

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

ASSISTANCE LISTING 14.228 COMMUNITY DEVELOPMENT BLOCK GRANTS/STATE'S PROGRAM AND NON-ENTITLEMENT GRANTS IN HAWAII

I. PROGRAM OBJECTIVES

The primary objective of the Community Development Block Grants (CDBG)/State's Program and Non-Entitlement Grants in Hawaii (State CDBG Program) is the development of viable communities by providing decent housing, a suitable living environment, and expanded economic opportunities, principally for persons of low- and moderate-income. This objective can be achieved in two ways. First, funds can only be used to assist eligible activities that fulfill one or more of three national objectives. Second, the grantee must spend at least 70 percent of its funds over a period of up to three years, as specified by the grantee in its certification, for activities that address the national objective of benefiting low- and moderate-income persons.

The Housing and Economic Recovery Act of 2008 (HERA) (Pub. L. No. 110-289, July 30, 2008) provided funds for emergency assistance for redevelopment of abandoned and foreclosed homes and residential properties, and provides under a rule of construction that, unless HERA provides otherwise, the grants are to be considered Community Development Block Grant (CDBG) funds. The grant program under Title III is referred to as the Neighborhood Stabilization Program (NSP). The NSP funding referred to above is the funding provided under HERA. These HERA funds are also referred to as NSP1 in the Neighborhood Stabilization Program (see Assistance Listing 14.256, II, "Program Procedures"). Additional funding for the NSP was authorized by Section 1497 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) (Pub. L. No. 111-203, July 21, 2010) and is referred to as NSP3. **NSP funding provided under the American Recovery and Reinvestment Act of 2009 (ARRA) is referred to as NSP2 and NSP-TA, which are covered by the Neighborhood Stabilization Program (Recovery Act Funded) (Assistance Listing 14.256) and audited separately.**

CDBG Disaster Recovery (CDBG-DR) funding is authorized under Title I of the Housing and Community Development Act of 1974, as amended. Public laws are the appropriation acts that provide funding for each disaster: Pub. L. No. 115-123, Pub. L. No. 115-72, Pub. L. No. 115-56 (Division B), Pub. L. No. 115-31 (Sec. 421), Pub. L. No. 114-254, Pub. L. No. 114-223, Pub. L. No. 114-113, Pub. L. No. 113-2, Pub. L. No. 112-55, Pub. L. No. 111-212, Pub. L. No. 110-329, Pub. L. No. 110-252, Pub. L. No. 110-116, Pub. L. No. 109-234, Pub. L. No. 109-148, Pub. L. No. 108-324, Pub. L. No. 107-206, Pub. L. No. 107-117, Pub. L. No. 107-73, and Pub. L. No. 107-38. The auditor must consult the relevant public law for the CDBG-DR award.

II. PROGRAM PROCEDURES

A. Overview

CDBG funds are provided, according to a statutory formula, to those states that elect to administer their CDBG non-entitlement funds. The states, in turn, distribute the funds to units of general local government that do not qualify for grants under the CDBG

Entitlement Program. The non-entitlement counties in Hawaii are handled differently than Entitlement grantees in the following ways: (1) their funding comes from Section 106(d) of the Housing and Community Development Act of 1974, as amended (42 USC 5306(d)); (2) funds are distributed using the formula contained in 24 CFR section 570.429(c); reallocations due to grant reductions, or funds not applied for, go to the other non-entitlement counties in Hawaii on a pro rata basis (24 CFR section 570.429(d)); (3) non-entitlement counties are not eligible to use the exception criteria in 24 CFR section 570.208(a)(1)(ii); and (4) 24 CFR section 570.307 (Urban Counties) and 24 CFR section 570.308 (Joint Requests) would not apply to non-entitlement counties in Hawaii. Except for these differences, non-entitlement counties in Hawaii should follow the requirements of CDBG Entitlement Grants (Assistance Listing 14.218). For the CDBG program, in addition to federal statutory requirements, each state has the authority to issue rules consistent with federal statutes and regulations. The state rules should be reviewed before beginning the audit (24 CFR sections 570.480 and 570.481). For CDBG-DR, Puerto Rico, and United States Virgin Islands are considered states.

B. Subprograms/Program Elements

The NSP1 and NSP3 grants are special CDBG allocations to address the problem of abandoned and foreclosed homes. The HERA and the Dodd-Frank Act established the need, targets the geographic areas, and limits the eligible uses of NSP funds. A state choosing to carry out an activity directly must apply the requirements of 24 CFR section 570.483(b) to determine whether the activity has met the low-, moderate-, and middle-income national objective. It is noted that Section 2301 (f)(3)(A) of HERA defines eligible individuals and families as those that do not exceed 120 percent of area median income.

NSP3 requirements are in the NSP Notice published on October 19, 2010 (75 FR 64322-64348), which lists allocations, requirements, and waivers. The NSP3 Notice incorporates the NSP1 Bridge Notice, changes made by ARRA, and additional changes and clarification. The notices are available at <https://www.hudexchange.info/nsp/nsp-laws-regulations-and-federal-register-notices/>.

HUD provides flexible grants to help cities, counties, and states recover from Presidentially declared disasters, especially in low-income areas, subject to availability of supplemental appropriations. In response to presidentially declared disasters, Congress may appropriate additional funding for the CDBG program as Disaster Recovery grants to rebuild the affected areas and provide crucial seed money to start the recovery process. Since CDBG Disaster Recovery (CDBG-DR) assistance may fund a broad range of recovery activities, HUD can help communities and neighborhoods that otherwise might not recover due to limited resources.

The *Federal Register* notices that govern the use of CDBG-DR funds are available at <https://www.hudexchange.info/programs/cdbg-dr/cdbg-dr-laws-regulations-and-federal-register-notices>. Auditors should consult the applicable *Federal Register* notices for the specific CDBG-DR award allocated to the state.

Source of Governing Requirements

The CDBG program is authorized under Title I of the Housing and Community Development Act of 1974, as amended (42 USC 5301). Implementing regulations may be found at 24 CFR Part 570, Subpart I, which was revised effective May 23, 2012.

The NSP1 is authorized by Title III of Division B of HERA. HUD published a “Notice of Allocations, Application Procedures, Regulatory Waivers Granted to and Alternative Requirements for Emergency Assistance for Redevelopment of Abandoned and Foreclosed Homes Grantees Under the Housing and Economic Recovery Act, 2008” (NSP Notice) that advises the public of the allocation formula, allocation amounts, the list of grantees, alternative requirements, and the waivers of regulations provided to grantees (see October 6, 2008, *Federal Register*, 73 FR 58330-58349).

The requirements of HERA have been updated by (1) a notice in the *Federal Register*, Docket No. FR-5255-N-02 (NSP1 Bridge Notice) on June 19, 2009 (74 FR 29223-29229), which provided revisions and technical corrections to the NSP Notice and changes to NSP made by ARRA; (2) a notice in the *Federal Register*, Docket No. 5321-N-03 (NSP Notice) on April 9, 2010 (75 FR 18228-18231) to note a change in definitions and modification to the NSP; (3) the Dodd-Frank Wall Street Reform and Consumer Protection Act of July 21, 2010 (Pub. L. No. 111-203); and (4) a notice in the *Federal Register*, Docket No. FR-5447-N-01 (NSP3) on October 19, 2010 (75 FR 64322-64348) to incorporate the bridge notice, the changes made by ARRA, and additional changes and clarification. Most requirements were incorporated into the NSP3 Notice.

The *Federal Register* notices that govern the use of CDBG-DR funds are located at <https://www.hudexchange.info/programs/cdbg-dr/cdbg-dr-laws-regulations-and-federal-register-notices>. Auditors should consult the applicable *Federal Register* notices for the specific CDBG-DR award allocated to the state.

Availability of Other Program Information

Additional information about the NSP is available at the HUD NSP website at <https://www.hudexchange.info/programs/nsp/>.

The specific Notices relevant to this program and their web locations are as follows:

- a. NSP Notice (Docket No. FR-5255-N-01) at <https://www.hudexchange.info/resources/documents/NSP1Notice.pdf>
- b. NSP1 Bridge Notice (Docket No. FR-5255-N-02) at https://www.hudexchange.info/resources/documents/nsp1_bridgenotice_061909.pdf
- c. NSP “Definition and Modification” Notice (Docket No. 5321-N-03) at <https://www.govinfo.gov/content/pkg/FR-2010-04-09/pdf/2010-8131.pdf>

- d. NSP3 Notice (Docket No. FR-5447-N-01) at https://www.hudexchange.info/resources/documents/UnifiedNSP1NSP3Notice_101910.pdf
- e. Further, additional information about the CDBG-DR is available at the HUD CDBG-DR website at <https://www.hudexchange.info/programs/cdbg-dr/cdbg-dr-laws-regulations-and-federal-register-notices/>

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, “Matrix of Compliance Requirements”), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a “Y” in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. **When a compliance requirement is shown in the summary below as “N,” it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an “N.” See the Safe Harbor Status discussion in Part 1 for additional information.**

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment/Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement Suspension & Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	N	N	Y	N	Y	N	Y	Y	N	Y

A. Activities Allowed or Unallowed

1. Section 105(a) of the Housing and Community Development Act of 1974 lists the activities eligible under the CDBG State’s Program, which include (a) the acquisition of real property; (b) the acquisition, construction, reconstruction, or installation of public works, facilities and site, or other improvements, including those that promote energy efficiency; (c) code enforcement in deteriorated or deteriorating areas; (d) clearance, demolition, reconstruction, rehabilitation, and removal of buildings and improvements; (e) removal of architectural barriers that

restrict accessibility of elderly or severely disabled persons; (f) payments to housing owners for losses of rental income incurred in temporarily holding housing for the relocated; (g) disposition of real property acquired under this program; (h) provision of public services (subject to limitations contained in the CDBG regulations); (i) payment of the nonfederal share for another grant program that is part of the assisted activities; (j) payment to complete a Title 1 Federal Urban Renewal project; (k) relocation assistance; (l) planning activities; (m) administrative costs; (n) acquisition, construction, reconstruction, rehabilitation, or installation of commercial or industrial buildings; (o) assistance to neighborhood-based nonprofit organizations, local development corporations, nonprofit organizations serving the development needs of communities in non-entitlement areas to carry out a neighborhood revitalization or community economic development or energy conservation project; (p) activities related to development of energy use strategies; (q) assistance to private, for-profit businesses, when appropriate to carry out an economic development project; (r) rehabilitation or development of housing assisted under Section 17 of the United States Housing Act of 1937; (s) technical assistance to public or private entities for capacity building (exempt from the planning/administration cap); (t) housing services related to HOME-funded activities; (u) assistance to institutions of higher education to carry out eligible activities; (v) assistance to public and private entities (including for-profits) to assist micro-enterprises; (w) payment for repairs and operating expenses for acquired “in Rem” properties; (x) direct home ownership assistance to facilitate and expand home ownership among persons of low- and moderate-income; (y) lead-based paint hazard evaluation and removal; and (z) construction or improvement of tornado-safe shelters for residents of manufactured housing and provision of assistance to nonprofit and for-profit entities for such construction or improvement (42 USC 5305; 24 CFR section 570.482(a)). Additional CDBG-DR eligible activities can be found in the applicable *Federal Register* notices.

2. Under the national objective criteria, each activity that the state funds must either benefit low- and moderate-income families; aid in the prevention or elimination of slums or blight; or meet other community development needs having a particular urgency because existing conditions pose a serious and immediate threat to the health or welfare of the community where other financial resources are not available. The state must retain documentation justifying its certifications (24 CFR sections 570.483 and 570.490).
3. States and non-entitlement local government grant recipients may have loans guaranteed by HUD under Section 108 of the Housing and Community Development Act of 1974. Guaranteed loan funds may be used only for the following activities: (a) acquisition of real property; (b) housing rehabilitation; (c) rehabilitation of publicly owned real property; (d) eligible CDBG economic development activity; (e) relocation payments; (f) clearance, demolition, and removal; (g) payment of interest on Section 108 guaranteed obligations; (h) payment of issuance and other costs associated with private-sector financing under this subpart; (i) site preparation related to redevelopment or use of real

property acquired or rehabilitated pursuant to this subpart or for economic development purposes; (j) construction of housing by nonprofit organizations for homeownership under Section 17(d) of the US Housing Act of 1937 (12 USC 1715(l)) or Title VI of the Housing and Community Development Act of 1987; (k) debt service reserve; (l) acquisition, construction, reconstruction, rehabilitation or installation of public works and site or other improvements that serve “colonias” (as defined in Section 916 of the Housing Act of 1990 and amended by Section 810 of the Housing and Community Development Act of 1992); and (m) acquisition, construction, reconstruction, rehabilitation, or installation of public facilities (except for buildings for the general conduct of government), public streets, sidewalks, and other site improvements and public utilities (24 CFR sections 570.700 through 570.710).

4. For NSP1 and NSP3 funds, HERA requirements have superseded some CDBG requirements to allow for eligible uses in Section 2301(c)(3) of HERA. The NSP categories and CDBG entitlement regulations are listed in Section II.H.3.a. of the NSP3 Notice, 75 FR 64332-64333. Section II.A. of Docket No. 5321-N-03 (NSP Notice) provided definitional changes to “Abandoned” and “Foreclosed” properties, which expanded the inventory of available properties under NSP. In addition, the date for a “Notice of Foreclosure” was specified in Section 1497(b)(2) of Pub. L. No. 111-203. The NSP eligible uses are to:
 - a. establish financing mechanisms for purchase and redevelopment of foreclosed upon homes and residential properties
 - b. purchase and rehabilitate homes and residential properties that have been abandoned or foreclosed upon for later sale, rent, or redevelopment
 - c. establish and operate land banks for homes that have been foreclosed upon (Section A of NSP Bridge Notice clarified that NSP funds can be used to establish and operate land banks)
 - d. demolish blighted structures
 - e. redevelop demolished or vacant properties

The NSP Notice lists the CDBG-eligible activities that HUD has determined best correlate to these specific NSP-eligible uses. Grantees must receive written HUD approval to undertake activities other than those listed in Section II.H, Eligibility and Allowable Costs, of the NSP Notice (Section 2301(c)(3) of HERA; Section II.H. of NSP Notice, Section II.A. of Docket No. 5321-N-03 (NSP Notice), and Section II.H.3.a. of the NSP3 Notice, 75 FR 64332-64333).

5. For NSP1 and NSP3 funds, NSP requirements supersede existing CDBG requirements (see III.A.1) to permit the use of only the low- and moderate-income national objective for NSP-assisted activities. An NSP activity may not qualify using the “prevent or eliminate slums and blight” or “address urgent community development needs” national objectives. The HERA redefines and supersedes the

definition of “low- and moderate-income,” effectively allowing households whose incomes exceed 80 percent of area median income but do not exceed 120 percent of median income to qualify as if their incomes did not exceed the published low- and moderate-income levels of the regular CDBG program (Section II.E. of NSP3 Notice, 75 FR 64329-64330). HUD will refer to this new income group as “middle income” and maintain the regular CDBG definitions of “low-income” and “moderate-income” currently in use (Section 2301(f)(3)(A) of HERA).

6. For purposes of NSP only, an activity may meet the HERA established low- and moderate-income national objective if the assisted activity (1) provides or improves permanent residential structures that will be occupied by a household whose income is at or below 120 percent of area median income; (2) serves an area in which at least 51 percent of the residents have incomes at or below 120 percent of area median income; or (3) serves a limited clientele whose incomes are at or below 120 percent of area median income (Section 2301(f)(3)(A) of HERA; Section II.E. of NSP1 Notice, 73 FR 58335-58336, NSP3 Notice, 75 FR 64329-64330).
7. The CDBG public benefit standards prohibit funding the following activities: (a) general promotion of the community as a whole; (b) assistance to professional sports teams; (c) assistance to privately owned recreational facilities that serve a predominately higher-income clientele, where the recreational benefit to users or members clearly outweighs employment or other benefits to low- and moderate-income persons; (d) acquisition of land for which the specific proposed use has not yet been identified; and (e) assistance to a for-profit business while that business or any other business owned by the same person(s)/entity(ies) is the subject of unresolved findings of noncompliance relating to previous CDBG assistance provided by the recipient (24 CFR section 570.482(f)(4)(ii)). For CDBG-DR, the public benefit standards are waived; please consult applicable *Federal Register* notices.
8. For CDBG-DR, HUD allows funding for the following activities: (a) program administrative costs up to 5 percent of total grant amount and program income (24 CFR 570.206); (b) program planning costs up to 20 percent of combined with administration costs (24 CFR 570.205); (c) public services costs up to 15 percent of total grant amount and program income (24 CFR 570.201(e), 570.207). In addition, the secretary may provide waivers or specify alternative requirements if such waiver is not inconsistent with the overall purpose of Title I of the Housing and Community Development Act of 1974. However, the secretary may not waive requirements related to fair housing, nondiscrimination, labor standards, and the environment. For CDBG-DR awards made after 2013 awards prohibit assistance for second homes and limit business assistance to small business, please consult *Federal Register* notices. For CDBG-DR awards made in 2017 there is a limit on dollar amounts to households with incomes that exceed 120 percent average medium income.

H. Period of Performance

1. NSP1 grantees are required to expend an amount equal to or greater than the initial allocation of NSP1 funds within four years of receipt of those funds (Section II.M. of NSP3 Notice, 75 FR 64336-64337).
2. NSP3 grantees are required to expend an amount equal to or greater than 50 percent of their initial allocation of NSP3 funds within two years of receipt of those funds and 100 percent of their initial allocation of NSP3 funds within three years of receipt of those funds (Section II.M. of NSP3 Notice, 75 FR 64336-64337).
3. CDBG-DR grantees are required to expend their grant funds as soon as possible following the execution of a grant agreement (obligation) with HUD (Pub. L. nos.114-113, 114-223, 114-254, 115-31, 115-56, 115-72, and 115-123). Moreover, CDBG-DR grantees are required to expend within two years at obligation (Pub. L. nos. 113-2 and 112-55). Finally, CDBG-DR grantees are required to expend within six years at obligation (Pub. L. nos. 111-212, 110-329, 110-252, 110-116, 109-234, 109-148, 108-324, 107-206, 107-117, 107-72, 107-73, and 107-38).

J. Program Income

1. For the CDBG program, program income does not include income up to \$35,000 (other than receipts from revolving loan funds) received in a single program year by a unit of general local government and its subrecipients (24 CFR section 570.489(e)(2)(i)).
2. Proceeds from the sale of real property purchased or improved with CDBG funds are not program income if the proceeds are received more than five years after closeout of the grant agreement between the state and the unit of general local government (24 CFR section 570.489(e)(2)(v)).
3. NSP revenue received by a state, unit of general local government, or subrecipient that is directly generated from the use of CDBG funds (which includes NSP grant funds) constitutes CDBG program income. The CDBG definition of program income shall be applied to amounts received by states, units of general local government, and subrecipients (24 CFR section 570.500; Section II.N. of NSP3 Notice, 75 FR 64322-64348).
 - a. Any revenue from the sale, rental, redevelopment, rehabilitation, or any other eligible use of NSP funds is to be provided to and used by the state or unit of general local government. Revenue received by a private individual or other entity that is not a subrecipient is not required to be returned to the state or unit of general local government (Section B of NSP Bridge Notice).

- b. Program income generated by NSP activities carried out pursuant to Sections 2301(c)(3) of HERA may be retained by the state or unit of general local government (Section 2301(c)(3) of HERA; Section B of NSP Bridge Notice).
4. For CDBG-DR, grantees that generate program income must expend those funds, but grantees also have the option to transfer program income, to the annual CDBG program.

L. Reporting

1. Financial Reporting

- a. *SF-270, Request for Advance or Reimbursement* – Not Applicable
- b. *SF-271, Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable
- c. *SF-425, Federal Financial Report* – Not Applicable
- d. *Performance and Evaluation Report (PER) (OMB No. 2506-0085)* – This report is due from each state CDBG grantee within 90 days after the close of its program year. The PER instructions are in Notice CPD-11-03, which is available at <https://www.hud.gov/sites/documents/11-03CPDN.PDF>. The auditor is expected to test only the financial data in this report (24 CFR sections 91.520 (a) and (d)). States have the option to submit the PER through the electronic Consolidated (eCon) Plan template which is available at <https://www.hudexchange.info/consolidated-plan/econ-planning-suite/>.

2. Performance Reporting

HUD 60002, Section 3 Summary Report, Economic Opportunities for Low- and Very Low-Income Persons (OMB No. 2529-0043) – Each recipient that administers covered public and Indian housing assistance, regardless of the amount expended, and each recipient that administers covered housing and community development assistance in excess of \$200,000 in a program year, must submit HUD 60002 information using the automated Section 3 Performance Evaluation and Registry (SPEARS) System (24 CFR sections 135.3(a)(1) and 135.90).

Information on the automated system is available at

https://www.hud.gov/program_offices/field_policy_mgt/section3/spears.

SPEARS pre-populates Form HUD 60002 with recipient name and address along with disbursement data for program funding covered by Section 3. Users have the flexibility of selecting the 12-month reporting period, typically to coincide with their respective fiscal cycle.

Key Line Items – The following line items contain critical information:

1. Number of new hires that meet the definition of a Section 3 resident
2. Total dollar amount of construction contracts awarded during the reporting period
3. Dollar amount of construction contracts awarded to Section 3 businesses during the reporting period
4. Number of Section 3 businesses receiving the construction contracts
5. Total dollar amount of nonconstruction contracts awarded during the reporting period
6. Dollar amount of nonconstruction contracts awarded to Section 3 businesses during the reporting period
7. Number of Section 3 businesses receiving the nonconstruction contracts

Quarterly Performance Report (QPR) (OMB No. 2506-0165): This report is due each quarter from state CDBG-DR grantees after the first full quarter following execution of a grant agreement with HUD. The report is submitted in HUD's Disaster Recovery Grant Reporting system (DRGR). The instructions for submitting QPRs can be found in the DRGR User Guide <https://www.hudexchange.info/onecpd/assets/File/DRGR-User-Manual.pdf>.

The QPR is created using data in the DRGR action plan. Essentially, the QPRs are a tool that allows the grantee, HUD, and Congress to track expenditures and performance for individual activities. Additionally, CDBG-DR grantees are required to post QPRs on the grantee's website. Therefore, the DRGR action plan must be set-up properly in order for the grantee to be enabled to fully report on their activities and accomplishments.

Action plans in DRGR can be modified at almost any time. However, an action plan must be in an approved status before the QPR can be submitted to HUD for review and approval. Additionally, QPRs must be submitted and reviewed within a certain timeframe:

Reporting Period End Date	Grantee Submission Deadlines	HUD Review Deadlines
30-March	30-Apr	30-May
30-Jun	30-Jul	30-Aug
30-Sep	30-Oct	30-Nov
30-Dec	30-Jan	30-Feb

Each quarter, after the submission of the QPR, HUD reviews the QPRs and provides approvals/rejection-revision directions to the grantee.

3. Special Reporting

Not Applicable

4. Special Reporting for Federal Funding Accountability and Transparency Act

See Part 3.L for audit guidance.

N. Special Tests and Provisions

1. Wage Rate Requirements

Compliance Requirements The Wage Rate Requirements apply to the rehabilitation of residential property only if such property contains eight or more units. However, the requirements do not apply to volunteer work where the volunteer does not receive compensation, or is paid expenses, reasonable benefits, or a nominal fee for such services, and is not otherwise employed at any time in construction work (42 USC 5310).

See Part 4, 20.001 Wage Rate Requirements Cross-Cutting Section.

2. Environmental Oversight

Compliance Requirements The state must assume the environmental oversight responsibilities and functions of HUD under Section 104(g), Housing and Community Development (HCD) Act, (42 USC 5304(g)). The state must (a) require each of its general local governments (subrecipients) to perform as a responsible federal official in carrying out all HUD environmental review requirements under 24 CFR Part 58, National Environmental Policy Act (NEPA), and other applicable authorities; (b) review and approve each subrecipient's Request for Release of Funds (RROF) in accordance with the procedures provided under 24 CFR Part 58 Subpart H; (c) ensure that each subrecipient observes the statutory requirement that funds cannot be expended or obligated before the state approves its RROF and environmental certification, except as otherwise provided specifically in regulation or authorized by law; and (d) monitor and provide technical assistance to its subrecipients to ensure compliance with the environmental authorities (24 CFR Part 58) and the adequacy of environmental reviews.

CDBG-DR grantees are required to ensure every project/activity undergoes the appropriate level of environmental review and receives clearance and Authorization to Use Grant Funds (AUGF) prior to expending any funds. As a result, special circumstances apply to HUD environmental reviews for disaster recovery efforts, and an Environmental Review is required accordingly: (a) analysis of impacts of a project on the surrounding environment and vice versa, (b) demonstrates compliance with federal environmental laws and authorities, and (c) encourages public participation.

Additional CDBG-DR Environmental Review information and federal regulations can be found at <https://www.hudexchange.info/programs/environmental-review/disaster-recovery-and-environment>.

Audit Objectives Determine whether the state carries out its environmental oversight responsibilities and functions.

Suggested Audit Procedures

- a. Examine the state's program for monitoring and enforcing compliance with the environmental authorities.
- b. Examine the state's approval of the RROF and environmental certification and note dates.
- c. Verify that the state obtained certifications and that the state's records provide evidence that the funds were obligated and expended after the state's approval of the RROF and environmental certification.

3. Environmental Reviews

Compliance Requirements Projects must have an environmental review unless they meet criteria specified in the regulations that would exclude them from RROF and environmental certification requirements. States that directly implement NSP activities are considered recipients and must assume environmental review responsibilities for the state's activities and those of any nongovernmental entity that participates in the project. States that directly implement activities must submit the Request for Release of Funds (RROF) and the certifications to HUD for approval (24 CFR sections 58.4(b)(1), 58.34, and 58.35).

Audit Objectives Determine whether the required environmental reviews were conducted and required HUD approvals were obtained.

Suggested Audit Procedures

- a. Verify that the state obtained environmental review certifications from the subrecipient and that the state records provide evidence that the environmental reviews were made.
- b. For any project where an environmental review was not performed, ascertain that a written determination was made that the review was not required.
- c. Ascertain that documentation exists that any determination not to make an environmental review was made consistent with the criteria contained in 24 CFR sections 58.34 and 58.35.
- d. Verify that states obtained HUD approvals of RROFs and environmental certifications for state activities.

- e. Verify that for state activities funds were obligated and expended after HUD approval of state RROFs and environmental certifications. Some CDBG-DR grantees may use the environmental review for projects that are also funded with FEMA. See *Federal Register* notices.

4. Citizen Participation

Compliance Requirements CDBG – Prior to the submission to HUD for its annual grant, the grantee must certify to HUD that it has met the citizen participation requirements in 24 CFR sections 91.115 and 570.486, as applicable.

HERA provided for supersession of the citizen participation requirement to expedite the distribution of NSP grant funds and to provide for expedited citizen participation. The provisions of 24 CFR sections 570.485 and 570.486 with respect to following the citizen participation plan are waived to allow the jurisdiction to provide no fewer than 15 calendar days for citizen comment, rather than 30 days, for its initial NSP submission (Section II.B.4. of NSP Notice, 73 FR 58334 and NSP3 Notice, 75 FR 64328).

CDBG DR grantees must post the Action Plan for public comment for a minimum or seven or up to 30 days, based on the specific requirements for the CDBG-DR appropriation identified in the applicable *Federal Register* notice. CDBG-DR grantees are required to ensure that public comments are included in the Action Plan submitted to HUD.

Audit Objectives Determine whether the CDBG grantee has developed and implemented a citizen participation plan.

Suggested Audit Procedures

- a. Verify that the grantee has a citizen participation plan.
- b. Review the plan to verify that it provides for public hearings, publication, public comment, access to records, and consideration of comments.
- c. Examine the grantee's records for evidence that the elements of the citizen's participation plan were followed as the grantee certified.
- d. Green Building Standards. CDBG-DR grantees with appropriations after 2012 are required to ensure that Green Building Standards are applied to all replacement housing and new construction housing activities. Green Building Retrofit Checklist should be used for all housing rehabilitation activities.
- e. HUD Compliance Reviews. Auditors may consult HUD's Community Planning and Development Monitoring Handbook for the specific compliance review exhibits that HUD uses to determine compliance. The CDBG-DR monitoring exhibits can be found at https://www.hud.gov/program_offices/administration/hudclips/handbooks/cpd/6509.2.

5. Rehabilitation Using NSP Funds

Compliance Requirements Any NSP-assisted rehabilitation of a foreclosed-upon home or residential property shall be completed to the extent necessary to comply with applicable laws, codes and other requirements relating to housing safety, quality, or habitability, in order to sell, rent or redevelopment such homes and properties. To comply with this provision, a grantee must describe or reference in its NSP action plan amendment what rehabilitation standards it will apply for NSP-assisted rehabilitation (Section 2301(d)(2) of HERA; Section II.I. of NSP3 Notice, 75 FR 64333).

Audit Objectives To determine whether the grantee ensures NSP rehabilitation work is properly completed.

Suggested Audit Procedures

- a. Review rehabilitation standards established for NSP work.
- b. Verify through a review of documentation that the rehabilitation work is inspected upon completion to ensure that it is carried out in accordance with applicable rehabilitation standards.

IV. OTHER INFORMATION

Information on CDBG-DR program waivers issued by HUD can be found at <https://www.hudexchange.info/cdbg-dr/cdbg-dr-laws-regulations-and-federal-register-notices/>.