



Lexington County CDBG-MIT Comprehensive Policies & Procedures

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Version History

Version	Date	Page(s)	Description
1.0			
2.0	8/19/2021	24-25	Clarification of the incentive language.
3.0	12/3/2021	8-9, 57-58, 66-67, 74, 82, misc. pages.	Addition of language regarding weekly oversight meetings. Revised title of CDBG-DR/MIT Administrator and CDBG-DR/MIT Program Manger to CDBG-DR/MIT Grant Manager. Updated complaints section. Merge Document Retention and Record Management sections. Updates to pre vs post disaster appraisal values.

Version Policy

Version history is tracked in the table above, with notes regarding version changes. The dates of each publication are also tracked in this table. The first version of this document is 1.0.

Substantive changes within this document that reflect a policy change will result in the issuance of a new version 2.0, an increase in the primary version number. Future policy changes will result in additional revision and issuance of a new primary version number.

Non-substantive changes within this document such as minor wording and editing, or clarification of existing policy, that do not affect the interpretation or applicability of the policy will be included in minor version updates denoted by a sequential number increase after the primary version number.

Program Background

In order to help reduce the repetitive cycle of disaster impacts and loss the Additional Supplemental Appropriations for Disaster Relief Requirements Act, 2018 (Pub. L. 115–123, approved February 9, 2018) directed the U.S. Department of Housing and Urban Development (HUD) to allocate no less than \$12 billion for mitigation activities for States and local grantees who had received CDBG-MIT funds for disasters occurring in 2015, 2016 and 2017. These funds, allocated as Community Development Block Grant-Mitigation funds (CDBG-MIT), were allocated to assist the County mitigate against future disaster risks while providing an opportunity to improve planning within the County. Lexington County was allocated \$15,185,000 in CDBG-MIT funds under Federal Register Notice, 84 FR 45838, August 30, 2019 (Notice).

Citizen Participation

Effective communication is paramount to the successful delivery of complex public programs, particularly in the wake of a disaster. The County will engage in a two-tiered applicant communication strategy. Larger program-wide information is made available on the County's CDBG-MIT program website. Case management will assist applicants throughout the program process, providing status at each critical point.

The County is confident that an effective and comprehensive communications strategy will better allow community access to create a culture of personal resilience and sustainability. CDBG-MIT has been proactive in engaging the community and keeping them informed of disaster recovery efforts transpiring within their community in an effort to create this culture, using the disaster recovery website as a resource for community stakeholders.

Website Information

The County of Lexington has created a website to keep the public informed of the County's ongoing flood mitigation efforts. The website is managed by the County's Information Services Department; and is accessible through the Community Development website. The County will maintain this website throughout the full recovery period, and will serve as the primary source of information for:

1. Action plans and amendments.
2. Quarterly performance reports (QPRs).
3. Citizen participation plans.
4. Comprehensive Policies and Procedures.
5. Procurement notices/advertisements.
6. Notices of public meetings
7. Executed contracts
8. Activity/program information (activities described in the action plan, and other information relevant to the CDBG-MIT program funds)

Revisions to the CDBG-MIT website will be made in conjunction with any new activity associated with the program action plan.

All CDBG-MIT information will be made available in a language other than English upon request. The CDBG-MIT website can be located at: <https://lex-co.sc.gov/departments/community-development/grant-programs/cdbg-mitigation>

Substantial Amendments

HUD requires grantees to submit an amendment to their Annual Action Plan as well as supplemental funding Action Plans when there is a substantial change in the allocation priorities or methods of distribution to projects funded with CDBG. A substantial amendment is defined as one of the following:

1. Project deletions or changes made in allocation priorities or methods of distribution that have the effect of changing the funding level of individual CDBG projects identified in the Annual Action Plan by more than 30% of an entitlement jurisdiction's annual funding level.
2. Any new eligible activity funded with CDBG not already identified in the Annual Action Plan or supplemental funding Action Plan.
3. Significant changes in the use of CDBG funds from one eligible activity to another, in an amount greater than 30% of the annual CDBG allocation.
4. The addition of a CDBG-MIT HUD defined "Covered Project" for CDBG-MIT funding.
5. A change in program benefit or eligibility for CDBG-MIT funded projects.
6. The deletion of any CDBG-MIT funded activity.
7. Changes made in allocation priorities or methods of distribution that have the effect of changing the funding level of individual CDBG-MIT projects identified in the CDBG-MIT Action Plan by more than 30% of that specific CDBG-MIT funding allocation.

Public notifications and participation for substantial amendments will be conducted in conformity with the County's Citizen Participation Plan. Resident comments (verbal, digital and written) received during the citizen participation process will be summarized in writing and included in an attachment to any amendments submitted to HUD

Complaints

The County will provide, at a minimum, a timely, substantive, written response to all written citizen complaints related to CDBG-MIT program or CDBG-MIT funded activities. The response will be provided within 15 working days, when practicable, after receipt of the complaint. All complaints must be submitted in writing to the following address:

County of Lexington
Community Development Department
212 South Lake Drive
Lexington, South Carolina 29072

Complaints regarding fraud, waste and abuse that are not adequately addressed by the County can be forwarded to HUD via the HUD OIG Fraud Hotline.

- 1-800-347-3735
- hotline@hudoig.gov

Access to Records

The County will provide citizens, public agencies and other interested parties with reasonable and timely access to information and records relating to the County's CDBG-MIT program and the County's use of CDBG-MIT funded assistance. Specific requests for such information must be submitted in writing to:

County of Lexington
Community Development Department
212 South Lake Drive
Lexington, South Carolina 29072

Procurement

Procurement is the acquisition of goods and services to be used by Lexington County to carry out mitigation activities utilizing CDBG-MIT funds. The procurement process includes the decision to purchase as well as the process to complete the purchase. Lexington County will adhere to the procurement rules of Lexington County Procurement and 24 CFR Part 84 and 85 for CDBG-MIT funded projects. These rules are in place to ensure that federal dollars are spent fairly and encourage open competition for the best level of service and price.

All procurements made must comply with the applicable Federal requirements found in 2 CFR §200.318 – 200.326, County Ordinance Ord. No. 93-6, and the County Procurement Manual. The County's procurement policy is included in Attachment #1. Any of the County's contractors and subrecipients are required to assume responsibility for the complete effort and enforcement of laws and regulations under their contracts with the County. With the County having ultimate responsibility for all aspects for the CDBG-MIT programs. The County, with assistance from its CDBG-MIT consultant, will manage contracts and oversee quality control through regular project oversight.

Procurement for CDBG-MIT programs are governed by those specific procurement requirements set forth under 24 CFR Part 570, Part 85, 2 CFR 200.318-200.326 and all applicable State laws, County Codes, and regulations. When procuring property or services to be paid for in whole or in part with CDBG-MIT funds, Lexington County will first ensure compliance with its own local procurement policies and then verify that the procurement then complies with state and federal requirements respectively.

If the County awards funds to a subrecipient, those subrecipients will be required to maintain a written code of standards of conduct governing the performance of their employees engaged in

the award and administration of contracts. Conflict of Interest provisions listed at 24 CFR Part 85.36 (3) and all other applicable federal regulations will be incorporated.

Generally, the governing statutes can be found in County Ordinance No. 93-6. Methods of procurement (e.g., small purchase, sealed bids/formal advertising, competitive proposals, and noncompetitive proposals) and their applicability shall be specified by Lexington County.

As outlined in the following table and in the Lexington County Code and Regulations, the County uses a variety of competitive source selection processes, including three simplified "small purchase" procedures, two standard competitive procedures (competitive sealed bidding and Competitive Sealed Proposal), Emergency Purchase Procedures, and qualification based selection procedures for the acquisition of construction-related professional design services.

Federal Citation	Short Title	Lexington County Ordinance Procurement Code	Short Title
2 CFR 200.318	<i>General Procurement Standards</i>	Ord. No. 93-6, § 2-80, 1-24-94 Sec. 2-334	<i>Procedural Regulations</i>
2 CFR 200.319	<i>Competition</i>	Ord. No. 93-6, § 2-96, 1-24-94 Sec. 2-350	<i>Competitive Sealed Proposals</i>
2 CFR 200.320	<i>Methods of Procurement to be followed</i>	Ord. No. 93-6, § 2-96, 1-24-94 Sec. 2-350	<i>Competitive Sealed Proposals</i>
2 CFR 200.322	<i>Procurement of Recovered Material</i>	Ord. No. 93-6, § 2-95, 1-24-94 Sec. 2-349	<i>Surplus, obsolete and waste commodities</i>
2 CFR 200.323	<i>Contract Cost and Price</i>	Ord. No. 93-6, § 2-79, 1-24-94 Sec. 2-333	<i>Powers and duties of county purchasing agent</i>
2 CFR 200.324	<i>Federal Awarding or pass-through Entity review</i>	<i>(Compliance with this reg. to be achieved through execution of implementation of grant agreement with (HUD))</i>	
2 CFR 200.325	<i>Bonding Requirements</i>		<i>10% retainage fee and liquidated damages/Bonding Requirements</i>
2 CFR 200.326	<i>Contract Provision</i>		<i>Contract Clauses and their Administration</i>

Lexington County’s policies align with the requirements set forth under 2 CFR 200.318-200.36 ensuring fair and open competition. Further ensuring consistency with federal requirements, Lexington County shall ensure that all purchase orders and contracts include any clauses required

by Federal statutes, executive orders and implementing regulations. All county ordinances and acts defining procurement regulations which address the federal regulations defined in 2 CFR 200.318 – 200.326 have been adopted and approved through formal County processes including legal review. The Lexington County procurement ordinance can be found in Attachment #1.

Contract Management & Oversight

Contract management and oversight is the responsibility of the CDBG-DR/MIT Grant Manager. The CDBG-DR/MIT Grant Manager will ensure that the implementing contractor, as well as the County procured demolition and rehab contractors are held to the roles and responsibilities for which they are receiving payment.

The County's Procurement office ensures that all contracts are written based on a lump sum or unit price. Invoices received from contractors and subcontractors are reviewed for accuracy by the CDBG-DR/MIT Grant Manager for any hidden or unexpected costs or additional fees not authorized by the approved contract and payment schedule. Such fees will be denied for payment.

Cost Reasonableness

The County will utilize the cost principles described in 2 CFR Part 225 (OMB Circular A-87) to determine necessity and reasonableness. According to 2 CFR part 225, "A cost is reasonable if, in its nature and amount, it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made."

County, State, and Federal Procurement Laws

Any questions regarding the applicability of law or determination as to whether laws conflict must be referred to the Lexington County Legal Office and the Lexington County Procurement Manual.

In order to comply with 2 CFR 200.325, Lexington County has the option to withhold ten percent (10%) retainage per first three (3) payment requests until all work is completed in accordance with this Agreement and work approved by the COUNTY. Retainage will be paid at the project's conclusion and proper approvals. All invoices and inspection reports must be submitted to Lexington County along with all final permits by COUNTY inspection representatives in order to receive the final retainage. Retainage will be released when awarded contract has been fulfilled in its fullest and approved by the County.

If the CONTRACTOR and his/her subcontractors' work is not completed by the ending date listed in the executed contract, the CONTRACTOR will agree to pay liquidated damages as outlined. The liquidated damages shall not apply, if one or more of the following exists: (1) extenuating circumstances beyond the control of the CONTRACTOR; (2) extreme weather delays; (3) materials and supplies delays caused by a third party supplier; (4) PROPERTY OWNER delays in removal of persons within a timely manner. The COUNTY shall make final determination whether any of these listed circumstances exist. Liquidated damages shall be \$100 per day.

Bonding Requirements

Bids may be subject to bonding requirements. Normally, bids exceeding \$50,000.00 require a bond. The requirement for bonds with bids less than \$50,000.00 is dependent upon the risk associated with the bid. This ensures that if the bidder attempts to withdraw after the bid is accepted, the County will not suffer loss.

The County should always consider the ramifications in deciding whether to require a bond when there is a choice. If there is substantial risk of loss, a bond should be required. The cost of bonding will undoubtedly be passed along in the contract price. Some smaller contractors may find it difficult to obtain or afford large bonds and may exclude themselves from bidding.

Surety companies authorized to do business in Lexington County should execute the bonds. Bid Bonds and Performance Bonds may include cashier's checks and /or irrevocable letter of credit.

When a bid guarantee is required and a bidder fails to furnish it in accordance with the requirements of the solicitation, the bid shall be immediately rejected.

A successful bidder shall forfeit any surety required by the Director of Procurement upon failure on his part to enter into a contract within ten (10) days after receipt of the contract. the award. They shall also be held liable for any cost in excess of their bid price which the County incurs in purchasing the commodities or services elsewhere.

Contracting with Small, Minority, Women Owned Bus.

In order to comply with 2 CFR 200.321 Lexington County will maintain a list of vendors who supply services that align with contracting needs of CDBG-MIT funded projects. This list will be developed utilizing the South Carolina Division of Small and Minority Business Contracting and Certification and/or the U.S. Small Business Administration business directory. Businesses who appear to provide services which may be solicited as part of CDBG-MIT activities will be included on the list and will be solicited for bids when appropriate activities requiring solicitation occur. Where practical and cost reasonable projects will be bid in smaller tasks to help support participation by smaller firms.

Buy-out Program

Purpose

Lexington County CDBG-MIT Voluntary Buyout Program assists single family homeowners to move out of areas prone to flooding to eliminate future flooding and to lessen the flood impacts on the citizens of the County. In order for a single-family property to potentially qualify as a buyout, the property must be located in a floodway or floodplain and must consist of a single family, owner occupied, detached, single unit structure. The County will offer the current fair-market value of the properties to be acquired. Properties which are acquired by the County will be cleared with all structures being removed from the site. The site will have all utilities terminated and capped and will be properly graded to allow for drainage. Properties acquired by the County will be maintained as green space and/or passive recreational purposes in perpetuity.

Voluntary Buyouts

The Program will function similarly to the County's Residential Buyout Program originally funded with CDBG-DR funds. The County intends to contact property owners on the waiting list for the CDBG-DR Residential Buyout program and notify them of the availability of the CDBG-MIT funded buyout program. The previous applicants who are contacted, and are interested in participating, must reapply under the CDBG-MIT funded Residential Buyout Program. Applicant properties must be located in the 1% annual flood area in order to be eligible for the program. The intent of the program is to move households and property out of flood danger by providing fair market value for the property in order to allow households to acquire property in a non-flood prone location and to help reduce the number of repetitive loss properties.

National Objective

The Voluntary Buyout Program is being implemented to meet the following National Objective:

- Urgent Need: The activity addresses a serious threat to community welfare following the disaster and are located in the 1% annual flood area.

The applicant's National Objective is the same for all activities associated with the acquisition of the applicant's parcel (acquisition, demo/site clearance, incentive provision, and relocation assistance).

Environmental Requirements for CDBG-MIT Funding

CDBG disaster grant funding from HUD is contingent on compliance with the National Environmental Policy Act (NEPA) and related environmental and historic preservation legislation and executive orders. The Residential Buyout Program is subject to the environmental regulations found in the 24 CFR Part 58.

The program will undergo a two-tiered environmental review process. The Tier 1 component will provide a general programmatic review and establish any agreements, understandings or procedures that potentially preclude from additional review at the site specific level. The Tier 2 phase of the review involves site specific review and any remaining environmental review components not previously cleared under the Tier 1 review. Additional details regarding environmental review activities are provided in the environmental review policies and procedures.

Environmental reviews will be conducted by the County's environmental review consultant in coordination with County staff. The County must review, understand and acknowledge all findings and documentation associated with environmental reviews and must provide final approval for any environmental review determinations and findings. Environmental review documentation will be maintained with individual project files.

Eligibility

To be considered eligible, the applicant and associated property must meet the following criteria:

- a) Property must be located in Lexington County.
- b) Property must be solely used for residential purposes.
- c) Project must clearly demonstrate a connection to hazard mitigation needs assessment conducted in the associated CDBG-MIT Action Plan.
- d) Project must be CDBG eligible.
- e) Project must meet a CDBG-MIT national objective.
- f) Project must meet duplication of benefits requirements included under CDBG-MIT.
- g) Applicant properties must be located in the 1% annual flood area.
- h) Applicants must have previously applied for CDBG-DR assistance but did not receive any CDBG-DR funds.

Business entities are not eligible. This includes but not limited to: Limited Liability Corporations, Limited Liability Partnerships, Corporations and other similar entities. Commercial real estate is not eligible for buyout under this program.

Ownership

When possible, the Program will validate applicant ownership of applicant properties using the County's tax database service to expedite applicant processing. Any event of conflicting information received or submitted will be reviewed by the Program on a case- by-case basis.

If an applicant owned a damaged structure, such as an MHU, as of the time of application completion but did not own the land where the structure is/was located, they will not be considered eligible. The Owner/Occupant must present evidence that they owned or had an ownership interest in the damaged structure.

Applicants will be required to submit documentation to satisfy the ownership criteria. This documentation may include, but is not limited to, one the following:

Most Common Proof of Ownership Documentation

- Deed or Official Record for the home,
- Mortgage Payment Book or other mortgage documents,
- Real Property Insurance Policy, and/or
- Property Tax Receipts or Tax Bill.

Alternative Forms of Ownership documentation that may be considered:

- Life Estate Deed-must show the applicant as grantee of the damaged property (if transferred upon the death of another - death certificate of prior owner required);
- Probated Will\Court Order\judgment granting applicant an ownership interest in the damaged property;
- Divorce Decree - if ownership was obtained consequent to divorce the decree must specify the damaged property was granted to the applicant;
- Contract for Sale/Deed (Rent to Own) – If the applicant purchased the property in a private owner sale via contract for deed/sale the contract must be satisfied and a warranty deed granting the property to the applicant must be recorded in the property records.
- Other documentation that will be reviewed and considered on a case-by-case basis. Applicants must also provide evidence of property tax status, including:
 - Evidence that property taxes are current, have an approved payment plan or qualify for an exemption under current laws. Applicant must prove that property taxes have been paid or that one of the following alternatives have been met:
 - The property owner qualified for and received a tax deferral as allowed under local tax code.
 - The property owner qualified for and received a tax exemption pursuant to the local tax Code.
 - The applicant entered into a payment plan with the applicable taxing authority.
- Support documentation verifying the tax deferral or tax exemption must be provided by the applicant. Any applicant that enters into a payment plan must supply a signed copy of the payment plan from the applicable taxing entity, along with documentation that they are current on their payment plan.

Occupancy

Properties will be evaluated to confirm whether they are owner or renter occupied as follows:

- Occupancy will be primarily verified through public records. If the tax records have established ownership and the County has granted a homestead exemption, the property is considered occupied by the applicant.
- The Program uses the following hierarchy to establish occupancy (all occupancy documentation must be from the time of the storm event):
 - 2020 tax records demonstrating homestead exemption for the property.
 - Copy of electric, gas, water, trash, sewage, cable or landline phone bill. The bill must confirm that service was provided in the month preceding or the month of the applicable disaster event and must match name and address on the program application. Bills must reflect usage of services indicative of occupancy.
 - Letter from electric, gas, water, trash, sewage, cable or landline phone company. The letter must confirm that service was provided in the month preceding or month of the applicable disaster event and must match name and address on the program application.
 - Voter registration records submitted together with valid driver's license (unexpired as of date of application) must match the name and address on the program application.
 - Title search results that yield proof of homestead exemption.

For all solutions, closing documents include certification that the applicant was the owner-occupant at the time of the disaster event event(s).

Proof of ownership

The program verifies ownership through the provision of a deed to the property and/or tax records provided by associated municipality from the time of the storm. Ownership must be maintained until project is complete and applicant is able to occupy the dwelling. Ownership can be documented as follows:

- Provide a copy of a valid deed of trust or warranty deed that is recorded in the County tax records which cites the applicant's name. For MHUs, a Statement of Ownership and Location (SOL) may be provided.
- For the purposes of federally funded disaster recovery programs, ownership may be proven in the following manner:
 - Applicants may prove ownership by providing alternative documentation and completing a notarized affidavit that certifies that one of the following circumstances applies:
 - there is nobody else who has the right to claim ownership;
 - anyone who has a right to claim ownership has agreed to participate in the program; or
 - anyone who has a right to claim ownership could not be located (after

reasonable attempts to contact).

- The alternative documentation that can be provided instead of a copy of the deed includes (in order of preference):
 - tax receipts;
 - home insurance;
 - utility bills; or
 - other documentation deemed to be acceptable by the Program.
- The documentation must show that the applicant was the person responsible for paying for these items at the time of the disaster.
- The above-referenced alternatives are not optional and must be provided to prove ownership.

Special Circumstances Related to Occupancy

The following exceptions apply under special circumstances related to occupancy:

- Active duty military personnel who own a storm-damaged home in the County but are currently assigned to duty away from their home are eligible to apply.
 - Active duty personnel who are deployed during the course of the project will remain eligible for participation in the program.
- Applicants incapacitated due to illness who own a home in the County are eligible to apply. If the applicant is currently incapacitated, an authorized legal representative must complete and submit the application on behalf of and for the benefit of the applicant.
- If the applicant is incarcerated at the time of application, the applicant must give someone Power of Attorney on his or her behalf.
- If the applicant is in a nursing home at the time of application, the applicant must give someone special Power of Attorney on his or her behalf.

Special Circumstances Related to Type of Ownership Purchase Contracts

The following exceptions may apply as special circumstances related to ownership:

- Evidence of purchase contracts must prove that an applicant was purchasing a home on a contract by:
 - The applicant presenting the notarized contract dated and executed prior to the storm for review.
 - The applicant presenting the notarized and executed contract that was filed prior to the storm in the conveyance records of the county.

- Proof that a contract has been completed and title conveyed to the purchaser is provided by:
 - Evidence of recordation of the title in the name of the applicant in the conveyance records of the county.
 - Evidence that property was transferred by a warranty deed.

Trust

Property held in trust for the benefit of natural persons can be eligible for assistance as long as at least one of the applicant/property owners is a current beneficiary of the Trust. The trustee's powers must include the ability to affect the damaged property. If the trustee's powers do not include the ability to affect the property, the beneficiaries with an interest in the property must sign the closing documents along with the Trustee. The following is required to confirm eligibility:

- The applicant must provide a copy of the trust document.
- The trust document or an abstract or extract of the trust must be recorded with the Clerk of the Courts. The document may be recorded post-storm if necessary.

The applicable agreements must be executed by trustee(s) unless the trust distributes the property to a beneficiary, in which event the beneficiary receiving the property must execute the applicable agreement.

Death of Eligible Owner-Occupant After Application

The deceased owner must meet the eligibility requirements at the time of death (e.g., owned the home at the time of application submittal, maintained flood insurance if required in connection with prior federal disaster assistance). Property ownership, tie to the storm, presence of required flood insurance from prior federal disaster assistance, and income eligibility are all determined for the original deceased applicant.

Identity

The Program will confirm the identity of all applicants using Nationally recognized-third-party data may be used to validate Program eligibility. Any event of conflicting information will be reviewed by the Program on a case-by-case basis.

All applicants will be required to submit documentation to prove their identity. This documentation may include, but is not limited to, the following:

- Government Issued Photo Identification (Federal or State-issued),
- Driver's License,
- Passport,
- Military ID Card, and

- Certificate of Naturalization or Permanent Resident Card.

Citizenship/Residency

U.S. Citizens or lawful permanent residents are eligible to receive benefits under this Program. At least one person on the application with an ownership interest in-part or in-whole on the property, must be able to demonstrate U.S. Citizenship or Lawful Permanent Residence to ensure Program eligibility. The documentation needed may include, but is not limited to, the following:

- A valid South Carolina Driver's License
- Applicants that have confirmed assistance using FEMA IA or SBA data for property assistance will be considered verified since both FEMA and SBA validate legal residency as part of their application process.

Applicants without a Driver's License, or FEMA IA or SBA assistance, must submit one of the following:

- Resident Alien Card.
- Birth Certificate (verified against government issued photo ID),
- US Passport or Certificate of Naturalization, or
- In the event the applicant is unable to provide any of the above documentation, a SAVE search may be conducted to determine citizenship.

Eligible properties

To qualify as a Program eligible structure type, the residential structure must be a single-family, single unit unattached dwelling. Structure type will be verified during the applicant intake and verification process through tax assessor data. Properties containing recreational vehicles (RV), house boats, and campers are eligible as long as the applicant removes the item from the property before acquisition is finalized.

Manufactured homes or mobile home units (MHUs) are eligible. An applicant who owns an MHU must own the land where the MHU is or was located.

Special Circumstances for Multi-Unit Unit Properties

While the County intends to only acquire properties which are single family, single unit, detached structures if an exception is deemed necessary by the County, the following items apply to multi-unit structures.

Duplexes

Single Owner: Applicants who own and occupy one side of a duplex and rent the other side are eligible to apply to the Program. The property or properties containing the duplex will be

purchased through the buyout. A portion of a duplex can't be purchased, the structure must be purchased in its entirety. Duplexes where both units are used for rental purposes, and the owner is not an occupant of at least one side of the duplex, are eligible for this program. Displaced renters are subject to URA regulations.

Multiple Owners: In situations where there are different owners for each unit in a duplex or there are joint owners who occupy separate sides, both units must be eligible and the applicants must meet all eligibility standards of the program. The estimated value of each unit of the duplex will be estimated and offers will be provided to both owners. Owners of both units must agree to sell the property through the buyout program and will be compensated based on the estimated value of each unit.

Rental Units in Owner-Occupied Property

The majority of properties assisted through the Program are anticipated to be owner-occupied single-family, single unit, detached homes. However, 2-unit, 3-unit, and 4-unit properties where an owner occupies one or more of the units and residential tenants occupy the other unit(s) may be found eligible under exception to receive assistance. The buyout must include the purchase of the entire property and any residential or related structures thereon. Multi-unit structures must be purchased in their entirety, therefore, the applicant must own all property the structure is located on.

[Initial Program requirements](#)

All applicant(s) must agree to the following to receive assistance:

- Sign a release so that information provided by the applicant(s) can be shared with state and federal agencies and certain third parties in order to verify information given to the program. The applicant and co-applicant are required to sign the release (unless one of the eligible owners has provided power of attorney to the other to represent them, then the eligible owner does not need to sign release).
- Swear to the accuracy and completeness of all information provided to the program under penalty of law.

[Application Intake](#)

Applicants will be required to complete a program application to be submitted to the County's CDBG-MIT consultant at the Recovery Office. Other reasonable accommodations may be available as needed. Once an applicant completes an application they will be required to schedule and in-person meeting with a program case manager. Consultation will be scheduled, to the greatest extent possible, in the order in which the calls are placed. All appointments will be scheduled by the County's CDBG-MIT consultant through a calendar program such as Outlook Calendar. The in-person consultation will include the submission of the application and all supporting documentation to verify eligibility criteria. Applications will be advanced as they are

completed which may result in registrants being advanced out of the first come first served order due to a lag in the application completion process.

All applicants must sign the Program's Consent and Release, Fraud Acknowledgement, and other program-related documents as needed, in each applicant's particular situation. All required documentation must be submitted in person during the appointment with the County's CDBG-MIT consultant. All owners should be listed on the program application. All owners must agree to the requirements and regulations of the CDBG-MIT program. If an owner is not present at intake, the owner's signature, as may be required on any documentation, may be obtained at a later date and submitted to the Program.

All owners should be listed on the program application. Owners who are not occupants must agree to and sign off on any form required for the county to acquire the property. The Program is not liable for any dispute arising between owners and non-occupant owners.

Once a person has completed an application, he or she will then be an applicant to the program. From that point forward, applicant(s) must abide by all Program policies and procedures outlined in this manual.

Quality Assurance and Quality Control (QA/QC)

The CDBG-DR/MIT Grant Manager in coordination with the County's consulting team reviews 100% of applicant files to ensure they are correct in their eligibility determinations and required documentation.

Appraisal Process

Awards are based on the current fair market value of the property. Under this program, applicants are required to obtain private appraisals to determine current FMV of their home. Applicants will be reimbursed by the County for the cost of the appraisal. In order to receive reimbursement for the current fair market value appraisal, applicants will need to submit a signed and dated conflict of interest affidavit verifying their selected appraiser has no conflict of interest when determining the value of their home, a completed W9 Form from the applicant, and the invoice from the appraiser to the applicant for the buyout property. The County's CDBG-MIT consultant conducts a review of the appraisal to verify that the property location, specifications, characteristics, comps and appraised value appear accurate.

Buyout Award Determination

The value estimated through the applicant provided appraisal will serve as the basis of the home's valuation. If the County determines that the appraisal appears inaccurate the County will send a list of questions or concerns to be addressed by the applicant and/or appraiser. Unresolved items will result in a denial by the County of the appraised value until all issues are resolved or another appraisal is conducted and submitted by the applicant. The County will not

provide compensation for additional appraisals beyond the first conducted unless the appraisal is more than six months old due to delays by the County or the program..

All awards are subject to the Robert T. Stafford Act, requiring that all funds used for disaster-related purposes must be deducted as a duplication of benefit. Federal law prohibits any person, business concern, or other entity from receiving federal funds for any part of such loss as to which he/she has already received financial assistance under any other program, private insurance, charitable assistance, or any other source. Pursuant to the Stafford Act, the County has established safeguards in order to prevent duplication of benefits from occurring within the Buyout Program.

Please reference the Duplication of Benefits section of this document for additional information.

Award Calculation

The formula below is how the Program will calculate an applicant's award.

- 1) Identify the Fair Market Value of the Property
- 2) Identify and confirm any applicable incentives
- 3) Identify all Potentially Duplicative Assistance to be Deducted
- 4) Deduct Assistance Determined to be Duplicative from incentives
- 5) Determine CDBG-MIT offer amount.

Program Incentives and Purchase Assistance

Participation Incentive

All Applicants are eligible for \$15,000 in program incentives for participation in the Buyout Program. In order to help incentivize residents to participate in the housing buyout program the County sought to provide an incentive beyond just the market value of the property. This was intended to help promote participation in the program by providing residents with additional financial incentive to engage in the program rather than to rely on the local market. Additionally, the provision of the incentive will help applicants cover moving costs incurred through the buyout program which they would otherwise have to incur themselves. In order to estimate a reasonable incentive Lexington County took into consideration the fact that median price asked for homes in Lexington County is approximately \$165,000. By providing a \$15,000 participation incentive this allowed for a 7% housing value incentive with additional funds available for moving expenses.

Local Relocation Incentive

Applicants who purchase another residential property in Lexington County, whether owner occupied or rental, will qualify for an additional local relocation incentive. This local relocation incentive was structured based on the success of the incentive process under the CDBG-DR buyout program. Accordingly, the local relocation incentive requires that the new property must have been purchased between October 5th, 2015 and up to 6 months after the original home was bought by the County. If evidence of this purchase can be provided, the applicant will be eligible for an additional \$10,000.00 in incentives. Lexington County estimated this incentive

amount by taking into consideration that the County has the second highest median home values of all of its neighboring counties. Homes in neighboring counties are, on average, \$42,500 cheaper than homes in Lexington County. While the County could not provide enough incentive to cover that difference, the County attempted to cover approximately 25% of that difference through the provision of the \$10,000 local relocation incentive. The local relocation incentive is available for the following:

- Applicants who purchase a new home in Lexington County as their primary, full-time residence.
- Applicants who own rental properties who purchase a new property in Lexington County to be utilized for residential rental housing, thereby helping to ensure the preservation of much needed rental units within the County.

In order to qualify for this incentive, the applicant must be able to prove the following in regards to the new “local” property being purchased.

- Proof of ownership.
- The property is either their primary place of residence or contains at least one unit which functions solely as a rental unit (evidenced through the provision of a lease agreement with a term no less than 12 months).
- The property is located within Lexington County.
- The property is NOT located in the Special Flood Hazard Area as designated by FEMA.

Please see table below.

Incentives Summary Table

	Owner Occupied	Owners of Renter Occupied Homes
Purchase Price	Current Fair Market Value	Current Fair Market Value
Participation Incentive	\$15,000	\$15,000
Purchase Assistance	<p>\$10,000 for home purchased in Lexington</p> <ul style="list-style-type: none"> i. The new property must be located in Lexington County. ii. The property must have been purchased between October 5th, 2015 and <i>up to 6 months after the home was bought by the County.</i> iii. Proof of ownership must be provided. iv. The property must be the applicant's primary place of residence. v. The property is NOT located in the Special Flood Hazard Area as designated by FEMA. 	<p>\$10,000 for property purchased in Lexington with documentation of LMI tenant.</p> <ul style="list-style-type: none"> i. The new property must be located in Lexington County. ii. The property must have been purchased between October 5th, 2015 and <i>up to 6 months after the home was bought by the County.</i> iii. Proof of ownership must be provided. iv. The property must contain at least one unit which functions solely as a residential rental unit. v. The property is NOT located in the Special Flood Hazard Area as designated by FEMA. vi. Applicant must provide a copy of an executed lease agreement with the tenant(s) for the subject property for a term of no less than 12 months. vii. The rent charged cannot exceed HOME high rents adjusted for number of bedrooms in the unit-as published by HUD, for the first 12-month lease period. viii. The initial renter/tenant must provide adequate income verification documentation, confirming the renter households has an income at or below 80% of the AMI. <i>This requirement only applies to the initial renter/tenant household.</i>

Buyout Award Appeals Process

If the owner disagrees with the County's denial of an appraisal, the owner may appeal the denial in accordance with the Complaint/Appeals Process. The process begins by the owner filing an appeal and including all of the information that the owner would like considered. The appeal must include specific and factual information and any data that support their challenge to the denial. For more details regarding the appeals process, please refer to the Lexington County CDBG-MIT Complaints and Appeals section of this document.

If the owner would like another appraisal conducted, the owner must hire and pay for a State of South Carolina Certified Residential Real Estate Appraiser to conduct an appraisal on the property and include proof of the appraisal in the appeal. Upon request, the Program will provide a list of local Certified Residential Real Estate Appraiser licensed by the state. The owner will not be reimbursed for their appraisal expense. The Program will pay for the first required appraisal and the second appraisal, if desired, will be completed at the owner's expense and discretion unless a second appraisal is required due to delays or errors by the County or program staff.

Offer and Acceptance

After the Program determines the acquisition price, the Program will issue an Offer Letter stating the amount the Program is willing to pay for the property and detailing terms and conditions of sale. The owner will have 90 days to accept the offer and return a signed form accepting the offer. The Program will then counter-sign the form to execute the offer acceptance and schedule a closing. An additional DOB check will occur before the closing, with any additional DOB deducted from the incentive amount.

Calculating Potential Duplication of Benefits

If an applicant is receiving a Voluntary Buyout or Voluntary Acquisition award, then the full duplication of benefits will be accounted for at the time of the award calculation. The duplication of benefits check will be completed prior to the closing on the acquisition.

Replacement Housing Award Determination

Because of the voluntary nature of acquisition, property owners are not eligible for assistance under the Uniform Relocation Assistance (URA) and Real Property Acquisition Policies Act. Tenants required to relocate because of the owner's participation in the Program are eligible for assistance under URA. If tenants are present a General Information Notice and other required Notices will be issued, consistent with URA, Section 414 of the Stafford Act, and applicable waivers.

Uniform Relocation Act

In cases where buyout properties contain tenants eligible for relocation assistance, the County's CDBG-MIT consultant will work with a URA specialist to provide assistance to the tenants

occupying the property. If a home is purchased through the Buyout Program and has tenants who will be required to relocate, those tenants are considered displaced tenants who are eligible for relocation assistance under the URA.

As a displaced tenant under URA, a tenant is eligible to receive two types of assistance: Moving Assistance and a Replacement Housing Assistance. Moving Assistance will be calculated using the fixed moving expenses method and are eligible for a moving claim reimbursement. The Replacement Housing Assistance can take two forms, Rental Assistance or Down Payment Assistance. If the displaced tenant chooses to continue to rent a dwelling, the award amount they are eligible for is 42 months times the difference in rent/utilities of their new home and their buyout dwelling (including lot rent, if a mobile home unit). Rental Assistance is capped at \$7,200.00 for 90-day tenant occupants, except in situations where housing of last resort applies. Another option is for the displaced tenant to purchase a new home and receive a lump sum down payment form of assistance. If the displaced tenant elects to receive lump sum Down Payment Assistance, their award cannot exceed what they would have been eligible for had they continued to rent a unit.

HUD Handbook 1378 includes additional guidance on mobile home relocation under the URA:

“1) Replacement Housing Payment is based on Dwelling and Site. Both the mobile home and mobile home site must be considered when computing a replacement housing payment. (A displaced mobile home occupant may have owned the displacement mobile home and rented the site, or rented the displacement mobile home and owned the site, or owned both the mobile home and the site, or rented both the mobile home and the site.) Also, a displaced mobile home occupant may elect to purchase a replacement mobile home and rent a replacement site, rent a replacement mobile home and purchase a replacement site, purchase both a replacement mobile home and replacement site, or rent both a replacement mobile home and site. In such cases, the total replacement housing payment shall consist of a payment for a dwelling and a payment for a site, each computed under the applicable requirements in 49 CFR 24.401 and 49 CFR 24.402.”

When the maximum Replacement Housing Assistance under the URA is calculated for a displaced mobile home occupant, differential payment for the dwelling and site are both included. If a mobile home owner-occupant then chooses to purchase a stick-built home rather than a mobile home, they are eligible to receive the same amount of Replacement Housing Assistance as if they were to purchase a mobile home and lot. The program can allow the rental assistance payment for the site differential cost to be considered when computing the total Replacement Housing Assistance due in this situation.

[Buyout and Pre-Demolition Process](#)

Offer Preparation: In preparation for a real property transaction, the County’s CDBG-MIT consultant will prepare the following documents. The CDBG-MIT consultant will work with the Applicant to execute the legal offer documents listed below in order to complete the voluntary transaction.

- 1) Applicant Offer Letter

- 2) Property Inventory
- 3) Incentives Information Form
- 4) Request for Loan Payoff
- 5) Subrogation and Assignment Agreement
- 6) Lead Brochure
- 7) Voluntary Transaction Agreement
- 8) Voluntary Transaction Agreement - Exhibit B
- 9) Contract of Sale


The County's CDBG-MIT consultant will provide a copy of all Offer Documents via email for review to the Applicant per their request, and then will hold a physical meeting with the Applicant to provide copies of original documents. Once original documents are signed, the County's CDBG-MIT consultant will provide original copies to the County. The County will have the CDBG DR/MIT Grant Manager execute all Offer Documents and send to the County Attorney to prepare all closing documentation. The County's CDBG-MIT consultant will work with the County and the County Attorney to schedule the closing with the Applicant.

If, for whatever reason, the Applicant cannot complete the Offer Documents, the Contract of Sale will expire after 90 days. If the Applicant has remained active during the 90 days, the Contract of Sale can be extended. If in the 90 days, the Applicant has not responded to various methods of communication (phone calls, emails, standard mails), all which will be documented on SharePoint, then the Contract of Sale will expire, and the Applicant can reopen their case if they become active in the process again.


A Vacancy Inspection by the County's CDBG-MIT consultant will also take place at least 24 hours prior to closing to ensure that the property to be purchased is vacant and ready for possession, as well as to identify any safety concerns prior to any further personnel entering the premises. The County's consultant will provide the signed documentation, Vacancy Inspection Form and Certificate of Abandonment Form, to the County Attorney before closing. The County's closing attorney will obtain keys to the property from the Applicant at closing.

The Vacancy Inspection will document the following items:


A. Securing of the Building

	<p>Confirm that the building is secured at time of the Vacancy Inspection. The building needs to be void of any openings that might allow persons to enter the building without a key (e.g. broken or missing windows, doors that do not lock). Any area that is not secured will be brought to the attention of the Applicant who is required to secure the building. Once the Applicant notifies that the building has been secured, they can call the County's consultant to reschedule Vacancy Inspection and closing date.</p>
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B. Safety Inspection

	<p>If structural integrity is compromised and the structure can't be tested or inspected for asbestos containing material (ACM), it will be assumed that the structures contains regulated asbestos containing material (RACM) and demolished accordingly. Any additional hazards should be identified and documented in SharePoint, along with notifying the County. This includes any fire hazards or public health concerns.</p>
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C. Household Hazardous Waste Identification (HHW)

	<p>If any HHW are present at the property, these items will be documented by the County's consultant. Bid packages to demolition contractors indicate that contractors are responsible for the proper removal and disposal of on site HHW.</p>
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D. Verification of Personal Property Removal

	<p>If personal property has not been removed, the County's consultant will discuss with the property owner their options; the property owner can either postpone closing until their personal property has been removed or all items will be demolished with the existing structure or salvaged after closing.</p>
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E. Verification of Vacated Premises

	<p>If someone is still living at the premises, then the County's consultant will contact the County to advise the County to delay the closing until the property is vacated.</p>
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Closing: After the Vacancy Inspection is completed, the County Attorney will conduct the property closing, whereby the title will transfer to the County from the Applicant. At the closing, both parties will sign the required documents, and the funds from the County will be provided to the Applicant. Applicants can withdraw from the program up until closing.

	<p>If an Applicant does not wish to sell the property, then the Applicant will need to provide a formal written request, via email or hardcopy, indicating their desire to withdraw from the program. Hardcopies must be signed and dated by the applicant and emails must be provided from an email account recognized by the program as belonging to the applicant unless otherwise agreed upon..</p>
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Those applicants that have a builder under contract but are interested in the Voluntary Buyout should be advised that they must stop construction.

Pre-Demolition

Property Keys: After closing, The County's closing attorney will deliver the keys to the property and all closing documents to the CDBG-DR/MIT Grant Manager. to the property.

Selective Salvage: Once the Notice to Proceed is received from the County, the County's consultant will contact local nonprofit organizations for the salvage of materials from the home. The County's consultant will identify agreed upon time period that salvageable materials can be removed from the structure and open the property for salvaging. Items removed from the property for salvaging will be documented by the County's consultant.

Assignment of Asbestos Testing: The County's consultant will assign the property to the County's procured environmental testing company after vacancy inspection has been conducted. Once the completed asbestos reports are received, the County's consultant will work with the County officials to create a scope of work for the demolition bid package for the County.

Assignment of Demolition: The County's consultant will email the demolition bid packages to the County's procured demolition contractors. Once the bid package responses are received from the demolition contractor(s), the County will then make an assignment of demolition to the Demolition Contractor.

Notice of Demolition: After the County has approved the bid proposal for demolition and assigned a demolition contractor the County issue a Notice to Proceed (NTP) to the demolition contractor. A copy of the NTP will be placed in the property-specific SharePoint file.

Demolition

The Program will engage contractors to demolish existing structures and remove any trees determined by the County's arborist to be health or safety risks to persons or property. Award amounts will include funds for demolition, waste disposal, asbestos abatement, designated tree removal and lot seeding and grading. Properties will be secured prior to demolition. After demolition, properties will be secured and maintained by the County Department of Community Development or its Designee.

The CDBG-DR/MIT Grant Manager, in coordination with the County's Consultant, oversees demolition of structures on properties acquired through the Voluntary Buyout and Acquisition Program. The CDBG-DR/MIT Grant Manager and/or the Consultant will work with contractors procured to perform the demolition and removal tasks to ensure compliance with all Federal, State, and local regulations.

Process

Demolition Contractor Verifications: Once the Demolition Contractor receives the executed Notice to Proceed, they can legally enter the site. The Demolition Contractor will begin by

verifying that the structure is unoccupied by performing a physical inspection. At this time, the Demolition Contractor will re-verify property description and ownership and proceed with asbestos abatement, if necessary.

Utility Site Walk-Through: Prior to demolition work commencing at the property, the Demolition Contractor will be required to coordinate with the County (property owner) to identify and make-safe utilities to the property. This includes (1) marking easements and underground utilities; (2) removing utility meters; and (3) capping wells, water, sewer, and septic lines, and (4) disconnecting electrical and gas service (5) removal of above ground storage tanks. The County's consultant will do a site walk during the Pre-Demolition Inspection to verify all utilities have been turned off and removed.

Demolition: Once the NTP has been issued to the Demolition Contractor they will be provided 90 days to complete the demolition and restore the site to a near natural state. The Demolition Contractor will mobilize the appropriate assets to the site for demolition activities and be responsible for providing hauling equipment to transfer the materials to a landfill.

- **Hazardous Materials Processing:** In instances where hazardous materials are present, the County's consultant and the Demolition Contractor will lead a supplemental process for the identification, removal, and disposal of asbestos, lead-based paints, and other hazardous materials per State of South Carolina and U.S. Environmental Protection Agency (EPA) environmental requirements.
 1. Assessment testing is completed and samples sent to the lab (completed by County procured subcontractor, coordinated by the County's consultant)
 2. Remediation/Abatement will be based on the environmental assessment and lab reports.
 3. Demolition Contractor is responsible for documentation of items transferred to the landfill or other disposal sites.
- **Household Hazardous Waste (HHW) Processing:** In instances where HHW are present, the Consultant and Demolition Contractor will identify and record HHWs. The Demolition Contractor is responsible for removing and disposing of HHW per State environmental agency/EPA requirements.
 1. Visual assessment performed and documented
 2. Removal of all identified HHW based on the environmental review
 3. Documentation of all HHW waste transferred to the landfill

Once demolition is complete, the Demolition Contractor will schedule the Post-Demolition Inspection with The County's consultant to determine that the backfill area is clear of all debris prior to backfilling with clean dirt.

Demolition Documentation: The CDBG-MIT Program requires that all demolition related-files be captured and retained. The County's consultant maintains all program files which will contain the required documentation. This file will contain photo-documentation of the


process before, during, and post-demolition. This file will also include load tickets/landfill manifests to account for debris removed from the property.

Completion: Once demolition and lot restoration is complete, the County's consultant will complete the Post-Demolition Inspection and Post-Lot Clearing and Restoration Inspection to verify quality and confirm process has been completed. The County's consultant inspector will take post-demolition photos and save in the SharePoint property file. The County's consultant will complete the 60-day Post-Lot Clearing and Restoration Inspection at least 60 days after the Post-Lot Clearing and Restoration Inspection to ensure that the soils have not sunken.

Project Invoicing: The Demolition Contractor (contingent on the County's contracts with the Demolition Contractors) can submit an invoice of up to 90% of the total value of the contract directly to the County after:

- asbestos abatement (if applicable).
- demolition of the structure is complete
- copies of all permits and demolition log have been submitted, and
- the County's consultant inspector verifies the demolition is complete at the Post-Demolition Inspection.

The County will retain 10% of the contract amount to be paid after lot clearing and restoration is complete and has been confirmed by the County's consultant field inspector at the 60-Day Post-Lot Clearing and Restoration Inspection. The County's consultant will invoice the County monthly for fixed fee and unit rate milestone payments incurred in the prior calendar month. Invoice payment terms are net 30 days.

	If the lot appears to have settled/sunk by the time of the 60-Day Post-Lot Clearing and Restoration Inspection, then the Demolition Contractor shall return to stabilize the soils.
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Property Acquired through Voluntary Buyout

The intent is to engage in CDBG-eligible activities that best serve the future goals of the community. Properties purchased through the Buyout program are dedicated in perpetuity for uses compatible with open space, recreation, or wetlands management practices. Preservation of open space includes, but is not limited to, maintaining greenspace, wetlands restoration, flood mitigation and/or water quality projects, pocket parks, bike paths, and other recreational amenities which conform to HUD definitions for allowable uses.

Property Disposition

Properties may be disposed of to local governments or nonprofit entities, subject to covenants protecting their use as open space in perpetuity. Any entity assuming ownership of the property must submit a plan for operations and maintenance of the property consistent with the Program's purposes. The County may entertain the option to dispose of or lease in perpetuity,

acquired properties to neighboring property owners for no cost. Properties disposed of or leased in such a manner will be required to be deed restricted prohibiting construction of any structures on the parcel.

Recovery Center Management

The County's CDBG-MIT consultant will be responsible for coordinating the assignment of applicants under the supervision of the CDBG-DR/MIT Grant Manager. To the extent feasible, the County's CDBG-MIT consultant will work with the applicant from application initiation through completion and referral to the County for eligibility determination. The County's consultant will attempt to assign staff that speak the preferred language of the applicant whenever possible. Where this is not possible, a language line or interpreter will be used.

The CDBG-DR/MIT Grant Manager will provide direct supervision to the County's CDBG-MIT consultant in the Recovery Office. The CDBG-DR/MIT Grant Manager will perform spot file reviews to verify that the County's CDBG-MIT consultant has a clear understanding of the process and requirements. The County's consultant is also responsible for securing additional training and "refresher" trainings based on regulatory changes to CDBG-MIT, internal monitorings or HUD monitorings.

Intake Location

There will be a central Recovery Office located at the Lexington County Office at 212 S Lake Dr., Lexington, SC 29072.

Standard business hours for the Recovery Office are:

Monday - Friday

9:00 A.M. to 5:00 P.M.

(Excluding County Holidays)

Intake will be conducted by appointment only.

At the County's discretion, business hours may be reduced or extended. Weekend hours may be available at certain times with County approval. Any variations to available office hours will be posted at the facility and on the CDBG-MIT website <https://lex-co.sc.gov/departments/community-development/grant-programs/cdbg-mitigation>.

The intake office will have an individual workstation for the County's CDBG-MIT consultant, interview areas, a CDBG-DR/MIT Grant Manager's office, a reception/waiting area, and access to men's and women's restrooms. The intake office is located on or near public transit and is ADA accessible and arrangements for para-transit is available if needed through Dial-A-Ride Transit (DART). Program staff may also make home visits to gather registration and application information in person as necessary.

Documents Processing

Email Processing

- If the County's CDBG-MIT consultant receives application documents directly, he/she will be responsible for inclusion in their case file. The County's CDBG-MIT consultant will review submitted documents within five business days after they receive the emailed documents, and notify the applicant of any issues.
- If documents are found to be inadequate, the County's CDBG-MIT consultant will reach out to the applicant to inform them of the issue and request the applicant resubmit the correct documentation. All applicant contacts should be documented in the file. All documents received at the Intake Office will be uploaded to the applicants file, this includes documents that may be incomplete or irrelevant.

On-Site Processing

- Any documents received on site will be scanned and uploaded by the County's CDBG-MIT consultant within two business day. All documents provided in person to at the Recovery Office will be immediately uploaded and returned to the applicant. Hard copies of documents will be maintained in applicant file folders in the Recovery Office. In the event that an applicant sends or produces an original document, they will be contacted and asked to come to the Recovery Office to retrieve the document or will return the document to them via certified mail.
- If documents are found to be inadequate, the County's CDBG-MIT consultant will make a note in the tracking system and will then reach out to the applicant to inform them of the issue and request they resubmit the correct documentation. All applicant contacts will be documented in the file.

Fax

- Fax documents will be accepted on a case-by-case basis.

Workstations/Shared Facilities & Equipment

- Sensitive information must be properly secured at all times when not in use. Locking cabinets, desk drawers, overhead bins and secured access areas should be used to store sensitive information.
- Computer terminals should be cleared of client information at the end of each day, and locked or logged off when left unattended.
- Common areas such as copiers, faxes, printer, etc. should be checked periodically and cleared of any documents.
- All presentations and documents should be removed from conference rooms after use.

- After business hours, particular attention should be placed on ensuring that desktops, offices, mail-bins, in-boxes, fax machines, printers, copiers, etc. that are not in a secured limited access area are free of sensitive information and that drawers, cabinets and storage sites are locked.
- Electronic equipment including but not limited to laptops, personal digital assistants (PDA, e.g.), cellphones, or any other device that may house sensitive information should not be left unattended and should be password protected.
- Employees should be alerted not to store any sensitive information on their individual hard drives but rather on the network drives.
- Dedicated printer must be in a secured area or secured after business hours.

Access

The Intake Office is ADA accessible and includes access to restroom facilities. If someone is unable to travel to the Intake Office, either a Case Manager or other disaster recovery staff, will make a home call or other assistance (on line and/or telephone) will be provided to facilitate applicant completion of the application process.

Special Needs Applicants

Necessary accommodations will be made to ensure that eligible elderly persons and persons with special needs can successfully participate in the program. These accommodations could include the use of American sign language, oral presentation of documents, and home visits by the County's consultant if the applicant is unable to come to the intake office.

Subrogation

All duplicative funding received must be remitted to the Program, regardless of when it is received. The Applicant will be required to sign a Subrogation Agreement which requires applicant to return duplicative assistance received after the receipt of the award if such duplicative assistance was not considered in the award calculation. If applicants receive additional funding for the same purpose as the Program award after the Program award is executed, the applicant is required to remit the additional funding to the Program. By accepting the award, applicants agree that they will remit any duplicative funds to the Program, whenever received.

Infrastructure

The eligible and ineligible categories of activities are determined by HUD. All activities and potential projects must be compliant with CDBG National Objectives per 24 CFR 570.208 and CDBG Eligible Activities per 24 CFR 570.201 through 570.207. The following activities under the

Housing and Community Development Act of 1974 (HCDA) are eligible for public facilities and improvements:

- Acquisition
- Construction,
- Reconstruction
- Rehabilitation (including removal of architectural barriers to accessibility), or
- Installation

All infrastructure projects will be compliant with these activities. All infrastructure projects must be public projects, with privately owned projects not being eligible for program funding. Under the Infrastructure Recovery Program, infrastructure will be defined to include:

- Roads
- Bridges
- Stormwater management systems
 - Conveyance systems (swales, storm sewers)
 - Curbs/gutters
 - Outfall areas
 - Retention/detention ponds
 - Facilities utilized to manage, clean and convey stormwater include storm/septic combined systems
 - Stabilization materials and structures for stormwater conveyance
 - Berms
 - Dams
 - Other facilities or structures intended for the handling and conveyance of storm water
 - Other Low Impact Development stormwater management systems
- Sidewalks
- Potable water lines
- Potable water pumping, handling, cleaning facilities and structures
- Sanitary sewer lines
- Sanitary sewer pumping, handling, cleaning facilities and structures
- Other infrastructure facilities and structures as determined by County staff.

Geographic Location

Any infrastructure project to receive funding under the infrastructure recovery program must be located within the legally recognized boundaries of Lexington County, SC. This includes all municipalities which may be located within the County boundaries and all unincorporated areas within the County. Infrastructure systems must be owned and managed by the County.

Meeting a National Objective

All projects in the Infrastructure Recovery Program must meet the LMI National Objective. Infrastructure projects will be reviewed and verified to meet the LMI Area Benefit criteria according to HUD regulations. Other LMI benefit criteria may be identified as needed based on the nature and purpose of the project.

LMI area benefit projects must identify the potential service area of the activity. This can be defined using Census designated boundaries, direct service area if known (i.e. waterline which serves a specific municipality or neighborhood) or an estimated service area. It must be proven that the area is primarily residential to utilize the LMI area benefit. Where specific data can't be utilized such as Census data or other existing income information, a survey may need to be conducted.

Census data – Service areas may be able to be defined by Census geographic designations such as Census Tracts or Block Groups. When this data is used the most recent HUD provided data defined by Census geography designation must be used. The LMI information for these geographies must cumulatively meet the HUD 51% LMI population criteria.

Survey data – If a service area can't be reasonably defined by a Census designated geographic identifier (census tract, block group) then a survey may need to be conducted. If a survey needs to be conducted, the County will develop a survey methodology based on HUDs guidance for developing and conducting income surveys. The methodology will be presented to HUD for review and approval. Upon approval by HUD the County will develop a notification letter, survey and information form as part of the survey process. The County will mail the notification letter and the survey to all potential residential households identified in the service area. This will be conducted a minimum of one week (approximately 7 days) prior to conducting door-to-door surveys and will notify residents of the upcoming survey. It will also inform individuals of the purpose of the survey and describe the project in question which may be undertaken in the service area. Staff to conduct the door-to-door surveys will be identified at least one week before the door-to-door surveys are to occur. Areas identified for survey may be evaluated by a site visit and evaluation ahead of time to determine the survey route and identify any potential dangers or other issues. Surveys will be conducted in a team of at least two program and/or county staff members. While conducting the survey staff will provide residents with the survey along with the information form describing the purpose of the survey and a project description. Residences which don't wish to complete the survey or who are not available will be noted for later evaluation of survey results. Residents who refuse to complete the survey will be assumed to **not** be income eligible and noted as such.

Residents who were not available at the time of the survey will have the information form and survey mailed to them again along with a self addressed envelope for them to complete and return to the County. A determination will be made based the response to the mailed surveys as to whether or not additional efforts need to be made. Once the County determines that no other efforts should be made the surveys will be evaluated to determine potential LMI eligibility of the area.

Maps and related service area information, such as a written determination and justification of the service area, will be included in the specific project folder.

Expenditure of Funds

All projects will be evaluated to determine if the project can be completed and CDBG-MIT funds fully expended within the expenditure period for those funds. Project construction must be able to be completed and finalized within the required period of time to be eligible for consideration. Projects utilizing funds described in Federal Register Volume 84, Number 169 must expend fifty percent of the CDBG–MIT funds on eligible activities within six years of HUD’s execution of the grant agreement and must have their funds fully expended within 12 years of HUD’s execution of the grant agreement unless otherwise revised by HUD. All projects require an estimated work schedule indicating a time schedule for project completion. This schedule will be refined once a contractor is selected and a construction schedule is provided by the contractor. In order for the project to be initially eligible it must be determined or confirmed, by County staff, that an estimated project schedule will meet the expenditure of funds time requirement. All work/construction schedules must indicate completion within the expenditure time period. In order to ensure the timely expenditure of funds projects will also be evaluated for scale, complexity and cost. Complications with factors such as these may inadvertently put expenditure time requirements at risk. For further details regarding the expenditure of funds, please refer to the Timely Expenditure of Funds section of this document.

Duplication of Benefits

All infrastructure projects must be evaluated to determine potential duplication of benefits issues. A Duplication of Benefits occurs when financial assistance received from one source is provided for the same purpose for which CDBG-MIT funds are provided (in accordance with Section 312 of the Stafford Act and HUD guidance in the November 16, 2011 Federal Register Notice (FR-5582-N- 01)). As part of the Funding of Last Resort analysis, all infrastructure projects will also be evaluated to identify any and all other funding which may warrant a duplication of benefits. This includes both funds currently available and funds which may be made available in the future for the same project. Some of these funding sources include but are not limited to:

- FEMA National Flood Insurance Program (“NFIP”);
- U.S. Army Corps of Engineers (“USACE”);
- U.S. Department of Transportation, including the Federal Highway Administration (“FHWA”)

- Federal Transit Administration (“FTA”);
- Federal and state Department of Transportation (“CDOT”)
- Federal Economic Development Agency (“FEDA”);
- Federal Emergency Management Agency (“FEMA”)
- U.S. Food and Drug Administration (“FDA”)
- Private Insurance;
- Increased Cost of Compliance (“ICC”);
- Philanthropic funds;
- Any other funding source that may duplicate assistance

For more details please refer to the Duplication of Benefits section of this document.

Environmental review

All infrastructure projects must undergo an environmental review as required and described in 24 CFR Part 58. Once a project is identified and funding is confirmed the project will be forwarded to the designated ER vendor. The ER process is described in detail in the County’s Disaster Recovery Environmental Review section of this document. Please reference that document for ER process. All necessary ERs must be completed before construction or acquisition funds are expended and before any “choice limiting actions”, as defined by HUD, are made. This includes the signing of any required documents by authorized County staff, accommodation and inclusion of requests or requirements by any agencies or groups as part of the consultation process, posting and submittal of any necessary Finding of No Significant Impact (FONSI), Notice of Intent/Request for Release of Funds (NOI/RROF) documents, submittal of ER documents to HUD (as may be requested) and receipt of RROF approval from HUD. Any additional environmental actions that may be required which substantially change expenditure timeline or increase the cost of the project may make the project ineligible for funding.

Contractor procurement

The County will procure architecture and engineering services, as needed, for infrastructure projects. Procurement of architecture and engineering services may occur through the publication of a Request for Qualifications. The County will also publish a Request for Proposal for construction for each infrastructure project identified by the County. Procurement for all infrastructure recovery program projects are subject to the procurement regulations established under 2 CFR Part 200. Procurement will be conducted so as to comply with federal, state and local requirements. Procurement must meet public procurement requirements and occur in a fair and open process. All RFQs/RFPs will be conducted in conformity with HUD requirements for public procurement. The details of the County’s procurement process are provided in the County’s procurement guide and the Procurement section in this document.

Projects will be awarded to vendors/contractors based on the criteria established in the County's procurement guide and the supplemental addendum policy and procedure document for the CDBG-MIT program. Vendors/contractors who are awarded an infrastructure project will be required to read and sign a contract with the County providing specific requirements, obligations and responsibilities of both the County and the contractor. Refusal to sign the contract will result in termination of award and the next eligible contractor will be selected for award or goes out to rebid as the County deems necessary.

Construction services

Construction services consist of three primary components. The preconstruction, construction and close-out. This includes all activities which occur after the bid has been awarded and contracts between the County and the contractor have been signed. All projects will be evaluated before the preconstruction phase begins to ensure that the project is prepared to proceed. This evaluation will include a final review of any plans or specifications, confirmation of environmental clearance, verification that all land ownership and right-of-way issues are resolved and confirmation that all other programmatic requirements are met. Any issues pertaining to these items must be resolved before construction begins.

Preconstruction

All infrastructure projects will require a mandatory preconstruction meeting. This meeting will include the contractor, CDBG-MIT staff, architect/engineer and any County or municipal staff engaged in the project. The meeting will take place at the project site if possible and reasonable. During the preconstruction meeting the following items will be addressed:

- Labor compliance (Davis-Bacon wages)
- Payroll reporting
- Section 3 requirements
- Project signage
- Site safety
- Work schedule
- Payment/invoicing procedures
- Change orders
- Inspection reporting
- Permitting
- Discuss any issues identified as part of the project evaluation before preconstruction

Any issues or concerns regarding the project before construction should be raised and addressed at this meeting.

Construction

The construction phase of the project begins after the issuance of the proceed order and after the preconstruction meeting, both of which had to have occurred in order to proceed to the construction phase. This phase will include all construction related activity and the required monitoring and compliance oversight associated with those activities. Disaster mitigation staff will be responsible for monitoring each project to ensure it conforms with the provisions of the contract established between the County and the contractor. Disaster mitigation staff will also monitor each project to ensure compliance with any federal requirements associated with construction of the project and the utilization of CDBG-MIT funds. Projects which have other funding sources secured by other entities such as local municipalities will require that those entities assume responsibility for compliance with their associated funding sources. The CDBG-DR/MIT Grant Manager or designee and/or Construction Inspectors provided by the County's CDBG-MIT vendors will conduct site visits, confirm work completion for invoices, review change orders, assist with technical consultation, and coordinate with construction contractors hired by the County to help ensure the timely completion of the project. The CDBG-DR/MIT Grant Manager or designee and/or consultants Construction Inspectors ensure that contractors act in accordance with program policies and procedures, adhere to standards of performance, and follow safety policies. The County CDBG-MIT consultant will also provide assistance with overall compliance and monitoring of the projects.

Invoicing – All construction invoicing and change orders will take place during the construction phase. Invoicing may occur in one of two methods depending on the estimated time schedule for completion of the project. Contractors will submit invoices to the Infrastructure Program either on a monthly basis or at the 30%, 60% and 90% completion points with 10% being held in reserve to be paid upon project completion. The 10% to be held in reserve will be applicable to both invoicing methods. The County will make a determination as to the necessary invoicing method to be agreed upon and secured in the construction contract between the County and the selected contractor. Invoices will be submitted to the CDBG-DR/MIT Grant Manager for review and confirmation of work completed. The CDBG-DR/MIT Grant Manager will review the invoice with the County's technical service provider to ensure compliance and to verify completion of work as needed. Upon approval of the invoice by the CDBG-DR/MIT Grant Manager and the technical service provider, the CDBG-DR/MIT Grant Manager will forward the invoice to accounting staff for review and processing. Upon approval it will be sent to Finance for processing and finally to the Office of Management and Budget for final payment.

Change Orders – All change orders must be submitted to the CDBG-DR/MIT Grant Manager County's CDBG-MIT consultant for technical review. Change orders must be approved by the CDBG-DR/MIT Grant Manager before work can occur and payment can be dispersed.

The construction phase will conclude after final payment has occurred, all County inspections have been conducted and passed and the disaster mitigation program staff inspect and certify the project as complete.

Contractor Payment Schedule - The Program will release award proceeds directly to the construction contractor either on a monthly basis or at 30%, 60%, 90% and 100% of construction completion as per the scope of work and the contract between the County and the contractor.

Close Out

Close out will occur once the construction is complete and all drawdowns of CDBG-MIT funds have occurred. Both the County and disaster recovery staff must have conducted all necessary inspections and these inspections must have passed in order for close out to occur. This phase will include the completion and submittal of any required close out or reporting documentation required by HUD. Official close out will have occurred upon HUD's confirmation that all reporting is complete and that all funds for the project are expended.

Uniform Relocation Act

The Uniform Relocation Act establishes minimum standards for federally funded programs/projects involving the displacement of persons from their homes, businesses, or farms due to acquisition, rehabilitation, demolition or any other reason which may permanently or temporarily displace someone involuntarily as a result of undertaking a federally funded project. If a project does involve relocation then the following items become applicable.

Under the Uniform Relocation Act (URA) displaced persons are eligible to the following benefits:

- Advisory services;
- Offer of a comparable replacement unit;
- Replacement housing payments; and
- Moving expenses. Under the URA, the term "displaced person" means:
 1. A person who moves permanently from the real property after the property owner (or person in control of the site) issues a vacate notice to the person, or refuses to renew an expiring lease in order to evade the responsibility to provide relocation assistance, if the move occurs on or after:
 - a. The date the Grantee submits a project application for CDBG-MIT funds for the project that is later approved, if the Grantee has site control; or,
 - b. The date the Grantee obtains site control, if that occurs after the project application is submitted and approved.
 2. A person who moves permanently from the real property after the initiation of negotiations, unless the person is a tenant who was issued a written notice of the

expected displacement prior to occupying the property (otherwise known as a “Notice of Eligibility for Relocation Assistance”).

3. A person who moves permanently and was not issued a Notice of Non-displacement after the application for CDBG-MIT funds is approved.

For buyout properties with renters or tenants eligible for relocation assistance, Lexington County will provide assistance to the renter(s) occupying the property. If a rental home is purchased through the Buyout Program and is rented to tenants who will be required to relocate those tenants are considered displaced tenants who may be eligible for relocation benefits under URA.

As a displaced tenant under URA, a tenant is eligible to receive two types of assistance: Moving Assistance and a Replacement Housing Assistance. The Moving Assistance can be an actual reasonable moving and related expenses reimbursement or a fixed payment for moving expenses determined by a schedule published by the Federal Highway Administration. The Replacement Housing Assistance can take two forms, Rental Assistance or Down Payment Assistance. If the displaced tenant chooses to continue to rent a dwelling, the award amount they are eligible for is 42 months times the difference in rent/utilities of their current rent and their replacement dwelling (including lot rent, if a mobile home unit). Rental Assistance is capped at \$7,200.00 for 90-day occupants, except in situations where housing of last resort applies. Another option is for the displaced tenant to purchase a new home and receive a lump sum Down Payment Assistance. If the displaced tenant elects to receive lump sum Down Payment Assistance, their award cannot exceed what they would have been eligible for had they continued to rent a unit.

Purpose

Lexington County is undertaking a program funded through the U.S. Department of Housing and Urban Development (HUD) which may result in the relocation of persons from their current residences. The County is providing CDBG-MIT funds for Voluntary Residential Buyouts. This program may result in tenants of residential rental properties being displaced as properties are acquired by the County for demolition, clearance and conversion to open space. The properties are being voluntarily sold to the County by the property owners, however, some properties contain residential rental units making the tenants eligible for assistance under the Uniform Relocation Act of 1970.

Lexington County understands that it must provide the options for assistance to those who may be involuntarily displaced from their current residence due to programs or projects funded by HUD. The CDBG-MIT Buyout Program is subject to the Anti-Displacement Plan as developed and included in Lexington County’s 2012-2016 5-Year Consolidated Plan and CDBG-MIT Action Plan.

The process for relocation assistance for persons displaced by the CDBG-MIT Buyout Program will include the following:

- Identification of Tenants to be Displaced
- Notification to Tenants of Impending Displacement
- Notification of Availability of Assistance

- Application Review
- Work with Tenants to be Displaced
- Temporary Relocation
- Permanent Relocation
- Record Keeping

Duplication of Payment

No person will receive any payment for Relocation benefits under these regulations if that person receives a payment under Federal, state, or local law which is determined to have the same purpose and effect as such payment under these regulations. The County is not required to conduct an exhaustive search for such other payments, only to avoid creating a duplication based on the County's knowledge at the time the payment is computed.

Identification of Persons to be Displaced

Lexington County will keep records of all residential structures which contained rental units containing tenants who may require relocation assistance under the CDBG-MIT Buyout Program. Name and contact information for current tenants will be collected during the application phase. Tetra Tech Staff will then work with property owners to identify those properties containing tenants who will be displaced. Records documenting the properties and persons requiring assistance must include the following:

- Property address
- Unit identification if applicable
- Number of rooms in unit
- Name of property owner (applicant)
- Number of male and female adults in family; number of children by age and sex
- Property type (single detached, multi-family, etc.)
- Monthly rent
- Names of all persons residing in the unit at the time of displacement
- Names of all persons seeking relocation assistance
- Certification of legal residency for all persons seeking assistance

Notification to Tenants

Property owners participating in the buyout program must submit an Occupancy Form during the application phase identifying tenants (if any) that occupied the property during the time of the storm as well as any current tenants. If a property owner cannot locate tenant the CDBG-MIT

consultant will attempt tracking of the tenant information using various methods such as site visits, reviewing public records of the property or tenant, social media searches, and posting an advertisement in the notices section of the newspaper. In the instance of a tenant needing tracking, all tracking processes and outcomes will be documented in a memo and placed in the property file. Tenant tracking will occur if a tenant cannot be located once the Occupancy Form has been submitted by the property owner. As soon as feasible, the CDBG-MIT consultant will then ensure that tenants are informed of the potential acquisition by receiving a General Information Notice (GIN) and URA HUD handbook once identified, utilizing certified mail or hand delivery and obtaining a signed receipt for the GIN and Handbook. Once Initiation of Negotiations (ION) has occurred between the County and the property owner (signing of pre-offer letter documents) tenants can then be provided with a Notice of Eligibility. The Notice of Eligibility should not be utilized unless the ION for the parcel has occurred between the County and the property owner. At the time of the offer letter signing with the property owner, every effort should be made to commence relocation with the tenant as soon as practical to prevent possible subsequent occupancy and/or minimize rental problems for the owner.

Notification of Availability of Assistance

Tetra Tech Staff will notify all tenants who may be displaced by providing them with materials informing them of the benefits and services available to them. Tenants residing in the structure at the time that negotiations are initiated between the homeowner and the County, and those that resided there during the time of the storm event, can be notified of the relocation program. Tenants who resided in the structure at the time of a written agreement between the County and the owner to purchase the real property, and those who were displaced by the storm event, are fully eligible for assistance (see § 24.2(a)(15)(i) and (ii) and § 24.2(a)(15)(iv)). Tetra Tech Staff will be in contact with all the tenants affected by the program to discuss their needs. For any tenant who cannot be located, Tetra Tech Staff will commence with tracking methods to attempt to identify the tenant contact information. The documents provided to the tenants will, at the least, provide a general description of the relocation program including the following:

1. Informs the person that he or she may be displaced for the project and generally describes the relocation payment(s) for which the person may be eligible, the basic conditions of eligibility, and the procedures for obtaining the payment(s).
2. Indicates that any person displaced will be given reasonable relocation advisory services including housing referrals, help in filing payment claim(s), and other necessary assistance to help the person successfully relocate.
3. Informs any person to be displaced from a dwelling that he or she cannot be required to move permanently unless at least one comparable replacement dwelling has been made available to the displaced person. No person will be required to move without at least 90 days advance written notice.
4. Describes the person's right to appeal the County's determination as to eligibility for or the amount of any relocation payment for which the person is eligible. It also describes

the person's right to disagree with the County's determination to whether the person qualifies as a "displaced person."

Tenants will also be provided with an application for assistance for relocation costs.

Application Review

Applications will be reviewed by the CDBG-MIT consultant and information provided the tenants for their case files will be evaluated to determine the tenant households housing needs. The CDBG-MIT consultant providing relocation services will personally interview each household to be displaced. The CDBG-MIT consultant will then determine the household's relocation needs and preference and explain the relocation payments and other assistance for which the household may be eligible, the related eligibility requirements, and the procedure for obtaining such assistance. Determination for replacement housing payments occur after tenants submit a completed application.

The CDBG-MIT consultant conducting the interviews and processing applications will need to gather data to help provide information on the estimated number of households to be displaced, including the family characteristics (e.g., minority, ethnic, handicapped, elderly, large family, income level). Information should be gathered to allow for the comparison of available decent, safe, and sanitary housing in the area with the housing needs of the tenants being displaced. The comparison should include (1) price ranges, (2) sizes (number of bedrooms), and (3) type of housing single-family, multi-family, mobile home etc. Any information on special relocation considerations should also be gathered and evaluated such as the presence of elderly or disabled or children attending school. The CDBG-MIT consultant will make every effort not to relocate households in areas resulting in children being forced to change schools unless otherwise requested by the displaced household. If the information reveals that the existing housing inventory in a specific area being impacted by displacement is insufficient, does not meet relocation standards, or is not within the financial capability of the tenants, then measures such as Housing of Last Resort must be taken to address this issue.

Work with Tenants to be Displaced

The CDBG-MIT consultant will work with tenants to identify comparable replacement dwellings within a 50-mile area of their current dwelling. A comparable replacement dwelling includes the following:

1. Decent, safe and sanitary (DSS) which means a dwelling which meets applicable housing and occupancy codes. However, if any of the following standards are not met by an application code, such following standards shall apply, unless waived for good cause by the FHWA. The dwelling shall:
 - a. Be structurally sound, weather-tight, and in good repair.
 - b. Contain a safe electrical wiring system adequate for lighting and other electrical devices.

- c. Contain a heating system capable of sustaining a healthful temperature (of approximately 70 degrees) for a displaced person, except in those areas where local climatic conditions do not require such a system.
 - d. Be adequate in size with respect to the number of rooms and area of living space needed to accommodate the displaced household. There shall be a separate, well-lighted and ventilated bathroom that provides privacy to the user and contains a sink, bathtub or shower stall, and a toilet, all in good working order and properly connected to appropriate sources of water and to a sewage drainage system. In the case of a housekeeping dwelling, there shall be a kitchen area that contains a fully usable sink, properly connected to potable hot and cold water and to a sewage drainage system, and adequate space and utility service connections for a stove and refrigerator.
 - e. Contains unobstructed egress to safe, open space at ground level. If the replacement dwelling unit is on the second story or above, with access directly from or through a common corridor, the common corridor must have at least two means of egress.
 - f. Displaced tenants who are handicapped must have access to a unit which is free of any barriers which would preclude reasonable ingress, egress, or use of the dwelling by such displaced person.
- 2) Functionally equivalent to the displacement dwelling. The term “functionally equivalent” means that it performs the same function and provides the same utility. While a comparable replacement dwelling need not possess every feature of the displacement dwelling, the principal features must be present. Generally, functional equivalency is an objective standard, reflecting the range of purposes for which the various physical features of a dwelling may be used. However, in determining whether a replacement dwelling is functionally equivalent to the displacement dwelling, reasonable trade-offs for specific features may be considered when the replacement unit is “equal to or better than” the displacement dwelling (see Relocation Manager for guidance).
- a. Adequate in size to accommodate the occupants.
 - b. In a location generally not less desirable than the location of the displaced person’s dwelling with respect to public utilities and commercial and public facilities and is reasonably accessible to the person’s place of employment.
 - c. On a site that is typical in size for residential development with normal site improvements, including customary landscaping. The site need not include special improvements such as outbuildings, swimming pools, and greenhouses.
 - d. Currently available to the displaced person on the private market. However, a comparable replacement dwelling for a person receiving government housing assistance before displacement may reflect similar government housing assistance.
 - e. Within the financial means of the displaced person.

- 3) A replacement dwelling rented by an eligible displaced person is considered to be within his or her financial means if, after receiving rental assistance under this rule, the person's monthly rent and estimated average monthly utility costs for the replacement dwelling do not exceed the person's base monthly rental for the displacement dwelling.
- 4) For a displaced household who is not eligible to receive a replacement housing payment because of the person's failure to meet length-of-occupancy requirements, comparable replacement rental housing is considered to be within the person's financial means if the Uniform Relocation pays that portion of the monthly housing costs of a replacement dwelling which exceeds thirty percent (30%) of such person's gross monthly household income or, if receiving a welfare assistance payment from a program that designates amounts for shelter and utilities, the total of the amounts designated for shelter and utilities. Such rental assistance must be paid under Section XVIII, Housing of Last Resort.
- 5) All displaced persons, especially the elderly and handicapped, shall be offered transportation to inspect housing to which they are referred by Tetra Tech Staff. In addition, Tetra Tech Staff will assist with the following items:
 - a. Provide current and continuing information on the availability, purchase prices, and rental costs of comparable and suitable commercial and farm properties and locations. They will assist any person displaced from a business or farm operation to obtain and become established in a suitable replacement relocation.
 - b. Minimize hardships to persons in adjusting to relocation by providing counseling, advice as to other sources of assistance that may be available, and such other help as may be appropriate.
 - c. Supply persons to be displaced with appropriate information concerning Federal and State housing programs, disaster loan and other programs administered by the Small Business Administration, and other Federal and State programs offering assistance to persons to be displaced.
 - d. Provide referrals to appropriate agencies for displaced persons requiring social services, food stamps etc.
 - e. Provide each expected displaced person with a Relocation Assistance Brochure.
- 6) Moving costs associated with moving personal property from the existing dwelling unit to the new dwelling unit are eligible for relocation compensation.
- 7) If a displaced tenant otherwise qualifies for the replacement housing payments except that they have not yet purchased or occupied a suitable replacement dwelling, Tetra Tech Staff will inspect the proposed dwelling. If the proposed dwelling is found to meet the standards set forth for decent, safe and sanitary dwellings, the displaced tenant can submit a request for payment of the specific sum provided they purchase or occupy the inspected dwelling within the time limits specified.

Temporary Relocation

In cases where suitable long-term housing can't be immediately identified and secured, temporary housing arrangements may need to be secured. The housing arrangements and facility must meet all the housing criteria required under Uniform Relocation except that it is functioning as a temporary housing solution until a more permanent solution can be identified. This may include, but not be limited to, the utilization of hotels for temporary housing. In such cases the facility must be agreeable to the household residing on-site for an extended period of time.

Permanent Relocation

Any comparable dwelling which allows for the displaced tenant and their household to reside in the facility for one year or more is considered to be a permanent relocation site. Displaced tenants and their households are eligible for two types of assistance under URA: Moving Assistance and Replacement Housing Assistance (Rental Assistance or Down payment Assistance).

Moving Assistance will be calculated using the fixed moving expenses method and are eligible for a moving claim reimbursement. Once a tenant has relocated to the replacement dwelling, Tetra Tech will assist the tenant in submitting form HUD 40054 to the County for the reimbursement. The County may advance a portion of the relocation claim to cover necessary expenses such as application fees, security deposits or first month's rent.

In standard protocol, one payment will typically be processed for Moving Assistance. However, there may be specific cases when a displaced tenant requires two payments for Moving Assistance: 1) advance payment for necessary up-front costs and 2) the remaining amount of their moving costs.

In determining Rental Assistance per URA HUD regulations, if the total gross monthly household income qualifies as low income according to the URA Low Income Limits, the County must compute 30% of the monthly household income and use it as one of the factors for comparison in the base monthly rental determination. The base monthly rental represents the amount the County will use as the rental amount for the displacement unit. The County will look at the lesser of three items:

1. The total amount for current monthly rent plus average monthly utilities;
2. If the displaced person meets the low-income criteria, the agency will compute 30% of the person's average monthly gross household income;
3. If the displaced person's rent is paid through a State welfare program that designates an amount for shelter and utilities, then that amount is considered; eg: shelter, utilities designation, etc.

If the tenant is low income, the lesser of the three will be used to compare against present rent (and utilities) of market rent. If the tenant is not low income, the URA eligibility amount is the difference between the present rent (plus average utilities) and the replacement dwelling rent (plus average utilities) across 42 months.

Per HUD regulations, Rental Assistance is to be dispersed to the displaced tenants in three installments, rather than one lump sum. However, if a tenant will be using URA Rental Assistance to purchase a home, the Down Payment Assistance is allowed to be dispersed in one lump sum to reduce or eliminate hardship. Rental Assistance for traditional displaced tenants (assistance with a new rental property) is to be dispersed in three installments. A payment will be dispersed to from the County to the displaced tenant every 14 months; 3 installments over 42 months. The first installment can be processed once the tenant has signed a year lease with the replacement dwelling landlord/property management company, moving has commenced and HUD Form 40058 is submitted. The one lump sum payment is equal to the monthly assistance multiplied by the 42 months.

To prompt the payments per tenant, the CDBG-MIT consultant will submit a payment plan (Payment Authorization Form) to the County to help schedule the payments to the displaced tenants. Tetra Tech will also receive and submit the displaced tenant's W9 to the County. Once the household has signed a legally binding rental agreement such as a lease or obtained ownership of the property such as through a mortgage on the property the household is considered successfully relocated and further relocation services, outside of follow-up support services, will no longer be available to the tenant.

Record Keeping

The CDBG-MIT consultant Staff will be responsible for maintaining all files and documentation for tenants who were displaced by the CDBG-MIT Buyout Program. This includes, at a minimum, identification of tenants who were not assisted with relocation services. Tenants who were successfully assisted or began the assistance services but terminated activities on their own accord must have files which include the information identified in Section I of this document as well as their completed application. All data identifying comparable dwelling units must also be maintained in addition to any payment requests, evidence of payments made on behalf of the tenants, identification documentation and HUD forms. All files must be secured so as to protect the privacy of those persons and their households.

Appeal Process URA

Any person(s) has a right to submit an appeal to the County if they disagree with the Moving Assistance eligibility amount, the Rental Assistance eligibility amount or the determination from the County of whether a person(s) is qualified as displaced.

If a person(s) wishes to appeal their Rental Assistance eligibility amount they can notify the County of their wish to appeal the amount of the assistance. In such case, the County will re-review the assistance calculations for any potential errors and respond within 15 days of receipt. If no errors are found, they will re-present the amount of rental assistance the tenant. If a tenant continues to not agree, the County will allow the tenant to submit up to three comparable dwellings they find more compatible with their needs, under URA regulations, and submit to the County for determination to recalculate eligibility determination. If the person(s) is considered

low income, and continues to disagree with the County's final decision, they may submit an official appeal to the HUD Field Office.

If a tenant finds their Moving Assistance insufficient, a tenant can ask for and receive local bids from moving companies to submit to the County, seeking additional assistance. The County decision will be determined within 15 days of receipt. If the person(s) is considered low income, and continues to disagree with the County's final decision, they may submit an official appeal to the HUD Field Office.

If a person(s) disagrees with the County's determination of whether they have been properly qualified as a "displaced" person(s) or household, the person(s) can submit an official claim to the County seeking an appeal of the determination, submitting any supporting documentation they see fit. The County decision will be determined within 15 days of receipt. If the person(s) is considered low income, and continues to disagree with the County's final decision, they may submit an official appeal to the HUD Field Office.

Duplication of Benefits

Federal law prohibits any person, business concern, or other entity from receiving Federal funds for any part of such loss as to which he/she has already received financial assistance under any other program, private insurance, charitable assistance or any other source. Such duplicative funding is called Duplication of Benefit (DOB) which is defined under the Robert T. Stafford Act (Stafford Act). These requirements were first introduced to CDBG allocated funds under the CDBG-MIT allocation for disaster recovery.

Pursuant to the Stafford Act, the County will establish and follow policies and procedures to uphold the safeguard against DOB within its program guidelines for each eligible activity. Understanding that prevention of DOB is especially critical in the context of housing programs and in anticipation that some form of housing assistance the County has established a framework for identifying potentially duplicative sources of funds and reducing documented duplications from potential project awards prior to any award actually being made.

Any project funded by the CDBG-MIT program will undergo a DOB analysis to identify any additional funds that may be utilized on the CDBG-MIT. Any additional funds will be noted and a DOB analysis will be conducted. If any funds are found to be duplicative, the County will re-evaluate the eligibility and funding needs of that project.

In regards to a residential buyout program, under current HUD guidance, a program that provides post-disaster FMV to buyout applicants merely provides the actual value of the property; thus, the seller is not considered a beneficiary of CDBG-MIT assistance. Therefore, DOB is not to be deducted from the appraisal amount since the seller is not considered a beneficiary of CDBG-MIT funds which the DOB would be calculated against. Additionally, since there are no other funding sources that serve the "same purpose" as those CDBG-MIT funds being made available through the participation incentive, no DOB shall be deducted from the participation incentive award. The County's relocation incentive funding made available to applicants, however, is subject to

DOB. Per HUD guidance, this DOB is limited to funds received by the applicant for temporary housing or moving costs

Per Notice 84 FR 28836, funds are not considered available to an applicant if the applicant does not have legal control of the funds when they are received. Therefore, while these funds will be recorded as being received they will NOT be counted towards the DOB amount for reduction against the CDBG-MIT award to the applicant since they did not have control over the funds.

Funds will NOT be considered duplicative if the funds are: (1) Provided for a different purpose; or (2) provided for the same purpose (eligible activity), but for a different, allowable use (cost).

Applicant Based Programs

Eligible applicants may have previously received assistance from other sources for disaster recovery. Under the requirements of “The Robert T. Stafford Disaster Assistance and Emergency Relief Act” (42 U.S.C. 5121, et seq.), as interpreted and applied by HUD, the County must take into account certain aid received by applicants, including County departments, in determining the amount of assistance which can be granted. The County will follow HUD’s Duplication of Benefits Guidance. This includes recent HUD guidance published on June 20, 2019, “Updates to Duplication of Benefits Requirements Under the Stafford Act for Community Development Block Grant (CDBG) Disaster Recovery Grantees” DOB Notice 84 FR 28836. The following are sources of funding assistance provided for replacement housing that are considered duplication of benefits, DOB, and under federal law must be deducted from the assistance provided as applicable to the CDBG-MIT Program:

1. FEMA Individual Assistance for Structure (IA);
2. Private Insurance;
3. Small Business Administration (SBA); and
4. Any other funding source available to the applicant for the same purpose as the CDBG-MIT grant that may duplicate assistance.

FEMA Individual Assistance (FEMA IA)

FEMA IA will be determined and verified by the Program through documentation provided by the applicant and a signed DOB certification. Document provided by the applicant can be FEMA Award Letters, paid receipts, cancelled checks and invoices. Documents will be reviewed by the Program’s Case Manager before acceptance. The Program will use the documentation provided by the applicant to calculate any potential DOB and adjust the final CDBG-MIT amount made available to a project.

Private Insurance

All private insurance payments made to an applicant must be recorded as part of DOB calculations. Insurance proceeds are determined and verified by the County by contacting the insurance company and verifying proceeds. If the County is unable to verify the private insurance proceeds through the insurance company, the County will use the claims payout provided by the applicant. The documentation provided by the applicant must come from the insurance company which issued the payments or an order from an administrative proceeding or court of competent jurisdiction.

Only private insurance settlement amounts for temporary housing or moving costs are considered a duplication of benefit under the residential buyout program and may reduce the amount of any relocation incentive an applicant may be eligible to receive.

The Small Business Administration (SBA)

Only SBA approved loan funds utilized for temporary housing or moving costs are considered a duplication of benefit under the residential buyout program and may reduce the amount of any relocation incentive an applicant may be eligible to receive. SBA loans are not provided to public entities for infrastructure improvements in post disaster recovery scenarios.

Subsidized and Private Loans

Private loans are not considered assistance and therefore are not a duplication. Private loans will be noted in DOB documentation but will not be calculated as a duplication.

In the case of an identified subsidized loan, CDBG-MIT funds are generally permitted to reimburse costs incurred on or after the date of the disaster event. Therefore, CDBG-MIT funds can be used to reimburse the costs paid by a subsidized loan without creating a duplication (FR 28836, June 20, 2019) as long as the loan funds were for the same purpose. Changes in duplication of benefits regulations which are applicable until October 5, 2023, have allowed for CDBG-MIT funds to “reimburse individuals and businesses for some costs of CDBG–DR eligible activities that were paid with subsidized loans.” In order to reimburse an applicant for costs paid with a subsidized loan and not count the loan towards DOB the following action must take place:

- The County must document that each applicant’s federal assistance (including CDBG–MIT and subsidized loan assistance) is used to address a need resulting from impacts suffered as a result of the 2015 flood disaster.
- The County must meet all reimbursement requirements described in applicable Federal Register notices.
- If an applicant has already submitted an application and their initial DOB analysis has been completed, the County must complete a revised DOB analysis that updates the applicant’s unmet needs and assistance from all sources, and excludes subsidized loans used for disaster losses and other nonduplicative assistance from the total assistance to calculate the revised DOB amount.

- The County must document that the reimbursed cost for the subsidized loan was for a CDBG-MIT eligible activity as of June 20, 2019.
- The reimbursement award to the applicant must require the applicant to comply with any requirements in the loan documents that the applicant use amounts received for reimbursement to repay the loan's outstanding principal and interest.
- when the County reimburses costs paid by SBA loans, SBA must receive the payment. The County must notify SBA of the reimbursement and issue a joint payment to the SBA and the applicant.
- The County must advise applicants that submitting a request for CDBG–MIT reimbursement assistance does not relieve the applicant of a duty to make payments on a subsidized loan.
- The County must document compliance with environmental requirements at 24 CFR part 58 prior to reimbursement for a CDBG–MIT eligible activity.

All requirements regarding the consideration and applicability of subsidized loans towards the eligibility and qualification of DOB are subject to the regulations recorded in Section V, of FR 28836, June 20, 2019.

Legal Fees

Legal fees that were paid in successfully obtaining insurance proceeds will be credited to the applicant and will not be deducted as part of their duplication of benefits. Applicants will need to provide evidence of payment and self-certify in accordance the program policy in order to be credited. All other legal fees will be deducted as part of their duplication of benefits.

Tax Filings

Personal Income Tax filings related to losses to the home do not affect funding assistance awards and are not considered duplication of benefits. Applicants should consult their personal tax consultant to seek guidance regarding any tax related matters.

Multiple Disasters

In cases where a disaster occurring after the 2015 flooding event may have impacted documentation and records applicable to the applicant is participating in, the County will accept a self-certification regarding how the applicant used the other agency's assistance. The County will advise applicants of the criminal and civil penalties that apply in cases of false claims and fraud. The County will also verify that the applicant's total need is consistent with data the County has been provided about the nature of need caused by the disasters.

Calculating the Amount of Assistance

The following process will be undertaken to determine DOB and final CDBG-MIT award amounts. The program case manager(s) and the CDBG-DR/MIT Grant Manager can be reached at 803-785-8121.

1. The program's case manager will identify applicant's current total need based on the program they are participating in. The current fair market value (FMV) of an applicant's property will be estimated utilizing the methodology described in the County's Policy & Procedure document for the CDBG-MIT Residential Buyout Program. The CDBG-DR/MIT Grant Manager will complete a DOB analysis for all non-acquisition projects under the CDBG-MIT program. Any project that is found to have non-CDBG-MIT funds available for use will be reevaluated to determine eligibility. The County will not use non-CDBG-MIT funding for any non-acquisition projects.
2. All documentation will be collected by the program's case manager in coordination with the applicant or project lead regarding potential DOB including insurance, FEMA, SBA, and any other federal or state funded assistance. All amounts of assistance will be recorded and will be evaluated for DOB considerations in the program's data management system.
3. Only those funds which meet the applicability definition for DOB will be calculated for consideration and deduction from the estimated CDBG-MIT assistance amount.
4. All funds which are found eligible for consideration will be deducted from the estimated CDBG-MIT assistance amount by the program's case manager and confirmed by the project manager before finalization in the file.
5. The County will require the return of funds if other funds are later received for the same purpose as the CDBG-MIT funds. Applicants will be required to report the receipt of any additional funds.

Applicant Responsibilities

Applicants will be required to sign a Duplication of Benefits Certification Form identifying and confirming any potential DOB sources, certifying the truthful provision of information and agreeing to repay any funds later found to be certified as DOB, including 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." Applicants must also sign a Release of Information form allowing the County to obtain information from institutions that may have provided DOB funds. Any applicants who are found to have received additional funds will receive a Duplication of Benefits Repay Notice from the County for funding recapture per HUD guidelines.

Appeals and Complaints

The goal of Lexington County is to resolve complaints in a manner that is both sensitive to the complainants concerns and to achieve fair results. Regardless of the complaint, program staff

members will treat the issue with respect, be able to respond to the complainant about the complaint's status, and handle the issue quickly, within 15 working days if practicable.

Information on how to file a complaint will be available at the program offices and is available on the flood recovery website.

Intake

During application intake for CDBG-MIT funds, applicants for Mitigation funds will be provided with Lexington County's Grievance and Complaint Procedures, which contain a point of contact, street address, and telephone number along with timeframes for filing a grievance.

Appraisal

The County will allow any household to appeal its property valuation and provide rationale for why the valuation should be changed, should that household have reason to believe the valuation is incorrectly calculated because of historical inequity and/or other grounds.

Fair Housing Complaint

Persons alleging a violation of fair housing laws will be referred to Lexington County's local fair housing contact to file a complaint. Lexington County will retain a log and record of all fair housing inquiries, allegations, complaints, and referrals. In addition, Lexington County will report suspected non-compliance to HUD.

Informal Complaints

Complaints that are brought forward in an informal manner—orally or revealed in the process of addressing another issue—will be addressed where possible regardless of the source of the complaint. Informal complaints or appeals can be made by phone or in person with a case manager at the Lexington County office located at:

County of Lexington
Community Development Department
212 South Lake Drive
Lexington, SC 29072

If a resolution can't be met through the informal process and/or a registrant or applicant believes that the Program's determination of their funding award calculation, eligibility status, or construction workmanship is incorrect/does not meet standards, they can request a Formal Appeal Form from the Case Manager or CDBG-DR/MIT Grant Manager.

The method to address informal complaints involves notifying the person submitting the complaint of the formal complaint process. Issues which can be addressed through verbal

discussion without necessitating a formal complaint process will be done so. This will be decided upon by the Case Manager or CDBG-DR/MIT Grant Manager.

When responding to an informal complaint, the county staff will obtain all pertinent information from the complainant, including the issue raised, the name of the complainant (if possible) and associated contact information, and any other information regarding the complaint. If no name or contact number is provided, then that will be noted and placed in an informal complaint file—either electronic or hard copy. This communication will indicate that the complainant was notified of how to file a formal complaint.

Formal Complaints

Formal complaints must be submitted in writing or via email to the Lexington County Community Development Department.

Any complaint that does not include the contact's name and associated contact information will not be treated as a Formal Complaint. Any complaint forwarded to Lexington County from South Carolina Disaster Recovery Office or U.S. Department of Housing and Urban Development (HUD) will also be considered a written complaint and forwarded to the Community Development Department.

Complaints may be submitted in the following ways:

Mail:

Lexington County
Community Development Department
212 South Lake Drive
Lexington, SC 29072

Email: LexingtonCDBGMIT@tetrattech.com

Hand Deliver:

Lexington County
Community Development Department
212 South Lake Drive
Lexington, SC 29072

Required Documentation

Every Formal Complaint will be entered into the project tracking system and maintained as either an electronic or hard copy file. The project tracking system will note any complaints and their potential resolution. Once the complaint is entered in the tracking system, the CDBG-DR/MIT Grant Manager or their designee will determine if the complaint has standing by determining the following:

- 1) The Complainant is a registrant or applicant, contractor or direct party.
- 2) Associated contact information has been provided.
- 3) The complaint is relevant.

If the complaint is valid, the CDBG-DR/MIT Grant Manager or a designee will perform the following steps:

- 1) Review and/or investigate the complaint.
- 2) Once the complaint has been resolved, or if it needs more work than can be done at the local program level, refer the complaint to the CDBG-DR/MIT Grant Manager to seek resolution.
- 3) Provide documentation regarding the final result and resolution to Lexington County if applicable.
- 4) Provide a copy of this Policy relating to investigation and resolution to the Complainant and to each person who is subject of the complaint.
- 5) Notify the Complainant of the results, or if longer than 15 days, provide a status of the review process.
- 6) Close the complaint.

Appeals

Throughout the process, decisions will be made on an application and/or project to be delivered. The decisions are made based on statutes, codes of federal regulation, local administrative code, state and local guidelines as they are interpreted by the program. This policy guides the process for and applicant or contractor appealing decisions made by the program staff.

Appeals Policy:

- 1) *Grounds to Appeal a decision.* This appeal process is available to an Appealing Party under the following ground:
 - a. Eligibility Determination
 - b. One of the inputs that influences the Award Determination, such as DOB
 - c. Scope of Work
 - d. Quality of Construction
- 2) An Applicant must submit a Formal Appeal Form within:
 - a. 15 days from the date of the Award Letter or Ineligibility Letter; or
 - b. 10 days from receipt of the Scope of Work; or
 - c. 3 days from interim or final inspection approving quality of construction.

Appeals must be submitted in written form or via email. Any appeal that does not included the contact's name and associated contact information will not be recognized as

an acceptable appeal. Any appeal must originate from a person attempting to register with the program with standing in the program as an applicant, contractor, or other direct party.

Appeals may be submitted in the following ways:

Mail:

Lexington County
Community Development Department
212 South Lake Drive
Lexington, SC 29072

Email: LexingtonCDBGMIT@tetrattech.com

Hand Deliver:

Lexington County
Community Development Department
212 South Lake Drive
Lexington, SC 29072

- 3) A Contractor may only appeal the issues related to one of more of the following:
 - a. Draw payment
 - b. Failure to meet benchmark construction deadlines
- 4) *Appeal of Local Program Decision.* An Appealing Party must submit an appeal in writing or via email to the Community Development Department to request an appeal review by the Community Development Director.. The appeal must be submitted within (10) ten days from date of the staff response to original complaint. This request should be sent to the Lexington County, Community Development Department, 212 South Lake Drive Lexington, SC 29072

The written appeal must include specific information relating to the challenge of the staff decision. The appeal and the Application file shall be made available to the Community Development Director upon receipt of an Appeal. The Community Development Director shall respond in writing to the Appeal not later than the fifteenth (15) working day after the date of receipt of the Appeal. The response may take one of the following actions:

- a. Concur with the Appeal and make the appropriate adjustments to the staff's decision; or
- b. Disagree with the Appeal and provide the basis for rejecting the Appeal to the Appealing Party.

- 5) *Appeal of Community Development Director decisions.* If the grievance is not resolved to the satisfaction of the program participant at this level, the aggrieved party can submit a written request for a hearing before the Lexington County, Assistance County Manager within (10) ten days from date of the Community Development Director response. This request should be sent to the Lexington County, Community Development Department 212 South Lake Drive Lexington, SC 29072. The aggrieved party is entitled to a hearing before the Lexington County, Assistance County Manager. This hearing represents the final level of appeal at the local level. The project Manager will provide the complainant with the written finding/decision from the Assistant County Administrator.

Filing

Additionally, a copy of the grievance and response will be maintained in the applicant's file. If the grievance has been forwarded to Lexington County by HUD, the County's response to the grievance shall be copied to HUD and emailed to HUD's designated Hazard Mitigation email address.

Complaints to HUD

Persons not satisfied with the County's complaints and appeals process may present their written grievance or objection to the HUD area office:

U.S. Department of Housing and Urban Development Community Planning and Development Division

1835 Assembly Street Columbia, 13th Floor, South Carolina 29201

Financial Management

Allowable Costs

All costs will be reviewed by the CDBG-DR/MIT Grant Manager. All internal costs will be submitted by the CDBG-DR/MIT Grant Manager for formal processing by Procurement (with department head approval). This includes any costs incurred from other departments including finance, legal, etc. who may have incurred costs as part of regular administration and implementation of CDBG-MIT program. The CDBG-DR/MIT Grant Manager will verify that costs are applicable, eligible, and reasonable for CDBG-MIT. Any internal costs being submitted by CDBG-DR/MIT Grant Manager must include a description indicating the purpose of the costs. Additionally, all contractor invoicing must be reviewed and approved by CDBG-DR/MIT Grant Manager for applicability, eligibility and reasonableness before being forwarded for processing. Any concerns or clarification regarding any costs will be addressed and resolved by the CDBG-DR/MIT Grant Manager before being submitted for processing.

Banner System

Banner is the software system of record being utilized by the County for tracking and managing County finances. To maintain accuracy and manage security within the Banner system, all banner users have their own passwords. In addition, any individual in the County who is not a staff member of the finance or procurement departments have read-only account access. To move funds within the system an ABT (administrative budget transfer) needs to be submitted by the CDBG-DR/MIT Grant Manager, with approval from a department head. The ABT is forwarded to finance, who will process it in Banner with approval from the County of Lexington Administrator.

When funds need to be allocated for projects, the CDBG-DR/MIT Grant Manager will create a purchase requisition that will be forwarded to Procurement (with department head approval). Procurement generates a purchase order in Banner which commits the funds. Once invoices are submitted, the CDBG-DR/MIT Grant Manager will review and approve the invoice and then send to procurement (with department head approval). Procurement will forward the approved purchase order to finance to process the check and record the transaction through Banner.

All financial transactions use a Fund – Organization – Account coding. The fund indicates the Special Revenue Program or Grant Program. The organization indicates the County department (for MIT the County will be using one for Community Development Administration costs and one for Community Development Project costs). The account indicates the specific detailed line item.

All budgets, revenues (including program income and interest), obligations, expenditures, and available balances are recorded and able to be viewed in Banner. Each revenue and expenditure has their own account number that can be easily tracked. The grant number, award amount, and CFDA number are included on every draw and are maintained in the financial records. They are also included on the Single Audit.

Invoice Payments

All invoices/payment requests are received and/or routed to the CDBG-DR/MIT Grant Manager to be logged in an invoice/payment request log. This log is an excel sheet divided by tabs named after the CDBG-MIT funded programs.

- 1) Upon receipt of invoice, the invoice is stamped and marked by the CDBG-DR/MIT Grant Manager with the date it was received, the Purchase Order number, and the account number of the vendor or individual property.
- 2) Any needed corrections from the vendor will be communicated electronically by the CDBG-DR/MIT Grant Manager to the vendor.
- 3) If no revisions are needed the invoice is recorded in the information in the respective program spreadsheet.
- 4) The CDBG-DR/MIT Grant Manager will highlight and make notes by line item to indicate which DRGR activity the expenditure meets.

- 5) The invoices then are signed verifying review and approval. It is then provided to the Community Development (CD) Director for final review and signature by the Grant Manager.
- 6) Upon review and final signature from the CD Director, the invoice/payment request is returned to the DR/MIT Grant Manager for final further processing (Banner and DRGR).
- 7) The CDBG-DR/MIT Grant Manager will make a copy of the invoice/payment request and retain it in the file "Pending Payment in Banner" and the original is delivered (via hand) to Procurement.
- 8)
- 9) The financial coordinator will check Banner for payment regularly. Once paid, a voucher is created by the Financial Coordinator and all supporting documents are then sent to Finance for draw down approval and submittal.
- 10) All paid invoices/payment requests are drawn in DRGR by the CDBG-DR/MIT Grant Manager on or about the 20th of each month unless circumstances warrant otherwise.
- 11) A screen shot of the creation of new Vouchers in DRGR will be created and a copy printed and signed to put with the "Vouchers" file.
- 12) All documents: invoice copy, supporting documentation, and DRGR screenshot showing creation of voucher, are submitted to Finance for approval of draw.
- 13) A copy of the approval and the DRGR screen shot with the signature of Finance Representative is returned to the CDBG-DR/MIT Grant Manager and maintained with other voucher documents.
- 14) Vouchers are then filed sequentially.

DRGR Voucher process

For all steps below, it is presumed that the CDBG-DR/MIT Grant Manager will be carrying out these activities

- 1) Gather all PAID invoices for reimbursement to the County. These should already be set aside in the "Paid – Pending DRGR Drawdown" folder.
- 2) Obligate funds to an activity.
- 3) CDBG-DR/MIT Grant Manager creates a voucher to drawdown funds for one or more activities.
- 4) The drawdown request is generated, DRGR will perform a preliminary validation to ensure that sufficient funds are available. If yes, DRGR will generate a Voucher Number.
- 5) A representative from Finance in the "Drawdown Approver" role then reviews and approves each voucher line item (or the entire voucher). If the voucher has multiple line items, the Drawdown Approver can approve some line items and reject the others or leave the rest for a later date.

- 6) DRGR sends the approved line items to LOCCS that night (or on a future date that the Drawdown Approver specified). However, if a voucher exceeds a drawdown threshold, it is forwarded to HUD for approval before being submitted to LOCCS. At that time, the CDBG-DR/MIT Grant Manager must also send their CPD Representative additional supporting documentation to substantiate the over-threshold draw.
- 7) LOCCS processes the vouchers overnight from a daily batch file submitted by DRGR. LOCCS approves or rejects all line items that were sent on one batch (this may not be all line items if the approver did not approve all line items on the voucher the same day). If approved by LOCCS, LOCCS sends the line items to the U.S. Treasury for payment. LOCCS also sends the status of the request back to DRGR. The drawdown results are reflected in DRGR the next day.
- 8) Once received by Treasury, if Treasury accepts, electronic payment is made to the County.

Single Audit Report and Comprehensive Annual Financial Report (CAFR)

In order to comply with Federal Register VOL 84, No 169 V.A.1.a.(1)(a), Lexington County with the help of its CDBG-MIT Consultant will submit to HUD annually a single audit and a comprehensive annual financial report at the end of each fiscal year. In order to prepare for this final annual report, the County, along with the help of its CDBG-MIT Consultant will consolidate these reports quarterly, or as needed. Any material weaknesses or deficiencies identified by HUD in the annual report, or by the County or its CDBG-MIT Consultant in the quarterly report will be immediately addressed. In response to the identified material weakness or deficiencies, the County with the help of its CDBG-MIT Consultant will develop a plan that either removes the identified weaknesses or addresses them.

Public Law 115-123

In order to comply with Federal Register VOL 84, No 169 V.A.1.a.(1)(b), Lexington County submitted the Public Law 115-123 Financial Management Certification on 1 June 2020.

Program Income Reporting & Tracking

P.L. 114-113 defines Program Income as “gross income generated from the use of CDBG-MIT funds and received by the Unit of General Local Government (UGLG).” Examples of program income include, but certainly are not limited to, the following: a) proceeds from the disposition by sale or lease of real property purchased or improved with CDBG-MIT funds, b) proceeds from the disposition of equipment purchased with CDBG-MIT funds, c) net income from the use of rental property owned by the UGLG. Based on the definitions provided in P.L. 114-113 and the County’s current Action Plan, the County does not anticipate generating program income. However, should program income be generated, the County will track the receipts within the County’s financial records through Banner in a separate revenue account and report the receipts to HUD via the DRGR database as required per HUD regulations. All program income received prior to grant closeout shall be utilized for additional eligible CDBG-MIT activities. Any program

income remaining after the CDBG-MIT program closeout will be transferred into the County's regular CDBG program through Banner. The County will track any program income generated by CDBG-MIT which may be transferred to CDBG entitlement program through HUD's Integrated Disbursement and Information System (IDIS). The County maintains CDBG entitlement staff who are familiar with managing IDIS and tracking and accounting for program income.

HUD Monitoring

Lexington County will submit to monitoring of its activities by HUD as necessary to ensure that CDBG-MIT funding is used for authorized purposes, in compliance with Federal statutes, regulations, and the terms and conditions of the CDBG-MIT Grant Agreement. Lexington County will work with HUD staff in preparation of any program monitoring. The County will work to collect any documents or information HUD may need during monitoring to support an efficient and informative monitoring process. The County will make program staff available during HUD monitorings and will provide HUD staff with access to all program files and documents.

Please reference the Record Management and Document Retention section of this document of this document for information on document management.

Communication

Lexington County staff will maintain consistent and concise communication with the HUD POC. It is the goal of this program to respond to RFIs, provide reports, and maintain communication requirements in a timely and efficient manner.

A contact list of stakeholders will be maintained along with communication requirements for those stakeholders. Communicating with stakeholders effectively, such as HUD, will be key to the success of this program as deliverables are identified and requirements defined by the various stakeholders involved in the program.

During active HUD monitorings the main point of contact for Lexington County will be the CDBG-DR/MIT Grant Manager. They will work directly with HUD staff or their consultants. The County's CDBG-MIT consultant will be integral during HUD monitorings in providing support for the County and working with HUD staff and its representatives.

DRGR Management

HUD utilizes a specific online database system, Disaster Recovery Grants Reporting Database, more commonly referred to as DRGR, for its disaster recovery programs. Use of this system is required by all CDBG-MIT grantees.

Changes and amendments to projects/programs will be recorded in DRGR. Any changes to the Action Plan (AP) will be accounted for in the DRGR Action Plan as well as the formal Action Plan which was previously submitted to HUD for review and approval. Changes to the DRGR Action Plan will only take place after the changes have been approved by HUD in the formally submitted AP. Additionally, programmatic changes and revisions, accomplishment recordation and

reporting will be managed through DRGR. Any changes or updates required in DRGR will occur within five business days of the changes being approved by the CDBG-DR/MIT Grant Manager or, as in the case of AP amendments, within five days of HUD approval. The CDBG-DR/MIT Grant Manager, in coordination with the County's CDBG-MIT consultant, will manage all updates, revisions and reporting requirements necessary for DRGR programmatic compliance.

The County will ensure staff has adequate training and that consultants have adequate knowledge and DRGR familiarity for the effective management of the DRGR Database.

QPRs

The County is required to complete Quarterly Performance Reports or QPRs in the DRGR system. QPRs are due 30 days after the end of each calendar year quarter. Once approved by HUD, the County will publish all QPRs on its CDBG-MIT website.

A quarterly performance report (QPR) will be submitted to HUD no later than 30 days following the end of each quarter after grant award and continuing until all funds have been expended and all expenditures have been reported.

Internal Conflict of Interest

Conflict of interest situations will be closely monitored, as these situations, if not properly addressed may result in:

- 1) Loss of HUD funding
- 2) Voiding any contract funded or supported by HUD
- 3) Disgorging of any financial gain or benefit received
- 4) Abstaining from participating in a decision-making capacity
- 5) Termination, resignation, or loss of position
- 6) Imposition of civil and/or criminal activities

It shall be a breach of ethics for any employee of Lexington County to participate directly or indirectly in procurement when the employee knows that the employee or any member of the employee's immediate family has a financial interest pertaining to the procurement, a business or organization in which the employee, or any member of the employee's immediate family, has a financial interest pertaining to the procurement, or any other person, business or organization with which the employee or any member of the employee's immediate family is negotiating or has an arrangement concerning prospective employment is involved in the procurement.

No conflict of interest shall exist for any member of the evaluation panel, i.e.,

- (1) Part ownership in any company submitting an offer;
 - (2) family member works for or has part ownership in any company presenting an offer;
- and

(3) any other reason a member of the evaluation panel can't give an impartial evaluation.

SC Code § 8-13-700 (2013) prohibits any public official, public member, or public employee from knowingly use his or her official office, membership, or employment to obtain an economic interest for himself, a family member, an individual with whom he is associated, or a business with which he is associated or be involved in any way attempt to use his office, membership, or employment to influence a governmental decision that benefits the aforementioned.

Internal Conflict of Interest Mitigation

Lexington County shall ask several questions of individuals associated with the procurement process:

- 1) Are any employees or board members:
 - a. a County employee or consultant who participates in decision-making or exercises influence over the decision-making process of County HUD sponsored programs as part of their position?
 - b. a member of any committee, commission or board that will approve and/or administer expenditure of HUD grant funds or approve a sponsored project or fund recipient?
 - c. a County Councilmember?
- 2) Are immediate family members or business associates of employees or board members:
 - d. a County employee or consultant who participates in decision-making or exercise influence over the decision-making process of the County HUD sponsored programs part of their position?
 - e. a member of any committee, commission or board that will approve and/or administer expenditure of HUD grant funds or approve a sponsored project or fund recipient?
 - f. a County Councilmember?
- 3) Will any employees or board members receive a financial interest or benefit from HUD grant funds (other than employee salaries or personnel benefits)? Will any immediate family members or business associates of employees or board members receive a financial interest or benefit from HUD grant funds (other than employee salaries or personnel benefits)?
- 4) To my knowledge, will programs or projects have a financial effect on a County official or employee who exercises HUD sponsored program-related functions, or an immediate family member or business associate of such person? For example, will any of these persons be receiving rental payments, other business income, or program services from my program? Or, for example, do any of these persons own real property near the program or project site, and is it likely that my program or project will have an effect on neighboring real property values?

If the answer is “yes” to any of these questions, it is possible that there may be a conflict of interest.

Remedies and Sanctions

If a contract awardee fails to make a good faith effort to avoid an improper conflict of interest situation or is responsible for the improper conflict situation, the County may;

- (1) suspend payments for HUD related activities,
- (2) terminate the contract,
- (3) require reimbursement by the recipient to the County or to HUD of any amounts already disbursed, and/or
- (4) bar future HUD funded related work.

A number of penalties may be imposed or remedies, cures, waivers and exceptions may be pursued in the event an actual conflict of interest exists. Early disclosure of an actual conflict of interest or potential conflict of interest is critical and may influence the penalty imposed and/or remedy sought. The ultimate disposition depends largely on the nature, extent and severity of the conflict. The evaluation of an actual conflict of interest is fact sensitive and each case requires examination on the merits.

Guidance

If a conflict of interest is identified or suspected, covered person(s) shall immediately provide written notification to the Lexington County Recovery Department. At minimum the written notification shall include documentation of the following:

- 1) Disclosure of the identity of the covered person(s) involved,
- 2) When and how it was discovered,
- 3) The nature of the conflict of interest
- 4) The financial interest or benefit derived or to be derived from the Lexington County HUD sponsored program or funding.

The covered person(s) shall cooperate fully with the County staff and promptly provide any additional information requested by Lexington County to evaluate the conflict of interest.

Lexington County will evaluate the circumstances of the conflict of interest and notify HUD of its findings, and if applicable, a request that HUD grant an exception to the conflict of interest regulations.

Internal Monitoring

Residential Buyout Program – The CDBG-DR/MIT Grant Manager in coordination with the County’s CDBG-MIT consultant will perform an internal review of a minimum of 10%, rounded

up, of the Buyout project files on a quarterly basis. Monitoring activities will be conducted at both scheduled and random intervals.

- Intake/eligibility
- Buyout
- Contractor Procurement
- Demolition
- Closeout

Infrastructure Improvement Program - The CDBG-DR/MIT Grant Manager, in coordination with the County's CDBG-MIT consultant, will perform an internal review for each infrastructure project monthly.

- Contractor Procurement
- Construction
- Closeout

The CDBG-MIT Administrator will personally monitor all contractors including direct review and approval of all contractor invoices. The CDBG-DR/MIT Grant Manager will conduct periodic on-site monitoring and a County Building Inspector will conduct inspections for each property involved in the CDBG-MIT housing programs. In addition, the CDBG-MIT Administrator will directly oversee quality control related to client application, file management, contractor relations with homeowners as well as the public reporting requirements described below.

Anticipate benefits of implementation of the Internal Monitoring procedures will better:

- 1) Gauge the overall progress and effectiveness of program implementation.
- 2) Identify and resolve compliance issues that may compromise program integrity, funding, and service delivery.
- 3) Identify areas that would benefit from technical assistance.
- 4) Differentiate the types of monitoring techniques that will be used during the monitoring review process.
- 5) Explain the current monitoring structure model.
- 6) Identify the role of the Internal Auditor and the Internal Monitor along with their essential assigned responsibilities.

The CDBG-MIT staff and its consultant have established a weekly meeting to review the status of all CDBG-MIT funded projects and programs. These meetings can include non-CDBG-MIT County staff members to provide additional oversight and transparency regarding the implementation and management of the program. The meetings serve several critical functions which include:

- Updating program and County staff on the status of individual projects.
- Review of the financial status of the program.

- Discussion of concerns or challenges, current or anticipated.
- Allowing staff to discuss implementation to ensure program consistency.
- Ongoing compliance oversight and updates.
- Provides opportunities for the team to be updated on discussions or directions from HUD.
- Allows the team to identify issues or concerns which may need to be presented to HUD for consideration.
- Help in the prevention of fraud, waste, and abuse.

Record Management and Document Retention

Lexington County will maintain records via individual project files for all projects undertaken with CDBG-MIT funds. Programs which involve multiple projects through an applicant intake process will maintain individual case files to be developed and maintained by case management staff. Lexington County shall maintain accurate files and records on each applicant and shall retain all pertinent documentation for the grant. Compliance will be maintained in accordance with the reporting requirements under the CDBG-MIT regulations. These files will record and maintain documentation for the following items:

- Application intake
- Eligibility review and determination
- Environmental review
- Procurement
- Invoicing and payment
- Change orders
- Local regulatory compliance (permitting, legal review, etc.)
- Program income
- Close out

All files will be maintained in a secured online database and office within the County administrative building with limited access only to program staff and administrators. Case management staff will provide daily maintenance and follow-up on individual cases. Formal monitoring is described in the Programmatic Monitoring section of this document.

Additional record keeping details specific to the Buyout Program are provided in the Buyout Program section within this document.

Projects which don't involve individual applicant case management, such as infrastructure or public facility projects, will have project files developed and maintained for each project. These files will be maintained by the CDBG-DR/MIT Grant Manager and kept in a secured database and

physical location in the County administrative office. These files will maintain documentation for the following items:

- Environmental review
- Procurement
- Invoicing and payment
- Change orders
- Local regulatory compliance (permitting, legal review, etc.)
- Program income
- Close out

The CDBG-DR/MIT Grant Manager will provide oversight and maintenance over these records and will review the progress and records of any active projects as well as those that have yet to begin to ensure they are progressing in a timely manner. Formal monitoring is described in the Programmatic Monitoring section of this document.

Information maintained in project records will provide necessary data to complete reports and will be utilized during audits and monitoring to provide information needed as part of these activities. Information included in files may be supplemented with financial reports in order to provide concise details regarding specific project financial records. Once the CDBG-MIT program is fully expended all funds and the program is closed, records will be transferred to the CDBG Entitlement offices for security. All records will be maintained for a minimum of five years.

Internal Controls

Lexington County has existing policies and procedures meeting financial management requirements including: applicable regulations and requirements, financial accountability and records, authorized signatures for payments and checks, requests for payments, bank accounts and checks, escrow accounts, administrative costs, property management, and audit requirements. The county has cash management procedures in place that minimize the elapsed time between receipt and disbursement of CDBG-MIT funds.

The organizational structure encompasses risk management measures that establish clear lines of authority and approval, segregation of duties, separation of key processes and authorization and secure access to financial resources.

In summary, Lexington County's internal controls are set up for responsible management of CDBG-MIT funds and support the prevention of fraud, waste and abuse to ensure:

- No person involved in the program decision-making obtains financial benefit.
- No single-point sign-off of significant transactions.
- Separate recordkeeping for mitigation funds versus general accounting operations.

- Reconciliation of accounts performed by employees not responsible for handling payroll preparation and issuance of paychecks.
- Hiring procedures match required financial skill sets to position descriptions.
- Policies and procedures are in place to maintain effective control and accountability for all cash, real and personal property and other assets.
- Policies and procedures are in place for controlled access to assets and sensitive documents.
- Reasonable measures are in place to safeguard protected personally identifiable information (PII).
- No personally identifiable information shall be reported in DRGR or any other documentation submitted to HUD

The CDBG-MIT staff have established a weekly meeting to review the status of the program. These meetings may include non-CDBG-MIT County staff members to provide additional oversight and transparency regarding the implementation and management of the program. The meetings serve several critical functions which include:

- Updating program and County staff on the status of individual projects.
- Review of the financial status of the program.
- Discussion of concerns or challenges, current or anticipated.
- Allowing staff to discuss implementation to ensure program consistency.
- Ongoing compliance oversight and updates.
- Provides opportunities for the team to be updated on discussions or directions from HUD.
- Allows the team to identify issues or concerns which may need to be presented to HUD for consideration.
- Help in the prevention of fraud, waste, and abuse.

Internal Auditing

Lexington County will conduct annual auditing activities as part of its standard annual auditing process. The County hires an independent auditor who provides both programmatic and financial oversight of the CDBG-MIT program. The role of the independent internal auditor will be to conduct internal monitoring/audits throughout the year of County administered CDBG-MIT programs and activities as required by HUD guidelines and P.L. 115-123. The role of the independent auditor is to conduct internal monitoring/audits of County administered programs as directed. In addition, the internal auditor will assist in the detecting of fraud, waste, and abuse in the CDBG-MIT program.

The internal auditor plays an important role in looking for errors and instances of malfeasance for procurements and program delivery as part of the County's administration of its CDBG-MIT

funds. The internal auditor verifies that the county has in place procedures to perform price and cost analyses of proposed expenditures of grant funds and that analyses are performed, when required.

The internal auditor evaluates documentation maintained by the county, regarding price and cost analyses, and verifies that it includes evidence that all costs are allowable, allocable and reasonable.

The internal auditor is responsible for preparing a report that describes all internal control activities, its testing of those controls, and any concerns or issues noted during its review. This report is prepared annually and submitted to the County Recovery Office for review. The report will include a Schedule of Expenditures as described under 2 CFR 200.510(b). Since audits will be conducted annually audit requirements under 2 CFR 200.501 will be addressed regardless of the amount of funds expended by the program. All audits will be conducted in accordance with 2 CFR 200 Subpart F, and will conform to the scope described in 2 CFR 200.514.

As necessary, the Community Development Department, along with its partners, develops an appropriate corrective action plan to strengthen the controls that mitigate and address concerns or findings noted in the internal auditor's report. Documentation is required to ensure that corrective action has taken place prior to closing out concerns or findings.

The internal auditor will ensure no personally identifiable information reported in the DRGR and the detection and prevention of fraud, waste, and abuse. This individual will be responsible, if requested by HUD, to submit internal audit reports directly to HUD, to include a copy of the conflict of interest policy and the process for promptly identifying and addressing any identified conflicts. This individual will also provide to HUD information on how the grantee will verify the accuracy of information provided by applicants.

The County follows the 'Disciplinary Policies and Procedures' section of the County of Lexington Employee Handbook. If found to be criminal, the County Sheriff is contacted. Instances of fraud, waste, and abuse will be referred to the HUD OIG Fraud Hotline (phone: 1-800-347-3735 or email:hotline@hudoig.gov).

Timely Expenditure of Funds

Per Federal Register Notice 84 FR 45838, CDBG-MIT funds must be expended within a twelve (12) year time frame with 50% of the funds needing to be spent within six (6) years beginning on the date the grant agreement is signed by HUD. However, we understand that HUD will periodically review the County's progress in drawing down funding from its Line of Credit (LOC). The County of Lexington will review in-house expenditures and beneficiary expenditures to ensure that funds are spent on eligible costs and in a timely manner. Project funds and schedules will be monitored by The County of Lexington's Finance Department, the Department of Community Development and the County's CDBG-MIT, and ultimately audited through the County's independent audit function.

As the County of Lexington is an entitlement community, County staff members already have experience with monitoring the expenditure rate of its annual CDBG allocation. (The County's

CDBG Policies & Procedures are provided as an appendix to this document.) With the County's current allocation of CDBG funds, the County of Lexington's Department of Community Development maintains detailed spreadsheets monitoring the expenditure of funds and project schedules. Considering that the CDBG-MIT grant to the County is more significant than the usual annual allocation, the County will adapt and enhance its current processes by establishing standard tracking mechanisms, processes and templates to ensure consistency and continuity among program activities.

The County of Lexington will hold all contractors accountable through the establishment of benchmarks and other critical milestones. Contractors will be required to provide detailed reports concerning expenditure of funds and project progress to the County upon request. Frequency of reporting will be established on a per project basis given the potential varied nature of eligible activities that the County may choose. It is expected that the County will require contractors to provide monthly reports; however, due to the varying nature of each project, specific projects may be asked to provide those project updates more frequently.

The County expects, at this time, that it will directly administer all CDBG-MIT programs and will use contractor augmentation to execute implementation. When contracting with vendors, the County will establish certain benchmarks that must be achieved prior to the release of funding. As a part of their contractual obligations to the County, contractors will be required to present the County with a plan on how they will implement procedures to reach the determined benchmarks. Each contract with contractors will require that penalties be implemented for failure to reach benchmarks. In addition to ensuring that contractors are meeting project timelines, these benchmarks will allow the County to project expenditures for each individual project. The following chart provides an estimated time frame of expenditures for each of the identified programs.

Contractor Payments

In order to ensure contracts and bills are paid in a timely manner, payments pursuant to a successful contract will be made within thirty (30) days of receipt of a detailed monthly invoice unless any items thereon are questioned, in which event payment will be withheld pending verification of the amount claimed and the validity of the claim. Contractor shall provide complete cooperation during any such investigation. Invoice shall be for services rendered for the period of the first day of the month through the last day of the month. Invoices shall indicate the purchase order number, shall be itemized and transportation charges, if any, shall be listed separately. A copy of the bill of lading, and the freight weigh bill when applicable, should be attached to the invoice. Suppliers should keep the Procurement Department advised of any changes in their remittance addresses.

Tracking Payments

The County, with the help of its CDBG-MIT consultant, will maintain a payment tracker for each project being conducted under the CDBG-MIT program. This payment tracker will include indicators to show, at minimum, invoice submission status and date, approved change orders,

total payments per project by dollar amount, and total eligible funds per project. This will be updated as soon as any changes to the status of payments, change orders, or invoice submissions occur.

Slow Performing Projects

Projects which appear to be slow-performing will be evaluated and addressed consistent with the County's CDBG-MIT Action Plan and Policies and Procedures. Projects which appear to be stalled will be:

- a) provided technical assistance to remediate their slow progress state,
- b) terminated if the project appears to be stalled at startup and the Action Plan allows for re-award to other eligible recipients or,
- c) the project scope will be reduced and funding reduced as necessary and recaptured funds will be re-obligated to other eligible projects and recipients.

If the project is stalled due to contractor negligence or mismanagement as defined by the CDBG-DR/MIT Grant Manager in coordination with the County's Procurement Department, liquidated damages may be imposed on the contractor at a rate of \$100 per day. As with the County's existing CDBG Program, the focus will be on identifying fast-moving projects and recipients that have already demonstrated competence in expeditiously moving projects forward, drawing funds and moving projects toward completion.

Fraud Waste & Abuse

Lexington County's internal controls are set up for responsible management of CDBG-MIT funds and support the prevention of fraud, waste and abuse to ensure:

- No person involved in the program decision-making obtains financial benefit.
- No single-point sign-off of significant transactions.
- Separate recordkeeping for mitigation funds versus general accounting operations.
- Reconciliation of accounts performed by employees not responsible for handling payroll preparation and issuance of paychecks.
- Hiring procedures match required financial skill sets to position descriptions.
- Policies and procedures are in place to maintain effective control and accountability for all cash, real and personal property and other assets.
- Policies and procedures are in place for controlled access to assets and sensitive documents.
- Reasonable measures are in place to safeguard protected personally identifiable information (PII).

Additionally, internal auditing will be conducted on a regular basis as described in the Internal

Auditing section of the document, to help prevent, identify and remedy any issues relating to fraud, waste and abuse.

Vendors

Lexington County staff will verify the accuracy of information provided by its vendors.

Prior to contract execution, the county's procedures include, but are not limited to,

- 1) Reviewing debarment lists;
- 2) Searching known databases for information
- 3) Conducting internet research, and obtaining information available from State and Federal agencies, such as substantiated investigative findings and audit reports.

The County staff have established regular channels of communication with other State and local government agencies who are contracting with various entities for services relating to storm recovery efforts in order to be on guard for issues relating to contractor fraud, waste, and abuse. Findings are reported to county procurement staff. '

Inter-Department Coordination

Effective coordination between County departments and personnel enables all programs, vendors administering county programs, and departments to comply with applicable local, state and federal regulations, prevent and minimize fraud, waste and abuse, and effectively fulfill the goals set forth by the county.

The Community Development Department, in conjunction with Procurement, and Finance, perform the following tasks:

- 1) Gauge the overall progress and effectiveness of project implementation;
- 2) Identify issues that may compromise program integrity, fund, and service delivery;
- 3) Work with program and operational staff to implement corrective action and resolutions;
- 4) Oversee the implementation of the County's recapture process;
- 5) Provide information and input on how County programs and practices can be improved and enhanced to improve performance, efficiency, and curtail waste, fraud, and abuse;
- 6) Serve as a layer of oversight to mitigate any potential risks, proactively detect and investigate potential fraud, and identify areas in which to strengthen program capacity and the quality of service delivery.

The CDBG-MIT staff have established a weekly meeting to discuss and review all aspects of the program and its current status. These meetings include CDBG-MIT staff, technical service providers and include other County staff as needed. This is designed to provide as much transparency as possible and to allow County staff outside of the program to ask questions or address concerns they may have regarding the program and its management and implementation. These meetings primarily serve to provide a comprehensive status update for

all team members, coordinate program implementation, and to review and address any compliance concerns.

Labor Compliance

As a CDBG-MIT Grantee, the County is required to administer and enforce the labor standards requirements set forth in Section 570.605 of the regulations of the Housing and Community Development Act of 1974.

Davis-Bacon And Related Acts (DBRA) OVERVIEW

The Davis-Bacon and Related Acts (DBRA) apply to contractors and subcontractors performing on federally funded or assisted contracts in excess of \$2,000 for the construction, alteration, or repair (including painting and decorating) of public buildings or public works. Davis-Bacon Act and Related Act contractors and subcontractors must pay their laborers and mechanics employed under the contract no less than the locally prevailing wages and fringe benefits for corresponding work on similar projects in the area.

The Davis-Bacon Act (DBA) directs the Department of Labor to determine such locally prevailing wage rates. The Davis-Bacon Act applies to contractors and subcontractors performing work on federal or District of Columbia contracts. The Davis-Bacon Act prevailing wage provisions apply to the "Related Acts," under which federal agencies assist construction projects through grants, loans, loan guarantees, and insurance. If any portion of a contract requires DBA, then all work performed under the contract is subject to DBA.

Additionally, contractors must comply with the Contract Hours and Safety Standards Act (CWHSSA) and the Copeland Anti-Kickback Act (Copeland Act). CWHSSA requires that, for any project in which the prime contract exceeds \$100,000, workers be paid one-and-one-half times their normal hourly rate for any hours worked in excess of 40 hours weekly, based on a work week of seven (7) consecutive days.

The Copeland Act prohibits any person from inducing a worker on a federally funded project to give up any part of the compensation to which the worker is entitled. No payroll deductions are permitted that are not specifically listed in the Copeland Act unless the contractor has obtained written permission from the employee as specified in 29 CFR 3.5 for otherwise permissible payroll deductions.

The overtime provisions of the Fair Labor Standards Act may also apply to DBA-covered contracts.

DBRA requires payment of prevailing wages and the certification and submission of weekly payroll reports for each week work is performed at the site of the covered work.

Equal Employment Opportunity

Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of federally assisted construction contract must include the equal opportunity clause in accordance

with Executive Order 11246, Equal Employment Opportunity, as amended by Executive Order 11375 and implementing regulations at 41 CFR part 60, Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.

Contract Work hours and safety standards (40 U.S.C. 3701-3708)

Where applicable, all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704. Less than 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

Applicability to CDBG-MIT Projects

The Davis-Bacon Act requires the payment of prevailing wage rates (which are determined by the U.S. Department of Labor) to all laborers and mechanics on Federal government construction projects in excess of \$2,000. Specifically, for CDBG-MIT program projects, Davis-Bacon Related Acts will apply when:

- CDBG-MIT pays in whole or in part for any direct costs of construction;
AND the project meets one of the following thresholds:
 - Residential (housing): Property has 8 or more units
 - Non-residential: Any construction work valued at more than \$2,000

Construction includes alteration and/or repair, including painting and decorating, of public buildings or public works Davis Bacon does not apply to the residential buyout program Work done by a local government's employees (force account) is not subject to DBA.

Labor Standards Enforcement

The County is responsible for enforcement of the DBRA requirements, including on-site interview of workers, review of contractor's payrolls, and conducting a pre-construction conference. In order to meet these requirements, the County will have construction monitors that are responsible for end-to-end management of the process to include the following:

- Developing pre-bidding requirements and contractual templates to meet all CDBG-MIT Construction and Labor Standards (which include Davis Bacon Wage Rates). All bid specifications include all applicable Federal and State wage rate determinations and the

required labor standards provisions.

- Conducting pre-bid conferences with potential contractors to review Davis Bacon wage rates, payroll and reporting requirements. The pre-bid conference will also outline all job site posters related to labor standards, safety, and applicable wage rates in English and Spanish. The “Contractor Guide to Davis Bacon Wage Requirements and Certified Payroll Reports” will also be provided to potential bidders.
- Verifying contractor eligibility.
- Executing construction contracts.
- Conducting pre-construction conferences and notification of construction start.
- Monitoring compliance, including conducting construction site visits, worker interviews (at least once during the construction process), weekly payroll review, including the collection and prompt examination of weekly certified contractor payrolls, and implementing corrective actions.
- Coordinating the retention of certified payrolls for three (3) years by the County or other Funded Entity following completion of the project. Payrolls may then may be destroyed unless an investigation, disputed compliance action, or appeal remains outstanding.
- Section 3 outreach and reporting.
- Review of all Contractor requests for payment and draw request preparation.
- Ensuring restitution of laborers not properly compensated on a project, if applicable.

[Fair Labor Standards Provisions](#)

Fair Labor Standards Provisions are outlined in detail in the excerpt below.

Applicability

The Project or Program to which the construction work covered by this contract pertains is being assisted by the United States of America and the following Federal Labor Standards Provisions are included in this Contract pursuant to the provisions applicable to such Federal assistance.

A. 1. (I) **Minimum Wages.** All laborers and mechanics employed or working upon the site of the work, will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR Part 3), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics. Contributions made or costs reasonably anticipated for bona fide fringe benefits under Section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of 29 CFR 5.5(a)(1)(iv); also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs, which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period.

Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under 29 CFR 5.5(a)(1)(II) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible, place where it can be easily seen by the workers.

(II) (a) Any class of laborers or mechanics which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. HUD shall approve an additional classification and wage rate and fringe benefits therefor only when the following criteria have been met:

(1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(2) The classification is utilized in the area by the construction industry; and

(3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(b) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and HUD or its designee agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by HUD or its designee to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, D.C. 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary. (Approved by the Office of Management and Budget under OMB control number 1215-0140.)

(c) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and HUD or its designee do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), HUD or its designee shall refer the questions, including the views of all interested parties and the recommendation of HUD or its designee, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary. (Approved by the Office of Management and Budget under OMB Control Number 1215-0140.)

(d) The wage rate (including fringe benefits where appropriate) determined pursuant to subparagraphs (1)(II)(b) or (c) of this paragraph, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(III) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(IV) If the contractor does not make payments to a trustee or other third person, the contractor may consider as part

of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program. (Approved by the Office of Management and Budget under OMB Control Number 1215-0140.)

2. Withholding. HUD or its designee shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other Federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee or helper, employed or working on the site of the work, all or part of the wages required by the contract, HUD or its designee may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased. HUD or its designee may, after written notice to the contractor, disburse such amounts withheld for and on account of the contractor or subcontractor to the respective employees to whom they are due. The Comptroller General shall make such disbursements in the case of direct Davis-Bacon Act contracts.

3. (i) Payrolls and basic records. Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in Section 1(b)(2)(B) of the Davis-bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5 (a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in Section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been

communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs. (Approved by the Office of Management and Budget under OMB Control Numbers 1215-0140 and 1215-0017.)

(ii) (a) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to HUD or its designee if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the payrolls to the applicant sponsor, or owner, as the case may be, for transmission to HUD or its designee. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i) except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <http://www.dol.gov/esa/whd/forms/wh347instr.htm> or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to HUD or its designee if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the payrolls to the applicant sponsor, or owner, as the case may be, for transmission to HUD or its designee, the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this subparagraph for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to HUD or its designee. (Approved by the Office of Management and Budget under OMB Control Number 1215-0149.)

(b) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(1) That the payroll for the payroll period contains the information required to be provided under 29 CFR 5.5 (a)(3)(ii), the appropriate information is being maintained under 29 CFR 5.5(a)(3)(i), and that such information is correct and complete;

(2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in 29 CFR Part 3;

(3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(c) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by subparagraph A.3.(ii)(b).

(d) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under Section 1001 of Title 18 and Section 231 of Title 31 of the United States Code.

(iii) The contractor or subcontractor shall make the records required under subparagraph A.3.(i) available for inspection, copying, or transcription by authorized representatives of HUD or its designee or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, HUD or its designee may, after written notice to the contractor, sponsor, applicant or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

4. Apprentices and Trainees.

(i) **Apprentices.** Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who

is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) **Trainees.** Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by

the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(iii) **Equal employment opportunity.** The utilization of apprentices, trainees and journeymen under 29 CFR Part 5 shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR Part 30.

5. Compliance with Copeland Act requirements. The contractor shall comply with the requirements of 29 CFR Part 3 which are incorporated by reference in this contract

6. Subcontracts. The contractor or subcontractor will insert in any subcontracts the clauses contained in subparagraphs 1 through 11 in this paragraph A and such other clauses as HUD or its designee may by appropriate instructions require, and a copy of the applicable prevailing wage decision, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in this paragraph.

7. Contract termination; debarment. A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

8. Compliance with Davis-Bacon and Related Act Requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR Parts 1, 3, and 5 are herein incorporated by reference in this contract

9. Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR Parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and HUD or its designee, the U.S. Department of Labor, or the employees or their representatives.

10. (i) Certification of Eligibility. By entering into this contract the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of Section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1) or to be

awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.

(ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of Section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1) or to be awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.

(iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001. Additionally, U.S. Criminal Code, Section 1 01 0, Title 18, U.S.C., "Federal Housing Administration transactions", provides in part: "Whoever, for the purpose of . . . influencing in any way the action of such Administration..... makes, utters or publishes any statement knowing the same to be false..... shall be fined not more than \$5,000 or imprisoned not more than two years, or both."

11. Complaints, Proceedings, or Testimony by Employees. No laborer or mechanic to whom the wage, salary, or other labor standards provisions of this Contract are applicable shall be discharged or in any other manner discriminated against by the Contractor or any subcontractor because such employee has filed any complaint or instituted or caused to be instituted any proceeding or has testified or is about to testify in any proceeding under or relating to the labor standards applicable under this Contract to his employer.

B. Contract Work Hours and Safety Standards Act. The provisions of this paragraph B are applicable where the amount of the prime contract exceeds \$100,000. As used in this paragraph, the terms "laborers" and "mechanics" include watchmen and guards.

(1) Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which the individual is employed on such work to work in excess of 40 hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of 40 hours in such workweek.

(2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in subparagraph (1) of this paragraph, the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in subparagraph (1) of this paragraph, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of 40 hours without payment of the overtime wages required by the clause set forth in subparagraph (1) of this paragraph.

(3) Withholding for unpaid wages and liquidated damages. HUD or its designee shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contract, or any other Federally-assisted contract subject to the Contract Work Hours and Safety Standards Act which is held by the same prime contractor such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in subparagraph (2) of this paragraph.

(4) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in subparagraph (1) through (4) of this paragraph and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in subparagraphs (1) through (4) of this paragraph.

C. Health and Safety. The provisions of this paragraph C are applicable where the amount of the prime contract exceeds \$100,000.

(1) No laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his health and safety as determined under construction safety and health standards promulgated by the Secretary of Labor by regulation.

(2) The Contractor shall comply with all regulations issued by the Secretary of Labor pursuant to Title 29 Part 1926 and failure to comply may result in imposition of sanctions pursuant to the Contract Work Hours and Safety Standards Act, (Public Law 91-54, 83 Stat 96). 40 USC 3701 et seq.

(3) The contractor shall include the provisions of this paragraph in every subcontract so that such provisions will be binding on each subcontractor. The contractor shall take such action with respect to any subcontractor as the Secretary of Housing and Urban Development or the Secretary of Labor shall direct as a means of enforcing such provisions.

Construction Categories

As required by DBA, the County categorizes construction work as residential, building, heavy or highway work. Wage decisions are based on the category (or categories) of work to be performed. Each construction contract to which DBA applies contains the wage decision(s) for the appropriate category (or categories) of work. A separate wage decision for a category is not required if the value of work (as bid) in that category does not exceed 20 percent of the total “as bid” construction cost. The actual bid cost, not the estimated project cost, determines whether a separate wage decision is used. If more than one wage decision is used, payrolls must reflect which wage decision is applicable unless all workers are paid at least the highest hourly rate possible under either wage decision.

Monitoring Construction Activities and Labor Standards

During project construction, the County monitors compliance with DBA, CWHSSA and the Copeland Act by reviewing contractor and subcontractor payrolls. DBA applies to laborers and mechanics working on any project when the primary contract exceeds \$2,000. It does not apply to supervisory staff if 80 percent of their time during the work week is spent performing supervisory duties. Supervisory personnel who fall below the 80 percent threshold are subject to DBA for non-supervisory hours worked during that particular work week.

“Self-employed owners” are not exempt from DBA and must submit a payroll report reflecting the hours worked on the project, the type of work performed and that they are the owner of their business. Hourly rates need not be reported if this information is not known, but the amount of the subcontract should be indicated.

Supply contracts are not subject to DBA. A supply contract is one that furnishes equipment, materials or supplies, with no (or only “incidental”) construction activities performed at the project site. Construction is “incidental” if it does not exceed 13 percent of the contract or subcontract price. The County collects documentation to support this percentage.

During project construction, the County conducts interviews with the contractors’ and subcontractors’ workers to verify the accuracy of payroll information. Interviews cover a representative sample of each classification used by the contractor/subcontractor. On-site interviews are conducted whenever possible, but mail interviews may be used if on-site interviews cannot be performed. Discrepancies between information gained in the interviews and payroll data are resolved in a timely manner. Additionally, interviews and resolution of discrepancies are conducted in such a manner as to shield the identity of the worker(s).

Any corrective actions by a contractor must be documented in the project files. For back wages over \$10, there must be a copy of the front of the wage restitution check and a signed acknowledgment from the worker stating the amount of the check and that it was received. If there are overtime violations, the County assesses the contractor liquidated damages of \$10 per day/per worker for those who should have received overtime. Restitution is also required. The contractor may request waiver of liquidated damages through the County.

The County will monitor labor compliance for the following items:

- Ensuring payroll information is being submitted and reviewed in a timely manner.
- Ensuring all labor classifications are included in the wage decision or have been confirmed and/or added with County approval.
- Ensuring trainee and apprentice labor classifications are applied in accordance with regulations for those titles.
- Ensuring signed authorizations are on file for any employees with “other” payroll deductions.
- Ensuring interviews have been conducted with the prime contractor’s and any subcontractor’s employees. HUD Form 11 can be used for interviews.
- In the case of multiple wage decisions, investigating payrolls to ensure that they distinguish which was applied to each worker.
- Posting the wage-rate decision in a conspicuous location at the project site and posting a copy of “Notice to All Employees Working on Federal or Federally Financed Construction Projects” (a copy of this poster and other required posters are available at <http://www.dol.gov/whd/regs/compliance/posters/fedprojc.pdf>).

The Wage Request Process

This process may begin before or after the environmental review of the project.

- Program staff gets the wage decision(s) from the U.S. Department of Labor website.
- Program staff prepares and signs the letter to the chief elected official informing the subrecipient of the wage decision(s).
- Program staff routes the wage decision letter to supervisory staff for their review and approval.
- After approval of the letter, program staff provide a copy for the grant file and mails the original letter to the subrecipient.
- The program staff enters a comment in the SERA system acknowledging the approval of the wage decision and includes the date the letter was mailed.
- If the wage decision changes, the program staff sends a letter to the subrecipient notifying the subrecipient of the change in the wage decision.
- The subrecipient must notify all potential bidders of a wage determination that occurs 10 days prior to bid opening. If a contract has been awarded but construction has not been initiated within 90 days of the award, the contractor must be notified and adhere to the modified wage decision.

Labor Standards Enforcement File

The County maintains a "Labor Standards Enforcement" file for each construction project subject to labor standards provisions. All documentation is available for HUD review. Documentation includes requests for wage decisions, bid documents containing applicable wage decisions and labor standards provisions, verification of contractor eligibility, executed construction contracts containing applicable wage and labor standards provisions, pre-construction conference minutes, notification of start of construction, weekly payrolls, apprentice registration records, on site employee interviews and copies of correspondence, memoranda and forms relating to the administration and enforcement of labor standards provisions.

Attachment #1 - County Procurement Policy