in-fill on vacant lots expands housing opportunity within existing neighborhoods. This strategy may be beneficial in communities that have unused or underused parcels within their existing development patterns. Infill and scattered site projects can be developed in close proximity to resources LMI households may not typically be able to access easily. These applications must be able to demonstrate the ability to construct at least six (6) housing units on one or multiple non-adjacent (scattered) sites within the same jurisdiction.

3.10.3 Adaptive Reuse and Conversions

The Program will allow adaptive reuse and/or conversion projects to increase the affordable homeownership stock if opportunities arise to repurpose or convert an existing structure to build affordable ownership housing. Conversion includes the adaptive reuse of existing non-residential structures into housing units. For example, former school buildings, warehouses, and office buildings are converted into housing units.

3.11 Additional Development Options

Within the three development models mentioned above, all developments have the flexibility to design projects that include the following options:

3.11.1 Attached and Detached Single-Family Residential Types

The Program may incorporate various single family residential types to address community needs. These types may not only include single-family detached structures with no shared walls but may also include single-family attached and semi-detached structures with common walls. Given the many factors that influence development such as materials and labor costs, scarcity of land and space, challenged credit markets, and changing market conditions, single-family attached residential structures such as condominiums, townhomes and semi-attached structures with smaller footprints may be a cost-effective approach to optimize funding, maximize land use, increase the overall production of homeownership units, reduce the amount of maintenance required by homeowners, and make homeownership for low-income households more affordable and sustainable. Both attached and detached housing types may result in the formation of homeowner associations (HOAs) or other shared ownership models. In all cases, the ownership of housing units will be fully transferred to the new owners, and any HOAs may be established by the community of owners. The developer will not be involved in any long-term maintenance or ongoing operations after the sale of housing units, nor will any management fees be paid to the developer.

3.11.2 Innovative Housing Construction

Applicants are encouraged to incorporate innovative and creative housing construction into the Smart Move Program to address existing and future housing needs. Projects that include these innovative techniques will receive extra points when the Program is considering applications.

Examples include, but are not limited to, prefabricated manufactured housing, 3-D printed housing, fixed foundation tiny houses, innovative and technological designs, and alternative construction methods.

Additional green innovative features can be integrated into housing design such as solar power with back-up storage, rain gardens and planter boxes to hold and reuse water, green roofs, etc. Innovative and creative housing approaches will require a record of successful implementation and maintenance within the region to be considered.

3.11.3 Market-Rate Units

The Program permits market-rate units within a development, provided that such units receive no Program funding and are clearly identified in the project plans. Market-rate units shall be financed entirely with non-Program funds and shall not exceed 30% of the total number of units within the development.

3.12 Project Characteristics

The characteristics of each project will be determined by the developer in collaboration with the DCA and the community. The project specifics will be based upon community demographics and housing needs, site location and characteristics, and proximity to amenities such as parks, schools, public transportation, medical facilities, libraries, etc.

Each project <u>must</u> meet all the following requirements:

- In a designated MID county;
- Project is financially feasible, reasonable, and viable;
- Requires a detailed budget with no more than $15M requested in Program funding;
- Prevents a concentration of LMI housing; developments will be mixed income with a target of 70% of the development serving LMI households;
- Meets required building and construction standards (Section 5.3);
- Meets elevation requirements;
- Meets or exceeds green and energy efficiency standards;
- Meets resiliency standards; and
- Must contain a minimum of six (6) single family housing units, may be infill/scattered sites.

3.13 Infrastructure in Support of Housing

Infrastructure is critical to community development, particularly when constructed in support of housing. The Program may fund infrastructure improvements necessary to enable the development of assisted housing, including eligible facilities and improvements. Such infrastructure must be necessary to support the housing development, directly serve the assisted units, and be proportionate to the scale and scope of the project. Infrastructure costs must be reasonable and limited to those required to make the housing development feasible and functional.

All new housing units must have access to and be connected to public utilities; thus, the use of septic tanks, wells, or other private utilities not tying into the mainline from a private property/house will not be deemed acceptable nor eligible for reimbursement.

The Program may cover the eligible budgeted costs to develop the standard, green, and resilient infrastructure directly benefiting the development.

The project budget must detail all infrastructure costs within the Sources and Uses Form and must demonstrate if any other federal, state, or local funding sources are available or being used to fund the construction of the infrastructure improvements. Infrastructure costs are subject to verification that no Duplication of Benefits exist.

The developer will be required to partner with the local municipality and utility companies for the development and eventual dedication of the public improvement to the governing jurisdiction. All infrastructure construction must comply with all laws and regulations governing the construction of public facilities, including but not limited to Davis-Bacon, State Prevailing Wage (where applicable), Section 3, etc.

The infrastructure must be maintained and have an expected useful life in accordance with industry standards or those imposed by local laws and ordinances, whichever is greater. Generally, the infrastructure will be dedicated to and accepted by the local municipality and/or leading agency for long-term operations and maintenance.

The Program encourages green and resilient measures that promote long-term resiliency and sustainability. The projects that incorporate the use of green building standards, materials, and green infrastructure into the design will receive an increased score. These projects will introduce and use green approaches and technologies that are not commonly used and may come with increased long and short-term costs. Some examples of green infrastructure are:

- Permeable and porous pavements
- Bioswales
- Rainwater harvesting
- Downspout disconnection
- Bioretention cells to hold water on-site
- Infiltration basins

3.14 Easements and Right-of-Way Dedications

If easements and right-of-way dedications are required as part of the subdivision development process, acquisition of such must be clearly identified as voluntary or involuntary within the application and must adhere to federal Uniform Relocation Act requirements; please refer to Section 8.1 for more details.

4 PRE-AWARD

4.1 Environmental Review

Once developers reach the 30% design threshold, they are required to notify the Program. DCA will review the project and inform the developer of the appropriate level of environmental review (EA, CEST, etc.). The Program and/or its designated firm are responsible for managing the environmental review process. Developers in coordination with the Program are responsible for all documentation needed for the Environmental Review Record (ERR). Once the ERR is prepared, DCA will review and sign off as the responsible entity.

4.1.1 Choice Limiting Actions

HUD prohibits grant recipients and their partners from committing or spending funds on any activity that could have an adverse environmental impact or limit the choice of reasonable alternatives as found in 24 CFR 58.22. Choice-limiting actions prohibit physical activity, including acquisition, bidding, rehabilitation, construction, repair, conversion, demolition, relocation, leasing, execution of legally binding agreements, as well as contracting for or committing to any of these actions. If the developer violates this regulation by taking such action, DCA may revoke Project approval and/or defund the Project.

Developers cannot commit funds to any choice-limiting action without DCA's consent, until HUD (1) approves a Certification of Compliance with Environmental Laws and Request for Release of Funds, and (2) issues the AUGF.

4.2 Duplication of Benefits

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

Duplication occurs when a beneficiary receives assistance from multiple sources for a cumulative amount that exceeds the total need for a particular disaster recovery purpose. The amount of duplication is the amount of assistance provided in excess of the need.

Per CDBG-DR regulations, the Program's developers are required to disclose all other benefits (e.g., cash, in-kind, grants, loans) received, or which will be received for the proposed project to ensure that federal funds do not duplicate funds received from other sources.

Developers must also certify that CDBG-DR funds will supplement, not supplant, existing funds appropriated for the same purpose. Supplanting will be reviewed throughout the application, award, and monitoring process, and developers may be required to demonstrate that any reduction in other funding is unrelated to the receipt or expectation of CDBG-DR funds.

The developer will use due diligence to ensure there is no existence of a DOB and will pay particular attention to development budgets that include itemized costs for infrastructure in support of the housing development and/or applications requiring funding for demolition and/or clearance. The Program will confirm, as part of its awarding process, that a DOB does not exist and will require all applications for CDBG-DR assistance to identify AND document all sources of funds received by the applicant for the disaster recovery activity. Additionally, the Program will require the submission and use of the contractor's estimates to establish the amount of need necessary for recovery; the estimate will be used to analyze the existence and/or likelihood of a DOB. The Program will establish a DOB analysis and verification process for the Program.

5 AWARD

5.1 Award Calculations

Phase I award calculations will be established based on the Program approved Sources and Uses form. The Program reserves the right to award less than the proposed budget to meet Programmatic budget caps and to only include reasonable and necessary costs. All awards will be subject to a Duplication of Benefits review and calculation (See Section 4.2) prior to the Program issuing a notification of award.

During Phase I of the Program, funds will be allocated specifically for down payment assistance in Phase II. For each proposed unit, 20% of the sale price will be allocated from the total Program budget to provide down payment assistance to eligible homebuyers in Phase II.

5.1.1 Maximum Awards

The Program has a maximum award amount of $15,000,000 per project. Individual funding rounds may establish maximum award amounts below this Program cap, as identified in the applicable NOFA. Award calculations will be based upon the Program approved Sources and Uses Form.

5.1.2 Developer Funding

In addition to the Program funding, the developer may need to obtain other construction financing, as the Program will not fully fund the project. The Total Development Costs (TDC) minus developer sales minus ineligible costs equals the award amount. Payments will be made in accordance with the Developer Agreement upon a milestone-based payment schedule. DCA will record an encumbrance as part of the Developer Agreement. Once all documents are executed, and the Program has confirmed completion of federal cross-cutting requirements such as the environmental review, CDBG-DR funds will be eligible for reimbursement to the developer, as costs are incurred for the construction of single-family housing units.

5.1.3 Developer Fee

Developers may receive up to 10% of the eligible Total Development Cost (TDC) as a developer fee. The final retainage payment shall be issued when all homes are sold to the LMI or UN homebuyers.

The developer fee shall be disbursed in two equal installments. Fifty percent (50%) of the approved developer fee shall be payable upon completion of construction of all units, as evidenced by the issuance of a Certificate of Occupancy or Program-approved equivalent. The remaining fifty percent (50%) of the developer fee shall be payable upon the sale and closing of all Program-funded units.

5.1.4 Sales Price

As part of the application, the developer must indicate the affordable price the houses will be sold at. DCA will evaluate the proposed sale prices using the HUD income limits to ensure the homes are affordable to LMI and UN homebuyers. The sales prices must be deemed reasonable and are subject to the Program's approval. The Program may require independent pricing assessments throughout the process.

5.2 Award Exceptions

Projects will be selected and funded based upon demonstrated need, detailed budgets, and award calculations. The Program reserves the right to make exceptions to the maximum award amount, when necessary, to comply with federal accessibility standards, reasonably accommodate a person(s) with disabilities, to exceed standard energy efficiency, and green and resiliency standards, or to construct innovative and expanded energy efficient infrastructure such as microgrids, solar farms, and other energy-efficient solutions.

5.3 Notification of Award

Projects selected for funding by the Program may be offered all or a portion of the total requested funding. Once award amounts are determined, the Program will send a notification of award to successful applicants, which is a preliminary offer to enter into a developer agreement. Execution of an agreement is contingent on both parties' agreement of the terms and conditions, including project scope, budget – including state and federal construction and financial rules and regulations, and timeliness, among others and described in greater detail in this policy. Awards will be considered final upon an executed developer agreement between DCA and the applicant.

5.3.1 Protest of Award Determination

Within five (5) business days of notification, applicants may protest the Program's determination that an application is incomplete, has failed threshold review, or been determined to provide an insufficient basis for an award. Written protests must be submitted to the Program and must provide relevant facts and evidence of support of the protest. The protests will be reviewed and processed on a programmatic level. Upon final determination of the protest, if the applicant is not satisfied with such determination, the applicant may use the Program's formal appeals process to escalate the matter. Please refer to Section 8 for more information on the appeals process.

5.4 Agreement

5.4.1 Developer Agreement

The Program will provide funds to the applicant in the form of a Developer Agreement. An encumbrance will be recorded against the project to secure the CDBG-DR investment and ensure the project is completed in conformance with the intended affordable use. Upon project completion, the encumbrance securing the project funding to the developer will be released.

Prior to the issuance of any funding to the project, the developer will be required to execute a developer agreement with the DCA. The Developer Agreement must include, but is not limited to:

- A comprehensive project budget inclusive of the Program funds and all external funding;
- The amount and type of funding provided to the developer;
- The number of total units approved for the housing development;
- The location of development, unit sizes (square feet) and number of bedrooms;
- The affordable sales price of the homes to be built;
- Acknowledgment of the encumbrance imposed on the development;
- The schedule for completion and occupancy of the units;
- The list of construction milestones by which payment may be remitted;
- A description of who the units may be sold to and procedures/process for qualifying buyers; and
- A description of remedies and cures for breaches and defaults.

5.4.2 Subrogation Agreement

If the developer receives funds that are deemed duplicative, the developer is required to return the funds to DCA.

The developer must agree to subrogate (commit to DCA) any future payments they may receive after the award amount is determined from sources that represent a potential Duplication of Benefits (DOB). The Subrogation Agreement, included as part of the developer agreement, requires the developer to notify DCA if additional funds are received. DCA will conduct a DOB analysis to determine whether the funds received are duplicative.

5.4.3 Foreclosure, Non-Compliance, Defaults and Breaches

All agreements must include clauses for non-compliance, default, and breach of contract. The Program will work closely with developers to enforce all written agreements and take legal action when necessary for the protection or recapture of federal investments.

DCA will require the Developer to repay Program funds in the event the Developer commits any of the following acts:

1. Sells or transfers the Project;
2. Fails to meet the National Objective targets;
3. Commits fraud, deceit, or misrepresentation in obtaining funding;
4. Declares bankruptcy;
5. Fails to complete the project; and
6. Developer becomes withdrawn from the Program.

If the Developer does not complete work in the manner and by the deadlines set forth in the Developer Agreement, those funds will be recaptured immediately, unless granted an extension of the deadline(s) in writing by DCA. Any such extension shall be based on extenuating circumstances and shall only be granted given compelling evidence that the Developer's remaining obligations will be satisfied by the extended deadline.

The Program will document all efforts to enforce agreements, take legal action when necessary, and exhaust reasonable efforts for recapture prior to requesting the ability to write-off losses from HUD.

5.4.4 Deeded Encumbrance

An encumbrance, created upon the recordation of a Declaration of Covenants, Conditions, and Restrictions for the Program's benefit, will be recorded by DCA at the relevant county recorder's office applicable to the project and will remain in effect until the completion of the project. The encumbrance will memorialize DCA's ability to enforce the intended use of the land/project through legal action, if necessary, in the event of developer default, foreclosure, or other actions that are incurable and may occur prior to the completion of the project. Approval of the encumbrance from lenders and parties with financial/vested interests in the development will be required.

6 CONSTRUCTION

The developer will manage the construction phase of the development in collaboration with the Program. The developer's responsibilities during the construction phase shall include but not be limited to:

- Facilitating construction financing related to the Developer Agreement.
- Participating in a pre-construction conference.
- Obtaining permits.
- Managing construction contracts and ensuring adherence to provisions (i.e., insurance, licensure, bonding, site safety, performance, etc.).
- Submitting draw requests, change orders, and retainage requests, in accordance with the approved payment schedule.
- Ensuring proper performance.
- Ensuring compliance with crosscutting/reporting requirements (i.e., Section 3, Davis Bacon, procurement, when applicable).

The Program reserves the right to make scheduled or unscheduled site visits to ascertain the extent of completion and adherence to expected standards.

6.1 Procurement of Contractors

If construction contracts are included in the scope of services provided by the selected developer, those construction contracts are not subject to the Uniform Administrative Requirements and Cost Principles of 2 CFR Part 200.

Developers who provide a cost for the project, assume part of the project risk, and enter into a developer agreement, a written agreement with the DCA where both their fees and processes are clearly outlined, are not subject to federal procurement regulations. The Program must ensure through the selection and underwriting process that developer costs are necessary and reasonable.

6.2 Preconstruction Conference

The DCA will conduct a pre-construction conference prior to the start of the construction work to set performance expectations. A review of contractual requirements, labor standards, and performance schedules will be outlined at the conference.

6.3 Construction Standards

Construction standards related to building, green, efficiency, resiliency, etc. must conform to federal, state, and local requirements. All housing units must be designed to a consistent quality and durability. No variation is allowed based on the proposed buyer's income. The construction drawing review and approval process will be a mechanism used to ensure that construction standards and eligible recovery and mitigation activities are planned. The initial drawings will be used to establish resiliency and energy efficiency goals for the project. The Program recognizes that not all application documents will be fully detailed construction plans; therefore, a post-award construction document review will occur prior to commencement of work.

6.3.1 Resiliency and Mitigation Requirements

The Program will incorporate mitigation measures to the greatest extent feasible and will incorporate necessary and reasonable measures to withstand existing and future climate impacts.

6.3.2 Green and Energy Efficiency Standards

All projects must comply with HUD's green building standards as required by Federal Register Notice 87 FR 31636 and as amended by later notice(s). The Program has adopted the ICC-700 National Green Building Standard and Energy Star as the basis to meet the Green and Resilient Building Standard. To ensure requirements are met, the Program will review each project and document the project file.

6.3.3 Elevation Standards

The new developments must be built outside the 500-year floodplain and the inland or coastal climate adjusted floodplain, as defined by NJDEP; thus, applicable elevation standards will not be triggered.

For more information about the NJDEP Inland Flood Protection Rule and Mapping, please visit this site: https://dep.nj.gov/inland-flood-protection-rule/.

6.3.4 Accessibility Requirements

Newly constructed residential units may have to meet the accessibility requirements noted in 24 CFR Part 8, which implements Section 504 of the Rehabilitation Act of 1973. When applicable, designs must adhere to accessibility requirements, ensure access for persons with mobility, hearing, or vision impairments and ensure that 5% of project units are accessible for persons with mobility impairments and 2% accessible for persons with hearing or vision impairments. If applicable, the standard for compliance is the Uniform Federal Accessibility Standard (UFAS). The Program will require that each development has at least one (1) unit that meets the combined Section 504 accessibility requirements for mobility and hearing/visual impairments.

6.4 Construction Permits and Inspections

The developer shall be responsible for ensuring that all required inspections are conducted and passed satisfactorily. The developer shall maintain physical proof that municipal codes and/or third-party inspections have been passed and accepted by any inspecting authority with jurisdiction over the project site—which may include local or county governments, the State of New Jersey, HUD, the Program, or other project lenders, if applicable. The developer shall maintain all project documentation in good order and mark it to record all changes made during performance of the work. The developer shall give the Program, or its representatives and agents, access to all project documentation, regardless of medium or format, at all times and shall submit copies of any project documentation at the request of the Program.

6.5 Construction Schedule and Delays

A timeline for construction should be included with the application to demonstrate the developer's ability to meet the project completion deadlines. Any delays in construction from the contract execution date must be communicated in a timely manner to the Program with written justification and plan for completing construction within the project's timeline.

6.6 Draw Requests

All payments for construction costs will be reimbursed at established milestones in accordance with the development/construction schedule and completion milestones, as defined in the Developer Agreement.

The following describes the method of construction payment draw requests:

- Developers may submit monthly invoices based on work completed by preparing an invoice package and submitting it to the Program.
- Upon receipt of the invoice, the Program will conduct a site inspection to verify completed work and confirm all applicable documentation is present prior to disbursing funds.

No funds will be paid on a housing unit that is deemed to be non-compliant with any applicable code or construction standard. The Program reserves the right to reduce any draw request to ensure payments never exceed construction completed or for work deemed ineligible.

6.7 Change Orders

Developers assume full responsibility for project risks and maintaining the project's schedule. In the unlikely event that a project identifies the need for significant and unforeseen scope changes, the following may apply.

The Program will oversee and monitor the Developer Agreement, any applicable construction contracts, and the change order process. The Program must be notified of all Change Orders within five (5) business days of Developer approval. If a Change Order is anticipated to have a material impact on the grant award and is currently causing a stop work condition, the Program shall have five (5) business days to approve or reject the Change Order for cause once all necessary supporting documentation has been provided. Approval of any Change Order shall be granted at the Program's sole discretion. Any increases in project costs will be evaluated based on funding availability. Developers shall be responsible for any unforeseen costs incurred during the project that are not covered by the Program. Change orders are needed for time extensions and all substitutions that are made to the project, even if the dollar value of that work item remains unaffected.

Each change order must be accompanied by a supporting statement that describes why the change is necessary, the revised project schedule, itemized cost estimates (credit, debit, or no change), and any needed plans, specifications, or supporting documentation. Change orders should be kept to an absolute minimum and cannot be issued after final payment. Change orders that do not conform to the above requirements may ultimately not be funded.

6.8 Inspections

All properties must meet Program guidelines, local, state, and federal housing codes, and occupancy standards upon completion and prior to final payment. A final inspection and Certificate of Occupancy or equivalent (if applicable) must be issued by the local municipality prior to submitting the request for final payment.

When construction work has been completed, the developer must certify completion of work and submit a final request for payment using the processes as established by the Program. The developer and/or the architect/engineer must conduct a final inspection and prepare a written report. Before making a final payment, the developer must ensure that:

- All applicable weekly payrolls and Statements of Compliance have been received, reviewed, and discrepancies have been resolved;
- Any underpayments of wages and/or liquidated damages have been appropriately handled and documented;
- All discrepancies identified through job site interviews have been resolved;
- All other required equal opportunity and labor standards provisions have been satisfied;
- All contract submissions have been received;
- All claims and disputes involving the contractor have been resolved;
- All files are complete; and
- As-built plans have been filed.

Additionally, the Program will ensure that all relevant items noted are present. If the inspection is satisfactory, then work may be accepted, and the final payment may be issued.

At this time, the Program will require the developer to supply all essential closeout documents to be maintained in the project file, using the Program's closeout checklist.

6.9 Retainage

The Program will withhold ten percent (10%) retainage from the total grant amount for each project to ensure full compliance and completion. The retainage will be released upon completion of the project and sale of all CDBG-DR funded homes. As such, the developer will remain under the Developer Agreement until Phase II is completed and retainage is paid out.

7 CLOSEOUT

7.1 Sale of Single-Family Homes

The resale process will be a collaborative effort between the developer, the Program, homebuyer counseling, and lenders. The Program will implement a marketing and outreach program in coordination with the developer's AFHMP and will be conducted at various stages of development and continue through the completion of the developments.

Leading up to the opening of the Phase II homeowner application period, the Program and the developers will undertake concentrated marketing efforts to engage the communities and to build awareness to ensure fair, equitable and meaningful access to housing opportunities. The developer will coordinate with the Program to ensure that units are available and accessible to support the Program's marketing efforts. See Phase II Homebuyer Assistance Policy.

7.2 Final Retainage Draw and Financial Reports

Developers are required to submit the following to the Program to complete the closeout process:

- Final invoice request for retainage;
- Documentation reporting the grant accomplishments and expenditures of each project to the residents of the jurisdiction, as well as the HUD national objective met;
- Documentation that funds were expended in full, or certification of the return of the remaining funds;
- Documentation describing the resolution of any outstanding audit or monitoring issues;
- Duplication of Benefits Form;
- Certification of Occupancy;
- Flood insurance documentation, where applicable;
- Final inspection documentation; and
- Any additional Program requested documentation for closeout.

The Program will review the documentation and process the final request for funds if all provided documentation and the circumstances of the project warrant closeout. The Program will disencumber any remaining funds, if applicable, and enter all needed information in Disaster Recovery Grant Reporting System (DRGR) to show that the activities and projects have been completed.

Once all closeout documentation has been processed and DRGR has been updated, the Program will send a closeout letter to the developer. Developers are advised to sign and return the closeout letter to the Program.

7.3 Project Closeout

Project Closeout will occur when both Phase I and Phase II are completed, and all new housing units have been sold. At such time, the Program will confirm the required documentation is on file for applicable construction requirements, final inspection, and verify that all payment requests have been properly disbursed, less retainage, when applicable, within the terms of the Developer Agreement.

As part of this review, the Program will conduct a final DOB review to ensure that the developer did not receive any additional funding. The final grant reconciliation will be signed by the developer to ensure that any additional duplication of benefit funds received after the execution of the Developer Agreement and final grant calculation are accounted for.

If there are additional DOB funds identified or incomplete work related to the development, the developer may be required to pay previously awarded funds back to the Program.

8 CROSS-CUTTING COMPLIANCE

8.1 Uniform Relocation Act (URA)

The URA provides relocation assistance to any person as defined at 49 CFR 24.2(a)(9)(i) that is displaced as a result of a federally assisted project involving acquisition, demolition, or rehabilitation. Displaced persons include individuals, households, businesses, non-profits, and persons storing property on site. Please reference DCA's "URA Policy Manual" for more information.

The property owner's participation is voluntary and does not require URA assistance. Developers must obtain the proper easements or voluntary acquisition of property to be eligible to participate in the Program. If the property or unit is leased to a Tenant, then the Tenant is not considered a voluntary participant and will require Permanent URA assistance once the Property Owner accepts an offer to sell the property. The sale of the property will result in the permanent displacement of the Tenant (whether persons, businesses, or farms). Eligible tenants will be evaluated for permanent relocation because once the leased property is purchased, it will be demolished, and the Tenant will not be able to return to the property. URA will assist the Tenant in finding comparable replacement property, pay moving costs, and cover the increased cost of the replacement housing for forty-two (42) months if a residential tenant, and re-establishment costs if non-residential.

8.2 Labor Compliance

The developer is responsible for ensuring compliance with all components of the project noted below. All labor compliance requirements must be stipulated in the Developer Agreement, and the developer must manage day-to-day compliance. The Program will monitor for compliance throughout the project.

8.2.1 Davis Bacon

For projects proposing eight (8) or more housing units, and/or include the construction of any public infrastructure in excess of $2,000, compliance with Davis Bacon and Related Acts (DBRA) will apply. The developer will be responsible for collecting and reviewing weekly payrolls, conducting appropriate interviews, and producing all relevant reports to ensure project compliance. For additional information regarding HUD guidance for compliance with Davis Bacon: https://www.hudexchange.info/programs/davis-bacon-and-labor-standards/

8.2.2 Section 3

Section 3 of the Housing and Urban Development Act of 1968 ("Section 3"), as amended, requires that economic opportunities generated by CDBG-DR funds be targeted toward Section 3 residents. Section 3 eligible residents are low- and very low- income persons, particularly those who live or reside in public or government-assisted housing. In accordance with Section 3, contractors using CDBG funding for housing rehabilitation are to provide training and employment opportunities to lower-income residents and contract opportunities to businesses in the project area.

The developer will be required to ensure Section 3 compliance in accordance with DCA's Section 3 Policy.

8.2.3 Contract Work Hours and Safety Standards Act

The Contract Work Hours and Safety Standards Act (CWHSSA) (40 U.S.C. §§ 3701-3708 as implemented at 29 CFR Part 5) applies to covered construction contracts in excess of $100,000. CWHSSA requires that workers receive paid overtime compensation at a rate of not less than one and one-half times their regular rate of pay for all hours worked over 40 in a workweek. The overtime provisions of the Fair Labor Standards Act (29 U.S.C. § 201 et seq.) may also apply to DBRA-covered contracts.

8.2.4 Copeland Anti-Kickback Act

The Copeland Anti-Kickback Act (40 U.S.C. § 3145 and 18 U.S.C. § 874), as implemented at 29 CFR Part 3, prohibits any person from inducing a worker on a federally funded project to give up any part of the compensation to which the worker is entitled. No payroll deductions are permitted unless the contractor has obtained written authorization from the employee as specified in 29 CFR § 3.5 for otherwise allowable under federal regulations.

8.2.5 Insurance, Guarantees, and Bond Requirements

Developers must obtain and provide the following for the duration of construction:

- Appropriate Insurance and Coverages (i.e., Builder's Risk, Course of Construction, Casualty, Fire, Hazard, Liability, Worker's Compensation, etc.);

- A Completion Guarantee that shall be joint and several and remain in effect throughout the construction period, guaranteeing construction completion of the project;
- Payment and performance bonds equal to 100% of the construction contract. During construction, and through any warranty period. The payment and performance bonds shall be active and assigned to the Program; and
- All policies indicate DCA as co-insured.

8.3 Fair Housing and Marketing Homes

During the marketing, selling, and homebuyer selection phase, developers are responsible for complying with all Fair Housing requirements, including:

- Equal Access to Housing in HUD Programs Regardless of Sexual Orientation or Gender Identity (2012 Equal Access Rule)
- Equal Access in Accordance with an Individual's Gender Identity in Community Planning and Development Programs (2016 Equal Access Rule)

Developers shall not discriminate or deny assistance to any person because of race, religion, age, sex, sexual orientation, gender identity, national origin, familial status, marital status, disability, or actual or perceived sexual orientation or gender identity.

Fair Housing

Developers must maintain compliance with all applicable federal, state, and local fair housing requirements including:

- Fair Housing Act (Title VIII of the Civil Rights Act of 1968);
- Title VI of the Civil Rights Act of 1964;
- Section 504 of the Rehabilitation Act of 1973;
- Section 109, Title 1 of the Housing and Community Development Act of 1974;
- Title II of the Americans with Disabilities Act of 1990;
- Architectural Barriers Act of 1968;
- Age Discrimination Act of 1975; and
- Title IX of the Education Amendments Act of 1974.

In coordination with the developers and in order to further fair housing goals and ensure that all potentially eligible applicants are aware of the opportunity to participate in the Program, DCA will engage in an outreach campaign prior to and during the application period which may include special outreach to LMI households, minority households, and others identified as "least likely to apply" for assistance. The outreach may consist of various methods to distribute information and increase awareness of the available housing opportunities, such as community outreach events, internet, local radio and television ads, outdoor print ads such as billboards, the use of housing counseling agencies, local realtors, etc.

In accordance with the requirements of Section 504 of the Rehabilitation Act of 1973, the Program and the developer will make reasonable accommodations to ensure access to the Program for persons with disabilities. These accommodations may include providing alternative methods of access to comply with Program requirements, such as conducting home visits for individuals unable to travel and/or providing additional assistance in the completion of the application and Program forms.

Marketing

HUD requires developers to adopt a marketing plan that will be fully integrated into the overall marketing strategy. The plan must:

- Carry out an approach to attract buyers or tenants, regardless of sex (including orientation and gender identity), handicap, or familial status, of all minority and majority groups to the housing for initial sale or rental.
- Maintain a nondiscriminatory hiring policy in recruiting from both minority and majority groups, including both sexes and the handicapped, for staff engaged in the sale of properties.
- Instruct all employees and agents in writing and orally on the policy of nondiscrimination and fair housing.
- Specifically solicit eligible buyers or tenants reported to the developer by the Area or Insuring Office.
- Prominently display in all offices in which sale or rental activity pertaining to the project or subdivision takes place the Department-approved Fair Housing Poster and include any printed material used in connection with sales, the Department-approved Equal Housing Opportunity logo, slogan, or statement.
- Post in a conspicuous position on all FHA project sites, a sign displaying either the Department-approved Equal Housing Opportunity logo, slogan, or statement prominently.
- Document to be referenced as an Affirmative Fair Housing Marketing Plan (AFHMP)

8.4 Record-Keeping

The Developer shall retain all financial records, supporting documents, statistical records and other records required by 24 C.F.R. § 570.506 or relevant to this Agreement for a period of seven (7) years after DCA makes its last payment under this Agreement.

The Developer may adopt, in accordance with 2 C.F.R. §§ 200.334-338, appropriate methods for collecting, transmitting or retaining records, including retaining electronic versions of printed records, so long as the retained records are periodically reviewed for quality control, are reasonably safeguarded against alteration, and remain readable.

If any litigation, claim, or audit begins before the end of the 36-month period, the Developer shall retain all relevant records until that litigation, claim or audit has been resolved.

The Developer shall maintain property owner data demonstrating client eligibility for services provided. Such data shall include, but not be limited to, client name, address, or other basis for determining eligibility, and a description of the service provided. Such information shall be made available to DCA's monitors or their designees for review upon request.

9 PROGRAM APPEALS, COMPLAINTS, AND CONFLICT OF INTEREST

9.1 Program Eligibility Appeals

All appeal requests related to Program activities are processed and reviewed by DCA. Initial review of the appeal will be conducted by a three (3)-person panel composed of Legal and Regulatory Affairs staff. This staff is independent from the group that originally made the decision being appealed. Each appeal will be reviewed against Program policies and requirements. The panel will make a recommendation to the Deputy Commissioner of DCA, who will make the final determination.

Appeal requests to DCA must be postmarked within sixty (60) calendar days of the date of service on the original correspondence communicating the decision to be appealed. Appeals must be submitted in writing to:

Department of Community Affairs
Division of Disaster Recovery and Mitigation
P.O. Box 823
Trenton, NJ 08625-0800
Attention: Legal

The applicant's written request should contain the following information:

- Applicant's name;
- Applicant's mailing address;
- Applicant's telephone number;
- Email address (if available);
- The reason(s) the decision or action is being appealed;
- Documentation that supports the request to overturn the decision; and
- Application number.

If appropriate, Legal and Regulatory Affairs may contact the applicant to allow the applicant to provide additional documents to address any deficiency or incomplete information, or to be interviewed to determine the merits of the applicant's appeal. If the action or decision is overturned, notification will specify the corrective action to be taken. The applicant shall be notified of the final determination in writing via certified mail.

9.2 Complaints

The State will accept written complaints related to the Program. Written complaints should be submitted via email to DRM.ConstituentServices@dca.nj.gov or be mailed to:

New Jersey Department of Community Affairs
Division of Disaster Recovery and Mitigation
P.O. Box 823
Trenton, NJ 08625-0800
Attention: Manager, Constituent Services

The State will make every effort to provide a timely written response to every citizen's complaint within fifteen (15) working days of receipt of the complaint, where practicable.

9.3 Section 504 Coordination Complaints and Grievances

Section 504 prohibits discrimination on the basis of disability in programs conducted by federal agencies, in programs receiving federal financial assistance, in federal employment and in the employment practices of federal contractors. Complaints regarding accessibility can be reported to the State's Section 504 Coordinator. Plan publication efforts must meet the effective communications requirements of 24 CFR 8.6 and other fair housing and civil rights requirements, such as the effective communications requirements under the Americans with Disabilities Act.

State Section 504 Coordinator: **Tina Williams**
Tina.Williams@dca.nj.gov

9.4 Prevention of Fraud, Waste, and Abuse

DCA describes the process for applicants to report fraud, waste, or abuse in DCA Policy 2.10.3 Prevention and Detection of Fraud, Waste, and Abuse. DCA Policy 2.10.13 Internal Audits and Recipient Audits discusses the process by which the Office of Auditing provides both programmatic and financial oversight of grantee activities. When the grantee has determined that instances of fraud, waste, and abuse have occurred, the Office of Auditing will refer them to the HUD OIG Fraud Hotline (phone: 1-800-347-3735 or email: hotline@hudoig.gov).

It is the affirmative responsibility of any DCA employee and any Program staff who has reasonable suspicion that any form of fraud is occurring to notify the appropriate State or Federal agency or department. Notification of suspected fraud can be made to the Office of the State Comptroller. The toll-free hotline number is 1-855-OSC-TIPS (1-855-672-8477). The e-mail address is comptrollertips@osc.nj.gov. All communications will be kept confidential. The hotline and e-mail address are maintained by the State of New Jersey, Office of the State Comptroller.

9.5 Conflict of Interest

In accordance with federal requirements, the Program will adhere to the following conflict of interest provisions established for the CDBG-DR Program and as fully described in the DCA Conflict of Interest Policy No. 2.10.9. For the Program, the following areas have been identified as potential areas of conflict:

- Program Staff/Homebuyer Applicant, Staff/Local Government, or Staff/Developer relationships.
- Homebuyer Applicant/Developer relationships.
- Evaluation and approval process.

9.5.1 Conflicts Prohibited

No person who is an employee, agent, consultant, officer, or elected official or appointed official of the recipient, or of any designated public agencies, or of sub-recipients that are receiving funds under this part who exercise or have exercised any functions or responsibilities with respect to CDBG activities assisted under this part, or 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 a CDBG-assisted activity, or have a financial interest in any contract, subcontract, or agreement with respect to a CDBG-assisted activity, or with respect to the proceeds of the CDBG-assisted activity, either for themselves or those with whom they have business or immediate family ties, during their tenure or for one year thereafter.

10 DEFINITIONS AND ACRONYMS

AMI – Area Median Income

AFHMP – Affirmative Fair Housing Marketing Plan

CBDO – Community-Based Development Organization

CDBG – Community Development Block Grant

CDBG-DR – Community Development Block Grant – Disaster Recovery

CFR – Code of Federal Regulations

DCA – Department of Community Affairs

DOB – Duplication of Benefits

DRGR – Disaster Recovery Grant Reporting System

FEMA – Federal Emergency Management Agency

FRN – Federal Register Notice

HMGP – Hazard Mitigation Grant Program

HUD – U. S. Department of Housing and Urban Development

IA – FEMA Individual Assistance Program

LMI – Low- and Moderate-Income (Person or Household)

NFIP – National Flood Insurance Program

NOFA – Notice of Funding Availability

NPF – Non-Program Funding

PA – FEMA Public Assistance Program

RE – Responsible Entity

RFP – Request for Proposal

SBA – U.S. Small Business Administration

URA – Uniform Relocation Assistance and Real Property Acquisition Act of 1970, as amended

USACE – U.S. Army Corps of Engineers

Abatement – a set of measures/techniques to carry out ‘‘permanent’’ removal of lead hazards; abatement techniques include: (1) the removal of lead-based paint and dust-lead hazards, (2) the permanent enclosure of lead-based paint, (3) the encapsulation of lead-based paint, or (4) the replacement of components or fixtures painted with lead-based paint, and the removal or permanent covering of soil-lead hazards. Abatement includes all preparation, cleanup, disposal, and post-abatement clearance testing activities associated with such measures.

Action Plan – The State of New Jersey Action Plan for Disaster Recovery submitted to and approved by HUD in fulfillment of the CDBG-DR Program requirements for recovery from Hurricane Ida, as amended.

Acquisition – The utilization of CDBG-DR Disaster funds to acquire real property. Acquisition only is typically not considered a complete activity in the Program and must be combined with another eligible use (i.e., relocation assistance). The purchase price must be consistent with applicable uniform cost principles (i.e., appraised value).

Affirmative Fair Housing Marketing Plan (AFHMP) – A document used to help subrecipients offer equal housing opportunities regardless of race, color, national origin, religion, sex, familial status, or disability (24 CFR Part 200, Subpart M). Implementing Affirmative Fair Housing Marketing Requirements Handbook (8025.1) can be obtained from HUD’s website https://www.hud.gov/program_offices/administration/hudclips/handbooks/fheo/80251

Affordable Housing – In general, housing for which the occupant(s) is/are paying no more than 30 percent of his or her income for gross housing costs, including utilities. The State or Assignee will make every effort to meet this requirement, but affordability will be contemplated on a case-by-case basis. Please note that some jurisdictions may define affordable housing based on other, locally determined criteria, and that this definition is intended solely as an approximate guideline or general rule of thumb. Awarded projects shall designate a minimum of 51% of the total units in a project to be used for affordable housing for low- and moderate-income persons or households earning 80% or less of the Area Median Family Income (MFI), for the designated project affordability period.

Affordability Period – The period of time during which a property must comply with CDBG-DR program rules and regulations, including primary residency, income, and rent restrictions as applicable.

Aggressive/Abusive – Aggressive and abusive behavior refers to the use of aggressive and abusive tactics aimed at harming a Program representative, contractor, applicant, or other persons. This may include physical, emotional, sexual, or financial abuse, as well as intimidation, manipulation, the use of force or the implied use of force, and other tactics. All forms of aggressive and abusive behavior are prohibited and may result in removal from the Program.

Appeal – A written request from an applicant submitted for review to change an unfavorable determination made by the Program.

Area Median Income (AMI) – The median (middle number) household income for an area adjusted for household size as published annually by HUD. Once household income is determined, it is compared to HUD's income limit for that household size. Income limits are adjusted annually by county.

Assignee – A person, company, or entity who receives the transfer of property, title, or rights from another according to the terms of a contract.

Beneficiary – The recipient deriving advantage from CDBG-DR funding.

Builder/Contractor – A person who contracts to construct or repair houses or buildings and/or supervises building operations. The terminology may be used interchangeably.

Buyout – As referenced in the Federal Register Notice 87_FR_31636.pdf (hud.gov), are acquisitions of properties located in a floodway, floodplain, or other Disaster Risk Reduction Area that reduce the risk from future flooding. Under Blue Acres, buyout properties will be voluntarily sold to the Department of Environmental Protection (DEP) or its designee for current fair market value (post-storm value) and must be converted to and maintained per open space, recreational, or wetlands management, or other disaster risk reduction practices.

Case Management – Working with potential applicant (s)s to understand the Program's housing options, resulting in clear and transparent determination of eligibility. Case managers must consider all special circumstances of the applicant(s) needs to decrease their barriers to participate in the Program where possible. Staff should meet at designated locations and supply information in a standard format.

Certificate of Occupancy – A certificate of occupancy is a document issued by a local zoning or building department stating that the home is compliant with local municipal building codes and is suitable for occupancy.

Change Order – A written instrument that authorizes additions, deletions and/or revisions in the Contract Work, Contract Amount, Contract Milestones or Contract Time as originally defined by the Contract Documents.

Community-Based Development Organization (CBDO) – CBDOs are generally nonprofit organizations that undertake specific kinds of CDBG-funded activities. CBDOs can be for-profit or nonprofit organizations but cannot be governmental entities.

Current Fair Market Value – Value of an eligible home, as determined by an appraisal conducted by the Program.

Davis-Bacon Act of 1931 (40 USC Part 3141 et seq.) and Related Acts – All laborers and mechanics employed by contractors or subcontractors in the performance of construction work financed in whole or in part with assistance received under this chapter shall 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. This applies to the rehabilitation and reconstruction of residential property only if such property contains not less than 8 units. The Davis-Bacon and Related Acts (DBA) apply to contractors and subcontractors performing on federally funded or assisted contracts in excess of $2,000 for the construction, alteration, or repair (including painting and decorating) of public buildings or public works.

Demolition – Clearance and proper disposal of dilapidated buildings and improvements.

Developer – A person, partnership or corporation who buys and develops houses, buildings, and/or land.

Development Partner – An individual or company who has some degree of involvement with the State or Assignee DCA in the development of housing for the Single-Family New Construction Program.

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, 6 as amended, 42 U.S.C. § 12102(1)-(3), and in accordance with HUD regulations at 24 CFR §§ 5.403 and 891.505.

Disaster Recovery Grant Reporting System (DRGR) – grant reporting system primarily used by grantees to access grant funds and report performance accomplishments for grant-funded activities. The DRGR System is used by HUD staff to review grant-funded activities, prepare reports to Congress and other interested parties, and monitor Program compliance.

Duplication of Benefits – The Robert T. Stafford Disaster Assistance and Emergency Relief Act (Stafford Act) prohibits any person, business concern, or other entity from receiving financial assistance from CDBG-DR funding with respect to any part of a loss resulting from a major disaster and financial assistance where other sources have been provided (insurance, any other program, etc.).

Elevation Standards – the State or Assignee Elevation Standard, which meet/or exceed the FEMA standard identified in 24 CFR 55.2(b)(1).

Energy Star – A program that provides certification to buildings and consumer products that meet certain standards of energy efficiency.

Environmental Review – 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 – The term family means all persons living together in the same housing unit, as further defined under 24 CFR 570.3.

Federal Register (FR) – A daily publication of the U.S. federal government that issues proposed and final administrative regulations of federal agencies.

FEMA National Flood Insurance Program (NFIP) – When the Program refers to NFIP in the context of eligibility or duplication of benefits, the Program is referring to private and public flood insurance programs that cover structural repairs resulting from flood damages.

First-Time Homebuyer – An individual who has had no ownership in a principal residence during the 3-year period ending on the date of purchase of the property.

Flood Disaster Protection Act of 1973 and Sec. 582(a) of the National Flood Insurance Reform Act of 1994 – Compliance with the legal requirements of Section 582(a) mandates that HUD flood disaster assistance that is made available in Special Flood Hazard Areas (SFHAs) may not be used to make a payment (including any loan assistance payment) to a person for repair, replacement or restoration for flood damage to any personal, residential or commercial property if: (1) the person had previously received federal flood disaster assistance conditioned on obtaining and maintaining flood insurance; and (2) that person failed to obtain and maintain flood insurance as required under applicable federal law on such property.

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

Floodway – FEMA designation for the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

Forced Mortgage Payoff – An involuntary forced mortgage payoff is when the mortgage company forces you to use your insurance funds toward your mortgage balance. The mortgage company required a large payment toward the mortgage to reduce the balance. The mortgage company required a full payoff of your mortgage.

Household – All persons occupying the same housing unit, regardless of their relationship to each other. The occupants could be a single family, two or more families living together, or any other group of related or unrelated persons who share a living arrangement. For housing activities, the test for meeting the low- and moderate-income objective is based on the household's income.

HUD Housing Quality Standards – HUD's standard for housing conditions as defined by 24 CFR § 982.401. Applicable to new construction, reconstruction, and replacement of Manufactured Housing Units (MHUs).

ICC-700 National Green Building Standard – A rating and certification system that aims to encourage increased environmental and health performance in residences and residential portions of buildings. Its criteria apply to the design and construction of homes.

Increased Cost of Compliance (ICC) – Structures damaged by a flood may be required to meet certain building requirements to reduce the risk of future flood damage before the structure can be repaired or rebuilt. To help cover these costs, the NFIP includes Increased Cost of Compliance coverage for all new and renewed Standard Flood Insurance Policies. ICC is a duplication of benefits if a structure owner requests reimbursement or additional assistance for elevation, demolition, flood proofing or relocation—one of the four options available under ICC—and has already received an ICC benefit under the NFIP.

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 his or her primary language so that person can understand important documents related to health and human services.

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 80% 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.

Living Area – Any area of a residential dwelling used by one or more children age 6 and under, including, but not limited to, living rooms, kitchen areas, dens, playrooms, and children's bedrooms.

Low and Moderate Housing (LMH) – CDBG-assisted housing occupied by a household earning at or below 80% of the AMI, ensuring direct benefit to low- and moderate-income individuals.

Low- and Moderate-Income (LMI) Household – A household with income (including income derived from assets) at or below 80 percent of an area's median income. All income is based on the Area Median Income limits set annually by HUD for each county or metropolitan statistical area.

Major/Severe Damages – FEMA real property damage assessment of $8,000 or greater or flooding over one foot.

Manufactured Housing – Also known as a Manufactured Home as defined by 24 CFR Part 3280 (HUD-Code). A Manufactured Home is a structure that is transportable in one or more sections. In the traveling mode, the home is eight body-feet or more in width and forty body-feet or more in length. It is at least 320 square feet, built on a permanent chassis, and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems. The structure must be designed for occupancy as a single-family principal residence. All Manufactured Homes must have a HUD Certification Label affixed and must meet the requirements of HUD-Code for Manufactured Homes as set by the National Manufactured Housing and Construction Safety Standards Act of 1974, and HUD Code Standards 24 CFR Part 3280 & 3282. The MHU must be built to meet local and regional building codes including windstorm requirements.

Mitigation – Activity to protect the home from future storm damage (e.g., elevation, shutters, elevated HVAC, strengthen doors, soil stabilization, roof-ties, etc.).

Section 3 – That portion of the Section 3 of the HUD Act of 1968 related to the hiring of local low and very low-income populations to perform work on contracts that use Federal funds. The State of New Jersey is reviewing and adopting a Section 3 Plan for this Program. At a minimum, it will require general contractors in the qualified contractor pool to meet the Section 3 policy to the "greatest extent feasible". The term to the greatest extent feasible means that general contractors will make substantial efforts to comply with the regulatory requirements of Section 3.

Section 504 of the Rehabilitation Act of 1973 – A national law that protects qualified individuals from discrimination based on their disability**.** The nondiscrimination requirements of the law apply to employers and organizations that receive financial assistance from any Federal department or agency, including the U.S. Department of Health and Human Services (DHHS). These organizations and employers include many hospitals, nursing homes, mental health centers and human service programs.

Special Flood Hazard Area (SFHA) – An area having special flood, mudflow or flood-related erosion hazards and shown on a Flood Hazard Boundary Map (FHBM) or a Flood Insurance Rate Map (FIRM) Zone A, AO, A1-A30, AE, A99, AH, AR, AR/A, AR/AE, AR/AH, AR/AO, AR/A1-A30, V1-V30, VE or V. The SFHA is the area where the National Flood Insurance Program's (NFIP's) floodplain management regulations must be enforced and the area where the mandatory purchase of flood insurance applies.

URA – The Uniform Relocation and Real Property Acquisition Policies Act of 1970, as amended (Title 49 CFR Part 24) (42 U.S.C. 4601 et. seq.) See New Jersey URA Policy. Applies to all acquisitions of real property or displacements of persons resulting from federal or federally assisted program 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. For the purposes of these guidelines, URA mostly applies to residential displacements in involuntary (49 CFR Subpart B) acquisition or multifamily damaged/occupied activities that require the relocation of the tenants.

Urgent Need (UN) Household – A household with income (including income derived from assets) between 81% and 120% of an area's median income. All income is based on the Area Median Income limits set annually by HUD for each county or metropolitan statistical area.

Urgent Need National Objective – An urgent need that exists because conditions pose serious and immediate threat to health/welfare of community, the existing conditions are recent or recently became urgent and the recipient of funds cannot finance the activities on its own because other funding sources are not available. This category applies to households earning between 81% and 120% of Area Median Income (AMI). Documentation must be maintained on how each program and/or activity funded under this category responds to a disaster-related impact.