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# **WATERSHED PROJECTS GRANT PROGRAM: LOCAL & REGIONAL - ROUND 1**

## **PROGRAM POLICIES AND PROCEDURES**

Program featured in the State's Master CDBG-MIT [Action Plan](#)<sup>1</sup> developed in response to Federal Register Notice Docket No. FR-6109-N-02.

**PROGRAM ADMINISTERED BY:**  
Office of Community Development  
Division of Administration  
State of Louisiana

[www.watershed.la.gov](http://www.watershed.la.gov)

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<sup>1</sup> This program may be adjusted or revised based on HUD requirements or later amendments to the Action Plan.



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## VERSION HISTORY

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Version 1.1	Extension of program deadlines; information updated to reflect AP approval; clarification regarding eligible applicants; addition of full application and conflict of interest avoidance procedures; and requirements applicable to levee and dam projects, and projects with an individual beneficiary.
Version 1.2	Buyout and acquisition standards added, amendments to dates and meeting requirements, additional detail added regarding calculation of risk reduction value criteria and project delivery and grant management fees.



## DEFINITIONS & ACRONYMS

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**Action Plan or AP:** After HUD publishes the Federal Register Notice (FRN) for a congressional appropriation, the grantee (eligible government) must develop and submit an Action Plan describing the needs, strategies and projected uses of the CDBG-MIT funds. HUD must approve the Action Plan before funds are available.

**Acquisition:** Acquisition of property appropriate for the eligible activities listed in 42 U.S.C. 5305(a)(1), including, but not limited to provision of flood risk reduction public works projects or improvements.

**Buyout:** Strategic acquisition of properties in a floodway floodplain, or disaster risk reduction area that is at risk of flooding to reduce future flood risk.

**CDBG-DR:** Community Development Block Grant-Disaster Recovery funds. Assistance from the U.S. Department of Housing and Urban Development (HUD) to help the state recover from presidentially declared disasters, especially in low-income areas, subject to availability of supplemental appropriations.

**CDBG-MIT:** Community Development Block Grant-Mitigation assistance allocated by HUD to eligible disaster recovery entities via congressional appropriations. HUD provided CDBG-MIT funds to grantees impacted by qualifying disasters in 2015, 2016 and 2017. Grantees are empowered to carry out strategic and high-impact activities to mitigate disaster risks and reduce future losses, while at the same time transform state and local planning<sup>2</sup>.

**Covered Project:** As per FR-6109-N-02, includes infrastructure projects having a total project cost of \$100 million or more, with at least \$50 million of CDBG funds regardless of source (CDBG-DR, CDBG-NDR, CDBG-MIT, or CDBG).

**Cross-Cutting Regulations:** Regulations outside of CDBG-MIT regulations that apply to CDBG-MIT programs. These include regulations pertaining to financial management, procurement, environmental, labor, acquisition, relocation, fair housing and non-discrimination.

**Current Fair Market Value:** Value of a home, as determined by an appraisal conducted by an appraiser licensed in the state of Louisiana and accepted by the grantee.

**Davis Bacon and Related Acts (DBRA):** Federal law requiring payment of local prevailing wages as determined by the Department of Labor on public works projects. It applies to contractors and subcontractors performing work on federally funded or assisted contracts in excess of \$2,000 for the construction, alteration or repair of public buildings or public works.

**Duplex:** A residential structure consisting of two (2) separate dwelling units with separate entrances, under one (1) roof, and located either side by side or one above the other.

**Duplication of Benefits (DOB):** A duplication of benefit is the receipt of funding from multiple sources for the same purpose. The Robert T. Stafford Disaster Assistance and Emergency Relief Act (Stafford Act) prohibits any person, business concern or other entity from receiving financial assistance from CDBG-DR funding with respect to any part of the loss resulting from a major disaster as to which he/she has already received financial assistance under any other program or from insurance or any other sources. It is an amount determined by the program that may result in the reduction of an award value.

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<sup>2</sup> FR-6109-N-02. Page 3



**Environmental Review Record (ERR):** The document resulting from required environmental review, which includes a description of activities, evaluation of environmental impact, documentation of compliance with applicable environmental regulations and an environmental determination.

**Fee Simple Title:** Legal term describing the most common and absolute type of property ownership. When selling fee simple title, the property owner will forego any rights, title or interest in the property.

**Federal Register or FR:** The Federal Register is the official journal of the federal government of the United States that contains government agency rules, proposed rules and public notices. It is published daily, except on federal holidays. The final rules published in the Federal Register are ultimately reorganized by topic or subject matter and codified in the Code of Federal Regulations, which is updated annually.

**Federal Register Notice or FRN:** For each congressional appropriation, HUD publishes a Federal Register Notice that outlines the rules and regulations for the CDBG disaster and mitigation funding. Any use of FRN in this document will refer specifically to FR-6109-N-02, unless otherwise noted.

**Federal Emergency Management Agency or FEMA:** The Federal Emergency Management Agency's mission is to support the citizens and first responders to build, sustain, and improve capability to prepare for, protect against, respond to, recover from and mitigate all hazards. FEMA is under the U.S. Department of Homeland Security.

**FEMA Public Assistance or PA:** Federal Emergency Management Agency Public Assistance, which the president can make available to local, state and tribal governments, and certain types of private nonprofit organizations to remove debris, provides emergency protective measures, and restores equipment, buildings and other infrastructure damaged by the disaster.

**FEMA Hazard Mitigation Grant Program or HMGP:** The FEMA Hazard Mitigation Grant Program helps communities implement hazard mitigation measures following a Presidential Major Disaster Declaration in the areas of the state, tribe, or territory requested by the Governor or Tribal Executive. The key purpose of this grant program is to enact mitigation measures that reduce the risk of loss of life and property from future disasters. HMGP is authorized under Section 404 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act.

**Floodplain:** Any area of land within a watershed that is susceptible to inundation by floodwaters from any source.

**Floodplain management:** A decision-making process that aims to achieve the wise use of the nation's floodplains. It encompasses the choices made by owners of homes and businesses in the floodplain, decisions made by officials at all levels of government, plans made by land developers and contractors, and the judgment of the general public regarding future decisions to be made with regard to land use. 44CFR 59.1 defines flood plain management as "the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and flood plain management regulations."

**Floodplain Servitude, also referred to as Floodplain Easement:** A reserved interest servitude, which is an interest in land, defined and delineated in a deed whereby the landowner conveys all rights and interest in the property to the state, grantee or its designee, but the landowner retains those rights, title, and interest in the property which are specifically reserved to the landowner in the servitude deed. Floodplain servitudes will allow property owners to own and maintain their land, but will limit its uses to those that restore, protect, maintain, and enhance the functions of floodplains while conserving their



natural values such as serving as fish and wildlife habitat, improving water quality, retaining flood water and recharging groundwater.

**Levee:** An earthen embankment, floodwall, or structure along a water course whose purpose is flood risk reduction or water conveyance<sup>3</sup>.

**Louisiana Watershed Initiative or LWI:** Gov. John Bel Edwards established the Council on Watershed Management, which serves as the coordinated, interagency structure at the state level for watershed-based flood risk reduction. In August 2018, the Council launched the LWI to serve as the programmatic arm under which all related efforts operate.

**Low to Moderate Income or LMI:** A household is considered to be of low or moderate income if the household income (including income derived from assets) is at or below 80 percent of an area's median income. All income is based on the Area Median Income limits set annually by HUD for each parish or metropolitan statistical area.

**Major Disaster Declaration:** The president can declare a Major Disaster Declaration for any event that the president believes has caused damage of such severity that it is beyond the combined capabilities of state and local governments to respond. Louisiana's major disaster declarations for the March and August flooding events include:

- Severe Flooding (Disaster 4277) declared Aug. 14, 2016
- Severe Flooding (Disaster 4263) declared March 13, 2016

**Manufactured Home:** Single family residential structure built in a factory and installed on the home site, which meet HUD construction requirements. If built before the 1976 HUD Code, these structures are commonly called mobile homes.

**Mitigation Activities:** Those activities that increase resilience to disasters and reduce or eliminate the long-term risk of loss of life, injury, damage to and loss of property, and suffering and hardship, by lessening the impact of future disasters.

**Notice of Funding Availability or NOFA:** A Notice of Funding Availability is a notice published describing the type of funding available on a competitive basis and provides a contact where an application may be submitted, typically defining a number of days from the date of NOFA publication. Selection will then be made based upon specific factors and criteria identified within the NOFA.

**Public Entity:** For the purposes of Round 1, a Public Entity means a state agency, board or commission, political subdivision, or a federally recognized Indian tribe ("tribe"). For a tribe to apply for or receive a grant, it must agree to a waiver of its sovereign immunity and submit to the jurisdiction of the 19<sup>th</sup> judicial district court for the Parish of East Baton Rouge, State of Louisiana with regard to any legal action associated with the application or grant, or for enforcement of security rights on real estate, if any, the judicial district court for the parish in which such property is located.

**Provisional watershed regions:** The LWI has established provisional watershed regions throughout the state. These regions aggregate HUC8-level watersheds into eight watershed regions for LWI management purposes. See Figure 2 for more detail.

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<sup>3</sup> Definition from the US Army Corps of Engineers



**Recreational Vehicle (RV):** The term includes conventional motor homes and towable travel trailers. These are vehicles primarily used for camping or other recreational vehicles.

**Second home:** a home that is not the primary residence of the owner, a tenant, or any occupant at the time of the storm or at the time of application for assistance.

**Section 3:** A provision of the Housing and Urban Development (HUD) Act of 1968 that requires that recipients of certain HUD financial assistance, to the greatest extent feasible, provide job training, employment and contracting opportunities for low- or very low income residents in connection with projects and activities in their neighborhoods.

**Section 504:** A provision of the Rehabilitation Act of 1973, which provides that no qualified individual with a disability should, only by reason of his or her disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

**U.S. Department of Housing and Urban Development or HUD:** HUD is the agency that administers the Community Development Block Grant-Disaster Recovery and Mitigation funds made available to Louisiana from congressional appropriations.

**Watershed:** A watershed is a geographic area within the boundary of a drainage divide. The USGS defines a watershed as follows: "A watershed is an area of land that drains all the streams and rainfall to a common outlet such as the outflow of a reservoir, mouth of a bay, or any point along a stream channel."



# WATERSHED PROJECTS GRANT PROGRAM: LOCAL AND REGIONAL – ROUND 1

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## PREFACE

**Watershed Projects Grant Program - Round 1: Policies and Procedures (P&Ps)** are addressed in this document. The state intends to regularly update this document to provide applicants and grantees with the most accurate and concise guidance related to ongoing program activities. Applicants or grantees are strongly encouraged to verify online at [watershed.la.gov](http://watershed.la.gov) use of the most current version of this document, which is reflected in the version history located on page 3. The state will post policies and procedures for future rounds of funding (i.e., rounds 2 and 3) as developed, including eligible activities and methods of distribution.

The Office of Community Development has a CDBG Grantee Administrative Manual located at: <http://www.doa.la.gov/Pages/ocd-dru/DRAdminManual.aspx>. In the event of a conflict between these Policies and Procedures and the Administrative Manual, the Administrative Manual will take precedence in the administration of awarded grants unless specifically noted otherwise in these Policies or as required due to requirements specified within Federal Register Notice Docket No. FR-6109-N-02.

## 1. BACKGROUND

### 1.1 About the Louisiana Watershed Initiative or LWI

The **LWI** is the state's effort to support watershed-based floodplain management to more effectively reduce future flood risk vulnerabilities along riverine systems statewide. The effort is managed by the Council on Watershed Management (Council)—currently composed of the Office of Community Development (OCD), Coastal Protection and Restoration Authority (CPRA), Governor's Office of Homeland Security and Emergency Preparedness (GOHSEP), Department of Transportation and Development (DOTD), and the Department of Wildlife and Fisheries (DWF)—and created by Governor Joh Bel Edwards via Executive Order JBE18-16.

The LWI's mission is to “reduce flood risk and improve floodplain management across the state, including through maximizing the natural and beneficial functions of the floodplain.” The Council actively implements this mission through a holistic approach that focuses on:

- Scientific tools and approaches
- Transparent and objective decision-making
- Maximizing natural functions of the floodplains
- Regional water management

This program presents a unique opportunity to support and further goals specifically related to transparent and objective decision-making, regional water management, and maximizing natural functions of the floodplain.

#### **Unique program fund source tied to mitigation activities**

HUD announced a first-time allocation of nearly \$16 billion in **Community Development Block Grant-Mitigation (CDBG-MIT)** funds, as directed by the 2018 Congressional Supplemental Appropriation (Pub. L 115-123, Feb. 9, 2018) to be used for mitigation activities for qualifying disasters in 2015, 2016 and 2017. While HUD acknowledges that it is impossible to eliminate all risks, it will distribute CDBG-MIT funds with



the intention of enabling grantees to mitigate against disaster risks, while at the same time allowing grantees the opportunity to transform state and local planning. The allocation specifically designated \$1,213,917,000 of CDBG-MIT funds to the State of Louisiana for the specific purpose of **mitigation activities**, with requirements and procedures as specified in the FRN for this allocation.

### **Consistency with the State's Action Plan or AP**

As required by the FRN, the State of Louisiana, through the Office of Community Development (OCD) as the CDBG-MIT grantee, has developed a **CDBG-MIT Action Plan**, incorporating extensive public outreach and the latest data and science available, which has been approved by HUD. The state also identified and analyzed all significant current and future disaster risks and found that—whether by flash flooding, inland rivers, stormwater or coastal storm surge—Louisiana is facing increased risk, in both magnitude and frequency, of flood events.

The AP provides a concise summary of the proposed programs and activities for use of the CDBG-MIT funds in order to meet the unmet mitigation needs identified through the extended risk assessment process. This includes identifying the resources necessary, including aligning and leveraging across other federally-funded programs and private sources, to maximize efficiencies and address the State of Louisiana's priority mitigation needs and goals.

## **2. PROGRAM OVERVIEW**

As local, regional and state governments and organizations work through the LWI toward regional, watershed-based coordination and as the datasets and modeling tools are developed to inform watershed management policy and project mitigation activities, the state has developed the CDBG-MIT-funded **Watershed Projects Grant Program: Local and Regional** to provide grant assistance to local and regional organizations to implement identified projects and programs with demonstrable and quantifiable mitigation outcomes.

The Watershed Projects Grant Program: Local and Regional will primarily provide funding on a regional (watershed) basis for planning, voluntary acquisition, infrastructure, code enforcement, public services, voluntary buyouts and housing activities related to resettlement, economic development and/or other public facilities projects that increase resilience to floods on a watershed level. Round 1 of this program provides an initial allocation of \$100 million for resilience projects and programs within a watershed area. Round 1 funds are designed to implement ready, low-risk programs and projects known not to negatively impact flood risk or the natural and beneficial function of the floodplain either up or downstream, and that consider flood risks through a watershed-based approach and to incentivize units of local government to organize collectively as regional coalitions. Round 1 has a single intake process but two opportunities for selection of awards: via statewide selection (up to \$60 million) and via regional selection (up to \$40 million total with up to \$5 million per watershed region). Additional funds will be provided through this program in future rounds.

The **Watershed Projects Grant Program: Local and Regional - Round 1** funds an initial round of projects that provide multiple benefits for several communities to more effectively position Louisiana for a prosperous and more resilient future. Projects in round 1 are anticipated to require minimal continued maintenance, maximize the natural and beneficial functions of the floodplains, and provide risk reduction at the community or regional scale.



The Watershed Projects Grant Program: Local and Regional - Round 1 aims to:

1. Fund low-risk, high-reward projects that (1) create a significant, positive impact on local or regional flooding conditions, (2) improve the natural and beneficial function of the floodplain, and (3) do not have the potential to shift flood risk to surrounding up or downstream communities. Proposed projects must have demonstrable and quantifiable mitigation outcomes.
2. Help change existing decision-making paradigms regarding flood mitigation projects and activities from a localized, community or agency-based framework to long-term, transparent, regional, collaborative decision-making frameworks. The state will allocate up to \$5 million to each watershed region to select regional projects in furtherance of this objective.
3. Build trust, partnerships and technical capacity among local and regional partners through project and program implementation, including moving current projects forward and enhancing existing projects in preparation for future rounds of funding.

Round 1 of the program places high importance on regional coalitions and local governments or local public entities to act as partners in pursuing projects, focusing on projects that are both ready for implementation and evaluated to pose no adverse impacts to the watershed. These strategies are to be informed by the development of a statewide watershed plan, and other data and best science available in watershed impact analysis.

Cooperating LWI state agencies' goals for Round 1 funding include:

- **Reduce Flood Risk.** Identify and help develop regional-scale projects that increase state and local resilience to flooding using the natural and beneficial functions of the watershed and its floodplains, and manage floodplains using appropriate best practices.
- **Transparency.** Provide a clear and transparent process for evaluation and selection for funding of best available science and data-based projects that increase state and local resilience while maximizing natural and beneficial functions of the watershed and its floodplains.
- **Encourage Cooperation.** Prioritize funding for communities that cooperatively identify problems, set policy goals, and explore project solutions to strategically manage floodplains and increase resilience.

### 3. ELIGIBILITY

#### 3.1 Eligible Applicants

Eligibility to submit applications for Round 1 is open to any public entity. Eligible applicants must also have the authority and jurisdiction to implement, operate and maintain the project<sup>4</sup>. Private entities are ineligible. Per the guidelines in FRN, OCD will evaluate the capacity of public entity applicants to serve as a subrecipient for CDBG-MIT funds, and to ensure procedures to detect and prevent fraud, waste and abuse<sup>5</sup>. Please note the definition of a public entity in the definitions section of this document.

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<sup>4</sup> While the AP notes a broader list of eligible entities for Watershed (Local and Regional) Projects and Programs, the AP's list encompasses eligibility for all Rounds of program funding.

<sup>5</sup> FR-6109-N-02, Section (6); Page 26.



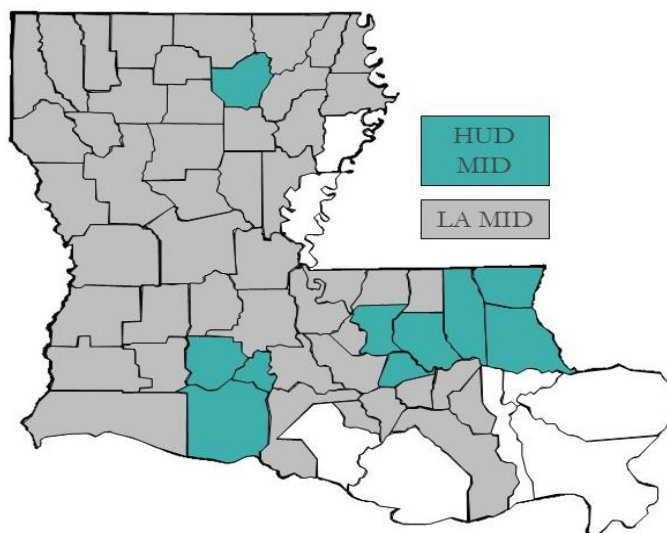
### 3.2 Geographic Eligibility

Under the guidelines of FRN<sup>6</sup>, the state must spend money to benefit areas determined to be Most Impacted and Distressed (MID) as a result of the major disaster identified in the allocation – 2016 floods: DR-4263 and DR-4277 for mitigation activities that address identified risks within those areas. HUD requires that at least 50 percent of all CDBG-MIT funds be used for mitigation activities that benefit the HUD-identified MID areas. HUD identified 10 parishes as MIDs in the FRN.

HUD allows the state to use quantifiable and verifiable data to designate additional MID areas where it can use the remaining 50 percent of the CDBG-MIT funds for mitigation activities that address identified risks resulting from the identified major disasters. The state has identified an additional 46 parishes as LA-identified MIDs. All 46 parishes received federal disaster declarations (Individual Assistance or Public Assistance) as a result of either the March or August 2016 floods (See **Figure 1**).

Any projects for eligible mitigation activities outside of the HUD or LA-identified MID areas are eligible to be submitted, but they must specifically demonstrate how the expenditure of CDBG-MIT funds in their area will measurably benefit/mitigate risks within the HUD or LA-identified MID area (e.g., upstream water retention projects to reduce downstream flooding in the MID areas).

**Figure 1. Parish MIDs Impacted by 2016 Flood**



**HUD MIDs:** East Baton Rouge, Livingston, Ascension, Tangipahoa, Ouachita, Lafayette, Vermilion, Acadia, Washington, and St. Tammany parishes

**LA MIDs:** Allen, Assumption, Avoyelles, Beauregard, Bienville, Bossier, Caddo, Calcasieu, Caldwell, Cameron, Catahoula, Claiborne, De Soto, East Carroll, East Feliciana, Evangeline, Franklin, Grant, Iberia, Iberville, Jackson, Jefferson Davis, LaSalle, Lafourche, Lincoln, Madison, Morehouse, Natchitoches, Pointe Coupee, Rapides, Red River, Richland, Sabine, St. Charles, St. Helena, St. James, St. John the Baptist, St. Landry, St. Martin, Union, Vernon, Webster, West Baton Rouge, West Carroll, West Feliciana and Winn parishes

<sup>6</sup> FR-6109-N-02, Section IIC; Pages 14-15



### 3.3 Eligible Activities

For CDBG-MIT funds, HUD requires that funding be used for *mitigation activities* –activities that increase resilience to disasters and reduce or eliminate the long-term risk of loss of life, injury, damage to and loss of property, and suffering or hardship, by lessening the impact of future disasters<sup>7</sup>. While the AP defines that all activities in HCDA 105(a) 1-25 are eligible, the round 1 projects are intended for **implementation-ready** low risk, high benefit activities in public infrastructure and improvements, elevations, voluntary buyouts and housing activities related to resettlement, economic development and/or other public facilities projects that increase resilience to floods on a watershed level.

An eligible project may include more than one similar or related mitigation activity, subject to OCD review. For selected projects, application preparation and pre-award costs related to the Round 1 process are eligible for reimbursement, as are administration and project delivery costs (provided such costs are consistent with other applicable regulations of this program). These costs must be incurred after the approval of a grant agreement between HUD and the State of Louisiana to be eligible for reimbursement.

The following activity types will categorize eligible project funds:

**Floodplain Restoration and Preservation:** Enhancement of critical areas and ecological restoration activities to promote flood resilience that would enhance the storage capacity and other ecosystem services of existing floodplains, floodways and waterways (e.g., floodplain reforestation, floodplain expansion/benching, stream restoration, wetlands/marshland restoration/ creation, conservation easements/ land acquisitions, and riparian buffers).

**Flood Storage:** Activities that improve resilience to flooding, provide significant stormwater detention, or are flood protection in nature (e.g. regional detention basin and retention basins, including bundled smaller upstream projects).

**Critical Facilities and Infrastructure Flood Mitigation:** Flood mitigation measures for critical and essential facilities or infrastructure. For example, activities may include water and sanitary sewer protective measures, other public utility protective measures including roads and bridges, and key infrastructure protective measures (ASCE 7 and 24 risk category III or IV facilities, evacuation routes).

**Physical non-structural mitigation (Residential/Commercial/Agricultural/ Industrial):** Elevations that meet CDBG-MIT requirements, voluntary acquisition, reconstruction, relocation, and wet or dry-floodproofing of flood-prone non-residential structures (excluding activities primarily utilizing fill). Proposals for non-structural protection must be for community or neighborhood scale activities (i.e., not only for single structures).

**Stormwater Management - Gray Infrastructure:** Necessary gray stormwater infrastructure measures including storm drain and culvert improvements and/or redesign, hardened channels and floodgates/flap gates. Increasing the flow of waterways with upgrades or modification to river crossings, roadways and removal of other impediments/ constrictions such as spoil-banks, old railroad spurs, old bridge pilings, weirs. These activities must demonstrate they will not increase flooding downstream (through analysis of drainage impacts on a HUC-12, 10 or 8 level watershed

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<sup>7</sup> Page 10 of the FRN: FR-6109-N-02



impact analysis) and are ideally paired with green stormwater infrastructure measures.

**Stormwater Management- Green Infrastructure (GI):** Green infrastructure activities that improve existing stormwater management infrastructure (e.g., stream daylighting, permeable pavement, green roofs, bioswales/stormwater parks, green streets/urban tree canopy, rain gardens/bioretention, cisterns and rainfall harvesting devices, subsurface infiltration, etc.). Proposals for green infrastructure protection should be incorporated into community or neighborhood scale projects.

**Other innovative and/or replicable flood control activities:** For example, groundwater storage, levee removal to improve floodplain capacity and storage, and recovery or community transformation activities that integrate flood risk mitigation with economic, social, and recreational benefits not otherwise captured in the activity list above.

#### Ineligible Activities:

- Per the FRN, HUD prohibits the use of CDBG-MIT funds to enlarge a dam or levee beyond the original footprint of the structure that existed before the disaster event. Special requirements exist for the use of CDBG-MIT funds for levees and dams<sup>8</sup>. **OCD approval should be obtained for submittal of any project involving the proposed construction or demolition of a dam, levee or other flood control structure. Please see Section 8.1-8.3 of this document for further information on application requirements for projects impacting an existing dam or levee.**
- CDBG-MIT funds made available in this program cannot be used to assist privately-owned utilities.
- CDBG-MIT funds cannot be used for ongoing maintenance or deferred maintenance projects.
- CDBG-MIT funds cannot be used for programs and projects to provide emergency response services<sup>9</sup>. However, CDBG-MIT funds may be used for mitigation activities to enhance the resilience of facilities used to provide emergency response services, provided that such assistance is not used for buildings for the general conduct of government as defined at 24 CFR 570.3.
- CDBG-MIT funds cannot 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 a public use<sup>10</sup>.
- CDBG-MIT funds cannot be used for reimbursement for mitigation activities undertaken before approval of a grant agreement between HUD and the State of Louisiana.

#### Project Size:

The round 1 projects will have a minimum threshold grant request of **\$500,000** and a maximum funding request of **\$10 million**. OCD may consider limited exceptions, but pre-approval for submittal is required. The state will enable each watershed region to select projects to recommend to OCD for funding up to \$5 million from each region. In the instance that a project application requests over \$5 million in CDBG-MIT funding that project cannot not be funded by the regional selection process of this program with the notable exceptions of: 1) projects that can be split into discrete phases that each stand alone as a separate project (subject to review by OCD) or 2) projects that benefit multiple watershed regions. The

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<sup>8</sup> Section V.C.2, Page 113-114 of the FRN: FR-6109-N-02

<sup>9</sup> Emergency Response Services are defined in Section V.C.5, page 115 of FR-6109-N-02

<sup>10</sup> Must be in accordance with the public use definition in Section V.D.7, page 117 of FR-6109-N-02.



two selection processes are further described in Section 10.

### **Project Delivery Costs:**

Project delivery costs are expenses incurred by grantees while implementing and carrying out eligible CDBG activities. Project delivery is capped at 15% of the overall project budget within this program. Examples of project delivery costs include costs to supplement a grantee's single audit, costs associated with environmental clearance, newspaper advertisements, and grant management services. OCD may pay for Project Delivery costs in excess of the caps specified herein upon review of justification submitted by the grantee.

### **Grant Management Costs**

Grant Management costs should be estimated according to the total grant request for the application and included in the application budget. The maximum allowable grant management cost per project shall be less than or equal to the caps as outlined in the below table. The grant management cap is inclusive of all grant management services including but not limited to administrative oversight, preparation of the environmental review record, program reporting, scheduling, document management, review, technical assistance, and consultation as required to continue accomplishing the objectives of the project development through program closeout phases as described in the current CDBG Grantee Administrative Manual. The applicant must demonstrate the reasonableness of the costs. Justification based solely on the fact that the fees are within the amount allowed by OCD is not adequate.

Total CDBG-MIT Project Award	Grant Management Cap Amount
\$500,000 - \$749,999.99	\$50,000.00
\$750,000 - \$1,499,999.99	\$60,000.00
\$1.5 million - \$2,499,999.00	\$80,000.00
\$2.5 million - \$5,999,999.99	\$100,000.00
\$6 million - \$10 million	\$120,000.00

Applicants may choose to use their own staff to conduct grant management activities, procure a third-party grant administrator, or a combination of the two.

### **Professional Design and Construction Case Management Costs**

Professional design costs for Basic Services or Additional Services may be eligible for reimbursement up to the established fee schedule by State of Louisiana Office of Facility Planning and Control included as Appendix C. All design and case management costs would be included under project costs and not included in the project delivery costs. Architectural/ Engineering fees, even those provided under either a fixed price contract or cost reimbursement contract, must be reasonable and justifiable. Sole justification that the fees are within the amount allowed by OCD is not adequate, and design contracts priced on the basis of a percentage of project cost are prohibited

### **Basic Services**

Basic Services under a contract for professional design services may include costs for design services and related costs determined by OCD to be included within Basic Services. Reimbursement for Design Basic



Services costs cannot exceed 10% of the construction cost.

### **Additional Services**

Additional Services included in a contract for professional design include laboratory testing services, recordation fees, advertisement for bids, environmental assessments, hydrologic and hydraulic studies, traffic studies, wetlands permitting, surveys, geotechnical investigations, construction observation, builders risk insurance, and similar costs determined by OCD to be allowable. OCD reimbursement for Additional Services cannot exceed 5% of the construction cost. OCD may pay Additional Services in excess of the 5% cap upon review of justification submitted by the project architect/engineer.

### **Construction Case Management (Housing Buyout or Elevation Only)**

Construction case management costs include working directly on a case by case basis with each property owner, coordinating with the property owner and contractor; creating and modifying work write-ups and site inspections. These costs will be limited as shown on the table below.

Total CDBG-MIT Project Award	Case Management Cap Amount
\$500,000.00 - \$1,999,999.99	\$90,000.00
\$2 million - \$2,999,999.99	\$180,000.00
\$3 million - \$5,999,999.99	\$240,000.00
\$6 million - \$10 million	\$450,000.00

## **3.4 Coordination with other Federal Sources/FEMA**

HUD notes in the FRN that the guiding structure and objectives established for CDBG-MIT funds bear similarities to other federal programs that address hazard mitigation, particularly FEMA's Hazard Mitigation Grant Program (HMGP). To that end, the state has established programs in the AP and activities of the LWI that seek to complement HMGP policies and processes where possible. Additionally, where program funds are available for similar activities, the state will provide applicants with technical assistance and briefings to understand how to apply for additional resilience and mitigation funding opportunities or leverage existing resources.

Projects submitted for round 1 can be the same as submitted for concurrent open application programs funded by FEMA. The state will coordinate to ensure projects are selected without duplication of funding source. Note, this round 1 program is NOT intended to cover the non-federal match share of an existing project. OCD has an additional program in its AP with that objective.

## **4. NATIONAL OBJECTIVE**

Each project funded with CDBG-MIT must meet a national objective in accordance with the general CDBG framework. Under the CDBG regulations, a project is not considered as meeting a national objective until it is complete. Therefore, applicants must be aware of the national objective category and document compliance appropriately. The state has defined as eligible the use of meeting either the LMI or Urgent Need Mitigation national objectives. The Alternative Requirements in meeting these two national objectives, as prescribed by HUD, are further detailed in Sections 4.1 and 4.2 below.

Additionally, HUD established an Alternative Requirement to meet a national objective that all CDBG-



MIT activities must:

- (1) Demonstrate the ability to operate for the useful life of the project – have a plan for a funding for long-term operation.
- (2) Be consistent with other mitigation activities in MID areas<sup>11</sup>.

#### 4.1 Low to Moderate Income (LMI)

In order to qualify as addressing the national objective of benefit to LMI persons on an area basis, an activity must meet the identified needs of LMI persons residing in an area where at least 51 percent of the households are LMI. The benefits of this type of activity are available to all residents in the area regardless of income.

HUD alternatively allows certain activities, including buyouts (LMB) and housing activities (LMHI), to qualify as meeting an LMI national objective if one for the following requirements are met:

- **LMB:** An LMI national objective is met for buyouts when the seller is LMI and the total buyout (including relocation) is greater than the post-disaster Fair Market Value (FMV)
- **LMHI:** An LMHI national objective is met for housing incentives when an LMI household gets an incentive to move outside of the floodplain or to a lower-risk area; and providing or improving residential structures that, upon completion, will be occupied by an LMI household (e.g., use to purchase replacement mobile homes to move to lower risk area).

#### 4.2 Urgent Need Mitigation (UNM)

HUD has waived and established an Alternative Requirement to the urgent need national objective which is applicable to CDBG-MIT funds only, called the Urgent Need Mitigation (“UNM”) national objective. In order to meet a UNM, the project must document:

- Activity addresses current and future risks in the Mitigation Needs Assessment of MID areas; and,
- Activity will result in measurable and verifiable reductions in risk of loss of life and property from future disasters and yield community development benefits.

### 5. WATERSHED REGIONS AND LWI COORDINATION

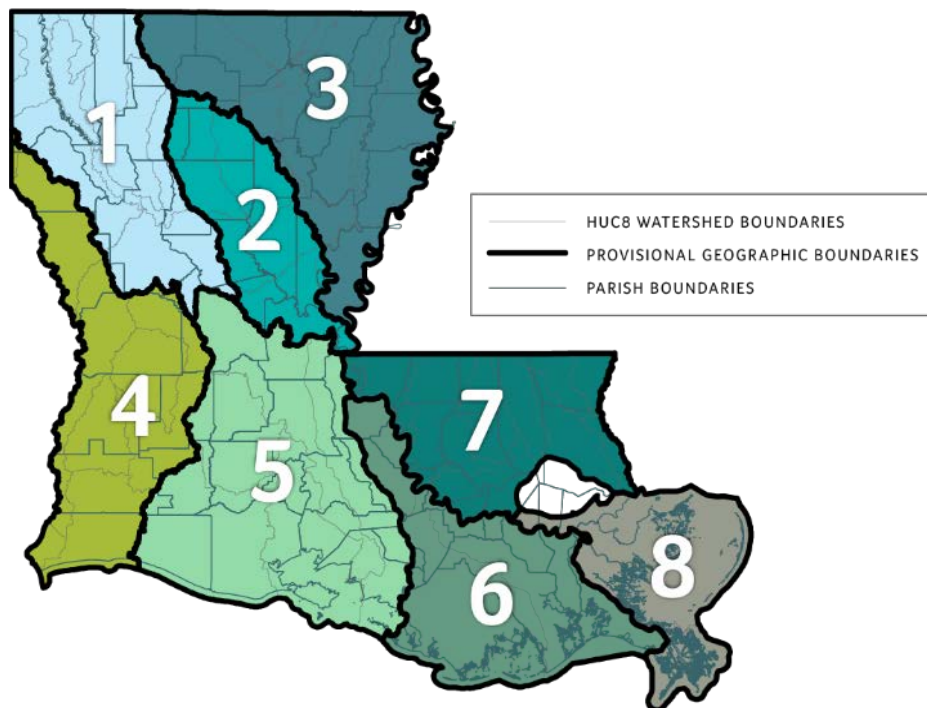
The round 1 program will primarily provide funding on a regional (watershed) basis for local governments or legally authorized public entities to apply for a competitive-based grant. The state agencies as part of the LWI, assembled in response to Gov. John Bel Edwards’ Executive Order, recognize the depicted delineation of provisional watershed regions to enable successful implementation and coordination of LWI program activities. **Figure 2** below illustrates the LWI provisional watershed regions. The state designates a *living watershed boundary* that can be amended through the coordinated support of both regional and state watershed entities to reflect changing risk profiles clarified by the LWI modeling effort and resulting from project impacts, climate change or land development standards.

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<sup>11</sup> Page 71 of the FRN: FR-6109-N-02



**Figure 2. LWI Provisional Watershed Regions**



The following objectives define a successful round 1 project and are reflected in the scoring criteria:

- **Science-based.** Projects that are science-based and clearly contemplate uncertainty associated with future flood risk, such as through designs that may be adaptable to address higher flood depths over time.
- **Natural Function.** Projects that balance quality of life benefits for residents with restoring natural floodplain processes.
- **Regional in Scale.** Projects that are expected to produce benefits at a watershed or otherwise-defined regional scale. The project should promote watershed-based floodplain management.
- **Cooperative Efforts.** Projects that demonstrate cooperative partnerships around sustainable development within the watershed and its floodplains. Projects that have been prioritized by the region and do not duplicate other proposed or ongoing efforts in that region.

In evaluating projects submitted for round 1 funding, the state will consider the involvement of stakeholders within watershed regions and incentivize coordination through the regional steering committees. Coincident with the design and launch of the round 1 process, the state is supporting the implementation of standup activities for regional steering committees in each of the eight watershed regions. The regional steering committees will help to guide capacity building efforts as well as formation of long-term regional watershed coalitions. The implementation of the round 1 program will complement capacity building efforts. OCD intends to provide briefings and technical assistance to potential applicants of the round 1 program in each of the eight watershed regions.

## **6. METHOD OF DISTRIBUTION**

**Round 1 Projects is designed to go through one Intake process with two opportunities for selection.** The phased application process is designed to encourage regional discussion of projects, allow full



consideration of a broad array of impactful mitigation activities, and ultimately to focus the detailed level of project formulation only to the most qualified projects that have the highest likelihood of success. The two-tiered selection process allows for a statewide competition for all eligible projects and a successive watershed regional selection process within each region.

Round 1 will go through a Pre-Application to Full Application to Selection process as illustrated in **Figure 3** to result in project awards. Note: these dates are subject to change.

**Figure 3. Round 1 Process Flow**

EVENT	DATE
State issues NOFA and solicits project applications	Nov. 22, 2019
Deadline to submit project pre-applications	Jan. 17, 2020
Round 1 full application window opens	Sept. 18, 2020
Deadline to submit full applications	Jan. 22, 2021
Awards announced for \$60 million in statewide projects*	March 2021
Recommendations for \$40 million in regional projects complete	June 2021

\*Projected timelines may be impacted by the number of applications received

## 7. PHASE 1: PRE-APPLICATION

### Key Activities in Phase 1:

- Issuance of NOFA, including solicitation for round 1 pre-applications and full applications, announcing project eligibility criteria, project types and minimum requirements.
- Briefings and technical assistance by watershed region to present the program, pre-application requirements and to highlight its alignment with the Regional Capacity Building Grant Program and incentivizing development of each watershed steering committee.
- Submittal of pre-applications by eligible public entity applicants.
- Screening of pre-applications for LWI Disqualifying Factors (DQs) in project impacts and other technical issues, and in eligibility with CDBG-MIT funding sources. Confirmation of threshold project requirements.
- Eligible project applicants will receive notification to complete a full project application.

### 7.1 Pre-Application Submission Requirements

The applicant will complete a pre-application form. To apply for round 1, applicants must electronically submit a completed pre-application by the due date, as specified in the NOFA.

Applicants must specifically reference future risks and mitigation needs in alignment with the Mitigation Needs Assessment included in the state's [Action Plan](#) to spend funds on these types of projects.

Pre-applications should align with the following current applicable local and state plans. Note that the



proposed project does not need to be listed in the below plans, but must demonstrate that is not in conflict with stated goals and objectives.

- State Hazard Mitigation Plan
- Coastal Master Plan
- Wildlife Action Plan
- Inland Water Body Management Plan
- Scenic River Management Plan
- Statewide Transportation Plan
- FEMA-Approved Local Hazard Mitigation Plan
- Local hazard mitigation plan
- Local master plan
- Stormwater or floodplain management plan
- Natural resource and/or open space management plan
- Other local plans

## **7.2 Pre-Application Threshold Factors**

OCD will evaluate pre-applications for CDBG-MIT basic threshold eligibility, ensuring no disqualifying factors for the proposed project. Disqualifying factors include, but are not limited to:

- Not an eligible entity
- Not an eligible activity
- Does not consider flood risk
- Increases flooding in surrounding areas
- No operation and maintenance plan
- Does not demonstrate a benefit within a HUD or LA-identified MID

## **7.3 Pre-Application Required Documentation**

Each Applicant must submit a completed Pre-Application form. The Pre-Application is submitted electronically through the LWI website at [www.watershed.la.gov](http://www.watershed.la.gov) as specified in the NOFA and additional notifications provided by OCD. Paper Pre-Applications will not be accepted.

# **8. PHASE 2: FULL APPLICATION**

### **Key Activities in Phase 2:**

- Full application packet of instructions and scoring criteria provided to all applicants who submitted an eligible pre-application. The full application requirements are clearly communicated and posted for all applicants to guide them through the process of developing and submitting successful project applications.
- Briefings and technical assistance to potential applicants, including a mandatory webinar
- Submittal of full applications – eligible public entity submits full application through the online system.
- OCD manages the evaluation and scoring of full applications.

## **8.1 Full Application Submission Requirements**

The applicant will complete a full application form. The application is submitted electronically through



an online system provided by OCD. Paper applications will not be accepted.

## 8.2 Competitive Evaluation and Scoring Criteria

OCD will evaluate and score all full applications and may employ the review and assistance of a scoring committee composed of one representative of each agency on the Council on Watershed Management. Members of such scoring committee shall be chosen by the Councilmember for their respective agency. OCD reserves the right to employ the advice and assistance of additional technical experts or subject matter staff in furtherance of reviewing or scoring full applications, such assistance may include consideration of the merits of particular methodologies and/or factors to be used as tie-breakers in the event of a number of projects with similar cumulative scores. Projects submitted for round 1 funding can earn up to 100 points in scoring criteria. See Appendix B for more information regarding scoring criteria and full application submittal.

Each project will be scored and then ranked according to the following criteria:

PROJECT EVALUATION RUBRIC		
Criteria		Maximum Point
<b>Effectiveness in Minimizing Risk</b>		<b>44</b>
	Risk reduction value	20
	Future flood risk considerations	2
	Upstream and downstream flood effects	2
	Passivity and reliability	2
	Multi jurisdictional risk reduction benefits	4
	Enhanced protection of critical lifelines	3
	Avoided damages/losses	2
	Adaptability to higher flood levels	2
	Replicability	2
	Project design life	3
	Historical/archeological/geological impacts	2
<b>Project Costs &amp; Project Implementation</b>		<b>13</b>
	Fund match	1
	Annual costs	2
	Implementation timeframe	2
	Project stage of development	3
	Operations and maintenance	1
	Consistency with other projects or plans	1
	Applicant capacity/previous experience managing federal grant funding	3
<b>Social Benefits</b>		<b>12</b>
	Benefit to low- and moderate-income populations	7
	Economic opportunity	3
	Outdoor recreational resources	2



<b>Enhancement of Natural Functions</b>		<b>15</b>
	Natural hydrology improvements	5
	Water quality improvements	5
	Improvement to aquatic/floodplain habitat	5
<b>Benefit to Most Impacted and Distressed Parishes</b>		<b>16</b>
<b>Total</b>		<b>100</b>

In calculating risk reduction value, applicants shall provide information regarding structures in the project impact area within an equation provided by OCD to calculate effectiveness across project types. In estimating project useful life, applicants shall use the FEMA Useful Life table shown below. If project useful life is outside of the FEMA recommendations, justification should be provided. Appropriate justification would include documentation from a professional engineer or manufacturer.

Project Type	Useful Life (years)		Comments
	Standard Value	Acceptable Limits (documentation re- quired)	
Acquisition/Relocation			
All Structures	100	100	
Elevation			
Residential Building	30	30-50	
Non-Residential Building	25	25-50	
Public Building	50	50-100	
Historic Buildings	50	50-100	
Structural/Non-Structural Building Project			
Residential Building Retrofit	30	30	
Non-Residential Building Retrofit	25	25–50	
Public Building Retrofit	50	50–100	
Historic Building Retrofit	50	50–100	
Roof Diaphragm Retrofit	30	30	Roof hardening and roof clips
Non-Structural Building Elements	30	30	Ceilings, electrical cabinets, generators, parapet walls or chimneys
Non-Structural Major Equipment	15	15-30	Elevators, HVAC, sprinklers
Non-Structural Minor Equipment	5	5-20	Generic contents, racks, shelves



Project Type	Useful Life (years)		Comments
	Standard Value	Acceptable Limits (documentation re- quired)	
Infrastructure Projects			
Major Infrastructure (minor local- ized flood reduction projects)	50	35-100	
Concrete Infrastructure, Flood Walls, Roads, Bridges, Major Drainage System	50	35-50	
Culverts (concrete, PVC, CMP, HDPE, etc.)	30	25-50	Culvert with end treatment (i.e., wing walls, end sec- tions, head walls, etc.)
Culverts (concrete, PVC, CMP, HDPE, etc.)	10	5-20	Culvert without end treat- ment (i.e., wing walls, end sections, head walls, etc.)
Pump Stations, Substations, Wastewater Systems - Structures	50	50	
Pump Stations, Substations, Wastewater Systems - Equip- ment	5	5-30	
Hurricane Storm Shutters	15	15-30	
Utility Mitigation Projects Major	50	50-100	Major (power lines, cable, hardening gas, water, sewer lines, etc.)
Utility Mitigation Projects Minor	5	5-30	Minor (backflow valves, downspout disconnect, etc.)
Miscellaneous Equipment Projects			
Equipment Purchases	2	2-10	Small, portable equipment (e.g., computer)
Equipment Purchases	30	5-30	Heavy equipment

Source: Federal Emergency Management Agency. 2009. *BCA Reference Guide. Appendix D Project Useful Life Summary*. [https://www.fema.gov/media-library-data/20130726-1736-25045-7076/bca\\_reference\\_guide.pdf](https://www.fema.gov/media-library-data/20130726-1736-25045-7076/bca_reference_guide.pdf)



The scoring criteria are subject to change based on HUD requirements or required changes to the program. Scoring criteria will be finalized and clearly communicated to each eligible applicant before full application submittal.

### **8.3 Required Documentation**

Included with the full application, applicants submit all supporting H&H studies, geotechnical analysis, impact analysis and modeling to support the project's benefits and impacts, as well as any other documentation necessary to support the requirements of the FRN or the criteria for this program – see Appendix B for further information. To prove alignment with local and state plans, applicants should include relevant excerpts from the applicable plans.

Certain project types have specific documentation requirements to ensure compliance with HUD requirements, indicated below and in the full application:

#### **Additional submission requirements for projects addressing existing levees or dams:**

- Applicants for such projects must attach supporting documentation as verification that the subject project will not enlarge a dam or levee beyond the original footprint of the structure that existed before the disaster event. Note: Such supporting documentation could include 1) design documents of the structure, accompanied by written affidavit verifying that the such documents accurately portray the subject structure as it was March 8, 2016 OR 2) a survey of the current structure accompanied by written affidavit verifying that the structure has not undergone changes since March 8, 2016.
- Applicants for such projects are required to register and maintain entries regarding such structures with the U.S. Army Corps of Engineers National Levee Database or National Inventory of Dams. Applicants must submit documentation verifying such registration for the subject levee or dam.
- Applicants for such projects are required to ensure that the subject structure is admitted in the U.S. Army Corps of Engineers PL 84-99 Rehabilitation Program (Rehabilitation Assistance for Non-Federal Flood Control Projects). Applicants must submit documentation verifying admission for the subject levee or dam.
- Applicants for such projects are required to ensure the structure is accredited under the FEMA National Flood Insurance Program. Applicants must submit documentation verifying such accreditation for the subject levee or dam.

## **9. TECHNICAL ASSISTANCE AND BRIEFINGS**

OCD will make Technical Assistance (TA) available to applicants during the pre-application and full application phases. During the pre-application phase, OCD will offer TA in each region to assist applicants with determining basic project eligibility and successfully completing the required pre-application. For the full application phase, OCD will offer TA to assist applicants in understanding of the application requirements and to plan for the requirements of project implementation.



## 10. PHASE 3: PROJECT SELECTION

### 10.1 Statewide Competitive Award

All projects will be scored by the LWI Round 1 Scoring Committee according to the established scoring criteria with final award determinations made by OCD based on the Scoring Committee's recommendations, up to a maximum of \$60 million. OCD will select the projects provided they are within the program funding thresholds. This is a statewide competition determined upon objective published criteria. OCD maintains the right to verify determination of adverse regional impact through a third-party review if application information does not provide sufficient data to support a clear decision by the reviewers. In the event that projects in the statewide selection process result in awards by the State of less than \$60 million, and the next ranking project would result in awards greater than \$60 million, the state may determine whether the next ranking project can be scaled or receive less funding than applied for and still result in a completed eligible project. If not, the state may award the remaining balance of the \$60 million to a lower ranking project that does not result in aggregate awards exceeding \$60 million, or transfer the remaining funds to the Regional Awards pool. There is no specified number of awards nor established geographic dispersion for these awards. The maximum award per project is \$10 million, subject to requested exceptions. The Notices of Awards will contain terms and conditions that must be satisfied for the project to proceed and be eligible for reimbursement of costs.

#### Key Activities:

- All full applications are scored and listed in order of ranking highest to lowest.
- State awards projects, up to the funding limit of \$60 Million.
- OCD enters into Cooperation Endeavor Agreement (CEA) with identified partners to implement selected projects.

### 10.2 Watershed Regional Awards – up to \$5 Million per each of 8 Watershed Regions

In an effort to support and incentivize units of local government to implement programs and projects that actively consider flood risks through a watershed-based approach and organize as local and regional coalitions, provisional watershed regions will have the opportunity to participate in the selection of up to \$5 million in projects to be funded. This regional awards process will enable watershed regions that have developed a functional regional steering committee to select projects from those applications that meet a minimum threshold score, and recommend these projects to OCD for funding, as further detailed below.

Regional steering committees must complete the following steps in order to participate in the selection of watershed region projects:

1. **Membership:** Regional Steering Committee membership shall be finalized as indicated by a completed Steering Committee Guidance Work Sheet provided in the Regional Capacity Building Grant Program NOFA. This work sheet and any supplemental documentation must have been reviewed by the state for conformance with the state's membership guidance, re: verification of steering committee commitment and minimum requirements.
2. **Meeting:** At least one meeting with a quorum of members present must be held by May 29, 2020; and



3. **Regional Priorities:** The steering committees are encouraged to develop a process to establish regional priorities in order to select projects.
4. **Meeting Procedures:** Before their participation in the selection of projects to recommend for funding, the steering committee must adopt meeting and voting procedures. All meetings of the steering committee must be advertised and open to the public consistent with the Louisiana open meetings law.

Once the steering committee has demonstrated completion of the above steps (1-4 above), OCD will forward a list of eligible projects for each watershed region with their scores to each steering committee for their consideration and referral for funding. If the projects recommended by the region are not those projects scoring highest (under the states' scoring process) within the list of eligible projects for regional selection, the steering committee must provide written justification for their selections. Projects selected through this process must not exceed a total award amount of \$5 million per region. A project that benefits multiple watershed regions can be in the selection consideration of multiple regions. A project can be selected to receive funds from more than one region, but the project award size cannot exceed \$5 million from any single region. Watershed regions are encouraged to coordinate to ensure no duplication in project selection.

If the steering committee does not meet the formation/functional criteria set by the state by the anticipated award date, the state can offer an extension based on demonstrated progress and a clear timeline. LWI agencies staff will assist with steering committee meeting facilitation and participation in the watershed project selection process, including the development of regional priorities.

Notices of awards to selected projects will be issued by OCD which will contain terms and conditions that must be satisfied for the project to proceed and be eligible for reimbursement of costs.

Funds can return to the state selection process in the cases of an established deadline for round 1 regional awards or if a region does not have eligible projects up to \$5 million. The state may either select the projects to be funded through the regional award process in round 1 or increase the funds available for rounds 2 or 3.

#### **Avoidance of Conflicts of Interest:**

Because Regional Steering Committees comprise stakeholders within each region reflective of its technical expertise and diverse interests, it is critical that those members of the Regional Steering Committee take precautions to avoid conflicts of interest or the perception of conflicts of interest caused by their actions on the Regional Steering Committee. To that end, Regional Steering Committee members are required to adhere to the Regional Steering Committee Conflict of Interest Identification, Reporting and Avoidance Process attached in Appendix A.

#### **Key Activities:**

- Local steering committee(s) participate in the selection of project(s) from the list of eligible project applications, and submit award recommendations to OCD.
- OCD approves the awards and enters into CEAs with applicants to implement selected project(s).



### 10.3 Individual Beneficiaries

Persons who previously received CDBG-DR funds but were later determined ineligible for all or a portion of the funds and failed to remit the funds or failed to comply with the requirements of the prior grant and failed to return the funds are ineligible to receive individual benefits from this program. This requirement is subject to waiver by OCD.

### 10.4 Direct Beneficiaries

Any application or award with a program or project involving direct beneficiaries (i.e., housing incentive awards) is subject to the maximum award in the state's [Action Plan](#) approved by HUD.

## 11. CDBG-MIT AND FEDERAL CROSS-CUTTING REQUIREMENTS

The following is a summary of key cross-cutting requirements and their application to the Watershed Projects Grant Program: Local and Regional. HUD has approved basic waivers common to CDBG-DR that are allowed in CDBG-MIT, otherwise CDBG-DR rules are presiding. HUD has determined certain Alternative Requirements applicable only to the CDBG-MIT funds, as detailed in the authorizing FRN. The Alternative Requirements provide flexibility in program implementation while ensuring HUD CDBG requirements are met.

For a comprehensive understanding of the CDBG-DR and federal cross-cutting requirements, please refer to the Disaster Recovery CDBG Grantee Administrative Manual: <http://www.doa.la.gov/Pages/ocd-dru/DRadminManual.aspx>.

While an applicant/project may be subject to all compliance areas, the compliance areas that have presented the most challenges to program recipients in the past and require additional attention to detail include the following:

- Labor Compliance Requirements (Davis Bacon and Related Acts)
- Uniform Relocation and Real Property Acquisition Act (URA)
- Section 3 Compliance
- Elevation Requirements
- Procurement Methods
- Environmental Review
- Duplication of Benefits

OCD will provide technical assistance to inform and assist with compliance. Failure to comply fully with the CDBG-MIT and federal cross-cutting requirements may result in the project being ineligible and/or a recapture of funds.

### 11.1 Labor Standards

In general, Davis-Bacon and Related Acts (DBRA) requires payment of prevailing wages to laborers and mechanics on contracts, financed in whole or in part with CDBG-DR funds that involve construction work valued in excess of \$2,000. Also, all employees must be paid at least time and a half for any time they work more than 40 hours per week. The Federal Labor Standards Provisions and the applicable federal wage decision(s) must be included in bid packages and contract documents as well as referenced in all bid advertisements. Prevailing wage rates are higher than regular wages in many rural areas and may affect the project budget.



Eligible applicants must comply with and will be responsible for insuring compliance of all of its construction contracts with the following labor requirements and any other regulations issued to implement such requirements:

- 1) Section 110 of the Housing and Community Development Act of 1974, as amended and as set forth in 24 CFR§570.603.
- 2) Davis-Bacon Act, as amended (40 U.S.C. §3141 et seq.) as supplemented by Department of Labor regulations (29 CFR Parts 1, 3, 5, 6 and 7).
- 3) Contract Work Hours and Safety Standards Act (40 U.S.C. §3701 et seq.).
- 4) Federal Fair Labor Standards Act (29 U.S.C. §201 et seq.).
- 5) Compliance with the Copeland "Anti-Kickback" Act (18 U.S.C. §874) as supplemented in Department of Labor regulations (29 CFR Part 3).

For further guidance, please see Section 7: Labor Regulations of the Disaster Recovery CDBG Grantee Administrative Manual, available at: <https://www.doa.la.gov/Pages/ocd-dru/DRAdminManual.aspx>.

## **11.2 Uniform Relocation and Real Property Acquisition Act (URA)**

In executing projects, grantees may need to acquire real property to complete specific activities. Before acquiring real property or attempting to undertake a relocation project, a determination must be made as to whether or not the requirements of the Uniform Relocation Assistance (URA) and Real Property Acquisition Act of 1970 (as amended in 1986) apply. The applicant must follow the procedures of the Uniform Relocation and Real Property Acquisition Act before the site acquisition. ANY acquisition of real property made by a grantee, even when financed with non-federal funds (i.e., general funds), can be subject to URA if the project's end result is a federally-assisted project. Acquisition and relocation can be very time consuming, please develop your program time schedule accordingly.

There are three major regulations that cover relocation and acquisition activities in CDBG programs:

- a) URA regulations, effective February 2005, implementing the Uniform Relocation Assistance and Real Property Acquisition Policies Act (URA) of 1970, as amended (49 CFR Part 24)
- b) (b) Section 104(d) of the Housing and Community Development Act of 1974 (HCDA) and the implementing regulations at 24 CFR Part 42
- c) 24 CFR 570.606 of the CDBG Regulations which requires compliance with the regulations listed above.

For further guidance, please see Section 10 Acquisition and Relocation of the Disaster Recovery CDBG Grantee Administrative Manual:

<https://www.doa.la.gov/Pages/ocd-dru/DRAdminManual.aspx>.

## **11.3 Section 3 Compliance in the Provision of Training, Employment and Business Opportunities**

To the greatest extent feasible, employment and other economic opportunities should be directed to (1) low and very low income persons, and (2) business concerns which provide economic opportunities to low and very low income persons. Requirements are triggered when a recipient of CDBG-MIT assistance invests \$200,000 or more into projects/activities involving housing construction, rehabilitation or other public construction. If Section 3 of the HUD Act of 1968 is triggered for the applicant, then



contractors/subcontractors whose contracts exceed \$100,000 must also comply. The applicant will have to report to the OCD information on Section 3 new hires and contracts awarded to Section 3 business concerns.

Applicants must ensure they comply with

- a) Section 3 of the Housing and Urban Development Act of 1968, as amended
- b) 12 U.S.C. 1701u
- c) 24 CFR Part 135

For further guidance, please see Section 8 Civil Rights of the Disaster Recovery CDBG Grantee Administrative Manual, available at: <https://www.doa.la.gov/Pages/ocd-dru/DRAdminManual.aspx>.

#### **11.4 Elevation Standards**

Elevation standards apply to new construction, repair of substantial damage, or substantial improvement. The following elevation standards apply to new construction, repair of substantial damage, or substantial improvement of structures to mitigate risks identified in a grantee's Mitigation Needs Assessment, when those structures are located in an area delineated as a flood hazard area or equivalent in FEMA's data source identified in 24 CFR 55.2(b)(1)<sup>12</sup>.

All structures, defined at 44 CFR 59.1, designed principally for residential use and located in the 100-year (or 1 percent annual chance) floodplain that receive assistance for new construction, repair of substantial damage or substantial improvement as defined at 24 CFR 55.2(b)(10), must be elevated with the lowest floor, including the basement at least 2 feet above the base flood elevation. Alternatively, grantees may choose to adopt the design flood elevation standards of ASCE-24 if it results in an elevation higher than 2 feet above base flood elevation. Mixed-use structures with no dwelling units and no residents below 2 feet above base flood elevation must be elevated or floodproofed, in accordance with FEMA floodproofing standards at 44 CFR 60.3(c)(3)(ii) or successor standard, up to at least 2 feet above base flood elevation.

Nonresidential structures must be elevated to the standards in the FRN (Page 112-113) or floodproofed in accordance with FEMA floodproofing standards at 44 CFR 60.3(c)(3)(ii) or successor standard, up to at least 2 feet above the 100-year (or 1 percent annual chance) floodplain and may include using structural or nonstructural methods to reduce or prevent damage; or, designing it to adapt to, withstand and rapidly recover from a flood event.

All Critical Actions, as defined at 24 CFR 55.2(b)(3), within the 500-year (0.2 percent annual chance) floodplain must be elevated or floodproofed (in accordance with the FEMA standards) to the higher of the 500-year floodplain elevation or 3 feet above the 100-year floodplain elevation. If the 500-year floodplain is unavailable, and the Critical Action is in the 100-year floodplain, then the structure must be elevated or floodproofed at least 3 feet above the 100-year floodplain elevation. Critical Actions are defined as an "activity for which even a slight chance of flooding would be too great, because such flooding might result in loss of life, injury to persons or damage to property." For example, Critical Actions include hospitals, nursing homes, police stations, fire stations and principal utility lines.

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<sup>12</sup> FR-6109-N-02, Section V.B.1.d, Pages 98-99.



Non-structural infrastructure must be resilient to flooding. The vertical flood elevation establishes the level to which a facility must be resilient. This may include using structural or nonstructural methods to reduce or prevent damage; or, designing it to withstand and rapidly recover from a flood event.<sup>13</sup>

For elevation activities, grantees are reminded that the elevation of structures must comply with all applicable federal accessibility standards outlined in section V.A.31. Applicable State, local, and tribal codes and standards for floodplain management that exceed these requirements, including elevation, setbacks and cumulative substantial damage requirements, must be followed.

Projects funded with CDBG-MIT which include elevation (including elevation programs unrelated to new construction, repair of substantial damage, or substantial improvement) should not utilize fill as a method of elevation or elevate slab foundations. Exceptions for individual structures can be considered for approval by OCD if other elevation methods are an impossibility, the impact of the method on the environment can be mitigated, and the cost of the elevation does not outweigh the benefit.

### **11.5 Buyout and Relocation Program Standards**

Grantees are hereby advised that FR-6109-N-02 contains specific regulations for the administration, valuation, acquisition processes, post-acquisition land use restrictions, individual beneficiaries, housing incentives, national objectives, required consultations, consistency with local hazard mitigation plans, and procedures for buyouts in a Disaster Risk Reduction Area. For further guidance please see FR-6109-N-02.

#### **11.5.1 Summary of Buyout and Relocation Programs Receiving Round 1 Funding**

Although buyout and relocation programs funded through the Round 1 program will be administered by a public entity other than the state (this entity will be the “grantee” for this program), there are minimum program standards that must be maintained among all buyout and relocation projects funded through this program. These standards are intended to provide sufficient funding to participating owner-occupants to ensure that they are able to move to areas of substantially lower flood risk than their prior residences.

The guidelines to be followed as detailed within this document relate to the eligible activities, participants and awards for buyout and relocation projects funded by the round 1 program. Buyout and incentive programs addressed herein are voluntary real property acquisition programs. Eligible property owners are not required to participate. Neither the State of Louisiana nor the administering agencies of this program will exercise eminent domain to acquire properties through the use of expropriation, adjudication or other involuntary acquisition processes in order to implement the program.

Buyout awards are limited to the current fair market value of the property, which is determined at the time the grantees, meaning the parish or political subdivision administering this program, accepts an appraisal of a property conducted by an appraiser licensed in Louisiana. Grantees are responsible for arranging appraisal services for all sites within the subject buyout project area and ensuring processes are in place for producing and using appraisals for this program. Relocation to an area of lower risk is a requirement for all resilient housing incentive recipients in this program (see Sec. 11.5.9). The grantee must offer a resilient housing incentive to all eligible property owners participating in the program. All awards are subject to the provisions of the Robert T. Stafford Act, requiring that all funds received by the property owner for the same purpose as the CDBG-MIT award be considered a duplication of benefit

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<sup>13</sup> FRN: FR-6109-N-02, Pages 112-113.



and deducted from the CDBG-MIT award. The maximum total CDBG-MIT assistance for which a property owner is eligible for buyout and incentive assistance is \$250,000.00. Exceptions to the maximum assistance for this program are detailed in Sec. 11.5.6 Exceptions to Award Cap.

#### **11.5.2 Project Area Identification**

Buyouts funded through the round 1 program must be either in a floodplain or floodway or if the subject area is not in a floodplain, meaning a special flood hazard area or SFHA, or a floodway, it must be located in a disaster risk reduction area meeting the following criteria:

1. The subject area was impacted by either DR-4263 (March 2016 floods) or DR-4277 (August 2016 floods); and
2. The hazard addressed is a predictable environmental threat to the safety and well-being of property owners in the project area, as evidenced by best available data and science, examples of data in support of this criteria include:
  - a. FEMA Repetitive Loss Data
  - b. FEMA Individual Assistance Data
  - c. CPRA Flood Risk Data
  - d. An LWI model or related product
  - e. USACE Flood Risk Management Data or other USACE studies indicating flood risk; and
3. As a condition of Round 1 funding award the grantee, meaning the parish or political subdivision administering this program, must publish a map on a publicly accessible website a minimum of 30 days before the transfer of the subject property from the property owner indicating the disaster risk reduction area in a method that is clearly delineated so that HUD and the public may easily determine which properties are located within the designated area.

If address or coordinate-level sites or a site selection method is not identified in the full application for this program, a grantee, meaning the parish or political subdivision administering this program, may request site selection assistance from the state using an application form provided by the state.

#### **Prevention of “checkerboarding”**

Grantees conducting buyouts in this program should avoid circumstances in which parcels that could not be acquired through a buyout remain alongside parcels that have been acquired through the grantee’s buyout program. “Checkerboarding” may be prevented by the buyout area meeting one of the following criteria:

1. Buyout area is clearly defined within a subdivision or within the boundaries of an area clearly delineated by arterial or collector roads or environmental features such as wooded areas, water bodies or tributaries/lakes/canals/ditches; or
2. Buyout area includes largely contiguous sites or sites concentrated within 1 acre or more; or
3. Buyout area proposal features the participation of over 80% of the residents in the subject area; or
4. Buyout area aligns with the footprint of a designated or intended disposition strategy (ex: property is intended to become a wildlife management area managed and owned by a state or federal agency).



### 11.5.3 Types of Assistance

Depending on the circumstances, program participants may be eligible for assistance under one (1) or more of the following funding categories:

1. Buyout Assistance;
2. Resilient Housing Incentive Assistance;
3. Interim Housing Assistance and Moving Costs Assistance; and/or
4. Relocation Assistance for Tenants.

### 11.5.4 Buyout Assistance

Buyout assistance will provide property owners or the owners of structures in grantee-identified buyout areas the current fair market value of their properties. The goal of the program is to improve the resilience of these areas by transforming high-risk residential sites into wetlands, open space or stormwater management systems in future flood events.

<b>Eligible Activities:</b>	HCDA 105(a)(1)—Acquisition of Real Property; HCDA 105(a)(4)—Clearance, Rehabilitation, Reconstruction and Construction of Buildings; HCDA 105(a)(7)—Disposition of Real Property; HCDA 105(a)(11)—Relocation Assistance; HCDA 105(a)(24)—Homeownership Assistance; and Public Law 115-123 Waivers and Alternative Requirements [FR-6109-N-02]
<b>National Objectives:</b>	Low-Mod Buyout (LMB) Low-Mod Housing Incentive (LMHI) and Urgent Need Mitigation

Buyout assistance is based on the current fair market value of the subject property, less any duplication of benefits, as determined by the grantee, meaning the parish or political subdivision administering this program.

### Existing Mortgages and/or Liens and Clear Title

Any liens and/or mortgages on the subject property must be paid off in order to participate in the buyout and sell the property to the grantee. If not settled and cleared before closing, they must be paid off with proceeds from the buyout award. Property owners participating in this program must provide a current payoff quote for each lien and/or mortgage that remains on the subject property before closing. Should the sum of the payoffs exceed the amount of the buyout award, the property owner must provide proof of funds (e.g., bank statement) to the grantee demonstrating ability to satisfy the liens and/or mortgage balances in excess of the buyout award. For example, if a property owner's mortgage payoff total is \$60,000.00 and the buyout award is \$50,000.00, the property owner must demonstrate they have the \$10,000.00 excess in order to settle the mortgage at closing.

All owners of a property must agree to transfer their interests in the property, free and clear of all encumbrances, or must agree to grant a servitude in order for the property to be eligible under the program.

OCD may arrange for limited legal services to be provided to property owners through a process agreed upon by OCD and the grantee.



The existence of outstanding mortgages and/or liens does not impact the buyout award calculation. However, if a property owner is unable to satisfy the existing liens and/or mortgages at the time of closing, and if this prevents him/her from being able to sell his/her property, then the property owner may not be eligible to participate in the program.

#### **Demolition and disposition of acquired property in buyout programs**

Grantees, meaning the parish or political subdivision administering this program, must provide a plan to demolish any structures on properties undergoing buyouts, remove impediments to drainage and/or retention from the site, maintain, and dispose of property long-term. Property acquired through buyouts in this program may be disposed of in the following ways, subject to discretion of OCD and the grantee:

1. Floodplain servitude granted in favor of the state, grantee or other public entity in accordance with “Covenant and Compliance with Open Space Requirements” below;
2. Retention and maintenance of the property by local jurisdiction or designee; or
3. Preservation by the state

The state is not required to purchase any property under this program, and preservation of buyout property under this program by the state is subject to review and approval by the state agency engaged in preservation.

Any future uses of property acquired through this program will be subject to a deed restriction provided by OCD. The deed restriction shall not be amended by the grantee.

#### **Covenant and Compliance with Open Space Requirements**

Property owners who elect to sell a servitude to the grantee instead of selling their property outright will enter into a deed restriction at grant closing. This deed restriction will allow the property owner to retain ownership of the property, subject to certain use restrictions. Consent and subordination of interests of other interest holders (i.e., mortgagee) may be required by the grantee. Conditions on future use of the property will be outlined in the deed restriction provided by OCD and shall not be amended by the grantee.

#### **11.5.5 Resilient Housing Incentive Assistance**

The resilient housing incentive component of the program provides a monetary inducement to owner-occupants (including those who own a structure on non-owned land) of property containing a residential structure identified for buyout to participate in the program, particularly in cases where the value of the subject property is lower than what would reasonably be required for the property owner to acquire replacement housing in a lower risk area. The resilient housing incentive assistance functions to induce these property owners to relocate to safer locations, and therefore is only available to owner-occupants who relocate in accordance with Sec. 11.5.9 of this document.

<b>Eligible Activities:</b>	HCD 105(a)(24)—Homeownership Assistance Public Law 115-123 Waivers and Alternative Requirements [FR-6109-N-02]
<b>National Objectives:</b>	Low-Mod Buyout (LMB) Low-Mod Housing Incentive (LMHI) and Urgent Need Mitigation

The resilient housing incentive is a necessary and reasonable cost within this program because the current fair market value of homes in flood-prone areas is often insufficient to allow property owners to purchase



or relocate to comparable or suitable homes in lower-risk areas. OCD requires grantees to provide assistance in the form of a housing incentive to support the relocation of eligible property owners to a lower risk living situation.

#### **11.5.6 Exceptions to Buyout and Incentive Cap**

Exceptions to the individual award cap of \$250,000 for this program may be provided at the sole discretion of OCD.

#### **11.5.7 Optional Relocation Assistance and Moving Expenses Assistance**

The process of selling a home, finding a new home that meets the parameters of the impacted family and moving into the new home require significant time, energy and resources, and many families do not have these resources available. Therefore, the grantee shall provide limited assistance to eligible families to help defray some of these costs. The amount of moving expenses is based on the number of rooms per household, and is determined by a fixed schedule, created by the Federal Highway Administration:

[https://www.fhwa.dot.gov/real\\_estate/uniform\\_act/relocation/moving\\_cost\\_schedule.cfm](https://www.fhwa.dot.gov/real_estate/uniform_act/relocation/moving_cost_schedule.cfm).

<b>Eligible Activities:</b>	HCDA Section 105(a)(11)—Relocation Assistance Public Law 115-123 Waivers and Alternative Requirements [FR-6109-N-02]
<b>National Objectives:</b>	LMI and Urgent Need Mitigation

#### **11.5.8 Relocation Assistance for Tenants**

If a property owner participates in a buyout and the subject home contains tenants that will be required to relocate, the tenants are considered displaced persons who are eligible for relocation benefits under the Uniform Relocation Act (URA). Rental assistance will be capped in accordance with URA provisions – please see: <https://www.govinfo.gov/content/pkg/FR-2005-01-04/pdf/05-6.pdf>. The grantee is responsible for ensuring that the provisions of the URA are administered correctly and URA benefits will be paid from the grantee’s award from this program.

<b>Eligible Activities:</b>	HCDA Section 105(a)(11)—Relocation Assistance Public Law 115-123 Waivers and Alternative Requirements [FR-6109-N-02]
<b>National Objectives:</b>	LMI and Urgent Need Mitigation

#### **11.5.9 Relocation Requirements for Resilient Housing Incentive Assistance**

All owner-occupants (including those who own a structure on non-owned land) receiving the resilient housing incentive in this program must relocate to an area of lower flood risk. Property owners are not required to purchase a replacement home in order to meet this requirement to relocate. Any long-term living arrangement such as renting or living with family are acceptable, provided the site meets the criteria in this section. The relocation destination for the property owner must:

- Be located in Louisiana; and
- Meet one of the following criteria:



- The subject site is located outside the 0.2% annual chance (500 year) flood zone as shown on the most recent FEMA Flood Insurance Study (FIS) for the area or as indicated on an LWI model product; or
- The subject site is outside the 1% annual chance (100-year) flood zone as shown on the most recent FEMA Flood Insurance Study (FIS) for the area or as indicated on an LWI model product and the first floor of the subject structure is elevated above the anticipated 0.2% annual chance (500 year) flood water elevation and constructed in a manner to withstand the hydro-static forces anticipated in such a flood event.

#### **11.5.10 Eligibility for Buyout Programs**

##### Eligible property types include:

- Single and multifamily residences (both owner-occupied and rentals), subject to conditions listed below
- Vacant lots
- Lots occupied by manufactured homes, mobile homes, or recreational vehicles
- Agricultural lots
- Commercial properties
- Nonprofit owned properties

##### Multiunit structures

All individuals with an ownership interest in a multiunit structure, including a duplex, three-plex, or structure with four or more units must agree to participate in the program in order for the entire property to be transferred to the grantee within this program.

##### Sites with multiple structures

If a subject property features multiple structures and some structures are not at substantial risk of flooding, as determined by the grantee, the property owner(s) may pursue resubdivision of the land in order to transfer a portion of the site and structures therein to the grantee.

##### Ineligible property types include:

- Second homes

##### Eligible Property Owners

All property owners eligible for buyouts in this program must own the subject property at the time they submit an individual application for the program. Eligible individuals include:

- Current property owner(s)
- Owner-occupant(s) on non-owned land

##### Owner-Occupants on Non-Owned Land

When the owner of a subject property has elected to transfer land to the grantee, any owner-occupants of site-built homes, manufactured housing, or mobile homes inhabiting the subject property who do not



own the land on which their residence is situated are eligible to apply for assistance as owner-occupants.

#### Tenants

If an eligible home is purchased through the program and the property contains tenants that will be required to relocate as a result of the program, those tenants are considered displaced persons who are eligible for relocation benefits under the Uniform Relocation Act and Real Property Acquisition Policies Act (URA). Because of the voluntary nature of acquisition, property owners are not eligible for additional assistance under the URA.

#### Other Property Owners

Other current property owners, such as owners of commercial properties, rental properties and vacant lots are eligible for buyout program assistance, however such property owners will not be eligible for the resilient housing incentive outlined in this document.

#### Death of Eligible Owner-Occupant

In the event of death of an eligible owner-occupant before grant execution, successors who meet date-specific program requirements for occupancy of the subject property and can prove ownership through legal process are eligible to apply for and/or continue through the subject program. OCD may arrange for limited legal services to be provided to property owners to facilitate this participation.

### **11.5.11 Program Award Caps, Calculation, Process and Structure**

#### **Buyout and Resilient Housing Incentive Program Caps**

The resilient housing incentive will be offered to all owner-occupants (including those on non-owned land) except those whose property appraisal (fair market value) exceeds \$250,000.00 or whose property (fair market value) exceeds the total award the property owner would have received with the housing incentive as calculated by the grantee. Property owners eligible to receive the resilient housing incentive may elect to receive only buyout assistance (current fair market value subject to program cap). The maximum award for property owners choosing to only accept buyout assistance, a resilient housing incentive, or both—buyout assistance and resilient housing incentive assistance – if applicable, is \$250,000.00.

#### **Incentive Calculations**

##### **Resilient Housing Incentive**

The grantee shall consider universal building square footage and household size in the calculation of the resilient housing incentive for this program, and shall use the method resulting in the higher award of the two to calculate the resilient housing incentive for each eligible property owner.

##### Method A: Universal Building Square Feet Calculation

The grantee will use the information from the appraisal of the subject property to determine the universal building square feet of the home. In order to minimize appeals of the calculation, the grantee shall group all buyout properties in this program into two categories of homes to calculate the resilient housing incentive under this method. The two categories are: homes with universal building square feet below 2,000 and those homes with universal building square feet above 2,000. The grantee will use a methodology based on average home values outside of the SFHA within the parish, region or state (as data are available) to calculate the resilient housing incentive amount and



total award for each structure under this method. OCD will provide the grantee with data needed to calculate the incentive awards, however the grantee will apply this methodology to each property to undergo a buyout, to determine the award amount for each property owner participating in the program.

#### Method B: Household Size

In addition to Method A, the grantee will consider the number of individuals in a family or household to calculate the resilient housing incentive. Under this method, the grantee shall group all households into two categories to calculate the resilient housing incentive and total award. The two categories are: households composed of five or more members and households with four or fewer members. Based on the parish, region or state (as data are available) housing values outside of the SFHA, the grantee will assign standard resilient housing incentive amounts to the household size categories based on the condition that a household of five or more members is eligible to receive the incentive amount for a home with universal building square feet above 2,000 under Method A above. Under this calculation method,

A family is defined as:

1. All the people who occupy a housing unit, including blood relatives and unrelated people, if any, such as lodgers, foster children, wards, or employees who currently share a housing unit, or a group of unrelated people sharing a housing unit such as partners or roomers;
2. Two or more persons related by blood, marriage or operation of law, who occupy the same dwelling or unit<sup>14</sup>

Family composition will be determined through the following methodology<sup>15</sup>:

1. All full-time members of a family, living in a common unit at the time of application, will be counted for the purposes of incentive calculation;
2. Anticipated children will additionally be counted as part of a family. Anticipated children include the following:
  - a. Children expected to be born to a pregnant woman;
  - b. Children in the process of being adopted by an adult family member;
  - c. Children whose custody is being obtained by an adult family member;
  - d. Foster children who will reside in the unit;
  - e. Children who are temporarily in a foster home who will return to the family; and
  - f. Children in joint custody arrangements who are present in the family 50 percent or more of the time
3. The grantee shall count family members that are temporarily in a correctional facility or otherwise temporarily located outside the residence (i.e., on active military duty, temporarily institutionalized or receiving medical care, or temporarily housed at an academic or training institution), provided such family members have a demonstrated legal relationship to a permanent resident of the subject property at the time of application for the program;
4. The grantee shall count foster adults living in a common unit;
5. The grantee shall not count visitors.

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<sup>14</sup> Adapted from [“HUD Definitions, Policy Statements and General Rulings”](#)

<sup>15</sup> Adapted from [“Occupancy of Subsidized Multifamily Housing \(Section 8\)”](#)

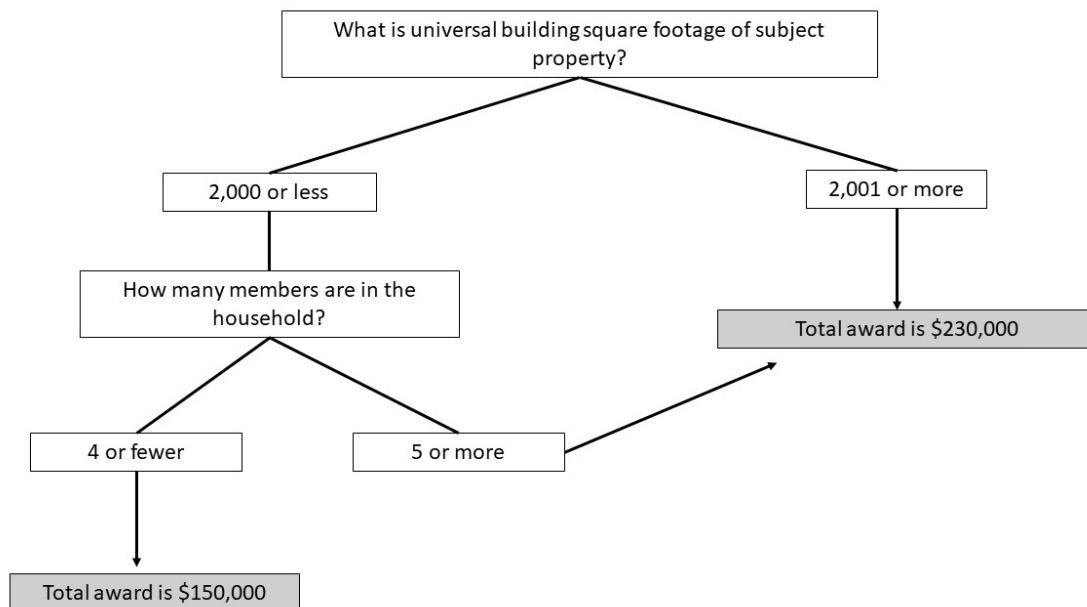


#### Example of resilient housing incentive calculation decision tree:

Step 1: Consider total award amounts for resilient housing incentive recipients. Note: The total award amount refers to the amount that a property owner eligible for a resilient housing incentive could receive in this program. The resilient housing incentive will be calculated from the total award amount, and will be equivalent to the difference between fair market value (buyout award) and the total award amount for incentive recipients based on the application of Methods A and B above.

Example total award amount (buyout + resilient housing incentive) for eligible recipients	
For property owners of structures with a universal building area of 2,000 sf or less	\$ 150,000
For property owners of structures with a universal building area of 2,001 sf or more	\$ 230,000

Step 2: Use the decision tree based on the example total award amounts in the table in Step 1 to determine incentive amount:



#### **Duplication of Benefits and Other Assistance Received**

When calculating the eligible amount of assistance available to property owner, the grantee will deduct any duplication of benefits approved or received, as required by the applicable federal regulations and guidance.

#### **Program Award Structure**

All awards shall be issued as a one-time payment. The award shall be structured as a grant made to the property owner and the buyout grant and incentive (if applicable) carry no compliance requirements beyond the owner-occupant of structures subject to the resilient housing incentive vacating the home being sold at the time of closing and relocating to an area of lower risk as required in Sec. 11.5.9 of this document. If the owner-occupant is found to accept grant funds through this program but fails to relocate to



an area of lower risk as required in Sec. 11.5.9 of this document, such property owner shall be considered noncompliant with the terms of the award and may be required to return the incentive award.

### **Appeals**

Awards may be appealed, subject to an appeals process established by the grantee. An appeal may be submitted to the grantee for the buyout or incentive award calculation or duplication of benefits. Appeals shall not be accepted after grant execution.

The property owner may not appeal policies that have been approved and incorporated by the grantee including appraised values and average home market values. Further, statutory and regulatory requirements or guidelines may not be appealed.

Important: All available supporting documentation must be submitted with an appeal request.

Regardless of the reason(s) an appeal is filed, the entire application must undergo a full review. The full review may result in a positive or negative change to the eligibility status or an increase or decrease in the previous award amount. In any instance of a decrease in the actual award, the grant award will be reduced to reflect the reduction.

The determination of the appeal by the grantee shall be a final, non-reviewable determination. The program is not an entitlement program and determinations are not subject to judicial review.

## **11.6 Acquisition Program Standards**

### **11.6.1 Summary of Acquisition Program**

Some projects funded through the round 1 program may necessitate acquisitions (rather than buyouts) of land to facilitate the strategic disposition of property for purposes other than open space, recreational, natural floodplain functions, other ecosystem restoration or wetlands management practices. Properties acquired by this program may be associated with the construction or implementation of flood risk reduction projects such as public works projects or improvements.

Real property acquisitions for this program are generally subject to the requirements in URA regulations at 49 CFR part 24, subpart B, unless they satisfy an exception at 49 CFR 24.101(b)(1)-(5).

<b>Eligible Activities:</b>	HCDA 105(a)(1)—Acquisition of Real Property; HCDA 105(a)(4)—Clearance, Rehabilitation, Reconstruction and Construction of Buildings; HCDA 105(a)(7)—Disposition of Real Property; HCDA 105(a)(11)—Relocation Assistance; HCDA 105(a)(24)—Homeownership Assistance; and Public Law 115-123 Waivers and Alternative Requirements [FR-6109-N-02]
<b>National Objectives:</b>	Low-Mod Housing Incentive (LMHI) and Urgent Need Mitigation

### **11.6.2 Project Area Identification**

Properties will be identified for acquisition through this program by the grantee, meaning the parish or political subdivision administering this program, for the purpose of flood risk reduction project implementation and are not required to be in a SFHA or an area damaged by prior flood events.



### 11.6.3 Types of Assistance

Depending on the circumstances, program participants may be eligible for assistance under one (1) or more of the following funding categories:

1. Acquisition;
2. Resilient Housing Incentive Assistance;
3. Interim Housing Assistance and Moving Costs Assistance; and/or
4. Relocation Assistance for Tenants.

### 11.6.4 Acquisition

Acquisitions in this program will provide property or structure owners in areas identified by the grantee by providing property owners the current fair market value of their properties. This program is in furtherance of the strategic acquisition of land or property by the grantee in support of flood mitigation projects or strategies. Acquisition costs for this program will be based on the current fair market value of the subject property, less any duplication of benefits, as determined by the grantee, meaning the parish or political subdivision administering this program, and such projects should include an indication of the intended project area. In carrying out acquisition activities, grantees must ensure they are in compliance with their long-term redevelopment plans and hazard mitigation plans.

<b>Eligible Activities:</b>	HCDA 105(a)(1)—Acquisition of Real Property; HCDA 105(a)(4)—Clearance, Rehabilitation, Reconstruction and Construction of Buildings; HCDA 105(a)(7)—Disposition of Real Property; HCDA 105(a)(11)—Relocation Assistance; HCDA 105(a)(24)—Homeownership Assistance; and Public Law 115-123 Waivers and Alternative Requirements [FR-6109-N-02]
<b>National Objectives:</b>	Low-Mod Housing Incentive (LMHI) and Urgent Need Mitigation

### Existing Mortgages and/or Liens and Clear Title

Any liens and/or mortgages on the subject property must be paid off in order to participate in the acquisition and transfer the property to the grantee. If not settled and cleared before closing, they must be paid off with proceeds from the program award. Property owners participating in this program must provide a current payoff quote for each lien and/or mortgage that remains on the subject property before closing. Should the sum of the payoffs exceed the amount of the program award, the property owner must provide proof of funds (e.g., bank statement) to the grantee demonstrating ability to satisfy the liens and/or mortgage balances in excess of the award. For example, if a property owner's mortgage payoff total is \$60,000.00 and the program award is \$50,000.00, the property owner must demonstrate they have the \$10,000.00 excess in order to settle the mortgage at closing.

All owners of a property must agree to transfer their interests in the property, free and clear of all encumbrances, or must agree to grant a servitude in order for the property to be eligible under the program.

OCD may arrange for limited legal services to be provided to property owners through a process agreed upon by OCD and the grantee.



The existence of outstanding mortgages and/or liens does not impact the program award calculation. However, if a property owner is unable to satisfy the existing liens and/or mortgages at the time of closing, and if this prevents him/her from being able to sell his/her property, then the property owner may not be eligible to participate in the program.

#### **11.6.5 Resilient Housing Incentive Assistance**

The resilient housing incentive component of the program provides a monetary inducement to owner-occupants (including those who own a structure on non-owned land) of property containing a residential structure identified for acquisition to participate in the program, particularly in cases where the value of the subject property is lower than what would reasonably be required for the property owner to acquire replacement housing in a lower risk area. The resilient housing incentive assistance functions to induce these property owners to relocate to safer locations, and therefore is only available to owner-occupants who relocate in accordance with Sec. 11.6.9 of this document.

<b>Eligible Activities:</b>	HCDA 105(a)(24)—Homeownership Assistance Public Law 115-123 Waivers and Alternative Requirements [FR-6109-N-02]
<b>National Objectives:</b>	Low-Mod Housing Incentive (LMHI) and Urgent Need Mitigation

The resilient housing incentive is a necessary and reasonable cost within this program because the current fair market value of homes in flood-prone areas is often insufficient to allow property owners to purchase or relocate to comparable or suitable homes in lower-risk areas. OCD requires grantees to provide assistance in the form of a housing incentive to support the relocation of eligible property owners to a lower risk living situation. Resilient housing incentive assistance is only available to those property owners whose primary residence was a structure (including a manufactured home or mobile home) identified for acquisition in this program at the time of individual application for this program. Resilient housing incentive assistance is not applicable to acquisition of commercial property, rental properties not occupied by the owner, or property without residential structures.

#### **11.6.6 Exceptions to Acquisition and Incentive Cap**

Exceptions to the individual award cap for this program may be provided at the sole discretion of OCD.

#### **11.6.7 Optional Relocation Assistance and Moving Expenses Assistance**

The process of selling a home, finding a new home that meets the parameters of the impacted family, and moving into the new home require significant time, energy and resources, and many families do not have these resources available. Therefore, the grantee shall provide limited assistance to eligible families to help defray some of these costs. The amount of moving expenses is based on the number of rooms per household, and is determined by a fixed schedule, created by the Federal Highway Administration:

[https://www.fhwa.dot.gov/real\\_estate/uniform\\_act/relocation/moving\\_cost\\_schedule.cfm](https://www.fhwa.dot.gov/real_estate/uniform_act/relocation/moving_cost_schedule.cfm).

<b>Eligible Activities:</b>	HCDA Section 105(a)(11)—Relocation Assistance Public Law 115-123 Waivers and Alternative Requirements [FR-6109-N-02]
<b>National Objectives:</b>	LMI and Urgent Need Mitigation

#### **11.6.8 Relocation Assistance for Tenants**



If a property owner participates in an acquisition and the subject home contains tenants who will be required to relocate, the tenants are considered displaced persons who are eligible for relocation benefits under the Uniform Relocation Act (URA). Rental assistance will be capped in accordance with URA provisions – please see: <https://www.govinfo.gov/content/pkg/FR-2005-01-04/pdf/05-6.pdf>. The grantee is responsible for ensuring that the provisions of the URA are administered correctly and URA benefits will be paid from the grantee's award from this program.

<b>Eligible Activities:</b>	HCDA Section 105(a)(11)—Relocation Assistance Public Law 115-123 Waivers and Alternative Requirements [FR-6109-N-02]
<b>National Objectives:</b>	LMI and Urgent Need Mitigation

#### **11.6.9 Relocation Requirements for Resilient Housing Incentive Assistance**

All owner-occupants (including those who own a structure on non-owned land) receiving the resilient housing incentive in this program must relocate to an area of lower flood risk. Property owners are not required to purchase a replacement home in order to meet this requirement to relocate. Any long-term living arrangement such as renting or living with family are acceptable, provided the site meets the criteria in this section. The relocation destination for the property owner must:

- Be located in Louisiana; and
- Meet one of the following criteria:
  - The subject site is located outside the 0.2% annual chance (500 year) flood zone as shown on the most recent FEMA Flood Insurance Study (FIS) for the area or as indicated on an LWI model product; or
  - The subject site is outside the 1% annual chance (100-year) flood zone as shown on the most recent FEMA Flood Insurance Study (FIS) for the area or as indicated on an LWI model product and the first floor of the subject structure is elevated above the anticipated 0.2% annual chance (500 year) flood water elevation and constructed in a manner to withstand the hydrostatic forces anticipated in such a flood event.

#### **11.6.10 Eligibility for Acquisition Programs**

Eligible property types include:

- Single and multifamily residences (both owner-occupied and rentals), subject to conditions listed below
- Vacant lots
- Lots occupied by manufactured homes, mobile homes, or recreational vehicles
- Agricultural lots
- Commercial properties
- Nonprofit owned properties

#### Multiunit structures

All individuals with an ownership interest in a multiunit structure, including a duplex, three-plex, or structure with four or more units must agree to participate in the program in order for the entire property to be transferred to the grantee within this program.



### Sites with multiple structures

If a subject property features multiple structures and some structures are not at substantial risk of flooding, as determined by the grantee, the property owner(s) may pursue resubdivision of the land in order to transfer a portion of the site and structures therein to the grantee.

### Ineligible property types include:

- Second homes

### Eligible Property Owners

All property owners eligible acquisitions in this program must own the subject property at the time they submit an individual application for the program. Eligible individuals include:

- Current property owner(s)
- Owner-occupant(s) on non-owned land

### Owner-Occupants on Non-Owned Land

When the owner of a subject property has elected to transfer land to the grantee, any owner-occupants of site-built homes, manufactured housing, or mobile homes inhabiting the subject property who do not own the land on which their residence is situated are eligible to apply for assistance as owner-occupants.

### Tenants

If an eligible home is purchased through the program and the property contains tenants that will be required to relocate as a result of the program, those tenants are considered displaced persons who are eligible for relocation benefits under the Uniform Relocation Act and Real Property Acquisition Policies Act (URA). Because of the voluntary nature of acquisition, property owners are not eligible for additional assistance under the URA.

### Death of Eligible Owner-Occupant

In the event of death of an eligible owner-occupant before grant execution, successors who meet date-specific program requirements for occupancy of the subject property and can prove ownership through legal process are eligible to apply for and/or continue through the subject program. OCD may arrange for limited legal services to be provided to property owners to facilitate this participation.

## **11.6.11 Program Award Caps, Calculation, Process and Structure**

### **Acquisition and Resilient Housing Incentive Program Caps**

The resilient housing incentive will be offered to all owner-occupants (including those on non-owned land) except those whose property appraisal (fair market value) exceeds \$250,000.00 or whose property (fair market value) exceeds the total award the property owner would have received with the housing incentive as calculated by the grantee. Property owners eligible to receive the resilient housing incentive may elect to receive only acquisition assistance (current fair market value subject to program cap). The maximum award for property owners choosing to only accept acquisition, a resilient housing incentive, or both, if applicable—acquisition and resilient housing incentive assistance, is \$250,000.00.



## Incentive Calculations

### Resilient Housing Incentive

The grantee shall consider universal building square footage and household size in the calculation of the resilient housing incentive for this program, and shall use the method resulting in the higher award of the two to calculate the resilient housing incentive for each eligible property owner.

#### Method A: Universal Building Square Feet Calculation

The grantee will use the information from the appraisal of the subject property to determine the universal building square feet of the home. In order to minimize appeals of the calculation, the grantee shall group all acquisition properties in this program into two categories of homes to calculate the resilient housing incentive under this method. The two categories are: homes with universal building square feet below 2,000 and those homes with universal building square feet above 2,000. The grantee will use a methodology based on average home values outside of the SFHA within the parish, region or state (as data are available) to calculate the resilient housing incentive amount and total award amount for each structure under this method. OCD will provide the grantee with data needed to calculate the incentive awards, however the grantee will apply this methodology to each eligible property, to determine the award amount for each property owner participating in the program.

#### Method B: Household size

In addition to Method A, the grantee will consider the number of individuals in a family or household to calculate the resilient housing incentive. Under this method, the grantee shall group all households into two categories to calculate the resilient housing incentive. The two categories are: households composed of five or more members and households with four or fewer members. Based on the parish, region or state (as data are available) average housing values outside the SFHA, the grantee will assign standard incentive amounts and total award amounts to the household size categories based on the condition that a household of five or more members is eligible to receive the incentive amount for a home with universal building square feet above 2,000 under Method A above. Under this calculation method,

A family is defined as:

1. All the people who occupy a housing unit, including blood relatives and unrelated people, if any, such as lodgers, foster children, wards, or employees who currently share a housing unit, or a group of unrelated people sharing a housing unit such as partners or roomers;
2. Two or more persons related by blood, marriage or operation of law, who occupy the same dwelling or unit<sup>16</sup>

Family composition will be determined through the following methodology<sup>17</sup>:

1. All full-time members of a family, living in a common unit at the time of application, will be counted for the purposes of incentive calculation;
2. Anticipated children will additionally be counted as part of a family. Anticipated children include the following:
  - a. Children expected to be born to a pregnant woman;
  - b. Children in the process of being adopted by an adult family member;
  - c. Children whose custody is being obtained by an adult family member;

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<sup>16</sup> Adapted from [“HUD Definitions, Policy Statements and General Rulings”](#)

<sup>17</sup> Adapted from [“Occupancy of Subsidized Multifamily Housing \(Section 8\)”](#)



- d. Foster children who will reside in the unit;
  - e. Children who are temporarily in a foster home who will return to the family; and
  - f. Children in joint custody arrangements who are present in the family 50 percent or more of the time
3. The grantee shall count family members that are temporarily in a correctional facility or otherwise temporarily located outside the residence (i.e., on active military duty, temporarily institutionalized or receiving medical care, or temporarily housed at an academic or training institution), provided such family members have a demonstrated legal relationship to a permanent resident of the subject property at the time of application for the program;
  4. The grantee shall count foster adults living in a common unit;
  5. The grantee shall not count visitors.

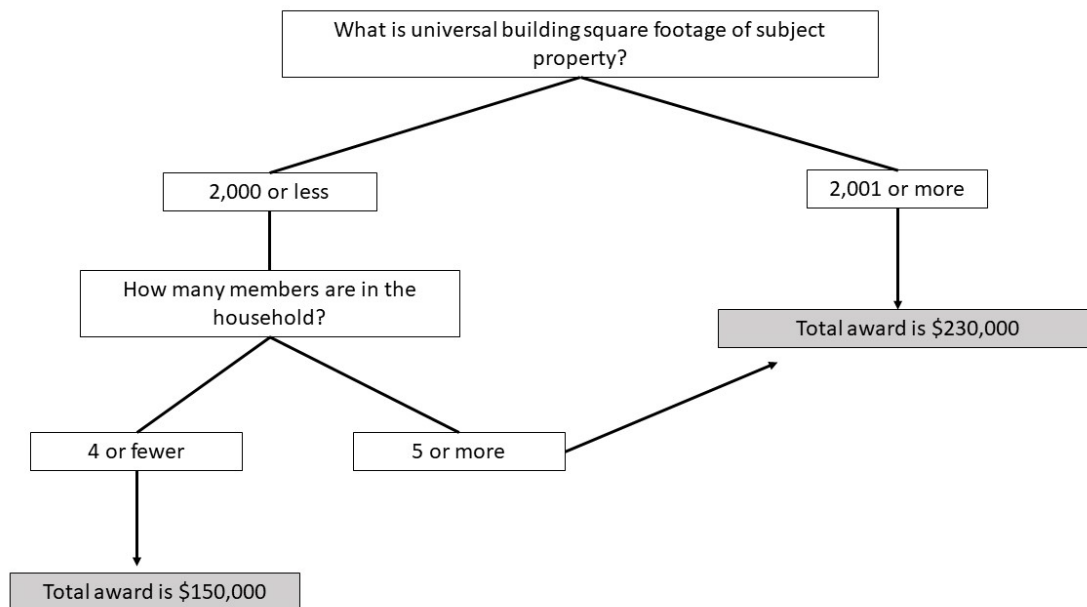
Example of resilient housing incentive calculation decision tree:

Step 1: Consider total award amount for resilient housing incentive recipients. Note: The total award amount refers to the amount that a property owner eligible for a resilient housing incentive could receive in this program. The resilient housing incentive will be calculated from the total award amount, and will be equivalent to the difference between fair market value (buyout award) and the total award amount for incentive recipients.

Example total award amount (buyout + resilient housing incentive) for eligible recipients	
For property owners of structures with a universal building area of 2,000 sf or less	\$ 150,000
For property owners of structures with a universal building area of 2,001 sf or more	\$ 230,000



Step 2: Use the decision tree based on the example total award amounts in the table in Step 1 to determine resilient housing incentive amount:



### Duplication of Benefits and Other Assistance Received

When calculating the eligible amount of assistance available to a property owner, the grantee will deduct any duplication of benefits approved or received for the same purpose, as required by the applicable federal regulations and guidance.

### Program Award Structure

All awards shall be issued as a one-time payment. The award shall be structured as a grant made to the property owner and the acquisition award and incentive (if applicable) carry no compliance requirements beyond the owner-occupant of structures subject to the resilient housing incentive vacating the home being sold at the time of closing and relocating to an area of lower risk as required in Sec. 11.6.9 of this document. If the property owner is found to accept grant funds through this program but fails to relocate to an area of lower risk as required in Sec. 11.6.9 of this document, such property owner shall be considered noncompliant with the terms of the award and may be required to return the incentive award

### Appeals

Awards may be appealed, subject to an appeals process established by the grantee. An appeal may be submitted to the grantee for the acquisition or incentive award calculation or duplication of benefits. Appeals shall not be accepted after grant execution.

The property owner may not appeal policies that have been approved and incorporated by the grantee including appraised values and average home market values. Further, statutory and regulatory requirements or guidelines may not be appealed.

Important: All available supporting documentation must be submitted with an appeal request.

Regardless of the reason(s) an appeal is filed, the entire application must undergo a full review. The full review may result in a positive or negative change to the eligibility status or an increase or decrease in the



previous award amount. In any instance of a decrease in the actual award, the grant award will be reduced to reflect the reduction.

The determination of the appeal by the grantee shall be a final, non-reviewable determination. The program is not an entitlement program and determinations are not subject to judicial review.

## 11.7 Procurement

Applicants must follow federal procurement rules (or State when more stringent) when purchasing services, supplies, materials or equipment. The federal procurement rules establish standards and guidelines for the procurement of supplies, equipment, construction, engineering, architectural, consulting, and other professional services for CDBG-MIT programs. These standards are furnished to ensure that such materials and services are obtained efficiently and economically and in compliance with the provisions of applicable Federal and State laws and executive orders.

Applicants can refer to 2 CFR Part 200 for full details of requirements. Grantees are required to adopt written procurement procedures as required in 2 CFR 200.318-326. All procurement transactions funded in whole or in part with CDBG-MIT funds, regardless of dollar amount, must be conducted to provide “maximum open and free competition.” 2 CFR 200.318(i) requires that applicants maintain records sufficient to detail the significant history of a procurement. These records must include, but are not limited to, the following:

- 1) Rationale for the method of procurement;
- 2) Selection of contract type;
- 3) Contractor selection or rejection; and,
- 4) The basis for the contract price.

Two critical areas of compliance under 2 CFR Part 200 to which grantees should adhere:

- 1) Per 2 CFR Part 200.323, the Grantee must make independent estimates before receiving bids or proposals.
- 2) The contract provisions for non-federal entity contracts listed in Appendix II to 2 CFR Part 200 must be incorporated into all CDBG-MIT funded contracts. These provisions are included in the Grantee Administrative Manual as Exhibit 6-2 and Exhibit 6-16.

Applicants shall maintain a contract administration system to monitor contractor’s performance against the terms, conditions, and specifications of their contracts or purchase orders.

For additional information and more details, please see Section 6 – Procurement Methods and Contractual Requirements in the OCD-DRU Grantee Administrative Manual at:

<http://www.doa.la.gov/Pages/oed-dru/DRAdminManual.aspx>.

## 11.8 Environmental Review

All activities funded by CDBG-MIT are subject to the provisions of the [National Environmental Policy Act of 1969 \(NEPA\)](#), as well as to the HUD environmental review regulations at [24 CFR Part 58](#). Applicants cannot make any choice limiting actions prior the completion of the HUD environmental review process. **No contracts can be entered committing the applicant. This includes but is not limited contracting for property rights or acquisition or construction contracts. Work may not commence on a project before the environmental review process is completed. These requirements apply if even such contracts or**



**work is funded with non-federal dollars. Breach of this requirement results in the entire project being ineligible even for costs incurred after the environmental review.**

For additional information and more details, please see Section 9 – Environmental Review in the OCD-DRU Grantee Administrative Manual at: <http://www.doa.la.gov/Pages/ocd-dru/DRadminManual.aspx>.

The primary objectives of the HUD environmental review are to identify specific environmental factors that may be encountered at potential project sites and to develop procedures to ensure compliance with regulations pertaining to these factors. All CDBG-MIT funded projects and activities must have documentation that they follow NEPA and all other environmental requirements.

Laws and regulations which contain environmental provisions that must be complied with include:

- Noise
- Historic Properties
- Coastal Zones
- Environmental Justice
- Floodplains
- Wetlands
- Man-made Hazards
- Water Quality
- Air Quality
- Endangered Species
- Farmland Protection

The timeline for an Environmental Assessment (“EA”) level (i.e., requiring a Phase I Report for new construction or reconstruction) environmental process is 90-120 days from the receipt of a comprehensive environmental review record (“ERR”). However, the amount of information collected and required in the environmental review process are also impacted by the type of work being completed. For example, a project that only consists of rehabilitation of an existing home may only require a site-specific checklist and could be completed much quicker than a project that includes new construction and/or reconstruction. The stated condition of the property and recognized environmental conditions (“REC”) in vicinity of the project also dictate follow-up necessities (i.e., 404 wetlands permits or Phase 2 reports) which further prolong the review process. The range of time required to completely review an ERR for a given property varies and is largely dependent upon how well the ERR submission is compiled. There is no official HUD timeline for all of the steps of the environmental review process.

After the environmental review process is completed, there are some additional associated time constraints with the FONSI/NOI public notice period before submitting the RROF (15-18 days) and the HUD review/comment period before the authorization to use grant funds (“AUGF”) which (15-18 days but more often than not) gets extended. Those two steps can take anywhere from 30-40 days if not longer.

For additional information and more details, please see Section 9 – Environmental Review in the OCD-DRU Grantee Administrative Manual at: <http://www.doa.la.gov/Pages/ocd-dru/DRadminManual.aspx>.



### **11.9 Duplication of Benefits**

Applicants must be aware that the Supplemental Appropriations Act authorizing CDBG funding or the Stafford Act itself may include restrictions on using those program funds to provide assistance when insurance providers or other federal or state agencies have already funded all or a portion of the activity. Supplemental Appropriations Acts also include restrictions against certain types of matching requirements, share or contribution for any other federal program.

If receiving funds, an applicant (subrecipient or grantee) must have adequate procedures to prevent the duplication of benefits. This includes: (a) verifying all sources of assistance received, as applicable, before the award of CDBG-MIT funds; (b) determining remaining funding need(s) for CDBG-MIT assistance before committing funds or awarding assistance; and (c) requiring beneficiaries to enter into a signed agreement to repay any duplicative assistance if they later receive additional assistance for the same purpose for which the CDBG-MIT award was provided.

It is required to use the best, most recent available data from FEMA, the Small Business Administration (SBA), as applicable, insurers, and any other sources of information on local, state and federal funding to prevent the duplication of benefits. Policies and procedures related to DOB should take note of FRN published on June 20, 2019 entitled, “Updates to Duplication of Benefits Requirements Under the Stafford Act for Community Development Block Grant (CDBG) Disaster Recovery Grantees” (2019 DOB Notice)(84 FR 28836). The policies and procedures must reflect the treatment of loans that is consistent with the requirements of the Declined Loans Provision and the Disaster Recovery Reform Act.<sup>18</sup> Additional reference should be made to the State of Louisiana Substantial Action Plan Amendment No. 12 for the Utilization of Community Development Block Grant Funds in Response to the Great Floods of 2016 (submitted to HUD on Aug. 14, 2019).

### **11.10 Flood Insurance**

The Stafford Act also contains eligibility requirements for recipients who have received prior disaster funding based upon whether or not they are in compliance with requirements associated with receipt of those funds. Where applicable, recipients must be in compliance with these restrictions or individual funding will be denied. Through this FRN, HUD instituted an Alternative Requirement to 42 U.S.C. 5305(a)(4) for CDBG-MIT funds, as follows: There is a prohibition to providing CDBG-MIT assistance for the rehabilitation/reconstruction of a house, if (a) the combined household income is greater than 120 percent AMI or the national median, (b) the property was located in a floodplain at the time of the disaster, and (c) the property owner did not maintain flood insurance on the damaged property, even when the property owner was not required to obtain and maintain such insurance.

Section 582 also imposes a responsibility on an applicant that receives CDBG-MIT. That responsibility is to inform property owners receiving assistance that triggers the flood insurance purchase requirement that they have a statutory responsibility to notify any transferee of the requirement to obtain and maintain flood insurance in writing and to maintain such written notification in the documents evidencing the transfer of the property, and that the transferring owner may be liable if he or she fails to do so.

Public entities applying for CDBG-MIT funding must be in good standing with the National Flood Insurance Program (NFIP). Projects submittals are advised to include consultation with local and regional

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<sup>18</sup> P.L. 115-254, Division D, “DRRA “ section V.A.24. of FRN FR-6109-N-02 and the 2019 DOB Notice (Pages 24-25)



floodplain administrators and managers.

## **12. OTHER RESOURCES AND INFORMATION**

Resources, reference documents and links to guidance documents and regulations related to this program and the LWI will be posted on the LWI website at [www.watershed.la.gov](http://www.watershed.la.gov).

# APPENDIX A: REGIONAL STEERING COMMITTEE CONFLICT OF INTEREST IDENTIFICATION, REPORTING AND AVOIDANCE PROCESS

## STATE OF LOUISIANA DIVISION OF ADMINISTRATION OFFICE OF COMMUNITY DEVELOPMENT (OCD)

### LOUISIANA WATERSHED INITIATIVE

This document provides the procedures relative to the programs of the Louisiana Watershed Initiative (LWI), by which regional steering committees (RSC) in the LWI should identify, disclose and manage all potential and actual conflicts of interest through elimination, mitigation or waivers if allowed.

This procedure is intended to assist the RSC and its members in understanding, anticipating and addressing any potential or actual conflict issues that may arise as a result of the member's role on the RSC.

#### 1. Conflicts of Interest Provisions Addressed in this Process

The Louisiana Code of Governmental Ethics, La. R.S. 42:1102 *et seq* ("Ethics Code") applies to independent the RSC members and contractors that are "engaged in a governmental function." Therefore, the RSC members may be considered "public employees" and the provisions of the Ethics Code are applicable to them.

"Public employee" is anyone, whether compensated or not, who is engaged in the performance of a governmental function or is under the supervision or authority of an employee of the government entity. Public employees are not limited to payroll employees of OCD, but include the RSC members in connection with the LWI.

The HUD conflict of interest rules at 24 CFR 570.611 generally apply to persons who assist an LWI partner agency, who exercise or have exercised any functions or responsibilities with respect to CDBG activities assisted under this part, or who are in a position to participate in a decision making process or gain inside information with regard to such activities, may obtain a financial interest or benefit from a CDBG-assisted activity, or have a financial interest in any contract, subcontract, or agreement with respect to a CDBG-assisted activity, or with respect to the proceeds of the CDBG-assisted activity, either for themselves or those with whom they have business or immediate family ties, during their tenure or for one year thereafter.



This document does not address specialized conflict of interest provisions that may apply to particular trades, relationship, or professions (i.e. Louisiana Rules of Professional Conduct.)

## **2. General Prohibitions**

In general, conflicts of interest occur when one's private interest and public duties overlap, resulting in a real or perceived lack of impartiality or the public perception that the RSC member is either not acting in the best interest of the State or inappropriately using the relationship for undue enrichment or influence.

In avoiding these conflicts, the RSC member must be familiar with the following general prohibitions:

### **A. Participation:**

The RSC member shall not participate in any transaction involving OCD in which the RSC member has an economic interest, other than participation in transactions arising solely out of The RSC member's performance of its contractual responsibilities to OCD.

The RSC member shall not participate in any transaction involving OCD in which, to its actual knowledge or through reasonable due diligence could ascertain that any of the following persons have a financial interest:

- Any legal entity in which the RSC member owns any ownership interest;
- Any legal entity in which an officer, director, partner or trustee of the RSC member owns an ownership interest in excess of 25%;
- Any member of the immediate family of a person who is an officer, director, partner, trustee or employee of the RSC member;
- Any legal entity owned by a member of the immediate family of a person who is an officer, director, partner trustee or employee of the RSC member;
- Any legal entity with which the RSC member has an existing contract and who by reason thereof is in a position to affect directly the economic interests of the RSC member.

"Participate" is to take part in or to have or share responsibility for action of a governmental entity or a proceeding personally, as a public servant of the governmental entity, through approval, disapproval, decision, recommendation, the rendering of advice, investigation, or the failure to act or perform a duty.

"Immediate Family Member" is the public employee's children, the spouses of his children, his brothers and their spouses, his sisters and their spouses, his parents, his spouse and the parents of his spouse.

### **B. Prohibited Transactions**

A The RSC member is prohibited from entering into any contract, subcontract, or other transaction that is under the "supervision and jurisdiction" of the RSC member's "agency." This restriction also applies to



the immediate family members of the RSC member and to legal entities in which the RSC member's family members own an interest in excess of 25%.

"Transaction" is any proceeding, application, submission, and/or request for a ruling or other determination, contract, claim, case or other such particular matter. ***For the purposes of the LWI, Transaction also includes any program or project that is funded in whole or in part by the LWI.***

"Supervision and jurisdiction" is those things over which the RSC member has the power to exercise authority."

The "agency" of the RSC member includes **only the services under the scope of their contract** and not to the entire governmental agency. ***If the contract with the LWI partner agency is a task order-based contract, agency shall be determined based on task orders and assignments actually used by the LWI partner agency. However, in accepting any such task order or assignment, it is the RSC member's responsibility to identify based on diligent inquiry of all persons involved through the RSC member that the task order or assignment does not present a conflict of interest with any past or existing activity or relationship.***

### C. Gifts:

Generally, the RSC member is prohibited from soliciting or accepting a gift from persons who have an economic interest in the RSC member's provision of services to an LWI partner agency.

In particular, the RSC member is prohibited from receiving any thing of economic value from any person whose economic interests will be affected by the performance or non-performance of the RSC member's contractual responsibilities.

Generally, the gift prohibition of the Louisiana Government Code of Ethics does not prohibit food or drink consumed as the personal guest of the person providing the food or drink. The person providing the food and drink may not provide the RSC member with more than \$64 of food and drink.

However, ***as a matter of policy*** no RSC member should accept a gift, including of food or drink, from any person or entity that is seeking financial assistance of CDBG-MIT funds for a project within the geographic boundaries of the RSC.

## 3. Disclosure of Conflicts

**EXISTING ACTUAL OR POTENTIAL CONFLICTS:** As soon as the RSC member becomes aware of the existence of an actual or potential conflict, it shall disclose all known or potential conflicts of interest to OCD by promptly informing OCD of the circumstances giving rise to the potential or actual conflict.

The RSC member in coordination with OCD and any other affected agencies will develop and implement a Disqualification Plan. The Disqualification Plan will be a written document that identifies the alternative measures available to OCD and the RSC member to prevent participation in prohibited transactions.



***FUTURE CONFLICTS: The RSC member shall refrain from entering any new relationship or undertaking any new or additional services that present an actual or potential conflict of interest.***

The RSC member shall report to OCD ***any circumstance*** under which it can anticipate that potential receipt of monies or other assets, as compensation for services or otherwise, which in whole or in part are funded directly or indirectly by CDBG-MIT funds administered by the OCD. This disclosure requirement is not limited to whether a task order has been issued or is anticipated to be issued involving those circumstances.

ALL DISCLOSURES REQUIRED UNDER THIS PROCESS SHALL BE DIRECTED IN WRITING TO OCD as follows:

Via email to [LWI-Round1@la.gov](mailto:LWI-Round1@la.gov)

The subject line of the e-mail shall include “**LWI COI POLICY DISCLOSURE**” in addition to any further description of the subject.

Caution must be exercised at all levels of governmental contracting to identify, avoid and manage any perceived or apparent conflict of interest. The identification of any conflict of interest warrants immediate attention by all parties.

# APPENDIX B: EVALUATION AND SCORING CRITERIA

## WATERSHED PROJECTS GRANT PROGRAM: LOCAL AND REGIONAL - ROUND 1

Projects submitted for the Watershed Projects Grant Program: Local and Regional - Round 1 funding can earn up to 100 points in scoring criteria. Each project will be scored and then ranked according to the following criteria:

PROJECT APPLICATION EVALUATION CRITERIA – ROUND 1 - 100 point maximum -		
Criteria		Maximum Score
<b>Effectiveness in Minimizing Risk</b>		<b>44</b>
	Risk reduction value	20
	Future flood risk considerations	2
	Upstream and downstream flood effects	2
	Passivity and reliability	2
	Multi-jurisdictional risk reduction benefits	4
	Enhanced protection of critical lifelines	3
	Avoided damages/losses	2
	Adaptability to higher flood levels	2
	Replicability	2
	Project design life	3
	Historical/archeological/geological impacts	2
<b>Project Costs &amp; Project Implementation</b>		<b>13</b>
	Fund match	1
	Annual costs	2
	Implementation timeframe	2
	Project stage of development	3
	Operations and maintenance	1
	Consistency with other projects or plans	1
	Applicant capacity/previous experience in managing federal grant funding	3



## PROJECT APPLICATION EVALUATION CRITERIA – ROUND 1 (CONT.)

- 100 point maximum -

Criteria	Maximum Score
<b>Social Benefits</b>	<b>12</b>
Benefit to low and moderate income populations	7
Economic opportunity	3
Outdoor recreational resources	2
<b>Enhancement of Natural Functions</b>	<b>15</b>
Natural hydrology improvements	5
Water quality improvements	5
Improvement to aquatic/floodplain habitat	5
<b>Benefit to Most Impacted and Distressed Parishes</b>	<b>16</b>
<b>Total</b>	<b>100</b>

## EFFECTIVENESS IN MINIMIZING RISK

- 44 point maximum -

Criteria Description	Criteria Value	Points
Risk-reduction value	Details on analysis/calculation of risk are provided in Attachment 1	0-20: _____
Consideration of future flood risk	Uses best-available science, incorporating scenarios or probabilities of climate change, future development/land use change, and other factors relevant to the type of flood risk (e.g., sea level rise)	<input type="checkbox"/> 2
	Uses historical averages to project future conditions	<input type="checkbox"/> 1
Upstream and downstream flood effects	Application provides documentation showing project reduces flood risk up and/or downstream of the project's primary benefitting area	<input type="checkbox"/> 2
	Application provides documentation showing no flood risk impact up or downstream of the project's primary benefitting area	<input type="checkbox"/> 1
Passivity and reliability	Completely passive project that will require no regular operations and/or maintenance	<input type="checkbox"/> 2
	Automated (mechanical) response during a flood event	<input type="checkbox"/> 1
Multi-jurisdictional flood risk reduction benefits	Project is the result of agreed collaboration between two or more parishes	<input type="checkbox"/> 4
	Project is the result of agreed collaboration between two or more municipal districts	<input type="checkbox"/> 3
	Project benefits are realized by two or more parishes	<input type="checkbox"/> 2



## EFFECTIVENESS IN MINIMIZING RISK (CONT.)

- 44 point maximum -

Criteria Description	Criteria Value	Points
Enhanced protection of critical facilities (e.g., hospitals, evacuation routes, emergency response facilities, power generation stations, etc.) and/or stabilization of essential community lifelines (e.g. transportation, communication, health, shelter, hazardous material, water, power)	Project will mitigate loss of service from one or more ASCE Category IV facilities <sup>1</sup>	<input type="checkbox"/> 3
	Project will mitigate loss of service from one or more ASCE Category III facilities <sup>2</sup>	<input type="checkbox"/> 2
	Project demonstrates a mitigation of risk to one or several community lifelines	<input type="checkbox"/> 1
Avoided damages/losses (Avoided direct physical damage to built assets and agriculture - based on existing or approved permits for the built environment)	Expected losses avoided are greater than project capital and maintenance costs over the life of the project by a factor greater than two (Benefit cost ratio >2)	<input type="checkbox"/> 2
	Expected losses avoided are greater than project capital and maintenance costs over the life of the project by a factor greater than one (Benefit cost ratio >1)	<input type="checkbox"/> 1
Adaptability/flexibility	Method/installation can be modified to adapt to higher flood levels	<input type="checkbox"/> 2
	Not adaptable, but does not impede future more protective solutions to higher flood levels	<input type="checkbox"/> 1
Project design life (in accordance with FEMA standards or supporting documentation)	> 50 years	<input type="checkbox"/> 3
	30-49 years	<input type="checkbox"/> 2
	15-29 years	<input type="checkbox"/> 1
Replicability	Design that can be replicated/may facilitate initiation of other projects	<input type="checkbox"/> 2
	Specialized for the site but provides lessons learned for other areas	<input type="checkbox"/> 1
Historical/archeological/geological impacts	Application documents that the project will have a positive impact on special historical, archeological, geological or environmental sensitive areas	<input type="checkbox"/> 2

<sup>1</sup> ASCE Category IV: highest risk category, includes buildings and structures that if severely damaged, would reduce availability of essential community services necessary to cope with an emergency. Includes buildings such as hospitals, police and fire stations, emergency communication centers and facilities, and facilities containing hazardous materials. includes public utility facilities required for emergency backup as Risk IV facilities, i.e. power generating stations, aviation control centers, water storage facilities and pump stations for fire suppression.

<sup>2</sup> ASCE Category III: buildings and structures that house a large number of people in one place, or house people with limited mobility or ability to escape to a safe haven. Includes buildings such as schools, prisons, small healthcare facilities, universities. Can include utilities not considered Category IV.



## EFFECTIVENESS IN MINIMIZING RISK (CONT.)

- 44 point maximum -

Criteria Description	Criteria Value	Points
	Application documents that the project will have no impact on special historical, archeological, geological, or environmental sensitive areas	<input type="checkbox"/> 1

## PROJECT COSTS & PROJECT IMPLEMENTATION

- 13 point maximum -

Criteria Description	Criteria Value	Points
Fund match	Documented commitment of 10% additional match funds for project	<input type="checkbox"/> 1
Annual costs	Project annual maintenance cost is less than 0.5 percent of capital cost	<input type="checkbox"/> 2
	Project annual maintenance cost is 0.5 to 1.5 percent of capital costs	<input type="checkbox"/> 1
Implementation timeframe	Scheduled completion within two years of funding	<input type="checkbox"/> 2
	Scheduled completion within three years of funding	<input type="checkbox"/> 1
Project stage of development	Project is fully designed and permitted	<input type="checkbox"/> 3
	Project is designed, but not yet permitted	<input type="checkbox"/> 2
	Project is designed to a sufficient level of detail for regulatory review, with initial consultations complete, and provides clear direction for detailed project engineering and specifications	<input type="checkbox"/> 1
Operations and maintenance plan	Submittal of operations and maintenance plan with identified long-term funding source, action steps, and responsibilities outlined in order to operate and maintain improvements	<input type="checkbox"/> 1
Consistency with other plans or projects	Project is consistent with local capital improvement plan or is aligned with other federal, state, or local mitigation projects	<input type="checkbox"/> 1
Applicant capacity	Applicant has previous experience in managing federal grant funding. Applicant has no outstanding monitoring or audit findings on performance.	<input type="checkbox"/> 3

## SOCIAL BENEFITS

- 12 point maximum -

Criteria Description	Criteria Value	Points
Benefit to Low- and Moderate-Income Population	Project demonstrates a direct positive benefit (in terms of risk reduction) to persons of low and moderate income. Applicant provides documentation that the project will benefit the residents of a primarily residential area where at least 51 percent of the residents are low- and moderate-income persons per HUD's Updated LMISD or meets other LMI-benefit determination criteria.	<input type="checkbox"/> 7
Economic Opportunity	Project can document expected job creation and/or increased economic activity as a result of project benefits (not just through construction and maintenance) creates or retains jobs for low-and moderate-income persons	<input type="checkbox"/> 3
	Reduced risk of job loss expected as a result of the project	<input type="checkbox"/> 2



## SOCIAL BENEFITS

- 12 point maximum -

Criteria Description	Criteria Value	Points
Outdoor Recreational Resources	Adds new and equitable recreational assets, greenways or trails, or recreational fields or programmed open space and nature preserves	<input type="checkbox"/> 2
	Enhances existing recreational space	<input type="checkbox"/> 1

## ENHANCEMENT OF NATURAL FUNCTIONS

- 15 point maximum -

Criteria Description	Criteria Value	Points
Natural Hydrology Improvements (A project may provide flood storage and conveyance, reduce flood velocities, reduced peak flows, promote infiltration and aquifer recharge or reduce frequency and duration of low surface flows)	Application indicates that the project, once built/implemented, will alter quantity, frequency and duration of water flows in a manner that IMPROVES, ENHANCES or RESTORES floodplain, riverine and coastal ecosystem services and the human livelihood and well-being that depend on these services.	<input type="checkbox"/> 5
	Proposal indicates that the project, once built/implemented will alter quantity, frequency and duration of water flows in a manner that SUSTAINS floodplain, riverine and coastal ecosystem services and the human livelihood and well-being that depend on these services.	<input type="checkbox"/> 1
Water Quality (A project may reduce sedimentation, reduced nutrients and impurities from runoff, process organic wastes, or moderate temperature fluctuations)	Application indicates that the project, once built/implemented will IMPROVE, ENHANCE, or RESTORE water quality parameters critical for maintaining a healthy floodplain, riverine, and coastal environment.	<input type="checkbox"/> 5
	Application indicates that the project, once built/implemented WILL NOT IMPACT water quality parameters critical for maintaining a healthy floodplain, riverine, and coastal environment.	<input type="checkbox"/> 3
Aquatic/floodplain habitat value (A project may add rich alluvial soils to promote vegetative growth, maintain biodiversity, maintain integrity of ecosystems, provide breeding and feeding grounds, create enhanced waterfowl habitat or protect habitats for rare and endangered species)	Application indicates that the project, once built/implemented will restore/enhance and protect floodplain, riverine and coastal habitats suitable for ecologically, commercially and recreationally important species.	<input type="checkbox"/> 5
	Application indicates that the project, once built/implemented will have no impact on riverine and coastal habitats suitable for ecologically, commercially and recreationally important species.	<input type="checkbox"/> 1



## BENEFIT TO MOST IMPACTED AND DISTRESSED PARISHES

- 16 point maximum -

Criteria Description	Criteria Value	Points
Benefit to three or more state or HUD-Identified MIDs	Yes	<input type="checkbox"/> 16
Benefit to two state or HUD-Identified MIDs	Yes	<input type="checkbox"/> 10



## ATTACHMENT 1: COST EFFECTIVENESS TEST

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This attachment describes the methodology applicants must use to demonstrate the effectiveness of their proposed projects, as defined by its risk reduction impact to structures, households, and public infrastructure compared to the cost. Applicants must complete the table below, which will be used in a calculation that will provide a simplified way to represent annualized risk reduction.

Enter information into the **Step 1 Table** identifying structures benefitting from the proposed project by recurrence interval. Temporary buildings, outbuildings, garages, and sheds **must not** be included in this analysis.

Applicants are encouraged to provide additional information regarding project risk reduction benefits that may not be captured in the **Risk Reduction Proxy** calculation. Additional guidance on this is provided in **Step 2** below.

### STEP 1 INSTRUCTIONS

Not all structures are created equal. If flooded, a backyard shed, for example, would not yield as high a risk to life safety and the functioning of a community as a multi-family apartment complex. As such, in **Step 1**, applicants will identify structures based on use type and the structures will be assigned a risk adjustment factor (see **Table 1** below). To begin this step, applicants should complete the table listing each of the structures that will experience flood risk reduction as a result of the proposed project. The American Society of Civil Engineers provides an industry standard approach for ranking the risk inherent to each structure use type. Using **Table 1** and **Table 5**, the application software will assign each structure experiencing risk mitigation under a “with project” scenario for each recurrence interval storm a risk category and weight.<sup>3</sup> This table will be used in the calculations below to generate an **Effectiveness Score**.

#### Important Note on structures, units, and critical infrastructure assets:

- Each residential unit may be counted as an individual structure and assigned to Risk Category II for the purposes of this analysis. If number of units is unclear for multi-family structures, residential buildings should be assigned as Risk Category III. For example, a multi-family structure or apartment complex with 10 units could be categorized as a risk category II, and the raw count of structures could be 10, however if the number of units is unclear, that structure would be categorized as a risk category III, and the raw count of structures would be 1.
- Structures present at a critical facility should be assigned a risk category based on function. Critical outdoor assets, such as substations and pump stations may count as structures.

The system will automatically calculate the structure weight.

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<sup>3</sup> Risk categories are derived from the American Society of Civil Engineers (ASCE) 24 and 7



**Table 1 Weighting per structure by risk category (see Table 5 for guidance on assigning risk categories)**

Risk Category	Risk Weight
II	1.0
III	4.0
IV	7.0

**Table 2 Example risk adjustment weighting by structure type**

Structure/Parcel ID	Structure Type/Use	Risk Category	Raw Count	Risk Adjusted Count
00324	Multifamily Residential (unknown units) <sup>4</sup>	III	1	4
00330	Multifamily Residential (10 units)	II	10	10
00025	Single Family Residential	II	1	1
00036	Fire Station	IV	1	7
00567	Public Library	IV	1	7

Due to project type variations, the applicant may choose up to six design storm intervals (for example, 25-percent, 10-percent, 2-percent, 1-percent, 0.2-percent). All projects except non-structural projects are expected to have basic H&H modeling completed. Please see Attachment 2: Hydrologic and Hydraulic Report Checklist for further guidance on preparation of these materials. For non-structural projects, the applicant may rely on historical storms. A historical storm would replace the closest design storm. For example, a 28-year storm would replace the 25-year design storm, with a corresponding annual probability of 0.0357. Projects should cap at the highest level of protection (for example, a 0.2 percent or 500-year for a given riverine flood protection project, or 25-year for a given drainage project).

As shown in the example **Table 4 Risk Adjusted Structure Count (Delta Table)** below, the application software will then calculate the annualized number of weighted structures benefitting from the project to produce a **Risk Reduction Proxy** for the project. This calculation provides a simplified measure for assessing the benefits of individual projects across a range of flood scenarios without requiring a detailed benefit cost analysis, and favors projects with lower cost and greater reach.

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<sup>4</sup> If the exact number of residential units in a multifamily structure is known, each residential unit should be counted as a separate structure and assigned a risk adjustment factor of 1.0 for the purposes of this analysis. In this example, if the structure has 10 units, its Risk Adjusted Count would be 10.0. If the exact number of units cannot be determined but the structure has four or more units, its Risk Adjusted Count would be 4.

Table 3 Example Step 1 Risk Calculation Table

Parcel ID	Structure Type/Use	Risk Category	Raw Count (structures or households)	Structures flooded in a “without project” scenario						Structures flooded in a “with project” scenario						Risk Adjustment Factor
				Event likelihood (recurrence interval) Ex: 100 year storm						Event likelihood (recurrence interval)						
				5 year event	10 year	25 year	50 year	100 year	500 year	5 year event	10 year	25 year	50 year	100 year	500 year	
				0.2	0.1	0.04	0.02	0.01	0.002	0.2	0.1	0.04	0.02	0.01	0.002	
1	Hospital	IV	1	0	0	1	1	1	1	0	0	0	0	0	1	7
2	Single family dwelling	II	1	0	0	1	1	1	1	0	0	0	0	0	1	1
3	School	III	1	0	0	1	1	1	1	0	0	0	0	0	1	4

Table 4 Risk Adjusted Structure Count (Delta Table) **Note: This will be calculated by the software, applicant does not need to populate this table**

	Risk Adjusted # of Structures protected <sup>5</sup> by project in prescribed recurrence interval event						Risk Reduction Proxy
	5 year event	10 year	25 year	50 year	100 year	500 year	
Total difference in weighted number of structures	0	0	12	12	12	0	0.77

<sup>5</sup> Recognizing that no structure can have risk eliminated, “protected” for the purpose of this exercise means the structure is not expected to receive flood damage in the subject event. A reduction in flood levels that still results in structure damage under a given event scenario is not considered “protection” of the structure. For example, if a structure is expected to receive 4 ft. of inundation above the first floor in the “without project” scenario but it would receive 2 ft. of inundation above the first floor in the “with project” scenario, the structure would be considered “flooded” in both scenarios.

## FOLLOWING CALCULATIONS

The application software will then determine the cumulative project cost by multiplying the annual maintenance cost by the project's useful life and adding it to the total project cost as shown below.

$$(\text{Annual project maintenance cost (\$)} * \text{Project Useful Life (years)}) + \text{Total Project Cost (\$)} = \text{Cumulative Project Cost (\$)}$$

Following this step, the software will use the **Risk Reduction Proxy** from Step 1 to determine project effectiveness compared to the cumulative project cost. This calculation will multiply the results of the Risk Reduction Proxy by the project's useful life, and then divide this by the cumulative project cost to determine a total benefit per dollar amount or Effectiveness Score. **Note: The application software will complete the calculation for the applicant based on their input in Step 1**

$$\frac{\text{Risk Reduction Proxy} * \text{Project Useful Life (Years)}}{\text{Cumulative project cost (\$)}} = \text{Effectiveness Score}$$

After all Round 1 applications have been submitted and assigned an effectiveness score, the State will plot the effectiveness scores among projects submitted, and allocate 0-20 points per project according to how they rank compared to one another.

## STEP 2 INSTRUCTIONS: ADDITIONAL CONSIDERATIONS

In the event of a tie, and in conjunction with the above calculation, the State reserves the right to assign scores for project effectiveness based on additional factors, including but not limited to:

- Role of protected assets as critical supply chain components (structures, infrastructure, utilities, or land) or sites that serve a function of protecting or advancing community lifelines in a disaster event
- Economic impact and/or sociocultural significance or value of structures protected
- Socio-economic impacts, including risk reduction to vulnerable populations based on poverty, age, race, limited English proficiency, disability, or other factors, concentrated areas of poverty
- Past flood inundation or damage
- Extent and magnitude of flooding reduction (i.e., depth reduction or flooded area reduction)

Applicants should attach documentation for and/or reference the application location of any of the above information to be considered in scoring for the effectiveness criterion.

**Table 5 Facilities by Type and Category<sup>6</sup> - Always review project details**

Structure Type	Facility/Building/Structure	Risk Category
Aviation	Critical aviation facility such as control tower, air traffic control center, or hangar for aircraft used in emergency response	IV
Emergency Response	Designated emergency shelter	IV
	Designated emergency preparedness, communication, operation center or other facility required for emergency response	IV
Emergency Services	Fire, rescue, ambulance, or police station or emergency vehicle garage	IV
Hazardous Substances	Building or other structure (including, but not limited to, facilities that manufacture, process, handle store, use, or dispose of such substances as hazardous fuels, hazardous chemicals, or hazardous waste) containing significant quantities of highly toxic substances	IV
Health/Hospital	Hospital or health care facility having surgery or emergency treatment facility	IV
Miscellaneous critical assets	Structure such as communication tower, electrical substation, fuel or water storage tank, or other structure necessary to allow continued functioning of a Category IV facility during and after an emergency	IV
Public Services	Library	IV
	Town hall or courthouse	IV
Public utility required in emergencies	Power generating station, water treatment facility, telecommunications or other public utility facility required in emergencies	IV
Critical commercial assets	Grocery store / pharmacy	III
	Hardware stores / home improvement retailer	III
	Gas stations	III
Community and recreation	Athletic facility with seating for spectators	III
	Building or structure in which a large number of persons may assemble in one place, such as theaters, lecture halls, concert halls, and religious institutions with large areas used for worship	III

<sup>6</sup> Note: Classification of the structures types in this table are derived from ASCE classifications, with minor interpretations and adjustments to address resilience considerations and critical lifelines.



Structure Type	Facility/Building/Structure	Risk Category
	Community center or other recreational facility	III
	Museum	III
Other hazardous materials	Building or structure not included in Category IV containing toxic or explosive substances	III
Health/Hospital/ Public care	Care facility where residents have limited mobility or ability, including nursing homes but not including care facilities for 5 or fewer persons	III
	Healthcare facility not having surgery or emergency treatment capabilities	III
	Jail, correctional facility, or detention facility	III
	Veterinary facility	III
Public Utility	Building or structure associated with a sewage treatment plant or other utility which, if its operations were interrupted by a flood, would cause significant disruption in day-to-day life or significant economic losses in a community, but would not be required for emergency operations	III
4+ Residence	Structures that have 4+ residential units where the number of units are not available	III
School/Child Care	Elementary school, secondary school, or buildings with college or adult education classrooms	III
	Preschool and childcare facility not located in one- and two-family dwelling	III
Transportation	Major transportation facility	III
<4 Residence	Structures that have 1 – 3 residential units	II
Miscellaneous	Other building or structure that poses a moderate risk to the public or moderate disruption to the community should it be damaged or fail due to flooding, including most commercial (including those commercial structures that are temporarily vacant), and industrial buildings not included in Category I, III, or IV. Examples include commercial storage facilities, most businesses, auto repair, and low occupancy office buildings	II
Unoccupied, minimal risk structures (not to be included in the calculation)	Buildings and structures that normally are unoccupied (not regularly occupied as a dwelling unit or commercial unit) and pose minimal risk to the public or minimal disruption to the community should they be damaged or fail due to flooding, including temporary structures that are in place for less than 180 days, accessory storage buildings and minor storage	I



Structure Type	Facility/Building/Structure	Risk Category
	facilities, small structures used for parking of vehicles, and certain agricultural structures	



## ATTACHMENT 2: HYDROLOGIC AND HYDRAULIC REPORT CHECKLIST

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The Hydraulic Report shall provide an analysis of the proposed project compared to the existing conditions, on the floodplain and/or floodway for a range of discharges; 5-year, 10-year, 25-year, 50-year, 100-year, and an optional 500-year discharge. The report should contain the following information.

*Disclaimer: The checklist guidance provided herein does not represent regulatory methodology or standards nor do they modify or supersede any official regulations, requirements, ordinances, policies, or flood hazard boundaries currently in force under the National Flood Insurance Program (NFIP) or state and local flood damage prevention ordinances in their respective jurisdictions.*

### Introduction

- ☐ Preparers name, company name, telephone number, and email.
- ☐ Provide basic information such as the location and description of the watershed and study area.
- ☐ Name and type of project.
- ☐ Describe and define study limits.
- ☐ Locate and describe where flood discharges were estimated.
- ☐ Name all associated USGS gaging stations.
- ☐ Describe the climatic data, hydrologic features, and any other information that supports the hydrologic analyses.
- ☐ Describe the watercourse and location of investigation.
- ☐ Name for whom the report is being prepared.
- ☐ Date of report and topographic data used in model.
- ☐ Describe the scope of investigation including the alternatives analyzed and evaluated.
- ☐ Describe the scope of the analysis.
- ☐ Identify any existing studies or any history of work on the watercourse in the vicinity of the project including past flooding events.

### Method of Analysis

- ☐ A description of ALL modeling runs submitted must be included in the report.
- ☐ Explain why the modeling method was chosen and why it is appropriate for the project evaluation.
- ☐ Explain any assumptions made in the application of the chosen method.
- ☐ Include references and provide a description and source of any computer programs used.
- ☐ Explain all utilized discharges in the analysis.
- ☐ Explain any modeling iterations including the use of previous data (i.e., FEMA study), the addition of updated/corrected geometry, etc.

### Upstream and Downstream Modeling Limits

- ☐ Show the location of the modeling limits on the site development plan. The certifying engineer shall describe the methodology for depicting upstream and downstream limits.
- ☐ The model needs to start sufficiently downstream of the project in accordance with normal depth boundary conditions.



- ☐ The analysis must extend upstream to the point where any increase caused by the proposed project is dissipated, for all flood profiles.
- ☐ The location of all cross-sections should be shown on the plans. Cross-sections should all be labeled.
- ☐ Explain why the location was selected and the method used to determine the starting water surface elevation. Include an analysis of calibration of the model(s) to existing FEMA FIS profiles if they exist or other methods used to develop stable boundary downstream water surface conditions if no FIS is available.
- ☐ Describe all modeling boundary conditions.

#### **Variables, Coefficients, and Modeling Strategies**

- ☐ Discuss all modeling variables and coefficients. Indicate references and explain all assumptions for the variables used in the model.
- ☐ Ineffective Flow Areas – should be included when appropriate – up and downstream of crossings, encroachments, and ponding areas.
- ☐ Culvert modeling approaches should not show flow below the stream bottom.
- ☐ Provide descriptions for existing and future value selections of expansion and contraction, orifice, weir discharge, friction, and time of concentration variables.
- ☐ Use graphical maps for describing watershed boundaries by linework and shading and time of concentration by directional arrows. Include existing and proposed conditions.
- ☐ Provide photographs of present conditions and any other supporting information to justify modeling variable values selected for existing and/or proposed conditions.
- ☐ The routing methods used, including the values of input parameters, the derivation of those parameters, and methods of measurements and sources of data. The approach used for channel infiltration and the basis for any diversions from the watershed. The effect of encroachment on the computation of channel losses and storage, and the relation between storage and the extent of the floodplain.
- ☐ The source and derivation of any inflow hydrographs that are estimated independent of the modeling process.
- ☐ The methods or data used for estimating diversions from the watershed.

#### **Discussion**

- ☐ Discuss and evaluate the computations and analysis.
- ☐ Provide a description of the present channel and floodway, the nature and distribution of flow, and the proposed alterations and their resultant effect.
- ☐ Explain any unusual conditions that occur, and all assumptions not previously addressed that were part of the analysis.
- ☐ The differences between the proposed flood discharges, obtained from the rainfall-runoff model and regression equations, and effective base flood discharges and an explanation as to why they are different.
- ☐ Address all model error reports.



## Conclusion

- ☐ The conclusion must include the definition of “harmful interference.” Harmful interference is defined as “causing an increase stage or change in the direction of flow that causes or is likely to cause: damage to property; a threat to life; pollution, impairment, or destruction of water or other natural resources.”
- ☐ The conclusion must include the engineer’s opinion as to whether or not the project will cause harmful interference, based on the model results.
- ☐ Evaluate the effects of the proposed conditions on the watercourse, floodplain, floodway and potentially affected properties (including upstream and, where appropriate, downstream effects) for the range of discharges up to and including the 100-year discharge. The 500-year discharge is optional.

## SUPPORTING DOCUMENTS TO INCLUDE WITH REPORT

- ☐ A site plan for existing and proposed conditions.
- ☐ Scaled plan view drawing(s) at sufficient scale and detail to show proposed work and elevations.
- ☐ Location of all cross-sections used in the analysis. Cross-sections and stations should be labeled to match cross-sections in the digital model.
- ☐ Flood Insurance Rate Map and flood profile (if available).
- ☐ Existing and proposed topography.
- ☐ Property boundaries.
- ☐ Floodway delineation.
- ☐ Floodway alterations.
- ☐ Proposed floodway obstruction.
- ☐ River channel.
- ☐ Fill, excavation and grading.
- ☐ Existing and proposed bridges and culverts. Include the profiles of the road grade along its highest points. (The information provided should be sufficient to analyze the crossings.)
- ☐ Utilize the North American Vertical Datum 1988 (NAVD 88) GEOID12B and State Plane Coordinates (horizontal) for all elevation deliverables.
- ☐ The elevation datum used. Plans and the model should be in the same datum.
- ☐ Cross-sections showing existing conditions and the proposed alterations. Cross-sections should include the following information.
  - ☐ Channel limits (the channel limits can be defined by the ordinary high-water mark of the watercourse).
  - ☐ Floodway limits, if mapped or modeled.
  - ☐ Floodplain boundary limits.
  - ☐ Roughness coefficients.
- ☐ Shapefiles for existing and proposed conditions for each design storm shall be included with the report.
- ☐ Statement to certify that the increase does not interfere harmfully with the discharge or stage characteristics of the stream. The certifying Louisiana Professional Engineer shall prepare a written certification stating “This is to certify that I am a duly qualified Professional Engineer licensed to practice in the State of Louisiana. I further certify this Hydrology and Hydraulic Report supports the fact that the proposed improvements would not result in any increase in flood levels within the community during the occurrence of a base flood event.”



- ☐ A harmful interference is defined as an increased stage or change in the discharge or direction of flow that causes or is likely to cause any of the following: damage to property; a threat to life; a threat to personal injury; pollution, impairment, or destruction of water or other natural resources.

## APPENDIX C: PROFESSIONAL DESIGN COSTS SUPPLEMENTAL INFORMATION

Professional design costs for basic services or additional services may be eligible for reimbursement up to the **established fee schedule by the State of Louisiana Office of Facility Planning and Control (see Figure 1 on next page)**. All design costs would be included under project costs and not included in the project delivery costs. Architectural/engineering fees, even those provided under either a fixed price contract or cost reimbursement contract, must be reasonable and justifiable. Sole justification that the fees are within the amount allowed by OCD is not adequate, and design contracts priced on the basis of a percentage of cost are prohibited.

The fee for basic services, as described hereinafter, shall be calculated as the product of the fee percentage, adjusted for inflation, and the amount available for construction (AFC), adjusted for inflation. The fee percentage shall be computed by the formula:

$$\text{FEE PERCENTAGE} = \frac{46.10}{\text{Log (AFC (1975 BCI/Current BCI))}}$$

The fee shall be computed by the following formula:

$$\text{FEE} = \text{FEE PERCENTAGE (AFC(1975 BCI/Current BCI))(Current CPI/1975 CPI)}$$

Where “BCI” = Building Cost Index as published by Engineering News Record and “CPI” = Consumer Price Index as published by U.S. Department of Labor, Bureau of Labor Statistics.

Since the annual average computed in December of the BCI and CPI are used, fee calculations are based upon the most current calendar year average of both indices. Should fee modifications occur during the course of the project, the BCI and CPI index factors used to calculate the original fee shall be used. If a project, through no fault of the Designer, is inactive for more than 24 months, the current BCI and CPI index factors shall be applied to the project once re-activated.



Figure 1: State of Louisiana Office of Facility Planning and Control Fee Schedule

## State of Louisiana Facility Planning & Control

### BCI & CPI FOR 2020

BCI		CPI
<b>1306</b>	<b>1975</b>	<b>53.8</b>
<b>6136</b>	<b>2019</b>	<b>255.7</b>

### SCHEDULE OF REPRESENTATIVE FEES FOR 2020

AFC	Fee as a Percentage of AFC	Fee
\$ 10,000.00	14.0100%	\$ 1,401.00
\$ 50,000.00	11.5800%	\$ 5,790.00
\$ 100,000.00	10.7750%	\$ 10,775.00
\$ 200,000.00	10.0740%	\$ 20,148.00
\$ 500,000.00	9.2768%	\$ 46,384.00
\$ 750,000.00	8.9628%	\$ 67,221.00
\$ 1,000,000.00	8.7526%	\$ 87,526.00
\$ 1,500,000.00	8.4726%	\$ 127,089.00
\$ 2,000,000.00	8.2846%	\$ 165,691.00
\$ 3,500,000.00	7.9417%	\$ 277,958.00
\$ 5,000,000.00	7.7376%	\$ 386,878.00
\$ 7,500,000.00	7.5179%	\$ 563,843.00
\$ 10,000,000.00	7.3695%	\$ 736,948.00
\$ 20,000,000.00	7.0348%	\$ 1,406,966.00
\$ 50,000,000.00	6.6364%	\$ 3,318,223.00