COMMUNITY DEVELOPMENT BLOCK GRANT

DISASTER RECOVERY

MULTIFAMILY HOUSING PROGRAM

PROGRAM GUIDELINES

MICHIGAN ECONOMIC DEVELOPMENT CORPORATION

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1 VERSION

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

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

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

Amendments made to policy may go into effect on the date of the revision or may be applied retroactively. 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/CREATED REVISED	KEY REVISIONS
1.0	October 30, 2024	Original CDBG-DR MHP Program Guidelines

2 General

2.1 Purpose and Scope

The purpose of this Multifamily Housing Program ("MHP") Program Guidelines ("Program Guidelines") is to outline the program and project requirements and provide guidance for the operation of program. This document contains guidelines that are not intended to be exhaustive but are intended to provide the overall framework for MHP. MHP must conform to federal and state regulations that govern Community Development Block Grant Disaster Recovery (CDBG-DR) funding awarded by the U.S. Department of Housing and Urban Development (HUD) and its eligible activities, should conflicts arise between local, state, and federal requirements, the most restrictive guidance shall apply. These Program Guidelines should be used in conjunction with MEDC's Grant Administration Manual (GAM), applicable Federal Register Notices, and other federal, state, and local regulations.

HUD has allocated $59,898,000 in CDBG-DR funds to the State of Michigan in response to 2020 severe storms and flooding (DR- 4547) through FR-6303-N-01 (Allocation Notice) made on February 3, 2022. This allocation was made available through the Disaster Relief Supplemental Appropriations Act of 2022 for major disasters occurring in 2020. To meet disaster recovery needs, the statutes making CDBG-DR funds available have imposed additional requirements and authorized HUD to modify the rules that apply to the annual CDBG program to enhance flexibility and allow for a quicker recovery. These CDBG-DR funds are for necessary expenses for activities authorized under Title I of the Housing and Community Development Act of 1974 (42 United States Code [U.S.C.] 5301 et seq.) (HCDA) related to disaster relief, long-term recovery, restoration of infrastructure and housing, economic revitalization, and mitigation in the "most impacted and distressed" (MID) areas resulting from a qualifying major disaster in 2020. The funding will be administered by the Michigan Economic Development Corporation (MEDC), on behalf of Michigan Strategic Fund (MSF).

MEDC has allocated **$7,918,400** to fund the MHP to help address the unmet housing needs with the development of affordable rental housing containing five (5) or more units. The Program will primarily focus on the new construction of affordable multifamily housing projects in HUD-identified MID areas impacted by the 2020 disaster. The affordable units will be made available to disaster impacted, low-income individuals and families having been displaced as well as aid in the replacement of rental housing units available to Housing Choice Voucher holders that were lost as a result of the event. The CDBG-DR funds will only provide gap financing for eligible multifamily affordable housing developments.

2.2 Program Timeline

MEDC anticipates that the MHP Program will commence in the 4th Quarter 2024 and extend through project and MHP closeout or expiration of MEDC's grant with HUD, whichever occurs first. CDBG-DR funding will not be held subject to the timely distribution and expenditure requirements typically imposed upon CDBG-DR funds; however, one hundred percent (100%) of the CDBG-DR allocation must be expended within six (6) years of the date HUD signs the grant agreement. All funding awarded to local jurisdictions and their subawardees are subject to these timelines, as well. MEDC may impose a more restrictive performance timeline of expenditures to ensure its ability to manage and meet statutory expenditure deadlines.

2.3 Terms and Definitions

Affirmatively Furthering Fair Housing (AFFH): directs HUD to ensure that the agency and its program participants proactively take meaningful actions to overcome patterns of segregation, promote fair housing choice, eliminate disparities in opportunities, and foster inclusive communities free from discrimination.

Affirmative Fair Housing Marketing Plan (AFHMP): A requirement for recipients of HUD housing program funding, the plan includes an analysis of hurdles to fair housing choice in the service area, actions the recipient will take to overcome those hurdles, and records of the analysis and their actions.

Affordability Period: the length of time a recipient or subrecipient must impose the rent or occupancy income restrictions on the units assisted by federal funds as established by federal requirements.

Affordability Requirements: will apply without regard to the loan or mortgage, or the transfer of ownership. A recorded deed restriction, covenants that run with the land, or other recordable mechanism such as Regulatory Agreement, will be used to secure the investment of CDBG-DR funds and to ensure continued affordability for the durations as specified in 24 CFR Part 92.252(e), as determined by rental housing activity time and amount of CDBG-DR investment.

Affordable Rents: means rents that are at or below the "High" HOME Program rents published by the U.S. Department of Housing and Urban Development (HUD) for different metropolitan areas, except that units meeting the Extremely Low Income or Deep Affordability project priority criteria in.

Affordable Units: means a "dwelling" that is rented at an Affordable Rent to a household that earns less than 80 percent of Area Median Income adjusted for household size as calculated by the U.S. Department of Housing and Urban Development (HUD) for different metropolitan areas within the State and published annually.

Applicant: means any eligible jurisdiction, city, or county that applies for funds pursuant to applicant eligibility section. (See Also: Subrecipient)

Area Median Income (AMI): means the median family income for specific geographic areas, adjusted for household size, as calculated by HUD, and published annually by MEDC for the CDBG-DR program.

Architect's Certificate of Substantial Completion: Certification from an architect that the project is deemed substantially complete and can be used for its intended purpose.

Builder's Profit & Builder's Overhead: Direct costs related to specific jobs or activities and indirect costs such as operational costs required to run the day-to-day to develop and develop a project.

Capital Replacement Reserves: funds that are set aside from a property's operating cash flow to fund future capital expenditures.

Certificate of Occupancy (C of O): The final document in the permit process and is a record that the project has been completed.

Code of Federal Regulations (CFR): is the acronym used for the Code of Federal Regulations.

Construction Contingency: a designated amount of money within a construction budget that is set aside to cover any unexpected or extra costs that can arise throughout a construction project.

Contingency: a provision for an unforeseen event or circumstance.

Contractor: a properly licensed person or company that subrecipients or developers hire to undertake a contract to provide materials or labor to perform a service or do a job.

Davis Bacon Wage Requirements: For Projects that include eight (8) or more dwelling units, the Davis Bacon and Related Acts (DBRA) requires all contractors and subcontractors performing work on federal or District of Columbia construction contracts or federally assisted contracts in excess of $2,000 to pay their laborers and mechanics not less than the prevailing wage rates and fringe benefits for corresponding classes of laborers and mechanics employed on similar Projects in the area. The prevailing wage rates and fringe benefits are determined by the Secretary of Labor for inclusion in covered contracts.

Debt Service Coverage Ratio (DSCR): a measurement of a property's cash flow relative to its debt obligations.

Deed Restriction: A restrictive covenant imposing a restriction on the use of land.

Deep Affordability: Multifamily housing with at least 10% of units available for households whose income is at or below 30% of AMI.

Deferred Developer Fee: a portion of the Developer fee that may be paid from project cashflow after completion of the project.

Department of Housing and Urban Development (HUD): Federal department through which the CDBG-DR funds are provided to MEDC.

Developer: A private for-profit or nonprofit organization that owns or has site control over real property and arranges all financing, professional, technical, and construction services necessary to develop or rehabilitate affordable housing.

Developer Fee: Fee paid to the person or entity, acting in the capacity of Developer, managing the development process.

Development Agreement: A contract between a property owner or developer and the local jurisdiction that the property is located in. It dictates what can and will be done with the property and lays out the obligations and standards of both parties.

Disability: any disability, including mental or physical disability, that limits a major life activity, including a disability that falls within the definitions in Government Code (G.C.) Sections 11135, 12926, and 12926.1 or within the definition of disability used in the federal Americans with Disabilities Act of 1990, codified at 42 U.S.C. 12102.

Disaster Recovery Grant Reporting (DRGR): A system developed by HUD to provide access to grant funds and report performance accomplishments for grant-funded activities.

Multifamily Housing Program (MHP): is the acronym used for the Multifamily Housing Program.

CDBG DR-MHP Assisted Unit: An affordable unit that is subject to rent and occupancy restrictions as a result of the financial assistance provided by CDBG DR-MHP, as specified in the Regulatory Agreement.

Due Diligence: Forms and associated documentation to be completed by Subrecipients prior to receiving their Master Standard Agreement.

Duplication of Benefits (DOB): Financial assistance received from another source that is provided for the same purpose as the CDBG-DR funds.

Elderly Person: A person at least 62 years of age.

Eligible Applicants: a county, city, or township that was directly impacted by the disaster events.

Eligible Activities: Multifamily rental housing new construction and repair eligible under HCDA Section (105(a)(4)), clearance, rehabilitation, reconstruction, and construction of buildings (including Housing).

Environmental Review: an evaluation of a project and its potential environmental impacts to determine whether it complies with all applicable environmental laws and authorities. All HUD-assisted projects are required to undergo an environmental review to evaluate environmental impacts.

Environmental Review Record (ERR): A permanent set of files containing all documentation pertaining to the environmental review compliance procedures conducted and environmental clearance documents as required by NEPA regulations.

Extremely Low Income (ELI): ELI individuals or families whose income is at or below 30% of the area median income (AMI) or the federal poverty level, whichever is higher for the area of the proposed Project.

Fair Market Value (FMR): The hypothetical price that a willing buyer and seller agree upon when they are acting freely, carefully, and with complete knowledge of the situation.

Federal Emergency Management Agency (FEMA): An agency of the United States Department of Homeland Security. The agency's primary purpose is to coordinate the response to a disaster that has occurred in the United States and that overwhelms the resources of local and state authorities.

General Requirements: Those costs incurred during the project that are not directly linked to construction activity.

Grantee: Michigan Economic Development Corporation (MEDC), as the direct recipient of the CDBG-DR funding from HUD.

Household: One or more persons occupying a housing unit.

Income Definition: The IRS Form 1040 Adjusted Gross Income calculation method.

Lease-Up Reserves: A cash deposit which is available to a property to help pay operating costs and debt service at the initiation of operations while units are being leased to their initial occupants.

Limited English Proficiency (LEP): A designation for persons that 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. A LEP person benefits from an interpreter who translates to and from the person's primary language. A LEP person may also need documents written in English translated into his or her primary language so that person can understand important documents.

Low Income Housing Tax Credit (LIHTC): a federal program that subsidizes the acquisition, construction and rehabilitation of affordable rental housing through the issuance of tax credits which allows low- and moderate-income renters to pay rent at an affordable rent levels.

Low-Income Immigrants: "Low-income" persons mean individuals, families, and households whose incomes are no more than 50% of the area median income involved, as set by HUD. From the demography point of view, the low-income working families are those earning less than twice the federal poverty line; and recent immigrants are those who came to the United States within the past 10 years.

Low- to Moderate-Income (LMI): Low to moderate income people are those having incomes not more than the "moderate-income" level (80% Area Median Family Income) set by the federal government for the HUD-assisted Housing Programs. This income standard changes from year to year and varies by household size, county and the metropolitan statistical area.

Master Standard Agreement (MSA): The contractual arrangement between the Grantee and the Subrecipient which sets forth the terms and conditions by which CDBG-DR funds are utilized.

Maximum Per-Unit Subsidy Limit: The amount of funds that a participating jurisdiction may invest on a per-unit basis in affordable housing may not exceed the per unit dollar limits.

Michigan State Housing Development Authority (MSHDA): the Michigan state housing authority that provides financial assistance to create affordable housing through the issuance of tax credits and the sale of tax-exempt and taxable bonds to private investors.

Minority- Owned Business Enterprise and/or Women-Owned Business Enterprise (MBE/WBE): A business that is owned and controlled (minimum of 51% ownership) by a member of a minority group, or women.

Most Impacted and Distressed (MID): An area that meets the definition of Most Impacted and Distressed set by HUD in the Federal Register Notice.

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

National Flood Insurance Program (NFIP): Created by Congress in 1968 to reduce future flood damage through floodplain management and to provide people with flood insurance through individual agents and insurance companies. FEMA manages the NFIP.

Net Construction Costs: the value of the construction contract less the budgeted line items for construction contingency.

New Construction: refers to proposed construction, under construction, and properties completed less than one year ago.

Notice of Funding Availability (NOFA): refers to a process that informs the public that funding is available for a specific purpose and can be requested through an application process.

Notice of Completion: A document recorded by a property owner to notify potential mechanics lien claimants that a specific construction project has been completed.

Notice to Proceed: The legal document that provides an approved Project's specific description, budget, milestones, construction schedule, reporting requirements and special conditions.

Operating Reserves: Funds set aside to cover operating expenses that cannot be paid by the property's cashflow when cashflow is insufficient.

Permanent Supportive Housing: A housing intervention that combines on-going rental assistance with supportive services such as health and mental health care for chronically homeless households.

Personal Identifiable Information: Any representation of information that permits the identity of an individual to whom the information applies to be reasonably inferred by either direct or indirect means.

Proforma: Projected net operating income (NOI) and cash flow projections using its current and potential rental income and operating expenses.

Program Income (PI): Program income means gross income that is directly generated from a CDBG-DR-funded activity. Program income is subject to the CDBG-DR rules in perpetuity.

Project: A multifamily housing development with 5 or more total units.

Reconstruction: The rebuilding of a structure on the same site in substantially the same manner.

Regulatory Agreement: The legal document that sets forth affordability restrictions on rent and occupancy for a specific approved Project during the Affordability Period.

Rehabilitation: the alteration, improvement or modification of an existing structure.

Responsible Entity (RE): Under the ERR requirements at 24 CFR Part 58, the term "responsible entity" (RE) means the subrecipient receiving CDBG-DR assistance responsible for ensuring compliance with NEPA and the Federal laws and authorities, for issuing the public notification, for submitting the request for release of funds and certification, when required, and for ensuring the Environmental Review Record is complete.

Rider to Development Agreement: The legal document that sets forth terms and conditions by which CDBG-DR funds must be utilized for a specific approved Project. It is issued with the Notice to Proceed and shall be made a part of the Development Agreement between the Subrecipient and Developer.

Site Control: An enforceable right to use, develop, construct, operate or maintain property.

Small Business Administration (SBA): SBA's Office of Disaster Assistance (ODA) provides affordable, timely and accessible financial assistance to homeowners, renters, and businesses, as well as other eligible applicants. The SBA low-interest, long-term loans are the primary form of federal assistance for the repair and rebuilding of non- farm, private sector disaster losses.

Special Needs or Special Needs Populations: means agricultural workers, individuals living with physical or sensory disabilities and transitioning from hospitals, nursing homes, development centers, or other care facilities; individuals living with developmental disabilities, serious mental illness or substance abuse disorders; individuals who are survivors of domestic violence, sexual assault, and human trafficking; individuals who are experiencing Homelessness; individuals with HIV; homeless youth as defined in Government Code (GC) Section 12957(e)(2); families in the child welfare system for whom the absence of housing is a barrier to family reunification, as certified by a county; frequent users of public health or mental health services, as identified by a public health or mental health agency; Frail Elderly Persons; or other specific groups with unique housing needs as determined by the Department. “Special Needs Populations” do not include seniors unless they otherwise qualify as a Special Needs Population.

Subrecipient: a unit of local government receiving a direct award from MEDC and providing grant awards to developers.

Sources and Uses: A provides a summary of where funding comes from and how it will be used.

Subrogation: When the CDBG-DR assistance is provided, MEDC will require that each applicant sign a Subrogation Agreement stating that any funds received from any source after award determination must be reported and will be subject to repayment or reimbursed to MEDC.

Supportive Housing: Housing with no limit on length of stay, that is occupied by the target population and that is linked to onsite or offsite services that assist the Supportive Housing resident in retaining the housing, improving his or her health status, and maximizing his or her ability to live and, when possible, work in the community, also see Permanent Supportive Housing.

Threshold Eligibility: The NOFA will specify funding availability such as amount, type, source; application deadlines, performance timeframe, funding preferences (e.g., populations to be served project types, etc.), project and borrower eligibility criteria, application threshold requirements include the following: eligible activities, eligible applicants, minimum development size, eligible project type, etc. (See Section 16.4 for more information).

Tax-Exempt Bonds: A bond, issued by a state or local government on which the interest is exempt from taxation.

Total Development Costs (TDC): the acquisition cost plus rehabilitation or redevelopment costs necessary to rehabilitate the property.

Underwriting Criteria: Projects must meet the underwriting requirement as imposed by the various funding sources.

Uniform Relocation Assistance and Real Property Acquisition Act (URA): A federal law that establishes minimum standards for federally funded programs and Projects that require the acquisition of real property (real estate) or the displacement of persons from their homes, businesses, or farms.

Vacancy Rates: The percentage of all available units in a rental property.

3 PROGRAM REQUIREMENTS

3.1 Eligible Locations

CDBG-DR appropriation mandates that all funds must be spent in areas Presidentially-declared as major disaster areas to meet recovery needs in areas declared a major disaster area pursuant to the Stafford Act, appropriations further limit use of funds to the "most impacted and distressed" (MID) areas resulting from a major disaster. For MHP, 100% of the allocation is available for eligible HUD MIDs.

2020 HUD-Identified Eligible MID Counties

1. Gladwin
2. Midland
3. Saginaw

3.2 Eligible Activities

Activities deemed eligible under HCDA Section 105(a) 1, 4, 5 and 11; applicable waivers identified in the Allocation Announcement Notice and Consolidated Notice (87 FR 31636), other applicable waivers or alternative requirements. Examples of eligible activities include rehabilitation, reconstruction, elevation, and new construction of multifamily housing.

3.3 Tie-Back to Disaster Requirement

In general, the new construction of units not damaged by the disaster are 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. The MHP will build new affordable rental units, and repair, reconstruct or replace affordable multifamily housing units that were severely damaged or destroyed by the 2020 disaster in the most impacted areas, as identified in DR-4547.

3.4 Eligible Applicants

Units of local governments (counties, cities, and townships) that were directly impacted by the disaster events are eligible applicants. The unit of local government will serve as a Subrecipient to MEDC and will enter into a Grant Agreement (See Appendix A).

3.5 Project Eligibility

Funds will be provided directly by MEDC to the Subrecipient for multifamily residential rental projects, the Subrecipients will provide funding to the Developer of the projects.

The CDBG-DR MHP projects must:

- Meet a national objective;
- Use funds providing low to moderate affordable housing units serving households with incomes not exceeding 80% AMI;

- Prioritize and target disaster-impacted LMI households;
- Qualify as a new construction, rehabilitation or reconstruction CDBG-DR eligible activity;
- Have a minimum of five (5) affordable rental units;
- Possess a demonstrated need/financing gap not greater than 40% of the Total Development Costs and conforms to the maximum per-unit subsidy limits;*
- Has identified other sources of funding that are sufficient to develop and operate the project with fiscal viability (e.g., positive cashflow) for the entirety of the affordability period. Funding must be readily available and able to be accessed before the issuance of the Notice to Proceed by MEDC;
- Respond to a demonstrated need, has a connection and tieback to the disaster event listed above, and is increasing the supply of affordable housing units;
- Successfully meet environmental review clearance/requirements and
- receive a Release of Funds from MEDC;
- Meet maximum affordable rents requirements, including utility cost allowance
- Meet minimum 20-year affordability requirement for new construction or a sliding scale based on the amount of the subsidy with a minimum of 5 years for rehabilitated units
- Meet energy-efficiency, green, resiliency, and elevation standards
- Include broadband infrastructure (exceptions may apply where installation of broadband infrastructure is infeasible); and,
- Meet other requirements imposed by MEDC /or its Subrecipient
- Does not trigger relocation

  - *MEDC reserves the right to allow a project to exceed this percentage, determined by a cost reasonableness analysis which may include considerations of unit sizes.*

3.6 Ineligible Projects/Activities

A project/activity is not eligible for the use of CDBG-DR funds through MHP if it:

1. Does not tie-back or correspond to an identified disaster-related impact.
2. Is restricted by the appropriate legislation.
3. Is ineligible according to the CDBG-DR requirement.
4. Is not identified as eligible in the approved State Action Plan.
5. Is located in a floodplain.
6. Fails to meet an appropriate national objective.
7. Is illegal.
8. Is deemed by MEDC to not be in conformance with the MHP policies, or federal, state or local regulations or statutes.

3.7 National Objectives

MHP will provide assistance to meet the Low Moderate Income (LMI) or the Urgent Need (UN) national objectives. MHP will use the Low Moderate Housing (LMH) strategy to meet the LMI national objective.

3.7.1 Low Moderate Income

MEDC's definition of income used for the CDBG-DR program is the same as that in Title I of the Housing and Community Development Act, as amended. These income limits are to be used to qualify persons/households as eligible LMI beneficiaries of CDBG-DR assisted activities. MEDC will ensure that the activities proposed, when taken as a whole, will not benefit moderate income people to the exclusion of low-income persons.

3.7.2 Low Moderate Housing

The LMH activity will be used to achieve the LMI national objective. The housing activity is one carried out for the purpose of providing or improving permanent, residential structures that will be occupied by LMI households upon completion. Rental units occupied by LMI persons must be occupied at affordable rents as defined by MEDC as Fair Market Rent (FMR) minus tenant paid utilities. Rental housing projects must demonstrate that there is a fair and equitable distribution of rental units.

Occupancy of housing shall be based on the household income of occupants using the following rules:

1. If the structure contains two dwelling units, at least one must be occupied by LMI.
2. For multi-unit structures that contain more than two dwelling units, at least 51% of the units must be occupied by LMI households. Where two or more rental buildings being assisted are or will be located on the same or contiguous properties, and the buildings will be under common ownership and management, the grouped buildings may be considered for this purpose as a single structure.

The following documentation of program benefit is required for all CDBG-DR funded activities that are carried out under the LMI Housing National Objective:

1. For each unit to be assisted, the size and income of the occupant household.
2. A copy of a written agreement with each developer receiving CDBG-DR assistance committing the total number of dwelling units in each multi-family structure assisted and the number of those units which will be occupied by LMI households after the assistance.
3. A description of how the affordability of units occupied by LMI households will be ensured.
4. The above-referenced documentation of program benefit is required for all CDBG-funded activities that are carried out under the LMI Housing National Objective. Additional back-up documentation must be kept on file.
5. Demonstration that the units occupied by LMI households are affordable.
6. Data on the racial, ethnic and gender characteristics of persons who are applicants for, participants in, and/or beneficiaries of CDBG-DR activities. Regardless of whether the unit is affordable or market rate, HUD considers ALL units in the structure to be assisted, even unimproved units within the structure. Therefore, Subrecipients are required to report income and demographic information for the tenants living in all the units.

3.7.3 Urgent Need

The use of the UN national objective will occur in rare instances, as it is designed for activities that alleviate emergency conditions. To effectively use the UN national objective, the project must be able to demonstrate the following:

- The existing conditions must pose a serious and immediate threat to the health or welfare of the community;
- The activity mush be identified in the Action Plan;
- Document how the activity funded responds to the urgency, type, scale and location of the disaster-related impact as described in the Action Plan's impact and needs assessment; and,
- Be within 36 months of applicability date of HUD's Allocation Notice.

4 Costs

4.1 Eligible Costs

Program funds will be paid on a reimbursement basis of eligible costs incurred to develop a project; no construction costs will be advanced for project cost. Limited predevelopment costs incurred prior to project approval such as for environmental, Section 106, engineering, etc., may be eligible reimbursement and paid for using CDBG-DR administration funds. No other project funds will be awarded or disbursed until all environmental conditions are satisfied and all funding commitments/agreements are signed.

The funds may be used for all aspects of the development including but not limited to:

- Environmental costs
- Architecture and engineering design
- Financing
- Development subsidies
- Clearance/demolition
- Legal fees
- Developer fees
- Activity delivery costs for Subrecipients to implement the program and manage the projects (i.e., staffing costs, environmental reviews, project specific monitoring and compliance, etc.)
- Acquisition costs
- Construction costs
- Permitting fees
- Mobilization, site prep, and clean up, if necessary

    - *Any costs that are eligible and reasonably necessary to develop the project*

4.2 Project Budget and Preliminary Cost Estimates

Submissions must include a proposed project budget with detailed description of anticipated costs by category of work, including support services, program management, and administration. The budget should include explanations for how funding request amounts were determined. The budget should also include leveraged funding sources and uses of available funding.

4.3 Leveraged Funds

Applicants should develop a feasible budget that includes CDBG-DR funds, local funds, and any other committed sources of funding. Commitments of funding sources should be documented and included within the application. This program will provide preference to applications that leverage outside sources beyond the CDBG-DR funds.

4.4 Preliminary Construction Cost Estimate

To determine a clear total project budget, a preliminary construction cost estimate must be submitted with the application. The cost estimate should be prepared by a licensed engineer or architect, that is on staff or procured.

4.5 Cost Reasonableness Requirements

All CDBG-DR expenditures are subject to the cost principles in 2 CFR Part 200.404, including the requirement that costs be necessary and reasonable. A cost is considered reasonable if it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost. In determining reasonableness of a given cost, some of the considerations will be given to:

- Whether the cost is of a type generally recognized as ordinary and necessary for the operation or the proper and efficient performance of the Federal award.
- The restraints or requirements imposed by such factors as: sound business practices; arm's-length bargaining; Federal, state, local, tribal, and other laws and regulations; and terms and conditions of the Federal award.
- Market prices for comparable goods or services for the geographic area.
- Whether the individuals concerned acted with prudence in the circumstances considering their responsibilities.
- Whether significant deviations from established practices and policies regarding the incurrence of costs, which may unjustifiably increase the Federal award's cost.

MEDC, or its Subrecipient, will review all project costs, including hard and soft costs, to evaluate reasonableness and may require additional information to determine such cost reasonableness. Applications may be determined ineligible if the reasonability of costs cannot be substantiated or justified.

4.6 Ineligible Costs

Program funds will not be disbursed for any costs enumerated at 24 CFR §570.207, except for those costs which are permitted under the waiver per FR-6303-N-01, which allows for the use of CDBG-DR for new construction. The following are examples of ineligible expenses, this is not an exhaustive list:

- Pre-application costs and application development costs
- Advances of any type, including construction
- Facility operating or maintenance expenses
- Offsite Improvements not included as a condition of project approval/directly in support of housing project

5 Funding Limitations

5.1 Maximum Per-Unit Subsidy Limits

A maximum per-unit subsidy limit will apply to each project. MEDC will determine the maximum per-unit subsidy limits according to CDBG-DR program limits. CDBG-DR requires that all costs associated with its funds be both reasonable and necessary. MEDC will verify cost reasonableness in accordance with 2 CFR 200 Sub-part E-Cost Principles.

Using cost reasonableness to determine the amount of CDBG-DR on a per-unit basis for housing serving low-income households ensures an appropriate level of investment in multifamily projects on a per-unit basis; encourages leveraging with HOME, tax credits, state multifamily housing programs, and other available affordable housing resources; and ensures units are reasonably funded and not over-subsidized.

MEDC CDBG-DR Program Subsidy Limits

NEW CONSTRUCTION SUBSIDY LIMITS PER UNIT SIZE				
O BR	1 BR	2 BR	3 BR	4 BR
$140,107	$160,615	$195,305	$252,662	$277,344

REHABILITATION SUBSIDY LIMITS
Per Unit
Total MHP project support shall not average over $15,000 per unit included in the project

The MHP per-unit maximum assistance shall not exceed $285,000. MEDC reserves the right to exceed this maximum, determined by a cost reasonableness analysis which may include considerations of unit sizes (i.e. a one-bedroom unit may receive less subsidy than a larger unit). Any funds in excess of the per-unit maximum, at its discretion, MEDC may impose additional terms and conditions (i.e., affordability period in excess of 20 years, deeper affordability, special/vulnerable population designations, etc.).

The Program strongly encourages leveraging of CDBG-DR funding with other available resources that may be used for the creation of multifamily housing and infrastructure that directly supports the project. Only infrastructure that is necessary for the completion of the multifamily housing project may be funded through the program. MEDC may impose additional criteria (i.e., remaining useful life analysis for connecting and/or contiguous infrastructure) for required offsite infrastructure. All infrastructure must be directly related to the proposed multifamily project, as such, standalone infrastructure projects that could support the development of multifamily housing in the future will not be funded through the program. Preference will be given to projects that can exhibit layered funding and the use of other resources.

Using the maximum per-unit subsidy limits, a cost allocation will be performed on each project to ensure that CDBG-DR funds are applied to a reasonable share of total development cost. Awards of CDBG-DR funds must meet cost reasonableness and underwriting requirements.

5.2 Award Limitations

The estimated minimum award will be $1,000,000 and $3,500,000 is the maximum award per project. MEDC reserves the right to award above or below these thresholds based upon cost reasonableness, affordability, and accessibility/visit ability. MEDC recognizes that adjustments to the minimum and maximum award amounts may be necessary to ensure completion of the project and implementation of resiliency and mitigation measures; consequently, MEDC reserves the right to award funds in excess of the maximum based upon cost reasonableness and underwriting analyses.

5.3 MEDC Contribution

MEDC will not fund the entirety of development costs of any project. To be considered for funding, MEDC's financial contribution must not exceed 40% of the Total Development Costs. Each project must have an initial capital investment equal to at least 60% of TDC from sources other than CDBG-DR. Additionally, the project must have a demonstrated financing gap in the construction and/or permanent financing sources and must not exceed the maximum per unit subsidy limits. MEDC reserves the right to modify the amount of the CDBG-DR contribution if deemed necessary based on costs, and community benefit analysis.

The funding considerations will take the following into account: project maximum, per unit subsidies, initial capital investment, demonstrated gap, unit and income mix, cashflow and liquidity, populations served, and other factors imperative to the long-term operations and viability of the project.

6 Allocation Methodology

MEDC will not use a prescribed funding formula or allocation methodology to award funding. Funding will be awarded based upon project submission, evaluation, scoring and ranking during the project selection process. Based on the quantity and quality of project applications, multiple projects may be awarded funding within a county, city, and/or townships. MEDC will evaluate all projects and make efforts to the fullest extent possible to utilize the project selection process to distribute projects within the areas of greatest need without creating oversaturation or concentration of low-income housing. Multiple projects may be awarded in the same county and/or same city/township.

7 Funding Type and Terms

The funding will be provided in the form of a grant. However, the project must remain affordable for the entirety of the affordability period defined below. Deed restrictions will be recorded against the property by the subrecipient.

8 Affordability Period

8.1 Affordability Periods

MEDC is adopting CDBG affordability periods (24 CFR 92.252(e)(1)) for MHP funded by CDBG-DR. If additional subsidies are deemed necessary, the period of affordability may be extended at MEDC's discretion. A minimum affordability period of 20 years is required for new construction of multifamily rental units.

TYPE OF RENTAL ACTIVITY CDBG-DR AMOUNT PER UNIT	MINIMUM PERIOD OF AFFORDABILITY IN YEARS
Rehabilitation of existing housing per unit amount of CDBG-DR funds:	
Under $15,000	5
$15,000 to $40,000	10
Over $40,000 or rehabilitation involving refinancing	15
New construction of newly constructed housing (five units or more)	20

8.2 Enforcement of Affordability Restriction

8.2.1 Recorded Covenants and Deed Restrictions

The affordability requirements will apply and remain in place without regard to the loan or mortgage, or the transfer of ownership. A recorded deed restriction, covenants that run with the land, or other recordable mechanism will be used to secure the investment of CDBG-DR funds and to ensure continued compliance with the applicable affordability period.

8.2.2 Due on Sale or Transfer Restrictions

MEDC and its Subrecipient reserves the right to assign the responsibility of ensuring compliance within the remaining affordability period to the new owner in the event of a transfer of the property. Additionally, MEDC may demand payment of any remaining balance due if the property is sold before the end of the affordability period or if the property defaults or fails to comply with CDBG-DR requirement.

EQUAL HOUSING OPPORTUNITY

8.2.3 Termination of Affordability Restrictions in Event of Foreclosure

The affordability restrictions may terminate upon foreclosure or transfer in lieu of foreclosure. However, the affordability restrictions shall be revived according to the original terms if, during the original affordability period, the owner of record before the foreclosure, or deed in lieu of foreclosure, or any entity that includes the former owner or those with whom the former owner has or had family or business ties, obtains an ownership interest in the Project.

9 Income and Rent Limitations

At least fifty-one percent (51%) of a project's units must be rented to households with incomes at or below HUD's limits for LMI. The rents must be restricted to remaining affordable for these households. Affordable rents include total housing costs (rent and utilities) should not exceed 30% of a household's gross income. For MHP, affordable rents are defined as HUD Fair Market Rent (FMR) minus tenant-paid utilities including electric, gas, oil, water, sewer and garbage. Telephone, internet services and cable are not included in a family's gross rental calculation of affordability.

9.1 Income Limits

All LMI units /must be occupied by tenants with household incomes at or below 80% area median income (AMI) for the county, adjusted by family size. This limit is equal to the CDBG Income Limits published by HUD, annually. To ensure continued compliance and tenant eligibility, applicants must use the most current limits available at the time to eligibility determination and/or recertification. Updated limits may be accessed, annually, at: FY 2024 Michigan Income Limits

9.2 Determining Maximum Income and Rent Limits

In projects of five or more CDBG-DR-assisted units, at least 51 percent of the total units must be occupied by families who have annual incomes that are 80 percent or less of median income. For initial MHP income and rent program limits, please refer to See Appendix B– MHP Initial Income and Rent Limits.

- The State of Michigan has adopted income and rent limits released by the HUD, annual utility allowance (excluding telephone and cable) and any other mandatory charge. The developer/owner must make by the type of utilities used at a specific project. The methodology is based on the method required by the funding source and/or the subsidy program (rental assistance) included with the Project, if applicable.

The HUD Utility Schedule Model (HUSM) or other acceptable model must be used to determine the utility allowance for the project based on the type of utilities used at and specific to the project. The HUSM enables users to calculate utility schedules by housing type after entering utility rate information (tariffs). This model is based on climate and survey information from the U.S. Energy Information Administration of the Department of Energy and it incorporates energy efficiency and Energy Star data. This model is allowed for LIHTC projects per IRS regulations at 26 CFR 1.42-10(b)(4)(D).

- The HUSM and use instructions can be accessed on HUD User at: https://www.huduser.gov/portal/resources/utilallowance.html.

- The HUSM is available as either a spreadsheet model in MS EXCEL or a web-based model on HUD User at: https://tools.huduser.gov/husm/uam.html

Projects that are proposing to use LIHTC should use the State's utility allowance. To determine the effective tenant rent, the utility allowance for unit type and size must be deducted from the maximum allowable rent. The Subrecipient will review and approve initial rents and utility allowances, subject to the maximum rent limitations, to be used for the project.

If a project specific or HUSM utility allowance is not available, the utility allowance used by the local jurisdiction/county must be used. Please refer to Appendix C- Utility Allowances for current utility schedules.

9.3 Subsequent Rents/ Adjustments

9.3.1 Utility Allowance Updates

Following the release of annually updated rent and income limits, project owners/developers may request a modification to a project's utility allowance. Property owners should submit an updated utility allowance determination to Subrecipient for review and approval or request to use a utility allowance approved by another funder (state tax credit allocator, federal agency, etc.) provided the allowance is calculated using a method acceptable. Rents may need to be adjusted as a result of an updated utility allowance.

10 Tenant and Income Eligibility

10.1 Income Definition and Initial Tenant Income Certification

MEDC will require the use of the IRS Form 1040 Adjusted Gross Income calculation method to calculate income to determine program eligibility. Guidance on calculating income can be found in the CDP Income Eligibility Calculator User Manual. The Income Eligibility Calculator can be found on the HUD Exchange Website here.

To determine if program applicants are income eligible, property owners must verify the applicant income using source documentation such as wage statements, interest statements, and unemployment compensation statements. When collecting income verification documentation, also consider any likely changes in income. For example, last year's tax return does not establish anticipated income; nor is it adequate source documentation. Treatment of income and how it is calculated for MHP will be determined by the use of the IRS Form 1040 Adjusted Gross Income definition, which will be used consistently through MHP for all rental units developed through the program. Once the initial income verification is completed, a property owner is not required to reexamine eligibility until the tenant's annual recertification. The annual income and household composition of the tenant in every unit must be re-examined at least, annually.

10.2 Over-Income Tenants or Households at Recertification

Consistent with rules for CDBG-DR funding, the income of a household occupying a CDBG-DR-assisted unit exceeds the income level applicable to new tenants for Affordable Units, the property owner, or their designee, may not evict the tenant, and shall instead take the following specific actions to remedy the temporary noncompliance:

Increase the tenant's rent to the lesser of:

- 30 percent of adjusted income;
- The HUD FMR applicable to the unit based on unit size and location; or
- The rent limitations of another leveraged funding source that applies to the Development.

10.3 Unit Designation

The CDBG-DR–assisted units in the multifamily housing project shall remain "floating" units during the affordability period. The "floating" feature allows the project to remain in compliance with affordability restrictions in the event a tenant in a specific unit goes over-income during the affordability period, the period owner can remediate the non-compliance. In a mixed-income project, designated assisted units may change over time as long as the total number of affordable units remains the same and the substituted units are comparable in size, features, and number of bedrooms. For Floating Units, the tenants' rent will be raised to FMR with no utility allowance and the next available unit must be rented to an eligible tenant to meet the project's unit mix requirements.

Throughout the period of affordability, income eligible households must occupy the assisted units. When designated rental units become vacant during the period of affordability, subsequent tenants must be income eligible and must be charged the applicable rent. In projects in which the CDBG-DR units are designated as floating, tenants who no longer qualify as low-income are not required to pay as rent an amount that exceeds the market rent for comparable, unassisted units in the neighborhood. Tenants who no longer qualify as low-income (exceeding 80% of Area Median Income) families must pay as rent:

1. The lesser of the amount payable by the tenant under State or local law; or
2. 30 percent of the family's adjusted income

11 Tenant Selection, Marketing and Leasing

11.1 Tenant Selection Plan

The owner/developer must establish a written tenant selection plan consistent with the requirements of 24 CFR 92.253(d). Among other requirements, the tenant selection plan must, as much as feasible and practical, determine how tenant selection with align with the order of tenant prioritization as defined in Section 10.6 of this Policy, determine how tenants will be selected, determine the methods for establishing a Project's waiting list in chronological order based on receipt of applications, establish how tenants will be selected from that list, and determine that written notification will be provided to any denied or rejected applicant, explaining reason for such denial and process for appeals.

11.1.1 Rent and Income Limits Update

HUD publishes updated rent limits and income limits on an annual basis. These updates include an effective date for when the new limits can be utilized. Current CDBG-DR income limits can be found here. Developers and/or project owners may request from the subrecipient a modification of tenants rent based off the published HUD annual rent limits. The updates to the rent and income limits could effectively increase or increase the maximum amount of rent that may be charged to the tenant. It is the project owner's responsibility to ensure the correct limits are at all times. Please see Appendix B for the current income limits.

11.2 Limited English Proficiency Plan

The owner/developer must ensure that Limited English Proficiency (LEP) persons have the same access to information and services as all other applicants. Therefore, all marketing materials must follow the MEDC's and/or the Subrecipient's HUD-approved Language Assistance Plan. https://wvfloodrecovery.com/useful-resources/

11.3 Affirmatively Furthering Fair Housing

The State of Michigan is committed to Affirmatively Furthering Fair Housing through its disaster recovery efforts. All MEDC programs will comply with all relevant fair housing laws including the Fair Housing Act, Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, and the Americans with Disabilities Act. As well as the Elliot-Larsen Civil Rights Act (also known as Public Act 220 of 1976) which provides additional protection against housing discrimination based on religion, race, color, national origin, age, sex, height, weight, familial status, or marital status, and the Michigan Persons with Disabilities Civil Rights Act (also known as Public Act 220 of 1976) which guarantees the opportunity to obtain employment, housing, and other real estate and full and equal utilization of public accommodations, public services, and educational facilities without discrimination because of a disability.

The owner/developer must establish an Affirmative Fair Housing Marketing Plan in accordance with 24 CFR 92.351 Affirmative marketing, which will require outreach and marketing to people with Limited English Proficiency and ensure access to affordable rental units.

Developers shall advertise Projects and units to fill vacant units or to develop a waiting list of interested applicants for the subsidized housing. CDBG-DR MHP applications must include an Affirmative Marketing Plan developed using the Affirmative Fair Housing Marketing Plan Form HUD-935.2A.

Applications shall also demonstrate that the proposed Projects will affirmatively further fair housing and adequate tenant market, which are likely to lessen area racial, ethnic, and low-income concentrations, and/or promote affordable housing in low-poverty, nonminority areas in response to natural hazard related impacts. Please refer to GAM **Ch. 9: Fair Housing and Equal Opportunity** for more information.

11.4 Prohibited Lease Provisions

Leases between the tenant and owner shall be for one year, unless by mutual agreement between the tenant and the owner. Owners are required to provide 30 days' written notice prior to terminating or refusing to renew the lease. Owners are prohibited from including unfair provisions in their leases, prior approval of all leases will be required before use.

In accordance with the provisions of 24 CFR 92.253, the following terms are prohibited from CDBG-DR project leases:

- Agreement to be sued;
- Treatment of personal property;
- Excusing owner from responsibility;
- Waiver of notice;
- Waiver of legal proceedings;
- Waiver of a jury trial;
- Waiver of right to appeal court decision;
- Tenant chargeable with cost of legal actions regardless of outcome; and
- Mandatory participation in supportive service
- Vulnerable Population Designation

The multifamily housing program aims to promote and ensure fair access to housing for low-to- moderate income residents, and strengthen neighborhoods impacted by the disaster. In addition, the CDBG-DR funds will be targeted towards the MID counties and meet the needs of vulnerable communities, including those with low to moderate income, limited English proficiency, racially and ethnically concentrated communities, and individuals experiencing homelessness.

11.5 Prioritization of Tenants

The primary focus of the multi-family housing program is to provide relief for those affected by disasters. All housing projects and activities should prioritize the following household types:

- Persons impacted by the flooding disaster and displaced:
  - First Priority: those from the jurisdiction where the project is being developed
  - Second Priority: then those from another impacted jurisdiction relocating to the locale of the project;
- Families with children under the age of 18;
- Elderly households;
- Disabled households; and/or
- Special populations (i.e., victims fleeing domestic violence, formerly/chronically homeless, veterans, etc.)

12 Minimizing Displacement and Relocation

12.1 Residential Anti-Displacement

MEDC is subject to and follows the federal Uniform Relocation Act and when applicable must follow a Residential Anti-displacement and Relocation Plan (RARAP) in connection with any activity assisted with CDBG-DR Grant Funds that fulfills the req 24 CFR part 42, and 24 CFR part 570, as amended by waivers and alternative requirements. As a result, MEDC will not fund projects that will trigger or require relocation of any type.

12.2 Real Property Acquisition

MHP will not fund real property acquisitions; however, all properties acquired for projects to be developed through the program must be voluntary (without the threat of eminent domain) and follow the processes defined by specific steps and timely notices. Please review GAM **Chapter 6: Acquisition** for guidance on the acquisition process.

13 Construction Standards

13.1 Federal, State and Local Codes

All residential construction projects must comply with the housing construction codes as imposed by federal regulations, the State of Michigan and any applicable local building codes and requirements. All units developed under CDBG-DR multifamily housing program must meet these codes as well as any locally adopted codes and ordinances. In the absence of locally adopted and enforced building codes, the requirements of the Michigan State Building Code will apply.

MEDC requires quality inspections and code compliance inspections for all construction projects with an emphasis on high-quality, durable, sustainable, and energy efficient construction methods and materials. Eligible activities must meet all applicable State and local building codes, rehabilitation standards, zoning and related ordinances at the time of project completion.

13.2 Accessibility Requirements

All new construction projects with more than five (5) units will be subject to accessibility requirements of the Americans with Disabilities Act, Section 504 of the Rehabilitation Act of 1973, Section 504, Fair Housing and other applicable construction and design provisions which requires 5% of the dwelling units, or at least one unit, whichever is greater, to be accessible for persons with mobility impairments, and an additional 2% of the dwelling units, or at least one unit, whichever is greater, to be accessible for persons with hearing or visual impairments. MEDC reserves the right to require more units than the federally required minimum for projects that will serve specific target populations such as special needs, veterans with physical disabilities, etc. Such determinations will be on a project-by-project basis and defined in the NOFA, upon release.

To ensure compliance with accessibility in projects with four (4) or more units, additional requirements apply. For buildings without elevators, all ground floor units, public, and common use must be designed to the Fair Housing Act design and construction standards, additionally, for buildings with elevators, all units, public, and common use areas must also conform to the Fair Housing Act design and construction standards.

After completion, projects must comply with Uniform Physical Conditions Standards (UPCS), the UPCS checklist must be used to conduct inspections during the Affordability Period and to ensure ongoing maintenance and compliance of the property.

13.3 Resilient and Hazard Mitigation Measures

The multifamily housing program promotes using higher standards and innovative practices to lower the risks from storm and tornado-related impacts. Developers will include in its project workable approaches to resilient housing (including, but not limited to elevated structures/ mechanicals, building materials/technologies, power generation, etc.) toward development of properties, which will be substantially more likely to fare better in major storms than existing properties in similar locations. For more information, please refer to GAM Ch. 18: Mitigation and Resilience and [MiPlace: Resiliency].

13.4 Green Building Standards

MEDC will select and adhere to the Green and Resilient Building Standards for new construction and reconstruction of housing as required by HUD. Each project must meet an industry-recognized standard that has achieved certification under one of the following:

- Enterprise Green Communities
- LEED (New Construction, Homes, Midrise, Existing Buildings Operations and Maintenance, or Neighborhood Development)
- ICC–700 National Green Building Standard
- Living Building Challenge,
- or any other equivalent comprehensive green building program acceptable to HUD.

Each project file will show evidence that one of the standards was met and will demonstrate which standard. At its discretion, MEDC will permit local jurisdictions to utilize local code inspectors and raters (certified and non-certified) to evaluate and determine compliance. If the inspectors/raters are not required to be certified, but must possess the skill, knowledge, training and/or experience to make an accurate determination of compliance. The review process may include the:

a) The architectural plans, drawings and specifications, construction contracts, and other construction documents for the proposed project will include the amenities. Review of the proposed construction plans and specifications to ensure compliance with green building standards;

b) Performance of inspections at completion benchmarks during the throughout the construction process to ensure construction is in conformance with approved plans;

c) Provide a final certification at the completion of constructions, prior to the Certificate of Occupancy, to ensure the standards are met and operational.

13.5 Energy-Efficiency

In addition to the Green Building Standard options above, the project must also meet one of the following minimum energy efficiency standards such as:

- ENERGY STAR (Certified Homes or Multifamily High-Rise)
- DOE Zero Energy Ready Home
- EarthCraft House, EarthCraft Multifamily
- Passive House Institute Passive Building or EnerPHit certification from the Passive House Institute US (PHIUS), International Passive House Association

- Greenpoint Rated New Home, Greenpoint Rated Existing Home (Whole House or Whole Building label)
- Earth Advantage New Homes,
- Or any other equivalent energy efficiency standard acceptable to HUD.

13.6 Flood Insurance Program Requirements

MHP projects that are proposed to be constructed within Special Flood Hazard Areas (SFHA) are not eligible for funding.

13.7 Elevation Standards

MHP projects that are proposed to be located in the 1% annual chance (or 100-year) floodplain requiring elevation with the lowest floor, including the basement, at least 2 feet above the 1% annual chance floodplain elevation (base flood elevation) will not be eligible for funding.

13.8 Broadband Infrastructure

In accordance with standards for broadband infrastructure in housing, any substantial rehabilitation, reconstruction, or new construction of a building with more than four (4) rental units must include the installation of broadband infrastructure except where the grantee documents that: the location of the project makes the installation of broadband infrastructure infeasible; or the cost of installing broadband infrastructure would cause a fundamental alteration in the program or activity; or the installation of broad band infrastructure would result in a fundamental alteration in the nature of its program or activity, or in an und financial burden' ; or the structure of the housing to be substantially rehabilitated makes installation of broadband infrastructure infeasible.

14 Construction Management

MEDC is responsible for ensuring that all federal requirements including labor standards prior to and during construction. This includes adherence to best practices in construction management (e.g., pre-construction conferences, issuance of notices to proceed and payments tied to compliance with the labor requirements), in addition to project inspection and completion. The subrecipient will manage the construction phase of the development on MEDC's behalf for the CDBG-DR funding invested into the project. The Subrecipient's responsibilities during the construction phase shall include but not be limited to:

- Facilitating construction financing and loan closing transaction(s)
- Conducting Pre-construction conference
- Issuing the Notice to Proceed
- Conducting Inspections
- Managing construction contracts

- Processing Progress and Final Construction Draw Requests, in accordance with the Subrecipients fund disbursement and financial management guidelines
- Reviewing and approving change orders
- Managing retainage

MEDC or its representatives reserves the right to make scheduled or unscheduled site visits to ascertain the extent of completion and adherence to expected standards.

14.1 Project Schedule

Applicants must provide a project schedule that details how the entire proposed scope of work will be completed. Depending on the type of project, MEDC may require subrecipients to complete projects within one year of the CDBG-DR funding expenditure deadline, which will be detailed in the Master Standard Agreement with the Subrecipient and the Development Agreement that will be negotiated between the Subrecipient and the developer. All phases of the schedule should consider the completion of the environmental review, design, construction, and project closeout. Subrecipients managing projects that need more time can provide justification and request from MEDC a time extension.

15 Labor Standards

15.1 Davis- Bacon

The Davis-Bacon and Related Acts (DBA) (40 USC, Chapter 3, Section 276a-276a-5; and 29 CFR Parts 1, 3, 5, 6 and 7) apply to contractors and subcontractors performing on federally funded or assisted contracts in excess of $2,000 for construction, alteration, or repair (including painting and decorating) work. Under Davis-Bacon and related labor acts, prevailing wages and fringe benefits for corresponding work on similar projects in the same area must be applied and workers must receive no less than the established prevailing rates/compensation.

Projects containing eight (8) or more units and contracts in excess of the aforementioned $2,000, triggers Davis-Bacon. Prior to commencing construction, the wage determinations applicable to the project must be approved by the Subrecipient. The contractor will be required to provide weekly Certified Payroll Reports (CPR), and allow access to the project site, and workers so interviews may be conducted to ensure compliance with Davis-Bacon.

MEDC's Subrecipient will be responsible for providing documentation, overseeing compliance with Davis-Bacon and related requirements, and monitoring the project throughout the construction period. The Standard Operating Procedures for the Program will detail the procedures, required forms and processes that will be implemented to ensure compliance with the Davis-Bacon requirements before, during and after the construction period.

15.2 Section 3

Section 3 is a provision of the Housing and Urban Development Act of 1968. The purpose of Section 3 is to ensure that employment and other economic opportunities generated by certain HUD investments, to the greatest extent feasible, are directed to low-and very low-income persons and to business concerns which provide economic opportunities to low-and very-low income persons. The goal is to keep dollars local and help foster local economic development, neighborhood economic improvement, and individual self-sufficiency. Section 3 applies to recipients of $200,000 or more in CDBG-DR assistance. The types of projects that are covered by Section 3 are housing construction, demolition, rehabilitation, or other public construction (e.g, infrastructure or community facilities). Section 3 applies to the entire project even when the CDBG-DR funds are only a portion of the total funding.

Compliance can be met in two ways:

1. Quantitative goals:
   - 25% or more of all labor hours must be worked by Section 3 workers
   - 5% or more of all labor hours must be worked by targeted Section 3 workers or;
2. Qualitative goals:
   - If a subrecipient has not met the quantitative goals, they can still be considered to in compliance if they can provide evidence of a number of qualitative efforts to assist low and very low-income persons with employment and training opportunities
   - CDBG Section 3 Guide provides a list of qualitative efforts CDBG-DR subrecipients may undertake to document the project made qualitative efforts to assist low and very low-income persons with employment and training opportunities.

Section 3 Workers

A Section 3 worker is any worked who currently fits, or when hired within the past five years for, at least one of the following categories as documents:

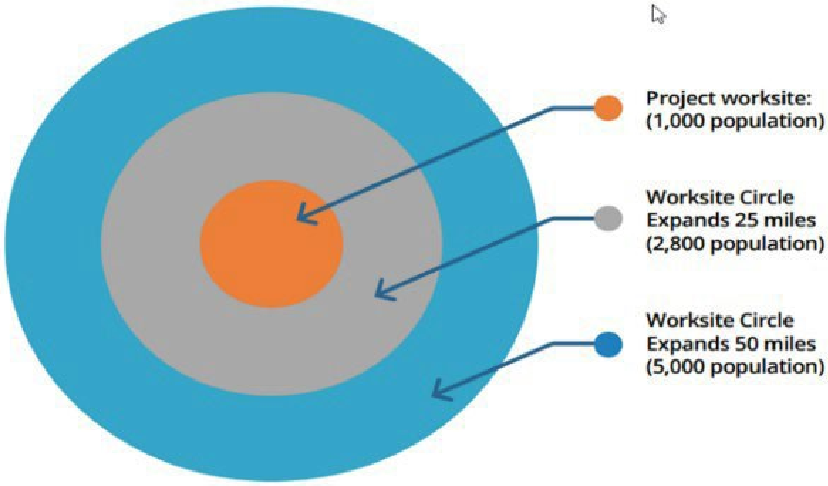
- A low or very low-income worker
- Employed by a Section 3 business concern
- A Youth Build participant

Targeted Section 3 Worker

- Employed by a Section business concern
- Currently fits or when hired for at least one of the following categories as documented within the past five years:
  - Living within the service area or the neighborhood of the project, as defined in 24 CFR 75.5 and qualifies as a low or very low-income worker
  - A Youthbuild participant.

Service Area as Defined in 24 CFR 75.5

- Service Area = an area within one mile of the Section 3 project, or
- If > 5,000 people live within one mile of Section 3 project, then, Service Area = an area within a circle centered around the Section 3 project site that encompasses 5,000 people.



Subrecipients will be required to have an adequate plan to satisfy the Section 3 requirements, a subrecipient must develop and implement a Section 3 Action Plan which outlines how it will achieve these goals. The plan will state the subrecipient's commitment to Section 3 and outline steps to implement it. DLG Section 3 Guide provides a step-by-step plan to implement the Section 3 requirements and establish the needed files to document compliance. CDBG-DR subrecipients will need to maintain records of Section 3 compliance and will report their Section 3 efforts and accomplishments at the closeout of their grant.

Contractors or subcontractors for all rehabilitation and reconstruction triggering Section 3 are required to comply with the Section 3 regulations. Please see the DLG Section 3 Guide for more information.

15.3 Contract Work Hours and Safety Standards Act

The Contract Work Hours and Safety Standards Act (40 USC, Chapter 5, Sections 326-332; and 29 CFR Part 4, 5, 6 and 8; 29 CFR Part 70 to 240) applies to contracts in excess of $100,000 and requires that workers receive overtime compensation, at least one and one-half times their regular rate of pay for all hours worked over 40 hours in a work week. The overtime provisions of the Fair Labor Standards Act may also apply to DBA-covered contracts.

15.4 Copeland Anti-Kickback Act

The Copeland Anti-Kickback Act (40 USC, Chapter 3, Section 276c and 18 USC, Part 1, Chapter 41, Section 874; and 29 CFR Part 3) requires that workers be paid weekly, that deductions from workers' pay be permissible, and that contractors maintain and submit weekly payrolls.

16 Pre-Construction

MEDC and/or its Subrecipient 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. The pre-construction conference will expand on the requirements, expectations, and processes related to all facets of the construction project. During the meeting the approved construction drawings will be the reviewed and following discussed, in depth (this is not an exhaustive list):

- Construction Contract
- Construction Schedule
- Liquidated Damages
- Changes Orders
- Construction Draws
- Payments
- Construction Plans (distribution of full set to parties)
- Plan Deltas/As-Builts
- Construction Methods, Equipment, etc.
- Work Site Access and Work Area Limits
- Grading, Staking
- Staging/Storing
- Safety
- Labor Requirements
  - Davis Bacon
  - Section 3
- Environmental/Archeological Issues
- Traffic Control
- Stormwater Pollution Prevention Plan (SWWWP), Best Management Practices (BMP), Erosion Control
- Construction Management
- Inspections
- Site Cleanup/Closeout

16.1 Permits

The Developer is required to secure and maintain all necessary permits, variances, and authorities pertaining to development of the project. All permits associated with the work of subcontractors will be filed under the primary permit of the developer and primary contractor. The developer and/or primary contractor are responsible for ensuring that all permits are successfully closed. Final payment will not be released until all permits are closed and a Certificate of Occupancy (C of O) has been issued.

16.2 Periodic Inspections

The Subrecipient will inspect all work on the project site through its program inspectors and code enforcement. Inspectors will compare receipts from the contractor with the materials found on-site to guard against the use of substandard or used materials. In addition, date and time-stamped photographs are taken during inspections, detailing complete and incomplete work.

The required plumbing, electrical, structural, and mechanical inspections will be conducted by code enforcement (or its designated representative) while work is in progress. Any deficiencies identified during an inspection will be provided to the contractor in writing.

The Developer and/or contractor is required to address and complete all deficiencies to code and program standards and then request a re-inspection. If deficiencies are not fully addressed at the time of re-inspection, the subrecipient may complete a deductive change order for the incomplete work.

16.3 Draw Requests

Developers will submit payment requests to the subrecipient for completed work. MEDC will make payments directly to subrecipients as reimbursements based on the documented and satisfactory completion of the project work, as outlined in the Master Standard Agreement (See Appendix A – Master Standard Agreement) and Notice to Proceed.

As part of the contracting and awards process, MEDC works with its Subrecipients to develop performance benchmarks that include projected expenditures. The expenditure projection is the basis for monitoring project performance of each activity. MEDC requires that construction or rehabilitation costs are reasonable and consistent with current market costs for the area where the multifamily construction will take place.

Developers are expected to follow the expenditure benchmarks and construction schedules as stipulated in its construction agreement. All code-compliant, eligible draw requests will be submitted to the subrecipient for approval and processing. The Subrecipient will submit the approved draw request to MEDC within XX {10? 14? 30?} days for processing; the Subrecipient shall not pay any draws prior to receiving approval from MEDC. For more information, please see GAM **Ch. 8: Financial Management.**

16.4 Draw Inspections

The Subrecipient will conduct on-going site inspections, or implement a process to verify expenses, satisfactory completion of work, and eligibility of expenses, upon the receipt of a draw request from the developer. A copy of the inspection report along with the draw request will be provided to MEDC for approval and payment.

The Subrecipient will also review the draw request for compliance with the labor standards requirements by confirming:

- All weekly payrolls and Statements of Compliance have been received, reviewed and any discrepancies resolved; and
- Employee interviews have been conducted as necessary, checked against payrolls and the wage rate decisions, and all discrepancies corrected.

16.5 Final Inspections

Prior to final payment, the Developer and its contractor must successfully close all permits associated with code enforcement and must receive the Certificate of Completion. At the completion of work, the Subrecipient will perform a final walk through of the property, noting any deficiencies that must be cured before the final payment is made. A punch list is drafted by the inspectors and provided to the developer and its contractor. The punch list includes photographs, indicating the location of each item which must be completed. Once all items from the punch list are completed, the developer will receive its final payment from the program.

16.6 Reimbursements

Reimbursement basis means that activity delivery and project costs must be incurred by the subrecipient and/or developer and documented as required by the terms of the executed agreement for payment of invoices. Payments will be made directly to Subrecipients as reimbursements based on the documented and satisfactory completion of project work, as outlined in the executed agreements with the subrecipient and developers, and in the Notice to Proceed (NTP).

16.7 Retainage

Subrecipients shall withhold as retainage 10% of all CDBG-DR MHP funds requested by the Developer. No retainage payments shall be released to the Developer or reimbursed to the Subrecipient until receipt and approval by MEDC of all required and approved project closeout documents identified in the executed agreements and Rider to the Development Agreement.

16.8 Costs Overruns and Change Orders

Construction contract amendments or change orders must be reviewed by MEDC before approval or execution by the contractor and must be determined to be reasonable and necessary to complete the contracted task.

Before approving the change order, an independent cost estimate must be completed by the subrecipient to ensure that the change order is reasonable. Once the independent cost estimate is completed, it may be compared to a quote supplied by the contractor to perform the work.

Where feasible and appropriate, care must be taken to limit change orders to prevent a violation of free and open competition for CDBG-DR funds. Once accepted, the change order becomes a part of the contract record and all record retention policies governing contracts are applicable.

16.9 Construction Schedules and Delays

A timeline for construction should be included with the CDBG-DR MHP application to demonstrate the developer's ability to meet the project completion deadlines. The proposed project should have all planning activities close to final or be ready to execute when the application is submitted.

Any delays in construction from the contract execution date must be communicated in a timely manner to the subrecipient with a written justification and plan for accomplishing the construction completion within the project's timeline. Construction is expected to begin within 180 days from the date of the written agreement execution and the Notice to Proceed is released to the Developer. The construction is not to exceed 24 months from the contract execution date. MEDC may extend the construction start date or completion date at its discretion. The Developer must obtain written approval from MEDC and the Subrecipient granting an extension to the construction schedule or performance period.

16.10 Remediation of Non-Performance

Developers must also provide a list of completed projects and active projects (as applicable) that are using local/state/federal funds as part of the CDBG-DR MHP application.

A Developer can be denied consideration for funding if the applicant or its related parties have a history of default or non-performance under any agreement, debarment, payment delinquencies, bankruptcy, foreclosure, or activities determined to be unsound or unlawful.

Developers must be able to complete the housing project to standards and provide the housing units as agreed to in the written agreement, if not, the project is deemed incomplete, and the developer must return all the CDBG-DR funds expended to date.

If for any reason a developer and/or its contractor is unable to complete the project punch list and unable to pass a final reinspection, the subrecipient may require the developer to return all CDBG-DR MHP funds disbursed to date.

16.11 Guarantees

The ownership entity, all underlying individuals, corporate entities, partnerships, or limited liability companies with an interest in the Project's ownership entity will be required to provide the following guarantees:

- Completion Guarantee including provisions guaranteeing construction completion of the Project.
- Performance and Repayment Guarantee including provisions guaranteeing environmental compliance and compliance with HUD CDBG-DR guidelines.
- Replacement Reserve Guarantee to ensure annual deposits to a Replacement Reserve for the Project in an amount consistent with the loan documents and/or covenant running with the land.

Guarantees shall be joint and several and must remain in effect throughout the affordability period. In addition to the guarantees listed above, each project is required to obtain one of the following options:

- 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, as directed by MEDC; or,
- Other mechanism as deemed acceptable by MEDC such as an irrevocable standby letter of credit in the minimum amount of 15% of the construction contract, which will be held by MEDC, or its assignee, until project completion.

17 Project Selection

17.1 Notice of Funding Availability (NOFA)

MEDC will facilitate the award process through the issuance of a Notice of Funding Availability (NOFA) to identify projects in communities located within HUD and/or State-identified MIDs. The NOFA process will be restricted to eligible units of general local government that will serve as an MEDC subrecipient. MEDC will only accept funding requests that are in response to an open and active NOFA application. To be considered for funding, all NOFA responses must be completed and received by the deadline with all supplemental documentation must be submitted at time of application. Based upon demand there may only be a single round of funding; however, MEDC reserves the right to offer multiple rounds of funding, if necessary, to exhaust the funding if all of it has not been allocated during the first round. If the funding requests exceed total available resources, MEDC may, at its discretion, use this project applications received as part of this NOFA process to prioritize the unfunded projects if future funding becomes available. Based upon available resources and funding limits, it is anticipated that approximately seven (7) projects may be awarded funding.

17.2 Application Period and Training Workshops

The application period will open in winter of 2024. Prior to each application window, applicants must visit the website for details. Open NOFA applications can be located on the MEDC website https://www.miplace.org/cdbg-dr/ and will be open for a limited time period. A copy of the application is also incorporated by reference into this Policy as Appendix D –MHP Application (under development).

Applications will be accepted via email at CDBG@michgan.org. MEDC will provide applicants with training and guidance on how to complete and submit the application. The training will be recorded and posted on the recovery website. Please refer to MiPlace: Community Development Block Grant- Disaster Recovery for more information.

17.3 Submission of Materials

Applicants must comply with the submission criteria, as defined in the NOFA. MEDC reserves the right to require the submission of additional information as needed to complete project underwriting; however, the request(s) will only be to **supplement** information already included in the submission. Any information not received by the application deadline will not be accepted and the application will be deemed incomplete and not eligible for review. Project applications will be reviewed and analyzed based upon project specifications and developer qualifications, as presented in the application response. Application responses will be scored based on criteria in the NOFA. The scoring and ranking of a project do not automatically give a project or applicant the right to a reservation or commitment of funding. The ranking and scoring process will result in funding recommendations that will be presented to the Project Selection Committee that will make final funding determinations. MEDC will make funding recommendations and determinations using sound and prudent business practices, in adherence to its procurement policies. MEDC reserves the right to exercise discretion and reserves the right to reject any application that does not meet its procurement requirements.

17.4 Threshold Requirements

Upon receipt of applications, MEDC will conduct an application evaluation (threshold criteria) which will determine whether the application is complete and if the applicant and project are eligible for funding. This phase is unscored. MEDC will review only advance applications that meet the threshold criteria listed below to the technical scoring process:

- **Eligible Activities –** New construction, rehabilitation, or reconstruction of affordable rental units.
- **Eligible Applicants –** Applicant must be a unit of local government; developer/development team applying with unit of local government must not be listed on the suspension and debarment list.

- **Eligible Location –** Project benefits HUD-identified MID Areas.
- **Meets National Objective –** Low Moderate Housing (LMH), Urgent Need (UN)
- **Minimum Development Size –** The developments must be comprised of at least five (5) residential rental units.
- **Eligible Project Type –** Projects must new construction, reconstruction, or substantial rehabilitation of one of the following development types:
    - Family Housing
    - Elderly Housing
    - Special Needs/Vulnerable Populations
    - Supportive Housing/Permanent Supportive Housing (PSH)
- **Commitment to Minimum Building Standards**
    - Green and Resilient
    - Broadband
    - Energy Efficient
- **Local Support –** The proposed project demonstrates the support of the jurisdiction and other jurisdictions within the proposed development's sphere of influence, where applicable.
- **Application –** Submission is timely and complete with supporting documentation.

17.5 Evaluation and Scoring Criteria

Applications that meet the minimum threshold criteria will be reviewed by a panel as part of a technical scoring process. The review panel will generate individual scores using the established evaluation criteria. The NOFA will specify the point distribution for each scoring criterion. Projects will be reviewed competitively and ranked based upon the criteria below:

- **Project Readiness (maximum 20 points):** Applicant has some form of site control, and the project is anticipated to receive entitlements within a year of award of funding. Higher points maximum the maximum points for this criterion will be awarded for projects that are shovel ready or able to proceed with construction within 6 months or less.
- **Project Budget and Leveraging (maximum 25 points):** Project budget is complete and anticipated development costs meets cost reasonableness. Project meets minimum leveraging criteria (i.e., CDBG-DR funding does not exceed 40% of Total Development Costs), 20-year proforma demonstrates long-term financial viability and positive cashflow during affordability period.
- **Sources and Uses (maximum 10 points):** All sources and uses of funds (federal, state, local, private, etc.) are clearly included and accompanied by sufficient evidence of commitment, all financial gaps

are adequately covered, funding is available and eligible for proposed uses, and there is no Duplication of Benefits from any sources.

- **Experience and Qualifications (maximum 20 points):** Development Team has recent demonstrated experience successfully completed affordable housing project(s) similar in size, scope, budget, and complexity of funding. Greater points will be given for the number of completed projects. Additionally, the Development Team must demonstrate operational and fiscal capacities.
- **Affordability – Unit and Income Mix (maximum 10 points):** All units will be affordable to lower income households; unit mix is proportionate amongst income levels.
- **Scope of Development (maximum 10 points):** Scope of proposed development, including maximizing the number of housing units provided, adequate open space and community areas, onsite amenities, and building design and aesthetics are appropriate to the surrounding area/community. Please note: projects serving special populations with increased accessibility requirements must provide more than the minimum 5% of units for mobility and 2% of units for visual/audio accessibility accommodations.
- **Proximity to Amenities Increasing Opportunity (maximum 5 points):** Projects are in locations that increase access for lower income households to transportation, amenities, parks, education, health, goods, services, job and employment centers, etc.
- **Bonus Criteria (maximum 5 points):** Project meets one or more of the following:
    - Project has greater than 10% of units serving Extremely Low Income households **(2 point)**
    - Project provides Permanent Supportive Housing (PSH) units **(1 point)**
    - Project serves Elderly Persons **(1 point)**
    - Project serves individuals with at least one disability **(1 point)**

17.6 Project Approval and Final Award

Based on the application review, MEDC may fund all or a portion of the total requested funding up to the maximum award amount. Allocation of funding will be determined by the availability of funding and program priorities. MEDC will send a Notice of Award to successful applicants which is a preliminary offer to enter into a grant agreement. The execution of a grant requires both parties to agree to the terms and conditions, including project scope, budget, timeliness of spending, project milestones, and compliance requirements.

Acceptance of the funding does not indicate an approval of eligibility or funding for specific projects. Awards will be considered final upon receipt of a signed grant agreement between MEDC and the applicant.

17.6.1 Negotiation

MEDC reserves the right to negotiate funding amounts and payment schedules with selected applicants. On a case-by-case basis, negotiations may be appropriate for, but not limited to, situations such as demand exceeding amount of funds available, the existence of project readiness issues, and discrete project components meeting program objectives or grant requirements, such as LMI Benefit. Upon conclusion of negotiations (if necessary) and execution of the grant agreement between MEDC and the Subrecipient, the Subrecipient may proceed with negotiating the Development Agreement with the developer.

The Development Agreement is the agreement between the Subrecipient and the developer that has been identified to develop the affordable housing multifamily project. All Development Agreements must be executed, environmental review completed, and project design approved by MEDC before the developer may proceed with construction.

18 Underwriting Criteria

MEDC will utilize following as the minimum underwriting criteria to evaluate each project application, all projects must meet the minimum criteria and must possess long-term financial viability with demonstrated positive cashflow for the entirety of the affordability period. The submission of a proforma, in the format provided by MECD, that incorporates the following underwriting criteria: operating expenses, vacancy rates, escalation in operating costs and income, debt service coverage ratios, reserve requirements, developer fee, and deferred developer fee will be required to evaluate the feasibility of the project to determine if long-term project viability exists. Please see Appendix D – MHP Proforma Workbook

18.1 Acquisition

Acquisition costs for vacant land will not be covered by the MHP CDBG-DR funding; however, as part of the Total Development Costs the budget must reflect the actual acquisition purchase price or the current as-is market value of the property to be acquired. The value must be supported by an independent appraisal prepared by a third-party, state-licensed appraiser. The acquisition price does not include costs such as legal fees, title and zoning costs, associated relocation costs (if applicable), engineering fees, etc. Any projects requiring acquisition triggering relocation and/or displacement will not be permitted or considered under this program.

18.2 Construction Costs

MEDC and/or its subrecipient will review the line-item budget to ensure costs are not excessive. Regardless of funding source, all hard construction costs must be reasonable and in alignment with new construction cost standards, as determined by MEDC. MEDC and/or its subrecipient will use construction costs for other projects of similar size, characteristics, locations, etc. to establish such reasonableness. The hard construction costs may include costs incurred to demolish existing structures, develop connections and/or tie-ins to existing off-site public utilities; develop onsite infrastructure including streets and roads, wet and dry utilities, etc.

18.3 Operating Income and Expenses

Operating income and expenses are anticipated to annual escalators, or increases, each year. Since it is anticipated that expense growth will outpace income growth, projects will be underwritten with a minimum 3% increase for operating expenses and a maximum 2% increase for rental income.

18.4 Contingencies

18.4.1 Hard Cost Contingency

All new construction projects may have a contingency of 5% to 10% of total hard costs, which includes general requirements and builder profit and overhead.

18.4.2 Soft Cost Contingency

The contingency must not exceed $50,000. Cost overruns must be reasonable with documentation supporting the reasonableness of costs. The overruns must be resulting from unexpected conditions arising during construction/development, overruns must not be resulting from oversight or defects in design.

18.5 Debt Service Coverage Ratio (DSCR)

Projects will initially be underwritten to meet a minimum DSCR of 1.1, the project must maintain a 1.1 to 1.25 DSCR for the entirety of the affordability period.

18.6 Vacancy Rates/Revenue Loss

Projects will be underwritten with a minimum 5% vacancy rate for projects serving families and seniors and 10% for projects serving special needs and/or permanent supportive housing populations. A market study may be used and/or required to support vacancy rates that deviate from these standards.

18.7 Reserves

18.7.1 Operating Reserves

As part of the development budget, an operating reserve must be established that is equal to three months of operating expenses, debt service payments, and required deposits to reserves. MEDC may, at its discretion, reduce the reserves requirement.

Operating reserves may be used to pay any outstanding deferred developer's fee, fund other reserves, fund project improvements, or other uses deemed eligible by MEDC. All distributions from the operating reserves must be approved by MEDC prior to withdrawal and usage.

18.7.2 Capital Replacement Reserves

All new construction projects must include capitalized replacement reserves. The capitalized contribution is equal to $350 per unit. Additionally, the operating budget must include a minimum replacement reserve of at least $350 to be deposited per unit, per year. MEDC may, at its discretion, reduce the reserves requirement.

18.7.3 Lease-Up Reserves

Project budgets may include a per unit amount for a lease-up reserve. The amount must be established based on the projected time to lease-up the project in consideration of the market conditions, target population, availability of units, etc. These funds will be made available to absorb lease-up expenses incurred in excess of budgeted funds and, in the event of slow lease-up.

EQUAL HOUSING OPPORTUNITY

19 Project Fees

Maximum allowable fees will apply. Unless otherwise stated, the limits shall be calculated on the Net Construction Costs, which is the value of the construction contract less the budgeted line items for construction contingency, General Requirements, Builder's Profit, and Builder's Overhead.

19.1 Developer Fee

The Developer fee will be calculated as a sum of the following, the amount of CDBG-DR funding used to pay the fee may not exceed $150,000:

- 7.5% of acquisition costs
- 7.5% project reserves
- 15% of all other development costs, excluding developer fee, developer overhead, and developer consulting fee.

The Developer fee is inclusive of all fees paid to the developer, consultants, professional service providers, but excludes contingencies, reserves, the Developer fee, and tax credit syndication fees, if applicable.

19.2 Deferred Developer Fee

Projects may defer a portion of the Developer fee to make the project fiscally viable. Deferred developer fees must:

a) Be paid in full within fifteen years and meets the standards required by the IRS to stay in basis;

b) Be paid from the cashflow of the project rather than CDBG-DR;

c) The deferred portion does not exceed fifty percent (50%) of the total amount as of the full application, and

d) Payment projections do not negatively impact the operation of the project. The developer may not charge interest on the deferred amount in excess of the long-term applicable federal fund rate used by the Internal Revenue Service as a point of comparison versus the interest on loans between parties

19.3 Builder's Fees

The maximum fees are:

- General Requirements: 6% of construction costs
- Builder's Profit: 6% of construction costs
- Builder's Overhead: 2% of construction costs

Any approved changes orders will be subject to the applicable fee limitations.

19.4 Architecture Fees

The aggregate fees for architectural fees may not exceed 10% of the value of the construction contract, 6% and 4%, for administration and design, respectively.

19.5 Engineering Fees

The fees for engineering may not exceed 5% of the value of the construction contract.

19.6 Applications with Low Income Housing Tax Credits (LIHTC)

MEDC will coordinate the application processes with MSHDA for projects that include LIHTC credits, tax-exempt bonds, or similar funding mechanisms.

20 Other Project Criteria

20.1 Project Revenue Not Attributable to Rental Revenue

Projects may not charge fees to program beneficiaries to cover administrative costs related to the costs of administering CDBG-DR programs. Tenants may not be charged fees that are not customarily charged to tenants of rental housing such as laundry room access fees. All revenue that is anticipated to be generated must be projected and included in the budget for analysis during the underwriting of the project.

20.2 Long-Term Viability

Projects must demonstrate that fiscal viability can be maintained for the duration of the affordability period in consideration of trends and changes in income, expenses, vacancy, and other foreseeable and unforeseeable factors. Any project with proformas that do not reflect appropriate escalators, fluctuating debt service coverage ratios that fall below minimums or inability to properly cashflow with the proposed unit and rent mix will not be considered for funding.

21 Program Operations

21.1 Environmental Review

The environmental review process begins once the activity for a project is verified to be eligible and meets a national objective, as defined by HUD.

HUD's regulations at 24 CFR 58.22 prohibit grant recipients from committing or spending HUD or non-HUD funds on any activity that could have an adverse environmental impact or limit the choice of reasonable alternatives *prior* to completion of an environment review once a project has become "federal." This prohibition on "choice-limiting actions" prohibits physical activity, including acquisition, rehabilitation, and construction, as well as contracting for or committing to any of these actions, prior to completion of the environmental review.

The restriction on funding or committing funds for choice-limiting actions does not apply to undertakings or commitments of non-federal funds before a project participant has applied for HUD funding. A party may begin a project in good faith as a private project and is not precluded from later deciding to apply for federal assistance. However, when the party applies for federal assistance, it will generally need to cease further choice-limiting actions on the project until the environmental review process is complete.

24 CFR Part 58 outlines the rules and regulations that govern the environmental review process for CDBG-DR projects, complying with the National Environmental Policy Act (NEPA). Please review **Chapter 5: Environmental Review** of the MEDC Subrecipient Grant Administration Manual (GAM) to better understand the required policies and processes to completing an Environmental Review Record (ERR).

An environmental review must be performed before any funds, regardless of source, are committed to an activity or a project. No activity or project may be undertaken if the activity or project would have an adverse environmental impact or limit the choice of reasonable alternatives (24 CFR 58.22(a)). HUD's restrictions on choice limiting actions apply only after receipt of an application for HUD assistance. Once submitted, the project is considered a Federalized project, and NEPA applies. Thus, no project funds (private or other public funds) may be committed until the full environmental review has been completed and the release of funds has been issued.

The Subrecipient will facilitate and coordinate all actions required to meet NEPA regulations pertaining to the Environmental Review process. Additionally, the Subrecipient will remain the Responsible Entity of record and will maintain the written record of the ERR undertaken for each project, covering all activities, including exempt activities.

As required by Federal regulations, the ERR will be made available for public review and contains all the environmental review documents, public notices, and written determinations or environmental findings required under Part 58. The actual content of the ERR will vary according to the level of environmental review required for the specific project and must be conducted using the most appropriate level of analysis:

- **Categorical Exclusion:** An undertaking may be categorically excluded from a detailed environmental analysis if a federal agency has previously determined that the action typically has no significant environmental impact, and they have included the action in a list of exclusion categories in their NEPA implementing regulations. A list of activities identified by HUD as categorically excluded from detailed NEPA review can be found at 24 CFR Part 58.35.
- **EA:** Environmental Assessment. The second level of analysis under NEPA is an EA, which is prepared to determine if a federal action would have a significant effect on the environment. If the answer is no, the agency issues a Finding of No Significant Impact (FONSI). The FONSI may include mitigation measures that are required to mitigate environmental impacts, so they are less than significant.
- **EIS:** Environmental Impact Statement. An EIS is a more detailed evaluation of the potential environmental effects of the proposed action and alternatives. An EIS can be prepared following the completion of an EA or, if a federal agency anticipates that an undertaking may significantly impact the environment, they may choose to prepare an EIS without having to first prepare an EA. The decision document for the EIS is a Record of Decision (ROD), which states the agency's decision and how the findings of the EIS, including consideration of alternatives, mitigation measures, and agency and stakeholder input were incorporated into the agency's decision-making process.

In addition, the grantee must certify that it has complied with the following environmental laws and authorities:

I. ENDANGERED SPECIES

The Endangered Species Act of 1973 (16 U.S.C. § 1531, et seq.) as amended, particularly section 7 (16 U.S.C. § 1536).

II. HISTORICAL PROPERTIES

The National Historic Preservation Act of 1966 as amended (16 U.S.C. § 470, et seq.), particularly:

- Executive Order 11593, Protection and Enhancement of the Cultural Environment, May 13, 1971 (36 FR 8921), 3 C.F.R., 1971-1975 Comp., p. 559, particularly section 2(c);
- Federal historic preservation regulations as follows: 36 C.F.R. Part 800 with respect to HUD programs; and
- The Reservoir Salvage Act of 1960, as amended by the Archeological and Historic Preservation Act of 1974 (16 U.S.C. § 469, et seq.), particularly section 3 (16 U.S.C. § 469a-1).

III. COASTAL ZONE MANAGEMENT

The Coastal Zone Management Act of 1972 (16 U.S.C. § 1451, et seq.), as amended, particularly sections 307(c) and (d) (16 U.S.C. § 1456(c) and (d)).

IV. WILD AND SCENIC RIVERS

The Wild and Scenic Rivers Act of 1968 (16 U.S.C. § 1271, et seq.) as amended,

particularly sections 7(b) and (c) (16 U.S.C. § 1278(b) and (c)).

V. AIR QUALITY

The Clean Air Act (42 U.S.C. § 7401, et seq.) as amended, particularly sections 176(c) and (d) (42 U.S.C. §7506(c) and (d)). Determining Conformity of Federal Actions to State or Federal Implementation Plans (Environmental Protection Agency-40 C.F.R. Parts 6, 51, and 93).

VI. ENVIRONMENTAL JUSTICE

Executive Order 12898 of February 11, 1994—Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, (59 FR 7629), 3 C.F.R., 1994 Comp. p. 859.

VII. ENVIRONMENTAL LAWS AND AUTHORITIES

- Environmental Review Procedures for Recipients assuming HUD Environmental Responsibilities (24 C.F.R. Part 58, as amended);
- National Environmental Policy Act of 1969, as amended (42 U.S.C. §§ 4321-4347); and
- Council for Environmental Quality Regulations for Implementing NEPA (40 C.F.R. Parts 1500-1508).

21.2 Adoption of Another Agency's Environmental Review

All CDBG-DR assisted projects shall be implemented in accordance with environmental review regulations as defined in 24 CFR Part 58. For additional assistance, refer to the HOME Department 24 CFR Part 58 Compliance Guidebook, as applicable to CDBG-DR.

Appropriations acts allow recipients of funds that use such funds to supplement Federal assistance provided under section 402, 403, 404, 406, 407, 408(c)(4), or 502 of the Stafford Act to adopt, without review or public comment, any environmental review, approval, or permit performed by a Federal agency. Such adoption shall satisfy the responsibilities of the recipient with respect to such environmental review, approval, or permit. This provision allows the recipient of supplemental assistance to adopt another Federal agency's review where the HUD assistance supplements the Stafford Act, and the other Federal agency performed an environmental review for assistance under section 402, 403, 404, 406, 407, or 502 of the Stafford Act.

The following additional requirements apply:

- The other agency's environmental review must cover all project activities funded by the HUD recipient for each project.
- The grantee is only required to supplement the other agency's environmental review to comply with HUD regulations (e.g., publication or posting requirements for Notice of Finding of No Significant Impact (FONSI), Notice of Intent to Request Release of Funds (NOI–RROF), concurrent or combined notices, or HUD approval period for objections) if the activity is modified so the other agency's environmental review no longer covers the activity.
- The recipient's environmental review obligations are considered complete when adopting another agency's environmental review.
- The grantee must obtain a completed electronic or paper copy of the Federal agency's review and retain a copy in its environmental records.
- The grantee must notify HUD on the Request for Release of Funds (RROF) Form 7015.15 (or the state, if the state is acting as HUD under 24 CFR 58.18) that another agency review is being used. The grantee must include the name of the other Federal agency, the name of the project, and the date of the project's review as prepared by the other Federal agency.

21.3 Projects in Floodplains and Wetlands (24 CFR Part 55)

Floodplain and Wetlands Management (Executive Orders 11988 and 11990) requires Federal activities to avoid impacts to floodplains and to avoid direct and indirect support of floodplain development to the extent practicable. HUD's regulations in 24 CFR Part 55 outline HUD's procedures for complying with EO 11988. Part 55 applies to all HUD actions that could be harmed or cause harm if located in a floodplain, including but not limited to proposed acquisition, construction, demolition, improvement, disposition, and financing actions under any HUD program.

21.3.1 Regulatory Floodways

A Regulatory Floodway comprises 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. This is the segment of the floodplain that will generally carry flow of flood waters during a flood and is typically the area of greatest risk to structures in the floodplain. HUD financial assistance is prohibited in floodways unless an exception in section 55.12(c) applies or the project is functionally dependent use (e.g. dams, marinas, and port facilities) or a floodplain function restoration activity.

21.3.2 Elevation – Non-Federal Match for FEMA-Funded Projects

Alternative requirement for the elevation of structures when using CDBG–DR funds as the non-Federal match in a FEMA funded project. As long as the CDBG–DR grantee is following a FEMA-approved flood standard this waiver and alternative requirement will continue to apply:

- For new construction or substantial improvements to a structure the lowest floor of the structure must be at or above the level of the base flood and
- For Critical Actions, at or above the level of the 500-year flood.
- 44 CFR 9.11(d)(3)(iii) allows for an alternative to elevation to the 100- or 500-year flood level, subject to FEMA approval, which would provide for improvements that would ensure the substantial impermeability of the structure below flood level.

21.4 Lead Safe Housing Rules

Lead Safe Housing rules pursuant to 24 CFR 35 applies to rehabilitation of any single family or rental property constructed prior to 1978. All relevant exhibits must be executed and included in the project file.

21.5 Asbestos Containing Materials (ACM)

Rehabilitation and/or demolition of disaster damaged properties requires an assessment of asbestos containing materials as part of the environmental assessment. If ACMs are found, they must be removed by certified remediation contractors and disposed of in a landfill approved for ACM disposal. Documentation of compliance with both of these requirements must be included in the project file.

22 Applicable Laws, Rules, and Crosscutting Requirements

Federal funding is subject to various laws, rules, statues, and crosscutting requirements governing the use of the funds. The projects developed under the Program may be subject to the requirements listed below. The Developer/Owner/Project must follow these and any other state, federal, or local laws, rules, and regulations as may become applicable throughout the term of the Affordability Period. These laws, rules, regulations, and crosscutting requirements are to be used in conjunction with those included in the CDBG-DR Subrecipient Manual.

I. CIVIL RIGHTS

Title VI of the Civil Rights Act of 1964: This act provides that no person shall be excluded from participation, denied program benefits, or subject to discrimination based on race, color, and/or national origin under any program or activity receiving federal financial assistance.

Title VII of the Civil Rights Act of 1968 (The Fair Housing Act): This act prohibits discrimination in housing based on race, color, religion, sex and/or national origin. This law also requires actions which affirmatively promote fair housing.

Section in 109 of Title 1 of the Housing and Community Development Act of 1974 [42 U.S.C. 53091]: This Section of Title 1 provides that no person shall be excluded from participation (including employment), denied program benefits, or subject to discrimination based on race, color, national origin, or sex under any program or activity funded in whole or in part under Title 1 of the Act.

II. THE FAIR HOUSING AMENDMENT ACT OF 1988

This act amended the original Fair Housing Act to provide for the protection of families with children and people with disabilities, strengthen punishment for acts of housing discrimination, expand the Justice Department jurisdiction to bring suit on behalf of victims in federal district courts, and create an exemption to the provisions barring discrimination on the basis of familial status for housing developments that qualify as housing for persons age 55 or older.

III. THE AGE DISCRIMINATION ACT OF 1975

This act provides that no person shall be excluded from participation, denied program benefits, or subject to discrimination on the basis of age under any program or activity receiving federal funding assistance. Effective January 1987, the age cap of 70 was deleted from the laws. Federal law preempts any State law currently in effect on the same topic including: KRS 18A.140; KRS 344.040; 1 01 KAR 1 :350 Paragraph 11; 1 01 KAR 1 :375 Paragraph 2(3); 101 KAR 2:095 Paragraphs 6 and 7.

IV. SECTION 504 OF THE REHABILITATION ACT OF 1973

It is unlawful to discriminate based on disability in federally assisted programs. This Section provides that no otherwise qualified individual shall, solely by reason of his or her Disability, be excluded from participation (including employment), denied program benefits, or subjected to discrimination under any program or activity receiving federal funding assistance. Section 504 also contains design and construction accessibility provisions for multi-family dwellings developed or substantially rehabilitated for first occupancy on or after March 13, 1991.

V. THE AMERICANS WITH DISABILITIES ACT OF 1990 (ADA)

This act modifies and expands the Rehabilitation Act of 1973 to prohibit discrimination against "a qualified individual with a Disability" in employment and public accommodations. The ADA requires that an individual with a physical or mental impairment who is otherwise qualified to perform the essential functions of a job, with or without reasonable accommodation, be afforded equal employment opportunity in all phases of employment.

VI. EXECUTIVE ORDER 11063

This executive order provides that no person shall be discriminated against on the basis of race, color, religion, sex, or national origin in housing and related facilities provided with federal assistance and lending practices with respect to residential property when such practices are connected with loans insured or guaranteed by the federal government.

VII. EXECUTIVE ORDER 11259

This executive order provides that the administration of all federal programs and activities relating to housing and urban development be carried out in a manner to further housing opportunities throughout the United States.

VIII. THE EQUAL EMPLOYMENT OPPORTUNITY ACT

This act empowers the Equal Employment Opportunity Commission (EEOC) to bring civil action in federal court against private sector employers after the EEOC has investigated the charge, found "probable cause" of discrimination, and failed to obtain a conciliation agreement acceptable to the EEOC. It also brings federal, state, and local governments under the Civil Rights Act of 1964.

IX. THE UNIFORM GUIDELINES ON EMPLOYEE SELECTION PROCEDURES ADOPTED BY THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION IN 1978

This manual applies to employee selection procedures in the areas of hiring, retention, promotion, transfer, demotion, dismissal and referral. It is designed to assist employers, labor organizations, employment agencies, licensing and certification boards in complying with the requirements of federal laws prohibiting discriminatory employment.

X. THE VIETNAM ERA VETERANS' READJUSTMENT ACT OF 1974 (REVISED JOBS FOR VETERANS ACT OF 2002)

This act was passed to ensure equal employment opportunity for qualified disabled veterans and veterans of the Vietnam War. Affirmative action is required in the hiring and promotion of veterans.

XI. EXECUTIVE ORDER 11246, AS AMENDED

This executive order applies to all federally assisted construction contracts and subcontracts. It provides that no person shall be discriminated against based on race, color, religion, sex, sexual orientation, gender identity, or national origin.

In addition, the grantee and its subrecipients must adhere to the following laws and regulations:

XII. GRANT AND AUDIT STANDARD

- Single Audit Act Amendments of 1996, 31 U.S.C. § 7501; and,
- Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 C.F.R. Part 200)

XIII. SUSPENSION AND DEBARMENT

- Use of debarred, suspended, or ineligible contractors or subrecipients (24 C.F.R. § 570.609);
- General HUD Program Requirements; Waivers (24 C.F.R. Part 5); and

- Non-procurement Suspension and Debarment (2 C.F.R. Part 2424).

XIV. URA: ACQUISITION/RELOCATION

The URA contains requirements for carrying out real property acquisition or the displacement of a person, regardless of income status, for a development in which HUD financial assistance is provided. The implementing regulations, 49 CFR Part 24, include steps which must be taken with tenant occupants, including those who will not be impacted by the HUD assisted activity. The one for 19 one-replacement provisions of Section 104(d) of the Housing and Community Project Act of 1974 as amended are not applicable. The remaining requirements of Section 104(d) are applicable. If acquisition and/or relocation is required, Applicants shall make every effort to minimize displacement of families from their home and/or neighborhood, according to the MEDC's Residential Anti-displacement and Relocation Assistance Plan. Additionally, compliance with Federal Acquisition and Relocation laws will be required. Please reference the MEDC's CDBG-DR Grant Administration Manual, Section XIV for additional acquisition and relocation procedures and requirements.

XV. MINORITY BUSINESS ENTERPRISE AND WOMEN BUSINESS ENTERPRISE (MBE/WBE)

The Subrecipient and their agents are encouraged to utilize MBE/WBE in the CDBG-DR projects. Although HUD does not specify a numerical goal for MBE and WBE participation in the CDBG-DR projects, Subrecipients are encouraged to undertake steps to encourage participation by these types of businesses.

In addition, Subrecipients are required to complete and maintain a Section 3 Contract & Worker Solicitation (Form 9-D) for covered projects, including an internal record of efforts to involve MBE/WBE businesses in the funded project. This tool will allow the Subrecipient to verify solicitation of bids, price quotations, and proposals from all participating contractors and professional services providers. This report must be maintained in the project files for monitoring purposes.

The Subrecipients are required to maintain the Contract and Subcontract Activity Report (Form 4-P) and submit each report to MEDC. The State must submit a consolidated Contract and Subcontract Activity Report to HUD annually. The Contract and Subcontract Activity Report is further discussed in **Chapter 4 of the Subrecipient** GAM**.**

The Subrecipients are responsible for the following to encourage the use of MBE/WBE businesses and compliance requirements:

1. Develop a list of minority-owned and women-owned businesses to be notified of opportunities for participation in project contracts. The local Chamber of Commerce or similar business association can often provide a listing of companies. Regional planning organizations may also serve as a source of information.
2. Notify eligible MBE/WBE firms of contract opportunities. This can be accomplished by distributing public notices, including newspaper advertising, and/or sending information to disadvantaged businesses that could reasonably be expected to submit a bid. The Subrecipients must ensure that all bid notices, including Affirmative Action efforts, be distributed in a timely manner. Please refer to **Chapter 4 – Procurement**

and Contracting of the Subrecipient GAM for additional requirements regarding the advertising and direct solicitation of bids.

3. Monitor contractor and subcontractor compliance with applicable MBE/WBE provisions.

XVI. FAITH-BASED ACTIVITIES

Executive Order 13279 of December 12, 2002 - Equal Protection of the Laws for Faith-Based and Community Organizations, (67 FR 77141).

XVII. CONFLICT OF INTEREST

Except for the use of CDBG-DR funds to pay salaries and other related administrative or personnel costs, the general rule is that no persons who exercise or have exercised any functions or responsibilities with respect to CDBG-DR activities assisted under this subpart or who are in a position to participate in a decision making process or to gain inside information with regard to such activities, may obtain a financial interest or benefit from a CDBG-DR assisted activity, or have a financial interest in any contract, subcontract, or agreement with respect to a CDBG-DR assisted activity, or with respect to the proceeds of the CDBG-DR assisted activity, either for themselves or those with who they have family or business ties, during their tenure or for one year thereafter.

XVIII. FRAUD, WASTE AND ABUSE

Program funds will be monitored periodically by MEDC to ensure compliance with all Federal and state requirements. A Subrecipient must agree to return all unexpended funds and improper payments to MEDC in the event of fraud, waste, or mismanagement and/or substantial noncompliance with the guidelines. Complaints alleging violation of fair housing laws will be directed to HUD for immediate review. Complaints regarding fraud, waste, or abuse of funds will be forwarded to the HUD Office of the Inspector General Fraud Hotline (phone: 1-800-347-3735 or email: hotline@hudoig.gov). MEDC's fraud, waste, and abuse policy will be available on the CDBG-DR Recovery website.

XIX. DUPLICATION OF BENEFITS

The Stafford Act, Section 312, establishes the requirement for MEDC to implement policies and procedures for the review and analysis of CDBG-DR assistance and benefits from all sources to ensure no duplication occurs. Further details on the DOB process can be found in **Chapter 17: Duplication of Benefits of the Subrecipient GAM. TBD**

CDBG-DR is the last source of disaster recovery funding – made available after all other forms of disaster assistance have been exhausted and cannot duplicate or supplant funding from other sources. In general, an applicant must have spent, or have available to spend, all funds received from government sources, private insurance, Federal or state government assistance including other HUD programs, the National Flood Insurance Program (NFIP), and any private sources for the intended purpose(s). And must still have an unmet need before the Subrecipient qualifies for CDBG-DR funds.

CDBG-DR activities under the Program will be used to address unmet housing needs not already covered by or eligible for reimbursement by FEMA or other federal agencies. MEDC will evaluate each project to ensure the Duplication of Benefits (DOB) does not exist. DOB occurs when a program beneficiary receives disaster assistance from multiple sources for the same recovery purpose, and the total assistance received for that purpose is more than the total need. As per the DOB Policy, MEDC and its subrecipients are subject to the requirements in Federal Register notices explaining the DOB requirement (84 FR 28836 and 84 FR 28848, published June 20, 2019, or other applicable notices). All activities funded with CDBG-DR must undergo a DOB review and calculation prior to Project award and prior to close out.

It is MEDC's responsibility to ensure that the CDBG-DR provides assistance only to the extent that the disaster recovery need has not been fully met by funds that have already been paid, or will be paid, from another source. The Project application must document all funds obtained from any source from the date of the disaster until the date of the application. Additionally, MEDC, in coordination with the Subrecipient, will perform a check for DOB prior to issuing an award and pre-Project closeout to ensure that duplicative assistance is not provided for multifamily housing.

During the DOB review, MEDC will conduct its due diligence process to verify the information provided on potential DOB sources through various available information, including data provided by other state or Federal agencies or information collected independently. DOB reviews are also required to comply with the ''necessary and reasonable benefits" requirement in accordance 24 CFR part 570, as well as in the cost principles found at 2 CFR Part 200, et al.

MEDC will utilize its grants management system to track all funding sources for a specific project and calculate the maximum award CDBG-DR can provide to a project. MEDC also reserves the right to require that the Subrecipient perform additional DOB checks throughout the course of the Project's period/performance to ensure there is no duplicative assistance throughout the course of the Project.

I. MASTER STANDARD AGREEMENT

To address any potential Duplication of Benefits, the Master Standard Agreement and Rider to Development Agreement will include provisions requiring repayment of any assistance later received for the same purpose as the CDBG–DR funds. The Master Standard Agreement and Rider to Development Agreement must also include the following language: ''Warning: Any person who knowingly makes a false claim or statement to HUD may be subject to civil or criminal penalties under 18 U.S.C. 287, 1001 and 31 U.S.C. 3729.''

II. SUBROGATION

When the CDBG-DR assistance is provided, MEDC will require that each applicant sign a Subrogation Agreement (Appendix F) stating that any funds received from any source after award determination must be reported and will be subject to repayment or reimbursed to MEDC. Please see Subrogation Agreement for more information.

III. RECAPTURE OF FUNDS RELATED TO DOB

If an activity triggers a Duplication of Benefits and requires MEDC to reduce the amount of CDBG-DR funding used on a project, MEDC staff will notify the subrecipient to reconcile overpayment or eligibility issues before requesting the subrecipient to repay back funds to the program. Subrecipients who have been identified for recapture of program funding will not be able to close out of the program until all funds have been repaid to the state.

XX. PROCUREMENT

As CDBG-DR are federal funds, Subrecipients must adopt a procurement policy (or amend the current policy) and comply with the federal procurement requirements of 2 CFR 200.318-327. In general, the procurement and contracting requirements will also apply to any subcontractors that may engage in operating the program. **Chapter 4: Procurement and Contracting** of the Subrecipient GAM further describes the policies and procedures that must be followed to enter into contractual agreements.

IV. CONSTRUCTION CONTRACT TYPES

In every procurement process, the procuring entity will use the type of contract that will serve its best interests and follows all applicable Federal laws, regulations, and local laws. Contracts using "Cost-Plus Percentage of Cost", or "Percentage of Construction" cost ***are not*** allowed.

However, other types of contracts may be used. Among all types of contracts, the most used are the following:

a) Fixed-Price Contract (Firm Fixed-Price and Fixed-Price)

b) Cost-Reimbursement Contracts

c) Cooperative Purchasing/Intergovernmental Agreements for Procurement Activities

The Subrecipients and/or beneficiary of funds can use a generic construction contract but must include the CDBG compliance provisions for construction contracts (See Appendix G - Form 4-B - Construction Bid and Contract sample).

23 Financial Management

23.1 Disbursement of Funds

The Subrecipient's financial management system, including records documenting compliance with Federal statutes, regulations, and the terms and conditions of the grant, must be sufficient to permit the preparation of reports required by general and program-specific terms and conditions; and the tracing of funds to a level of expenditures adequate to establish that such funds have been used according to the Federal statutes, regulations, and the terms and conditions of the grant.

The financial management system of the Subrecipient must provide for the following (see also Recordkeeping Requirements):

1. Identification, in its accounts, all Federal awards received and expended and the Federal programs under which they were received. Federal program and Federal award identification must include, as applicable, the CFDA title and number, Federal award identification number and year, name of the Federal agency, and name of the pass-through entity, if any.

2. Accurate, current, and complete disclosure of the financial results of each Federal award or program that are sufficient to facilitate reviews and audits of the Subrecipient under Audit Requirements.
3. Records that identify adequately the source and application of funds for federally funded activities. These records must contain information pertaining to Federal awards, authorizations, obligations, unobligated balances, assets, expenditures, income, and interest and be supported by source documentation.
4. Effective control over, and accountability for, all funds, property, and other assets. The Subrecipient must adequately safeguard all assets and assure that they are used solely for authorized purposes. (See also Internal controls).
5. Comparison of expenditures with budget amounts for each grant.
6. Written procedures to implement the requirements the Grant Disbursement Requirements.
7. Written procedures for determining the allowability of costs in accordance with Subpart E - Cost Principles and the terms and conditions of the Grant Agreement.

Payments will be made directly to Subrecipients as reimbursements based on the documented and satisfactory completion of project work, as outlined in the Master Standard Agreement and Notice to Proceed. Reimbursement means that activity delivery and project costs must be incurred by the Subrecipient and/or Developer and documented as required by the terms of the Master Standard Agreement for payment of invoices.

23.2 Recapture of Funds

A Subrecipient and/or Developer may be required to repay all, or a portion of the funds received. The reasons for recapture include, but are not limited to the following:

- A Subrecipient does not comply with the terms of the standard agreement;
- A Subrecipient and/or Developer withdraws from the program prior to completion of the project and fails to meet a national objective;
- A Developer does not meet the affordability requirements for the period specified in Section 2.12;
- A Subrecipient and/or Developer is found to have used program funds for an ineligible activity or cost;
- A Developer does not report the receipt of additional insurance, SBA, FEMA, non- profit assistance and/or any other Duplication of Benefits received after award (See Section 20. XIX for more details on DOB-related recapture); and/or,
- Funds remain after the project is completed, the expenditure deadline has passed, or the Master Standard Agreement has expired.

The method of recapturing funds and the timeframe for doing so are determined on an individual project basis. However, the recapture method and timeframe will be consistent with 2 CFR part 200 or other applicable cost principles. Complete recapture provisions will be included in the standard agreement with the Subrecipient and must also be included in any agreements between the Subrecipient and Developer.

23.3 Performance Goals

Performance goals shall be in accordance with the program timeline set in the contractual agreement:

- Specific performance goals and performance penalties for subrecipients will be outlined in the Master Standard Agreement.
- Specific performance goals and performance penalties for the developers will be outlined in the Notice to Proceed on a Project-by-Project basis.

23.4 Reporting Requirements

Subrecipients will be required to submit reports at times indicated in the Master Standard Agreement, in accordance with HUD reporting requirements, and via MEDC's reporting mechanism disclosed in the MSA.

At a minimum, during the term of the Master Standard Agreement, on a monthly basis the Subrecipient shall submit to MEDC a progress report which addresses the following topics:

- A description of the status of the project activity, including number of units leased, and demographics of households assisted (beneficiaries).
- A description of activities to be undertaken in the next reporting period.
- A description of problems or delays encountered in project implementation and course of action taken to address them.
- A description of actions taken to achieve project expenditure deadlines.
- A summary of Project fiscal status, including:
    1. Award amount,
    2. Funds drawn, and,
    3. Remaining balance.

At any time during the term of the Master Standard Agreement, MEDC may perform or cause to be performed an Independent Financial Audit of any and all phases of the Subrecipient's project(s). At MEDC's request, the Subrecipient shall provide, at its own expense, a financial audit prepared by a certified public accountant.

Subrecipient shall require each developer to provide an annual audit of the project prepared by an independent certified public accountant. The subrecipient shall report any findings to MEDC within 30 days of reviewing the Developer's audit.

23.5 Disaster Recovery Grant Reporting (DRGR)

HUD requires the submission of Quarterly Performance Reports (QPR) using the DRGR System to track, monitor, and assess the progress of CDBG-DR funded programs, activities, and projects. QPRs are submitted on a set quarterly schedule, as prescribed by HUD. The Subrecipient will provide the required information for reporting on a quarterly basis, MEDC will be responsible for submitting the QPRs and meeting other related reporting requirements.

23.6 Program Income

Program Income received by the Subrecipient across all CDBG-DR programs must be counted to determine if the Subrecipient received $35,000 or more of Program Income. Program income received (and retained, if applicable) before or after closeout of the grant that is used to continue disaster recovery activities is treated as additional CDBG–DR funds subject to the requirements of the Consolidated Notice and must be used in accordance with the grantee's action plan for disaster recovery. Gross income from the use or rental of real property owned by the UGLG (such as a community center) that was repaired or rehabilitated with CDBG-DR funds can be considered Program Income. See HUD regulation 24 CFR 570.489 (e) for a full list of potential Program Income sources. For more information, refer to the **GAM: Chapter 15 - Program Income Policy**. Alternative requirements dealing with program income are identified in the GAM's CDBG- DR Addendum of the Chapter (link to come).

23.7 Project Completion and Closeout

The project will be considered complete, and the affordability period will commence upon the following events:

- Completion of all construction activity;
- CDBG-DR funds allocated to the project are fully expended and drawn in DRGR; and,
- The project completion information has been entered into DRGR.

All CDBG-DR units must be initially leased within twelve (12) months of construction completion, as evidenced by a C of O. Projects not meeting the twelve (12) month deadline will be considered to be in default of the Development Agreement.

Project owners must submit construction closeout documentation provided by the general contractor, final certifications (when applicable) related to all final costs of development, recorded documents, final lien releases, copies of Certificates of Occupancy, Notices of Completion, final maps and construction plans, executed partnership and management agreements, tenant selection plans, etc., to MEDC. Please see MSHDA- Compliance Forms for more information. Program representatives will work with property owners to collect all closeout documents, in accordance with the GAM: **Chapter 13- Grant Closeout**.

Project owners, or their representatives, are required to submit a report that reflects the project status at lease up which must detail by unit the household (by name or identifier), move-in income amounts, gross rent charges, utility allowances, unit designation by funding type (i.e., CDBG-DR, floating, etc.) for all units in the development. Additionally, demographic data must be provided for all CDBG-DR-assisted units. Data shall include elderly status, race, gender, female head of household, number of household members, and percent of area median income. In addition, prior approval is required of all leases and tenant income certifications for all LMI units.

24 Roles and Responsibilities

24.1 MEDC Roles and Responsibilities

MEDC will manage all aspects of the program governing the CDBG-DR funding and MHP inclusive of but not limited to:

1. Managing the project solicitation/application process and to ensure that all activities are eligible and meet all local, state, and federal requirements.
2. Managing the Subrecipient grant agreement(s).
3. Providing oversight of the Subrecipient activities during all phases of project development.
4. Establishing its internal controls to ensure performance and compliance.
5. Providing policy guidance, oversight, and technical assistance to the Subrecipient.
6. Ensuring activities are compliant with all crosscutting requirements such as labor and compliance, fair housing, green and resiliency standards, meeting National objectives, etc.
7. Tracking and evaluating schedules, performance, expenditure to ensure timely progress to meet statutory deadlines.
8. Monitoring program compliance and eligibility of activities of local jurisdictions and subawardees.
9. Overseeing monitoring and compliance with ongoing property standards, and tenancy and financial compliance of projects during the affordability period.

24.2 Subrecipient Roles and Responsibilities

The Subrecipient will apply for and receive CDBG-DR funds from MEDC. The Subrecipient is the responsible party for the CDBG-DR grant and enters into the Grant Agreement with the MEDC. The Subrecipient will be responsible for the selection of qualified Developers, Project oversight, environmental reviews, compliance monitoring (including Section 3 and applicable labor and wage requirements), construction oversight, and Project closeout.

As the awardee, the Subrecipient receives CDBG-DR grant disbursements, manages the developer and/or CBDO during the development of the projects, assures compliance, and ensures that the CDBG funds will be used for the purposes intended. The Subrecipient will assume the following roles, including but not limited to:

1. Managing the developer and/or the development team during all phases of project development.
2. Establishing its own internal controls to ensure performance and compliance.
3. Providing policy guidance, oversight, and technical assistance to the developer and the development team.
4. Ensuring activities are compliant with all crosscutting requirements such as labor and compliance, fair housing, green and resiliency standards, meeting National objectives, etc.

5. Tracking and evaluating schedules, performance, expenditure to ensure timely progress to meet statutory deadlines.
6. Determining if CDBG-DR funds are dispersed to developers as a loan and develop affordability and repayment terms accordingly in developer agreement.
7. Monitoring program compliance and eligibility of activities of local jurisdictions and subawardees.
8. Conducting monitoring and compliance to ensure conformance with ongoing property standards, and tenancy and financial compliance of projects during the affordability period.
9. Engage a CGA to assist in grant administration.

24.3 Grant Administrator Roles and Responsibilities

Subrecipients may procure a Grant Administrator to assist with administering the multifamily housing project(s). Before selecting a Grant Administrator and if CDBG-DR program funds will be used for Grant Administrator costs, MEDC will review references and experience the Grant Administrator has with federal grant administration. The CGA represents the Subrecipient participating in the CDBG-DR program. The Grant Administrator is responsible for compliance with federal regulations, policy guidelines, and program oversight. Some examples of responsibilities are as follows:

1. Coordinates with key players involved in the grant, i.e., engineers, contractors, property owners, employers.
2. Ensures compliance with Grant Agreement terms.
3. Reviews and submits compliance documentation including environmental review, procurement, acquisition/relocation, federal labor standards, civil rights, and National Objective.
4. Prepares required reports for Subrecipient's submission.
5. Prepares payment requests for Subrecipient's submission.
6. Prepares for monitoring and site visits and makes documents and other program information available for the monitors.
7. Collects and prepares grant closeout documentation for Subrecipient submission.

24.4 Developer/Owner Roles and Responsibilities

Multifamily Projects funded under this CDBG-DR grant will adhere to the standard requirements set by MEDC and the Subrecipient to ensure compliance with the uniform administrative requirements as promulgated in 2 CFR 200 (Office of Management and Budget) to ensure that all costs are necessary and reasonable.

Developers will operate in accordance with the Subrecipient's local requirements, the MEDC MHP policy manual, the Subrecipient GAM, and the Development Agreement with the Subrecipient. Additionally, the Developer shall:

- Be responsible for all management functions of the multifamily housing development including construction, rehabilitation, maintenance, selection of the tenants, annual recertification of household income and size, and managing the units in accordance with program requirements.

- Be responsible for all repair and maintenance functions of the multifamily housing development, including ordinary maintenance and replacement of capital items. The developer shall ensure maintenance of residential units, commercial space, and common areas in accordance with local health, building, and housing codes, and the management plan.
- Ensure that the Multifamily Housing Development is managed by an entity approved by the subrecipient that is actively in the business of managing affordable housing. Any management contract entered for this purpose shall be subject to the subrecipient approval and contain a provision allowing the Developer to terminate the contract upon 30-days' notice. The Developer shall terminate said contract as directed by the subrecipient upon determination that management does not comply with program requirements.
- Develop a management plan subject to the subrecipient approval prior to the start of construction. Any change to the plan shall be subject to the approval of the subrecipient. The plan shall be consistent with program requirements and should include the following:

  1. The role and responsibility of the developer and its delegation of authority;
  2. Personnel policy and staffing arrangements;
  3. Plans and procedures for affirmatively marketing all housing units in a manner that ensures equal access to all persons in any category protected by federal, state or local laws governing discrimination, and without regard to any arbitrary factor, and achieving early and continued occupancy;
  4. Procedures for determining tenant eligibility and selecting tenants as well as notifying applicants of eligibility and availability of a DR-MHP Assisted Unit and for certifying and annually recertifying household income and size;
  5. Procedures for notifying ineligible applicants of the reason for their ineligibility;
  6. Procedures for maintaining a waiting list of eligible applicants;
  7. Plans for carrying out an effective maintenance and repair program;
  8. Rent collection policies and procedures;
  9. A program for maintaining adequate accounting records and handling necessary forms and vouchers;
  10. Plans for enhancing tenant-management relations;
  11. The management agreement, if any;
  12. Provisions for periodic update of the management plan;
  13. Appeal and grievance procedures;
  14. Plans for collections for tenant-caused damages, processing evictions and terminations; and

15. A final supportive services plan for projects serving Special Needs Populations, including Supportive Housing and/or providing Supportive Services to the general tenant population.

25 Technical Assistance

MEDC will provide technical assistance to Subrecipients to ensure compliance with CDBG-DR requirements and consistency with the Disaster Recovery Multifamily Housing Program Policies and Procedures Manual. In addition, regular monitoring of the subrecipient and specific projects will be conducted to test compliance and ensure timely project completion.

MEDC will provide technical assistance (TA) to Subrecipients throughout the program from the notice of award to closeout. The objective of technical assistance is to develop a strong partnership with Subrecipients and support the implementation of a successful program across all levels. TA also assists Subrecipients to maintain their day-to-day compliance with federal and state regulations and program requirements as they administer relevant programs.

Initially, TA to the Subrecipient focuses on development of a clear understanding of the program requirements and support in establishing effective and compliant program policies and procedures. TA can also include, but is not limited to, support to submit the Project applications and reimbursement requests.

In addition, MEDC performs a risk assessment to determine a Subrecipient’s capacity and to identify deficiencies in complying with HUD CDBG-DR requirements. According to the risk assessment results, MEDC provides TA, monitoring and helpful information to Subrecipients to improve their performance, develop or increase capacity, and augment management and technical skills.

Some examples of TA include:

- Verbal or written advice, including review and feedback on documents
- Formal training and workshops
- Regular and ongoing communications and check in meetings
- Documentation and guidance

In addition, Subrecipients should contact MEDC if assistance is needed when providing technical assistance to their Developers/Contractors.

26 Monitoring and Compliance

The Subrecipient will be responsible for monitoring and ensuring program compliance throughout the Affordability Period. The purpose of the monitoring visit is to determine if the grant is being conducted in compliance with applicable Federal and State laws and requirements which have been discussed in these program guidelines and the GAM. The monitoring visit consists of a review of project files, records, and documentation as well as a visit to the project site. MEDC, however, may schedule a monitoring visit with the Subrecipient at any time to review the program performance on-site. A visit may be a comprehensive program evaluation, or it may be oriented toward assessing performance in specific areas. All records and files pertaining to the program, as well as any other information requested should be made available upon request. The Subrecipient will be notified, via email, approximately two weeks prior to the visit. The email will provide instructions with regard to documents and staff required to be present at the onsite monitoring. The Subrecipient must have all records, files, and documentation available for review at the monitoring visit. Failure to have records readily accessible will result in a program "finding."

If multiple funding sources exist for a project the property owner may develop a monitoring plan that properly addresses all monitoring and reporting requirements of all funding sources. The monitoring plan must identify frequency, timing, number of units, and selection process of units, etc. The monitoring plan must be approved by the Subrecipient and MEDC prior to implementation.

26.1 CDBG -DR Program Areas

The following is a listing of the program areas to be reviewed as applicable:

- National Objectives
- Environmental Review
- Financial Management
- Citizen Participation
- Procurement and Contracting
- Construction Management and Labor Standards
- Section 3
- Fair Housing and Equal Opportunity
- Acquisition and Relocation
- Program Requirements

This listing may not include all areas that may be reviewed during an on-site monitoring visit. After the monitoring visit, the Program Specialist will have an exit conference to discuss any findings or areas of concern. The Program Specialist, to the extent possible, will work with the Subrecipient on-site to correct any problems.

During the carrying out of the eligible activity, MEDC will periodically monitor the Subrecipient and the Developer during the carryout of the activity to identify deficiencies in the efforts to reduce/mitigate risks. The monitoring will be conducted in accordance with the GAM: Chapter 12- Monitoring to provide oversight during the carrying out of the activities and ensure:

- Obligation, as defined in the subrecipient and/or Development Agreements, are being fulfilled;
- Activities are being carried out in conformance with the Action Plan regulations governing CDBG-DR funds;
- Activities are being carried out in a timely manner and in alignment with performance schedules;
- Costs and expenditures incurred are eligible and reasonable under CDBG-DR regulations;
- Subrecipient and/or developer are property reporting project progress and expenditures;
- Evaluate and assess continued organizational and fiscal capacity of subrecipient and/or developer;

- Adequate fiscal and internal controls exist to reduce risks of fraud, waste, abuse, and conflicts of interest;
- Required technical assistance, if needed, is provided;
- No defaults or deficiencies exists and if they do, a remediation plan is developed to address;
- Compliance by subrecipient and/or developer with all applicable federal, state, and local laws.

26.2 Ongoing Monitoring

Upon completion and closeout of the project, long-term compliance will be managed and conducted by Subrecipient of all rent-restricted housing units developed with CDBG-DR funds. Compliance will be enforced and monitored annually throughout the Affordability Period. The Subrecipient will be required to monitor the projects annually for on-going compliance. The Subrecipient may reserve the right to conduct site visits more or less frequently than an annual basis based on changes or revisions to CDBG-DR regulations, changes to MEDC or the Subrecipient's internal policies, evidence of increased project risks, complaints or grievances filed against the project, or non-compliance and/or deficiencies identified in a previous monitoring visit that are recurring or remain outstanding.

The compliance review will be inclusive of:

Tenancy Compliance

Tenancy compliance will be a review of rental records, leases, tenant files, income certifications, income and rent restrictions, unit mix and unit distribution, tenant selection plans, and rent rolls to confirm compliance with tenant eligibility.

HUD's annual release of income and rent limits play an integral role in determining compliance rent and income limitations during the affordability period. The subrecipient will be responsible for informing building owner/manager of annual rent and income limit updates, conducting annual inspections and monitoring, reviewing annual compliance reports and verifying occupancy, inspecting the physical site of the project, reviewing financial conditions, and ensuring overall compliance of the rental projects.

Physical Site Compliance

To ensure the asset remains in compliance with ongoing property standards and maintenance requirements, physical site/property inspections will be conducted. The inspections will include inspections of residential units, major systems, common areas and include evaluation of the properties to ensure compliance with federal, state, and local laws; life, health, and safety standards; ongoing maintenance; and, conformance with UPCS, Section 504, ADA and Fair Housing standards.

Financial Compliance

To ensure the continued fiscal viability and performance of the projects, Period reviews of financial records such as: operating budgets, income statements, balance sheets, proforma and cashflow, reserves accounts, audited financial statements (where available) etc., partnership agreements, distribution of residual receipts, etc.

27 Record Retention and Destruction

All records and books relating to the initial development phase of the Project (application through project completion) shall be retained for a minimum period of five (5) years after the grant agreement between HUD and MEDC has been closed. After closeout of the grant agreement between HUD and MEDC, all records and books relating to the operational phase of the Development shall be retained for the most recent five (5) year period, until five years after the affordability period terminates. All records must be maintained in such a manner as to ensure that the records are reasonably protected from destruction or tampering.

28 Personally Identifiable Information

During the project personally identifiable information (PII) including social security numbers, income information, addresses, etc., will be collected from program beneficiaries to determine eligibility. Individual beneficiaries (homebuyers and renters benefiting from a MHP unit) must sign a disclosure allowing for the collection and retention of PII. The Subrecipient provides this disclosure to the Developer as part of its project records. The subrecipient will secure the PII information on a limited-access server for the MHP project files, along with a copy of the disclosure signed by the beneficiary. During the life of the MHP project the Subrecipient and or its designee continues to protect all sensitive information as it is updated.

After the affordability period of the project has expired, and the subrecipient has released all liens that is recorded on the project, property and/or units, all personally identifiable information is either returned to the beneficiary along with the notice of program satisfaction or is destroyed through a shredding process.

29 Program Appeals and Complaints

All appeal requests and complaints related to program activities are processed and reviewed by MEDC. The Program Specialist will review the appeal and make a determination. The determination will be returned to the applicant with notification of next steps.

30 Closeout

30.1 Grant Agreement with Subrecipient

Following the end of the term of work, the Subrecipient has 120 days to complete and submit a closeout package containing the following the items:

- Final Progress Report
- Building Inspector Letter
- Closeout Public Hearing
- Grant Award Decrease for Closeout
- Real Property Management Report
- Final Section 3 Report
- Actions to Affirmatively Further Fair House
- Monitoring Letters

- Return Unexpected Funds
- Return Interest Earned

30.2 Closeout of HUD Grant

The grant closeout process is conducted when HUD determines that all applicable administrative and program requirements of the grant were completed – See GAM **Chapter 13: Grant Closeout**. In general, a grant is ready for closeout when the following conditions are met:

- All eligible activities were completed and met a national objective
- All CDBG-DR grant funds were expended in full, or all remaining funds are planned to be returned to HUD.
- All reporting requirements were completed and submitted.
- Any special conditions of the grant were met.
- All audit and monitoring issues affecting the grant were resolved.

Closeout will be considered conditional if receipt and approval of audit are outstanding, upon the final approval of audits, the closeout will be deemed to be final, and a Final Closeout letter will be sent.

Subrecipients are required to retain all books and records pertaining to the CDBG-DR MHP Projects for at least five (5) years after MEDC notifies the Subrecipient that the grant agreement between HUD and the State of Michigan has been closed.

31 CDBG-DR TOOLS & REFERENCES

*CDBG-DR **General** Crosscutting Laws and Regulations:*

1. Supplemental Appropriations for Disaster Relief Act, 2022 (Pub. L. 117-43);
2. The Housing and Community Development Act of 1974 (12 U.S.C. § 5301 et seq.);
3. The United States Housing Act of 1937, as amended, 42 U.S.C. § 1437f(o)(13) (2016) and related provisions governing Public Housing Authority project-based assistance, and implementing regulations at 24 C.F.R. Part 983 (2016);
4. Cash Management Improvement Act regulations (31 C.F.R. Part 205);
5. Community Development Block Grants (24 C.F.R. Part 570); and,
6. Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 C.F.R. Part 200)
7. Faith-Based Activities - Executive Order 13279 of December 12, 2002 - Equal Protection of the Laws for Faith-Based and Community Organizations, (67 FR 77141).

Grant and Audit Standard

Single Audit Act Amendments of 1996, 31 U.S.C. § 7501; and, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 C.F.R. Part 200)

Suspension and Debarment

Use of debarred, suspended, or ineligible contractors or subrecipients (24 C.F.R. § 570.609); General HUD Program Requirements; Waivers (24 C.F.R. Part 5); and Non-procurement Suspension and Debarment (2 C.F.R. Part 2424).

ICC – International and Michigan Building Code

Code Books (michigan.gov)

List of Appendices

Appendix A – MHP Initial Income and Rent Limits for MIDs

30% Income Limits								
	1	**2**	**3**	**4**	**5**	**6**	**7**	**8**
Gladwin	16,750	20,440	25,820	31,200	36,580	41.960	47,340	52,550
Midland	20,900	23,900	26,900	32,200	36,580	41,960	47,340	52,720
Saginaw	16,750	20,440	25,820	31,200	36,580	41,960	47,340	52,550
50% Income Limits								
	1	**2**	**3**	**4**	**5**	**6**	**7**	**8**
Gladwin	27,900	31,850	35,850	39,800	43,000	46,200	49,400	52,500
Midland	34,850	39,800	44,800	49,750	53,750	57,750	61,700	65,700
Saginaw	27,900	31,850	35,850	39,800	43,000	46,200	49,400	52,550
60% Income Limits								
	1	**2**	**3**	**4**	**5**	**6**	**7**	**8**
Gladwin	33,480	38,220	43,020	47.750	51,600	55,440	59,280	63,060
Midland	41,820	47,760	53,760	59,700	64,500	69,300	74,040	78,840
Saginaw	42,400	48,450	54,500	60,550	65,400	70,250	75,100	79,950
80% Income Limits								
	1	**2**	**3**	**4**	**5**	**6**	**7**	**8**
Gladwin	44,600	51,00	57,350	63,700	68,800	73,900	79,000	84,100
Midland	55,760	63,680	71,650	79,600	86,000	92,350	98,750	105,100
Saginaw	44,600	51,000	57,350	63,700	68,800	73,900	79,000	84,100

Effective May 15, 2024 Source: 30%, 50%, 80% limits HUD; 60% limits MSHDA

Final FY 2024 FMR Limits by Unit Size/Bedrooms					
County	**Efficiency**	**One-Bedroom**	**Two-Bedroom**	**Three-Bedroom**	**Four-Bedroom**
Gladwin	613	689	905	1,275	1,338
Midland	814	820	1,074	1,409	1,439
Saginaw	681	746	1,004	1,295	1,337

Effective: June 1, 2024, Source: HUD

Appendix B – Utility Allowances

Michigan State Housing Development Authority

Effective: January 1, 2024

Utility Schedule - Region A

Counties in Region A: Alger, Baraga, Chippewa, Delta, Dickinson, Gogebic, Houghton, Iron, Keweenaw, Luce, Mackinac, Marquette, Menominee, Ontonagon, Schoolcraft

		Standard Utility Allowance																		Calculation	
Structure Type		**Apartment**						**Attached**						**Detached**						Fill in the appropriate amount on the chart for each utility/appliance that you are responsible to pay. Add the total from each category for your total utility allowance.	
includes:		High-rise, Low-rise						Townhouse, Duplex, Triplex, Fourplex						Single Family Detached, Manufactured Home							
Utility		**0 BR**	**1 BR**	**2 BR**	**3 BR**	**4 BR**	**5 BR**	**0 BR**	**1 BR**	**2 BR**	**3 BR**	**4 BR**	**5 BR**	**0 BR**	**1 BR**	**2 BR**	**3 BR**	**4 BR**	**5 BR**		
Heating	Natural Gas	$27	$32	$38	$44	$50	$55	$50	$59	$63	$68	$73	$77	$39	$46	$54	$63	$71	$79	Heating	$
	Bottle Gas	$93	$109	$129	$149	$169	$189	$170	$200	$216	$232	$247	$263	$133	$156	$185	$213	$241	$270		
	Electric	$43	$51	$70	$90	$109	$128	$62	$73	$97	$121	$145	$168	$105	$123	$145	$167	$189	$210		
	Fuel Oil	$123	$144	$170	$197	$223	$249	$224	$264	$285	$305	$326	$347	$175	$206	$243	$281	$318	$355		
Cooking	Natural Gas	$2	$3	$4	$5	$6	$8	$2	$3	$4	$5	$6	$8	$2	$3	$4	$5	$6	$8	Cooking	$
	Bottle Gas	$8	$9	$13	$18	$22	$26	$8	$9	$13	$18	$22	$26	$8	$9	$13	$18	$22	$26		
	Electric	$8	$9	$13	$17	$21	$25	$8	$9	$13	$17	$21	$25	$8	$9	$13	$17	$21	$25		
Hot Water	Natural Gas	$6	$7	$10	$14	$17	$20	$8	$9	$13	$17	$21	$25	$8	$9	$13	$17	$21	$25	Hot Water	$
	Bottle Gas	$21	$24	$35	$46	$57	$68	$26	$31	$44	$58	$71	$85	$26	$31	$44	$58	$71	$85		
	Electric	$21	$25	$32	$39	$46	$53	$27	$31	$40	$49	$57	$66	$27	$31	$40	$49	$57	$66		
	Fuel Oil	$27	$32	$47	$61	$75	$90	$34	$40	$58	$76	$94	$112	$34	$40	$58	$76	$94	$112		
Other Electric		$28	$34	$47	$60	$73	$86	$35	$41	$57	$73	$89	$105	$42	$49	$69	$88	$107	$126	Electric	$
Water		$39	$43	$72	$116	$159	$202	$39	$43	$72	$116	$159	$202	$39	$43	$72	$116	$159	$202	Water	$
Sewer		$38	$42	$70	$113	$155	$197	$38	$42	$70	$113	$155	$197	$38	$42	$70	$113	$155	$197	Sewer	$
Trash		$16	$16	$16	$16	$16	$16	$16	$16	$16	$16	$16	$16	$16	$16	$16	$16	$16	$16	Trash	$
Natural Gas Service Charge*		$14	$14	$14	$14	$14	$14	$14	$14	$14	$14	$14	$14	$14	$14	$14	$14	$14	$14	Nat.Gas SC*	$
Electric Service Charge		$10	$10	$10	$10	$10	$10	$10	$10	$10	$10	$10	$10	$10	$10	$10	$10	$10	$10	Elec. SC	$
Range**		$4	$4	$4	$4	$4	$4	$4	$4	$4	$4	$4	$4	$4	$4	$4	$4	$4	$4	Range**	$
Refrigerator**		$6	$6	$6	$6	$6	$6	$6	$6	$6	$6	$6	$6	$6	$6	$6	$6	$6	$6	Refrigerator**	$
Air Conditioning***		$2	$2	$2	$3	$4	$5	$2	$2	$3	$4	$4	$5	$1	$1	$3	$5	$7	$8	A/C***	$

*** Air Conditioning Allowance: Only allowed if windows are not operable.

Michigan State Housing Development Authority

* Natural Gas Service Charge: Natural Gas service charge only allowed for Natural Gas utilities.

** Tenant Furnished Appliance Allowance: Only allowed if the tenant is responsible for supplying the range and/or refrigerator.

Total	$

*** Air Conditioning Allowance: Only allowed if windows are not operable.

Michigan State Housing Development Authority

Effective: January 1, 2024

Utility Schedule - Region B

Counties in Region B: Alcona, Alpena, Antrim, Arenac, Benzie, Charlevoix, Cheboygan, Clare, Crawford, Emmet, Gladwin, Grand Traverse, Iosco, Kalkaska, Lake, Leelanau, Manistee, Mason, Missaukee, Montmorency, Ogemaw, Osceola, Oscoda, Otsego, Presque Isle, Roscommon, Wexford

		Standard Utility Allowance																		Calculation	
Structure Type		**Apartment**						**Attached**						**Detached**						Fill in the appropriate amount on the chart for each utility/appliance that you are responsible to pay. Add the total from each category for your total utility allowance.	
includes:		High-rise, Low-rise						Townhouse, Duplex, Triplex, Fourplex						Single Family Detached, Manufactured Home							
Utility		**0 BR**	**1 BR**	**2 BR**	**3 BR**	**4 BR**	**5 BR**	**0 BR**	**1 BR**	**2 BR**	**3 BR**	**4 BR**	**5 BR**	**0 BR**	**1 BR**	**2 BR**	**3 BR**	**4 BR**	**5 BR**		
Heating	Natural Gas	$25	$29	$34	$40	$45	$50	$45	$53	$57	$61	$65	$69	$35	$42	$49	$56	$64	$71	Heating	$
	Bottle Gas	$84	$99	$117	$134	$152	$170	$152	$179	$193	$207	$221	$235	$121	$142	$167	$192	$217	$242		
	Electric	$39	$46	$63	$80	$97	$114	$56	$66	$87	$108	$129	$150	$94	$110	$130	$149	$168	$187		
	Fuel Oil	$111	$131	$154	$177	$200	$223	$201	$236	$254	$273	$291	$310	$159	$187	$220	$253	$286	$319		
Cooking	Natural Gas	$2	$3	$4	$5	$6	$8	$2	$3	$4	$5	$6	$8	$2	$3	$4	$5	$6	$8	Cooking	$
	Bottle Gas	$8	$9	$13	$18	$22	$26	$8	$9	$13	$18	$22	$26	$8	$9	$13	$18	$22	$26		
	Electric	$8	$9	$13	$17	$21	$25	$8	$9	$13	$17	$21	$25	$8	$9	$13	$17	$21	$25		
Hot Water	Natural Gas	$6	$7	$10	$13	$16	$19	$7	$9	$13	$16	$20	$24	$7	$9	$13	$16	$20	$24	Hot Water	$
	Bottle Gas	$20	$24	$34	$45	$55	$66	$25	$30	$43	$56	$69	$83	$25	$30	$43	$56	$69	$83		
	Electric	$21	$24	$31	$38	$45	$51	$26	$30	$39	$47	$56	$64	$26	$30	$39	$47	$56	$64		
	Fuel Oil	$27	$31	$45	$59	$73	$87	$33	$39	$57	$74	$91	$109	$33	$39	$57	$74	$91	$109		
Other Electric		$28	$34	$47	$60	$73	$86	$35	$41	$57	$73	$89	$105	$42	$49	$69	$88	$107	$126	Electric	$
Water		$24	$27	$45	$73	$100	$127	$24	$27	$45	$73	$100	$127	$24	$27	$45	$73	$100	$127	Water	$
Sewer		$31	$35	$58	$93	$128	$163	$31	$35	$58	$93	$128	$163	$31	$35	$58	$93	$128	$163	Sewer	$
Trash		$19	$19	$19	$19	$19	$19	$19	$19	$19	$19	$19	$19	$19	$19	$19	$19	$19	$19	Trash	$
Natural Gas Service Charge*		$14	$14	$14	$14	$14	$14	$14	$14	$14	$14	$14	$14	$14	$14	$14	$14	$14	$14	Nat.Gas SC*	$
Electric Service Charge		$10	$10	$10	$10	$10	$10	$10	$10	$10	$10	$10	$10	$10	$10	$10	$10	$10	$10	Elec. SC	$
Range**		$4	$4	$4	$4	$4	$4	$4	$4	$4	$4	$4	$4	$4	$4	$4	$4	$4	$4	Range**	$
Refrigerator**		$6	$6	$6	$6	$6	$6	$6	$6	$6	$6	$6	$6	$6	$6	$6	$6	$6	$6	Refrigerator**	$
Air Conditioning***		$3	$3	$5	$6	$7	$9	$3	$4	$5	$7	$8	$10	$2	$3	$6	$9	$12	$16	A/C***	$

*** Air Conditioning Allowance: Only allowed if windows are not operable.

* Natural Gas Service Charge: Natural Gas service charge only allowed for Natural Gas utilities.

** Tenant Furnished Appliance Allowance: Only allowed if the tenant is responsible for supplying the range and/or refrigerator.

Total	$

*** Air Conditioning Allowance: Only allowed if windows are not operable.

Michigan State Housing Development Authority

Utility Schedule - Region C

Effective: January 1, 2024

Counties in Region C: Allegan, Barry, Bay, Berrien, Branch, Calhoun, Cass, Clinton, Eaton, Genesee, Gratiot, Hillsdale, Huron, Ingham, Ionia, Isabella, Jackson, Kalamazoo, Kent, Lapeer, Lenawee, Mecosta, Midland, Montcalm, Muskegon, Newaygo, Oceana, Ottawa, Saginaw, St. Joseph, Sanilac, Shiawassee, Tuscola, Van Buren

		Standard Utility Allowance																		Calculation	
Structure Type		**Apartment**						**Attached**						**Detached**						Fill in the appropriate amount on the chart for each utility/appliance that you are responsible to pay. Add the total from each category for your total utility allowance.	
includes:		High-rise, Low-rise						Townhouse, Duplex, Triplex, Fourplex						Single Family Detached, Manufactured Home							
Utility		**0 BR**	**1 BR**	**2 BR**	**3 BR**	**4 BR**	**5 BR**	**0 BR**	**1 BR**	**2 BR**	**3 BR**	**4 BR**	**5 BR**	**0 BR**	**1 BR**	**2 BR**	**3 BR**	**4 BR**	**5 BR**		
Heating	Natural Gas	$22	$26	$31	$35	$39	$44	$39	$46	$50	$53	$57	$60	$32	$37	$44	$50	$56	$63	Heating	$
	Bottle Gas	$75	$89	$104	$119	$134	$149	$133	$157	$169	$181	$193	$205	$108	$127	$148	$170	$191	$213		
	Electric	$35	$41	$55	$70	$85	$100	$50	$59	$77	$95	$113	$131	$82	$97	$113	$130	$146	$163		
	Fuel Oil	$99	$117	$137	$157	$177	$197	$176	$207	$222	$238	$254	$270	$142	$167	$196	$224	$252	$281		
Cooking	Natural Gas	$2	$3	$4	$5	$6	$8	$2	$3	$4	$5	$6	$8	$2	$3	$4	$5	$6	$8	Cooking	$
	Bottle Gas	$8	$9	$13	$18	$22	$26	$8	$9	$13	$18	$22	$26	$8	$9	$13	$18	$22	$26		
	Electric	$8	$9	$13	$17	$21	$25	$8	$9	$13	$17	$21	$25	$8	$9	$13	$17	$21	$25		
Hot Water	Natural Gas	$6	$7	$10	$13	$16	$19	$7	$8	$12	$16	$20	$24	$7	$8	$12	$16	$20	$24	Hot Water	$
	Bottle Gas	$20	$23	$33	$43	$54	$64	$24	$29	$42	$54	$67	$80	$24	$29	$42	$54	$67	$80		
	Electric	$20	$24	$30	$37	$43	$50	$25	$30	$38	$46	$54	$62	$25	$30	$38	$46	$54	$62		
	Fuel Oil	$26	$30	$44	$57	$71	$84	$32	$38	$55	$72	$89	$105	$32	$38	$55	$72	$89	$105		
Other Electric		$28	$34	$47	$60	$73	$86	$35	$41	$57	$73	$89	$105	$42	$49	$69	$88	$107	$126	Electric	$
Water		$23	$26	$43	$70	$96	$122	$23	$26	$43	$70	$96	$122	$23	$26	$43	$70	$96	$122	Water	$
Sewer		$31	$34	$57	$91	$125	$159	$31	$34	$57	$91	$125	$159	$31	$34	$57	$91	$125	$159	Sewer	$
Trash		$18	$18	$18	$18	$18	$18	$18	$18	$18	$18	$18	$18	$18	$18	$18	$18	$18	$18	Trash	$
Natural Gas Service Charge*		$14	$14	$14	$14	$14	$14	$14	$14	$14	$14	$14	$14	$14	$14	$14	$14	$14	$14	Nat.Gas SC*	$
Electric Service Charge		$10	$10	$10	$10	$10	$10	$10	$10	$10	$10	$10	$10	$10	$10	$10	$10	$10	$10	Elec. SC	$
Range**		$4	$4	$4	$4	$4	$4	$4	$4	$4	$4	$4	$4	$4	$4	$4	$4	$4	$4	Range**	$
Refrigerator**		$6	$6	$6	$6	$6	$6	$6	$6	$6	$6	$6	$6	$6	$6	$6	$6	$6	$6	Refrigerator**	$
Air Conditioning***		$4	$5	$7	$9	$11	$13	$5	$6	$8	$10	$12	$14	$3	$4	$9	$14	$18	$23	A/C***	$
																				Total	$

* Natural Gas Service Charge: Natural Gas service charge only allowed for Natural Gas utilities.

** Tenant Furnished Appliance Allowance: Only allowed if the tenant is responsible for supplying the range and/or refrigerator.

*** Air Conditioning Allowance: Only allowed if windows are not operable.

Michigan State Housing Development Authority

Utility Schedule - Region D

Effective: January 1, 2024

Counties in Region D: Livingston, Macomb, Monroe, Oakland, St. Clair, Washtenaw, Wayne

		Standard Utility Allowance																		Calculation	
Structure Type		**Apartment**						**Attached**						**Detached**						Fill in the appropriate amount on the chart for each utility/appliance that you are responsible to pay. Add the total from each category for your total utility allowance.	
includes:		High-rise, Low-rise						Townhouse, Duplex, Triplex, Fourplex						Single Family Detached, Manufactured Home							
Utility		**0 BR**	**1 BR**	**2 BR**	**3 BR**	**4 BR**	**5 BR**	**0 BR**	**1 BR**	**2 BR**	**3 BR**	**4 BR**	**5 BR**	**0 BR**	**1 BR**	**2 BR**	**3 BR**	**4 BR**	**5 BR**		
Heating	Natural Gas	$21	$25	$29	$34	$38	$42	$37	$44	$47	$51	$54	$57	$30	$36	$42	$48	$54	$60	Heating	$
	Bottle Gas	$72	$85	$100	$114	$128	$143	$127	$150	$161	$172	$184	$195	$104	$122	$142	$163	$183	$204		
	Electric	$33	$39	$53	$67	$81	$95	$48	$56	$74	$91	$108	$125	$78	$92	$108	$124	$139	$155		
	Fuel Oil	$96	$112	$131	$150	$169	$188	$168	$197	$212	$227	$242	$257	$137	$161	$188	$215	$242	$269		
Cooking	Natural Gas	$2	$3	$4	$5	$6	$8	$2	$3	$4	$5	$6	$8	$2	$3	$4	$5	$6	$8	Cooking	$
	Bottle Gas	$8	$9	$13	$18	$22	$26	$8	$9	$13	$18	$22	$26	$8	$9	$13	$18	$22	$26		
	Electric	$8	$9	$13	$17	$21	$25	$8	$9	$13	$17	$21	$25	$8	$9	$13	$17	$21	$25		
Hot Water	Natural Gas	$6	$7	$10	$13	$16	$19	$7	$8	$12	$16	$20	$23	$7	$8	$12	$16	$20	$23	Hot Water	$
	Bottle Gas	$19	$23	$33	$43	$53	$63	$24	$28	$41	$54	$66	$79	$24	$28	$41	$54	$66	$79		
	Electric	$20	$23	$30	$36	$43	$49	$25	$29	$37	$45	$53	$62	$25	$29	$37	$45	$53	$62		
	Fuel Oil	$26	$30	$43	$57	$70	$83	$32	$38	$54	$71	$88	$104	$32	$38	$54	$71	$88	$104		
Other Electric		$28	$34	$47	$60	$73	$86	$35	$41	$57	$73	$89	$105	$42	$49	$69	$88	$107	$126	Electric	$
Water		$20	$22	$36	$58	$80	$101	$20	$22	$36	$58	$80	$101	$20	$22	$36	$58	$80	$101	Water	$
Sewer		$34	$37	$62	$100	$137	$175	$34	$37	$62	$100	$137	$175	$34	$37	$62	$100	$137	$175	Sewer	$
Trash		$21	$21	$21	$21	$21	$21	$21	$21	$21	$21	$21	$21	$21	$21	$21	$21	$21	$21	Trash	$
Natural Gas Service Charge*		$14	$14	$14	$14	$14	$14	$14	$14	$14	$14	$14	$14	$14	$14	$14	$14	$14	$14	Nat.Gas SC*	$
Electric Service Charge		$10	$10	$10	$10	$10	$10	$10	$10	$10	$10	$10	$10	$10	$10	$10	$10	$10	$10	Elec. SC	$
Range**		$4	$4	$4	$4	$4	$4	$4	$4	$4	$4	$4	$4	$4	$4	$4	$4	$4	$4	Range**	$
Refrigerator**		$6	$6	$6	$6	$6	$6	$6	$6	$6	$6	$6	$6	$6	$6	$6	$6	$6	$6	Refrigerator**	$
Air Conditioning***		$5	$6	$9	$11	$14	$16	$6	$7	$10	$13	$15	$18	$4	$5	$11	$17	$23	$30	A/C***	$
																				Total	$

* Natural Gas Service Charge: Natural Gas service charge only allowed for Natural Gas utilities.

** Tenant Furnished Appliance Allowance: Only allowed if the tenant is responsible for supplying the range and/or refrigerator.

*** Air Conditioning Allowance: Only allowed if windows are not operable.

Michigan State Housing Development Authority

Utility Schedule - Region D

Effective: January 1, 2024

*** Air Conditioning Allowance: Only allowed if windows are not operable.