2025 Community Development Block Grant Disaster Recovery Program

Multi-Family New Construction Program

Version 1.0

July 2026

Record of Changes

Number	Date	Description
1.0	July 2026	Original

Contents

DEFINITIONS

Affordable Rents: Rents that are at or below Fair Market Rents (FMRs) published by the U.S. Department of Housing and Urban Development (HUD) for different metropolitan areas. HUD publishes the FMRs annually on their website and can be found at https://www.huduser.gov/portal/datasets/fmr.html.

Affordable Units: A "dwelling" that is rented at an Affordable Rent to a household that earns no more than 80 percent of Area Median Income adjusted for household size as calculated by the U.S. Department of Housing and Urban Development (HUD).

Applicant: Any eligible property developer that applies for funds pursuant to applicant eligibility section.

Area Median Income (AMI): The median family income for specific geographic areas, adjusted for household size, as calculated by HUD for the CDBG program.

Arkansas Development Finance Authority (ADFA): The responsible entity for administering CDBG-DR funding allocated to the State of Arkansas**.**

CDBG-DR Multi-Family New Construction Program Agreement: The contractual arrangement between ADFA and the Developer which sets forth the terms and conditions by which CDBG-DR funds are utilized.

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

Community Development Block Grant-Disaster Recovery (CDBG-DR) Funds: Funds that are appropriated by Congress and allocated by HUD to rebuild disaster-impacted areas and provide crucial investments to start the long-term recovery process of disaster areas.

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

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

Declaration of Restrictive Covenants: The legal document that sets forth affordability restrictions on rent and occupancy for a specific approved Project. It shall be recorded against the fee simple interest in the property (as well as against the leasehold title to the property, if applicant is a lessee) for the applicable affordability period as required in the CDBG-DR Multi-Family New Construction Program Agreement.

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

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

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

Duplication of Benefits (DOB): Financial assistance received from another source that is provided for the same purpose as the CDBG-DR funds as provided by the Stafford Act (42 U.S.C. 5121-5207.

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

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

Fair Market Rent (FMR): HUD-established estimates of gross rent, taking into account both rent and the cost of necessary utilities, updated annually by HUD.

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

Household: One or more persons occupying a housing unit.

Low- to Moderate-Income (LMI): Low- to moderate-income people are those having incomes not more than the “moderate-income” level (80% Area Median Family Income) set by the federal government for the HUD-assisted Housing Programs. HUD updates the qualifying income amounts change from year to year based on Census Bureau data, and varies by household size, county, and the metropolitan statistical area.

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

Most Impacted and Distressed (MID): An area that meets the definition of Most Impacted and Distressed set by HUD in the Federal Register Notice. For purposes of the unmet needs’ allocation, HUD has defined Most Impacted and Distressed as an area (county or zip code) that meets the following criteria: locations identified as experiencing the most severe damage from a disaster, where CDBG-DR funds must be prioritized for recovery and mitigation activities.

Multi-Family New Construction Program (MNCP)- An acronym used for the Arkansas CDBG-DR Multi-Family New Construction Program.

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

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

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

Program Income (PI): Program Income means gross income above $35,000 that is directly generated from a CDBG-funded activity. Program Income is subject to the CDBG rules in perpetuity unless it is received after grant closeout remains subject to CDBG-DR requirements unless transferred to the annual CDBG program as provided in section III.B12.e of the Universal Notice .

Project: A multi-family housing development with 8 or more total units.

Recipient: A non-federal entity that receives financial assistance from the CDBG-DR Program.

Responsible Entity (RE): Under the ERR requirements at 24 C.F.R. Part 58, the term "Responsible Entity" (RE) means the agency receiving CDBG assistance. The Responsible Entity must complete the environmental review process. The RE is responsible for ensuring compliance with NEPA and the Federal laws and authorities, for issuing the public notification, for submitting the request for release of funds and certification, when required, and for ensuring the Environmental Review Record (ERR) is complete.

Section 3: Under the U.S. Department of Housing and Urban Development (HUD) regulations, the primary goal of Section 3 of the Housing Act of 1968 (codified at 24 CFR Part 75), is to ensure that employment, training, and contracting opportunities generated by certain HUD financial assistance are directed to low- and very low-income persons, particularly those who are recipients of government assistance for housing, and to businesses that provide economic opportunities to these individuals.

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

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

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

Program Overview

Community Development Block Grant-Disaster Recovery (CDBG-DR) funding is designed to address needs that remain after all other assistance has been exhausted. This plan details how funds will be used to address remaining unmet needs in Arkansas with a focus on the HUD-designated most impacted and distressed (MID) counties of Benton, Cross, and Pulaski. To meet disaster recovery needs, the appropriations act(s) making CDBG-DR funds available have imposed additional requirements and authorized HUD to modify the rules that apply to the annual CDBG program to enhance flexibility and facilitate a quicker recovery. HUD has allocated $59,048,000 in CDBG-DR funds to Arkansas through the Arkansas Development Finance Authority (ADFA) in response to the 2023 severe storms and tornadoes (DR-4698) and 2024 severe storms, straight-line winds, tornadoes, and flooding (DR-4788) through the Allocation Announcement Notice (90 FR 4759) published on January 16, 2025 and following the guidance established in the Universal Notice (90 FR 1754) updated March 19, 2025 via memorandum. This allocation was authorized through the Disaster Relief Supplemental Appropriations Act, 2025.

The Multi-Family New Construction Program is designed to support the development of new multi-family rental housing on vacant lots within existing neighborhoods or in newly planned residential areas. These units will be designated for rental purposes only.

In compliance with CDBG-DR requirements, all rental units funded through this program must remain affordable for a minimum of 20 years. At least 51% of the units in each project must be rented to low- to moderate-income (LMI) households at affordable rental rates.

MEETING A NATIONAL OBJECTIVE

In accordance with 24 C.F.R. 570.208 and section III.D.1 of the Universal Notice, all CDBG-DR funded activities must satisfy a national objective. All housing projects may meet the low- to moderate-income housing (LMH) national objective, which requires that 51% of units are designated as LMI. Housing projects may also meet an Urgent Need national objective and for the Safe Housing Incentive activity, when used to assist an LMI household meets the LMHI national objective per III.D.5.i.(i) of the Notice. Proposed projects that do not have more that 51% of units as LMI may only be funded for the proportional amount of assisted units; however, pursuant to 24 C.F.R. 570.483(b)(3), if the project is a rehabilitation project or a senior new construction project, the project must include at least 51% of units as LMI-occupied, or a waiver must be requested. All waiver requests must document legal and justifiable good cause. While proposed Projects may be mixed-income units, CDBG-DR funds are limited to the affordable units for occupation by low- to moderate-income households.

PROGRAM REQUIREMENTS

General

The program will provide funds for new construction of affordable multi-family housing of five or more units in areas affected by the 2023 and 2024 disasters. ADFA will establish an application submission and acceptance period, award threshold criteria, and award process. Additionally, Owners shall maintain insurance coverage required by applicable federal law, the Grant Agreement, any financing documents, and state or local law. At a minimum, recipients shall comply with 2 CFR § 200.310 by maintaining insurance coverage for federally assisted real property and equipment equivalent to the coverage maintained for comparable property owned by the recipient.

Owners shall maintain insurance coverage required by applicable federal law, the Grant Agreement, any financing documents, and state or local law. At a minimum, recipients shall comply with 2 CFR § 200.310 by maintaining insurance coverage for federally assisted real property and equipment equivalent to the coverage maintained for comparable property owned by the recipient.

Eligible Areas

CDBG-DR funding will be provided to the HUD-identified MID areas: Benton County, Cross County, and Pulaski County (excluding the City of Little Rock).

Funding Limits

ADFA has set per unit subsidy limits for CDBG-DR as follows: 0 BR- $159,500, 1 BR- $181,500, 2 BR- $198,000, 3 BR- $220,000, and 4 BR- $247,500. Funds will only be used to reimburse approved Eligible Costs (see below). The award of funds is also contingent upon the development securing other funds necessary to complete the Project. CDBG-DR funds will only be allowed for hard construction costs. The award will be provided in the form of a forgivable mortgage and subject to recapture if the terms of the affability period are violated.

Bedroom Size	Maximum Per Unit Subsidy
0-Bedroom	$159,500
1-Bedroom	$181,500
2-Bedroom	$198,000
3-Bedroom	$220,000
4-Bedroom	$247,500

Mitigation Limits

In addition to the per unit subsidy, applicants may also be eligible for up to $20,000 per unit for the implementation of mitigation measures to help projects withstand damage against the impact of future disasters.

Project Costs

In addition to the funding limits described above, ADFA will also limit the project's Developer Fee to a maximum of 10% of the development budget. General Requirements cannot exceed 7%, Contractor's Proft cannot exceed 10%, and Contractor's Overhead cannot exceed 4% of the development's constructions hard costs plus general requirements.

Eligible Costs

Eligible costs will only consist of hard construction costs necessary for project construction completion. Soft costs are not eligible. Soft costs are indirect expenses not directly tied to the physical building process, but required to plan, finance, and legally complete a project. These costs include, but are not limited to, architectural and engineering fees, appraisal, market study, and environmental report. ADFA will reserve the right to question the applicability and eligibility of all costs. ADFA also will ensure that construction costs are reasonable and consistent with market costs for the area where the multi-family construction will take place.

Eligible Applicants

Developers and owners of affordable rental housing, including for-profit developers, non-profit developers, public housing authorities, and ADFA-designated community housing development organizations (CHDOs), are eligible to apply for CDBG-DR funding.

Eligible Activities

Pursuant to section III.D.5.a of the Universal Notice, funds can be used for the construction of new housing, provided that it meets a national objective.

Project Eligibility

Eligibility of multi-family housing project proposals will be assessed by ADFA. To be considered for funding, the proposed development must meet the following threshold criteria:

- Meet a national objective, as defined above; –.
- Include an eligible activity, as defined above;
- Be located in a HUD-identified Most Impacted and Distressed area, as defined above; Demonstrate a tie-back to either DR 4698 or DR 4788;
- Include Minimum Affordability Requirements;
- Meet Definition of Affordable Rents;
- Meet Minimum Quality Standards; and
- Meet Minimum Accessibility Standards.

Eligible Tenants

All housing units must first be marketed to residents impacted by the DR 4698 or DR 4788 before being made available to other eligible members of the public. Developers shall provide marketing material that can contains approximately the same language: “Those who were impacted by the 2023 severe storms and tornadoes and 2024 severe storms, straight-line winds, tornadoes, and flooding will receive the first opportunity for qualified tenancy.”

A portion of the units (51%) will be reserved for households that meet the criteria for low- to moderate-income (LMI) status, as defined by HUD. LMI Households have a maximum income capped at 80% AMI. Up to 49% of the units can be occupied by households above 80% LMI.

Timeline

ADFA has developed projections based on each quarter’s expected performance. ADFA will compare awarded project expenditures, through submission of monthly draw requests, against these projections to help determine the overall progress of the projects in the program.

Exception Policy

ADFA will consider exceptions to the program guidelines, including the maximum award amount, on a case-by-case basis. All exceptions must be submitted in writing with the application and include a justification. Exceptions should enhance the benefit to LMI households or areas. Exceptions cannot violate federal, state, or local laws or regulations. Exceptions must still meet HUD’s requirements for necessary and reasonable costs, comply with federal accessibility standards, and accommodate a person with disabilities, if applicable. A written response will be authorized in writing to the applicant upon approval or denial of the application requesting an exception.

Rapid Unsheltered Survivor Housing (RUSH) Program

ADFA did not receive funding under HUD's RUSH Program, therefore alignment of program funds with any funds received is not applicable.

DUPLICATION OF BENEFITS (DOB)

Applicants must report all assistance they have been awarded or available to construct or reconstruct multi-family properties from third-party sources such as flood and homeowner's insurance, Increased Cost of Compliance (ICC), Federal Emergency Management (FEMA) assistance, loans from the Small Business Administration (SBA), and any assistance from other government or private non-profit sources. For additional information on the policy and procedures regarding the duplication of benefits under the Program, please refer to the Procedures for Prevention of Duplication of Benefits on ADFA's website. Any funds received from these sources must be considered when the amount of the award is determined. Funds received from these sources for other purposes such as temporary housing and replacement of household contents are not considered a DOB. Funds used for a different but eligible purpose may be excluded from the final award calculation. In some instances, funds provided for the same general purpose as the CDBG-DR funds will have been used by the applicant for different specific eligible purposes. In these circumstances, if the applicant can document that the funds received were used for a different, eligible purpose, then the funds are not duplicative. If funds are determined to have been expended after time of application, funding will still be required to satisfy owner's DOB sources for the Program. The framework for DOB analysis can be found in the Procedures for Prevention of Duplication of Benefits on ADFA's website.

PROGRAM INCOME

Program Income is listed in the Universal Notice as gross income (in excess of $35,000 in a year) received by a state, a unit of general local government, or a Subrecipient of a unit of general local government that was generated from the use of CDBG-DR funds in a single calendar year (with a few exceptions). When the income is generated by an activity that is partially assisted with CDBG-DR funds, the income will be prorated to reflect the percentage of CDBG-DR funds used.

ADFA does not anticipate Program Income to be generated by this program.

PROPERTY TYPES AND STANDARDS

ADFA will use CDBG-DR funds for specific types of properties that meet certain property standards. This section details the types of properties that are eligible and the property standards to which they must be built. All ADFA CDBG-DR funded rental properties must meet Universal Design Standards. Owners must maintain the property in accordance with property standards throughout the affordability period. This will require periodic property inspections, as described in the section below on inspections.

Eligible Property Types

- CDBG-DR rental projects with five or more units may be one or more buildings on a single site under common ownership, management and financing. They shall be intended for family or senior housing.
- The project must be assisted with CDBG-DR funds as a single undertaking.
- The project includes all activities associated with the site or building(s).
- CDBG-DR funds may be used to assist mixed-income projects, but only persons who are at or below 80% AMI may occupy CDBG-DR assisted units.
- CDBG-DR funds may be used in a project that also contains public housing units, provided that CDBG-DR funds are not used in the public housing units and the CDBG-DR units are separately designated.

Ineligible Property Types

- CDBG-DR funds may not be used for development, operations, or modernization of public housing financed under the 1937 Act (Public Housing Capital and Operating Funds).
- Emergency shelters with limited occupancy requirements.
- All types of student housing.
- Projects where developers/contractors do not have a valid Arkansas contractor's license.
- Any project that does not demonstrate a specific tie-back to DR 4698 or DR 4788.

Construction Standards

Their purpose is to ensure that existing housing is not occupied unless it is decent, safe, and sanitary. The properties must meet the property standards established in 24 C.F.R. 5.703 (Uniform Physical Condition Standards).

Housing Codes/Standards

- Housing must meet the accessibility requirements of 24 C.F.R. part 8, which implements Section

504 of the Rehabilitation Act of 1973, Americans with Disabilities Act implemented at 28 C.F.R. parts 35 and 36, as applicable, and the Fair Housing Act as implemented at 24 C.F.R. 100.205.

- Housing must be constructed to mitigate the impact of potential disasters in accordance with State, local codes, ordinances, or other requirements as HUD may establish (where applicable).
- ADFA's Design Standards Manual for New Construction and Rehabilitation must be used in designing multi-family developments.

Building Codes

- Arkansas building codes are mandatory statewide, but local jurisdictions may amend the codes to make them more stringent. ADFA requires that Recipients, owners, sponsors, and developers comply with the building codes adopted in their jurisdiction.
- In the absence of an applicable State or local code, projects must meet the International Code Council's (ICC's) International Residential Code or International Building Code.
- Several related codes, such as the fire code and plumbing code, are incorporated into the Arkansas building codes.
- Most work governed by building codes requires that licensed contractors obtain permits prior to starting the work.

International Energy Conservation Code

All new construction work must also conform to the International Energy Conservation Code (IECC) and applicable state or local energy conservation codes. Additionally, ADFA requires that all new building construction complies with the Arkansas Energy Code. ADFA CDBG-DR program Recipients must document compliance using the Certificate of Compliance for the Current Arkansas Energy Code.

Universal Design Standards

All CDBG-DR assisted rental projects must include the following design criteria in accordance with Arkansas Usability Standards in Housing: Guidance Manual for Constructing Inclusive, Functional Dwellings (AUSH).

- Seven percent (7%) of all residential units within the project must comply with the Level 5, "All-Inclusive" usability criteria as set forth in the AUSH.
- Each unit that is required to meet the Level 5, "All-Inclusive" usability criteria set forth in the AUSH must have at least one bathroom with an "accessible roll-in" or transfer shower facility with minimum dimensions of 60"x34" or 42"x42" if a corner shower facility.
- All ground level residential units in any building and all residential units with elevator access in any building in the project must comply with Level 1, "Visitable" usability criteria as set forth in the AUSH.
- All exterior and interior doors intended for passage must provide for a minimum clear opening of

34".

- All residential units in the project will have "closed fist" operability throughout the unit, e.g., single handle door levers vs. doorknobs; push stick lighting and environmental controls; cabinet doors can be opened with a closed fist; single handle faucets in bathrooms and kitchen.
- All environmental controls must provide visual and tactile cues. For lighting, a "rocker" type switch is sufficient. For thermostats, programmable and digital control with raised buttons is required.
- All primary entries, not in a breezeway, must have a minimum roof covering of 5'x5'.
- All primary entries must have an entry pad measuring at least 5'x5'.
- All sidewalks must be at least 5' wide.

Multi-Family Housing Minimum Design Standards. Construction of the development must be in accordance with ADFA's Design Standards Manual for New Construction and Rehabilitation, as well as all applicable local, state, and national building codes.

- A certification from the design architect or licensed engineer must be submitted with the application confirming that the proposed development will be constructed in:
  - Compliance with ADFA's Design Standards Manual for New Construction and Rehabilitation;
  - Compliance with all Federal and State accessibility laws; and
  - Compliance with all applicable local, State, and national building codes.

Section 504 and Fair Housing

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

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

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

Multi-Family dwellings must also meet the design and construction requirements at 24 C.F.R. 100.205, which implement the Fair Housing Act (42 U.S.C. 3601-19).

Greater Choice of Housing Opportunities

The Recipient's project must comply with Title VI of the Civil Rights Act of 1964, the Fair Housing Act, Section 504, Executive Order 11063 and HUD regulations issued pursuant thereto to promote greater choice of housing opportunities.

Broadband Infrastructure

Per 24 CFR 570.202(g) and section III.D.5.b of the Universal Notice any Substantial Rehabilitation or new construction of a building with more than five (5) rental units must include installation of broadband infrastructure, except where the Applicant documents that: 1) The location of the new construction or Substantial Rehabilitation makes installation of broadband infrastructure infeasible, 2) The cost of installing broadband infrastructure would result in a fundamental alteration in the nature of its program or activity or in an undue financial burden, or 3) The structure of the housing to be substantially rehabilitated makes installation of broadband infrastructure infeasible.

Mitigation Measures

The objective of this program is to provide safe, sanitary, and durable housing that is specifically designed to withstand future disasters. The program will incentivize new construction efforts that incorporate construction strategies that address hazards found in the mitigation needs assessment in the Acton Plan. Resilience and mitigation strategies that can be incorporated may include, but are not limited to:

• Installation of reinforced roofing systems and impact-resistant shingles
• Use of wind-rated windows and doors to resist high-pressure gusts
• Implementation of anchoring and strapping systems to secure structural components
• Enhancement of framing systems to resist uplift and lateral wind forces
• Application of mold-resistant and water-resistant materials

Funds allocated through the Mitigation Set-Aside will be used for projects that address the mitigation needs identified in the MID areas. The use of these funds will allow mitigation measures and strategies to be integrated into the project construction. These strategies are intended to strengthen residential structures and reduce risks associated with hazards affecting Arkansas. ADFA will track the resilience performance measures in DRGR.

Construction Warranty

All housing units will have a minimum post-construction warranty period for all work of one (1) year, unless other project-related activities require a longer period. Warranties should include contact information and industry standard remedies. A formal notification must be sent to tenants three (3) months prior to the end of the warranty period.

Contractor Workmanship Remedies

ADFA will provide a flyer to each CDBG-DR beneficiary to raise awareness of the possibility of fraudulent activity and how it can be avoided. The flyer will have the contact information for state agencies that can assist with suspected fraud. ADFA will also email the flyer to local jurisdictions for posting in its office and website.

If a CDBG-DR beneficiary reports experiencing contractor fraud or other fraudulent activity, ADFA will take the following steps to assist the beneficiary:

1. Immediate Response and Documentation: Upon receiving a report of suspected fraud, ADFA will promptly document the complaint and provide the beneficiary with guidance on reporting the incident to appropriate authorities, including the HUD Office of Inspector General and relevant state agencies.

2. Assessment of Impact and Unmet Need: ADFA will work with the beneficiary to assess the impact of the fraudulent activity, including determining whether the incident has resulted in additional unmet need related to the disaster recovery project.

3. Eligibility Review for Additional Assistance: If the assessment identifies new or increased unmet need resulting from the fraud, ADFA will review the beneficiary's eligibility for supplemental CDBG-DR assistance in accordance with program guidelines and applicable federal regulations.

4. Provision of Additional Assistance: If the beneficiary is determined eligible, ADFA will provide additional CDBG-DR assistance to address the unmet need, following established procedures for documentation, approval, and disbursement of funds.

5. Ongoing Support and Monitoring: ADFA will continue to support the beneficiary throughout the resolution process, including providing technical assistance, monitoring progress, and ensuring compliance with all program requirements.

6. Referral and Coordination: ADFA will coordinate with local jurisdictions, legal aid, and other support agencies as needed to ensure the beneficiary receives comprehensive assistance and protection of their investment.

AFFORDABILITY

In return for providing CDBG-DR funds for a project, ADFA requires that the CDBG-DR assisted units remain affordable to low- and moderate-income eligible applicants for a specified period of time called the affordability period. This section discusses the following:

- Basis and length of the affordability periods
- Units that are subject to the affordability period requirements

- Rent and occupancy requirements
- Monitoring and inspection schedules

At a minimum, the following thresholds must be adhered to in all programs:

- ADFA will confirm affordable rents in multi-family projects by calculating the Fair Market Rents (FMR) along with the maximum of 30 percent of an LMI household's income.

- All projects will meet the LMI housing national objective. Therefore, any project funded under the MNCP must designate 51 percent of the project's units to be available for lease to tenants with an income of up to 80 percent of the area median income based on regulatory and program requirements. While proposed projects may be mixed-income units, CDBG-DR funds will only be applied to the affordable units for occupation by low- to moderate-income households. This distinction is important for compliance during the affordability period.

- The number of CDBG-DR assisted units in a project must be specified at project commitment.

- Additionally, for properties with both assisted and non-assisted units, the CDBG-DR assisted units shall be "floating" units. "Floating" units may change over time as long as the total number of CDBG-DR assisted units in the project remains constant. The owner must ensure that the CDBG-DR assisted units remain comparable to the non-assisted units over the affordability period in terms of size, features and number of bedrooms.

Developments must maintain an affordability period of no less than 20 years for the new construction of multi-family rental units with five or more units. If a rental project is subject to an affordability requirement associated with other funding sources, ADFA will allow that the affordability period required by the CDBG-DR funding to run concurrently (or overlap) with the affordability requirements associated with such other funding.

Rent and Occupancy Requirements

- During the affordability period, ADFA requires that rent and occupancy agreements for CDBG-DR assisted units be enforced through covenants running with the land or deed restriction recorded in accordance with state recordation laws.
- The covenants running with the land or deed restriction shall continue to be effective regardless of repayment of any CDBG-DR investment.
- While the covenants and deed restrictions shall continue to be effective against subsequent owners during the term of the affordability period, the covenants and deed restrictions may be suspended upon transfer by foreclosure or deed- in lieu of foreclosure.

Initial Occupancy

CDBG-DR assisted units in a rental housing project must be occupied by households that are eligible as low- to moderate-income families, as defined by HUD.

- If the housing units are not occupied by an eligible tenant within 6 months following the date of project completion, ADFA will require the owner to submit current marketing information and, if appropriate, submit a revised marketing plan to lease the housing units as quickly as possible.
- If the housing units are not occupied by an eligible tenant within 18 months following the date of project completion, ADFA will require the repayment of all CDBG-DR funds invested in the unit.

Rent Limits

Every CDBG-DR assisted unit is subject to rent limits designed to help make rent affordable to low- to moderate-income households. These maximum rents are referred to as "CDBG-DR Rents."

- ADFA must review and approve the rents for each CDBG-DR assisted rental project each year to ensure that they comply with the CDBG-DR limits and do not result in undue increases from the previous year.
- HUD will annually publish FMRs and calculations of rents.
- The published rents are inclusive of utilities. The rents must be reduced for any tenant paid utility. Recipients must use the HUD Utility Schedule Model or determine the allowance based upon the specific utilities used for the project to calculate utility allowances to account for tenant paid utilities. See section below on Maximum Allowable Rents and Utility Allowances.
- Based on changes in area income levels or market conditions, rents, as calculated by HUD annually, may increase or decrease.
- ADFA will use the HUD published rents to establish CDBG-DR rents and will inform CDBG-DR Recipients of the change in the rents.

Tenants must be given at least 30 days written notice before increases are implemented. Any increases are also subject to other provisions of the lease agreements. For example, rents may not increase until the tenant's lease expires.

- CDBG-DR rents may decrease. While project rent levels are not required to decrease below the CDBG-DR rent limits in effect at the time of project commitment, decreasing CDBG-DR rents may reflect a change in market conditions that may force owners to reduce rents in order to maintain tenants.

- HUD may permit adjustments to the rent structure if the financial feasibility of the project is threatened. This is important to lenders providing financing to CDBG-DR assisted projects.

Maximum Allowable CDBG-DR Rents and Utility Allowances

- The CDBG-DR rents are the maximum rent an owner may charge a tenant (including the approved utility allowance) in a CDBG-DR assisted unit. That is, the CDBG-DR rents limits are inclusive of tenant paid utilities and the maximum allowable CDBG-DR rents must be reduced if the tenant pays for utilities.
- Recipients must use the HUD Utility Schedule Model or determine the allowance based upon the specific utilities used for the project to determine utility allowances to be used to determine rents for CDBG-DR assisted rental projects.
- However, project owners may submit a proposed utility allowance to ADFA for review and approval.
- Utility adjustments proposed by owners/developers for specific projects that differ from the HUD Utility Schedule Model's utility allowance must be supported by documentation.
- In rural areas the market rents may be well below the published FMR rents. ADFA encourages owners to charge tenants in CDBG-DR assisted units a rent that is appropriate for the market.

Tenant Recertification

After the initial income certification of a tenant for occupancy, CDBG-DR regulations do not require a recertification of tenant income, be it annual or otherwise. However, if there are other funding sources for the project, the most restrictive source of funding requirements must be utilized for recertification of all CDBG-DR assisted tenants. If other funding sources do not have a recertification requirement, HOME standards will be followed.

Over-Income Tenants at Recertification

Consistent with rules for other funding programs, including the HOME Investment Partnerships Program (HOME) at 24 C.F.R. 92.252(h), if, at the time of tenant recertification, the income of a household occupying a CDBG-DR Assisted Unit exceeds the income level applicable to new tenants for Affordable Units, the Developer may not evict the tenant, and shall instead take the following specific actions to remedy the temporary noncompliance:

- Increase the tenant's rent to the lesser of:
    - 30 percent of adjusted income;
    - the HUD Fair Market Rent applicable to the unit based on unit size and location; or
    - the rent limitations of another leveraged funding source that applies to the Development; and
- If, within the Development, another unit that is not assisted with CDBG-DR funds becomes available, designate the next available comparable unit as a CDBG-DR Assisted Unit at the income level originally applicable to the household until the Unit mix required by the CDBG-DR Multi-Family New Construction Program Agreement is achieved. A Unit shall be deemed "comparable" if it has the same number of bedrooms, the same or similar features, and is similar in size to the original Unit.

Inspections

ADFA has chosen to follow HOME regulations at §92.251 for inspections during the period of affordability.

Frequency

- Inspections must take place during the construction of the Project. These include an initial inspection to determine deficiencies and develop work write-up, ongoing inspections during the work for invoices and progress, and an inspection at completion to determine if all codes and standards are met.
- The first property compliance inspection during the affordability period must occur within 12 months after the Project completion date.
- An on-site inspection will be performed at least once every 3 years thereafter during the period of affordability.
- If there are observed deficiencies for any of the inspectable items in the property standards, a follow-up on-site inspection to verify that deficiencies are corrected must occur within 12 months.
- ADFA will establish a list of non-hazardous deficiencies for which correction can be verified by third party documentation (e.g., paid invoice for work order) rather than re- inspection.
- ADFA will inspect more frequently for properties which have been found to have health and safety deficiencies.
- Life-threatening (health & safety) deficiencies must be corrected immediately if the unit is occupied.

- Annual Certification – The property owner must submit an annual certification to ADFA that each building and all CDBG-DR assisted units in the project are suitable for occupancy.

Sample Size

- For each inspection, at least 20% of the units will be inspected **OR**
- The required sample size for each program funding source will be inspected.

Record Keeping

As for all program activities, CDBG-DR requires documentation for rental projects to show that all program regulations have been met. Because of the long-term monitoring required for rental projects, however, record-keeping responsibilities are slightly more substantial. This section briefly describes the record-keeping responsibilities associated with rental housing for ADFA and Recipients.

Recipient records Recipients have the following responsibilities:

- **Records of its regular inspections of each rental project:** These records should demonstrate that ADFA or the Recipient checked for and enforced compliance with the following CDBG-DR requirements:
  - Property standards: The records should show that a sufficient sample of CDBG-DR assisted units were inspected, as well as exterior and common areas, and that any deficiencies identified were corrected.
  - Rent and occupancy requirements: Inspection records should also show that ADFA or the Recipient reviewed a sample of unit files to verify that CDBG-DR rent and occupancy requirements were met.
  - Affirmative Marketing. In its review of project files, ADFA or the Recipient should ensure the owner has adopted written tenant selection policies.
  - Other items in the written agreement: If the written agreement between ADFA or the Recipient and the property owner contained any other provisions that require monitoring, ADFA or the Recipient's records should reflect that they were monitored.
- **Other project oversight responsibilities:** The Recipient should also conduct additional oversight of rental projects by analyzing the projects for financial stability, management capacity and other long-term viability issues. This type of oversight will help to identify financial or management

issues before they affect the project's ability to remain a viable component of ADFA or the Recipient's affordable housing stock. During the period of affordability, ADFA will examine at least annually the financial condition of CDBG-DR assisted rental projects to determine the continued financial viability of the housing and take actions to correct problems, to the extent feasible.

- **Property owner records.** Owner must keep adequate records and demonstrate compliance with CDBG-DR requirements. The owner should keep both project and tenant records.
- Project records should include documentation to back-up rent and utility allowance calculations. If the project's CDBG-DR assisted units are "floating," the owner should also keep records to show how CDBG-DR occupancy targets were met (for example, rental logs to show that as units were vacated or tenants became over-income, CDBG-DR assisted units were properly replaced).
- Tenant files should include the documentation necessary to demonstrate that each CDBG-DR assisted unit is properly occupied by an income-eligible tenant. Such documentation includes: the tenant's application, initial income verification documents, subsequent income recertification documents, and the tenant's lease.
- General rental housing records must be kept for a minimum of three (3) years after project completion.
- Tenant income, rent, and inspection information must be kept for the most recent three (3) years, until a minimum of three (3) years after the affordability period.

Minimizing Land Acquisition/Relocation

All projects in the Program shall be designed to minimize displacement of persons or entities, and assist any persons or entities displaced, and ensure accessibility needs of displaced persons with disabilities. If acquisition and/or relocation are required as pursuant to 24 C.F.R. part 570.606 (b), ADFA and the Developer shall make every effort to minimize displacement of families according to the state's Residential Anti-displacement and Relocation Assistance Plan. Additionally, compliance with Federal Acquisition and Relocation laws will be required. Projects should be designed with the established community in mind to lessen the displacement of families.

Developers must comply with all applicable federal, state, and local relocation laws. Pursuant to relocation law, a Developer must have a relocation plan prior to proceeding with any phase of a project or other activity that will result in the displacement of persons. To ensure that displaced persons and entities do not suffer a disproportionate impact as a result of projects which benefit the public, all notices to vacate and relocation services must be provided to them in accordance with applicable law.

Where the activities will or may result in displacement, the Developer shall identify the needs of the potentially displaced persons including site visits, interviews, and orientations. The development budget shall include enough funds to pay all costs of relocation benefits and assistance. Any modifications to the foregoing process requirements must be approved in advance by ADFA in writing.

Affirmative Marketing Plan

Developers advertise Projects and units to fill vacant units or to develop a waiting list of interested applicants for the subsidized housing. ADFA applications must include an Affirmative Marketing Plan developed using the Affirmative Fair Housing Marketing Plan (AFHMP) Form HUD-935.2A. Affirmative Marketing involves special outreach and advertising efforts designed to communicate the availability of ADFA-assisted housing to those groups or individuals who might otherwise be unlikely to apply. Those groups are identified through analysis of local housing market area demographics using statistics readily available from the U.S. Census Bureau and determining appropriate advertising and outreach efforts to be followed by Developers to reach out to those least likely to apply for the housing opportunity. Affirmative marketing efforts must begin at least 90 days prior to initial or renewed occupancy for new construction and Substantial Rehabilitation Projects, respectively.

Applications shall also demonstrate that the proposed Projects will affirmatively further fair housing and adequate tenant marketing, which are likely to lessen area racial, ethnic, and low-income concentrations, and/or promote affordable housing in low-poverty, non-minority areas in response to natural hazard related impacts.

Completing Environmental Review

An environmental review must be performed on the Project prior to federal funds and non-federal funds being committed, disbursed, and expended by ADFA and developers. The environmental review shall document compliance with 24 C.F.R. Part 58, NEPA, and all related laws, authorities, and executive orders. For the MNCP, ADFA is the Responsible Entity and must submit complete Environmental Review Records (ERR) to HUD to grant the authority to use funds. A project for rehabilitation that is documented as Categorically Excluded, Subject to Part 58.5 review, has the possibility of converting to Exempt. The conversion to Exempt must be documented, and documentation must be submitted to the ADFA as part of the ERR. Pursuant to 83 FR 5844, ADFA may accept another federal agency's environmental review. ADFA will not reconstruct or rehabilitate housing units that have been determined to have a Finding of Significant Impact (FOSI).

Applicants will be encouraged to ensure that conditional site control exists for a sufficient period to allow the environmental clearance process to be completed before purchase of the property. Applicants selected for funding must submit an Environmental Review Record (ERR) pursuant to 24 C.F.R. Part 58. A successfully completed ERR will then require a 30-day public comment period prior to Release of Funds. Prior to receipt of environmental clearance from ADFA, the applicant may not undertake, or commit any funds to, physical or choice-limiting actions, including property acquisition, demolition, tenant relocation, rehabilitation, conversion, repair, or construction. Applicants and their counsel should be familiar with the full range of CDBG-DR requirements.

No work may start on a proposed project, or proposed site acquisition, if applicable, before both the federal and state environmental review processes are completed, even if that work/acquisition is being done using non-federal funds. There can be no choice-limiting actions on the part of the developer/owner until environmental clearance is received in the form of an Authority to Use Grant Funds (AUGF) or environmental clearance letter issued by ADFA. The concept of prohibiting "choice-limiting" actions is to prevent the Developer from investing in a Project before all necessary environmental clearances are obtained. Market studies, environmental studies, plan development, engineering or design costs, inspections and tests are not considered "choice-limiting" actions. "Choice-limiting actions" are defined as any activity that would have an adverse environmental impact or limit the choice of reasonable alternatives, such as acquisition by the developer/owner (or any subsidiary of the developer), construction, demolition of buildings, or rehabilitation or reconstruction of buildings. Per 24 C.F.R. Part 58.22, failure to comply with the prohibition against committing funds or taking physical action (using either HUD funds or non-HUD funds) before the completion of the environmental review process could result in loss of HUD assistance, cancellation of the Project, reimbursement by the Developer/owner to HUD for the amount expended, or suspension of the disbursement of funds for the affected activity.

To process the environmental review for each project:

1. Developers must submit all Environmental Review Records (ERRs), to ADFA for review at submission of the project application (if available) or following conditional project approval by ADFA. Additional information can be found at HUD guidance on Environmental Reviews.

2. ADFA will complete its Environmental Review and (unless the Project converts to Exempt) ultimately submit a Request for Release of Funds to HUD and receive back an Authority to Use Grant Funds (AUGF).

3. Upon receipt of the AUGF or environmental clearance letter and Notice to Proceed, developer/owner may incur project costs and drawdown funds.

Other Federal Requirements

Other federal requirements that must be followed in implementing rental housing activities.

Conflict of Interest: Pursuant to 24 CFR 570.611, applicants with functions or responsibilities in CDBG activities may not obtain CDBG assisted financial benefits during their tenure or for one year thereafter. Exceptions to this requirement may be granted on a case-by-case basis, provided the applicant meets specific documentation requirements referenced in 24 CFR 570.611 (d). ADFA will disclose a conflict of interest pursuant to 2 CFR 200.113 and 200.318.

Section 3 Economic Opportunities: Compliance requirements of Section 3 of the HUD Act of 1968 (12 U.S.C. 1701u) ("Section 3") are triggered when a project receives in excess of $300,000 of HUD funds for the construction, reconstruction, conversion, or rehabilitation of housing, or other public construction that includes buildings or improvements assisted with CDBG-DR funds. If Section 3 of the HUD Act of 1968 is triggered for the project, i.e the project is considered a Section 3-Covered Project, then all contractors/subcontractors must also comply with Section 3 of the HUD Act of 1968.

Recipients must comply with employment and contracting opportunities pursuant to 24 CFR 570.607(b).

Also, to the greatest extent feasible, contracts for work (all types) to be performed in connection with CDBG-DR funds will be awarded to business concerns that are located in or owned by persons residing in the program service area.

Applicants shall:

- Prepare and utilize a Section 3 Plan for the grantor.
- Designate a Section 3 Coordinator.
- Take affirmative steps to follow the Section 3 Plan and document and upload to the Portal those efforts.
- Include a Section 3 Clause and the Contractor Certification of Efforts to Fully Comply with Employment and Training Provision of Section 3 in any construction project that will receive $300,000 or more in CDBG-DR funding. Notify potential Contractors for Section 3 covered projects of the requirements of Part 75, Subpart C and incorporating the Section 3 clause set forth below in all solicitations and contracts.

Section 3 Clause

"The work to be performed under this contract is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (Section 3). The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by Section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.

The parties to this contract agree to comply with HUD's regulations in 24 C.F.R. Part 75, which implements Section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the Part 75 regulations.

The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this Section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the Section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.

The contractor agrees to include this Section 3 clause in every subcontract subject to compliance with regulations in 24 C.F.R. Part 75 and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this Section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 C.F.R. Part 75. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 C.F.R. Part 75.

The contractor acknowledges that subrecipients, contractors, and subcontractors are required to meet the employment, training, and contraction requirements of 24 C.F.R. 75.19, regardless of whether Section 3 language is included in recipient or subrecipient agreements, program regulatory agreements, or contracts.

The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 C.F.R. Part 75 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 C.F.R. Part 75."

The Developer's Project Completion Report shall also include a Section 3 Summary Report on the total number of labor hours worked by all contractors and subcontractors, the total number of labor hours worked by Section 3 workers, and the total number of labor hours worked by Targeted Section 3 workers, as required pursuant to 24 C.F.R. 75.25(a). In the event that the number of Section 3 worker labor hours divided by the total labor hours worked by all workers on a Section 3 project does not meet or exceed HUD's Twenty-five percent (25%) standard, and/or that the number of Section 3 targeted worker labor hours divided by the total labor hours worked by all workers on a Section 3 project does not meet or exceed HUD's Five percent (5%) standard, the developer shall provide additional reporting on the qualitative nature of its activities and those its contractors and subcontractors pursued, as defined at 24 C.F.R. 75.25(b). The standards for hours worked by Section 3 Workers and Targeted Section 3 Workers are subject to change by HUD as published in the Federal Register.

- ADFA will meet with applicants to discuss the Section 3 Program requirements and require applicants to develop a Section 3 plan for employing and/or training persons residing in the Program Area.
- The plan will include:
  - Identification of Program Area,
  - Outreach and marketing avenues,
    - Potential employment opportunities,
    - Possible training opportunities,
    - An estimate of the number of persons reached; and
    - A projection of the number of persons receiving training and employment opportunities.

Minority/Women's Business Enterprise: Under Executive Orders 11625 and 12138, ADFA must prescribe procedures acceptable to HUD for a minority outreach program to ensure the inclusion, to the maximum extent possible, of minorities and women, and entities owned by minorities and women, in all contracts (See 24 C.F.R. 200.321).

- ADFA requires that all Recipients commit to support the participation of Arkansas Minority/Women's Business Enterprises (M/WBE) by establishing a goal to procure contracted goods and services from Arkansas M/WBEs. The Minority & Women Business Enterprises Plan is a part of the application form for ADFA CDBG-DR funds.

Lead-Based Paint: All units in a project assisted with CDBG-DR funds must comply with the Lead Safe Housing Rule (LSHR) at 24 C.F.R. Part 35, Subparts A, B, J, K, and R. The lead-based paint regulation at 24 C.F.R. Part 35 consolidates all lead-based paint requirements for HUD-assisted housing.

National Floodplain Elevation Standards: While CDBG-DR regulations allow for construction within flood hazard areas provided it complies with 24 C.F.R. 570.605, section 202 (a) and the Flood Disaster

Protection Act of 1973 (42 U.S.C. 4106) as well as Executive Order 11988 and 24 C.F.R. Part 55, ADFA's goal is "to avoid to the extent possible the long and short-term adverse impacts associated with the occupancy and modification of floodplains." Accordingly, any project that requires the 5-step or 8-step decision-making process pursuant to 24 C.F.R. 55.20 shall not be funded.

A Qualified Environmental Professional must provide a definitive determination that no aspect of the project (including any project aggregation pursuant to 24 CFR 58.32) triggers the 5-step or 8-step process prior to application submission. Any project failing to provide this determination at application submission shall not be funded.

All environmental review approvals are based on the detailed site plans— showing the locations of project aspects like buildings, parking spaces, ground-disturbing activities, etc.—which must be submitted to the Qualified Environmental Professional prior to the commencement of their review. Any subsequent changes to the project area (including locations of structures like buildings, parking spaces, etc.) must be sent to ADFA for review and determination if such changes require further evaluation, which may include re-evaluation of floodplains aspect of the environmental review by the Qualified Environmental Professional.

In order to ensure compliance with 24 CFR Part 55/Executive Order 11988 and account for standard construction variations between site plans and the actual location of structures, for new construction projects, a minimum 15-foot distance is required between the project as shown on the site plans and the relevant floodplain (including floodway) which would trigger the 5-step or 8 step decision-making process.

Broadband Infrastructure: Per 24 C.F.R. 570.202(g) and section III.D.%. of the Universal Notice, any Substantial Rehabilitation or new construction of a building with more than five (5) rental units must include installation of broadband infrastructure, except where the sub-applicant documents that: 1) The location of the new construction or Substantial Rehabilitation makes installation of broadband infrastructure infeasible; 2) The cost of installing broadband infrastructure would result in a fundamental alteration in the nature of its program or activity or in an undue financial burden; or 3) The structure of the housing to be substantially rehabilitated makes installation of broadband infrastructure infeasible.

Uniform Relocation Assistance and Real Property Acquisition Act (URA): The URA contains requirements for carrying out real property acquisition or the displacement of a person, regardless of income status, for a project in which HUD financial assistance is provided. The implementation regulations, 49 C.F.R. Part 24, include steps which must be taken with tenant occupants, including those who will not be impacted by the HUD assisted activity. Section 104(d).

Additional requirement: If a Project site is occupied at the time the CDBG-DR application is made, the application must include an exhibit explaining either that no relocation of tenants will result, or that such relocation will be temporary. Applicants must budget and plan if relocation occurs. The budget should include discovering the needs of displaced persons such as site visits, interviews, and orientations as well as housing market conditions, acquisitions costs, relocation payments, and other costs, as applicable. Applicants may request a waiver of this requirement on a case-by-case basis where permanent relocation may be necessary to otherwise meet the program requirements.

Prohibition Against Eminent Domain: Per the Federal Register Notice, no funds allocated to an applicant may be used to support any Federal, State, or local projects that seek to use the power of eminent domain, unless eminent domain is employed only for public use as defined in III.D.7.g. of the Universal Notice.

Fair Housing and Equal Opportunity

Recipients must comply with the following Federal laws, executive orders and regulations pertaining to fair housing and equal opportunity. They are summarized below.

- **Title VI of the Civil Rights Act of 1964, As Amended (42 U.S.C. 2000d et seq.):** States that no person may be excluded from participation in, denied the benefits of, or subjected to discrimination under any program or activity receiving Federal financial assistance based on race, color or national origin. The regulations implementing the Title VI Civil Rights Act provisions for HUD programs may be found in 24 C.F.R. Part 1.
- **The Fair Housing Act (42 U.S.C. 3601-3620):** Prohibits discrimination in the sale or rental of housing, the financing of housing or the provision of brokerage services against any person based on race, color, religion, sex, national origin, handicap or familial status. Furthermore, section 104(b)(2) of the Act requires that each grantee certify to the secretary of HUD that it is affirmatively furthering fair housing. The certification specifically requires grantees to conduct a fair housing analysis, develop a fair housing plan, take appropriate actions to overcome the effects of any impediments identified and maintain records on the analysis, plan and actions in this regard. Fair Housing Act implementing regulations for HUD programs may be found in 24 C.F.R. Part 100-115.
- **Equal Opportunity in Housing (Executive Order 11063, as amended by Executive Order 12259):** Prohibits discrimination against individuals based on race, color, religion, sex or national origin in the sale, rental, leasing or other disposition of residential property, or in the use or occupancy of housing assisted with Federal funds. Equal Opportunity in Housing regulations may be found in 24 C.F.R. Part 107.
- **Age Discrimination Act of 1975, As Amended (42 U.S.C. 6101):** Prohibits age discrimination in programs receiving Federal financial assistance. Age Discrimination Act regulations may be found in 24 C.F.R. Part 146.
- **Americans with Disabilities Act (42 U.S.C. 12131; 47 U.S.C. 155, 201, 218, and 225)**: Provides comprehensive civil rights to individuals with disabilities in the areas of employment, public accommodations, state and local government services and

telecommunications. The Act, also referred to as the ADA, also states that discrimination includes the failure to design and construct facilities (built for first occupancy after January 26, 1993) that are accessible to and usable by persons with disabilities. The ADA also requires the removal of architectural and communication barriers that are structural in nature in existing facilities. Removal must be readily achievable, easily accomplishable and able to be carried out without much difficulty or expense.

ADFA has additional expectations and requires Recipients to:

- Adopt any existing Fair Housing Ordinances in their jurisdictions.
- Adopt any existing Affirmative Marketing Plan developed by their jurisdictions.

Labor Requirements

Recipients must comply with certain regulations on wage and labor standards. In the case of Davis-Bacon and the Contract Work Hours and Safety Standards Acts, every contract for the construction of housing that contains 8 or more units assisted with CDBG-DR funds triggers the requirements. If multiple funding sources (i.e. CDBG and HOME) are part of the project, then the stricter program triggers Davis-Bacon.

- **Davis-Bacon and Related Acts (40 USC 276(A)-7):** Ensures that mechanics and laborers employed in construction work under Federally assisted contracts are paid wages and fringe benefits equal to those that prevail in the locality where the work is performed. This act also provides for the withholding of funds to ensure compliance and excludes from the wage requirements apprentices enrolled in bona fide apprenticeship programs.
- **Contract Work Hours and Safety Standards Act, as amended (40 USC 327-333):** Provides that mechanics and laborers employed on Federally assisted construction jobs are paid time and one-half for work in excess of 40 hours per week and provides for the payment of liquidated damages where violations occur. This act also addresses safe and healthy working conditions.
- **Copeland (Anti-Kickback) Act (40 USC 276c):** Governs the deductions from paychecks that are allowable. Makes it a criminal offense to induce anyone employed on a Federally assisted project to relinquish any compensation to which he/she is entitled and requires all contractors to submit weekly payrolls and statements of compliance.
- **Fair Labor Standards Act of 1938, As Amended (29 USC 201, et. seq.):** Establishes the basic minimum wage for all work and requires the payment of overtime at the rate of at least time and one-half. It also requires the payment of wages for the entire time that an employee is required or permitted to work and establishes child labor standards.
- **Contractor Eligibility**: The recipient must verify the contractor is eligible to receive federal funding. Per 2 CFR 2424.300, it is the responsibility of the contractor to verify each subcontractor is eligible to receive federal funds. At a minimum, verification of a contractor's status should be made using SAM.gov.

PROJECT SELECTION AND MANAGEMENT

To be an eligible project for the CDBG-DR Multi-Family New Construction Program (MNCP), the project must be constructed within Benton, Cross, or Pulaski County (excluding the city of Little Rock). Projects will be reviewed for: eligibility, assessment of long-term Project viability, verification of financial feasibility and cost reasonableness, project timeliness and schedule, and Developer capacity. The complete scoring criteria are listed below.

Projects will be evaluated by, but not limited to, the following criteria:

- Confirmation that all parcels containing CDBG-DR-funded units will be outside of the FEMA 100- and 500-year regulatory floodplains.
- Assurance that all units will be connected to municipal utilities, including water, sewer, and broadband. Projects relying on wells and/or septic systems will not be eligible.
- Assurance that all construction will meet applicable state and local building codes.
- The Project must be located within a HUD Identified Most Impacted and Distressed (MID) area.
- Demonstrated experience of the development team.
- Evidence the Project is ready to proceed.
- Documentation of all other funding sources.
- Proof of site control or ownership by the Developer.
- Budgets aligned with the Project scope.
- To qualify for mitigation incentives, documents showing construction mitigation strategies that address hazards identified in the mitigation need assessment.

Developers will submit an application for funding to ADFA through a competitive application cycle. Applications will be submitted through the Program Portal. The competitive application cycle will be announced for the development of new affordable housing and will remain open until all funds have been awarded to eligible projects.

Application Submittals

An application submitted in conjunction with 9% tax credit application round will have a deadline as shown in the Qualified Allocation Plan for that particular funding cycle. An application submitted in conjunction with 4% tax credits/tax exempt bonds may be submitted on a rolling basis. An application utilizing CDBG-DR and any other funding source may be submitted on a rolling basis. All applications submitted will be evaluated and scored, with awards granted based on those scores. In the event there are more funds requested than available, the applications with the highest score will receive an award. The opening of application rounds and any public hearings related to the program will be posted on ADFA's website and other social media platforms.

Application Documentation

The following Application Requirements (the "Requirements") must be followed. Failure to submit all the following shall terminate the application from consideration. This list is not all inclusive.

Subrogation: A certified letter stating the applicant will repay any assistance later received for the same purpose as CDBG-DR funds**.**

Financial Commitment Letters: All sources of financial commitments, including but not limited to the following, as applicable:

- Commitment letter(s) from any non-ADFA permanent lender(s) including units of local government. The letter(s) shall be dated within six (6) months prior to the submission of the application and state that a formal application for permanent financing is under serious consideration. The letter must contain:
    - the amount of the loan;
    - amortization period;
    - annual loan payment; and
    - interest rate.

Narrative Description of the Development: A detailed narrative description that includes the type of development; a description of the development site and surrounding area; an overview of all work to be done on the development site and surrounding area; types of financing; tenants served; bedroom mix; percentage of low-income units; involvement of nonprofit support service organizations; project amenities; energy efficiency; and any other relevant descriptive information, including any information that would be considered reasonably necessary in determining the scope of an environmental review analysis (including other work, regardless of timing and who will be performing it, which applicant may consider outside the scope of the project, but which is related to the project on either a geographical or functional basis, or which along with the project are logical parts of a composite of contemplated actions).

Zoning and Planning Commission Information: A signed letter, dated within six (6) months prior to the Application Deadline, from the appropriate zoning authority (including a planning commission, if applicable) stating the proposed use of the property and that the property is properly zoned for such proposed use.

Site Plan, ALTA/NSPS Survey, and Topographic Survey: A site plan depicting the location and orientation of each existing or proposed building, and all paved areas throughout the development site, including sidewalks and parking areas, must be submitted. An ALTA/NSPS survey and topographic survey of the proposed development site must be performed, signed and dated by a person authorized to perform such surveys by the Arkansas State Board of Licensure for Professional Engineers and Professional Surveyors.

Independent Market Study: Applications must include a comprehensive market study conducted by a disinterested party on ADFA's "Market Analyst Firms – Approved List" dated within six (6) months prior to the application submission. The analyst will acknowledge in the study that it is being done for ADFA's use and benefit. ADFA will reject the application if the market study shows:

- inadequate demand for any unit size proposed, based upon the targeted income group for that unit size,
- a capture rate of more than 20% for any unit,
- the proposed development will detrimentally affect other affordable housing in the area,
- the proposed location is or nearly is saturated, or
- any other negative impact.

Evaluating Applications

Applications submitted for a proposal of CDBG-DR funding will be subject to a two- phase process: 1) Preliminary review and 2) Underwriting and subsidy layering review. The preliminary review starts when the Portal notifies ADFA staff that an application has been submitted. This review will determine if the application includes a Portal submission of all required forms, certifications, and documentation. Applications with incomplete or missing forms, certifications, or documentation will be notified through email and will be given ten (10) business days to make the needed corrections. If during the preliminary review and the underwriting subsidy layering review there have been two (2) notifications issued and there are still missing documents/information or no response, ADFA has the right to deny or reject the application request for funding. Once the application is underwritten and reviewed by ADFA staff, the ADFA staff will submit the proposal to the Housing Review Committee (HRC) and provide a report of the underwritten application, including a summary of the project. The report will include the type of development, the total development costs, all the funding sources, the loan terms, and an acceptable Debt Coverage Ratio (DCR). The HRC staff will review the report and make the recommendation of approval/denial for the application. If the application is recommended for approval, it will be reviewed at the next scheduled ADFA Board Meeting. If the application is awarded or denied, an official letter will be issued to the applicant.

Underwriting and Subsidy Layering

- HUD establishes limits on the amount of CDBG-DR funds that may be invested in affordable housing on a per-unit basis for specific areas.
- Underwriting is required for all projects whether the projects are assisted with other governmental assistance.
- Before committing funds to a project, ADFA evaluates the project in accordance with guidelines that it has adopted for determining a reasonable level of profit or return on owner's or developer's investment in a project and must not invest any more CDBG-DR funds, alone or in combination with other governmental assistance, than are necessary to provide quality affordable housing that is financially viable for a reasonable period of time (at minimum, the period of affordability).
- The financial capacity of the developer as well as their capabilities and experience to undertake the activity proposed are reviewed.
- The proposed project timeline is reviewed to determine reasonability and absorption rates for units.
- ADFA conducts the subsidy layering review of the following project documents:
    - Sources/uses of funds: Recipients are required to provide ADFA the sources/uses of funds statement for the project with supportive documentation that there is a firm commitment to the funds. This statement should reflect the project development budget and should list:
    - All proposed sources (both private and public) of funds and the dollar amounts for each respective source; and
    - All proposed funds (including acquisition costs, rehabilitation/or construction costs, financing costs and professional fees) associated with the project.
    - *Project development budget*: Recipients must provide ADFA with the project development budget so that ADFA can determine whether the development costs are necessary and reasonable.
    - The budget should include all costs associated with the development of the project, regardless of the funding sources.
    - "Reasonableness" of costs will be based on all of the following factors:
        - Costs of comparable projects in the same geographical area;

- Qualifications of the cost estimators that developed the various budget line items; and
- Comparable costs published by recognized industry cost index services.

- *Proforma*: ADFA will determine the reasonableness of the rate of return on equity investment by looking at the Recipient's proforma (project income and expense statement).
    - The proforma should include achievable rent levels, market vacancies and operating expenses.
    - It should also specify the consequences of tax benefits, if any, and any other assumptions used in calculating the project cash flow.
    - The proforma should represent, at a minimum, the term of the CDBG-DR affordability requirements, or longer if other funding sources require longer affordability terms.
    - The proposed development must have a minimum Debt Coverage Ratio (DCR) of 1.15 for the initial fifteen (15) years of the affordability period.

As mentioned above, ADFA conducts its cost allocation and subsidy review upfront to determine the appropriate CDBG-DR subsidy or other source of funds to the project; however, cost allocation and subsidy layering are impacted by any changes in the proportion of CDBG-DR assisted unit to total units in the project, development cost or financing sources. This means all CDBG-DR Recipients are obligated to contact ADFA as soon as there are any changes in project size/scope, cost, or financing sources at any point during the development of the project

Project Selection

Scoring

ADFA will score individual applications consistent with the funding cycle. ADFA will then use the scores, in part, to rank projects, but reserves the right to allocate funds to projects that meet the State's ultimate program objectives. In the event that demand exceeds the amount of funds available, those projects with the greatest need and effectiveness will be recommended for funding.

The following threshold criteria must be met as part of the overall evaluation of a project:

- Confirmation that all new housing units will be built outside of the 100- and 500-year regulatory floodplains.

- Assurance that all units will be connected to municipal utilities, including water, sewer, and broadband. Projects relying on wells and/or septic systems will not be eligible.
- Assurance that all construction will meet applicable state and local building codes.
- The project must be located within a HUD Identified Most Impacted and Distressed (MID) area.
- Demonstrated experience of the development team.
- Evidence that the project is ready to proceed.
- Documentation of all other funding sources.
- Proof of site control or ownership by the developer.
- Budgets aligned with the project scope.

To qualify for mitigation incentives, documents showing construction mitigation strategies that address hazards identified in the mitigation needs assessment.

Applications will be scored based on the following criteria with a minimum threshold score of 37.

Projects providing a greater ratio of affordable rental units to total units (i.e. a project where more than 51% of the total units are affordable)	**20 points Maximum**
51%-60% greater ratio of affordable rental units	**5**
61% -70% greater ratio of affordable rental units	**10**
71% - 80% greater ratio of affordable rental units	**15**
>81% greater ratio of affordable rental units	**20**
Resilient Sustainable Construction Measures Mitigation measures that will be implemented into the design and construction of the project. These measures should address the risks included in the Mitigation Needs Assessment in the Action Plan, as amended.	**3 points**
Site Selection	**27 points Maximum**
The site location will be evaluated for accessibility and proximity to services appropriate to the type of housing proposed and residential character of the surrounding area. The Application shall identify the name, driving directions, and distance from the development to the site amenities listed below.	**3 points each**

The following site amenities located within three (3) miles of the site for urban sites and five (5) miles for rural sites. Go to the following website to determine rural eligibility: http://eligibility.sc.egov.usda.gov/eligibility/welcomeAction.do. Site amenities must be appropriate for the population served. Distances will be measured by the shortest available driving distance from the development's address to the applicable address of the site amenity as calculated by Google Maps. Points will only be given for the site amenities listed below: • Grocery store or supermarket; • Pharmacy or drug store; • School, daycare or education center (cannot be awarded if 100% elderly only property); • Public Park or Green Space (does not include school grounds); • Book lending public library; • Daily operated senior center or facility offering daily services for seniors (can be awarded only if 100% elderly property); • Hospital, health clinic, or medical doctor's office (medical doctor's office must have a general practitioner.); • Public transportation; and • Access to Pedestrian Trails Site amenities presented for scoring shall be referenced in the Market Study map. All site amenities presented for scoring must list a contact person and a verifiable phone number in the Application.	
At least four residential units are within 0.5 miles of the site boundary and occupied as of the application deadline. Points will be deducted for site selection. There is not a limit on the total number of points that can be deducted.	**3**
Deduction if incompatible uses are adjacent to the site (adjacent is defined as nearby, but not necessarily touching).	**-3**
Deduction if incompatible uses are within 0.3 miles (approximately 500 yards) of the site. Distances are measured by lineal distance or "as the crow flies". The following list of	**-2**

incompatible uses is not exclusive: • Junk Yard, Public Dump, or Solid Waste Disposal; • Pig Farm or Chicken Farm; • Prison or Jail; and • Airport Scoring considerations will also include, among other things, site suitability regarding topography (grade, low-lying area, flood plain, or wetlands).	
Maximum possible score	**50**

Project Approval and Commitment of Funds

Project approvals may come in the form of firm approval and commitment via a Notice to Proceed. A firm commitment is an approval of a fully entitled Project with all construction and permanent financing committed, a completed environmental review record, and all conditions from ADFA's application review, if applicable. Any additional closing conditions or outstanding items, as applicable, will be included as special conditions for the Notice to Proceed (NTP). Specific performance goals and performance penalties for the Developer will be outlined in the Notice to Proceed on a Project-by-Project basis.

If at any time those identified and secured funding sources change, the Developer/owner must notify ADFA within 10 days of the Applicant's knowledge that funding sources are changing. The terms and conditions of all financing shall be subject to ADFA's review and approval. ADFA reserves the right to re-review a Project application at any time in the event there is a change in the amount of, or the material terms and conditions of, any third-party financing for the Project. Applicant shall expect any such re-review and approval to be completed within 30 business days upon notification of funding change.

ADFA shall execute the conditional approval and commitment or Notice to Proceed, as applicable.

Appeals

In cases where projects are not approved to receive funding, applicants have the right to appeal the determination. The applicant must submit their appeal in written form, within 60 days from the award announcement date, via mail:

1 Commerce Way, Suite 602, Little Rock, AR 72202

ADFA shall review the appeal and then discuss the merits of the appeal with the appropriate staff before making an independent decision concerning the appeal. The decision of ADFA shall be final.

Written Agreements Between ADFA and Subrecipients for CDBG-DR Multi-Family New Construction Program Funds

Written agreements are important legal documents that help ADFA and Subrecipients protect their investment and enforce CDBG-DR and other Program rules. A written agreement must be entered into before any CDBG-DR funds are committed or disbursed by ADFA to any entity. ADFA will enter into an agreement with all Subrecipients of its MNCP before committing or disbursing funds.

Contents of the Written Agreement

A written agreement should serve as a concise statement of the relationship between the Subrecipient and a funded entity/beneficiary of CDBG-DR funds. It should also clearly state the conditions under which the CDBG-DR funds are provided.

Required Provisions

- Use of funds: Description of the amount and use of CDBG-DR funds, including the type and number of housing units, tasks to be performed, schedule for completing tasks (including a schedule of committing funds to projects that meet the deadlines established by this part), a budget, any requirement of matching contributions, and the period of the agreement in sufficient detail to effectively monitor performance. (For developers, the duration of the agreement will be in a separate clause.) These items must be in sufficient detail to provide a sound basis for ADFA to effectively monitor performance under the agreement.
- Affordability: Requires housing assisted with CDBG-DR funds to meet the affordability requirements, as applicable, and require repayment of the funds to ADFA, if the housing does not meet the affordability requirements for the specified time period. The affordability requirements must be imposed by deed restrictions, covenants running with the land, use restrictions, or other mechanisms approved by HUD.
- Reversion of assets/program income requirements: States whether program income unexpended funds or other assets will be returned to the Recipient.
- Uniform administrative requirements: minimum required provisions must be in compliance with applicable Federal administrative requirements included in the various types of requirements (applicable provisions of 24 C.F.R. written agreements. Part 85 for governmental entities or applicable provisions of 24 C.F.R. Part 84 for non-profit entities).

- Other Federal requirements: Requirements regarding non-discrimination and equal opportunity; affirmative marketing and minority outreach; environmental review; displacement, relocation and acquisition; labor standards; lead-based paint; and conflict of interest.
- Affirmative marketing: Requirements for affirmative marketing in projects of five or more CDBG-DR assisted units.
- Requests for disbursements of funds: Requirement that CDBG-DR funds may not be requested until funds are needed for payment of eligible costs. The amount of each request must be limited to the amount needed. Program Income must be returned to ADFA before any new funding requests will be provided.
- Records and reports: Enumeration of records that must be maintained, and information and reports that must be submitted.
- Enforcement of the agreement: This provision is in the agreement with all parties, including owners, and is the means of enforcing the provisions of the written agreement.
- Prohibited Fees: Prohibits the recipient from charging servicing, origination, or other fees for the costs of administering the CDBG-DR program.
- Template agreements. Recipients must use ADFA template agreements and other legal documents as provided by ADFA's Program staff.
- Duration of agreements. The agreement must specify the duration of the agreement. If the housing provided under the agreement is rental housing, the agreement must be in effect through the affordability period required by the ADFA.
- Amending the documents. Written agreements may be amended by mutual agreement of the parties when regulations and requirements change, or when adjustments to funding levels or other conditions related to a specific project are needed.
- DOB: "Warning: Any person who knowingly makes a false claim or statement to HUD or causes another to do so may be subject to civil or criminal penalties under 18 U.S.C. 2, 287, 1001 and 31 U.S.C. 3729."

Liquidated damages: A clause must be included in all construction contracts. They should be reasonable and tied to probable damages. These liquidated damages shall be deducted from any payments due or to become due to the Developer, or, if such payments are insufficient, shall be immediately due and payable by the Developer to the Owner upon demand. Nothing in this provision shall be construed to limit any other rights or remedies available to the Owner under this Agreement, at law, or in equity.

Subrogation Agreement

A subrogation agreement to repay any assistance later received for the same purpose as the CDBG-DR funds.

Procurement

Procurement for CDBG programs is governed by those specific requirements set forth under 24 C.F.R. 570.489(g), 2 C.F.R. 200, and Arkansas Procurement Laws and Rules, and all applicable state laws and regulations. These rules and regulations are applicable to all applicants.

Procurements of Developers and Contractors must adhere to the procurement requirements set forth in state procurement policies and procedures. In working with other state or federal agencies, or within local procurement requirements, the strictest procurement policy will prevail. Construction advertisement and procurement will include notifying minority and women-owned businesses of contracting opportunities available for federally assisted Projects.

Disbursement of Funds

Disbursement of CDBG-DR MNCP funds will occur only when all of the following conditions have been met:

- Required environmental review process has been satisfactorily completed.
- Project closing documents are finalized.

The written CDBG-DR Multi-Family New Construction Program Agreement will reflect the following:

- A project completion date acceptable to ADFA and the Recipient of the MNCP funds;
- Payment of the MNCP funds (e.g., how the funds will be disbursed: at the beginning of the project or on a prorata basis, or as final funds are disbursed); and
- Provisions for the timing of MNCP fund disbursements.

Administrative requirements prior to disbursement of funds include:

- Complete DRGR setup information has been submitted to ADFA staff, and ADFA staff have completed DRGR activity setup. Refer to CDBG-DR Manual for more information.

- A preconstruction conference is held.
- The preconstruction conference must be conducted with the development team and an ADFA representative.
- ADFA issues a Notice to Proceed. To ensure that all MNCP Program requirements have been met, no work shall begin until all documentation has been executed, the preconstruction conference has been held, and a Notice to Proceed is issued by ADFA.
- Payment details, including timeline for reimbursement, will be outlined in the project closing documents, specifically the CDBG-DR MNCP Agreement.

Disbursement of CDBG-DR MNCP Program funds during construction will occur only when the following conditions have been satisfied:

- Draws will not be processed if the Owner is in default of program regulations;
- The Project shall not have been materially damaged by fire or other casualty;
- ADFA shall have received evidence satisfactory to ADFA that all work and improvements requiring inspection by any governmental authority having jurisdiction have been inspected and approved by such authorities and by any other persons or entities having the right to inspect and approve construction; and
- Owner shall have submitted at least 10 days prior to the date a disbursement is desired a completed disbursement request using AIA G-702 (Contractor's Application for Payment) and G-703 (Continuation) forms and such other appropriate source documentation as may be required by ADFA including, without limitation, the following:

    - Current Contractor Tracking Form and lien waivers must be concurrent with the requested disbursement.
    - Evidence satisfactory to ADFA that the Project and the contemplated use thereof are permitted by and comply with all applicable uses or other restrictions and requirements in prior conveyances, zoning ordinances, or regulations that have been duly approved by the municipal or other governmental authorities having jurisdiction; that the required building permits and other permits have been obtained as required; and that no environmental impact statement is required.
    - Appropriate certifications of compliance in all respects with labor standards and prevailing wage requirements applicable under federal law.
    - Such other supporting evidence as may be requested by ADFA or its agents to substantiate all payments which are to be made out of the relevant disbursement and/or to substantiate all payments then made with respect to the Project.

- ADFA shall have determined that all CDBG-DR requirements pertaining to the disbursement of funds have been met, including but not limited to monitoring of Davis-Bacon compliance.
- ADFA shall have received a current inspection report from an ADFA inspector that verifies satisfactory completion of work to CDBG-DR standards.
- No determination shall have been made by ADFA that the undisbursed amount of the loan is less than the amount required to pay all costs and expenses of any kind that reasonably may be anticipated in connection with the completion of the Project.

Retainage of 10% of all expenses will be withheld during construction.

General ADFA requirements regarding reimbursement of costs include:

- Cost incurred prior to MNCP fund allocation shall not be reimbursed (except in the case of an eligible soft cost or an interim construction loan approved by ADFA).
- Retainage will be released thirty (30) days after the final inspection is approved and upon ADFA's receipt of pay request and all completion documentation.
- Completion documentation required for release of retainage on rental activities include:
    - Final completed Project Breakdown Pay Estimate Itemization
    - Disbursement Certification Form (ADFA Form 2012)
    - Owners Completion Certificate and Authorization of Payment to Contractors –(ADFA 10000)
    - Project Completion Form
    - Final Inspection Report by ADFA Inspector
    - Plumbing Certification
    - HVAC Certification
    - Electrical Certification
    - Certificate of occupancy(s) (for all buildings comprising the property)
    - Certificate and Release of Liens (ADFA Form)
    - Certification of Final Inspection (ADFA Form)
    - Placed in Service Form (ADFA Form)
    - Section 3 Compliance Report and Documentation

- Advertisement/Flyers/and any additional efforts to hire low and very low-income county residents
- Names, address, telephone number, and type of work for all subcontractors
- Release of Liens by Contractor & Subcontractor(s)
- Cost Certification
- Warranty Information for all Products
- Copy of Tenant Selection Criteria
- Affirmative Fair Housing Marketing Plan Documentation
- Proof of advertisement, flyers, proof of community contact letters being mailed photo of project sign, waitlist, and any other lease up marketing efforts
- Proof of current Hazard/Liability Insurance naming ADFA as additional insured
- Management agreement between owner and agent
- Completion of project information in DRGR
- Any additional information and/or documentation which ADFA staff may deem necessary and appropriate to ensure compliance

If any CDBG-DR MNCP funded project has an available balance after development completion release of retainage, ADFA will de-obligate those funds and reallocate such balance of MNCP funds to other eligible activities in accordance with ADFA's most recently approved Action Plan or Action Plan Amendment.

Recapture of Funds

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

- A Developer does not comply with the terms of the standard agreement.
- A Developer withdraws from the Program prior to completion of the Project and fails to meet a national objective.
- A Developer does not meet the affordability requirement.
- A Developer is found to have used program funds for an ineligible activity or cost;

- A Developer does not report the receipt of additional insurance, SBA, FEMA, non-profit assistance and/or any other Duplication of Benefits received after award and/or
- Funds remain after the Project is completed, the expenditure deadline has passed, or the CDBG-DR Multi-Family New Construction Program Agreement has expired.

The method of recapturing funds and the timeframe for doing so are determined on an individual project basis. However, the recapture method and timeframe will be consistent with 2 C.F.R. part 200 or other applicable cost principles. Complete recapture provisions will be included in the CDBG-DR Multi-Family New Construction Program Agreement with the developer.

PROJECT MANAGEMENT

Multi-Family New Construction Program projects funded under this CDBG-DR grant will adhere to standard requirements set by ADFA to ensure compliance, as well as specific requirements set by the governing federal income limits. ADFA will provide technical assistance to Developers to ensure compliance with CDBG-DR requirements and consistency with the Multi-Family New Construction Program Policies and Procedures Manual. In addition, regular monitoring of the developer and specific projects will be conducted to test compliance and ensure timely Project completion.

- The developer shall be responsible for all management functions of the multi-family housing development including construction, maintenance, selection of the tenants, annual recertification of household income and size, and managing the units in accordance with program requirements.
- All housing units will be first marketed to residents impacted by 2023 and 2024 severe storms before being made available to other eligible members of the public.
- The developer is responsible for all repair and maintenance functions of multi-family housing development, including ordinary maintenance and replacement of capital items. The Developer shall ensure maintenance of residential units, commercial space, and common areas in accordance with local health, building, and housing codes, and the management plan.
- The developer shall ensure that the development is managed by an entity actively in the business of managing affordable housing.
- The developer shall develop a management plan prior to the start of construction. Any change to the plan shall be subject to the approval of the grantor. The plan shall be consistent with program requirements and should include the following:
    - The role and responsibility of the Developer and its delegation of authority,
    - Personnel policy and staffing arrangements,
    - Plans and procedures for affirmatively marketing all housing units in a matter that ensures equal access to all persons in any category protected by federal, state, or

local laws governing discrimination, and without regard to any arbitrary factor, and achieving early and continued occupancy,

- Procedures for determining tenant eligibility and selecting tenants as well as notifying applicants of eligibility and availability of an assisted unit and for certifying and annually recertifying Household income and size,
- Procedures for notifying ineligible applicants of the reason for ineligibility,
- Procedures for maintaining a waiting list of eligible applicants,
- Plans for carrying out an effective maintenance and repair program,
- Rent collection policies and procedures,
- A program for maintaining adequate accounting records and handling necessary forms and vouchers,
- Plans for enhancing tenant-management relations,
- The management agreement, if any,
- Provisions for periodic update of the management plan,
- Appeal and grievance procedures,
- Plans for collections for tenant-caused damages, processing evictions and terminations; and a final supportive services plan for Projects serving Special Needs Populations, including Supportive Housing and/or providing Supportive Services to the general tenant population.

Records that Must be Maintained

This section outlines the records that must be maintained by CDBG-DR Program Recipients by category. Record-keeping requirements vary depending on the type of CDBG-DR activity being undertaken, as well as the type of CDBG-DR Program Recipient undertaking the CDBG-DR project.

Program Records

The following program records must be maintained:

- Written agreement with ADFA and documentation of compliance with the written agreement,
- A copy of the application originally submitted to ADFA,
- Forms of assistance used, and
- Rental Projects must provide evidence of Compliance with requirement that 90 percent of assisted families have incomes at or below 60 percent of median income at initial occupancy.

Project Records
Each CDBG-DR Program Recipient is responsible for maintaining records that are project specific. The project records that must be maintained include:

- Description of each project:
    - Location (address and/or legal property description) (with a map),
    - Form of assistance, and
    - Number and identification of units or tenants associated with CDBG-DR.
- Source and application of funds to include eligibility and permissibility of projects costs,
- Compliance with underwriting evaluation, maximum per-unit subsidy limits and subsidy layering guidelines,
- Compliance with property standards and lead-based paint requirements upon completion and for the duration of the affordability period,
- Compliance with income-eligibility requirements,
- Compliance with income targeting, affordability, lease requirements and financial conditions,
- If multi-family refinancing is provided, compliance with established guidelines and/or requirements,
- Results of any site and neighborhood standards review conducted, and
- If pre-award costs, compliance with applicable requirements.

Financial Records
The following financial records must be maintained:

- Source and application of funds,
- Treasury and local federally funded accounts,
- Source and application of Program Income, repayments and recaptured funds, and
- Budget control measures, including periodic account reconciliations.

Program Administration Records
These program administration records must be maintained:

- Compliance with written agreements,
- Copies of written policies, procedures, and systems, including risk assessments and a system for monitoring entities,
- Compliance with applicable uniform administrative requirements, and
- Inspections, monitoring reviews and audits, and resolution of any findings or concerns.

Documentation Records

Records documenting compliance with the following additional Federal requirements must also be maintained:

- Equal opportunity and fair housing,
- Affirmative marketing and minority/women's business outreach,
- Environmental review,
- Acquisition, relocation, displacement and replacement of housing,
- Labor standards,
- Lead-based paint,
- Conflict-of-interest, and
- Debarment and suspension.

Record Retention

The record retention period is three (3) years after closeout of ADFA's grant with HUD. General rental housing records must be kept for three (3) years after project completion. More specifically:

- Tenant income, rent, and inspection information must be kept for the most recent three years, until three years after the affordability period ends.
- Generally, all written agreements must be maintained for three years when the agreement ends.
- Displacement and acquisition records must be kept for three years after final payment to displaces.

Access to Records

- ADFA and its grantees must provide citizens and other interested parties with reasonable access to records. Access must be consistent with applicable state and local laws regarding privacy and obligations of confidentiality.

- HUD and the Comptroller General of the United States, or any of their representatives, have the right to access any records of PJs and Recipients for auditing, excerpt, or transcript purposes.

Reports Required by ADFA

ADFA requires that developers complete Semi-annual Status Reports as well as Project Setup and Completion Reports for all projects.

Project Setup and Completion Reports. Upon project completion, all CDBG-DR Program Recipients are required to submit a Project Setup and Completion Form to ADFA with request for retainage payment. If the rental unit is vacant at the time of retainage request, the program

Recipient must resubmit completion data within 120 days with the household characteristics once the unit has been leased.

- The forms used differ by activity and are available on ADFA's website.
- ADFA Program Staff will report the data provided by all Recipients in Quarterly Performance Reports in the DRGR system and report completed projects to HUD.

Monitoring and Compliance

HUD describes monitoring as an integral management control standard and requires any entity receiving HUD funding to monitor and evaluate program performance and compliance, see CDBG Regulation 24 C.F.R. 570.501(b) and Office of Management and Budget (OMB) Uniform guidance at 2 C.F.R. 200 effective July 1, 2015. Therefore, ADFA monitors all activities. ADFA is required to ensure that its developers comply with all regulations governing administrative, financial, and programmatic operations, and that they achieve performance objectives on time and within budget. Monitoring enables ADFA to verify compliance with both regulatory and performance requirements.

In the event a developer disagrees with a finding and/or any accompanying corrective actions or sanction(s) that are associated with such finding, the Developer shall follow ADFA's appeals process.

After a qualified development has been placed in service, ADFA or its representative will initiate compliance monitoring reviews. ADFA's staff will audit each development within 180 days following the first taxable credit year and once every three years throughout the compliance period.

Physical Monitoring

Physical inspections should include the inspection of the exteriors of all buildings and common areas and the inspection of the interior of income restricted units to ensure compliance with NSPIRE or current physical inspection standards. ADFA or its representative will conduct on-site inspections of all buildings in the Project and will randomly select at minimum 20% of CDBG-DR units for inspection.

Program Monitoring

File reviews will be conducted via a desk audit through the Programs Portal. The grantor will correspond with the management staff and review performance under the contract for the following topics:

- Initial Affordable Rents and subsequent rents during the period of affordability,
- Initial and annual certification of tenant income LMI benefit (minimum 5 or 20% Affordable Units),
- Affirmative Marketing requirements, and

- Fair Housing requirements.

Financial Monitoring
ADFA shall annually review the development's financial statements to ensure the development continues to be operated in a fiscally responsible manner, addressing all debt service obligations and adequately funding Project reserve accounts. Bank statements of operating and replacement reserves will be uploaded to the Programs Portal. Additionally, third party audits are required annually.

Record Retention
All records and books relating to the initial development phase of the Project (application through project completion) shall be retained for a minimum period of three (3) years after ADFA notifies the Developer that the grant agreement between HUD and the State of Arkansas has been closed. Subsequent to closeout of the grant agreement between HUD and the State of Arkansas, all records and books relating to the operational phase of the Development shall be retained for the most recent three (3) year period, until three years after the affordability period terminates. All records must be maintained in such a manner as to ensure that the records are reasonably protected from destruction or tampering. All records shall be subject to inspection and audit by ADFA, HUD, or its representative.

Grant Closeout

The closeout of a grant is a process through which HUD determines that all applicable administrative and program requirements of the grant were completed. In general, a grant is ready for closeout when the following conditions are met:

- All eligible activities were completed and met a national objective.
- All grant funds were expended in full or all remaining funds are planned to be returned to HUD.
- All reporting requirements were completed and submitted (except for the final report that is submitted during the closeout process, if applicable).
- Any special conditions of the grant were met.
- All audit and monitoring issues affecting the grant were resolved.

Developers are required to retain all books and records pertaining to the CDBG-DR Projects for at least three (3) years after ADFA notifies the developer that the grant agreement between HUD and the State of Arkansas has been closed.

Projected Expenditures and Outcomes

In accordance with III.A.2.c of the Universal Notice, expenditure projections are based on each quarter's expected performance – beginning with the first quarter funds are available to the grantee and continuing each quarter until all funds are expended. ADFA will compare the actual expenditures against the projected expenditures to ensure timeliness of project completion. Any discrepancy will be evaluated on a quarterly basis to determine if there is a potentially negative impact that could cause the project to not be completed withing the period of performance. If any discrepancy is deemed reasonable, ADFA will continue to monitor the expenditure rate. The projected expenditures are on ADFA's website and can be found at the following link: