



STATE OF NEBRASKA DR-4420 CDBG-DR INFRASTRUCTURE MATCH PROGRAM FREQUENTLY ASKED QUESTIONS (FAQS)

Last Updated: December 2, 2021, Version 2

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This document remains effective until it is amended, superseded, or rescinded.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

This guidance document is advisory in nature but is binding on an agency until amended by such agency. A guidance document does not include internal procedural documents that only affect the internal operations of the agency and does not impose additional requirements or penalties on regulated parties or include confidential information or rules and regulations made in accordance with the Administrative Procedure Act. If you believe that this guidance document imposes additional requirements or penalties on regulated parties, you may request a review of the document.

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 **Infrastructure Match Program described herein to meet the local match requirement for Federal Emergency Management Agency (FEMA) Public Assistance (PA) and Hazard Mitigation Grant (HMGP) Programs.**

This document is intended to provide an overview of the **Infrastructure Match 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/, for updates and additional program information.



STATE OF NEBRASKA DR-4420 CDBG-DR INFRASTRUCTURE MATCH PROGRAM FREQUENTLY ASKED QUESTIONS (FAQS)

Last Updated: December 2, 2021, Version 2

RECORD OF CHANGES

The following table summarizes changes to these FAQs.

Date Approved	Version Number	Description of Change
07/14/2021	1	Initial publication
12/02/2021	2	Updated formatting, timeline removed, and overall non-substantial, clarifying changes incorporated.



STATE OF NEBRASKA DR-4420 CDBG-DR INFRASTRUCTURE MATCH PROGRAM FREQUENTLY ASKED QUESTIONS (FAQS)

Last Updated: December 2, 2021, Version 2

TABLE OF CONTENTS

RECORD OF CHANGES	2
TABLE OF CONTENTS	3
PROGRAM OVERVIEW	5
WHAT IS THE CDBG-DR INFRASTRUCTURE MATCH (LOCAL MATCH) PROGRAM?	5
DOES THE PROJECT NEED TO RELATE BACK TO WINTER STORM ULMER (DR-4420)?	5
WHAT IS THE CURRENT PA AND HMGP MATCH REQUIREMENTS?.....	6
PROGRAM ELIGIBILITY & IMPLEMENTATION	6
WHAT TYPES OF ENTITIES ARE ELIGIBLE FOR THE INFRASTRUCTURE MATCH PROGRAM?	6
ARE CERTAIN AREAS OF THE STATE RECEIVING FUNDING PRIORITY?	7
WHAT TYPES OF ACTIVITIES ARE ELIGIBLE FOR THE INFRASTRUCTURE MATCH PROGRAM?	7
IF WE HAVE PROJECTS THAT ARE NOT APPROVED BY FEMA, ARE THEY STILL ELIGIBLE FOR THE INFRASTRUCTURE MATCH PROGRAM?	9
THE PW IS IN PROCESS WITH FEMA BUT NOT APPROVED. CAN WE STILL QUALIFY FOR THE INFRASTRUCTURE MATCH PROGRAM?	9
IS EACH PROJECT REQUIRED TO MEET A NATIONAL OBJECTIVE?	9
HOW WILL THE STATE DETERMINE THE SERVICE AREA OF A PROJECT?.....	10
HOW WILL THE STATE SCORE AND DETERMINE WHICH PWS ARE ELIGIBLE?	10
WHAT ADDITIONAL SCORING CRITERIA WILL THE STATE USE TO EVALUATE AND MAKE FUNDING DETERMINATIONS WITHIN EACH TIER?	11
HOW DOES AN ENTITY PARTICIPATE IN THE MATCH PROGRAM?.....	12
HOW WILL THE MATCH PROGRAM BE IMPLEMENTED?	12
WHAT IF THERE ARE ADDITIONAL PW VERSIONS AND THE MATCH AMOUNT HAS INCREASED; HOW WILL THE STATE RECONCILE THE REQUIRED MATCH AMOUNT?	13
DOES THE MATCH APPLY TO MITIGATION FUNDS?	13
DOES THE MATCH COVER ANY INSURANCE DEDUCTIBLES NOT COVERED BY FEMA?	13



STATE OF NEBRASKA DR-4420 CDBG-DR INFRASTRUCTURE MATCH PROGRAM FREQUENTLY ASKED QUESTIONS (FAQS)

Last Updated: December 2, 2021, Version 2

ARE ADMINISTRATIVE COSTS ELIGIBLE? WILL COSTS ASSOCIATED WITH THE COMPLIANCE OF THE CDBG-DR REQUIREMENTS, SUCH AS HIRING A CONSULTANT OR FIRM TO CONDUCT ADMINISTRATION, BE ELIGIBLE FOR REIMBURSEMENT THROUGH THE INFRASTRUCTURE MATCH PROGRAM? IF SO, DOES THE COST HAVE TO BE REFLECTED IN THE PW?..... 13

CROSS-CUTTING REQUIREMENTS..... 14

ARE THE REGULATIONS THE SAME FOR CDBG-DR AND FEMA PA/HMGP? 14

SECTION 3 15

DAVIS-BACON 16

LABOR COMPLIANCE..... 17

CIVIL RIGHTS..... 18

PROCUREMENT AND CONTRACTS 19

DUPLICATION OF BENEFITS 19

ELEVATION 20

UNIFORM RELOCATION ACT..... 20

ILLUSTRATION OF THE APPLICATION OF HUD REQUIREMENTS TO A FEMA PA OR HMGP PROJECT ASSISTED BY CDBG-DR FUNDS 21

FEMA PA MATCH EXAMPLE..... 21

FEMA HMGP MATCH EXAMPLE: APPLYING GLOBAL MATCH..... 23

IS AN ENVIRONMENTAL REVIEW REQUIRED FOR THE INFRASTRUCTURE MATCH PROGRAM?..... 25

DOES A CHANGE IN SCOPE AND/OR BUDGET OF A PROJECT IMPACT THE ENVIRONMENTAL REVIEW?
..... 26



STATE OF NEBRASKA DR-4420 CDBG-DR INFRASTRUCTURE MATCH PROGRAM FREQUENTLY ASKED QUESTIONS (FAQS)

Last Updated: December 2, 2021, Version 2

PROGRAM OVERVIEW

WHAT IS THE CDBG-DR INFRASTRUCTURE MATCH (LOCAL MATCH) PROGRAM?

The Federal Emergency Management Agency (FEMA) provides funding to repair or rebuild infrastructure under its Public Assistance (PA) program. However, Recipients, such as local governments, are required to pay 10 to 25% of the eligible costs to repair or rebuild infrastructure under FEMA PA. Similarly, FEMA's Hazard Mitigation Grant Program (HMGP) provides funding for projects that mitigate risks from future disasters but requires a 25% match from Recipients. **The CDBG-DR Infrastructure Match Program alleviates this burden and utilizes CDBG-DR funds to support communities in meeting these match requirements.** CDBG-DR funds may be used as a match to offset the local match share of PA- or HMGP-funded projects that demonstrate an unmet recovery need remains when other avenues for funding have been exhausted and if the project is critical to restoring and making the community more resilient.

CDBG-DR funds are limited to the local match for FEMA PA and HMGP projects. Additionally, the portion of funds applied as match for any project must meet CDBG-DR eligibility requirements (e.g., it must be an eligible activity, meet a National Objective, have a clear tie to the disaster, and comply with all applicable rules and regulations) in addition to the requirements of the Federal and State agency administering the project. CDBG-DR funds may not be used to expand a project beyond what is approved and obligated by FEMA in a Project Worksheet (PW).

Finally, all potential Applicants must be located either in the HUD-defined or State-defined Most Impacted and Distressed (MID) areas. The HUD-defined MID areas for Winter Storm Ulmer are Sarpy, Dodge, and Douglas counties. The State-defined MID areas include the remaining 81 counties that in the Federal disaster declaration. See Appendix B of the Action Plan for a table summarizing the eligible areas. Per HUD requirements, 80% of CDBG-DR funding must benefit the HUD-defined MID areas (Sarpy, Dodge, and Douglas counties). To meet the needs of other impacted counties outside of the HUD-defined MID, the State has allocated up to 20% of CDBG-DR funding to support recovery in the broader State-defined MID areas.

DOES THE PROJECT NEED TO RELATE BACK TO WINTER STORM ULMER (DR-4420)?

Yes. CDBG-DR funds address disaster recovery needs—including disaster relief, long-term recovery, restoration of infrastructure and housing, and economic revitalization—that are not met by other sources of Federal disaster assistance. Use of funds for CDBG-DR statutory purposes (e.g., relief and recovery, including resilient recovery, restoration, and revitalization) all require a tieback to the qualifying event (i.e., Winter Storm Ulmer [DR-4420]) and therefore must respond to a need that arose from the disaster. Applicants must demonstrate the proposed project ties back to Winter Storm Ulmer (DR-4420) and subsequent flooding. Additionally, Applicants must be located either in the HUD-defined or State-defined MID areas. The HUD-defined MID areas are Sarpy, Dodge, and Douglas counties. The State-defined MID areas include the remaining 81



STATE OF NEBRASKA DR-4420 CDBG-DR INFRASTRUCTURE MATCH PROGRAM FREQUENTLY ASKED QUESTIONS (FAQS)

Last Updated: December 2, 2021, Version 2

counties that were included in the Federal disaster declaration. See Appendix B of the Action Plan for a table summarizing the eligible areas.

WHAT IS THE CURRENT PA AND HMGP MATCH REQUIREMENTS?

FEMA's Federal cost share for PA projects was increased to 90% of cost with the required 10% match, which will be funded through the CDBG-DR Match Program. FEMA's current Federal cost share for HMGP is 75% with a required 25% match to be funded through CDBG-DR Match Program.¹

PROGRAM ELIGIBILITY & IMPLEMENTATION

WHAT TYPES OF ENTITIES ARE ELIGIBLE FOR THE INFRASTRUCTURE MATCH PROGRAM?

Units of general local government (UGLG) (i.e., cities, villages, and counties) are eligible for the Infrastructure Match Program if they have received FEMA PA or HMGP funds for infrastructure projects. Projects at any stage of development are eligible if they have already been completed.

Other entities, such as public schools (K-12), universities, eligible private non-profit organizations, and other local program Applicants eligible to receive Federal recovery funds will be evaluated based on grant criteria, in coordination with their UGLG. Coordination with a UGLG may require the UGLG and interested eligible entity to enter into a formal agreement memorializing their relationship, such as a Memorandum of Understanding (MOU), outlining the expectations of each party.

All potential entities, including both the UGLG and potential partnering entities, must be located either in the HUD- or State-defined MID areas. The HUD-defined MID areas are Sarpy, Dodge, and Douglas counties. The State-defined MID areas include the remaining 81 counties that were included in the Federal disaster declaration. See Appendix B of the [Action Plan](#) for a table summarizing the eligible areas.

¹ DR-4420-NE Amendment 015, <https://www.fema.gov/disaster-federal-register-notice/dr-4420-ne-amendment-015>



STATE OF NEBRASKA DR-4420 CDBG-DR INFRASTRUCTURE MATCH PROGRAM FREQUENTLY ASKED QUESTIONS (FAQS)

Last Updated: December 2, 2021, Version 2

ARE CERTAIN AREAS OF THE STATE RECEIVING FUNDING PRIORITY?

Yes, per HUD requirements, **80% of the states total CDBG-DR funding allocation must benefit the HUD-defined MID areas** (Sarpy, Dodge, and Douglas counties). To meet the needs of other impacted counties outside of the HUD-defined MID areas, the State has allocated up to 20% of CDBG-DR funding to support recovery in the remaining 81 counties included in the Federal disaster declaration (i.e., the State-defined MID).

To establish the HUD-defined MID areas, HUD utilized damage estimates reported by FEMA and the Small Business Administration (SBA) to determine geographical areas to be served or prioritized using CDBG-DR funds. HUD identified three areas in Nebraska as MID areas:

- Sarpy County (entirety)
- Dodge County zip code 68025 (Fremont, Inglewood, and Woodcliff)
- Douglas County zip codes 68064 and 68069 (Valley and Leshara)

Based on authorization from HUD, Nebraska expanded the HUD-defined MID areas to cover the entire counties of Dodge and Douglas.

DED will implement infrastructure activities that focus on benefitting LMI populations in order to meet the overall 70% low-to-moderate income benefit level applicable to the entire CDBG-DR funding allocation.

WHAT TYPES OF ACTIVITIES ARE ELIGIBLE FOR THE INFRASTRUCTURE MATCH PROGRAM?

CDBG-DR funds must be used toward disaster recovery activities, addressing disaster relief, restoration of infrastructure, and housing and economic revitalization, and directly related to Winter Storm Ulmer (DR-4420) and the subsequent flooding. CDBG-DR funds may be used for eligible CDBG activities; for the Infrastructure Match Program, this includes acquisition of real property, public facilities and improvements; code enforcement, clearance; public services and planning. Payment of the local match is eligible if the costs are for an otherwise eligible activity that complies with CDBG-DR requirements.

DED has allocated CDBG-DR funding to administer and assist local entities with the match share associated with eligible projects under the FEMA PA categories C-G:

- Category C: Roads and Bridges
- Category D: Water Control Facilities



STATE OF NEBRASKA DR-4420 CDBG-DR INFRASTRUCTURE MATCH PROGRAM FREQUENTLY ASKED QUESTIONS (FAQS)

Last Updated: December 2, 2021, Version 2

- Category E: Buildings and Equipment
- Category F: Utilities
- Category G: Parks, Recreational Facilities, and Other Facilities

Additionally, DED has allocated CDBG-DR funding to administer and assist local entities with the match share associated with eligible projects under FEMA HMGP. Activities may include, but are not limited to:

- Acquisition
- Demolition
- Structural elevations
- Flood risk reduction
- Infrastructure retrofits

Ineligible activities include, but are not limited to, the following:

- General government expenses
- Mitigation planning and any mitigation-focused projects not related to the current disaster
- Repair, replacement, or relocation of private roads and bridges or of public utilities not directly damaged by the qualifying disaster and not necessary for the repair or reconstruction of damaged housing
- Political activities
- Operations and maintenance
- Income payments
- Assistance to second homes
- Replacing lost business revenue resulting from the storm
- Assistance to private utilities



STATE OF NEBRASKA DR-4420 CDBG-DR INFRASTRUCTURE MATCH PROGRAM FREQUENTLY ASKED QUESTIONS (FAQS)

Last Updated: December 2, 2021, Version 2

- Purchasing equipment (with several exceptions, e.g., as part of an eligible economic development activity, public service activity, solid waste disposal facility, or public facility project)
- Any assistance to a business or property owner who received FEMA assistance in the past where required flood insurance has not been maintained

For additional information, see Section 5.1 of the [Action Plan](#).

IF WE HAVE PROJECTS THAT ARE NOT APPROVED BY FEMA, ARE THEY STILL ELIGIBLE FOR THE INFRASTRUCTURE MATCH PROGRAM?

No, to be eligible for the Infrastructure Match Program, the project must be approved, and FEMA must obligate funds with a PW.

THE PW IS IN PROCESS WITH FEMA BUT NOT APPROVED. CAN WE STILL QUALIFY FOR THE INFRASTRUCTURE MATCH PROGRAM?

No, if FEMA is in the process of writing the PW, then the PW has not been approved and obligated. The project must be approved and obligated by FEMA to be eligible for the Match Program.

IS EACH PROJECT REQUIRED TO MEET A NATIONAL OBJECTIVE?

Yes, to qualify for CDBG-DR funding, activities must meet one of the following National Objectives set forth in section 104(b)(3) of the Housing and Community Development Act of 1974:

1. Benefit low- and moderate-income (LMI) persons
2. Meet other community development needs having an urgency because existing conditions pose a serious and immediate threat to the health or welfare of the community where other financial resources are not available to meet such needs (known as “Urgent Need”).

LMI is the primary National Objective. HUD requires that at least 70% of the CDBG-DR funds be allocated and spent to benefit LMI populations. Consult [Chapter 3 of the CDBG Administration Manual](#) for additional information regarding meeting a National Objective and [Appendix A of Implementation Guidance for Use of Community Development Block Grant Disaster Recovery Funds as Non-Federal Cost Share for the Public Assistance Program](#) for specific information on activities benefiting LMI persons.



STATE OF NEBRASKA DR-4420 CDBG-DR INFRASTRUCTURE MATCH PROGRAM FREQUENTLY ASKED QUESTIONS (FAQS)

Last Updated: December 2, 2021, Version 2

HOW WILL THE STATE DETERMINE THE SERVICE AREA OF A PROJECT?

Determining the area served by an activity is critical. The inclusion or exclusion of a particular portion of a community's jurisdiction can affect whether the percentage of LMI residents in the service area is high enough to qualify under the LMI benefit National Objective.

Based on information provided in the PW and additional outreach to potential CDBG-DR Subrecipients, DED will work to identify the service area of each eligible project.

HOW WILL THE STATE SCORE AND DETERMINE WHICH PWS ARE ELIGIBLE?

DED and NEMA will review projects using the Infrastructure Match Program scoring criteria. This review process will verify that:

- PA funded projects will directly address damage caused by DR-4420, and
- HMGP funded projects will mitigate hazards in the counties declared under DR-4420.

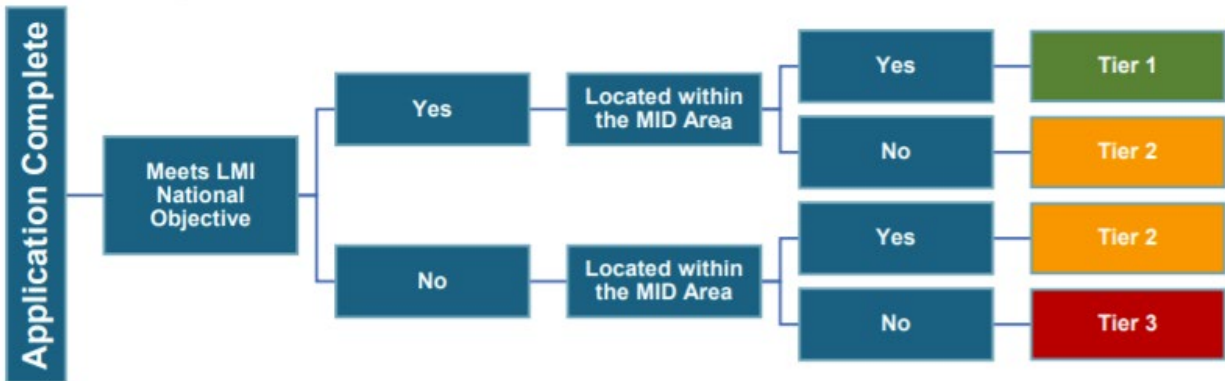
The scoring criteria emphasizes program priorities, including projects within the HUD-defined MID and projects that benefit LMI populations. The first step to project review will be classifying applications in the following three tiers:

- Tier 1: Project will be implemented in a HUD-defined MID area and meets the LMI National Objective.
- Tier 2: Project will be implemented in a HUD-defined MID area OR meets the LMI National Objective.
- Tier 3: Project is not located within the HUD-defined MID and does not meet the LMI National Objective.



STATE OF NEBRASKA DR-4420 CDBG-DR INFRASTRUCTURE MATCH PROGRAM FREQUENTLY ASKED QUESTIONS (FAQS)

Last Updated: December 2, 2021, Version 2



2

WHAT ADDITIONAL SCORING CRITERIA WILL THE STATE USE TO EVALUATE AND MAKE FUNDING DETERMINATIONS WITHIN EACH TIER?

- **Cost per Beneficiary:** The total project cost is considered in proportion to the total projected beneficiary population. Projects located in communities where there was extensive damage, and the local cost share per capita is higher, will be prioritized.
- **Cost Reasonableness:** Project costs in nature and amount do not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost. Cost reasonableness will be verified based on analysis conducted by NEMA during review of applications for FEMA-funded programs.
- **Support to Local Housing Recovery:** Project has a demonstrable tie to housing recovery needs.
- **Project Readiness:** Project is feasible, has a reasonable timeline for implementation, and has made demonstrable progress under current funding (i.e., project readiness). This criterion also takes into account environmental review and stakeholder support.
- **Non-Federal Cost Share:** Project represents a significant proportion of the applicant's non-federal cost share.
- **Project Alignment:** Project aligns with other resiliency projects and state policy objectives, regional collaboration, and ecosystem restoration.

² STATE OF NEBRASKA DISASTER RECOVERY ACTION PLAN Severe Winter Storm, Straight-line Winds, and Flooding (DR-4420), April 2021, page 79, Figure 5-1: Infrastructure Match Program Scoring Criteria Tier Determination



STATE OF NEBRASKA DR-4420 CDBG-DR INFRASTRUCTURE MATCH PROGRAM FREQUENTLY ASKED QUESTIONS (FAQS)

Last Updated: December 2, 2021, Version 2

HOW DOES AN ENTITY PARTICIPATE IN THE MATCH PROGRAM?

Based on the above scoring, DED staff will work directly with the Nebraska Emergency Management Agency (NEMA) to identify PA and HMGP Applicants and PWs that are eligible for the Match Program. Applicants who have an approved and obligated FEMA PW and projects that meet the above criteria will receive an invitation to participate in the Match Program from DED through a Notice of Funding Availability (NOFA). The Applicant must complete and return the NOFA documentation notifying DED of their interest in participating in the Match Program.

HOW WILL THE MATCH PROGRAM BE IMPLEMENTED?

The Match Program is a reimbursement only program. DED staff will review PA and HMGP Applicants and projects for eligibility. For Applicants and projects deemed eligible, DED will work with the Applicant to become a Subrecipient³ under the Match Program.

DED intends to implement the “flexible match” strategy for eligible PA projects. The flexible match strategy allows both the State and the Applicant to “choose and apply CDBG-DR funding to distinct facilities or sites within a PA PW. All of the sites and facilities must comply with FEMA PA requirements. But only the CDBG-DR assisted portion of the project must comply with CDBG-DR requirements. In this way, applying the Flexible Match concept can reduce the number of facilities or sites within the subaward that must comply with both federal grant program requirements.”⁴

DED intends to implement the “global match” strategy for the eligible HMGP projects. The global match strategy “allows the State and the Applicant to utilize any cost share match that exceeds the minimum requirement (referred to as overmatch) from certain subawards to alleviate the financial burden on other projects. It also increases flexibility for the application of various cost

³ A FEMA PA and/or HMGP Applicant or Subapplicant becomes a Subrecipient under the CDBG-DR Match Program. A subrecipient is defined as a public or private nonprofit agency, authority or organization, or community-based development organization receiving CDBG-DR funds to undertake CDBG-DR eligible activities (see 24 CFR 570.500(c)), a non-federal entity that receives a subaward from a passthrough entity to carry out part of a Federal program (see 2 CFR 200.93), or a subrecipient is a grantee’s partner in disaster recovery.

⁴ Implementation Guidance for Use of Community Development Block Grant Disaster Recovery Funds as Non-Federal Cost Share for the Public Assistance Program, October 2020, page ii



STATE OF NEBRASKA DR-4420 CDBG-DR INFRASTRUCTURE MATCH PROGRAM FREQUENTLY ASKED QUESTIONS (FAQS)

Last Updated: December 2, 2021, Version 2

share methods. The match can come from a variety of sources, including cash or donated resources for eligible project costs from the Applicant, subapplicant, or mitigation recipient.”⁵

WHAT IF THERE ARE ADDITIONAL PW VERSIONS AND THE MATCH AMOUNT HAS INCREASED; HOW WILL THE STATE RECONCILE THE REQUIRED MATCH AMOUNT?

Once the FEMA PA and/or HMGP PW is in the closeout phase, DED will work with the subrecipient and NEMA to reconcile all match amounts based on the total obligated and approved FEMA PW budget.

DOES THE MATCH APPLY TO MITIGATION FUNDS?

Yes, the work must be identified and included in the PW.

Aligned with the CDBG-DR program priorities, the state will work to actively identify projects that:

- Emphasize green infrastructure⁶
- Increase capacity for resilience by upgrading stormwater and drainage infrastructure
- Demonstrate a tie to housing recovery
- Align with local planning efforts
- Align with needs outlined in the states Action Plan Unmet Need Analysis and Nebraska’s Baseline Conditions and Impact Assessment Report⁷

DOES THE MATCH COVER ANY INSURANCE DEDUCTIBLES NOT COVERED BY FEMA?

No, only the local match is required, as described in the FEMA PW.

ARE ADMINISTRATIVE COSTS ELIGIBLE? WILL COSTS ASSOCIATED WITH THE COMPLIANCE OF THE CDBG-DR REQUIREMENTS, SUCH AS HIRING A CONSULTANT OR FIRM TO CONDUCT ADMINISTRATION, BE ELIGIBLE FOR REIMBURSEMENT THROUGH

⁵ Hazard Mitigation Assistance Cost Share Guide for Applicants, Subapplicants, and FEMA May 2016, page 4-1

⁶ Green infrastructure is defined as "...the range of measures that use plant or soil systems, permeable pavement or other permeable surfaces or substrates, stormwater harvest and reuse, or landscaping to store, infiltrate, or evapotranspiration stormwater and reduce flows to sewer systems or to surface waters" (Section 502 of the Clean Water Act).

⁷ See section 1.3 of the Action Plan for additional information on Nebraska’s Baseline Conditions and Impact Assessment Report.



STATE OF NEBRASKA DR-4420 CDBG-DR INFRASTRUCTURE MATCH PROGRAM FREQUENTLY ASKED QUESTIONS (FAQS)

Last Updated: December 2, 2021, Version 2

THE INFRASTRUCTURE MATCH PROGRAM? IF SO, DOES THE COST HAVE TO BE REFLECTED IN THE PW?

At this time, the Infrastructure Match Program covers the amount of the match only and no additional costs associated with the administration of the program due to limited funding.

CROSS-CUTTING REQUIREMENTS

ARE THE REGULATIONS THE SAME FOR CDBG-DR AND FEMA PA/HMGP?

CDBG-DR, FEMA PA, and FEMA HMGP are Federal programs designed to help communities navigate disaster recovery. Though the programs are similar, there are multiple compliance requirements of the Federal programs to consider. The CDBG-DR requirements that must be adhered to, in order to be eligible for the Infrastructure Match Program funds, include but are not limited to:

- Section 3
- Davis-Bacon and Related Acts
- Labor Compliance
- Civil Rights
- Duplication of Benefits
- Uniform Relocation Act

 National Objective	 Service Area Determination and Beneficiary Data	 Section 3
 Davis-Bacon and Related Acts	 Labor Compliance	 Civil Rights
 Duplication of Benefits	 Elevation	 Uniform Relocation Act (URA)

For further reference, see the HUD overview available [here](#). It is important to note that not all PA and HMGP projects may ultimately be eligible for CDBG-DR.



STATE OF NEBRASKA DR-4420 CDBG-DR INFRASTRUCTURE MATCH PROGRAM FREQUENTLY ASKED QUESTIONS (FAQS)

Last Updated: December 2, 2021, Version 2

Section 3

Section 3 is a provision of the Housing and Urban Development Act of 1968. The purpose of Section 3 is to ensure that economic opportunities, most importantly employment, generated by certain HUD financial assistance are directed to low- and very low-income persons, particularly those who are recipients of government assistance for housing or residents of the community where the Federal funds are spent. When undertaking procurements for CDBG-DR-assisted activities that will satisfy local match, Applicants should make every effort to provide economic opportunities to low- and very low-income persons and subcontracting opportunities to businesses that employ them.

Section 3 requirements apply to recipients of housing or community development assistance for housing rehabilitation, housing construction, and other public construction projects⁸ when the total amount of assistance to the project exceeds a threshold of \$200,000.

QUESTION	ANSWER
How do you document efforts to comply with Section 3?	Efforts may include: <ul style="list-style-type: none">• Placing posters in churches, grocery stores, recreational centers, etc.• Advertising on social media outlets; and• Contacting local community organizations.
Is the Section 3 requirement the responsibility of the Subrecipient or the contractor?	The Subrecipient is responsible for ensuring that all contractors and subcontractors comply with Section 3 requirements.
Do temporary workers qualify as Section 3 workers?	All types of employment opportunities qualify for Section 3, including seasonal, temporary, and long-term employment.

⁸ Public construction may include infrastructure work, such as extending water and sewage lines, sidewalk repairs, site preparation, and installing conduits for utility services.



STATE OF NEBRASKA DR-4420 CDBG-DR INFRASTRUCTURE MATCH PROGRAM FREQUENTLY ASKED QUESTIONS (FAQS)

Last Updated: December 2, 2021, Version 2

QUESTION	ANSWER
If a contract was awarded prior to notice of receiving CDBG-DR funding, can we assume Section 3 contracting goals have been met?	No. All Applicants must ensure that the contractors and subcontractors complied with Section 3 requirements.
Do contracts that have already been awarded need to be canceled and put out for bid again to include Section 3 requirements?	No. Contracts do not have to be canceled and put out for bid again to include additional Section 3 reporting requirements. However, Recipients will be required to collect additional information from the contractors and subcontractors related to Section 3 (e.g., labor hours). Therefore, contracts may need to be amended to include these additional requirements if the existing contracts do not provide for collection of this information. Contracts that have not gone out to bid yet should state that Section 3 will apply. All contractors and subcontractors will have to meet Section 3 requirements, regardless of whether Section 3 was included in the original contract. If Section 3 is not included in a contract involving CDBG-DR funds, it must be amended to include such provisions. Such amendments would follow the processes laid out in the respective contract(s).

For more information, see [Section 3 of the Housing and Urban Development Act of 1968](#) and [24 CFR Part 75](#).

Davis-Bacon

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

Examples:



STATE OF NEBRASKA DR-4420 CDBG-DR INFRASTRUCTURE MATCH PROGRAM FREQUENTLY ASKED QUESTIONS (FAQS)

Last Updated: December 2, 2021, Version 2

Scenario 1: The construction PW is valued at \$19,000, with a match requirement of \$1,900. Because the total CDBG-DR in the project is under \$2,000, is the project subject to Davis-Bacon wage requirements?

Yes. The threshold applies to the total contract for the construction which is \$19,000 and is not limited to the amount of the CDBG-DR funds utilized for the match payment.

Scenario 2: If the construction PW is valued at \$1,900, does Davis-Bacon apply?

No. The total contract for construction does not exceed \$2,000 and is therefore not subject to the requirements.

For prime contracts in excess of \$100,000, contractors and subcontractors must also, under the provisions of the Contract Work Hours and Safety Standards Act, as amended, pay laborers and mechanics, including guards and watchmen, at least one and one-half times their regular rate of pay for all hours worked over 40 hours in a workweek. The overtime provisions of the Fair Labor Standards Act may also apply to Davis-Bacon-covered contracts.

For more information, see the [Davis-Bacon Act of 1931](#).

Labor Compliance

Applicants implementing projects involving construction contracts in excess of \$2,000 must comply with the following laws and regulations:

- Federal Fair Labor Standards Act
- Davis-Bacon and Related Acts (described above)
- Copeland Anti-Kickback Act
- Contract Work Hours and Safety Standards Acts
- Nebraska labor standards
- Local laws and regulations

Note that arbitrarily separating a project into individual contracts below \$2,000 to circumvent the Davis-Bacon and Copeland Anti-Kickback Act requirements is not permitted.

Each Subrecipient is responsible for ensuring compliance with labor standards. The Subrecipient should immediately appoint a Labor Standards Compliance Officer (LSCO), often a CDBG



STATE OF NEBRASKA DR-4420 CDBG-DR INFRASTRUCTURE MATCH PROGRAM FREQUENTLY ASKED QUESTIONS (FAQS)

Last Updated: December 2, 2021, Version 2

Certified Administrator,⁹ to delegate the tasks associated with compliance with labor standards. However, the Subrecipient is ultimately responsible.¹⁰ Costs associated with appointing an LSCO may be reimbursed as an eligible CDBG-DR expense, determined on a project-by-project basis and based on project budget.

In addition, HUD has published a contractor's guide to prevailing wage requirements for federally assisted construction projects. Applicants may use this "Davis-Bacon Labor Standards – A Contractor's Guide to Prevailing Wage Requirements for Federally-Assisted Construction Projects" guidebook to obtain a better understanding of Davis-Bacon laws and regulations and to determine how to comply with these laws and regulations.

The guidebook can be found at:

https://www.hud.gov/program_offices/administration/hudclips/guidebooks/4812LR.

If Davis-Bacon was not factored into the project budget, then the cost of the project may increase and should be considered when preparing the estimated project costs prior to bidding.

Civil Rights

Several civil rights acts apply to the Infrastructure Match Program, including but not limited to:

Title VI of the Civil Rights Act of 1964: Title VI of the Civil Rights Act of 1964 states that no person shall be excluded from participation, denied program benefits, or subjected to discrimination on the basis of race, color, or national origin.

Title VIII of the Civil Rights Act of 1968: Title VIII of the Civil Rights Act of 1968, as amended (referred to as the "Fair Housing Act") prohibits discrimination in housing on the basis of race, color, religion, sex, or national origin. The Applicant is required to administer at least one fair housing activity during the project period and maintain documentation of the activity that was or will be conducted.

⁹ A list of current CDBG Certified Administrators is available on DED's website at:
<https://opportunity.nebraska.gov/program/community-development-block-grant/#administrators>.

¹⁰ DED will strongly encourage CDBG-DR subrecipients to utilize CDBG Certified Administrators (or equivalent).



STATE OF NEBRASKA DR-4420 CDBG-DR INFRASTRUCTURE MATCH PROGRAM FREQUENTLY ASKED QUESTIONS (FAQS)

Last Updated: December 2, 2021, Version 2

Section 504: Section 504 of the Rehabilitation Act of 1973, as amended, requires that no handicapped individual can be excluded from participation (including employment), denied program benefits, or subjected to discrimination based solely on their handicap.

Procurement and Contracts

Procurement requirements are similar for both FEMA and HUD, with notable differences. For example, FEMA allows cost analysis to support cost reasonableness of expenditures if the Applicant lacks proper procurement documentation. HUD does not allow cost analysis to be used as proof of compliance with procurement regulations.

Procurement must comply with both state and Federal regulations. Subrecipients of CDBG-DR funds must comply with provisions of Federal law including, but not limited to, 24 CFR Part 85, 24 CFR § 570.489, and 2 CFR § 200.318 through 200.327. Additionally, CDBG-DR assurances must be included in all Requests for Proposal (RFPs), Requests for Qualifications (RFQs), and contracts. A cost price analysis must be performed and be on file to document the cost for the services are reasonable. An RFP or RFQ must be competitive and not contain limiting criteria, such as “20 years of experience” or “must have done previous work within the city.”

PA and HMGP Applicants that procure goods or services before they know whether CDBG-DR grants are available for local match may wish to include in the procurement solicitation documents that the contract may be amended from time to time to expand the scope to include work funded by other Federal sources, subject to applicable requirements. This will allow the contract to be modified in the future to include terms mandated for CDBG-DR assisted contracts (e.g., Section 3, Davis-Bacon, etc.).

CDBG-DR funded contracts must also include certain provisions, including the period of performance or date of completion, performance requirements, and liquidated damages provisions. Further, Subrecipients may contract for administrative support but may not delegate or contract to any other party any inherently governmental responsibilities related to management of the grant, such as oversight, policy development, monitoring, internal auditing, and financial management.

Duplication of Benefits

The Stafford Act requires that Recipients of Federal disaster recovery funding make certain that no “person, business concern or other entity” will receive duplicative assistance.

CDBG-DR funds are intended to supplement, not replace, other public, private, and nonprofit sector resources that have already provided for the same need or loss. The funds provide assistance to a person or entity only to the extent that the person or entity has a disaster recovery



STATE OF NEBRASKA DR-4420 CDBG-DR INFRASTRUCTURE MATCH PROGRAM FREQUENTLY ASKED QUESTIONS (FAQS)

Last Updated: December 2, 2021, Version 2

need that has not been fully met by funds that have already been, or will be paid, from another source. For additional information, see DED's Duplication of Benefits Policy.

Prior to receipt of CDBG-DR funds, the Subrecipient must have a duplication of benefits policy in place to ensure compliance. DED can provide a template the Applicant can sign and use as a policy.

Elevation

DED's priority is to support a resilient recovery. Section 6.2.2.7 of the [Action Plan](#) outlines the elevation standards for CDBG-DR funds as outlined in the Federal Register. The Nebraska Department of Natural Resources¹¹ Floodplain Management Section will work with DED to support local community floodplain managers to ensure that all Federal, State, and local floodplain regulations are met.

For additional information, see Section 6.2.2.7 of the [Action Plan](#).

Uniform Relocation Act

The Uniform Relocation Assistance and Real Property Acquisition Policies Act (URA) requires that individuals, households, and businesses who are displaced as of the result of the use of Federal funds receive relocation assistance. This assistance may be provided to renters displaced temporarily while repairs are undertaken for rental units. For additional information, review HUD's Overview of URA: <https://www.hudexchange.info/programs/relocation/overview/#overview-of-the-ura>.

¹¹ Elevation standards are outlined in the Federal Register by HUD. See 83 Fed. Reg. No. 28 (February 9, 2018).



STATE OF NEBRASKA DR-4420 CDBG-DR INFRASTRUCTURE MATCH PROGRAM FREQUENTLY ASKED QUESTIONS (FAQS)

Last Updated: December 2, 2021, Version 2

Illustration of the Application of HUD Requirements to a FEMA PA or HMGP Project Assisted by CDBG-DR Funds

Generally, the CDBG-DR-assisted portion of the FEMA PA project includes the work on structures, sites, or facilities that is separable from the PA-funded portions of the project, and that will result in a completed activity that satisfies criteria to demonstrate compliance with a CDBG-DR National Objective and all other applicable CDBG-DR requirements. DED will assist the Subrecipient in identifying which portions of the PA PW are CDBG-DR-assisted and therefore subject to HUD requirements. All sites within the PA PW are subject to PA's programmatic requirements.

FEMA PA Match Example

The City of Little Big Town, a FEMA PA Applicant, is also a CDBG-DR Subrecipient. The PA Applicant just received FEMA approval for a \$2.5 million FEMA PA scope of work. The FEMA PW includes five local road segments with 40 sites where floods caused washouts. Before each road segment can be opened to serve traffic, all washouts along each road segment must be reconstructed.

FEMA requires the PA Applicant to provide a 10% local match for the PW, or \$250,000. The FEMA PA Federal cost share is \$2,250,000 for a total cost of \$2.5 million.

The approved PW is a standard PW under section 406, and the CDBG-DR Subrecipient (in this case, also the PA Applicant) will be reimbursed for actual costs. The CDBG-DR Subrecipient consults with the CDBG-DR grantee (DED) and determines that road segments #1 and #2 would meet the CDBG-DR National Objective criteria for area benefit to LMI persons because those two road segments are in primarily residential areas where at least 51% of residents are LMI individuals.

The CDBG-DR Subrecipient determines that it will set aside \$250,000 of CDBG-DR funds to meet the match requirement for the FEMA PA project and will apply those funds only to road segment #1 and road segment #2 in order to meet the LMI National Objective.

Cost Breakdown for Road Segments #1 and #2	
Combined Cost of Planning, Design, and Permitting	\$100,000
Road Segment #1 (cost of washout reconstruction)	\$100,000
Road Segment #2 (cost of washout reconstruction)	\$100,000
Total Cost for Road Segments #1 and #2	\$300,000



STATE OF NEBRASKA DR-4420 CDBG-DR INFRASTRUCTURE MATCH PROGRAM FREQUENTLY ASKED QUESTIONS (FAQS)

Last Updated: December 2, 2021, Version 2

In this example, only certain portions of the FEMA PA project are CDBG-DR assisted and subject to HUD requirements, also known as Flexible Match Strategy. The CDBG-DR-assisted portions of this FEMA PA project are: 1) the planning and design costs for road segments #1 and #2; and 2) reconstruction of all washouts along both road segments #1 and #2. Although CDBG-DR funds are not used to pay the entire cost of washout reconstruction for road segment #2, the entirety of road segment #2 is part of the CDBG-DR-assisted portion of the project.¹² The CDBG-DR Subrecipient must determine how all CDBG-DR requirements (e.g., Davis-Bacon, Section 3, etc.) would apply to the entirety of the project (both road segment #1 and road segment #2).

DED and the CDBG-DR Subrecipient will work together to determine which portions of the PW are CDBG-DR assisted. Once the portions are determined, DED and Subrecipient will determine how the CDBG-DR requirements apply to those portions of the project by considering:

- *Which contracts for goods and services cover work that will be done on the CDBG-DR-assisted portions of the PW? Do those contracts include mandatory terms, and were they procured in accordance with CDBG-DR procurement requirements?*

In the example, the contracts may have been procured without regard to CDBG-DR requirements if the CDBG-DR Subrecipient/PA Applicant entered the contract before it identified CDBG-DR as the source of the local match. If the contract does not require the contractor to comply with CDBG-DR requirements, the contract must be amended, or a new procurement completed to avoid noncompliance.

- How will other cross-cutting requirements apply to the CDBG-DR assisted portions of the PW?

This example does not provide enough facts to determine how all cross-cutting requirements will apply. DED will assist the CDBG-DR Subrecipient in identifying all cross-cutting requirements (e.g., URA, Section 3, and Environmental Review requirements).

¹² Reconstructing a single road washout on road segment #2 would be an eligible CDBG activity. That activity, however, would not meet the low- and moderate-income area benefit national objective since fixing a road washout along road segment #2 without opening the road (which cannot happen until all washouts in the segment are reconstructed) will not benefit the residents of the service area. The reconstruction of the CDBG-DR funded washouts is an integral part of the overall reconstruction of road segment #2, so all of road segment #2 is part of the CDBG-DR-assisted project.



STATE OF NEBRASKA DR-4420 CDBG-DR INFRASTRUCTURE MATCH PROGRAM FREQUENTLY ASKED QUESTIONS (FAQS)

Last Updated: December 2, 2021, Version 2

- *If the CDBG-DR-assisted portion of the project includes construction work financed in whole or in part with CDBG-DR funds, what “construction work” is subject to Davis-Bacon wage rates?*

Davis-Bacon wage rates apply to any construction performed by laborers and mechanics employed by contractors to complete all of segments #1 and #2, even though CDBG-DR funds will not be used to pay for all of the work in segment #2. Davis-Bacon does not apply to any force account workers employed by the CDBG-DR Subrecipient.

- *What practices can the CDBG-DR Subrecipient adopt to help ensure compliance with the requirement that CDBG-DR funds can only pay for costs to meet the local match requirement?*

The CDBG-DR Subrecipient should take measures to avoid spending more than 10% of actual costs in CDBG-DR funds (which is prohibited by CDBG-DR order of assistance requirements). In this case, the order of assistance provisions would be violated if the CDBG-DR Subrecipient expended \$250,000 in CDBG-DR funds and the actual costs of the PW were less than the estimated \$2.5 million scope of work approved by FEMA.

Some options that might help the CDBG-DR Subrecipient avoid a violation include completing the CDBG-DR work last or paying for all or a portion of the local match with non-Federal funds and then seeking reimbursement from DED once actual costs are known. For example, in this case, the CDBG-DR Subrecipient could initially use \$200,000 in CDBG-DR funds towards the match and pay the remaining \$50,000 with non-Federal funds. Once the project is completed and actual costs are determined, the CDBG-DR Subrecipient may seek additional reimbursement from DED for up to 10% of the actual project costs with CDBG-DR funds. This practice is useful when actual costs are not known at the outset of the project (e.g., the contract includes a performance bonus for early completion or penalty for late completion).

FEMA HMGP Match Example: Applying Global Match

Global Match: The pooling of non-Federal contributions to satisfy the 25% non-Federal cost share requirement for the entire HMGP award to the Applicant.

In this example, the total amount available to the Applicant from HMGP for the disaster is \$1.5 million. The State is required to secure the remaining non-Federal share amount of \$500,000. Leveraging global match, three subawards will be funded by 100% Federal funding (i.e., acquisition, generators, wind retrofit as described in the table below), while two others will be funded, in part, by the non-Federal matching funds (i.e., elevation and residential safe rooms). The Applicant plans to use \$500,000 from five non-Federal sources: property owners, the Subapplicant, donated resources, CDBG-DR, and Increased Cost of Compliance (ICC) to provide



STATE OF NEBRASKA DR-4420 CDBG-DR INFRASTRUCTURE MATCH PROGRAM FREQUENTLY ASKED QUESTIONS (FAQS)

Last Updated: December 2, 2021, Version 2

the non-Federal cost share for the award. The entire HMGP award consists of five subawards: elevation, acquisition, residential safe rooms, generators, and a wind-retrofit application.¹³

Project Overview for HMGP Example	
Grant Description	\$2,000,000 HMGP award consisting of 5 subawards
Federal Share	\$1,500,000 (75% of the total Federal award amount)
Non-Federal Cost Share	\$500,000 (25% non-Federal cost share)
Sources of Non-Federal Cost Share	<ul style="list-style-type: none">• For the elevation project, 25% of the non-Federal cost share will be met using ICC funds.• Three of the five subawards are funded by 100% Federal funding with use of Global Match from the residential safe room project.• Residential safe room project is funded by Global Matches from property owners' contributions of \$50,000, nonprofit organization's donation of \$50,000, city's contribution of \$100,000 (subapplicant), and \$200,000 in CDBG-DR funds.

¹³ Hazard Mitigation Assistance Cost Share Guide for Applicants, Subapplicants, and FEMA, May 2016, Pg 5-5



STATE OF NEBRASKA DR-4420 CDBG-DR INFRASTRUCTURE MATCH PROGRAM FREQUENTLY ASKED QUESTIONS (FAQS)

Last Updated: December 2, 2021, Version 2

Cost Breakdown for HMGP Example

Subaward	Federal Share	Non-Federal Share	Total Project Cost (Federal / Non-Federal)	Sources
Acquisition (4 structures)	\$400,000	N/A	\$400,000	Federal (HMGP)
Elevation (10 structures)	\$300,000	\$100,000	\$400,000	Federal (HMGP) & ICC Funds
Residential Safe Rooms (100)	N/A	\$50,000	\$50,000	Property Owners
	N/A	\$50,000	\$50,000	Donation
	N/A	\$100,000	\$100,000	Subapplicant
	N/A	\$200,000	\$200,000	CDBG-DR
Generators (5)	\$400,000	N/A	\$400,000	Federal (HMGP)
Wind Retrofit (100 structures)	\$400,000	N/A	\$400,000	Federal (HMGP)
Total Project Cost	\$1,500,000	\$500,000	\$2,000,000	

IS AN ENVIRONMENTAL REVIEW REQUIRED FOR THE INFRASTRUCTURE MATCH PROGRAM?

Yes, before CDBG-DR program funds are expended, an Environmental Review must be completed. However, Subrecipients¹⁴ are permitted to adopt FEMA's (or another Federal agency's) review if that Federal agency has previously performed an Environmental Review for assistance under the Stafford Act. In those cases, the work performed by FEMA and by HUD must be the exact same.

¹⁴ Under the Infrastructure Match Program, the Subrecipient must be a UGLG (i.e., city, village, or county).



STATE OF NEBRASKA DR-4420 CDBG-DR INFRASTRUCTURE MATCH PROGRAM FREQUENTLY ASKED QUESTIONS (FAQS)

Last Updated: December 2, 2021, Version 2

The Subrecipient must obtain a completed copy of that Federal agency's review and keep a copy in its records. The Subrecipient must notify DED that it is using another Federal agency's review and follow DED policies and procedures regarding source documentation requirements.

DOES A CHANGE IN SCOPE AND/OR BUDGET OF A PROJECT IMPACT THE ENVIRONMENTAL REVIEW?

Yes, if a project has *any* scope and/or budget changes beyond what was approved and obligated in the PW, the project does not qualify for the Match Program. If additional work is anticipated, please seek guidance from DED for assistance. Do not execute any change orders or additional contracts that include work not listed in the approved and obligated PW if you intend to request CDBG-DR funds to satisfy the match requirement.