



# STATE OF NEBRASKA DR-4420 CDBG-DR AFFORDABLE HOUSING CONSTRUCTION PROGRAM FREQUENTLY ASKED QUESTIONS (FAQS)

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*Last Updated: December 2, 2021, Version 1*

## FREQUENTLY ASKED QUESTIONS

*This document remains effective until it is amended, superseded, or rescinded.*

NEBRASKA DEPARTMENT OF ECONOMIC DEVELOPMENT, 301 CENTENNIAL MALL SOUTH, LINCOLN, NE 68509, [opportunity.nebraska.gov](https://opportunity.nebraska.gov)

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## PURPOSE

In early 2019, the State of Nebraska suffered record-breaking damage due to severe winter weather (Winter Storm Ulmer), straight-line winds, and flooding, all of which contributed to a major disaster declaration (DR-4420) under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act). The State is receiving a \$108,938,000 grant through the U.S. Department of Housing and Urban Development (HUD) Community Development Block Grant – Disaster Recovery (CDBG-DR) Program to support long-term recovery efforts. A portion of these funds will be used to implement the **Affordable Housing Construction Program** described herein.

This document is intended to provide an overview of the **Affordable Housing Construction Program** to potential applicants, including details regarding program eligibility and applicable cross-cutting federal requirements. This document may be updated as the program is finalized and implemented.

See the Nebraska Department of Economic Development's (DED) CDBG-DR website, [https://opportunity.nebraska.gov/cdbg\\_dr/](https://opportunity.nebraska.gov/cdbg_dr/), for updates and additional program information.



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## RECORD OF CHANGES

The following table summarizes changes to these FAQs.

| Date Approved | Version Number | Description of Change |
|---------------|----------------|-----------------------|
| 12/02/2021    | 1              | Initial publication   |
|               |                |                       |
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## PROGRAM OVERVIEW

### AFC001. WHAT IS THE AFFORDABLE HOUSING CONSTRUCTION PROGRAM?

The Affordable Housing Construction Program (AHCP) is a **gap financing program to provide affordable housing in the form of both rental and single-family homes**. The Department of Housing and Urban Development (HUD) requires all funding be invested in counties that received a disaster declaration associated with Winter Storm Ulmer in 2019 (DR-4420) and 80% of funds must be designated for the HUD-identified Most Impacted and Distressed (MID) areas, which are Dodge, Douglas, and Sarpy counties. Funds will be distributed through two application processes: the first will be provided in tandem with funding available through Low-Income Housing Tax Credits (LIHTCs) from the Nebraska Investment Finance Authority (NIFA) and the second will be managed by DED directly.

Depending on available CDBG-DR funding, **DED expects to make awards in multiple funding rounds via both NIFA's joint application process and the application managed directly by DED**. Within each funding round, DED and NIFA will notify potential Applicants of any round-specific funding priorities, requirements, or deadlines, including underwriting criteria, award limits, and characteristics of priority projects (e.g., senior housing, special needs housing, historic preservation, etc.).

### AFC002. WHO RUNS THE AFFORDABLE HOUSING CONSTRUCTION PROGRAM?

The Nebraska Department of Economic Development (DED) will manage the AHCP via two application processes: one via a joint application with LIHTC in coordination with NIFA, and the other via an independent application managed directly by DED. Questions regarding CDBG-DR AHCP applications should be directed to DED.

### AFC003. IS THERE A REQUIRED AFFORDABILITY PERIOD FOR PROJECTS RECEIVING AHCP FUNDS?

Yes, pursuant to 83 FR 40314, in exchange for low-cost permanent financing, **developers must agree to affordability periods restricted by income and/or rent** for the following time periods:

- Rehabilitation or reconstruction of multi-family projects with eight or more units: 15 years
- New construction of multi-family rental projects with five or more units: 20 years

The Federal Register Notice from August 14, 2018 (83 FR 40314) does not specify affordability periods for smaller projects. It is unlikely the Program will fund such rental projects, with or without tax credits.



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## AFC004. Where is AHCP funding available?

| Eligible Locations   | Ineligible Locations  |
|--|---|
| <ul style="list-style-type: none"><li>• Dodge County</li><li>• Douglas County</li><li>• Sarpy County</li></ul> | <ul style="list-style-type: none"><li>• 100-year floodplain</li><li>• Airport clear zone</li><li>• Areas with environmental risk to residents</li></ul> |

Damage from DR-4420, also referred to as Winter Storm Ulmer, was widespread, leading to disaster declarations in 84 of the State's 93 counties (and four tribal areas), with the worst damage located in the eastern part of the State. HUD has identified the most distressed and impacted damaged areas (MID) as Dodge, Douglas, and Sarpy County. While 80% of all CDBG-DR funding must go to HUD-designated MID areas, funding does not have to be evenly distributed between the three counties.

## AFC005. IS THERE A MAXIMUM FUNDING LIMIT PER PROJECT?

The maximum CDBG-DR award per project is \$2,000,000 and may not exceed \$150,000 per constructed housing unit ("per door"). Both the total and per unit limits are inclusive of all hard or soft costs related to the development of the project.

## AFC006. WHAT PROPERTY STANDARD IS REQUIRED FOR AHCP PROJECTS?

Projects must meet all applicable State and local code requirements. In addition, the following property standards apply to any project seeking an award of AHCP funds:

| Green Building   | Accessibility   |
|--|---|
| All projects must meet one of the following: <ul style="list-style-type: none"><li>• ENERGY STAR</li><li>• Indoor airPLUS</li><li>• Enterprise Green Communities</li><li>• ICC-700 National Green Building Standard</li><li>• LEED</li></ul> | All projects must meet applicable Section 504 and Uniform Federal Accessibility Standards (UFAS) requirements.<br><br>New construction projects with five (5) or more total units and substantial rehabilitation projects with 15 or more total units must provide: <ul style="list-style-type: none"><li>• 5% of the project's units (but no less than one unit) for physically disabled occupants</li><li>• 2% of units (but no less than one unit) accessible to occupants with visual or hearing disabilities</li></ul> |
| Broadband  |   |
| All buildings of five (5) or more residential units in new construction projects must include the installation of broadband infrastructure.  |   |



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## AFC007. WHAT ARE THE INCOME AND RENT RESTRICTIONS FOR AHCP PROJECTS?

CDBG-DR funded projects must designate **no fewer than 51% of all residential units as income/rent restricted**. This designation does not vary based on the percentage of project costs funded with CDBG-DR.

DED's Action Plan stipulates that **all CDBG-DR rental units will be income and rent restricted at or below 80% area median income (AMI)**. However, to provide administrative efficiencies for Applicants, DED has further aligned the AHCP program with LIHTC awards from NIFA based on the specific application (including any deeper income targeting pursued for the award of additional points) under the then most current Qualified Allocation Plan (QAP).

In practice, for projects involving LIHTC, absent an election for income averaging in an Applicant's LIHTC application, projects receiving CDBG-DR gap funding are expected to be income- and rent-restricted at or below 60% AMI.

## AFC008. WHAT REQUIREMENTS DO AHCP PROJECTS NEED TO MEET?

All CDBG-DR projects are subject to the following Federal requirements:

| Cross-Cutting Area   | Laws and Regulations  |
|--|---|
| Environment  | <ul style="list-style-type: none"> <li>National Environmental Policy Act (NEPA)</li> <li>24 CFR Part 58</li> </ul>  |
| Relocation   | <ul style="list-style-type: none"> <li>Uniform Relocation Act and Rehabilitation Act of 1970 (URA)</li> </ul>   |
| Labor  | <ul style="list-style-type: none"> <li>Projects with eight or more units will comply with:               <ul style="list-style-type: none"> <li>Davis-Bacon and Related Acts</li> <li>Contract Work Hours and Safety Standards Act</li> </ul> </li> </ul>   |
| Minority- and Women-Owned Business Enterprises (MBE/WBE)       | <ul style="list-style-type: none"> <li>Developers must have an MBE/WBE Plan to demonstrate marketing to MBE/WBE-certified businesses</li> </ul>   |
| Section 3 of the Housing and Community Development Act of 1968 | <ul style="list-style-type: none"> <li>Projects that receive more than \$200,000 from HUD are subject to:               <ul style="list-style-type: none"> <li>Housing and Community Development Act of 1968</li> <li>24 CFR Part 75</li> </ul> </li> </ul>   |
| Equal Opportunity  | <ul style="list-style-type: none"> <li>Fair Housing Act and implementing regulations at 24 CFR Part 100</li> <li>Executive Orders (EOs) 11063 and 12259 and implementing regulations in 24 CFR Part 107</li> <li>Civil Rights Act of 1964: Nondiscrimination in Federally Awarded programs</li> </ul> |



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| Cross-Cutting Area | Laws and Regulations  |
|--------------------|---|
|                    | <ul style="list-style-type: none"><li>• Age Discrimination Act of 1975 and implementing regulations at 24 CFR Part 8</li><li>• EOs 11246, 11375, 11478, 1266, and 12107 and implementing regulations at 42 CFR Part 60</li><li>• 24 CFR § 105(a)(2), which requires HUD-assisted housing be available without regard to actual or perceived sexual orientation, gender identity, or marital status and prohibits Subrecipients, owners, developers, or their agents from inquiring about the sexual orientation of gender identity of an Applicant for, or occupant of, HUD-assisted housing for the purpose of determining eligibility for the housing or otherwise making housing available</li></ul> |