

**State of New Jersey
Department of Community Affairs**

**Community Development
Block Grant- Disaster (Irene) Recovery Program**

Monitoring Plan

Systems Policies and Procedures

Monitoring System Policies and Procedures

Purpose

NJ DCA Program Representatives (DCAPR) are responsible for monitoring his/her assigned Grantees to ensure that CDBG-DR funds are disbursed in a timely manner for the purposes set forth in the Department's grant agreement with the Grantee. Monitoring of CDBG-DR recipients is conducted:

- To determine if program activities are progressing in compliance with the grant agreement specifications and schedule;
- To ensure that one of the National Objectives is being met for each eligible activity funded, as required under the federal Housing and Community Development Act of 1974 as amended; and
- To ascertain if the Grantee is in compliance with the other applicable laws, implementing regulations and Executive Orders (i.e., the Environmental Review Record, Labor Standards, Fair Housing and Equal Opportunity, Acquisition and Relocation, Lead-Based Paint Hazards, Citizen Participation).

Monitoring is also designed to facilitate funded projects by:

- Providing technical assistance and developing the management capacity of Grantees;
- Providing guidance to Grantees in assessing program progress so that projects can be carried out within a reasonable time frame; and
- Identifying potential problems before they become obstacles to the program and offering solutions to address those problems when they occur.

Monitoring of Grantee compliance with the agreement will be carried out on a continuing basis from the date the DCAPR is assigned to a Grantee. Unit staff will monitor program progress, program benefit and compliance with other applicable laws through written information provided by the Grantee, telephone and e-mail contact with the Grantee's Project Coordinator, and on-site monitoring visits. The Unit's monitoring system consists of the pre-monitoring and monitoring activities as follows.

Pre-Monitoring Activities/Actions and Materials

Within 30 working days of the notification of award by the Commissioner, the Program Administrator (DCAPA) will authorize Grantees to incur costs associated with the preparation of the Environmental Review Record (ERR) and for certain administrative procedures. Within ninety working days of the notification of award, the CDBG-DR Program may conduct an orientation meeting for first-time Grantees. An orientation for Grantees who have previous program experience shall be scheduled at the discretion of the Program. The Grantee's Project Coordinator will be advised that a handbook which contains instructions and forms for complying with the program monitoring procedures as well as other contractual requirements is available at the Division's web page. The Program will explain compliance procedures and answer questions regarding the monitoring procedures as they apply to the Grantee's project.

The Monitoring Process

The Monitoring Schedule

On-site monitoring visits shall occur at least once during the term of the contract prior to close-out. The timing and frequency of monitoring visits during the term of the agreement will be based on the guidelines below.

Public Facilities Projects

- An initial on-site monitoring visit will be conducted at the discretion of the DCAPR within one month of the date construction begins or when the project is approximately 50% complete for new grantees and grantees that may have difficulty complying with program guidelines.
- In lieu of an initial on-site monitoring visit, the DCAPR will monitor from the office by contacting the grantee's director or coordinator and, if required, have them send documents via mail, fax, or e-mail to verify compliance based on the monitoring policies and procedures.
- If no deficiencies are found, no follow-up site visits are required until closeout, unless extensions are required or problems arise.
- If deficiencies are found during the interim visit or monitoring from the office, a follow-up visit will be scheduled within 60 days, unless the deficiencies are corrected by the Grantee and appropriate documentation is provided to the DCAPR. Failure to correct deficiencies may result in suspension and ultimately termination.
- A final on-site monitoring visit will be conducted when all construction is complete and the Grantee has submitted a final Monthly Report and a Final Performance Report.

Housing Rehabilitation Projects

- An interim on-site monitoring visit will be conducted at the discretion of the DCAPR for housing rehabilitation grants when at least 5 units have been completed for new grantees and grantees that may have difficulty complying with program guidelines.
- In lieu of an initial on-site monitoring visit, the DCAPR will monitor from the office by contacting the grantee's director or coordinator and, if required, have them send documents via mail, fax, or e-mail to verify compliance based on the monitoring policies and procedures.
- If no deficiencies are found, no follow-up site visits are required until closeout, unless extensions are required or problems arise.
- If deficiencies are found during the interim visit or monitoring from the office, a follow-up visit will be scheduled within 60 days unless the deficiencies are corrected by the Grantee and appropriate documentation provided to the DCAPR. Failure to correct deficiencies may result in suspension and ultimately termination.

- A final on-site monitoring visit will be conducted when rehabilitation of all units are complete, the Grantee has submitted a final Monthly Report and a Final Performance Report.

Economic Development & Innovative Development Projects

- Monitoring visits will be conducted in accordance with the most appropriate of the guidelines described above.

The Monitoring Visit Procedure

The Monitoring Visit

The DCAPR will make arrangements with the Grantee's Project Coordinator to visit the site and review relevant files. For housing rehabilitation projects, the Grantee's Project Coordinator will be requested to arrange for inspection of completed units and interviews with an adequate sample of beneficiaries in order to fully assess progress and compliance with the national objective. Arrangements will be confirmed by letter (or e-mail) to the Grantee's Project Coordinator.

In addition to noting the date, time and place of the visit, the letter (or e-mail) will include the agenda which the DCAPR intends to cover during the visit. This letter (or e-mail) will be sent at least a week prior to the visit so the Grantee's Project Coordinator may be adequately prepared.

The Monitoring Report

No more than twenty days after the date of the monitoring visit, the DCAPR will submit a monitoring letter and report to the DCAPA for review and approval. The monitoring report will consist of the monitoring letter and the memorandum of understanding prepared during the visit and signed by the DCAPR and the Grantee's Project Coordinator. In all cases, the monitoring letter will be on letterhead and ready for the DCAPA's signature and distribution. It will be addressed to the official who signed the grant agreement, with copies to Grantee's designated Project Coordinator and Project Director. The monitoring report will be retained along with the monitoring checklists and the memorandum of understanding prepared by the DCAPR in the appropriate project file within the Program. The content of the monitoring letter is described below.

Program Benefit (National Objective Compliance)

For *Housing Rehabilitation Projects*, the DCAPR will review a representative sample of individual recipient files to verify that they are of low or moderate income. See 'Housing Rehabilitation Checklist' for individual file content.

For *Special Population Public Facilities Projects*, the DCAPR will indicate the extent to which the facility construction/reconstruction or architectural barrier removal project is being used by the eligible population and what controls are in place to manage the use of the facility.

For *Regular Public Facilities Projects*, the DCAPR will verify that the location and extent of the project is the same as that for which compliance with the applicable national objective was satisfactorily documented during the application and grant agreement process.

For *Economic Development Projects*, low and moderate income benefit will be verified by examining records used to document the household income of people retained or hired according to the Program approved hiring plan. The DCAPR will indicate what efforts the employer made to give first consideration to people of low and moderate income, and whether any job training was provided to ensure that people of low and moderate income would be able to fill the positions created.

Other Applicable Laws (Assurances)

The “other applicable laws” are covered under six categories included in the Program Handbook: Environmental Review Record, Labor Standards, Civil Rights (Fair Housing and Equal Opportunity), Acquisition/Relocation, Lead-Base Paint Hazards, and Citizen Participation. During the monitoring visit the DCAPR will review the grantee’s files to determine if the assurances are on file, complete and available for public review.

The appropriate checklist(s) will be completed by the DCAPR during the monitoring visit to document the adequacy of the files reviewed. Completed checklists will be used to prepare the Monitoring Letter and attached to the file copy of the Monitoring Letter. Guidelines for reviewing the Assurances are described below.

- Memorandum of Understanding (MOU)

Attached to the file copy of the monitoring letter is a Memorandum of Understanding (MOU). In this document the DCAPR describes briefly what was found during the visit, what actions are to be taken by the Grantee to correct any findings or concerns identified and a deadline for making such corrections. The MOU is signed by the DCAPR and the Grantee’s Project Coordinator or designee.

- Environmental Review Record (ERR)-

The Grantee is required to maintain an ERR on file for public review. The DCAPR will indicate whether an ERR is available for public review and if all required documents are included. The file must include all documents pertaining to the level of environmental clearance, including the statutory checklist, environmental assessment checklist, checklist(s) documentation, public notices, request for release of funds, program approval of the release of funds, and all correspondence from public agencies, organizations and the general public. While visiting the project site, the DCAPR will note whether there are environmentally sensitive areas or environmental impacts not covered in or that differ from the approved ERR.

The DCAPR shall complete the Environmental Review Record monitoring checklist during the monitoring visit and note any deficiencies, including actions the Grantee must take to be in compliance with program requirements.

- Labor Standards (as applicable)

The DCAPR will indicate whether the Labor Standards file was available for review and if the file is up to date. The file must include general contract information (including the name of the prime contractor and all sub-contractors, bid opening date, contract award date, contract amount and the date construction began), copies of the appropriate federal and State prevailing wage decisions in effect and copies of weekly payrolls with statements of compliance, fringe benefits documentation, apprenticeship certifications and employee interviews.

During the course of a monitoring visit, the DCAPR will review a representative sample of weekly payrolls to determine that appropriate wage and fringe benefit rates are being paid to all workers employed on the project. Detailed guidelines for maintaining this file may be found in the “Labor Standards” section of the “Program Handbook”, available at the Division’s web page.

The “Labor Standards Monitoring Checklist” will be completed by the DCAPR during the monitoring visit and later attached to the file copy of the monitoring letter. The DCAPR will note any deficiencies and indicate the action to be taken and the specific date by which the Grantee is required to respond.

- Civil Rights (Fair Housing and Equal Opportunity)

The DCAPR will review the Grantee’s civil rights file, interview the Grantee’s Project Coordinator and complete the “Civil Rights Monitoring Checklist”. The DCAPR will ascertain the benefits of the program from the data required to be maintained by the Grantee by race, sex and ethnic group where applicable.

The Grantee’s personnel policies, specifically as they pertain to people hired to administer the program will be examined. The Grantee must also have on file a copy of an EEO-4 (filed with the Equal Employment Opportunity Commission if the Grantee employs more than 50 employees) or the FR-2 form (which may be found in the “Civil Rights Section” of the “Program Handbook”). The DCAPR will also note whether the HUD EEO placard is prominently displayed.

The DCAPR will identify efforts made by the Grantee to include minority and women-owned contractors in the bidding process and the results of these efforts. The DCAPR will also indicate whether or not minority groups and women being served are representative of the project area or service area.

For any housing rehabilitation projects or other projects serving individual beneficiaries, the DCAPR will compare the FR-1 (found in the “Civil Rights Section” of the “Program Handbook”) with the demographic description of the area as found in the grant application and appropriate census data. If deficiencies are noted, any efforts being made or recommended to address the situation will be indicated.

The DCAPR will indicate specifically what actions the Grantee has taken to affirmatively further fair housing, as proposed in the Grantee’s Fair Housing Resolution, and to assess whether or not the Grantee is making an effort to address the issue of discrimination in housing. The DCAPR will note any deficiencies in implementing proposed actions to affirmatively further fair housing and indicate the actions to be taken and specific date by which the Grantee is required to respond to the DCAPR.

- Citizen Participation

Citizen Participation (CP) requirements appear in the Federal Register of April 16, 2012, the NJCDBG-DR Action Plan (Hurricane Irene) and the NJ Small Cities CDBG Program, where applicable. The April 16th Federal Register provided a waiver to streamline the CP process that waives the public hearing requirements at the local (project) level.

- Action Plan Amendments

The CDBG-DR Action Plan will be amended as described by the Federal Register Notice. The Action Plan is a living document that may be subject to amendments in response to new information and data that is realized during the life of the project. Any amendments to the budget chart will display how funds are reallocated. The entire Action Plan as amended shall be viewable as a single document.

The State will give the public an opportunity to comment on all substantial amendments to the Plan. The State defines a substantial amendment as the following: a change in program benefit or eligibility criteria; the allocation or re-allocation of more than \$1 million; or the addition or deletion of any activity. In the case of a substantial amendment the State will publish these changes on the Division of Housing and Community Resources' website and provide citizens with a 7 day comment period. The same citizen participation requirements and comment period will also be required for all DR grant recipients.

- Applicable Waivers

Summary of waivers granted to New Jersey's CDBG-DR Program. The following were waived:

- 70 percent overall benefit to people of low and moderate-income was reduced down to 50 percent
- the requirement to distribute funds to units of local government only
- require consistency with the consolidated plan
- action plan requirements; substituting an Action Plan for Disaster Recovery
- certain citizen participation requirements for a streamlined process
- administration cap to allow 5 percent
- annual reporting requirements; substituting quarterly reporting
- to allow new housing construction
- rehabilitation assistance to households with incomes up to 120 percent of the HUD median income limits
- anti-pirating provisions for business assistance
- to allow flexibility on requirements regarding program income
- standard certifications; substituting alternative certifications
- allowing reimbursement for pre-agreement costs
- allowing the use of the exception criteria (low and moderate-income area benefit requirement) for entitlement communities in Passaic, Bergen, Morris, Somerset, Essex, Middlesex and Monmouth Counties
- allowing the reviews and handling of noncompliance as may be appropriate to prevent continuance of the deficiency, mitigate any adverse effects or consequences, and prevent a recurrence
- allowing housing incentives to resettle in disaster-affected communities

- limitations on emergency grant payments to expend interim mortgage assistance up to 20 months
- allowing building for the general conduct of government
- one for one replacement housing, relocation, and real property acquisition requirements

Regardless of the waiver, CDBG-DR funds may not be used for activities reimbursable by, or for which funds are made available by, FEMA or the Army Corps of Engineers.

- Acquisition and Relocation (as applicable)

The DCAPR will review the file and complete the “Acquisition Checklist”. The specific documents reviewed will be noted and an assessment made to determine whether the Grantee is in compliance with this assurance. Generally, if acquisition is involved, evidence of a qualified independent appraisal(s), review appraisal, purchase offer, and closing documentation, including a deed, should be on file. The DCAPR will note any deficiencies and indicate the actions to be taken and the specific date by which the Grantee is required to respond to the SCPA.

If Relocation is involved, the DCAPR must consult with the Grantee to ensure compliance with applicable federal and state relocation regulations including financial assistance to those affected.

- Lead-Based Paint Hazards

If the project involves housing rehabilitation of dwellings built prior to 1978 the grantee must comply with the Lead-Safe Housing Rule (HUD 24 CFR Part 35, et al.), EPA 40 CFR Part 745, et al., and the State’s lead safety rules (N.J.A.C. 5:17 and N.J.A.C. 8:51, et al.). The DCAPR will review applicable project files (including participant files) and complete the “Lead Paint” portion of the “Housing Rehabilitation Checklist Individual Files”.

- Program Progress/Administration

Describe the Grantee’s progress to date in attaining the goals set forth in the grant agreement. Whenever possible use quantifiable terms (e.g., number of housing units rehabilitated; percent or portion of construction completed). Relate the progress observed to the latest Monthly Program Progress Report received.

Discuss the timeliness of the progress (e.g., whether the project is proceeding on schedule, whether contractors for housing rehabilitation are completing their work in a reasonable period of time, whether contractors for public facilities projects are performing their work on schedule).

Indicate the specific documents reviewed and the items observed on the site (e.g.: whether the housing rehabilitation work on inspected units is consistent with work write-ups, whether the project has progressed as stated in the Grantee Monthly Program Progress Reports, and whether the work performed is consistent with the construction contract and specifications.

If the project includes housing rehabilitation, indicate whether the property owners interviewed are satisfied with the work completed by the contractor and the service provided by the Grantee.

Indicate whether the Grantee is adequately administering the program by assessing staffing, record-keeping, project marketing, and project coordination efforts.

- Financial Management

Since audits of units of local government may occur at any time during the year, the DCAPR will be informed of any audit findings pertaining to Program accounts reported to the Department's Division of Local Government Services (LGS). In such cases, the monitoring visit and subsequent report will include an assessment by the DCAPR of efforts by the Grantee to resolve the finding.

In addition, during the course of the visit, the DCAPR will review the financial records maintained by the Grantee to determine if proper documentation exists to facilitate the performance of an audit. Specific procedures in municipal procurement and analyzing cost reasonableness are also be monitored for compliance. The "Financial Review Checklist" will be used to make the determination. Any deficiencies will be noted in the Monitoring Letter and on the Checklist. Where appropriate the DCAPR, through the SCPA, will provide an assessment of the Grantee's management system and relay pertinent information to the LGS, the appropriate cognizant agency (in accordance with OMB's Common Rule for Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments.) and the Grantee's independent auditor.

Follow-up Interim Monitoring

Certain situations may occur during the term of the program that may impede project implementation. When these occur the DCAPR must assess the situation and take immediate steps for appropriate action or assistance. In cases where technical assistance does not correct the situation, the Grantee's agreement may be suspended and ultimately terminated.

Project problems need to be communicated to the DCAPR by the Grantee as they occur. However, the DCAPR is also responsible for tracking the progress of the Grantee, primarily through the review of Quarterly Program Reports (QPRs), phone calls, e-mail and on-site monitoring visits. The DCAPR will enter the progress of each project in the CDBG-DR (Irene) program tracking sheet. The absence of a QPR or several months of reports with no draw down of funds (or for administrative funds only) suggest problems that must be corrected in order to achieve the purposes of the grant.

When problem situations become apparent, the DCAPR will contact the Grantee's Project Coordinator and advise him/her of appropriate corrective actions that should be considered to resolve the situation. The DCAPR will also consult with the SCPA about the situation and together develop a course of corrective action. If in the judgment of the DCAPR and the SCPA the situation cannot be resolved simply through technical assistance, the DCAPR will prepare a letter for the SCPA's signature to the official (or his successor) who signed the grant agreement describing the situation, the Department's concern, recommended corrective actions, and a date by which the Grantee must respond. Recommended corrective actions may include (but are not limited to) the following:

- Amend the contract;
- Revise the "policies and procedures manual"
- Replace or augment local staff and/or consultants administering the program; and/or
- Revise program schedules to reflect new realities.

If the Grantee falls to correct the problem within an agreed upon time period, or if the project is more than 60 days behind schedule, the following procedure will be followed by the DCAPR.

- The DCAPR will submit a status report to the DHCR Director, listing in chronological order the important events pertinent to the situation. This report will also contain a summary of the Grantee's performance and payments, the reasons why the project goals are not being accomplished, and the efforts made by the DCAPR to help the Grantee attain project goals. The DCAPR will also cite and document any site visits made to the Grantee relative to the problem.
- The DCAPR will meet with the DCA administrators to review the status report. The DCAPR will prepare a written summary of the problems as well as a list of recommendations to discuss with the Division staff. If appropriate, the DCAPR will arrange a conference with the Grantee's Project Coordinator, Project Director and any other appropriate officials to communicate the results of the Division meeting and advise them of the courses of action available.
- The DCAPR will monitor the Grantee's attempts to correct the problem in accordance with the recommendations of the Bureau/Division meeting. If the Grantee fails to take any action to resolve the situation within the proscribed period, the DCAPR will meet again with Division staff to decide whether the grant agreement will be suspended for a set period of time or whether it should be terminated in whole or in part.

If the decision is made to suspend the agreement, the DCAPR will notify the Grantee that the Department will immediately suspend the agreement but honor legitimate obligations and withhold further payments; prohibit the Grantee from incurring additional obligations of funds pending the Department's acceptance of corrective actions by the Grantee; and may exercise its rights to terminate the agreement by a specific date if corrective actions acceptable to the Department do not occur.

If the decision is made to terminate the grant agreement, the DCAPR will prepare on behalf of the Division Director a termination notice to the Grantee, setting forth the reason(s) for termination and the effective date. This notice will be sent to the chief elected official (the person who executed the grant agreement or his/her successor), with copies to appropriate parties.

Grant Agreement Amendment Policy

The Department will consider amendments to the original activities contained in its grant agreements if they are necessitated by actions or conditions beyond the control of the Grantee. Grantees must request written approval from the Department for any modifications to the originally executed grant agreement, or to any subsequent amendments.

Grantees should be told to seek advice and instructions from the DCAPR if amendments are contemplated which alter the scope, nature, or location of the original activities. Approval of amendments is at the discretion of the Department and is subject to the following:

- Evidence from the Grantee that all reasonable attempts to implement the original activities have been made and that continued efforts will not result in the timely implementation of the current program;
- A determination by the Department that program benefits to be attained by the modified activities would be comparable to those of the original program;
- A determination by the Department that the proposed modifications would not have affected the original decision to fund the application;
- The Grantee's assurance that affected citizens will have the opportunity to comment on the requested modification(s) which would alter the scope, nature, or location of the original activities; and
- A determination by the Department as to whether the modified activities can be completed in a timely manner.