



Non-Federal Share Match Program **Frequently Asked Questions**

Program Questions

Q: What is the Non-Federal Share Match Program?

The Non-Federal Cost Share Match Program works with state agencies, public entities, local non-profit organizations and other eligible applicants to leverage FEMA Public Assistance (FEMA PA) and Transitional Sheltering Assistance (FEMA TSA) resources provided to Louisiana with CDBG-DR funding to maximize, facilitate and ensure recovery from presidentially-declared March and August 2016 floods. CDBG-DR funds are limited to the Non-Federal Cost Share Match for FEMA PA eligible project worksheets (PWs); CDBG-DR funds may not be used to expand a project beyond what is approved by FEMA in a PW. In addition, in order to be eligible for CDBG-DR assistance to be used as the Non-Federal Cost Share Match, the activity must be an eligible activity and must meet a national objective, per CDBG-DR rules and regulations. Similarly, the project must fully comply with all applicable rules and regulations, to include Davis Bacon and Related Acts, Section 3, Section 504, procurement, environmental review and all other CDBG-DR, cross-cutting, state and local applicable statutes, rules and regulations. All Non-Federal Cost Share Match payments will be reimbursed based on payments for costs incurred.

Q: What types of entities are eligible for the Match Program?

Examples of eligible entities that may receive Non-Federal Cost Share Match Program funding include the following:

1. Parish and municipal governments
2. State agencies and authorities
3. Schools (K-12) and Universities
4. First responders
5. Critical infrastructure facilities as defined by FEMA (wastewater and drinking facilities)
6. Public Housing Authorities
7. Other parish and local program applicants eligible to receive federal recovery funds, including but not limited to eligible private or public non-profit organizations

Individual Assistance program (IA) match payments are eligible for the TSA. The State of Louisiana is the eligible applicant for TSA match payments.

All potential entities must have been located in the declared eligible parishes:

March Floods (DR-4263):

Thirty-six Louisiana parishes were declared eligible for FEMA PA: Allen, Ascension, Avoyelles, Beauregard, Bienville, Bossier, Caddo, Calcasieu, Caldwell, Catahoula, Claiborne, DeSoto, East Carroll, Franklin, Grant, Jackson, LaSalle, Lincoln, Livingston, Madison, Morehouse, Natchitoches, Ouachita,



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Rapides, Red River, Richland, Sabine, St. Helena, St. Tammany, Tangipahoa, Union, Vernon, Washington, Webster, West Carroll and Winn

August Floods (DR-4277):

Twenty-six Louisiana parishes were declared eligible for FEMA PA: Acadia, Ascension, Assumption, Avoyelles, Cameron, East and West Baton Rouge, East Feliciana, Evangeline, Iberia, Iberville, Jefferson Davis, Lafayette, Livingston, Pointe Coupee, St. Charles, St. Helena, St. James, St. John the Baptist, St. Landry, St. Martin, St. Tammany, Tangipahoa, Vermilion, Washington and West Feliciana

Q: How does an entity participate in the Match Program?

The OCD-DRU staff will work directly with the Governor's Office of Homeland Security and Emergency Management (GOHSEP) to identify those entities that are eligible for the Match Program. Applicants who have an approved and obligated- FEMA Project Worksheet (PW) will receive an invitation to participate in the Match Program from OCD-DRU. The entity must complete and return the Program Participation Form notifying OCD-DRU of their interest in participating in the Match Program.

Q: What types of projects are eligible for the Match Program?

FEMA PA projects are described as emergency work or permanent work:

- Emergency Work: Response Related (Categories A and B)
 - Category A: Debris Removal
 - Category B: Emergency Protective Measures
- Permanent Work: Recovery Related (Categories C – G)
 - Category C: Roads and Bridges
 - Category D: Water Control Facilities
 - Category E: Buildings and Equipment
 - Category F: Utilities
 - Category G: Parks, Recreation Facilities, and Other Facilities

For the Match Program, projects must also meet HUD's non-federal share eligible activity requirement (Section 105(a)(9)) in addition to one of the following eligible activities requirements:

1. Public Facilities (Section 105(a)(2))
2. Debris Removal (Section 105(a)(4))
3. Public Services (Section 105(a)(8))
4. Planning (Section 105(a)(12))

Q: If we have projects that are not approved by FEMA, are they still eligible for this program?

No. In order to be eligible for the Match Program, the project must be approved and funds obligated by FEMA with a Project Worksheet (PW).

Q: How is the match amount determined for an eligible applicant?



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The match percentage amount varies by disaster. The March floods match is up to 25% and the August floods match is up to 10%. OCD-DRU only provides reimbursement for the State cost share or local match for the portion of a project that meets a HUD and CDBG-DR eligibility requirements. OCD-DRU will review each project on a case-by-case basis. OCD-DRU may match less than the full project amount because items within the scope of work do not meet HUD CDBG-DR guidelines, because work carried out by the state or local entity did not comply with all applicable CDBG-DR rules and regulations or because HUD required support documentation is not provided. At the time of the CDBG payment processing the project will be in closeout.

Q: What are the steps to complete the process in order to receive the match funds?

1. OCD-DRU sends eligible entity Program Participation Form to participate in the program
2. Applicant must review program requirements and return Program Participation Form in order to begin project eligibility review
3. Applicant must provide additional information as requested from OCD-DRU that may not be available in LouisianaPA.com
4. Applicant must execute agreement with OCD-DRU listing eligible PWs
5. If construction project, then OCD-DRU staff will work directly with applicant during construction period until project is complete
6. After GOHSEP closes the project worksheet, GOHSEP will issue certification to OCD-DRU for final match payment.
7. OCD-DRU prepares a Request for Reimbursement for the applicant to review and execute for disbursement of the matching funds.

Q: Is an environmental review required for the Match Program?

Before CDBG-DR program funds are expended, an environmental review must be completed. However, HUD grantees 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 Robert T. Stafford Disaster Relief and Emergency Assistance Act. In those cases, the work performed by FEMA and by HUD must be exactly the same work. The recipient of HUD funding does not need to supplement FEMA's environmental review to comply with HUD regulations, and all environmental obligations are considered complete when the recipient adopts the agency's review.

When adopting another Federal agency's review, the grantee must obtain a completed copy of that Federal agency's review and keep a copy in its records. The grantee must notify the State CDBG-DR specialist that another Federal agency review is being used. The notification must be stated on a Request to Release of Funds (RROF) Form 7015.15. The RROF must indicate that another Federal agency's review is being adopted and include the name of the other Federal agency, the name of the project and the date the project's review was prepared by the other Federal agency.

If a project has ANY scope changes beyond what was approved in the project worksheet, the project does not qualify, at this time. If additional work is anticipated, please seek guidance from a CDBG-DR specialist for assistance immediately. Do not executed any change orders or additional contracts that include work



not listed in the approved and obligated project worksheet if you intend to request CDBG-DR funds as matching funds.

Q: Does the match cover any insurance deductibles not covered by FEMA?

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

Project Worksheet Questions

Q: The PW's are still in process but not approved. Can we still qualify for the match program?

Yes, if FEMA is in the process of writing the PW, then the PW will be eligible for matching funds once FEMA has approved and obligated the funds for the PW. We have included a projected amount for those PWs that are still being written.

Q: What if there is an additional version submitted for the PW's and the required match amount is increased? How will the versions be processed?

All matching fund payments will be made at final GOHSEP closeout and certification of final payment from GOHSEP. This would include all versioning which is why the match funds will be paid at closeout to avoid multiple amendments and payments.

Q: Does the match apply to mitigation funds?

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

Q: If we were paid partially (advanced payments) on our PW's, can we receive a partial payment on the matching funds or do PW's have to be paid in full?

No, all eligible costs are paid at project closeout and after certification by GOHSEP of final costs.

Donated Resource Question

Q: How are Donated Resources Applied?

Donated Resources are applied to the cost share and can potentially cover up to 100% of the match amount.

As per the FEMA Public Assistance Program and Policy Guide (PAPPG), individuals and organizations often donate resources (equipment, supplies, materials, or labor) to assist with response activities. The Grantee may use the value of donated resources to offset the non-Federal share of its eligible Emergency Work projects and Direct Federal Assistance.

FEMA prepares the donated resource project separate from the Emergency Work projects for the Grantees incurred costs. FEMA does not obligate the donated resource project until after it obligates



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all of that Grantee's Emergency Work projects. The value of the federal obligated donated resources will be deducted from the required match amount and any remaining eligible match percentage may be eligible for the CDBG-DR Non-Federal Match Program.

Donated Resources are applied to the cost share and can potentially cover up to 100% of the match amount.

CDBG-DR Questions

Q: Is there a specific date that applicants must begin complying with HUD CDBG-DR requirements?

Yes, we have received guidance from HUD & Department of Labor (DOL) on some of the requirements including the date to comply. The date to comply is the State and HUD grant agreement date of 4/4/2017. Please see the section "Applicability of CDBG-DR Requirement Examples" on pages 10 and 11 of this document for revised Scenarios 1 through 6. If there are any questions regarding the CDBG-DR compliance, contact OCD-DRU to assist you or email DRU.INFRASTRUCTURE@la.gov.

Q: Are administrative costs eligible costs? 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 this program? If so, is the cost required to be reflected in the PW?

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

Q: Will OCD-DRU perform monitoring visits?

Yes, we will coordinate with GOHSEP to review the project files.

Q: Will OCD-DRU hire a consulting firm to provide assistance?

This program will be administered by the OCD-DRU staff. Consultants may be engaged to provide additional staffing and grant management support, if needed.

Q: Are the regulations the same for CDBG-DR and FEMA PA?

Although similar, there are additional HUD requirements that must be adhered to in order to be eligible for Match Funds, including but not limited to:

- National Objective
- Beneficiary Data
- Section 3
- Davis Bacon
- Labor Compliance
- Civil Rights
- Procurement & Contracts



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- Duplication of Benefits
- Elevation

National Objective

Q: Is each project required to meet National Objective?

Yes, any activity undertaken by the applicant must meet at least one CDBG National Objective:

- Benefit to low and moderate income (LMI) persons;
- Aid in prevention or elimination of slums or blight; and
- Urgent Need (UN) activities must pose a serious and immediate threat to the health and welfare of the community. The existing conditions are of recent origin or recently became urgent (generally within 18 months). The grantee is unable to finance the activity on its own; and other sources of funding are not available.

LMI is the primary national objective. The statute requires that recipients expend 70% of their CDBG-DR funds to meet the LMI national objective. This means when taken as a whole at least 70% of the beneficiaries are LMI.

An activity that does not meet a national objective is not compliant with CDBG requirements and accordingly will not be reimbursed.

Beneficiary Data:

Q: How will the beneficiary data be determined?

Based on information provided in the Project Worksheet, OCD-DRU will determine the beneficiaries of the project. If the information is not contained within the PW or additional information is needed, OCD-DRU staff will contact the grantee for assistance.

Section 3:

Q: What are the compliance requirements for Section 3 and when are they triggered?

The requirements of Section 3 typically apply to recipients of HUD funds that will be used for housing construction, rehabilitation, or other public construction. The Section 3 requirements apply to recipients of Housing and/or Community Development Assistance exceeding \$200,000 combined from all sources in any one year. If Section 3 of the HUD Act of 1968 is triggered for the applicant, contractors/subcontractors whose contracts **exceed** \$100,000 must also comply. This requirement applies to ALL types of Contractors/subcontractors; it is NOT limited to construction-related contracts only. For example, if a grantee solicits for grant management services, the Section 3 requirements must be included in the advertisement, RFP and contract if the contract is estimated to exceed \$100,000 and the total project costs are more than \$200,000. Section 3 states that employment and other economic opportunities generated through



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HUD financial assistance, shall to the greatest extent possible, be directed to low and very-low income persons. In other words, that employment and contract opportunities are advertised *through a concerted outreach effort* which may include:

- placing posters in churches, grocery stores, recreational centers, etc.;
- advertising on social media outlets;
- Contacting local community organizations.
- Documentation of these efforts, and the employment of this targeted group will be required.

For additional information and more details, please see Section 8 – Civil Rights in the OCD-DRU Grantee Administrative Manual at: <http://www.doa.la.gov/Pages/ocd-dru/DRAdminManual.aspx>

Q: Is the section 3 requirement the responsibility of the applicant or the contractor?

The applicant is responsible for ensuring that all contractors and subcontractors comply with Section 3 requirements.

Q: Do temporary workers qualify as section 3 workers?

All types of employment opportunities qualify for Section 3, including seasonal, temporary and long-term employment.

Q: If a contract was awarded prior to notice of receiving CDBG 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.

Davis Bacon:

Q: What are the compliance requirements for Davis Bacon and when are they triggered?

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 Act and Related Act contractors and subcontractors must pay their laborers and mechanics employed under the contract no less than the locally prevailing wages and fringe benefits for corresponding work on similar projects in the area.

Examples:

Scenario 1: The construction PW is valued \$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 PW construction 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 in a workweek. The overtime provisions of the Fair Labor Standards Act may also apply to DBA-covered contracts.

Labor:

Q: Do Labor laws apply?

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

1. Federal Fair Labor Standards Act
2. Davis-Bacon and Related Acts
3. Copeland Anti-Kickback Act
4. Contract Work Hours and Safety Standards Acts (CWHSSA)
5. Louisiana Labor Standards and local laws and regulations

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

Each applicant is responsible for ensuring compliance with Labor Standards. The applicant should immediately appoint a Labor Compliance Officer (LCO), often an administrative consultant, to delegate the tasks associated with compliance with labor standards, however, the applicant is ultimately responsible.

For additional information and more details, please see Section 7 – Labor Relations in the OCD-DRU Grantee Administrative Manual at: <http://www.doa.la.gov/Pages/ocd-dru/DRAdminManual.aspx>

In addition, the Department of Housing and Urban Development (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 is attached for your convenience or can be found at:

<https://www.hudexchange.info/resources/documents/Making-Davis-Bacon-Work-Contractors-Guide-Prevailing-Wage-Requirements.pdf>

Please also note, that 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

Q: Which Civil Rights Acts are applicable for the Match Program?

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, 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.

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 his or her handicap.

For additional information and more details, please see Section 8 – Civil Rights in the OCD-DRU Grantee Administrative Manual at: <http://www.doa.la.gov/Pages/ocd-dru/DRAdminManual.aspx>

Procurement & Contracts

Q: Are the FEMA and HUD requirements for procurement and contracts the same?

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. Please see the OCD-DRU grantee manual for more details.

Procurement must comply with both state and federal regulations. CDBG-DR assurances must be included in all Request for Proposals (RFP), Request for Qualifications (RFQ) and all contracts.

A cost price analysis must be performed and be on file to document the cost for the services are reasonable.

A 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 parish.”

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/ocd-dru/DRAdminManual.aspx>

Duplication of Benefits

Q: Is a Duplication of Benefits policy required?



The Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act) requires that recipients of federal disaster recovery funding make certain that no “person, business concern or other entity” will receive duplicative assistance¹.

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 need that has not been fully met by funds that have already been, or will be paid, from another source.

¹ Stafford Act, Title III, Sec. 312, (a)

The Grantee/Sub-recipient must have a duplication of benefits policy in place to ensure compliance. OCD-DRU can provide a template the applicant can sign and use as a policy.

Elevation

Q: What are the additional elevation requirements if a structure is substantially damaged and must be rebuilt and is located in a Special Flood Hazard Area(SFHA)?

Elevation of Nonresidential Structures.

Nonresidential structures must be elevated or flood proofed, in accordance with FEMA flood proofing standards at 44 CFR 60.3(c)(3)(ii) or successor standard, up to at least two feet above the 1 percent annual floodplain. All Critical Actions, as defined at 24 CFR 55.2(b)(3), within the 0.2 percent annual floodplain (or 500- year) floodplain must be elevated or flood proofed (in accordance with the FEMA standards) to the higher of the 0.2 percent annual floodplain flood elevation or three feet above the 1percent annual floodplain. If the 0.2 percent annual floodplain or elevation is unavailable for Critical Actions, and the structure is in the 1 percent annual floodplain, then the structure must be elevated or flood proofed at least three feet above the 1 percent annual floodplain level.

Applicable State, local, and tribal codes and standards for floodplain management that exceed these requirements, including elevation, setbacks, and cumulative substantial damage requirements, will be followed.

The regulation defines critical actions as follows:

3)(i) Critical action means any 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. Critical actions include activities that create, maintain or extend the useful life of those structures or facilities that:

(A) Produce, use or store highly volatile, flammable, explosive, toxic or water-reactive materials;(B) Provide essential and irreplaceable records or utility or emergency services that may become lost or inoperative during flood and storm events (e.g., data storage centers, generating plants, principal utility lines, emergency operations centers including fire and police stations, and roadways providing sole egress from flood-prone areas); or(C) Are likely to contain occupants who may not be sufficiently mobile to avoid loss of life or



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injury during flood or storm events, e.g., persons who reside in hospitals, nursing homes, convalescent homes, intermediate care facilities, board and care facilities, and retirement service centers. Housing for independent living for the elderly is not considered a critical action. (ii) Critical actions shall not be approved in floodways or coastal high hazard areas.

Code of Federal Regulations / Title 24 - Housing and Urban Development / Vol. 1 / 2018- 04-01375.

Applicability of CDBG-DR Requirement Examples:

Scenario 1: FEMA Categories A (Debris Removal), B (Emergency Protective Measures), C (Roads & Bridges), D (Water Control Facilities), E (Buildings & Equipment), F (Utilities), and G (Parks, Recreation, & Other) projects are 100% completed* on or before April 4, 2017:

- Davis Bacon **does not** apply
- Section 3 **does not** apply
- Fair Housing **does not** apply
- Section 504 **does not** apply

*Note: Regarding construction projects, OCD-DRU has defined the completion date as the date the project was officially accepted as substantial complete. The Applicant will need to supply proof of the Substantial Completion Date.

Scenario 2: FEMA Categories A and B projects ongoing as of April 4, 2017 or started after April 4, 2017:

- Davis Bacon **does not** apply
- Section 3 **does not** apply
- Fair Housing **does** apply
- Section 504 **does** apply

Scenario 3: The project includes construction (FEMA Categories C - G) ongoing as of April 4, 2017 and has completed OR ongoing as of April 4, 2017 and still underway:

- Davis Bacon **does** apply*
- Section 3 **does** apply
- Fair Housing **does** apply
- Section 504 **does** apply

*Note: Contract specifications must include the applicable Davis Bacon wage determination in effect as of April 4, 2017. The applicant has the option to retroactively include the wage determination in effect as of April 4, 2017. Both parties to the construction contract (such as the applicant and the construction contractor) have to agree to amend the contract specification. However, under this Scenario 3, as the advertisement for bids has already occurred there can be no corrective action to the advertisement to include the CDBG-DR required "Attention of Bidders" paragraph. *In this scenario contact the OCD-DRU office for more information.*



Scenario 4: The project includes construction (FEMA Categories C – G) that began on or after April 4, 2017:

- Davis Bacon **does** apply*
- Section 3 **does** apply
- Fair Housing **does** apply
- Section 504 **does** apply

*Note: Compliance with all HUD CDBG-DR requirements will apply. Advertising for bids, bid solicitation and contracts are to incorporate Davis Bacon Labor Standards and wage determinations, “Attention of Bidders” paragraph and CDBG-DR Compliance Provisions for Construction Contracts.

Scenario 5: The project includes construction (FEMA Categories C – G) that have not begun:

- Davis Bacon **does** apply*
- Section 3 **does** apply
- Fair Housing **does** apply
- Section 504 **does** apply

*Note: Compliance with all HUD CDBG-DR requirements will apply. Advertising for bids, bid solicitation and contracts are to incorporate Davis Bacon Labor Standards and wage determinations, “Attention of Bidders” paragraph and CDBG-DR Compliance Provisions for Construction Contracts.

Scenario 6: Equipment Purchases such as the purchase of a fire truck.

- Davis Bacon **does not** apply*
- Section 3 **does not** apply
- Fair Housing **does** apply
- Section 504 **does** apply

*Note: Scenario 6 is an example of a project *not* subject to Davis Bacon and Related Acts.

For additional information and samples of how to document CDBG requirements please review the OCD-DR administration manual at: <http://www.doa.la.gov/Pages/ocd-dru/DRAdminManual.aspx>