



**Disaster Recovery Division  
Mitigation Program  
Policy and Procedure Manual**

**11/28/2023**

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## Amendments

| Date       | Page Number | Section  | Change/Addition/Deletion   |
|------------|-------------|--|--|
| 11/01/2021 | 140-141     | 3.10 Environmental Criteria and Standards                      | Added the SCOR internal environmental review process   |
| 11/01/2021 | 16          | 2.02 Voluntary Buyout Activity                                 | Removed 49 CFR 24.104 Reference  |
| 2/01/2022  | 49-51       | 2.06 Internal Audit  | Added specific percentages for review of Buyouts, Infrastructure, Plans & Studies and Match      |
| 2/01/22    | 114         | 3.07 Procurement   | Added the Price Guide Methodology  |
| 2/01/22    | 108         | 3.07 Procurement   | Removed duplicate Suspension & Debarment section   |
| 2/01/22    | 145         | Annex 1  | Added the Cost Reasonableness Memorandum   |
| 2/01/22    | 146         | Annex 2  | Added the Debarment Verification Memorandum  |
| 2/14/2022  | 19          | Eligible Allowance Expenditures                                | Added Market Incentive   |
| 2/14/2022  | 19-20       | Maximum Buyout Assistance Amount                               | Added Market Incentive   |
| 2/14/2022  | 33          | Buyout Property Appraisals & Inspections – Property Appraisals | Added appraisal of current Fair Market Value (FMV)   |
| 2/14/2022  | 35          | Buyout Program Incentives                                      | Added Market Incentive   |
| 4/19/2022  | 19-20       | Maximum Buyout Assistance Amount                               | Added policy change for homes purchased after 2018 disaster                                      |
| 4/19/2022  | 31          | Income Verification  | Added requirements for LLCs, Corporations, businesses, partnerships, and non-individual entities |
| 4/19/2022  | 31          | Income Verification  | Added Adjusted Gross Income from the 1040 as the LMI determining line from the 1040 tax form     |
| 4/19/2022  | 48          | 2.04 Application Overview                                      | Changed the buyout application period to quarterly   |
| 4/19/2022  | 58-59       | Monitor Review Types   | Added monitoring of procured professional services   |

|            |         |  |  |
|------------|---------|--|--|
| 4/19/2022  | 17      | National Objective   | Added AGI as the basis of determining if an applicant is LMI   |
| 4/28/2022  | 25      | UGLG Buyout Project Application                                  | Changed annual application period to quarterly   |
| 5/5/2022   | 142-143 | Website Process  | Changed website coordinator to Mitigation Website Coordinator and names Dana Johnson as the Mitigation Website Coordinator |
| 5/10/2022  | 82-100  | 3.02 URA Requirements  | Updated URA requirements   |
| 5/10/2022  | 147-175 | Annex 3-21   | Added URA Forms  |
| 5/24/2022  | 16      | Program Eligibility  | Added list of forms to prove U.S> Citizenship status   |
| 5/24/2022  | 27      | Appraisals and Inspections                                       | Added the restriction that a valid appraisal must be within 120 days of the offer  |
| 5/24/2022  | 33      | Property Appraisal   | Added the restriction that a valid appraisal must be within 120 days of the offer  |
| 5/31/2022  | 176-179 | Annex 22   | Added Buyout Program Internal Audit Plan   |
| 6/24/2022  | 28-29   | Demolition and Site Stabilization                                | Updated requirements   |
| 6/27/2022  | 36      | Documenting Eligibility and Acceptance of Offer                  | Changed expiration of offer to purchase from 90 days to 15 days  |
| 8/03/2022  | 33      | Property Appraisal   | Changed appraisal requirements   |
| 8/03/2022  | 34      | Appraisal Appeals  | Added additional appraisal appeals requirements  |
| 8/09/2022  | 20      | Maximum Buyout Assistance Amount                                 | Updated policy for owners of unoccupied properties   |
| 9/09/2022  | 27      | Mitigation Buyout Process Overview (8. Appraisals & Inspections) | Updated appraisal requirements to reflect recent changes.  |
| 10/18/2022 | 29-30   | Voluntary Buyout Activity (9. Offer to Purchase)                 | Specification of deadline on closing and requirements for extension request  |
| 11/02/2022 | 10      | 1.02 Organization  | Organization chart positions added and position titles changed   |

|            |         |  |  |
|------------|---------|--|--|
| 12/01/2022 | 103     | Section 3 Specification  | Updated Section 3 requirements for reporting threshold                                 |
| 12/01/2022 | 183-184 | Annex 23   | Labor Relations Letter: Davis-Bacon applicability to demolition work                   |
| 12/08/2022 | 29      | Voluntary Buyout Activity (11. Closing Documents Completed)              | Updated  |
| 12/12/2022 | 19      | Eligible Allowance Expenditures  | Added Housing Adjustment Incentive   |
| 12/12/2022 | 19-20   | Maximum Buyout Assistance Amount   | Added Housing Adjustment Incentive   |
| 12/12/2022 | 37-38   | Buyout Program Incentives  | Added Housing Adjustment Incentive   |
| 12/12/2022 | 146     | Website Process  | Email and Phone Number Contact Change for Mitigation Website Coordinator; Name removed |
| 12/22/2022 | 30      | Mitigation Buyout Process Review (12. Demolition and Site Stabilization) | Updated  |
| 01/05/2023 | 30      | Mitigation Buyout Process Review (12. Demolition and Site Stabilization) | Updated documentation requirements   |
| 05/19/2023 | 20; 25  | Program Definitions; Buyout Property Prioritization                      | Second homes: eligibility for program incentives                                       |
| 05/19/2023 | 35      | Property Appraisal   | Updated appraisal policy   |
| 05/23/2023 | 20; 25  | Program Definitions; Buyout Property Prioritization                      | Alternative requirement for housing rehabilitation – second homes                      |
| 07/24/23   | 90      | URA Requirements   | Notification of potential eligibility  |
| 07/24/23   | 90      | URA Requirements   | Noncompliant homeowners  |
| 08/08/23   | 32-33   | Beneficiary Intake Applications (Income Verification)                    | Verification of household or financial changes   |
| 08/08/23   | 84      | URA Requirements   | Update to URA description of requirements  |
| 11/6/23    | 39      | Buyout Incentives  | homeowner withdraws and reenters the program   |
| 11/6/23    | 25      | Vacant Parcels   | Incentive for vacant parcels   |

|            |                |   |   |
|------------|----------------|---|---|
| 11/6/23    | 28             | Beneficiary Intake Applications             | Unresponsive beneficiary applicant.   |
| 11/15/2023 | 38             | Buyout Incentives                           | Undeveloped Parcel Incentive  |
| 11/28/2023 | 22, 37, 38, 39 | MSCP Cap at \$335,000                       | The MSCP will not consider using CDBG-Mitigation funds for any offer to purchase greater than \$335,000, inclusive of incentives.             |
| 11/29/2023 | 22,37,38,39    | MSCP Cap at \$335,000                       | The MSCP will not be asked to consider using CDBG-Mitigation funds for any offer to purchase greater than \$335,000, inclusive of incentives. |
| 12/04/2023 | 29             | Appraisals and Inspections                  | Added exception to 120 days on a case-by-case basis due to stability of housing market  |
| 12/04/2023 | 36             | Property Appraisals                         | Appraisals and Inspections  |
| 12/04/2023 | 22             | Maximum Buyout Assistance                   | Raised the programmatic cap from \$250,000 to \$300,000   |
| 12/04/2023 | 35             | Applicants With Negative Equity on Mortgage | Raised the programmatic cap from \$250,000 to \$300,000   |
| 12/04/2023 | 35             | Applicants With Reverse Mortgage            | Raised the programmatic cap from \$250,000 to \$300,000   |
| 12/04/2023 | 37             | Property Appraisal                          | Raised the programmatic cap from \$250,000 to \$300,000   |
| 12/04/2023 | 38             | Market Adjustment Incentive                 | Raised the programmatic cap from \$250,000 to \$300,000   |
| 12/04/2023 | 57             | Infrastructure Change Orders                | Added a 10% Contingency that doesn't require MSCP approval  |

## Abbreviations

|                 |  |
|-----------------|--|
| <b>ADC</b>      | Activity Delivery Cost                         |
| <b>AFN</b>      | Access Functional Need                         |
| <b>AGI</b>      | Adjusted Gross Income                          |
| <b>AMI</b>      | Area Median Income                             |
| <b>AOR</b>      | Area of Responsibility                         |
| <b>BCA</b>      | Benefit-Cost Analysis                          |
| <b>BFE</b>      | Base Flood Elevation                           |
| <b>CDBG</b>     | Community Development Block Grant              |
| <b>CDBG-MIT</b> | Community Development Block Grant – Mitigation |
| <b>CFR</b>      | Code of Federal Regulations                    |
| <b>COAD</b>     | Community Organization Active in Disaster      |
| <b>COG</b>      | Councils of Government                         |
| <b>CPD</b>      | Community Planning and Development             |
| <b>CPP</b>      | Citizen Participation Plan                     |
| <b>CTD</b>      | Contract to Date                               |
| <b>DCM</b>      | Disaster Case Management                       |
| <b>DOB</b>      | Duplication of Benefits                        |
| <b>DRGR</b>     | Disaster Recovery Grant Reporting              |
| <b>EA</b>       | Environmental Assessment                       |
| <b>EEO</b>      | Equal Employment Opportunity                   |
| <b>EIS</b>      | Environmental Impact Statement                 |
| <b>EMPG</b>     | Emergency Management Performance Grant         |
| <b>EPA</b>      | Environmental Protection Agency                |
| <b>ERR</b>      | Environmental Review Record                    |
| <b>FAR</b>      | Federal Acquisition Regulation                 |
| <b>FHA</b>      | Federal Housing Administration                 |
| <b>FMA</b>      | Flood Mitigation Assistance (Program)          |
| <b>FOIA</b>     | Freedom of Information Act                     |
| <b>GIS</b>      | Geographic Information System                  |
| <b>GMCR</b>     | Grants Management Common Rule                  |
| <b>GPNA</b>     | Green Physical Needs Assessment                |
| <b>HCDA</b>     | Housing and Community Development Act          |
| <b>HMGP</b>     | Hazard Mitigation Grant Program                |
| <b>HMTAP</b>    | Hazard Mitigation Technical Assistance Program |
| <b>HUD</b>      | Housing and Urban Development                  |
| <b>HVRI</b>     | Hazard and Vulnerability Research Institute    |
| <b>IA</b>       | Individual Assistance                          |
| <b>IC</b>       | Implementation Contractor                      |
| <b>ICC</b>      | Increased Cost of Compliance                   |
| <b>IDCM</b>     | Immediate Disaster Case Management             |
| <b>IG</b>       | Inspector General                              |
| <b>IPR</b>      | In-progress Review                             |
| <b>LMA</b>      | LMI Area Benefit                               |
| <b>LMB</b>      | LMI Buyout                                     |
| <b>LMH</b>      | LMI Housing                                    |
| <b>LMHI</b>     | LMI Housing Incentives                         |
| <b>LMI</b>      | Low-to-Moderate Income                         |
| <b>LSO</b>      | Labor Standards Officer                        |
| <b>MID</b>      | Most Impacted and Distressed                   |

|                 |  |
|-----------------|--|
| <b>MOD</b>      | Method of Distribution   |
| <b>MSCP</b>     | Mitigation Special Case Panel                                  |
| <b>NEPA</b>     | National Environmental Policy Act                              |
| <b>NO</b>       | National Objective   |
| <b>NOFA</b>     | Notice of Funding Availability                                 |
| <b>NOGA</b>     | Notice of Grant Award  |
| <b>OIG</b>      | Office of the Inspector General                                |
| <b>OMB</b>      | Federal Office of Management and Budget                        |
| <b>ONA</b>      | Other Needs Assistance   |
| <b>PA</b>       | Public Assistance  |
| <b>PII</b>      | Personal Identifiable Information                              |
| <b>PMS</b>      | Payment Management System (Fed to State) Smartlink             |
| <b>POP</b>      | Period of Performance  |
| <b>QPR</b>      | Quarterly Performance Report                                   |
| <b>RFP</b>      | Request for Proposal   |
| <b>RFQ</b>      | Request for Qualification                                      |
| <b>ROF</b>      | Release of Fund  |
| <b>SAM</b>      | Federal System of Award Management                             |
| <b>SCOR-DRD</b> | South Carolina Office of Resilience-Disaster Recovery Division |
| <b>SOR</b>      | System of Record   |
| <b>SoVI</b>     | Social Vulnerability Index                                     |
| <b>SPEARS</b>   | Section 3 Performance Evaluation and Registration System       |
| <b>SPO</b>      | State Procurement Office                                       |
| <b>UGLG</b>     | Units of General Local Government                              |
| <b>UNM</b>      | Urgent Need Mitigation   |
| <b>URA</b>      | Uniform Relocation Act   |

## Definitions

*24 CFR 91.11(h) 24 and CFR 570.486(a) (7)* – The specific Code of Federal Regulations for Community Planning and Development Programs, and Community Development Block Grants, which is applicable to Section 3 compliance.

*Acquisition* – The utilization of CDBG-MIT funds to acquire real property. Acquisition only is typically not considered a complete activity in the Program and must be combined with another eligible use (i.e., relocation assistance). The purchase price must be consistent with applicable uniform cost principals.

*Action Plan* – A document that describes the needs, strategies, and projected uses of CDBG-MIT funds.

*Area Median Income (AMI)* – Calculated limits based on HUD-estimated median family income with adjustments based on family size.

*Benefit-Cost Analysis* – A method for determining the potential benefits of a mitigation project and comparing them to the cost.

*Buyout* – A type of acquisition with the purchase of an eligible property with the intent to reduce risk from future flooding or to reduce risk from the hazard that led to the property's Disaster Risk Reduction Area (DRRA). The property acquired will be dedicated and maintained in perpetuity for a use that is compatible with open space, recreational, or floodplain and wetlands management practices.

*Case Management*- Working with individual survivors and their families to understand the program's housing options, resulting in clear and transparent determination of eligibility. Case Managers must take into account all special circumstances of the survivor's needs to decrease their barriers to participate in the program where possible. Staff should meet at designated locations and supply information in a standard format.

*Code of Federal Regulations* – A Federal government coding system of Federal agency regulations published in the Federal Register

*Davis-Bacon Act of 1931 (40 USC Part 3141 et seq.) and Related Acts* – All laborers and mechanics employed by contractors or subcontractors in the performance of construction work financed in whole or in part with assistance received under this chapter shall be paid fair wages.

*Demolition* – The clearance and proper disposal of buildings, improvements, and any other necessary items.

*Duplication of Benefits* – 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-MIT funding with respect to any part of a 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 source.

*Environmental Review*- All substantially qualified applicants must undergo an environmental review process. This process ensures that the activities comply with National Environmental Policy Act (NEPA) and other applicable state and federal laws.

*Housing Incentives*- Incentive payments are generally offered in addition to other programs, to encourage households to relocate in a suitable area.

*Housing and Urban Development Act of 1968, Section 3* – Requires the SCOR to ensure that training, employment, and other economic opportunities generated by HUD financial assistance shall be directed to the greatest extent feasible and consistent with existing Federal, State, and Local laws and regulations, to low and



very low-income persons. Recipients of Section 3-covered funding ensure compliance and the compliance of their contractors/subcontractors with the Section 3 requirements, as outlined in 24 CFR 135.32.

*LMB National Objectives* – Low to Moderate Buyout (LMB) is used for a buyout award to acquire housing owned by a qualifying LMI household.

*LMHI National Objectives* - Low Moderate Housing Incentive (LMHI) benefits LMI households that are used for a housing incentive award and tied to a voluntary buyout or other voluntary acquisition of housing owned or occupied by a qualifying LMI household.

*Manufactured Housing Unit (MHU)* – A structure, transportable in one or more sections which, in the traveling mode is eight body-feet or more in width, or forty body-feet or more in length, or when erected on site, is at least 320 square feet, and which is built on a permanent chassis and is designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein.

*Section 3* – Requires, to the greatest extent feasible, that employment and other economic and business opportunities generated by the HUD financial assistance are directed to public housing residents and other low-income persons.

*Subrecipient* – Cities, Counties, Indian Tribes, local governmental agencies (including COGs), private non-profits (including faith-based organizations), or a for-profit entity authorized under 24 CFR 570.201(o). The definition of Subrecipient does not include procured contractors providing supplies, equipment, construction, or services and may be further restricted by Program Rules or other guidance including applications.

*Subrogation Agreement*– Means an agreement executed by the beneficiary agreeing to repay any duplicative assistance if they later receive other disaster assistance for the same purpose.

*Units of General Local Government* – UGLGs are either Cities, Counties, Indian Tribes, local governmental agencies (including COGs)

*Uniform Relocation Assistance and Real Property Acquisitions Policies Act of 1970, as amended (Title 49 CFR Part 24) (Uniform Act referred to URA)* – Applies to all acquisitions of real property or displacements of persons resulting from Federal or federally-assisted program or projects. URA's objective is to provide uniform, fair, and equitable treatment of persons whose real property is acquired or who are displaced in connection with federally funded projects. For the purposes of these guidelines, URA mostly applies to residential displacements in involuntary (49 CFR Subpart B) acquisition or multi-family damaged/occupied activities that require the relocation of the tenants. A displaced person is eligible to receive a rental assistance payment that is calculated to cover a period of 42 months.

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## I. BACKGROUND

### 1.00 Purpose

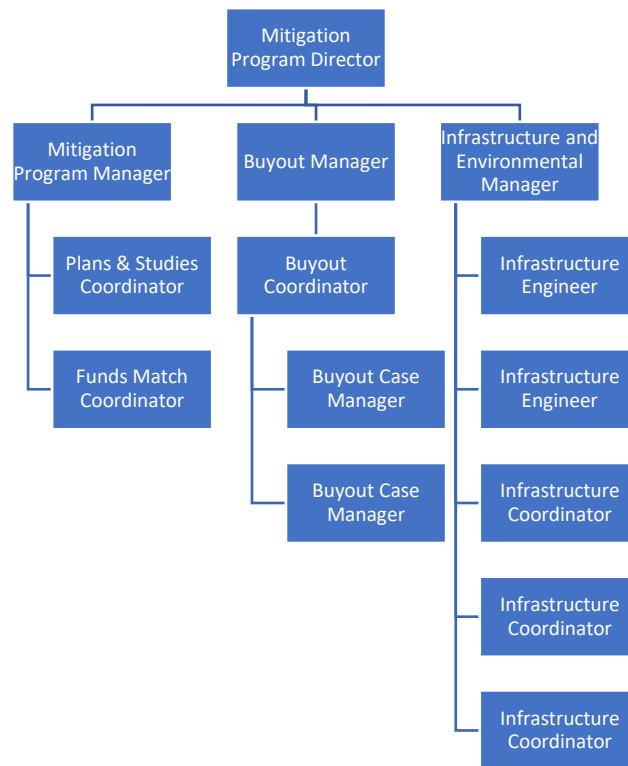
The purpose of this manual is to establish and document the policies and procedures that the South Carolina Office of Resilience (SCOR) will use in the implementation and execution of the State's Community Development Block Grant- Mitigation (CDBG-MIT) Action Plan. HUD requires that each CDBG-MIT grantee adopt and follow written policies and procedures throughout the life of their program. This manual will serve to do that.

In simple terms, our policies explain the what and the why behind our actions. They are our standards. They are what the citizens and communities of South Carolina can expect from the South Carolina Office of Resilience. Our procedures describe our actions. They are a detailed description of our specific routines and activities. They show the steps to be taken in a process flow. We will put our policies and procedures into clear, concise, and simple language.

### 1.01 Overview

The South Carolina Office of Resilience (SCOR) is the Governor directed responsible entity for administering the HUD-funded Community Development Block Grant- Mitigation (CDBG-MIT) funding allocated to the State. SCOR's Disaster Recovery Division (DRD) is responsible for the planning and implementation of that CDBG-MIT grant. DRD does this through its Mitigation Department. Details of the plan for the implementation of the CDBG-MIT grant are in the State's CDBG-MIT Action Plan.

### 1.02 Organization



### 1.03 Chain of Leadership

The chain of leadership for SCOR's CDBG-MIT program is the following:

1. The Governor of the State of South Carolina
2. The South Carolina Chief Resilience Officer (CRO)
3. The Disaster Recovery Division (DRD) Director
4. The Mitigation Department Director

### 1.04 South Carolina's CDBG-MIT Funded Program

Based on SCOR's CDBG-MIT Action Plan, the Mitigation Department, will conduct activities designed to reduce potential riverine and surface flooding impacts in the Pee Dee and Santee watersheds with no less than 50% of the funds benefitting Low to Moderate Income (LMI) citizens. The 17 counties that can be served by the CDBG-MIT program are:

| HUD Most Impacted and Distressed Counties | SC Most Impacted and Distressed Counties |
|---|--|
| 1. Charleston                             | 10. Berkeley                             |
| 2. Clarendon                              | 11. Calhoun                              |
| 3. Dorchester                             | 12. Chesterfield                         |
| 4. Florence                               | 13. Darlington                           |
| 5. Georgetown                             | 14. Dillon                               |
| 6. Horry                                  | 15. Lee                                  |
| 7. Marion                                 | 16. Marlboro                             |
| 8. Sumter                                 | 17. Orangeburg                           |
| 9. Williamsburg                           |  |

SCOR will conduct activities to reduce potential riverine and surface flooding impacts in the 17 MID counties. The four activities are: Infrastructure, Home Buyout, Federal Fund Matching and Plans & Studies. A concise summary of the program and these activities can be found in the CDBG-MIT Action Plan. Applications for these activities must meet a Department of Housing and Urban Development (HUD) national objective (except Plans & Studies).

### 1.05 National Objectives

South Carolina has designed this CDBG-MIT program in compliance with HUD's national objectives and will ensure that assistance is prioritized toward the most disadvantaged populations. South Carolina will spend a minimum of 50% of program funds on activities that benefit the Low-to-Moderate Income (LMI) population. LMI status is determined by evaluating income as a percentage of the Area Median Income (AMI) in the county in which the applicant lives.

As stewards of federal CDBG-MIT funds, the State of South Carolina complies with HUD's mission to develop viable communities by the provision of decent housing, a suitable living environment, and

expanding economic opportunities, principally for LMI persons. To this end, all funded activities administered by the State of South Carolina will meet a HUD National Objective. SCOR will maintain records showing that funded activities meet one of the National Objectives. Depending on the National Objective, the files must contain, at a minimum, the following specific documentation for purposes of proving that the National Objective was met:

| National Objective           | Required Documentation  |
|------------------------------|---|
| LMI Area Benefit (LMA)       | <ul style="list-style-type: none"> <li>Boundaries of service area</li> <li>Census data including total persons and percentage LMI</li> <li>Evidence area is primarily residential</li> <li>Income survey documentation (if applicable)</li> </ul> |
| LMI Housing (LMH)            | <ul style="list-style-type: none"> <li>Housing Income verification of households</li> </ul>   |
| LMI Buyout (LMB)             | <ul style="list-style-type: none"> <li>Housing Income verification of households</li> </ul>   |
| LMI Housing Incentive (LMHI) | <ul style="list-style-type: none"> <li>Housing Income verification of households</li> </ul>   |
| Urgent Need Mitigation (UNM) | <ul style="list-style-type: none"> <li>Description of impact being addressed by the activity in terms of type, scale, and location</li> </ul>   |

### 1.06 Subrecipients

SCOR may choose to contractually obligate funds to subrecipients to implement activities or programs. Depending on the specific program, a subrecipient must be a public Unit of General Local Government (UGLG), state agency or regional council of governments (COG) to receive CDBG-MIT funds from SCOR to undertake eligible activities. All Subrecipients must adhere to the program guidelines and policies set forth in this manual. Additionally, SCOR has adopted an extensive Subrecipient Administrative Manual, which must be adhered to by all Subrecipients.

Subrecipients will be notified by SCOR of all updates or changes to this manual, as well as changes to the Action Plan, subrecipient grant manual or subrecipient agreement. Subrecipients will have 5 business days to read the update or change and acknowledge the notification in email to the Mitigation Program Manager.

## II. PROCEDURES

### 2.00 Federally Funded Mitigation Grant Match Activity

The State has designated five million dollars to match federally funded mitigation grant programs to include the Hazard Mitigation Grant Program, Pre-Disaster Mitigation Grant Program (and subsequent Building Resilient Infrastructure and Communities Program), and Flood Mitigation Assistance Program. Any match funding activities must meet CDBG-MIT and the federal agency's eligibility requirements. Activities may include but are not limited to buyouts, structural elevation, localized flood risk reduction, infrastructure retrofit, and post-disaster code enforcement. Applicants are required to submit applications for the federally funded program through the proper South Carolina State agency. As example: applications must go through the South Carolina Emergency Management Division for the HMGP and PDM programs. All projects must meet both the federal funding agency and HUD's requirements to be eligible for funding

All activities allowed under CDBG-MIT include but are not limited to flood control and drainage

improvements, including the construction or rehabilitation of stormwater management systems; infrastructure improvements (such as water and sewer facilities, streets, provision of generators, removal of debris, bridges, etc.); natural or green infrastructure; communications infrastructure; buyouts or acquisition with or without relocation assistance, down payment assistance, housing incentives, and demolition; and Hazard Mitigation Plan updates.

Requests for match funding will be available year-round through a rolling application window. The Federally Funded Mitigation Match Program requests will be prioritized based on a first-come, first-served basis. While applications will be prioritized on this basis, the MSCP will review all requests for funding. The MSCP will consider eligibility requirements, the amount of funds requested, the match activity, location of the match activity, and any other pertinent information. After the request for funding is approved or denied by the MSCP, the Mitigation Program Director will notify the entity of the decision and next steps.

Applicants are automatically subrecipients for the Match activity. Subrecipient must submit a subrecipient application along with the Match application. If awarded, subrecipients will also have to enter into and sign a subrecipient agreement.

## **2.01 Plans and Studies Activity**

SCOR will provide funding to State agencies (example: the South Carolina Emergency Management Division), Councils of Government (COGs), and UGLG(s) for the development and revision of hazard mitigation plans, and the development of flood-reduction studies to aid in the identification of any projects that may be funded through phase 2 and phase 3 of the infrastructure or buyout programs, or by other applicable funding sources. SCOR will solicit applications from UGLGs located in the SC and HUD-defined MID counties to disperse planning funds. The following is a list of eligible activities but is not limited to:

- Local and regional functional land-use plans
- Stormwater Master plans
- Drainage and Stormwater Studies
- Comprehensive plans
- Community recovery plans
- Resilience plans
- Hazard Mitigation Plan updates
- Disaster risk analysis/reduction studies that identify potential flood-reduction projects

## **Defining Plans & Studies Eligible Activities**

### **Local and Regional Land-Use Plan**

- Considers existing and future land use by categories, including residential, commercial, industrial, agricultural, forestry, mining, public, recreation, parks, open space, and vacant or undeveloped.

- Flood mitigation, and the resulting risk to life and property, can be achieved by the plan directing residential and commercial growth away from flood-prone areas, and returning parcels to green or open space that can provide assets to the community, such as recreation, while also managing stormwater.
- Such plans can be implemented by creating a zoning ordinance or including a future land use map in a community's comprehensive plan.

#### **Stormwater Master Plan**

- In addition to investigating flooding issues, assessing current stormwater system, & developing and prioritizing projects, a stormwater master plan includes a broader implementation plan that can be used by the municipality to make further decisions and updated by them on a regular basis.
- Focus goes beyond stormwater system improvements, and considers broader strategies such as governance (land use regulations for instance)
- May consider issues beyond stormwater capture and conveyance such as water quality and regulatory compliance.

#### **Drainage & Stormwater Study**

- Investigates flooding issues, assess current stormwater system (if there is one), develops and prioritize projects
- focus is in a small, specific problem area(s) to further define observed issues, through a hydrology and hydraulics analysis, resulting in implementable project proposals that will address the specific problems a locality is experiencing.

#### **Comprehensive Plan**

- A long-range plan to direct growth and community development. In South Carolina, municipalities must follow the SC Local Government Comprehensive Planning Enabling Act when creating and updating their comprehensive plan.
- Required elements: population, economic development, natural resources, cultural resources, community facilities, housing, land use, transportation, priority investment and resiliency.
- Mitigation may be a part of any of these elements really, from siting economic development, housing, and transportation, to identifying projects (like stormwater) for priority investment. However, mitigation can play a central role in the following elements:
- Natural Resources element: by law, this element must consider coastal resources, slope characteristics, prime agricultural and forest land, plant and animal habitats, parks and recreation, scenic views and sites, wetlands, and soil.
- Land Use Element: considers existing and future land use by category: residential, commercial, industrial, agricultural, forest, mining, public recreation, parks, open space, and vacant or undeveloped.
- Resilience element: this is a new element requirement in SC. This element must consider the impact of flooding, high water, and natural hazards on communities, individuals, institutions, businesses, economic development, public infrastructure & facilities, and public health, safety, and welfare. The element should outline existing conditions, promote resilient planning, design,



and development. This element should be coordinated with adjacent and relevant jurisdictions and agencies.

### **Community Recovery Plan**

- A plan that focuses on strategies to coordinate a jurisdiction's efforts to recover from a disaster: physically, socially, environmentally, and financially.

### **Resilience Plan**

- In addition to including resilience in their comprehensive plan, a community (perhaps those who have more specific issues, or a smaller area, may want to develop a stand-alone resilience plan.
- A resilience plan should have similar elements to the Resilience element required by the state of SC but may have a larger or smaller scope to meet community needs.

### **Hazard Mitigation Plan (& Update)**

- Plans to reduce loss of life and property by minimizing the impacts of future disasters
- Includes identifying natural disaster risks and vulnerabilities that are common in an area, and then developing long-term strategies for protecting people and property from similar events.
- Local jurisdictions must update their FEMA approved hazard mitigation plans every 5 years to be eligible for FEMA mitigation project grant funding.
- The state may wish to earn enhanced status for their mitigation plan, which makes them eligible to receive more funding under the HMGP following a disaster declaration. To receive approval of an enhanced plan, the state must show that it has developed a comprehensive mitigation program and can manage increased funding for its mitigation goals.
  - In an effort to receive this designation, eligible activities may include an evaluation of the current hazard mitigation plan, updating a Hazard Identification/Risk Assessment (see Disaster Risk Analysis/Reduction study below) or other plans & studies to enhance mitigation programs.

### **Disaster Risk Analysis/Reduction Study**

- A study that investigates the degree to which an area is exposed to certain types of risk. Based on this assessment, reduction measures to reduce the degree of risk are proposed.
- Considers potential consequences and impacts to people, property, and the environment.
- Could be done on a state (SCEMD HIRA), regional (Central Midlands All Hazards Risk Assessment), or municipal level (City of Charleston All Hazards Vulnerability and Risk Assessment)
- This kind of study may be a portion of a Hazard Mitigation Plan update or be done to reach the goal of receiving Enhanced Status (see Hazard Mitigation Plan above).

Requests for planning and study funding will be available annually through the application process. Requests for funding will be examined and prioritized by the SCOR Mitigation Team. The MSCP will review all requests for funding and make a determination for approval or disapproval. The South Carolina Chief Resilience Officer is the final approving authority.

Applicants may decide to be a subrecipient or have the state run the project. If an applicant chooses to be a subrecipient, they must submit a subrecipient application along with the Plans & Studies application.

If awarded, subrecipients will also have to enter into and sign a subrecipient agreement.

## 2.02 Voluntary Buyout Activity

### Program Overview

The South Carolina Office of Resilience (SCOR) and/or UGLG Subrecipients will conduct voluntary buyouts in the 17 MID counties as a means of acquiring contiguous parcels of land to revert to a natural floodplain, convert into a retention area, or retain as green space for recreational purposes. Buyouts prevent extreme risk to human health and safety and repetitive property loss. Additionally, buyouts prevent homeowner's from making repairs and investing funds in properties that experience repetitive flooding.

After homes are purchased, the structures will be demolished, and the site will be stabilized. The responsible entity that owns and maintains the land after the buyout may elect to use the land for open space, a recreational area, natural floodplain functions, wetlands management practices, or ecosystem restoration. A protective covenant will be placed on the land in perpetuity to ensure properties purchased under the buyout program can never be redeveloped and must be maintained as greenspace. As part of the closing process, the deed with restrictive covenants will be recorded in the Register of Deed's office in the county where the property is located.

SCOR is the administrator of the CDBG-MIT funds that provides funding for the mitigation voluntary buyout program. The program will be implemented in accordance with all HUD requirements including those set forth in the appropriate Federal Register Notices (84 FR 4538, 84 FR 561). SCOR must ensure the buyout program and its expenditures are compliant with all applicable federal and state laws.

### The objectives of the mitigation buyout program are:

- Eliminate future flood damages and health and safety risks for residents and rescuers
- Facilitate strategic buyouts of contiguous properties that have been subject to multiple floods and use for public space, green space, and/or flood control measures
- Return properties in the floodplain to a natural and beneficial function, aiding in the storage of stormwaters
- Reduce repetitive subsidized flood insurance payments and federal disaster assistance; and/or
- Allow for subsequent homeownership in areas of reduced risk through the provision of monetary incentives.

### Program Eligibility:

To be eligible for the SCOR Mitigation Buyout program, all beneficiaries (i.e., property owners) will be held to the following criteria as condition of eligibility:

- Property must be a residential parcel located within one of the 17 counties identified as the SC MID or HUD MID.
- One person with an ownership interest in part or in whole on the property must be able to demonstrate U.S. Citizenship or Lawful Permanent Residence. Documentation to demonstrate U.S. Citizenship or a Naturalized Citizen must be provided in the form of one of the following:
  - U.S. Birth Certificate

- Current U.S. Passport
- Certificate of Naturalization, Form N-550
- Additional options as noted on USCIS I-9 form
- Properties must be in the Special Flood Hazard Area or floodway as identified on the Flood Insurance Rate Map (FIRM), or pre-FIRM, or in a Disaster Risk Reduction Area (DRRA).
- If the property received CDBG-DR assistance from SCOR (Formerly South Carolina Disaster Recovery Office aka SCDRO), the owner must have acquired and maintained flood insurance to be eligible for CDBG-MIT buyout assistance.

Approved activities under the CDBG-MIT Buyout Program must qualify as an eligible activity under federal regulations and address the current and future risks of the MID areas as identified in the Mitigation Needs Assessment of the CDBG-MIT Action Plan. Therefore, to be eligible for a buyout, properties must be in one of the 17 eligible HUD or State MID counties.

#### **National Objectives:**

Buyout Projects must meet a National Objective. SCOR has a HUD requirement to spend 50% of funds benefitting the Low-and-Moderate (LMI) population. LMI status is determined by evaluating taxable income as a percentage of the Area Median Income (AMI) in the county in which the applicant lives. For the purposes of the Buyout program, the applicant (if an individual citizen or citizens) will be considered LMI if their taxable income, as determined by the Adjusted Gross Income (AGI) line of the tax form, is 80% or less of the county AMI. HUD's Federal Register requires that buyout programs meet a HUD National Objective.

#### **Voluntary Program**

The Buyout Program is a voluntary program. A property owner may elect to withdraw their application from the buyout program at any time. SCOR will not utilize eminent domain to purchase properties under the buyout program under any circumstances. SCOR's Buyout program meets the four-part criteria of a voluntary program under the federal regulations at 49 CFR 24.101(b)(1)(i-iv) stated below:

1. No specific site or property needs to be acquired, although the agency may limit its search for alternative sites to a general geographic area. Where an agency wishes to purchase more than one site within a general geographic area on this basis, all owners are to be treated similarly. (See 49 CFR 24.101(b)(1)(i)).

**SCOR Response:** SCOR will implement its buyout program within the Special Flood Hazard Areas (SFHA). No specific sites or properties are being identified for purchase under the buyout program. SCOR will offer to buyout properties in SFHAs from eligible owners based on the appraised pre-Disaster Fair Market Value (FMV). The Initial Offer, based on the pre-Disaster FMV, will be offered to all eligible applicants, therefore, applicants are being treated equally.

2. The property to be acquired is not part of an intended, planned, or designated project area where all or substantially all of the property within the project area is to be acquired within specific time limits.

**SCOR Response:** Properties acquired through the buyout program are not part of a designated or

planned development project and there is not a specific time limit within which the properties must be purchased. The properties will not be acquired through eminent domain. Participation in the buyout program is entirely voluntary and property owners may withdraw or opt out of the program at any time prior to closing.

3. The agency will not acquire the property if negotiations fail to result in an amicable agreement, and the owner is so informed in writing.

**SCOR Response:** All offers to purchase Buyout participant properties will be made in writing and will be based on the pre-Disaster Fair Market Value appraisal of the property. Because the Buyout Program is voluntary, property owners will be informed in writing that they may reject SCOR's Initial Offer to buy the property or voluntarily withdraw from the program at any time prior to closing. If an Owner rejects the Initial Offer or withdraws from the program SCOR will not pursue the purchase of the property further.

4. The agency will inform the owner in writing of what it believes to be the market value of the property (See 49 CFR 24.101(b)(1)(iv) and (2)(ii).)

**SCOR Response:** SCOR will provide all participants to the buyout program with an appraisal indicating the pre-disaster Fair Market Value of their property upon which any offer amount to buy the property will be made.

### Program Definitions

The manual refers to the SCOR Mitigation Voluntary Buyout Program as “the program”.

- **“Acquisition” vs. “buyout”:** Buyout refers to the acquisition of properties with the intent to reduce risk from future flooding.
- **Applicant:** The applicant is the Unit of General Local Government (UGLG) that applies to SCOR for a buyout project in their community. The UGLG project application must be approved by the Mitigation Steering Committee before individual property owners can apply for a property buyout.
- **Beneficiary:** The beneficiary is the property owner or person receiving the benefit. Beneficiaries must complete the beneficiary intake application to determine eligibility for the buyout.
- **Project Application:** An application for project funding submitted to SCOR by the UGLG. The project application will identify specific target properties for buyout within the project area.
- **Beneficiary Intake Application:** The beneficiary intake application is completed by the property owners of the targeted properties identified in the approved project application. The intake application will collect information on the property owner, household members, and any tenants that live in the property to determine eligibility for the program and incentives.
- **Pre-Disaster Fair Market Value (FMV):** If property meets the threshold requirements for multiple disasters, SCOR will evaluate the FMV for each of the applicable disasters and will select the FMV that is most advantageous to the property owner. Pre-disaster fair market value will be determined by a third party certified licensed appraiser.
- **Second Home** – if the property is not the owner's primary residence, and the owner stays in the home for at least one night a year, the home is considered a second home. Disaster damaged

properties that have been abandoned due to deteriorated conditions are not considered second homes. Second homes are not eligible for program incentives. V.B.6. Alternative requirement for housing rehabilitation—assistance for second homes. HUD is instituting an alternative requirement to the rehabilitation provisions at 42 U.S.C. 5305(a)(4) as follows: Properties that serve as second homes are not eligible for rehabilitation assistance or housing incentives provided through a CDBG–MIT program.

- **Rental Property** – A tenant-occupied property that is verified through a written lease agreement and/or a demonstrable payment history.
- **Low-and-Moderate Income (LMI)**: an individual citizen(s)'s taxable income (as determined from the Adjusted Gross Income or AGI line of the 1040 tax form) below the 80% AMI for the county the property is located within. A resident that meets the LMI threshold may be eligible for the LMI incentive.

### **Eligible Allowable Expenditures**

The following project costs are allowable expenditures by SCOR or its grantee:

1. Appraised Property Buyout Costs
2. Settlement Costs:
  - Appraisal Cost
  - Appraisal Review
  - Attorney's Closing Fees
  - Title Search
  - Boundary Survey
  - Document Signing Fees
  - Environmental/Historic Property Assessment Costs
  - Asbestos/Lead Testing
  - Engineering design
  - Permitting
  - Inspection Costs
  - Deed Conversion Fees
  - Recording Fees
  - Other Associated Closing Costs outlined in the HUD 1.
3. Demolition Costs – Including the actual demolition of the existing structures on the property, clearing the property, and proper disposal of resulting debris
4. Moving Expense Incentive - \$5,000 provided to owner(s)
5. LMI Incentive - \$25,000 provided to LMI owner(s)
6. Market Adjustment Incentive- varies, provided to owner(s)
7. Housing Adjustment Incentive – varies, provided to owner(s)

### **Maximum Buyout Assistance Amount**

SCOR will use CDBG-MIT funding for the buyout of contiguous residential properties through the application process. The maximum amount of CDBG-MIT funding available for any single buyout is capped

at \$300,000 including any additional incentives. Using CDBG-MIT funds, the program provides property owners with pre-disaster fair market value of their home (unless the property has changed ownership since the disaster) and may also include incentive payments to encourage relocation to an area of reduced flood risk. Properties with appraised pre-disaster fair market value greater than the \$300,000 programmatic cap will be submitted to the SCOR Mitigation Special Case Panel (MSCP) for consideration. A recommendation to MSCP for an offer to purchase will not exceed \$335,000, inclusive of incentives. Additional information on the valuation process may be found in the Buyout Award Determination section of this manual.

Eligible costs included in the buyout maximum assistance amount are:

- Buyout purchase price
- Moving incentive of \$5,000
- LMI incentive of \$25,000
- Market Adjustment incentive- varies
- Housing Adjustment Incentive – varies

**Policy change for owners of unoccupied properties:**

- If the property has NOT been occupied after the purchase, the offer to purchase price **will not exceed** the purchase price plus any documented improvements the owner has completed on the property.
  - Example: Owner purchased the property at a tax sale for \$40,000. The owner never moved in, and the house has remained vacant since the owner purchased it. The offer to purchase price will be calculated as: Purchase Price (\$40,000) + Improvements (\$0) + Incentives (\$0) – DOB (\$0) = \$40,000.
- If the property has been occupied after the purchase, either as a primary residence or a rental property, the offer price will be the purchase price plus the market adjustment incentive, plus moving and LMI incentives (if eligible), less any duplication of benefits. Occupancy can be documented either through proof of primary residency (Income Tax Return, Property Tax Homestead Exemption for year of disaster, Proof of FEMA or SBA Disaster Assistance, Utility Bill, Vehicle Registration, or Government Benefits Receipt), OR for rental properties a current lease and/or verified history of rental payments.
  - Example: Owner purchased the property in 2020 for \$100,000. The owner spent \$25,000 on improvements and moved in. The owner is eligible for LMI and has \$0 in DOB. The current FMV is \$150,000.
    - The offer to purchase will be calculated as: Purchase Price (\$100,000) – DOB (\$0) + Moving Incentives (\$5,000) + LMI Incentive (\$25,000) + Market Adjustment Incentive (\$150,000 - \$100,000 = \$50,000) = \$180,000

- Properties that have unique or extenuating circumstances may be submitted to MIT Special Case Panel for review and consideration.

## **Mitigation Buyout Project Application**

### **Project Application Requirements**

Units of General Local Government (UGLGs) from one of the 17 MID counties may submit buyout project applications to SCOR during the open application period. The buyout application must be complete and should identify at a minimum the following:

- Applicant must identify if the project will be State Run or Subrecipient run. If the applicant elects to be a subrecipient, they must complete the Subrecipient Application and submit it with the Buyout Application.
- Applicant must identify the national objective that the proposed project meets.
- Applicant must identify if the targeted properties are located in a Special Flood Hazard Area or floodway and provide a copy of the appropriate FEMA FIRM maps. If the properties are not located in the floodplain, the applicant must provide a request to SCOR for a Disaster Risk Reduction Area (DRRA) determination.
- Applicant must identify and complete the Targeted Property Card portion of the application for each property to be included in the buyout project. Only properties identified in the Buyout Application will be considered for approval by the Steering Committee.
- Responsible Entity (RE) must be identified that agrees to take ownership of, and maintain, the buyout parcels.
- RE must acknowledge and accept that a permanent deed restriction will be placed on all buyout properties that prevents future residential or commercial development on the land.
- Applicant must provide a project budget and schedule.
- A Residential anti-displacement plan must be included with the application that addresses how the applicant will prevent displacement of the property owner's participating in the buyout program.
- Applicant must complete the Citizen Participation Plan requirements. For more information on the Citizen Participation Plan requirements, see the Citizen Participation Plan section of this manual.

### **Targeted Buyout Properties**

When identifying target properties for inclusion in the proposed project, the UGLG should consider parcels that will create a contiguous buyout area to the greatest extent possible. Properties that are included in the project application will be considered for approval by the Steering Committee. Additional properties

may be considered after the project is approved by following the property change out process as outlined in the Buyout Property Identification section of this manual.

### **Responsible Entity**

Under no circumstances will SCOR acquire properties that were bought through the buyout program. Applicants must identify a Responsible Entity (RE) that will accept ownership and maintenance of the buyout properties at closing. Applicants should first consider whether the Applicant is willing to be the RE. If not, the applicant should look to the county or other local governments where the property resides to determine if they will be the RE. If not, the applicant should determine if there are any non-profit entities such as land trusts or nature conservancy groups that will accept responsibility for the properties. If no governmental or non-profit groups will accept the role of responsible entity, the applicant may reach out to the current property owner or neighboring property owners to determine interest in accepting the RE role. If an RE cannot be identified, the applicant should contact SCOR staff to discuss options and eligibility.

### **Disaster Risk Reduction Area (DRRA)**

If the targeted properties are not located within a Special Flood Hazard Area or floodway as identified on the Flood Insurance Rate Map (FIRM), or pre-firm, but has experienced documentable repetitive flooding, the applicant may request a Disaster Risk Reduction Area determination from SCOR. The request should be submitted to SCOR and should document conditions such as:

- Verifiable documentation of repetitive flood events
- Area is identified within the flood plain on draft FEMA maps
- Other evidence as necessary to document repetitive flood conditions in proposed area

The Mitigation Special Case Panel (MSCP) will review the request and all supporting documentation to determine if the proposed project is in a DRRA. The decision will be documented in a decision memorandum and provided to the applicant within 15 business days after the completed request is received.

### **Buyout Property Identification**

#### **Buyout Property Selection:**

Properties considered for buyout should be identified by the UGLGs and included in the project application. The targeted properties should meet the eligibility criteria of the program and should form a contiguous buyout area to the greatest extent possible. Those properties which are included in the project application will be considered for approval by the steering committee.





**Illustration of Checkerboard vs. Contiguous Buyouts:** The image on the left depicts a checkerboard buyout project in which the buyout parcels are not adjacent on continuous. The center image depicts a buyout project with small groups of contiguous parcels that are not connected to each other. The image on the right shows a contiguous buyout project in which the buyout parcels are all adjacent to one another and located within the same area. Preference will be giving to buyout projects that propose contiguous parcel buyouts like that which is shown on the right.

Due to the voluntary nature of the buyout program, property owners may choose not to participate in the buyout project once approved by the SCOR Steering Committee. In such cases, the applicant will have the opportunity to remove those properties from the project and add in new properties that may be interested using the buyout property change out process.

### **Buyout Property Change Out Process**

Applicants may request that approved properties be removed from the scope of the approved project and replaced with different properties. To submit a property change out request, the applicant must submit a written request (email) to the project coordinator. The request must include the following to be complete:

- Parcel numbers and Address for each approved property proposed for removal from the project
- A Map showing the location of all properties proposed for removal
- Verification that the property owner(s) is not interested in a buyout for each property proposed for removal or, documentation that property owner has not responded to applicant's multiple outreach attempts.
- Parcel numbers and address for each property proposed for inclusion in the buyout project
- A Map showing location of properties proposed for inclusion in relation to other approved properties within the project area (Note: property must be within the boundaries of the approved project area)
- Justification for each property that is proposed for inclusion in the buyout project that includes statement with specific reason why each property should be included

Once the request is received, the project coordinator will review the information to verify that all required documentation is complete. Upon completion, the request will be added to the Mitigation Special Case

Panel (MSCP) for review. The MSCP will review all requested property change outs using the buyout property prioritization metrics described below. The MSCP decision will be documented in a decision memorandum and will be sent via email to the applicant no later than 14 business days from the request date, or when the request is deemed complete by staff.

### **Buyout Property Prioritization**

The properties prioritized for the Mitigation Buyout program are eligible residential properties located in the floodplain. LMI property owners and households will be prioritized. Rental properties are eligible for participation in the buyout program. To be considered a rental property, the property owner must have a written lease or contract with the tenant or must be able to document a history of rental payments. Additionally, the property must be rented consecutively to one tenant for at least 51% of the year.

Disaster-damaged abandoned properties, elevated homes, second homes, and vacant lots will also be considered for inclusion in the buyout program where the acquisition of such properties creates a contiguous buyout area. If the property is not the owner(s) primary residence and the owner(s) spend at least one night a year in the residence, it is considered a second home. Properties considered for inclusion in approved buyout projects will be prioritized as follows:

#### **Priority 1:**

- LMI Owner-Occupied Primary Residence
- LMI Tenant-Occupied Residence
- Owner-Occupied Primary Residence
- Tenant-Occupied Residence

#### **Priority 2:**

- Disaster-damaged, abandoned residence (primary residence at time of disaster)
- Elevated Residences (primary residence or rental property)

#### **Priority 3:**

- Second Homes (Second homes are not eligible for program incentives. V.B.6. Alternative requirement for housing rehabilitation—assistance for second homes. HUD is instituting an alternative requirement to the rehabilitation provisions at 42 U.S.C. 5305(a)(4) as follows: Properties that serve as second homes are not eligible for rehabilitation assistance or housing incentives provided through a CDBG–MIT program.)
- Vacant Lots (Vacant lots that are unaccompanied by a housing unit may receive an offer to purchase in the amount of \$10,000 or the highest appraised value, whichever is greater. However, owners of vacant parcels are not eligible for the LMI or moving incentive)

Properties that fall into the Priority 2 or Priority 3 category will be considered for approval on a case-by-case basis. Where the purchase of a Priority 2 or 3 property helps to create a contiguous buyout area, or links two areas of buyouts together, it will be strongly considered for approval by the SCOR Mitigation Steering Committee or the Mitigation Special Case Panel (MSCP). Other factors that will be considered in

the approval of Priority 2 and Priority 3 homes are if the owners are LMI, if the property may be developed/habitable in the future, how many properties will remain in the area for EMS/Fire services, and the amount of funding available.

In some cases, the program will consider the buyout of properties with severe hardship exceptions that are not otherwise included in the program priorities. This includes, but is not limited to:

- Severe financial hardship as a result of the storm and its aftermath
- Residing in unsafe or unsanitary living conditions as a result of the storm and its aftermath

Vacant land in which a previously standing residence was demolished in whole, or in part, due to disaster-related damage The SCOR Mitigation staff will review such situations on a case-by-case basis. The MSCP will consider staff recommendations and make the final determinations.

### Mitigation Buyout Process Overview



#### 1. UGLG Buyout Project Application:

UGLGs will submit completed buyout project applications to SCOR for consideration during the quarterly application period. Once received, SCOR Mitigation staff will review the submitted documents to verify eligibility and identify any missing or incomplete information. If additional information is required, SCOR will contact the identified application contact to request the needed documentation.

Application Periods:

- 1-31 January
- 1-30 April
- 1-31 July

- 1-31 October

## **2. Project Prioritization and Review:**

Once an application is considered complete and eligibility has been verified, the application will be scored in accordance with the MIT Action Plan using the following prioritization process:

- Percentage of LMI population served (25 points)
- Quality of flood reduction (25 points)
- Quantity of flood reduction (25 points)
- Benefit-cost analysis (BCA) (25 points)

Buyout properties within a project will be evaluated based on the buyout property prioritization plan. For more information on the prioritization metrics and contiguous vs. checkerboard buyouts, see the Mitigation Buyout Program Priorities section of this manual.

The SCOR Mitigation Staff will make recommendations based on project application prioritization scores to the SCOR Mitigation Steering Committee. The Steering Committee will have the final authority for the approval of UGLG applications for buyouts.

## **3. Project Approval**

The SCOR Mitigation staff will notify all Applicants of the Steering Committee's decision with regards to the Applicant's buyout application in writing. Applicants that identified the State to run the projects will receive an Award Letter and a Resolution from SCOR within 30 days of project approval.

- The applicant must return the signed Award Letter and Resolution to SCOR within 30 days of receipt.

Applicants that opted to be Subrecipients will receive an Award Letter, a Resolution, and a Subrecipient Agreement (SRA) from SCOR within 30 days of project approval.

- The applicant will have 15 days to review the SRA and submit any questions or comments to SCOR
- SCOR will have 15 days to respond to any questions or comments received by the applicant
- Applicant will have 15 days from receipt of SCOR response to submit the signed Resolution and the signed SRA to SCOR
- SCOR will execute the SRA and submit a signed copy to the applicant within 3 days of receipt of the signed SRA

## **4. Project Start Up and Environmental Review**

SCOR will assign a buyout project team consisting of a program manager, a project coordinator and a case manager to each approved project. The project coordinator will be the point of contact for all buyout project-related communications and the buyout project team will be available to assist UGLG staff, property owners, and tenants throughout the buyout process. Following project approval, the project coordinator will set up a project kick-off meeting between the SCOR Mitigation staff and the UGLG staff for all state run and subrecipient run projects. In the kick-off meeting, the project team will review the program requirements and processes, including all environmental requirements.

The environmental review will be the first deliverable for each buyout project and must be completed in accordance with HUD requirements per 24 CFR Part 58. The project coordinator, along with the Environmental Program Manager, will work with the applicant to determine whether procurement of professional services is required to complete the environmental review. For more information on environmental review requirements, see the Environmental section of this manual.

#### **5. Beneficiary (Property Owner) Intake Applications:**

For state run buyout projects, the project team will reach out to the property owners of the targeted properties identified in the approved application to determine interest in the buyout project. In some cases, the project team may set up an informational meeting for all owners of the targeted properties to discuss the program requirements and processes. Interested owners will be scheduled for a beneficiary intake application appointment.

The project team will conduct the beneficiary intake application appointment, which may be done in-person or virtually. During the appointment, the project team will assist the owners in completing the application and providing all required documentation. Following the appointment, the project team will review the application to verify the application is complete and signed, and all required documentation has been provided. If necessary, they will request any missing information from the owners. If beneficiary applicant is unresponsive to request for needed information, an opt-out letter will be sent. Failure to submit required information could affect program status.

#### **6. Evaluation and Eligibility Determination:**

Once the application is deemed complete, the Buyout project team will review the documentation to determine:

- Owner eligibility for the buyout program
- Property eligibility for the buyout program
- Owner income eligibility (for LMI incentives)
- Verification of property ownership

#### **7. DOB and URA Review**

Once an owner/property is determined to be eligible for the buyout program, the Buyout project team will conduct Duplication of Benefits (DOB) review on all beneficiary applications. If any DOB is identified, the project team will notify the owner(s) and work with them directly on available options. For more information on DOB, see Duplication of Benefits section of this manual.

If the property has tenants that are eligible for URA, the project team will complete the URA process during this time. For more information on URA eligibility, policies and procedures see the Uniform Relocation Act section of the manual.

#### **8. Appraisals and Inspections:**

Once the eligibility, DOB, and URA reviews are completed, the property will move to appraisals and inspections. To be considered a valid appraisal, the appraisal must be performed within 120 days prior to the offer date. Exceptions to this timeframe may be in areas with stable growth or if the Housing

Market Incentive will be used, to be determined on a case-by-case basis.

The Buyout project team will oversee:

- Confirmation of the Responsible Entity identified in project application
- Completion of a boundary survey
- Completion of a property appraisal(s)
- Completion of environmental review (Tier II) including asbestos/lead-based paint testing, where applicable

### **9. Offer to Purchase:**

Following the completion of the property inspection and all required inspections, an offer to purchase and a purchase contract will be extended. The offer and purchase contract will identify:

- The appraised value
- Any DOB identified
- Any incentives the owner(s) have qualified for
- Total purchase price

The owner will have 15 days to review the offer and submit any questions or appeals to SCOR. Questions or appeal requests should be submitted via email to the project coordinator. SCOR will respond to questions within 3 business days of receipt. The owner will have 15 days from receipt of SCOR response to sign the Purchase Contract.

The real estate closing will be scheduled between 30 to 90 days after acceptance of the Offer to Purchase. In some instances, a homeowner may need an extension of time for the closing. Under this circumstance, the homeowner will work with the case manager for an extension, which may not exceed six months. If a period greater than six months is needed, a request will need to be submitted to the Mitigation Special Case Panel. Owners will be notified in writing of the Mitigation Special Case Panel decision.

Appeals should be submitted via email to the project coordinator. All appeals received will be reviewed on a case-by-case basis and submitted to the Mitigation Special Case Panel for final determination. Owners will be notified in writing of the MSCP decision.

### **10. Purchase Contract:**

The owner(s) will enter into an agreement with SCOR and the responsible entity acquiring the land to confirm that they will participate in the buyout program. This is represented by the purchase contract. Any properties that are listed for sale must be removed from the market by the owner(s) prior to signing of the purchase contract. SCOR may request documentation to verify the listing has expired or been released by the selling agent prior to closing.

The contract will provide a timeline for when the homeowner(s) will be required to be out of the home. Typically, the property must be vacated a minimum of 48-hrs prior to scheduled closing. The contract will also specify owner obligations prior to closing such as discontinuing all utility services.

SCOR will conduct property inspections prior to closing to ensure the property is vacant and all utilities have been shut off and disconnected. If the inspectors find the property is occupied and/or the utilities are active, the closing will be postponed, and the purchase contract may be voided.

#### **11. Closing Documents Completed:**

Upon a signed offer to purchase, the real estate closing must be scheduled within six months of the executed offer to purchase date. If the property does not close within six months from the executed offer to purchase date, SCOR, or its subrecipient, reserves the right to withdraw the offer to purchase. All necessary closing documents will be completed, and the title/deed will be transferred to the identified responsible entity acquiring the property. A deed restriction will be placed on the property to ensure no future development and allow only future uses consistent with open green space, recreation, or wetland's management. The deed restriction will last in perpetuity. For additional information refer to the Real Estate Closing section of this manual.

#### **12. Demolition and Site Stabilization**

Once the property is acquired and all necessary documents have been signed, completed, and appropriately filed, the Responsible Entity will place "No Trespassing" signs on the site and must secure all entries to the residence until the time of demolition, either through boarding or padlocking exterior doors. During demolition, structures and impervious surfaces will be demolished, including piers, tie downs and footers, and all piping for septic drain fields, piping for electrical lines and around all pools. All buildings, garages, car ports, sheds, fences, fence posts, porches, decks, steps, walks, curbs, patios, impervious drives, and any other frame or masonry structures must be removed. Wells must be capped, well pump and all associated well piping must be removed. Existing in-ground pools and underground storage tanks (USTs) must be removed and properly disposed of, unless removal would result in adverse environmental impacts. In such cases, the demolition plan must be reviewed and approved by SCOR's Certifying Environmental Officer prior to bidding of the work. All rubbish, debris, abandoned vehicles, etc. within the property line boundaries of the parcel to be demolished must be removed and disposed of properly. No impervious surface may remain on the site. No demolished material may be buried within or remain on the site.

Photographic evidence of the demolition process must be documented in the System of Record. Following demolition, the property will be graded and seeded to stabilize the site. A final inspection will be scheduled between the contractor, the State, and the responsibility entity to ensure the demolition is compliant prior to property turn over.

If lot appears to have settled/sunk, then the demolition contractor will return to stabilize the soils. Final grade shall not direct precipitation runoff toward adjacent or nearby homes. Final grade shall not unreasonably increase the volume or velocity of runoff. Final grade shall generally direct runoff to nearest existing stormwater system or natural watercourse.

#### **13. Close Out**

The responsible entity will take ownership of the property and will be responsible for the maintenance of the property. The RE must ensure that no development occurs on the property that violates the deed restriction in place. SCOR will complete close out reviews for tenants, beneficiaries, and the completed buyout project. The close out reviews will be uploaded into the system of record.

### **Beneficiary Intake Application**

Following the approval of a buyout project, the project team will begin outreach to the property owners of the target properties identified by the UGLG in the project application to begin the beneficiary intake application process. Beneficiaries, or property owners, must complete a Beneficiary Intake Application and provide all required supporting documentation. If the property owner has a tenant in the buyout property, a separate tenant survey application must also be completed.

### **Project Coordinators and Case Managers**

Owners and Tenants will be assigned to a Project Coordinator and a Case Manager who will be available to work with them throughout the buyout process. The project team will help to explain the program benefits, processes, and requirements, and will be available to answer any case specific questions the owner/tenant may have. They will also assist the owners and tenants in completing all necessary application documents. All questions submitted to the project coordinator or case manager will be answered within 2 business days of receipt.

### **Beneficiary Intake Application Appointment**

The project team will contact each property owner directly to schedule a beneficiary intake application appointment. These appointments may be in-person or remote, depending on the owner's preferences. Prior to the appointment, the owner(s) will receive the beneficiary intake application and a checklist of all required documentation. The owners will be asked to bring their documentation to the appointment, where the project coordinator and case manager will assist the owner in completing the application forms and verifying that all required documentation is provided.

### **Citizenship**

At least one person with ownership interest in the buyout property must be able to demonstrate U.S. Citizenship or Lawful Permanent Residence. Documentation to demonstrate U.S. Citizenship by birth or a Naturalized Citizen include must be provided in the form of one of the following:

- U.S. Birth Certificate
- Current U.S. Passport
- Certificate of Naturalization, Form N-550

The following documentation must be provided to demonstrate Lawful Permanent Residence:

- Alien Registration Receipt Card, Form I-551

If at least one person with ownership interest in the buyout property cannot demonstrate U.S. Citizenship or Lawful Permanent Residence, they may appeal to the Mitigation Special case Panel (MSCP) if they meet the criteria for extreme hardship as described in the Buyout Property Prioritization Process section of this manual.



### **Multiple Owners**

If there is an owner and a co-owner, both will be considered as equal partners for purposes of their participation in the buyout program. Each will be referred to as the “owner” in this manual unless there is a specific reason to specify owner or co-owner. In situations where program documents refer to “owner(s)”, the documents are referring to both the owner and the co-owner. All ownership documentation provided to SCOR must list the owner and co-owner as the current owner.

### **Power of Attorney (POA)**

The program shall verify that if the person(s) completing the beneficiary intake application is not the property owner, that person has executed a POA or Communication Designee prior to communicating with third parties or before allowing the alleged POA to make decisions on the owner’s behalf.

- **POA:** If the owner has designated someone as their legal representative, as indicated by an executed, notarized Power of Attorney (POA), a copy of the POA must be provided before the designee can make any decisions or complete an application on the owner’s behalf. SCOR will maintain a copy of the POA in the system of record.
- **Communication Designee:** Owners can request to have a Communication Designee for general communication. The Communication Designee should relay all information from the project coordinator and/or case manager to the owner(s)/tenant(s). Communication Designees do not have the authority to make any decisions or sign any forms on behalf of the owner unless a specific request has been made by the owner to the project coordinator.

### **Alternate Contact**

The project coordinator may ask the owner(s) to provide information for an Alternate Contact if the project coordinator has difficulty contacting the owner. If program staff cannot reach the owner, they may attempt to reach the Alternate Contact and inform them that the program is trying to reach the owner. Information on the owner’s application status or other private information will not be shared with the Alternate Contact unless the person is also the Communication Designee.

### **Income Verification**

For individual citizens, the program will utilize the most current tax return forms for each adult household member to determine the taxable income of the household. If a household member is not required to file, has filed an extension, has zero income, or is unable to file a tax return, the program will use alternative methods to calculate and certify income. When a household member has filed a tax return but does not have proof, the program may request that the applicant obtain a copy of their 1040 transcript. Homeowners are responsible for advising SCOR of any household or financial changes while participating in the program. SCOR will verify household and financial changes on a quarterly basis and/or prior to the offer to purchase.

For all members of the household who did not file an IRS Form 1040 and are 18 or older, the member must provide all of the following applicable documentation:

- Current Year W2 & 1099 Forms

- Three (3) most recent paystubs
- Current Social Security Benefit Letter
- Current Veteran Administration Benefit Letter
- Current Pension/Annuity Benefit Letter
- Current Unemployment Award Letter
- No Income Affidavit

***Low to Moderate Income (LMI) for individual citizens is determined using the Adjusted Gross Income (AGI) from the 1040 tax form.***

For LLCs, Corporations, businesses, partnerships, and non-individual entities that owns a home(s) or purchased a home(s), the program will utilize the most current applicable tax return forms.

- C-Corp – Form 1120 to include all forms and schedules
- S-Corp – Form 1120S to include all forms and schedules
- Partnership – Form 1065 to include all forms and schedules
- LLC owners- Individual tax return Form 1040 to include Schedule C and E

#### **Duplication of Benefits**

SCOR or its subrecipient, will evaluate past assistance received by the Owner(s) for repairs to the property caused by a federally declared disaster. Duplication of benefits (DOB) will be evaluated in accordance with the DOB section of this manual.

If any DOB is identified, SCOR or its subrecipient will inform the owner(s) of the duplication of benefits. The owner will be asked to provide documentation of the expenditure of funds through receipts, bank statements, etc. to verify that the assistance received was used to repair the property as intended. If the Owner(s) is unable to provide documentation of funds expenditure, SCOR or its grantee, will send a compliance inspector to the property to do an on-site inspection. The inspector will document and assess the value of any visible repairs or improvements made to the property. If a DOB cannot be satisfied through documentation and/or inspection, the Owner(s) will be notified of the DOB amount in writing.

All DOB calculations, notifications, documentation, and inspection reports will be recorded by SCOR or its grantees, in the property file in the system of record.

#### **Authorization for Program to Contact Third Parties**

The Property Owner(s) explicitly allows the Program to request of any company with which the Owner(s) held policies or FEMA or SBA, any non-public or confidential information needed by the Program to monitor/enforce its interest in the rights assigned to it under the Consent and Release Agreement in the Beneficiary Intake Application, and to give the Owner(s) consent to such company to release said information to the Buyout Program.

#### **Applicants with a Mortgage**

Property owners with existing mortgages will be required to satisfy their mortgage with their mortgage provider prior to closing or at the purchase (closing) of the property. The funds provided to buy the

owner's property under the program may be used to satisfy the mortgage and/or any other liens if sufficient to cover the amount of the liens.

#### **Applicants with Negative Equity on Mortgage**

The buyout program may assist owner(s) who owe more on their mortgage than their house is worth, also known as negative equity mortgage or being underwater on their mortgage, but assistance amounts are capped at the maximum total buyout assistance amount (\$3000,000). Assistance will only be provided if assistance will allow the household to move from the at-risk home to an area of reduced flood risk. The Mitigation Special Case Panel will review such situations on a case-by-case basis and provide final determination.

#### **Applicants with Reverse Mortgage**

The buyout program may assist applicants who have a reverse mortgage, but assistance amounts are capped at the maximum total buyout assistance amount (\$300,000). Assistance will only be provided if the assistance will allow the household to pay off the reverse mortgage and move from the at-risk home to an area of reduced flood risk. The Mitigation Special Case Panel will review such situations on a case-by-case basis and provide final determination.

#### **Applicants in Foreclosure**

Applicants currently in foreclosure may not be provided buyout assistance.

#### **Contract for Deed/Land Leases/Mobile Homes**

Properties where there is a different owner of the land than the owner of the dwelling unit(s), such as in Contracts for Deed, long-term land leases, and often with mobile homes, may be assisted through the buyout program only if the property owner converts the contract to full ownership. SCOR reserves the right to review each application on a case-by-case basis through the Mitigation Special Case Panel.

#### **Moving Costs and Relocation (URA)**

Due to the voluntary nature of the Mitigation buyout program, the owner(s) of an owner-occupied residence are not entitled to assistance under the *Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970* (URA).

Rental tenants that occupy buyout properties will be evaluated for their eligibility as a displaced person under URA. Tenant URA eligibility determinations and relocation assistance will be provided in accordance with the SCOR Uniform Relocation Act Policies and Procedures as described in this manual.

#### **Certification Requirements Prior to Receiving Assistance**

All owner(s) must agree to the following to receive a buyout award:

1. Sign an Authorization for the Release of Information so that information provided can be shared and/or verified with the state, federal, and other third-party agencies. The owner, co-owner, and other adult household members are required to sign the release unless one of the eligible owners has provided power of attorney to another to represent him/her.
2. Sign a Certificate of Completion attesting to the accuracy and completeness of all information

provided to the program under penalty of law.

3. Agree to verification of ownership status and any assistance received (if applicable).
4. Sign Subrogation Agreement agreeing to pay back any federal assistance received in the future for the same purposes of the CDBG-MIT grant funding (buyout).
5. Power of Attorney: Owner(s) may grant power of attorney to someone who can apply on their behalf, as applicable:
  - Sign a Certificate of Residency attesting to the fact that the new address where the applicant will relocate to or has already relocated to an area of reduced flood risk.
  - All signed documents will include the following statement: “Warning: Any person who knowingly makes a false claim or statement to HUD may be subject to civil or criminal penalties under 18 U.S.C. 287, 1001 and 31 U.S.C. 3729”.
6. Protection of Personal Information (PPI)
7. Citizenship

## **Buyout Property Appraisals & Inspections**

### **Property Appraisal**

All properties will be appraised by a third-party State licensed appraiser and in conformity with the Uniform Relocation Act at 49 CFR 24.103- Criteria for Appraisal. To be considered a valid appraisal, the appraisal must be performed within 120 days prior to the offer date. Exceptions to this timeframe may be in areas with stable growth or if the Housing Market Incentive will be used, to be determined on a case-by-case basis.

If the current property owner owned the buyout property at the time of the disaster, then the appraisal process will be as follows:

- Appraisers will evaluate the pre-disaster fair market value (FMV) of the property. If the property was affected by more than one presidentially declared disaster, the appraiser will evaluate the pre-disaster FMV for each disaster the property was affected by. SCOR will select the highest pre-disaster FMV as the appraised value. The owner(s) will receive a copy of the final appraisal report.
- Additionally, if the property has been repaired and lived in post-disaster, appraisers may evaluate the current FMV of the property. Due to various changes in the housing market and property conditions, a FMV appraisal may not always be required. If the probability is that the pre-disaster appraisal will be higher than a current Fair Market Value, a FMV appraisal will not be requested. FMV appraisals will be obtained on a case-by-case basis.

If the property has been purchased by the current owner after the disaster, then:

Appraisers will evaluate the current FMV of the property. However, the offer price cannot exceed the purchase price plus any verifiable improvements the current owner(s) have completed on the property if the property has not been occupied after the purchase.

If the appraised FMV value of a property exceeds the established \$300,000 maximum award limit as set by the State, the beneficiary may receive more than the established limit. Such cases will be evaluated on a case-by-case basis and a final determination will be made by the Mitigation Special Case Panel. If the appraised FMV is below the established maximum assistance limit, the applicant will be offered the appraised value, less any identified duplication of benefits, plus any eligible incentives. A recommendation to MSCP for an offer to purchase will not exceed \$335,000, inclusive of incentives.

Additional information on the valuation process may be found in the Buyout Award Determination section of this manual.

### **Appraisal Appeals**

In instances where the applicant believes the appraisal is unjust, they may appeal the appraisal. To appeal, the owner must secure a second property appraisal at their expense. The appraisal must be conducted by a SC state-licensed appraiser and must identify the pre-disaster fair market value of the property. The owner(s) should make a written request to the project coordinator to appeal the appraisal that includes a copy of the second appraisal report. The appealed appraisal date must be based on the same date of the original appeal. For instance, if the homeowner is appealing the 2018 value, the retroactive appraisal must be based on the date of the original 2018 appraisal; for current market value appeals, the CMV date must be based on the time the original CMV appraisal was performed.

The project coordinator will submit the appeal and all supporting documentation to the Mitigation Special Case Panel. If the two appraisals are within 10% of each other, the appraised value will be considered the average of the two appraisals. For example: The first appraisal determines the pre-disaster value of the property is \$150,000. The owners appeal and secure a second appraisal that determines the pre-disaster value of the property is \$160,000. If MSCP reviews the appeal and finds the documentation to be complete and the appeal to be just, the owner may be offered an appraised value of \$155,000.

If the second appraisal is not within 10% of the first appraisal, SCOR may order a third appraisal from a state-licensed appraiser. MSCP will evaluate the first and third appraisal and may offer the owner the average of the two valuations.

### **Boundary Surveys**

SCOR or its subrecipient, will perform a boundary survey to determine the legal boundaries of each CBDG-MIT funded buyout property prior to closing of the property. The survey will verify the legal boundaries of the property to be purchased through the voluntary buyout program and to ensure there are no conflicts within the legal records. If the survey identifies an encumbrance on the subject property, it must be curable by the property owner or the property may be ineligible for buyout. The Mitigation Special Case Panel will evaluate issues identified in boundary surveys on a case-by-case basis to determine whether the issues may be resolved or result in ineligibility for the buyout program.

### **Asbestos and Lead-Based Paint (LBP) Testing**

An asbestos survey and lead-based paint inspection will be performed on all buyout structures by a certified inspector in accordance with South Carolina requirements. For information on state regulations, refer to the [DHEC Air Quality Bureau Asbestos Regulations](#) website. A copy of the inspector's certification must be attached to the asbestos inspection results and must have been current at the time of inspection. For additional information on asbestos and LBP testing of buyout properties, refer to the Environmental section of this manual.

### **Relocation**

The CDBG-MIT Buyout Program will not pay to relocate or move existing structures from the buyout property. If an owner would like to relocate their home, they must be responsible for the costs and logistics of moving the structures prior to the purchase of the property. The owner must provide a written notice to the project coordinator that includes:

- Identification of all existing structure(s) to be moved, and all existing structures to remain
- Address residential structure will be relocated to (new address cannot be in the floodplain)
- Date structure move will be completed.

The property will be appraised for the value of the land and any remaining structures only.

### **Buyout Award Determination**

#### **Buyout Program Incentives**

SCOR will provide eligible participants with housing incentives. The purpose of the incentive is to allow owners the ability to relocate to an area with reduced risk of flooding while not being made worse off financially or in terms of housing quality by participating in the program. While housing incentives are allowable, they must be justified and reasonable. SCOR offers the following incentives:

- **Moving Expense Incentive:** To assist homeowners with relocating to a new home, owners will be offered a \$5,000 moving incentive.
  - Rental owners and other property type owners that do not have belongings in the buyout property will not be eligible for the moving expenses incentive.
- **LMI Incentive:** To assist the most vulnerable homeowners with relocating to a new home, \$25,000 will be offered to LMI citizens. LMI citizens are classified as those who have an income of 80% or less of the AMI for the county, they reside in. (Not eligible if dwelling is a second home or to owners of vacant land.)

Homes valued at or above \$75,000, using the highest appraised value or Current Market Value will be offered the following incentive:

- **Market Adjustment Incentive (MAI):** To assist the homeowner with the relocating to a new home in their community. The Market Incentive is designed to supplement the pre-disaster value of the home to reach a "fair price" determined by SCOR that will allow a current homeowner to purchase a similar home in the non-flooding portion of their community.
  - If the property has not been occupied after purchase, the owner will not be eligible for the market adjustment incentive.

- If the property has been occupied, either as the owner's residence or a rental property, a market adjustment incentive will be offered. The market adjustment incentive is determined as the difference between the current appraised FMV and the highest appraised Pre-Disaster FMV. Occupancy can be documented either through proof of primary residency (Income Tax Return, Property Tax Homestead Exemption for year of disaster, Proof of FEMA or SBA Disaster Assistance, Utility Bill, Vehicle Registration, or Government Benefits Receipt), OR for rental properties a current lease and/or verified history of rental payments.

Owner(s) that exceed the maximum \$300,000 award due to the appraised value will be reviewed on a case-by-case basis and may be considered for an exception. Owners will be allowed to submit a written request to the project coordinator. Owners may include an independent appraisal to request an exemption. These requests will be reviewed by the Mitigation Special Case Panel, and the extenuating circumstances will be documented and approved on an as-needed basis. The MSCP will not be asked to consider using CDBG-Mitigation funds for any offer to purchase greater than \$335,000, inclusive of incentives. Additional information on the valuation process may be found in the Buyout Award Determination section of this manual.

Homes valued less than \$75,000, using the highest appraised value or Current Market Value will be offered the following incentive:

- **Housing Adjustment Incentive (HAI):** To assist the homeowner with relocating to a new home in their community. The HAI incentive is designed to supplement the pre-disaster value of the home to reach a "fair price" determined by SCOR that will allow a current homeowner to purchase a similar home in the non-flooding portion of their community.
- If the property has been occupied, either as the owner's residence or a rental property, an HAI incentive will be offered. The HAI incentive is determined as the difference between the highest pre-disaster appraised value and \$75,000. Occupancy can be documented either through proof of primary residency (Income Tax Return, Property Tax Homestead Exemption for year of disaster, Proof of FEMA or SBA Disaster Assistance, Utility Bill, Vehicle Registration, or Government Benefits Receipt), OR for rental properties a current lease and/or verified history of rental payments.

Undeveloped parcels less than \$10,000, using the highest appraised value or Current Market Value will be offered the following incentive:

- **Undeveloped Parcel Incentive (UPI):** To prevent future land development in a repetitively flood area, homeowners will be eligible to receive an incentive that will provide the homeowner a \$10,000 purchase price, if the land appraises less than \$10,000. This is one time per household. If homeowner brings in multiple parcels, they will receive the \$10,000 on one parcel and appraised value for any additional parcel. The LMI incentive is not eligible for undeveloped parcels.

## Incentive Payments

Incentive payments will only be provided to qualifying eligible applicants:

- At or after the real estate closing for the purchase of the buyout property
- After all supporting documentation is provided to verify eligibility for each incentive
- One time per household, for each eligible incentive. For example: The buyout of an owner-occupied primary residence with an LMI household of 4 people will receive one (1) \$5,000 moving expense incentive, one (1) \$25,000 LMI incentive and one (1) Market Adjustment Incentive OR (1) Housing Adjustment Incentive, if applicable.

*42 U.S.C. 5305(a)(4): Properties that serve as **second homes are not eligible** for rehabilitation assistance or housing incentives provided through a CDBG–MIT program. s*

SCOR will provide the total buyout purchase price amount, including any eligible incentives, to the closing attorney who will hold the payment in trust until closing. Any amount owed on mortgages or other liens will be paid by the closing attorney. Any remaining funds will be provided to the owner(s) by the closing attorney at or after closing.

## Offer

Once the owner(s) is determined to be eligible for the buyout program, a duplication of benefits review is conducted, and an appraisal is completed, SCOR or its grantee, will provide the applicant with a buyout offer in accordance with the appraised value. The appraised value will be pre-disaster FMV for beneficiaries that owned the property at the time of the disaster, and current FMV for beneficiaries that purchased the property after the disaster. The total award will include the appraised value, plus any incentives the owner(s) is eligible for, less any duplication of benefits identified.

## Documenting Eligibility and Acceptance of Offer

SCOR or its subrecipient, will document the owner and the property eligibility in the property file in the system of record, and will retain detailed copies of all award determinations as well as the owner's acceptance of the offered buyout and incentive amounts. If the owner(s) is unable to complete the Offer Documents, which includes the purchase contract, the offer to purchase will expire after 15 days. If the owner(s) has remained active during the 15 days, the Purchase Contract can be extended. If in the 15 days, the owner(s) has not responded to communication, all which will be documented in the system of record, the Purchase Contract will expire. The owner may appeal the decision to reopen the case. The MSCP will review the appeal and make the final determination.

If a homeowner withdraws from the program but wishes to reenter the program at a later date, the case will need to be presented to the Mitigation Special Case Panel. If an offer to purchase was presented prior to the time the homeowner withdrew from the program, the offer to purchase will remain as presented.

## Real Estate Closing

### Title Search

Prior to closing, a full title search will be conducted to verify ownership and identify if there are any active liens or mortgages on the property.



A title search of the property's land records and assessor records of the county in which the subject property is located will be performed for each buyout property. The title report will indicate all current owners, any parties with an interest in the subject property, and all opened and un-cancelled liens, mortgages, deeds of trust, judgments, easements, adverse inscriptions, or other encumbrances, and property tax history, and amount or current status.

If the property title is not vested in the beneficiary applicant, or there is an obstacle that prevents clean, merchantable, and insurable title, actions will need to be taken to fix the identified issues. SCOR, or its subrecipients, will work with the owners to assist in obtaining a clear title when possible.

### **Property Before Closing**

Owner(s) or tenant(s) must vacate the property and remove all personal property from the residence and land a minimum of 48-hrs prior to the closing. Any personal property remaining after closing will be included in the demolition.

The owner(s) must have all utilities turned off and disconnected a minimum of 48-hrs prior to closing. SCOR, or its grantee, will conduct a site inspection 2 days prior to closing to ensure the property has been vacated and all utilities have been shut off and disconnected. If the property is occupied and/or the utilities are still on, the closing will be delayed and SCOR, or its subrecipient, reserves the right to withdraw the offer to purchase.

### **Document Execution at Closing**

The following documents will be signed by both parties (seller & buyer) at the time of the agreement:

- Settlement Statement
- Deeds (to include deed restrictions)
- Other closing documents as required

### **Property After Closing**

The SCOR attorney, or designated closing attorney, maintains a copy of the recorded deed and title policy in the project file. The attorney files the appropriate deed and restrictive covenant with the Clerk of Court or Register of Deeds (as applicable) in the county in which the property is situated. A covenant will be placed on the property being acquired to maintain it as open space in perpetuity.

The identified responsible entity receiving the deed-restricted property is responsible for the maintenance of the property in accordance with any local, state, and federal environmental laws, rules, and regulations.

## **Demolition**

### **Pre-Demolition**

A pre-demolition inspection must be conducted within 48-hrs of the commencement of demolition to confirm that the property is vacant, and all utilities have been turned off and disconnected. Detailed photographs of the site must be recorded in the project file in the system of record prior to demolition. Any additional hazards should be identified and documented in the file. This includes any fire hazards or public health concerns. If environmental hazards such as asbestos or LBP are identified, then the demolition process must comply with applicable federal environmental and SC DHEC regulations for

demolition involving such materials. All demolition permits must be obtained, as needed.

### **Notice of Demolition**

SCOR, or its subrecipient, will publish an internal Notice to Proceed (Internal NTP) after the closing is complete and a pre-demolition inspection is complete. A copy of the internal NTP will be placed in the property-specific file. Once the demolition contractor receives the executed NTP, they may legally enter the site. The demolition contractor will begin by verifying that the structure is unoccupied.

### **Utility Site Walk-Through**

Prior to demolition, the demolition contractor will be required to coordinate with the applicable county to identify and make safe utilities to the property. This includes:

- Marking easements and underground utilities
- Removing utility meters
- Capping wells, water, sewer, and septic lines to the mains; and/or
- Disconnecting electrical and gas service and propane tanks

SCOR or its subrecipient, will perform a site walk after the Pre-Demolition Inspection to verify all utilities have been turned off and removed. Once utilities are secured, the demolition contractor will have 60 days to complete demolition and restore the site to green space. The demolition contractor will mobilize the appropriate assets to the site for demolition activities and will be responsible for providing hauling equipment to transfer the materials to the landfill. Any hazardous or contaminated debris must be disposed of in accordance with all applicable federal, state, and local regulations.

### **Hazardous Material Processing**

Where hazardous materials are present, SCOR or its subrecipient, and the demolition contractor will lead a supplemental process for the identification, removal, and disposal of asbestos, lead-based paints, and other hazardous materials per State of South Carolina and U.S. Environmental Protection Agency (EPA) environmental requirements.

Where Household Hazardous Waste (HHW) are present, the Demolition Contractor will identify, remove, and dispose of HHW per State environmental agency/EPA requirements.

- Visual Assessment performed and documented with photographs, uploaded to system of record
- Removal of all identified HHW based on the environmental review
- Documentation of all HHW waste transferred to the landfill

### **Demolition**

All demolition related documents must be captured and retained in the system of record. This file will contain photo documentation of the process before, during and post-demolition. Once lot grading and seeding has been complete, SCOR and/or its subrecipient, will conduct a Demolition Inspection to verify quality, and confirm that the process has been completed. The inspector will take post-demolition photos.

These photos must be uploaded to the system of record. All Demolition Inspections must be completed within 60 days of actual demolition completion. If the lot appears to have settled/sunk, then the Demolition Contractor will return to stabilize the soils.

### 2.03 Infrastructure Activity

The Infrastructure CDBG-MIT activity encompasses the identification, design, permitting and construction of infrastructure projects as detailed in the approved Action Plan. All infrastructure projects will either be managed by the SCOR or by a qualified Subrecipient.

SCOR recognizes that as part of a comprehensive Mitigation Program, the repair and enhancements of infrastructure are crucial components. Infrastructure activities are vital for the long-term viability of communities. SCOR will complete infrastructure projects that will mitigate future flood damage in the Pee Dee and Santee watersheds. Eligible infrastructure projects are those 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 flood disasters.

#### Application

SCOR will solicit applications from Units of General Local Government (UGLGs) located in the seventeen counties eligible for assistance. The application phase will be open annually with a 60-day submission period. SCOR will require the identification of a responsible entity for long term project costs as a condition of consideration for infrastructure funding during the application phase. SCOR will review all applications received within 45 days of the application deadline. Once the 45-day review period has ended, the CDBG-DR Steering Committee will decide which projects will be funded, and SCOR will issue award letters to the successful UGLG applicants. SCOR will upload project abstracts and award amounts for all infrastructure projects to the Mitigation website.

#### Phases

The Infrastructure Program will be executed in three phases.

**Phase 1** is designed for projects that are or are close to shovel ready. \$50 million will be available in Phase 1. SCOR will solicit applications for projects from eligible applicants. Each project will be prioritized based on the methodology detailed in the “Project Prioritization” section. Phase 1 is anticipated to last until year 3 of the CDBG-MIT Program. The CDBG-DR Steering Committee will select projects based on the rankings from the prioritization with additional consideration to ensuring that funding is applied in an equitable manner on a geographic basis. During Phase 1, SCOR will use planning funds to assist jurisdictions without “shovel-ready” projects to develop flood-reduction studies with the intent of identifying appropriate projects for execution during Phase 2.

**Phase 2** will commence at the start of year 3. \$40 million and any remaining unobligated funding from Phase 1 will be made available in Phase 2. Projects will be ranked using the same prioritization methodology as used in Phase 1.

**Phase 3** will commence at the start of year 6. All remaining unobligated funds will be made available to

fund projects submitted for Phase 3. Projects will be ranked using the same prioritization methodology as used in Phase 1.

### Operating and Maintenance Plans

Operation and maintenance for projects is not a qualifying activity for CDBG-MIT funding.

### Cost Verification

Licensed engineers will be used to verify costs and determine cost reasonableness on projects.

### Project Prioritization

SCOR will use a methodology for prioritizing feasible projects, and hydrological modeling to quantify the effectiveness of proposed projects. The feasibility prioritization is based on a 100-point scale with a higher point total indicating a more feasible project.

| Prioritization Category          | Maximum Point |
|----------------------------------|---------------|
| LMI % Served                     | 20            |
| Level of Flood Risk Reduction    | 10            |
| Quantity of Flood Risk Reduction | 10            |
| Benefit-Cost Ratio               | 20            |
| Leveraged Funding                | 10            |
| Permitting/Scheduling            | 10            |
| Mobility Improvement             | 5             |
| Phasing Considerations           | 5             |
| Project Synergies                | 5             |
| Environmental Impact             | 5             |

**Table 2: Prioritization Categories and Points**

### Low-to-Moderate Income (LMI) % Served

The first major criterion of this study was to determine the benefit towards the LMI population. LMI is important to establish because a maximum of 50% of mitigation funds can go towards non-LMI communities; however, there is no limit to the maximum of funds towards LMI communities. The final split of funding towards LMI and non-LMI projects is up to the discretion of the CDBG-DR Steering Committee. In summary, LMI projects are more favorable. For this reason, LMI can be regarded as the most important category to be judged on. The LMI data used in this study was developed by the U.S. Department of Housing and Urban Development (HUD) covering 2011 to 2015. This time period was chosen as it was the most recently published data available.

An area will be drawn for each project to represent both the service area as well as the extent of the mitigation impact. This area, called “service area”, will be overlaid with the LMI data to calculate a weighted average LMI percentage. This calculated percentage is multiplied by 20 points to produce the final LMI points awarded. An example calculation is shown below:

*Service Area LMI = 65% X 20 points = 13 LMI Points*

## Defining Service Areas

While the LMI formula is straightforward, the more difficult task is defining the service area.

Service projects, such as a hospital, have a boundary drawn around the urbanized communities immediate surrounding the hospital. However, it can be argued that the hospital serves a larger extent such as people from rural parts or even people from neighboring cities or states. The line will be drawn at rural areas because LMI should be based on people and income and not land. Rural areas have an unfair weight that skews LMI percentage due to land size. Other cities or any extent further also was not reasonable as the LMI percentage would be skewed as few people from further away cities attend the hospital.

Infrastructure service areas, such as a storm water network in a neighborhood, will be drawn primarily based on the infrastructure's watershed boundary. A watershed is defined by topology, or in other words, how the ground slopes to drain water. Any area where rain runs off into the storm water network is included as part of the watershed area. At times, the watershed boundary will be shortened, as many watersheds can elongate hundreds of miles downstream or upstream. In other cases, a watershed boundary may be extended as storm drain networks often connect multiple watersheds conveying runoff through pipes underground which cannot be obtained from the topology. The judgement to define appropriate service areas will be performed based on the best available data, modeling, and by engineers with experience in hydrologic and hydraulic studies.

Using a service area is not only required by grant fund requirements but also an industry standard. As stated by HUD, the LMI data does contain a Margin of Error (HUD, NOTICE: CPD-19-02) and is not a perfect representation of LMI due to privacy rights and several other factors. Caution and consideration will be shown towards communities that can otherwise demonstrate a more representative LMI.

The LMI for numerous areas has significantly changed over time. To validate this claim, LMI data from 2006-2010 and data from 2011-2015 data were compared at several potential project locations. It was not unusual for extremely high LMI areas to switch to extremely low LMI areas or vice versa. It is important to note that the LMI data changing over time may not always correlate to communities' expectations and assumptions.

## Flood Risk Reduction

Another major criterion was the issue of flood risk reduction. This will be two-fold counting the improved level of service of flood protection together with quantity of structures benefited/protected from flooding by proposed improvements. The points will be divided into these two subcategories with each worth a maximum of 10 points. How points are awarded is summarized in Table 3 and Table 4 below.

The first step is to identify if the cause of flooding is only local rainfall, only riverine, or both. Riverine flooding can only occur in stream water features defined by USGS. Methods such as particle tracing, illuminates a better understanding of the conveyance of water and cause of flooding.

The second step is to quantify the improvement from existing conditions to the proposed mitigation. This will be initially estimated for all projects using the existing model and later corrected upon results from

models of existing and proposed conditions during the BCA phase. If the project description does not state the level of protection, the following will be assumed: minor storm water improvements such as a storm drain have a 25-year storm event protection, and major infrastructure such as culverts, bridges, railroads, water treatment plants have protection greater than the 25-year storm event.

| Level of protection Category  | Points |
|---|--------|
| Minimal increase  | 0      |
| Local or Riverine 25-year, 24-hour storm event level of protection  | 4      |
| Local and Riverine 25-year, 24-hour storm event level of protection | 7      |
| Above a 25-year, 24-hour storm event level of protection            | 10     |

**Table 3: Level of Flood Risk Reduction Points**

The 25-year, 24-hour event is the industry standard for stormwater infrastructure projects. Projects' protection performance can vary as storms occur at different durations, intensities, and prior conditions. The BCA phase will consider some of the variations for larger storm events; however, accounting for all variations is not always foreseeable.

The third step is to quantify the number of structures benefiting from flood risk reduction as shown in Table 4. A structure is defined as benefitting from flood risk reduction if the flood levels were reduced by at least a foot of depth. A foot of depth was chosen because it is assumed that no damage would occur before six inches to account for the slab foundation, and an additional six inches would cause significant damage. Other flood risk measures such as extent, duration, and velocity are related to depth, and therefore the process can be streamlined to depth. This difference in depth is measured from the BCA models using the proposed mitigation model minus the existing condition model.

| Quantity of protection Category | Points |
|---------------------------------|--------|
| 0-10 Structures                 | 0      |
| 10-25 Structures                | 4      |
| 25-50 Structures                | 7      |
| 50+ Structures                  | 10     |

**Table 4: Quantity of Flood Risk Reduction Points**

Structures will be counted individually regardless of size and function. For example, a school and a single-family home would each be counted as one structure.

### Benefit-Cost Ratio

A max of 20 points will be assigned based on the quartile ranking of projects after the close of the application period for each phase. There are four major steps to award points: Modeling Baseline Condition, Cost Estimate, Modeling Mitigation Condition, and the Benefit-Cost Ratio.

### Modeling Baseline Condition

SCOR conducted Hydrologic and Hydraulic (H&H) modeling for the Pee Dee watershed to establish

baseline conditions from Hurricane Matthew in October 2016 and the severe storm event in October 2015 for the Santee watershed. These models not only were necessary to compare mitigation, but also assisted in various aspects such as discovering potential projects, formulating assumptions, and awarding points in other categories. All models are calibrated to USGS gages, photos, and any other documented evidence to match the stage, or water surface elevation of the historical flooding.

To summarize the modeling efforts, data was gathered and processed for precipitation, oceanic tides, dam releases, land use, soil type, and digital elevation maps. The hydrology methodology used is NRCS TR-55. The hydrology produces parameters used as inputs into a software program, HEC-HMS version 4.2, which produces a parameter to input into a software program, HEC-RAS version 5.0.6, used to 2D model. In addition, many more technical parameters to input into the model and methods were added to the model. It should be also noted that the model is 15 sub-models refined for accuracy and computing power. After the model was stabilized and running, calibration of the model was accomplished by adjusting several parameters to mimic the historic events.

### Cost Estimate

Anticipated construction costs will be applied consistently to all projects, without regard for geographic location, ease or difficulty of construction, or other factors that will usually affect actual construction costs. Only major costs will be estimated as to eliminate the potential hundreds of various minor costs. The cost estimates will be conservative including a 25% contingency to account for minor costs and uncertainty. This standard pricing provides a streamlined approach for developing the ballpark cost estimates needed for evaluation.

### Modeling Mitigation Condition

SCOR will conduct H&H mitigation modeling for each of the projects to determine the potential cost benefits of the proposed mitigation project. A second model shows the condition after a proposed project is implemented. This second model is compared to the baseline model to determine the benefit of the project. The modeling will have increased resolution and accuracy by limiting the model domain to each project's service area. This will be done for both the baseline and mitigation models of the projects. Many projects' service areas may overlap or be dependent on one another. In this circumstance one model will account for multiple projects having a shared benefit and therefore combined cost estimate.

After modeling, results will be extracted and processed into a benefit. The benefits will be measured using the Flood Module or the Damage Frequency Assessment Module from the FEMA Benefit-Cost Analysis (BCA) methodology utilizing a USACE DDF to convert flood depth to dollars of damage. The following should be noted:

1. Only one storm event was modeled. The other storm events needed for the analysis were generated from the FEMA A05 PELV curve
2. Each project typically impacts hundreds of structures. Without the information on each individual structure, assumptions will be made such as to value, slab height, and size

3. Most projects will be measured on the benefit of no prior protection being increased to a 25-year storm event protection. Highway culverts will be expanded to a 50% increase in capacity. Repetitive-Loss Structures projects will take into account the FEMA Flood Insurance Program's (FIP) last three (3) most recent claims to perform an unknown frequency calculation
4. Models are independent of each other and do not measure the impact of one project on another or the effect downstream. Without knowing which projects come to fruition, it would not be fair to assume the impact of other projects to merit a project's benefit
5. It is also assumed that the mitigation is always fully functioning and the impact downstream is not an issue

### Benefit-Cost Ratio

The final step is to simplify all these analyses from the first 3 steps and award points. This will be done by first calculating the benefit-cost ratio as the benefit divided by the estimated cost. This ratio is an expression of the money saved by implementing a project as opposed to the costs incurred by not implementing the project. A ratio less than one means the project will cost more to implement than it will save. Any ratio equal to 1 or higher justifies the project from a pure financial viewpoint.

Next, the ratios will be sorted by quartile to award points as shown in Table 5. This will be done to weaken the cost-benefit ratio defined by a single value to account for the larger picture of the project, account for error from assumptions and methodologies, and be appropriate for the stage of most projects.

| Benefit-Cost Ratio Quartile | Points |
|-----------------------------|--------|
| 0-25%                       | 0      |
| 25-50%                      | 7      |
| 50-75%                      | 13     |
| 75-100%                     | 20     |

**Table 5: Benefit-Cost Ratio Points**

### Leveraged Funding

Cost share opportunities such as funding from FEMA, Federal Highway Administration (FHWA), South Carolina Department of Transportation (SCDOT), HUD, etc. are a beneficial factor to the desirability of a project. How points are awarded is summarized in Table 6 below.

| Leverage Funding Category                               | Points |
|---|--------|
| No potential cost share identified                      | 0      |
| Limited potential cost share identified                 | 5      |
| Significant potential or specific cost share identified | 10     |

**Table 6: Leverage Funding Points**

From the table above, 0, 5, or 10 points will be assigned based on the project's identified level of potential cost share opportunities. If the project description mentions a specified source and a quantifiable amount of funding, it will be classified as either limited or significant potential. To qualify for significant potential, the funding must cover at least half the estimated cost or be a HMGP project (which has a 75% leverage



funding potential). All other projects will be classified as having no potential cost share identified.

It should be noted that leveraged funding will be accounted for in this category and not in the benefit-cost ratio analysis to prevent a double-counting scenario.

### Permitting Requirements / Schedule

The acquisition of necessary permits and overall schedule issues affect the efficiency and compliance of a project. Challenges to permitting and schedule will influence the desirability of a project. How points are awarded:

| Permitting / Schedule Category | Points |
|--------------------------------|--------|
| Significant challenges         | 0      |
| Potential challenges           | 5      |
| Little-to-no challenges        | 10     |

**Table 7: Permitting / Schedule Points**

From the table above, 0, 5, or 10 points were assigned based on the project's identified level of possible permitting/schedule challenges. The level of challenges depended on the following characteristics from the description of the project: amount and type of approvals required and pushback from various groups, capability of the municipality, location of the project, scope of the project, status of the project, timeline schedule and planning. The majority of projects will be assumed to have potential challenges unless proven otherwise.

### Mobility Improvement

During every day weather conditions or disasters (such as storm event flooding), it is important to have safe and efficient mobility/transportation corridors and stations for first responders, other emergency personnel, and the general public. Projects which have an attribute of improving this mobility will factor in positively. How points are awarded:

| Mobility Improvement Category     | Points |
|-----------------------------------|--------|
| Minimal mobility improvements     | 0      |
| Limited mobility improvements     | 3      |
| Significant mobility improvements | 5      |

**Table 8: Mobility Improvement Points**

From the table above, 0, 3, or 5 points will be assigned based on how a project improves mobility towards the public and first responders. A definitive line can be drawn by categorizing roads as major or minor per SCDOT. Generally, a major road is an airport, evacuation route, highway, or railroad, and even a main route used by multiple neighborhoods. Since major roads are assumed to be used by first responders and a significant portion of the public, they receive 5 points. Minor roads will be awarded 3 points as it is assumed that a limited portion of the public and first responders would use them (neighborhood road, rural road, or low-use road). If the flooding does not occur or improve on a road, zero points will be

awarded.

### Phasing Considerations

Projects supporting phased approach to implementation of larger projects to support effectiveness or future regional projects beyond current funding will be given up to a max of 5 points. This is outlined in Table 9.

| Phasing Consideration Category        | Points |
|---------------------------------------|--------|
| No connection to larger scale project | 0      |
| Limited Contribution                  | 3      |
| Significant Contribution              | 5      |

**Table 9: Phasing Consideration Points**

To qualify for 5 points, a significant contribution is defined as a project with identified phases and a multi-county or multi-city area scope. To qualify for 3 points, a limited contribution would be projects that could be phased itself or with other projects but within the same city area. Otherwise, projects would have no connection and receive zero points.

### Project Synergies

Project synergy is defined as two or more projects that interact or cooperate with one another to reduce cost and to produce a combined effect that is greater than the sum of its separate parts. Projects with companion projects that were completed simultaneously to reduce cost and were more effective were awarded up to a max of 5 points. This is outlined in Table 10.

| Synergy Category               | Points |
|--------------------------------|--------|
| No relations to other projects | 0      |
| Limited cost savings           | 3      |
| Significant cost savings       | 5      |

**Table 10: Synergy Points**

To qualify for 5 points and be considered a significant cost savings project, the project has to be either 1.) closely related or identical to 3 or more projects, or 2.) located directly next to 3 or more similar projects. To qualify for 3 points, the project must be similar to another project within the same county. Otherwise, no relations will be inferred, and 0 points will be awarded.

### Environmental Impact / Benefit

A project's impact on the environment is given up to a maximum of 5 points. This is outlined in Table 11.

| Environmental Impact Category           | Points |
|---|--------|
| Negative Impact                         | 0      |
| Neutral Impact                          | 3      |
| Green Infrastructure or Improved Impact | 5      |

**Table 11: Environmental Impact Points**

Projects will be assumed to have a neutral impact. A project will receive the maximum points if it specifically mentions a quantifiable environmental improvement, green infrastructure, includes a pond/reservoir, or restores an urbanized area to a natural state. On the contrary if the urban footprint increased or alters the environmental by more than 20% then the project would have a negative impact. At times, projects would have both positive and negative impacts which were assumed to be neutral when combined.

## 2.04 Application Overview

Applications will be categorized into one of the following projects:

- Buyouts
- Infrastructure
- Match
- Plans and Studies

### All Applications

All mitigation applications will be submitted electronically. All applications must include at a minimum:

- Scope of work
- Work schedule
- Detailed cost estimate
- Scoping narrative for the funds requested
- Long-term planning and risk mitigation considerations
- How the project mitigates current and future flooding risks
- Low-and-moderate income priority
- Coordination of mitigation projects and leverage
- Construction standards (*infrastructure only*)
- Operation and maintenance plans
- Mandatory certifications

#### 1. Plans & Studies

- SCOR will solicit applications from Units of General Local Government (UGLGs) and regional Councils of Government (COGs) located in the seventeen (17) counties eligible for assistance, as well as state agencies
- Applications are accepted year round
- The application must show how the plan or study identifies causes of flooding and/or potential flood reduction projects

#### 2. Infrastructure

- SCOR will solicit applications from Units of General Local Government (UGLGs) located in the seventeen (17) counties eligible for assistance
- The application period will be open annually with a 60-day submission period
- SCOR has the discretion to change the annual application phase based on funding and project capacity

- The application must show a public infrastructure project can reduce future flood risks

### 3. Buyouts

- SCOR will solicit applications from Units of General Local Government (UGLGs) located in the seventeen (17) counties eligible for assistance
- The application phase for the buyout program will be open quarterly with a 30-day submission period
- SCOR has the discretion to change the annual application phase based on funding and project capacity
- The application must target acquisition of homes in the floodplain, or in a designated Disaster Risk Reduction Area (DRRA).

### 4. Matching Funds

- SCOR will solicit applications from Units of General Local Government (UGLGs) located in the seventeen (17) counties eligible for assistance and state agencies
- Applications are accepted year round
- The application must be for an approved federally funded mitigation project requiring a local/non-federal match

A scoping narrative is a primary required piece of the grant application that includes three elements: scope of work, a work schedule, and a detailed cost estimate. SCOR uses the scoping narrative information to determine whether the activities or projects are eligible, whether the applicant can complete the activities within the required period of performance, and whether the proposed costs are reasonable.

The scoping narrative requires a short overview and descriptions of proposed activities. The description of activities must include the proposed approach, how the outcomes will be reached, the level of effort anticipated (including key milestones and work schedule), and the relationship of each activity to the cost estimate. The responsible party for each task must be identified in the scoping narrative. Descriptions of the methods used to manage the tasks and monitor and report on progress must also be identified.

The scoping narrative will become part of the conditions of the award; therefore, sufficient detail is required so SCOR can monitor progress as the work is accomplished.

## 2.05 Benefit-Cost Analysis

Benefit-Cost Analysis (BCA) is a method that determines the future risk reduction benefits of a hazard mitigation project and compares those benefits to its costs. The result is a Benefit-Cost Ratio (BCR). The BCA will be used in project scoring for infrastructure and buyouts. A project is considered cost-effective when the BCR is 1.0 or greater. CDBG-MIT Buyout and Infrastructure proposed projects must have a BCR 1.0 or greater to be considered for funding.

Proposed projects for the CDBG-MIT Buyout and Infrastructure programs must use FEMA-approved methodologies and tools—such as the BCA Toolkit—to demonstrate the cost-effectiveness of their

projects. A link to FEMA's BCA guidance can be found here: <https://www.fema.gov/grants/guidance-tools/benefit-cost-analysis>

SCOR will evaluate and verify BCAs on all applications received. UGLG's applying to the Buyout and Infrastructure Programs may request SCOR assistance in performing the BCA.

## **2.06 Internal Audit**

The Internal Audit Department is independent of SCOR's CDBG-MIT Program and reports directly to the Chief Resilience Officer. Internal Audit is responsible for ensuring that SCOR's CDBG-MIT program follows all required federal and state requirements. Internal Audit ensures that SCOR's Mitigation Program adheres to what SCOR has promised the citizens and communities of South Carolina in its Action Plan, policies, and procedures.

Internal Audit will utilize risk-based programmatic auditing of the activities and procedures throughout the process of implementing all four program areas in the CDBG-Mitigation Program. Auditing activities involve a direct review of the actions pertaining to the following:

1. Infrastructure Program:
  - a. Project Application/Eligibility
  - b. Project Selection/Approval
  - c. Environmental Review
  - d. Procurement of Services
  - e. Project Management
  - f. Monitoring of Subrecipients
  - g. Financial Transactions
2. Buyout Program
  - a. Intake
  - b. Project Application/Eligibility
  - c. Project Selection/Approval
  - d. Procurement of Services
  - e. Project Management
  - f. Monitoring of Subrecipients
  - g. Financial Transactions
  - h. URA
  - i. Lead-based Paint Reviews
  - j. Asbestos Reviews Construction Standards
  - k. Environmental Review
  - l. Demolition
  - m. Appraisals
  - n. DOB
  - o. Financial Incentives

3. Match Program:
  - a. Project Application/Eligibility
  - b. Project Selection/Approval
  - c. Project Management
  - d. Monitoring of Subrecipients
  - e. Financial Transactions
4. Plans & Studies Program:
  - a. Project Application/Eligibility
  - b. Project Selection/Approval
  - c. Project Management
  - d. Monitoring of Subrecipients
  - e. Financial Transactions
5. Transparency and Access:
  - a. Citizen Advisory Committee
  - b. Citizen Participation
  - c. Citizen Accessibility
6. Mitigation Special Case Panel

Other activities conducted by Internal Audit include:

- Review of specific program pricing policies to ensure that the decisions that are made are in the best interest of the Program, Applicants, and Taxpayer.
- Review of any items received through the Fraud Hotline (844-506-5436).

Internal Audit will specifically monitor the following:

1. Infrastructure
  - a. 25% of all applicant files
  - b. Review files to verify applicant program eligibility
  - c. Review construction files to ensure consistent and appropriate documentation, including evidence of permits
  - d. Cost reasonableness of infrastructure projects as they are approved
  - e. 25% of completed construction projects
2. Buyout
  - a. 25% of all applicant files
  - b. Review files to verify applicant program eligibility
  - c. Review files to verify incentive eligibility

3. Plans & Studies
  - a. 25% of all applicant files
  - b. Review files to verify applicant program eligibility
  - c. Review files for cost reasonableness
4. Match
  - a. 25% of all applicant files
  - b. Review files to verify applicant program eligibility
  - c. Review grant being matched for SCOR Mitigation Program eligibility or information requirements (Examples: Income verification, LMI, National Objective, etc.)
  - d. Review to ensure the overall project or the match does not exceed a Federal register or Program cap (Example: The Federal Register Notice limits the amount CDBG-MIT funds contribution to USACE projects to \$250,0000)
5. Mitigation Special Case Panel Monitoring
  - a. 100% of the files will be reviewed that are submitted to the Mitigation Special Case Panel. These reviews will focus on Eligibility, Cost Containment, and appropriate and timely scope of work items.

The Mitigation Program Director, in coordination with the Internal Audit Director, can temporarily increase the percentage of files reviewed in a program as required.

On a weekly basis, Internal Audit reports the number of cases reviewed to the Program as a metric of Internal Audit progress. Internal Audit reports any issues identified through daily monitoring activity to the contractor to facilitate expeditious corrections.

On an as-needed basis, other audits or reviews will be completed using an approved audit program. The results will be reported through a formal report along with any findings.

Semiannual Reports are provided to the Chief of Resilience to ensure they are aware of Internal Audit's progress.

### Single Audit

The State of South Carolina is in full compliance with Single Audit requirements. The State's annual expenditures are consistently reviewed every year by the Office of the State Auditor to evaluate whether the State's major federal programs follow laws, regulations, contracts, and grant rules as applicable to each program. The State maintains reports and working papers for each annual report for a minimum of three years from the date of submission to the Federal Audit Clearinghouse.

South Carolina will monitor subrecipients for compliance with financial administration requirements in accordance with Single Audit requirements previously stipulated in OMB Circular A-133, now codified in

2 CFR 200, Subpart F. The Department requires all program subrecipients who expend more than \$750,000 in federal funds during the fiscal year to submit their Single Audit review through the State's Federal Audit Clearinghouse or directly to the State for review for material weaknesses and findings or concerns. Subrecipient compliance with audit requirements has been and will continue to be maintained through an internal monitoring tracking system updated on a routine basis

The State's Single Audit is available at: <https://osa.sc.gov/wp-content/uploads/2019/03/18-Single-Audit-Report.pdf>

### **Auditee Responsibilities**

In accordance with 2 CFR § 200.508, SCOR must:

- Procure or otherwise arrange for the audit required by this part in accordance with § 200.509 Auditor selection, and ensure it is properly performed and submitted when due in accordance with § 200.512 Report submission;
- Prepare appropriate financial statements, including the schedule of expenditures of Federal awards in accordance with § 200.510 Financial statements;
- Promptly follow up and take corrective action on audit findings, including preparation of a summary schedule of prior audit findings and a corrective action plan in accordance with § 200.511; and
- Provide the auditor with access to personnel, accounts, books, records, supporting documentation, and other information as needed for the auditor to perform the audit required by this part.

### **2.07 Mitigation Special Case Panel (MSCP)**

During the activities of the Programs, many decisions will be made involving each project. These decisions will be made based on the State of South Carolina's interpretation of:

- Applicable federal and state statutes
- The Code of Federal Regulations
- State and local codes and ordinances
- Local guidelines
- The South Carolina Action Plan for Mitigation (Action Plan); and
- The SCOR Mitigation Program Policies and Procedures Manual.

SCOR will consider and respond to concerns, suggestions, requests, cases with exceptional excessive costs, and other issues pertaining to CDBG-Mitigation Program by utilizing a Mitigation Special Case Panel (MSCP). The MSCP must review the following:

- Any proposed buyout award more than established program guidelines.
- Any appeal of the buyout program appraised value of the home.
- Any request to review an incentive award that causes the buyout award to be more than program guidelines
- Any items the demolition contractor believes are truly excessive, and outside the scope of the



standard fixed price.

- Infrastructure project change orders that exceed the 10% contingency of the original scope of work pertaining to any approved project.
- Any project requesting a non-federal match of a FEMA-funded Mitigation Grant programs.
- Any plans and studies applications from State Agencies, COGs, and/or UGLG for development and/or revision of hazard mitigations plans and flood-reduction studies that will provide information for potential infrastructure projects in later phasing of the Mitigation grant; and
- Priority or eligibility appeals as requested by the Constituent Services Manager.

Internal Auditing will review the proposed item prior to the MSCP meetings. Audit shall research and investigate any information as deemed needed and may challenge the proposed item as submitted. Internal Auditing will forward any concerns regarding the information, findings, and the proposal to the South Carolina Chief Resilience Officer (CRO). The CRO will make a final determination as to whether the State will fund any items designated as inappropriate by Internal Auditing. Internal Auditing must submit documentation of the audit review into the System of Record.

The MSCP is a five-member panel that consists of the Mitigation Program Director (Chair), the Mitigation Program Manager, a SCOR Attorney, the SCOR Director of Support Services, and a SCOR Mitigation Program Representative appointed by the Mitigation Program Director, or any other member from the SCOR organization so chosen and designated by the chair. A decision memorandum or equivalent will set forth the Panel's findings on each matter it considers. The decisions memorandum is signed by the Mitigation Director and the Disaster Recovery Division Director. The signed decision memorandum will be uploaded to the System of Record.

### Emergency Change Orders

The emergency change order process is used when a previously approved mitigation project requires a time sensitive change to the existing contract that cannot wait for MSCP's monthly meeting. An emergency change order will be reviewed for determination in a compressed timeframe to avoid project delays. An example of an emergency change order is the repair of an unexpected watermain break. All actions not included in the approved scope or any increase to the approved cost for a scoped action, MUST be submitted for review and approval. An Emergency Change Order request can be submitted for two reasons:

- To prevent a major delay or impact to the process, a critical system/service, or community; and
  - The action to resolve the issue cannot be delayed until the next scheduled Mitigation Special Case Panel Meeting
- Immediate action required due to fault or action of contractor or firm (Break-Fix)

If an Emergency Change Order is requested for a Break-Fix scenario, it should be accompanied by an incident log for review and to determine the responsible party.

### Emergency change order process

1. The awarded project contractor must notify the respective Mitigation Program Manager of the need for an emergency change order.
2. The contractor provides details about the required change to include, but not limited to the cause and cost.
3. The Mitigation Program Manager determines if the request is, indeed, an emergency and if the request is feasible. The Mitigation Program Manager will consider the scope, level of urgency, and cost of request. If approved, the Mitigation Program Manager may approve additional work for a cost “not to exceed” based on the nature of the scope.
4. The Mitigation Program Manager approves or denies the emergency change order.
5. All approved emergency change orders must be presented by the approving Mitigation Program Manager for an official MSCP review at the next scheduled Mitigation Special Case Panel Meeting. If approved or disapproved, a determination is recorded for the record.
6. Denied emergency change order requests will be presented at the next scheduled Mitigation Special Case Panel Meeting. An official MSCP review is performed, and the determination is recorded.
7. The MSCP Decision Memorandum is added to the System of Record.

## Appeals

Applicants have the right to appeal any determination issued by the SCOR CDBG-Mitigation Program that affects the applicant’s eligibility or assistance determination.

If an applicant chooses to appeal, the appeal must be submitted in writing with thirty (30) calendar days of the eligibility or assistance determination letter. The appeal must include contact information for the appellant or complainant, address, and project number (if applicable), a detailed letter explaining the reason for the appeal and any supporting documents related to the appeal. The appeal may be submitted through one of the following methods below:

Address: South Carolina Office of Resilience  
**ATTN: Mitigation Appeals**  
632 Rosewood Drive  
Columbia, South Carolina 29201

Email: [DROMitigation@scor.sc.gov](mailto:DROMitigation@scor.sc.gov)

The SCOR Mitigation staff is responsible for responding to complaints and appeals in a timely and professional manner. The appeals procedure will provide a quick and efficient system for resolution of concerns or disputes that applicants may have with the procedures followed and services provided by SCOR. The Mitigation Special Case Panel will review appeals. The Constituent Services Office of SCOR will review complaints. The review process may include but not be limited to informal hearings, third-party review, and director approval. SCOR will keep a record of each complaint or appeal that it receives to include all communications and their resolutions. Complaints alleging violation of fair housing laws will be

directed to the U.S. Department of Housing and Urban Development for immediate review. Complaints regarding fraud, waste, or abuse of government funds will be forwarded to the HUD OIG Fraud Hotline (phone: 1-800-347-3735 or email: [hotline@hudoig.gov](mailto:hotline@hudoig.gov)). If an applicant disagrees with an official decision, he or she can appeal to the SCOR.

## 2.08 Technical Assistance

SCOR will provide Mitigation technical assistance to participants and subrecipients as needed. During the activities of the Programs, many decisions will be made involving each project. Technical assistance may be provided by SCOR staff or the State may contract with other technical assistance providers. Technical assistance may be delivered through a variety of methods to include in-person visits, virtual meetings, and written guidance. Requests for technical assistance must be submitted in written through one of the following methods below:

Address: South Carolina Office of Resilience  
**ATTN: Mitigation Department**  
632 Rosewood Drive  
Columbia, South Carolina 29201

Email: [DROMitigation@scor.sc.gov](mailto:DROMitigation@scor.sc.gov)

## 2.09 Permits and Codes

SCOR, its Subrecipients, or consultants will be responsible for documenting and obtaining all necessary permits for each project. A copy of all permits obtained should be submitted with the environmental review report to the State for review. The State or its Subrecipient will ensure work performed satisfies all applicable Federal, State and Local building codes and regulations. The SCOR Mitigation Program Manager or its designated Subrecipient will oversee the work of the construction contractor for each mitigation project.

## 2.10 Citizen Advisory Committee

### 1. Requirement

The 84 Federal Register 45838 Notice and the South Carolina Office of Resilience's (SCOR) Mitigation Action Plan mandates a Citizen's Advisory Committee (CAC) to meet openly in a public forum. The official name of this committee will be the SCOR's Mitigation Citizen's Advisory Committee (MCAC).

### 2. Purpose

As the Grantee, SCOR has the responsibility of ensuring that all citizens have equal access to information about the CDBG-MIT programs. Federally funded programs come with many restrictions that are often confusing and not easy to explain in plain language. Members of the MCAC will be liaisons between the Program and citizens in the counties involved in the CDBG-MIT Program. MCAC members will increase the transparency of the CDBG-MIT Program. They will help to educate the public concerning the CDBG-MIT Program activities. The MCAC allows the CDBG-MIT staff to gather community information by providing the MCAC as an on-going public forum for public comment and input. The MCAC helps to inform the CDBG-MIT staff of key community perspectives, as well as an opportunity for the CDBG-MIT Program to

disseminate information to the communities. The overall purpose of the MCAC is to assist in building a partnership between communities and the CDBG-MIT Program.

### **3. Member Selection**

Members of the MCAC will be selected by the Mitigation Director. Members will be community leaders that possess a working knowledge and understanding of the South Carolina Office of Resilience- Disaster Recovery Division and its mission. The MCAC will consist of non-governmental citizens, representing all 17 counties that SCOR is conducting CDBG-MIT projects in or for. Members will be selected to represent 1-3 counties each.

- Members of the MCAC will be chosen at will by the SCOR Mitigation Director.
- A MCAC member may be removed at any time without cause by the Mitigation Director.
- The membership of the MCAC will be public information.
- A MCAC member may resign at any time by notifying the Mitigation Director in writing.

### **4. Roles and Responsibilities**

- MCAC Members
  - Serve as liaisons between the Program and citizens in the counties designated to be served in the CDBG-MIT Program area.
  - Shall receive and respond to public comments/input regarding mitigation activities.
  - Provide information and feedback on SCOR's CDBG-MIT projects and activities.
  - Will work cooperatively with SCOR's CDBG-MIT staff to provide transparency in the implementation of CDBG-MIT funds.
  - Will provide contact information for use by the public and CDBG-MIT staff by way of a state hosted e-mail program as published on the SCRO website.
  - Will solicit public interaction and acquire information to assist the SCRO CDBG-MIT Program in developing a positive, constructive relationship with the communities the program is serving.
  - Will always maintain confidentiality. Personal Identifying Information (PII) and all other sensitive information will be protected and shall be shielded from the public.
- CDBG-MIT Staff
  - Will provide the SCOR Mitigation Coordinator as the primary liaison between the MCAC members and the CDBG-MIT Program.
  - Will provide quarterly updates to the MCAC members through the Mitigation Coordinator.

### **5. Meetings**

- The MCAC will meet bi-annually in an open form. MCAC meetings, unless otherwise coordinated, will be held in June and December, immediately following the SCOR Stakeholders' meetings.

- The Mitigation Coordinator will provide MCAC members with an agenda 24 hours before the MCAC meeting.
- At the bi-annual meetings, the Mitigation Director or appointed representative will provide MCAC members with a program update and a look what is upcoming in the program. The Mitigation Director or appointed representative will solicit citizen feedback from the MCAC members on current projects and future projects.
- Minutes of the meeting will be recorded.
- At a minimum the minutes will include.
  - The date, time, and location of the MCAC meeting.
  - The members of the MCAC recorded as either absent or present.

### **2.11 Compliance and Monitoring**

SCOR must ensure compliance with applicable regulations, which include but are not limited to regulations regarding recordkeeping, administrative and financial management, environmental compliance, conflict of interest, procurement, Davis-Bacon Labor Standards, diversity and civil rights regulations, property acquisition and management, displacement, relocation, and replacement. Monitoring will be carried out by SCOR program staff and auditors as well as subrecipient administrators. All projects will be monitored quarterly will be scheduled well in advance with the appropriate administrators.

Technical assistance may also be given by SCOR staff, if requested or determined that it would best suit the subrecipient and the State's investment of grant dollars. Technical assistance visits are made to assist the grantee toward achieving successful project completion.

Infrastructure projects shall be monitored by SCOR through schedules and project expenditures. At the initiation of a project a detailed project schedule will be developed covering the design and construction of the project. This schedule will be maintained through the life of the project and shall be updated no less than quarterly.

Project schedule and budget changes shall be documented in a Project Change Log and include the following:

- Description of the change made
- Reason for the change
- Any ramifications resulting from the change, i.e., additional funding must be sought, change to project expenditure projects etc.

The Project Change Log will be included in the project file and updates will be provided to the Mitigation Director and Mitigation Program Manager.

Project expenditures will be tracked through the monthly consultant/contractor payment approval process and through the quarterly update.

Rejected payment requests shall be saved in the project files and include on the rejected payment application, or within attached correspondence, the date and nature of the rejection. Digital files shall be clearly named to differentiate the rejected applications from those approved for payment.

Monitoring review activities are conducted to ensure compliance with the following objectives:

- Review Subrecipient Agreement compliance. A Subrecipient or contracted vendor will be monitored to ensure all funded activities are eligible; beneficiaries served are accountable; and funds have been expended in accordance with SCOR, state and federal requirements, as outlined in the Subrecipient Agreement. Compliance area reviewed by C&M include financial management, advance payment, acquisition, infrastructure change orders, equipment, procurement, environmental approvals, and labor standards
- Procedures to detect fraud, waste, and abuse. SCOR, a Subrecipient, or contracted vendor's processes or systems and other policies and procedures used to administer SCOR CDBG-MIT funds will be monitored for adequate protections against fraud, waste, and abuse
- Identify any necessary corrective actions. A review could result in prescribed corrective measures to be carried out by SCOR, the Subrecipient or contracted vendors up to and including repayment
- Identify technical assistance needs. A review may reveal a need for additional technical assistance.

### Monitor Review Types

The Mitigation Team performs two types of reviews: desk or on-site monitoring.

- **Desk Review**

A desk review requires the Mitigation Team to sufficiently review selected project(s) or activities and the related compliance area(s) via electronic means. A desk review is generally conducted in the following situations:

- The size, scope, or complexity of the review allows a desk review
- An interim review or a complaint is received and warrants a desk review
- The Subrecipient or contracted vendor requests a desk review, and this request is approved by SCOR

- **On-site Review**

An on-site review requires the Mitigation Team to sufficiently review selected project(s) or activities and the related compliance area(s) during a scheduled visit at the Subrecipient or contracted vendor project location. An on-site review is generally conducted in the following situations:

- The size, scope, or complexity of the review would benefit from an on-site review
- An interim on-site review or a complaint is received that warrants an on-site review
- The Subrecipient or contracted vendor requests an on-site review, and the request is approved by SCOR

At minimum, one annual on-site review, **per each infrastructure project**, must be completed by the Mitigation Team.

- **Monitoring Professional Services**

SCOR will monitor all procured professional services and those procured by subrecipients. SCOR may have to procure professional expertise from another entity to monitor procured professional services. This procurement and compliance monitoring is part of activity or program delivery of the project but is separate from any award to a subrecipient. This compliance monitoring can include but is not limited to:

- Surveying
- Appraisals
- Demolition
- Lead Based Paint Testing/Mitigation
- Asbestos Testing/Mitigation

### **General Monitoring Methodology**

Prior to an on-site monitoring review, a written notification will be provided to the Subrecipient or the contracted vendor from SCOR of the type of review that will be conducted. Selected compliance areas, projects or activities, and duration of the visit are examples of information that will be provided in the notification letter. The following steps are integral to conducting a monitoring review:

- Conducting an entrance conference with the appropriate representatives to explain the purpose of review
- Applying the applicable requirements through documented work papers
- Reviewing the applicable files
- Interviewing members of staff, engineers, and/or consultants, as appropriate to discuss project related issues
- Conducting an exit conference with the appropriate representatives to present the preliminary conclusions identified during the review
- Issuing a formal written report summarizing the conclusions of the review
- SCOR retains the right to modify the monitoring procedures and monitoring tools as deemed necessary

### **Decision Categories**

One or more conclusions may result from a monitoring review that indicates the following:

- The performance complied with the requirements of the SCOR program
- Findings that require corrective actions by the Subrecipient or contracted vendor
- Concerns about the performance of the projects or activities
- Observations for efficiencies or items of note
- Technical assistance is necessary

The terms above are defined by HUD as:

- A “finding” is an issue of statutory or regulatory noncompliance that must be addressed immediately
- A “concern” is an issue that is not an instance of statutory or regulatory noncompliance but may result in noncompliance if they are not addressed

- An “observation” is a comment about an area where the funded entity can improve program performance or recognize exceptional success and best practices

### Non-Compliance Procedures

The results of the monitoring review may require corrective action by the Subrecipient or contracted vendor. A monitoring report will be issued which outlines the findings, concerns, and/or observations and identifies corrective actions to be carried out to remedy identified deficiencies.

If corrective actions are identified, the Subrecipient or contracted vendor must respond to SCOR by the date indicated on the report. Issues identified in the report must be resolved prior to the close-out of the Subrecipient or vendor contract. A clearance monitoring letter will be issued to the Subrecipient or contracted vendor stating that corrective actions address the issues noted within the monitoring report. Depending on the severity of the issues identified in the report, corrective actions may include remedies for non-compliance that include:

- Temporary withholding of cash payments until correction of the deficiency
- Disallowed cost recovery
- Wholly or partly suspend the Subrecipient Agreement
- Initiate suspension or debarment proceedings
- Withhold further Subrecipient Agreements
- Other legal remedies as available

## 2.12 Complaints

When a complaint or appeal is received, a Constituent Service Representative will respond to the complainant or appellant within fifteen (15) business days where practicable. For expediency, the SCOR Mitigation staff shall utilize telephone communication as the primary method of contact; however, email and postmarked letters will be used as necessary.

### Responsibilities

SCOR has identified the SCOR Constituent Services staff section to handle all property owner and homeowner inquiries.

These staff will be responsible for:

- Determining whether complaints and appeals relate to the business or authority of SCOR
- Ensuring that a response to all complaints and appeals are within the appropriate time frame (response must be provided within 15 working days of the receipt of the complaint)
- Ushering all complaints and appeals through to a resolution
- Maintaining all documentation related to each appeal and complaint. Each file must include the following:
  - Results of the investigation, together with any notes, letters, or other investigative documentation
  - The date the complaint or appeal was closed; and
  - Any other action is taken.



## 2.13 Reporting

To ensure situational awareness for members of the SCOR organization as well as HUD and the citizens of South Carolina, SCOR plans to report its progress in several ways.

### **Disaster Recovery Grant Reporting (DRGR)**

As required by HUD, SCOR's Mitigation program will utilize the Disaster Recovery Grant Reporting System (DRGR) to submit its Action Plan detailing its projected use of CDBG-MIT grant funds and report quarterly on its accomplishments pertaining to the same.

The SCOR staff will ensure that accurate information is collected and reported to HUD in DRGR, and that relevant systems and procedures comply with Federal policies and requirements governing reporting. Additionally, they will ensure that the Quarterly Performance Reports (QPR)s, Public Law Documents, and other required documents are properly uploaded to the SCOR Mitigation website for Public viewing.

#### **Procedures:**

DRGR breaks down a grant into categories known as projects. It further breaks down each grant project into subcategories called activities. Activities are grouped in a project based on their geographic or National Objective similarities. SCOR will base its DRGR projects on those stated in the Action Plan. Activities are based on a single National Objective. Each National Objective is defined by HUD and has individual requirements that must be met by SCOR. Any activity actions that do not meet a specific National Objective's requirements must be reported under a new separate activity.

QPRs are to be submitted to HUD no later than 30 days after the end of a Quarter. A copy of the QPR, Public Laws, and other required documents must be uploaded to the Mitigation website within 3 days. The same 3-day requirement applies to QPR resubmissions and approved QPRs. All Action Plan Amendments must be properly reflected in DRGR the quarter they occur.

## 2.14 Closeout

The closeout process is designed to ensure all CDBG-MIT activities are completed and funds are expended in accordance with either the subrecipient agreement, contracted vendor agreement, program rules, and state and federal requirements. This means any financial, administrative, and performance issues related to the Mitigation Program stipulated as part of the applicable contract have been resolved to the satisfaction of SCOR, HUD, and the subrecipient or contracted vendor. The closeout process also certifies that the persons benefiting from the activities are receiving services or a benefit from the use of the new or improved project, facilities and/or activities.

The closeout process must be initiated by SCOR for State-run projects and by subrecipients for subrecipient-run project.

Closeout begins when:

- All costs to be paid with CDBG-MIT funds have been expended and payment requests, submitted, with the exception of closeout costs (final administrative and audit costs), and other costs approved in writing by SCOR
- The work described in the currently approved Performance Statement has been completed

Prior to the closeout of a completed project, SCOR will conduct a review to ensure that each case:

- Met a HUD national objective
- Was an eligible activity
- Had no outstanding issues

### **Closeout Process**

The program activity closeout process consists of a thorough review and determination that all costs, with certain exceptions, paid with CDBG-Mitigation funds have been incurred, the work has been completed, and the national objective has been met. This process is documented in the Grant Closeout Report (GCR) and the required supporting documentation identified. Other information may be required and requested by the SCOR. The GCR must be submitted within 60 calendar days after the project is completed.

### **Grant Closeout Report (GCR)**

The following must be included in the GCR:

- A project map showing the location(s) of the project
- Certificate of Expenditures (COE)
- Performance Statement Checklist
- Beneficiary Detail Report
- Any other documentation as required

After the GCR has been reviewed by the necessary departments, it will be signed by the Environmental Certifying Officer and the Mitigation Program Director. The signed GCR will be included in the respective project file.

### **Certificate of Expenditures (COE)**

This section of the GCR documents financial status of the applicable completed agreement or contract, including both CDBG-MIT funds and any other funds used for the project. All budget activity is listed in the following columns:

- SCOR Budget: CDBG-MIT funds allotted to each budget activity including all amendments and revisions
- SCOR Funds Expended (Including Final GA Draw): Funds received from CDBG-MIT through approved Requests for Payment. Pending Requests for Payment are included in this amount
- Final GA Draw: Amount of final GA Draw
- Unutilized Funds: Total grant funds that will NOT be requested including all funds not Drawn to Date or requested for Reserve. All funds included in this column will be de-obligated by SCOR
- Local Contribution: All funds or local contribution other than CDBG-MIT funds used to complete the project

### **Actual Accomplishments**

The GCR reports all work completed by the activity. The work reported must correspond to the project described in the Performance Statement and be reported in the same quantitative terms as those used in

the applicable agreement or contract (if the Performance Statement describes a project without using linear feet, report the item as a linear foot metric).

### **Beneficiary Detail Report**

Complete Beneficiary Detail Reports for all activities in the Performance Statement (excluding engineering, administration, and acquisition if incidental to the project). The total number of persons benefiting, and the number of households benefiting if applicable, must equal the total activity beneficiaries or households listed in the Performance Statement.

If multiple projects/activities benefit exactly the same group of persons, the detailed beneficiary information may be reported once for the group of activities in order to minimize the length of the report. Indicate all activities to which the report applies at the top of the report.

## **III. POLICIES**

### **3.00 Duplication of Benefits**

The South Carolina Office of Resilience (SCOR) will ensure that it follows Section 312 of the Robert T. Stafford Disaster Assistance and Emergency Relief Act (42 U.S.C.5155), also known as the “Stafford Act”, which prohibits any person, business concern, or other entity from receiving financial assistance with respect to any part of a loss resulting from a major disaster for which he or she has received financial assistance under any other Program or from insurance or any other source. Community Development Block Grant-Disaster Recovery (CDBG-DR) or Community Development Block Grant-Mitigation (CDBG-MIT) funds issued through SCOR programs may not be used for any costs when another disaster recovery or mitigation assistance was previously provided by another source for the same purpose.

The Stafford Act directs administrators of Federal assistance to ensure that no person, business, or other entity will receive duplicative assistance and imposes liability to the extent that such assistance duplicates the benefits available to the person for the same purpose from another source. The amount of duplication is the amount of assistance provided in excess of need. (Federal Register/Vol.76, No. 221/Wednesday, November 16, 2011). 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 assistance. A Duplication of Benefits (DOB) occurs when:

- A beneficiary receives assistance
- The assistance is from multiple sources
- The assistance amount exceeds the need for a particular recovery purpose

To ensure that SCOR does not provide a duplication of benefits, SCOR programs will adhere to the following general process:

1. Determination of the applicant’s total need

2. Identify all potentially duplicative assistance
3. Determine whether assistance was duplicative
4. Deduct duplicative assistance from the applicant's total need

### **Recapture Duplication of Benefits**

If duplication of benefits is identified, SCOR will recapture funds to the extent they are in excess of the need and duplicate other assistance received by the beneficiary for the same purpose.

### **Sources of Duplication of Benefits**

The following are sources of funding assistance provided for structural damage and loss that are considered a DOB. Under federal law DOB must be deducted from the assistance amount (the amount that will be offered for the purchase of the home): FEMA Individual Assistance (IA), FEMA National Flood Insurance Program (NFIP), Private Insurance, and other sources. Assistance received in the form of services instead of money, for home repairs from any source is not considered a duplication of benefits. Any additional duplication of benefits received by the applicant after the offer for purchase has been extended, the funding for the purchase of the home has been awarded or the purchase transaction has occurred, must be applied to reduce the award amount.

Funds received from any source including flood insurance, FEMA, and hazard insurance that were used to cover repair to the applicant's home do not reduce the amount of disaster assistance if the evidence of expenditures at least equals the amount of assistance. Documentation must be provided demonstrating the cost and type of repair conducted. The Program will conduct a work write-up that will inspect, confirm, and estimate the value of repairs based upon the applicant's statement of repair work already completed.

Note: In accordance with the 2019 DOB Notice, any subsidized loan declined by an applicant, and any subsidized loan accepted by an applicant and used for a disaster-related loss, is not a duplication of benefits. These types of assistance may be included in necessary and reasonable analysis but will not be considered a duplication of benefits. SCOR will apply this treatment of subsidized loans to all of its programs retroactively.

### **FEMA Individual Assistance (FEMA IA)**

FEMA IA will be determined and verified by SCOR through the FEMA database. If SCOR is unable to verify the FEMA IA amount through the FEMA database, SCOR will use the payment amount provided by the applicant at the time of application. If an applicant is able to provide documentation demonstrating that the FEMA IA amount provided by the FEMA database includes amounts not paid to cover structural loss, SCOR will use the documentation provided by the applicant to adjust the FEMA IA payout amount. The documentation provided by the applicant must come from FEMA.

### **FEMA National Flood Insurance Program (NFIP)**

SCOR will check all applicants for NFIP to verify whether they maintained flood insurance. Any payments for loss to the dwellings under NFIP insurance policies are deducted from the amount the applicant is eligible to receive. Payments for contents or other expenses are not deducted from the applicant's award.

The payment to applicants under NFIP policies will be determined and verified by SCOR through the FEMA database and cross-referenced with other applicable data. If SCOR is unable to verify the NFIP insurance proceeds through the NFIP database, SCOR will use documentation supplied by the applicant. If an applicant is able to provide documentation demonstrating that the insurance proceeds amount provided by the FEMA database includes items not covered in the home evaluation or not paid to cover structural loss, SCOR will use the documentation provided by the applicant to adjust the insurance payout. The documentation provided by the applicant must come from the insurance company which issued the payments.

### **Increased Cost of Compliance (ICC)**

The program will determine the duplication of benefits regarding Increased Cost of Compliance funds for elevation and/or demolition activities.

If severe property damage occurs because of flooding it may be required by law that the property meet community ordinances and/or state floodplain management standards. ICC coverage provides funding to help cover the costs of meeting those requirements with the intent aimed at reducing future flood damage. ICC coverage is separate from and in addition to insurance coverage that provides for structural or personal flood damage repairs.

### **Private Insurance and Wind Insurance**

All private insurance settlement amounts for loss to dwellings are considered a DOB and may reduce the amount of assistance for which an applicant may be eligible. Private insurance payments for anything other than the damaged structure (contents, fences, storage sheds, etc.) are not deducted from the applicant's award. Applicants must submit the following:

- Validated external data-source information
- Insurance Policy Declarations page
- Insurance award or claims letter (if applicable) and Insurance/Benefit Certification

Insurance proceeds are determined and verified by SCOR by contacting the insurance company and verifying proceeds if confirmed data is unavailable from a third-party data source. If SCOR is unable to obtain a response from the insurance company within two weeks, it will use the amount provided by the applicant on the insurance/benefit certification.

Mold remediation is not included in the home evaluation. Therefore, insurance payments to cover mold remediation are not deducted from an applicant's funding assistance award. The documentation provided by the applicant must come from the insurance company which issued the payments.

### **The Small Business Administration (SBA)**

In keeping with the 2019 DOB Notice, any SBA loan proceeds available to the applicant are not considered when calculating a DOB.

### **Charity**

SCOR will contact charity organizations that have aided an applicant and verify the value of any assistance provided for structural repairs. If an applicant can provide documentation demonstrating the amount

provided by the nonprofit agency, SCOR Program will use the amount provided by the applicant.

#### **Adjustments and Offset to the Amount of Assistance**

Any portion of DOB funds that have been determined to have been spent by the applicant on Allowable Activities, as defined below, will reduce the amount considered to be a DOB. When an applicant is eligible for the buyout program, the amount of Allowable Activities that are allocated to the specific SCOR award to offset the DOB is determined based on the percentage of specific SCOR DOB of the total DOB. This percentage method is used in lieu of allocating the total of allowable activities to only one of SCOR's program's awards. The applicant will be responsible for accurately reporting the specific amounts spent on the Allowable Activities. Such activities include:

- Repair Expenses, Including Emergency Repairs
- Contractor Fraud
- Forced Mortgage Payoffs
- Legal Fees
- Temporary Living Expenses

Applicants will be able to deduct from their DOB insurance, SBA, and FEMA amounts spent to repair their home due to damage by the applicable disaster.

#### **Examples of Allowable Eligible Repair Expenses:**

- Structure repairs (roof, foundation, electrical, plumbing, and windows)
- Limited debris removal
- Mold remediation
- Labor, material, and equipment rental to permanently or temporarily repair the damaged residence (carpeting, cabinetry, appliances, flooring, fixtures, doors, walls, and ceilings)
- Demolition costs
- Installation of wells, septic tanks, electricity, HVAC, and plumbing
- Grading or leveling of property
- Rental of Disposal and Removal Equipment (backhoes and dumpsters),
- Other costs or expenses associated with repairing, stabilizing, or reconstructing the property
- Tree/shrub removal if tree/scrub blocked access to the home or presented a safety hazard
- The following more specific examples are allowable activities:
  - Tarps
  - Building Supplies
  - Siding
  - Sewer/Septic
  - Paint
  - Weather head
  - Water heater

#### **Required Repair Expenses Documentation:**

- Receipts (if applicable),
- Paid invoice(s), and/or
- Validation by Construction Inspector

A SCOR designated Inspector must determine with reasonable assurance that any repairs claimed for DOB offset were made after the date of the event and will document confirmed repairs with a written assessment, cost estimate, and photographs.

Copies of receipts that support repairs to the home may be provided to SCOR to document eligible expenditures in support of the inspection. All receipts will be reviewed for fraud and/or post-dating. Invalid receipts will not be included in the cost of repairs. Applicants will be required to document repairs made to the home if a construction inspector is unable to validate the repairs on site.

#### **No Receipts Provided**

If the household is unable to provide receipts to show work completed for assistance amounts received for housing repair and/or replacement, the full amount of housing repair and/or replacement assistance previously received must be deducted from the amount of funding for which the household would otherwise be eligible.

#### **Partial Receipts Provided**

If partial receipts are provided by the household documenting that only a portion of the housing repair and/or replacement assistance previously received was used as intended, the amount received not supported by receipts must be deducted from the amount of funding for which the household would otherwise be eligible.

#### **All Receipts Provided**

If receipts are provided by the household documenting that the full amount of housing repair and/or replacement assistance previously received was used as intended, no deduction is made from the award amount for which the household is eligible.

#### **Contractor Fraud**

If an applicant was a victim of contractor fraud, the amount paid to the contractor will not be counted as a DOB. The following documentation is required to allow SCOR to determine if any amount paid to a Contractor can be excluded in the DOB calculation:

- Police report or complaint dated before the date of the application
- Proof of cancelled check (if applicable)
- Bank statement reflecting payment (if applicable)
- Contract between applicant and contractor, if applicable

Reported Contractor fraud will be verified through review of the police report and complaint. If no amount is included in the complaint, the applicant will complete an affidavit to accompany the complaint that lists an amount to reduce the DOB total. In scenarios where a police report, complaint, or contract, are not

available, information provided by the applicant will be reviewed on a case-by-case basis.

### **Forced Mortgage Payoff**

In the event an applicant's mortgage requires any insurance proceeds to be applied to reduce the lien balance, the mortgage holder (not the homeowner) is considered to have legal control over those funds making the homeowner legally obligated to use insurance proceeds for that purpose.

Under these circumstances, the amount of the insurance proceeds required by the mortgage company to be applied to the mortgage balance will be excluded from the DOB calculation.

To be considered for exclusion, the applicant must provide a copy of the correspondence or letter from the mortgage company on company letterhead and signed by an authorized representative stating the applicant was required to use the disaster assistance funds for this purpose. This will demonstrate they were required to apply the insurance proceeds to their mortgage balance.

SCOR will verify the correspondence/letter is on mortgage company letterhead, includes the damage address, and lists the amount forced to pay off the principal. The amount of involuntary payoff will reduce the amount of DOB.

### **Legal Fees**

Legal fees/expenses incurred by the applicant due to litigation related to an Insurance policy claim for the named disaster will be excluded from the DOB calculation. To be considered for exclusion, an applicant must submit the following documentation:

- Evidence of payment to a legal firm (Attorney Fee and Expense statement), and/or
- Settlement agreement (if applicable).

SCOR will review the submitted documentation and verify if the amount paid to the Attorney can be excluded and reduce the DOB.

### **Temporary Living Expenses**

Funds spent by an applicant for temporary housing from the date of the storm, which can be established by the Program can be deducted from the DOB total.

Hotel receipts, apartment leases, rental agreements, rental receipts, and/or proof of payment for other temporary living arrangements must be submitted by the applicant.

A calculation of all monthly payments made by the applicant may be necessary. If sufficient documentation for temporary living expenses is provided, the DOB total will be reduced.

### **3.01 Davis-Bacon & Related Acts Labor Standards**

The South Carolina Office of Resilience (SCOR) will follow the Davis-Bacon and Related Acts Labor Standards in the execution of projects related to its HUD-funded Community Development Block Grant-



Mitigation (CDBG-MIT). This section offers a brief description of the laws and regulations associated with federal labor standards administration and enforcement, including labor standards compliance and documentation requirements for Davis-Bacon and related acts. The US Department of Labor has published a guide for construction contractors (See Davis-Bacon Forms & Documents or DBFD #1 – HUD Construction Contractor Labor Standards Guide 4812). This Information is also available at the following HUD website link: [https://www.hud.gov/program\\_offices/administration/hudclips/handbooks/sech/13441](https://www.hud.gov/program_offices/administration/hudclips/handbooks/sech/13441)

The Office of Davis-Bacon and Labor Standards (DBLS) is responsible for HUD’s overall compliance with the federal prevailing wage requirements applicable to HUD funded CDBG-MIT programs. Title I of the Housing and Community Development Act of 1974 requires the payment of local prevailing wage rates as determined by the U.S. Department of Labor to all workers on CDBG-MIT funded construction projects costing over \$2,000 (42 USC §5310; 40 USC 3142(d)). These requirements apply regardless of whether contracts are acquired through sealed bid, small purchase, or non-competitive proposal (sole source) procurement processes.

The following are examples of CDBG-MIT financed activities not considered “construction work” and which do not trigger Davis-Bacon and related requirements:

- Real property acquisition (buyouts)
- Architectural and engineering fees
- Other professional services such as legal, accounting, or testing and
- Other non-construction items such as furniture, business licenses, or real estate taxes

### Objectives

When administering construction projects, the Davis-Bacon Act requires five (5) key labor standard objectives to be accomplished to enforce its requirements and protect workers’ rights. Davis-Bacon applies to prime contractors and subcontractors performing work on federally funded or assisted contracts costing over \$2,000 for the construction, alteration, or repair (including painting and decorating) of public buildings or public works. Davis-Bacon also applies to residential construction for any project involving the construction, alteration, or repair of eight or more separate, contiguous single-family houses operated by a single entity as a single project, or eight or more units in a single structure.

#### Davis-Bacon Labor Standards Compliance Objectives for Applicable Projects:

- Employ Davis-Bacon requirements appropriately
- Confirm compliance with labor standards
- Monitor contractor/subcontractor performance
- Investigate probable violations and complaints of underpayment and
- Pursue debarment and other available sanctions against repeat labor standards violators

### Compliance Actions Essential for Achieving Davis-Bacon & Related Acts Standards

SCOR is responsible for compliance with all applicable wage enforcement and labor standards contained in the Davis-Bacon Act, Contract Work Hours & Safety Standards Act (CWHSSA), Copeland Act (Anti-Kickback Act), Fair Labor Standards Act (FLSA), McNamara-O’Hara Service Contracts Act, and other

related acts for its self-run construction projects and those run by its subrecipients of CDBG-MIT funding. Each of SCOR-MIT's CDBG-MIT funded subrecipients is responsible for its prime contractor and subcontractor compliance with all applicable wage enforcement and labor standards contained in the Davis-Bacon Act, Contract Work Hours & Safety Standards Act (CWHSSA), Copeland Act (Anti-Kickback Act), Fair Labor Standards Act (FLSA), McNamara-O'Hara Service Contracts Act, and other related acts while they work on CDBG-MIT funded construction projects.

To ensure compliance at both the grantee and subrecipient levels with these requirements, SCOR has established a series of ten (10) specific compliance actions. SCOR will implement these compliance actions itself and make them mandatory for its CDBG-MIT funded subrecipients to implement them in partnership with their prime contractors and subcontractors prior to the start of any actual construction. These specific compliance actions are:

#### **Compliance Action 1 – Appoint Labor Standards Compliance Officer & Coordinator (LSCO/LSCC)**

Each subrecipient of CDBG-MIT funding must appoint a Labor Standards Compliance Officer (LSCO) to oversee its construction projects. Each prime contractor must appoint a Labor Standards Compliance Coordinator (LSCC) to oversee the activities of itself and its subcontractors at its construction projects. Both LSCOs and LSCCs are required positions for construction activities. These positions may be an employee or a designee of a private consulting firm, however, they must understand HUD's compliance requirements with federal prevailing wage obligations applicable to HUD funded CDBG-MIT projects. Prime contractor LSCCs will be the subrecipient LSCO's point of contact for all wage and labor standards communication related to the prime contractor construction projects (including subcontractors working under the prime contractor). The subrecipient LSCO will be SCOR's point of contact for all wage and labor standards communication related to the subrecipient's Infrastructure grant. Each subrecipient prime contractor must complete and submit to the subrecipient a Labor Standards Coordinator Designation Form designating its LSCC. Each subrecipient must complete and submit to the SCOR's Mitigation Infrastructure Manager a Labor Standards Officer Designation form designating its LSCO along with copies of each of its prime contractor's Labor Standards Coordinator Designation Forms (*See DBFD #2 – LSCO/LSCC Designation Form*).

At the prime contractor and subcontractor levels, LSCCs are responsible for regulatory administration and enforcement of all federal wage and labor standards requirements in all agreements covered by the provisions contained in Davis-Bacon and related acts; and are accountable to the subrecipient LSCO.

At the subrecipient level, the LSCO is responsible for regulatory administration and enforcement of all federal wage and labor standards requirements in all agreements covered by the provisions contained in Davis-Bacon and related acts; and are accountable to the SCOR Mitigation Infrastructure Manager. Davis-Bacon and related act responsibilities for LSCCs and LSCOs include:

- Providing wage enforcement and labor standards preconstruction advice, and support to other project principals (for example, the owner, sponsor, or architect), to include ensuring no prime or sub-contract is awarded to a construction contractor or subcontractor ineligible (i.e., debarred) for federally assisted work,
- Providing the proper Davis-Bacon prevailing wage rate and ensuring that wage rate and applicable provisions are incorporated into all construction contracts and subcontracts,
- Monitoring wage enforcement and labor standards compliance by conducting interviews with workers at job sites,

- Reviewing weekly payroll reports and ensuring applicable Davis-Bacon wage rates,
- Checking to make sure the Department of Labor’s “Notice to All Employees” federal posters are displayed at job sites (*See DBFD #3 – US DOL’s “Notice to All Employees” Federal Poster*), and
- Overseeing any enforcement actions that may be required.

### **Compliance Action 2 – Obtain Applicable Wage Decisions**

Prime contractor LSCCs must obtain all applicable Wage Decisions for each specific CDBG-MIT funded construction contract greater than \$2,000 where Davis-Bacon and related acts (DBRA) apply (*See DBFD #4 – Sample Wage Decision*), and forward copies of those Wage Decisions to their subrecipient LSCO. Subrecipient LSCOs must forward a copy of all Wage Decisions for each of their projects to the SCOR-MIT Infrastructure Manager. LSCCs can pull their Wage Decisions at <https://beta.sam.gov/>. Wage Decisions are modified regularly to ensure they remain current and include:

- A list of construction work classifications (Carpenter, Electrician, Plumber, Laborer, etc.)
- Minimum wage rates, fringe benefits and the prevailing wage rate geographic location for each classification
- Each classification’s assigned category group (Heavy, Highway, Building, and Residential Construction)
- The geographic areas to which each Wage Decision applies and
- The specific contract specifications to identify the segments of work to which the schedules apply for advertised and contract stipulations. The following descriptions are provided as guides:
  - a. Highway Construction – Highway projects include the construction, alteration or repair of roads, streets, highways, runways, taxiways, alleys, trails, sidewalks, paths, parking areas, and other similar projects not incidental to residential, building, or heavy construction.
  - b. Building Construction – Building construction generally is the construction of sheltered enclosures with walk-in access for the purpose of housing persons, machinery, equipment, or supplies. It includes all construction of structures and residential structures, the installation of utilities, and the installation of equipment, both above and below grade level, as well as incidental grading, utilities, and paving. Additionally, such structures need not be “habitable” to be building construction. The installation of heavy machinery and/or equipment does not generally change the project’s character as a building.
  - c. Residential Construction – Residential projects includes the construction, alteration, or repair of single-family houses, apartment buildings of no more than four stories in height. This includes all incidental items such as site work, parking areas, utilities, streets, and sidewalks. Property is defined as one or more buildings on an undivided lot or on contiguous lots/parcels which are commonly owned and operated as one rental or project.
  - d. Heavy Construction – Heavy projects are those projects that are not properly classified as either building, highway or residential. Unlike these classifications, heavy construction is not a consistent classification. Because of this catch-all nature, projects within the heavy classification may sometimes be distinguished based on a project’s particular characteristics, and separate schedules issued. For example, separate schedules may be issued for dredging projects, water and sewer line projects, dams, major bridges, and flood control projects.

### **Compliance Action 3 – Include Wage Decisions in Bid Documents**

- All subrecipient construction work procured through sealed bid or small purchase procurement must include in the bid documents:
  - a. Wage Decisions including any modifications
  - b. A review the various Wage Decisions for each county
  - c. The Wage Decisions most appropriate for the work to be done and
  - d. Include the type of work and locations where each Wage Decision is applicable in each Wage Decision's first paragraph.

### **Compliance Action 4 – Ensure Wage Decisions are Current Before Bid Openings**

Subrecipient LSCOs must confirm all Wage Decisions contained in bid specifications for construction contracts are still current for the bid opening date. Each LSCO must re-verify the Wages Decisions and complete the Ten (10)-Day Confirmation form ten (10) calendar days or less before the bid opening. The completed Ten (10)-Day Confirmation form, signed by the LSCO, and a copy of the current Wage Decision must be retained in the local SCOR-MIT Program Agreement file, and a copy of the entire packet sent to LSCCs (*See DBFD #5 – Ten-Day or TD Confirmation Form*). The date each Wage Decision was confirmed by the LSCO must be recorded as follows:

- For Housing – The “Bid Open Date” is the “Notice to Proceed Date.”
- For Competitive Sealed Bid – The ‘Bid Open Date’ is the date sealed bids are opened.
- SCOR considers 5 or more days prior to bid opening to be a reasonable amount of time to notify prospective bidders per HUD handbook 1344.1 (3-10(A)).
- LSCOs must retain copies of the addenda issued notifying bidders of the new wage rates, if applicable.
- Modifications to Wage Decisions published by DOL less than five (5) days before bid opening may be disregarded if found and there is not sufficient time to notify bidders. However, if this occurs, the LSCO should create a written explanation to retain in the local SCOR Mitigation Program Subrecipient Agreement file.
- The Ten (10)-Day Confirmation form does NOT “lock in” wage rates. Rather:
  - a. For Housing – Wage Decisions “Lock-In” at the construction contract award or start of construction, whichever occurs first.
  - b. For Infrastructure – Wage Decisions “Lock-In” at bid opening provided the construction contract is awarded within 90 days. However, for construction contracts awarded beyond 90 days, LSCOs must reconfirm the Wage Decisions.

### **Compliance Action 5 – Confirm Eligibility Status on Recommended Construction Contractors**

Prior to awarding and executing any construction contract, subrecipient LSCOs must verify the eligibility of prime contractors and their subcontractors. To accomplish this LSCOs must:

- Use the System of Award Management (SAM) website at <https://www.sam.gov/SAM/> to confirm:
  - a. All prime contractors and their subcontractors have active SAM registrations and are not listed as “debarred” in the System for Award Management (SAM) and
  - b. Document the eligibility check was conducted in their local SCOR-MIT Program Agreement file.

### **Compliance Action 6 – Award Appropriate Construction Contracts**

Each construction contract awarded by a subrecipient that is subject to Davis-Bacon and related act wage enforcement and labor standards requirements must:

- Contain applicable wage enforcement and labor standards compliance stipulations including:
  - a. The wage enforcement and labor standards responsibilities and obligations of prime construction contractors and subcontractors,
  - b. Remedies in the event of violations, including:
    - Withholding payments due the construction prime contractors and/or subcontractors to ensure payment of wages or liquidated damages, and
    - Enabling enforcement of the labor standards applicable to the project by the LSCO
  - c. As a best practice, subrecipients should incorporate HUD Labor Standards form 4010 into their construction contracts and provide it to contractors and subcontractors with other pre-construction documentation (*See DBFD #6 – HUD Labor Standards Form 4010*),
- Contain applicable Davis-Bacon Wage Decisions, and
- Include notice that if a construction contract has not been awarded within 90 days after bid opening, any Wage Decision modification published prior to the award of the construction contract will be effective for that construction contract.

### **Compliance Action 7 – Request Additional Classifications & Wage Decisions as Appropriate**

Subrecipient LSCOs may request additional classifications in writing along with a copy of the applicable Wage Decisions for select construction contracts as requested by contractors and deemed proper.

- Such requests must represent what the employer (prime contractor or subcontractor) wants to pay workers performing a particular set of duties and meet the following US Department of Labor (US DOL) regulations:
  - a. The work to be performed by the additional classification must not be performed by a classification already on an applicable Wage Decision
  - b. The classification must be used by the construction industry in the project area
  - c. The proposed wage rate and any fringe benefits must bear a reasonable resemblance to the rates on the Wage Decision
  - d. Generally, a wage rate proposed for a trade classification (such as an Electrician) must be at least as much as the lowest wage rate for other trade classifications already contained in the Wage Decision. Trade classifications are generally all work classifications, excluding Laborers, Truck Drivers, and Power Equipment Operators and
  - e. Requests for Equipment Operators must specify the type(s) of equipment involved and the proposed wage rate(s) must be at least as much as the lowest wage rate for any Power Equipment Operator that appears on the Wage Decision.
- Subrecipient LSCOs must make their request for a determination to the US DOL and understand it may take 6-8 weeks to receive an official response. Upon receiving US DOL's response:

- a. LSCOs must forward a copy of the response to the SCOR Mitigation Infrastructure Manager, the LSCC for the applicable prime construction contractor and/or subcontractors; and require the prime construction contractor to post a copy of the response onsite.
- b. If US DOL does not approve the request, US DOL's response letter will include the conformance or approved wage rate that should be used for the work classification requested, and instructions about how to ask US DOL for reconsideration if the subrecipient would like to pursue the issue further. If the subrecipient decides to appeal, its LSCO must inform the SCOR-MIT Infrastructure Manager.
- c. If construction ends on a project prior to receiving US DOL's formal response, it must not delay or prevent the LSCO from submitting the Final Wage Compliance Report or Project Completion Report within required timeframes (*See DBFD #7 – Final Wage Compliance or FWC Report & #8 – Project Completion or PC Report*).

#### **Compliance Action 8 – Review Labor Standards & Requirements in Pre-Construction Conference**

Subrecipient LSCOs must hold pre-construction conferences with developers, owners, engineers, architects, prime contractors, subcontractor(s), inspector(s), a SCOR-MIT representative, and all applicable utility companies prior to the start of any actual construction (*See DBFD #9 – Outline of Discussion Items for Pre-Construction Conference*).

- At the pre-construction conference, LSCOs must document and retain in their local SCOR-MIT Program Agreement file:
  - a. The pre-construction conference minutes, including
    - A list of attendees and
    - An outline of the required federal/state labor requirements.
  - b. Each pre-construction conferences should include:
    - A review for all parties regarding their responsibilities and obligations on a federally funded or federally assisted project
    - Discussion of applicable federal, state, local, and program guidelines
    - A review of all construction details, time frame of project, payment requirements, and labor standards requirements and penalties for failure to comply with requirements
    - An opportunity for the delivery or exchange of items between attendees such as:
      - Bonds and/or certificates of insurance
      - Wage Decisions and/or any additional classifications,
      - Instructions that will assist in completing the project
      - Davis Bacon & labor related project signage, which may be found at the following website: <https://www.dol.gov/whd/regs/compliance/posters/davis.htm>
  - c. Discussion of any applicable special conditions identified in the SCOR-MIT Program Agreement and Construction Contract.
- In addition, prime contractors must be informed that in addition to any required temporary or permanent signage found in construction contracts, they must also post at the job site:
  - a. All Wage Decisions

- b. The DOL Davis-Bacon poster entitled “Employee Rights under the Davis-Bacon Act” in a place that is easily accessible to all construction workers employed at the project
  - c. A notice for any additional classification(s) requested and the associated Wage Decision if requests for additional classification(s) were made to DOL through the LSCO as described in Compliance Action 7 above
- Pre-construction conference documentation including the minutes and a list of attendees must be kept in the subrecipient’s local SCOR Mitigation Program Subrecipient Agreement file.

#### **Compliance Action 9 – Submit Labor Standards, Financial Interest, Construction & Other Reports**

- Subrecipient LSCOs must prepare and submit to the SCOR Mitigation Infrastructure Manager Labor Standards Compliance Records (LSCRs) and Conflict of Interest Disclosures (COIDs) for each construction project as detailed in the following directions:
  - a. An LSCR is required for each construction contract greater than \$2,000,
  - b. The LSCR must include the prime contractor for the project and list all subcontractors,
  - c. COIDs must be submitted on all prime contractors and subcontractors,
  - d. Initial LSCRs and COIDs for each project must be submitted after the pre-construction conference is held, and prior to the first Request for Payment for construction work under the construction contract,
  - e. If subcontractors change during the construction period, a Supplemental LSCR and COID must be submitted to record the change in subcontractors, and
  - f. A Final Wage Compliance Report signed by the LSCO is required for each construction contract subject to Davis-Bacon.
- A final inspection is required for each construction contract and documented acceptance of the project must be signed by the prime contractor, engineer, subrecipient LSCO, and the SCOR Mitigation Infrastructure Manager.
  - a. All required documentation must be received and approved prior to reimbursement of the final draw for each construction contract and the final engineering draw, and
  - b. All documents are required to satisfy the construction contractor’s obligations and must be completed and submitted prior to the contractor’s final payment (*See DBFD #7 – FWC Report, #10 – Labor Standards Compliance or LSC & #11 – Conflict of Interest Disclosure or CID Form*).

#### **Compliance Action 10 – Review & Validate Project Payrolls During Construction**

- Subrecipient LSCOs must ensure prime contractors and subcontractors are filing weekly certified payroll reports beginning the first week work is done on each project and every week afterward until work is completed on each project (*See DBFD #12 – US DOL Weekly Certified Payroll Report & #13 – Instructions for Completing US DOL Weekly Certified Payroll Report*).
- Subrecipient LSCOs or their designated inspectors must review weekly payrolls and related submissions in a timely manner to ensure labor standards requirements have been met (*See DBFD #14 – Certified Payroll Review or CPR Checklist/Restitution Worksheet*) including:



- a. Confirmation workers are properly listed on the payroll for the days, work classification, and rate of pay (when compared to employee interview forms),
- b. Payrolls are completed and signed,
- c. Employees are paid no less than the wage rate for the work classification shown as set by the applicable Wage Decision,
- d. Apprentice and trainee certifications are submitted,
- e. Employee authorizations for other deductions are submitted, if applicable,
- f. Evidence is available to prove payroll reviews by the prime contractor LSCC are being done, which may include:
  - The LSCC's initials on the weekly certified payroll reports, and/or
  - The signing of the employee interview forms by the LSCC.
- Site visits to project sites must be conducted by subrecipient LSCOs to validate project payrolls. During such visits, subrecipient LSCOs will (*See DBFD #15 – HUD Record of Employee Interview*):
  - a. Interview a proportion of the workers concerning their employment on each project,
  - b. Immediately notify the SCOR Mitigation Infrastructure Manager if a review finds discrepancies or errors,
  - c. Provide information to the SCOR Mitigation Infrastructure Manager concerning what steps are being taken to correct any noted deficiencies.
  - d. Ensure all prime contractors and subcontractors make their employees available for interviews at job site visits by an LSCC, LSCO, SCOR Mitigation Program representative, HUD representative or US DOL representative,
  - e. Safeguard that interviews cause as little disruption as possible to a project's on-going work,
  - f. Document all employees not available for an interview to include:
    - The site visit date,
    - The reason each absent employee was not available, and
    - An attempt was made to obtain the required information through other means, such as sending mailed questionnaires.
  - g. Record the type of work each employee interviewee performs and their rate of pay,
  - h. Conduct and maintain interviews as confidential,
  - i. Choose classifications representative of employees on each project, and
  - j. Ensure interviews are of sufficient quantity and quality to document that project workers are paid at least the minimum prevailing wage rates.

### **Restitution for Underpayment of Wages**

Where underpayments of wages have occurred, employers must pay wage restitution to the affected employees. Wage restitution must be paid promptly in the full amounts due, less any permissible and authorized deductions. Subrecipient LSCOs must use the following process for handling underpayment of wages and restitution:

- Notification to the Prime Contractor/Subcontractor. – Subrecipient LSCOs must notify the prime contractor LSCC in writing of any underpayments found during a payroll or other review (*See DBFD #16 – Notice of Wage Compliance Findings*). This notification must include:



- a. A description of the underpayments and a copy of the Wage Restitution & Overtime Underpayment Calculation form documenting the restitution that must be paid (see below),
  - b. Notice that the prime contractor has thirty (30) days to correct the underpayments and provide documentation back to the LSCO that restitution was paid, and
    - If the employer is a subcontractor, the notice will go to the prime contractor LSCC, who will then notify the subcontractor (and copy the notification to the subrecipient LSCO) detailing the same requirements explained in a and b above to the subcontractor.
    - The subcontractor will also have thirty (30) days to correct the underpayments and provide documentation to the prime contractor LSCC that restitution was paid, and
    - The prime contractor LSCC will then forward a copy of that documentation to the subrecipient LSCO.
  - c. Whenever a subrecipient LSCO finds an underpayment of wages, they must immediately notify the SCOR-MIT Infrastructure Manager of such and keep he or she updated on actions taken and reply documentation received until the incident is fully resolved.
- Computing wage restitution. – To compute the wage restitution, subrecipient LSCOs will:
    - a. Determine the difference between the wage rate paid to each affected employee and the wage rate required on the Wage Decision for all hours worked where underpayments occurred, which is called the adjustment rate, and
    - b. Multiply the adjustment rate by the number of hours involved to determine the gross amount of restitution due (*See DBFD #14 – CPR Checklist/Restitution Worksheet*).
  - Overtime and Underpayment. – Overtime hours are defined as all hours worked on the work site more than forty (40) hours in any work week. Overtime hours must be paid at no less than one and one-half times the regular rate of basic pay plus the straight-time rate of any required fringe benefits. For purposes of these policies this will be called the minimum overtime rate. If the employees did not receive at least the minimum overtime rate for any overtime hours worked on a project, the following must occur (*See DBFD #14 – CPR Checklist/Restitution Worksheet*):
    - a. If the project is greater than \$100,000 and is therefore subject to Contract Work Hours and Safety Standards Act (CWHSSA) overtime requirements, the subrecipient LSCO must require the prime contractor or subcontractor to pay wage restitution for all overtime hours worked on the project
    - b. If an LSCO finds underpayment of overtime by a prime contractor or subcontractor, he or she will follow the process in the Notification to the Prime Contractor/Subcontractor section above, immediately notify the SCOR-MIT Infrastructure Manager and keep he or she updated on actions taken and reply documentation received until the incident is fully resolved.
    - c. The employer will also be liable to the US Department of Labor for liquidated damages (overtime violation dollar penalty) computed at \$25 per day per violation.
      - Once a subrecipient LSCO notifies the SCOR Mitigation Infrastructure Manager of the underpayment, the SCOR Mitigation Infrastructure Manager will:
        - Compute and document the employer’s liquidated damages fine liability,

- Notify the LSCC of the prime contractor and subcontractor in writing of the liquidated damages fine,
  - Request the employer(s) at fault send a check NLT sixty (60) days after the date on the notice payable to the South Carolina Office of Resilience in the amount of the liquidated damages to be processed on behalf of HUD/US DOL, and
  - Copy the subrecipient LSCC on all communications.
- d. Employers may request a reduction or waiver of liquidated damages and are encouraged to do so if total the liquidated damages fine is \$100.00 or less. To be successful, employers seeking a reduction or waiver must submit a written appeal under one or both of the following grounds:
  - The employer believes the computation of liquidated damages is erroneous, and/or
  - The employer believes the violation(s) occurred inadvertently notwithstanding the exercise of due caution on its part.
  - If the employer decides to request a liquidated damages fine reduction or waiver, it must:
    - Send a written request to the SCOR Mitigation Infrastructure Manager postmarked no later than 60 days after the date on the notice sent to the employer, and
    - Provide justification as to why the requested reduction or waiver is warranted.
- Payroll Corrections. – When payrolls are corrected, the LSCC of the prime contractor and/or subcontractor(s) is required to report to subrecipient LSCC the restitution paid on a correction certified payroll.
  - a. This correction certified payroll must include:
    - The period for which restitution was due (for example, Payrolls #1 through #6; or a beginning date and ending date),
    - A list of each employee to whom restitution was due and their work classification,
    - The total number of work hours involved (daily hours are usually not applicable for restitution),
    - The adjustment wage rate (the difference between the required wage rate and the wage rate paid), and
    - The gross amount of restitution due, any deductions and the net amount to be paid.
  - b. A verified signed correction certified payroll must be sent by the LSCC to the subrecipient LSCC.
  - c. Subrecipient LSCOs will review all corrected payrolls from their projects to:
    - Ensure full restitution was paid,
    - Notify the LSCC of the prime contractor and/or subcontractor(s) in writing if any discrepancies are found, and
    - As needed, notify the LSCC of the prime contractor and/or subcontractor(s) they are required to make additional payments and document those additional payments on a supplemental correction certified payroll NLT thirty (30) days after the date of the notice.
- Inability to Locate Worker(s). – Sometimes there are reasons why a wage restitution due because of the wrong wage rate and/or overtime underpayment cannot be paid to an affected employee (such as when an employee has moved and cannot be located). In such cases, at the end of the project, the LSCC of the prime contractor and/or subcontractor(s) is required to:

- a. Notify the subrecipient LSCO of this occurrence and send:
  - A Missing Employee Schedule that contains:
    - A list of all employees who could not be located,
    - The last known contact information for each of those employees, and
    - The amount of restitution due to each employee, and
  - A check made out to the South Carolina Office of Resilience for the total amount of restitution due for all employees on the schedule to the subrecipient LSCO.
- b. The subrecipient LSCO will then:
  - Notify the SCOR Mitigation Infrastructure Manager of the occurrence and
  - Forward both the schedule and funds to SCOR.
- c. Upon receipt of the unclaimed restitution funds from the subrecipient LSCO, the SCOR Mitigation Infrastructure Manager will:
  - Forward the funds to the Finance Department, which will:
    - Place the funds into a deposit or escrow account.
  - During the next three (3) year period, the SCOR Mitigation Infrastructure Manager or his or her designee will:
    - Retain the Missing Employee Schedule with all information on the missing employees and restitution funds due,
    - Make periodic attempts to locate the workers entitled to the restitution funds, and
    - If employees are located, make check requests to get restitution funds to them, and
    - Document all efforts made and transactions occurring during the period.
- d. At the end of the (3) year period, the SCOR-MIT Infrastructure Manager or his or her designee will:
  - Request a check made out to the South Carolina Treasurer's Office of Unclaimed Property (SCT-OUP) for the balance of restitution funds remaining in the escrow account, and
  - Send the check to the SCT-OUP along with:
    - The Missing Employee Schedule,
    - All documentation on restitution funds returned to former employees during the three (3) year period, if any, and
  - Closeout related files (*See DBFD #17 – Missing Employee or ME Wage Schedule*).

#### **Labor Disputes**

- Administrative Review on Labor Standards Disputes. – If there is a difference of opinion between a subrecipient LSCO and the LSCC of a prime contractor or subcontractor(s), the labor standards clauses provide for an administrative review of the issue(s) by the SCOR Mitigation Infrastructure Manager. Some common examples of such situations include:
  - a. Findings of Underpayment – A subrecipient LSCO's compliance reviews and other investigations may result in findings of underpayment, which the employer's LSCC disagrees with. In this situation the SCOR Mitigation Infrastructure Manager would ensure the employer would have an opportunity to provide additional information to the subrecipient LSCO that may explain any apparent inconsistencies and/or resolve the discrepancies.
  - b. Withholding of Payment – A subrecipient LSCO may withhold payments due to the prime contractor/subcontractor to ensure the payment of wages which are believed to be due and

unpaid. For example, if wage underpayments or other violations are not corrected within 30 days after notification has been given to the prime contractor and/or subcontractor(s) the LSCO could decide to withhold payments. In this situation the SCOR Mitigation Infrastructure Manager would ensure the employer would have the opportunity to provide additional information to the subrecipient LSCO that may explain the perceived wage underpayment or other violations to have withheld payments released.

- Deposits and Escrows. – If corrective actions or disputes continue after a project is completed, provisions must be made to ensure funds are available to pay any wage restitution that is found.
  - a. In such situations, the SCOR Mitigation Infrastructure Manager may allow the project to proceed to final closings and payment if:
    - The prime contractor deposits an amount equal to any potential liability for wage restitution and liquidated damages, if necessary, into a special deposit/escrow account controlled by the subrecipient LSCO, and
    - Agrees that the subrecipient LSCO can make disbursements from the account in accordance with final decisions on the matter when rendered.
  - b. Such deposit/escrow accounts could be established for one or more of the following reasons:
    - Where the parties have agreed to the amount of wage restitution that is due, but the employer has not yet furnished evidence all underpaid workers have received the back wages:
      - A deposit would be made by the employer equal to the amount of restitution due to workers not supported by adequate documentation of payment.
      - If proper documentation is received, the subrecipient LSCO would return the amount corresponding to the documentation to the prime contractor.
      - The amount for any workers who cannot be located would be held in the escrow account as described above in the Inability to Locate Worker(s) section.
    - Where underpayments are suspected or alleged, and an investigation has not yet been completed, a deposit would be made by the employer equal to the amount of wage restitution and any liquidated damages, if applicable, that is estimated to be due.
      - If the final determination of wages due is less than the amount estimated and placed in the escrow account, the LSCO would reduce the escrow account to the final amount due and return the difference to the prime contractor.
      - If the parties agree to the investigative findings, the amounts due to the workers would be disbursed from the escrow account in accordance with the schedule of wages due. Any amounts remaining for unlocated workers would be retained as described in that section above.
      - If the parties do not agree and an administrative hearing is requested, the amount in the escrow account will be maintained until a final decision is made from the administrative hearing and then disbursed by the LSCO based on the results of that final decision.
    - Where parties are waiting for the outcome of an administrative hearing that has been or will be filed contesting a final determination of wages due, the deposit made by the employer

must equal the amount of wage restitution and liquidated damages, if applicable, that have been determined due.

- Once a final decision is rendered, disbursements by the LSCO from the escrow account will be made in accordance with the decision.

### Exemptions

Except for situations listed in this section, all workers employed by contractors or subcontractors in the performance of construction work financed in whole or in part with CDBG-MIT assistance received from the SCOR Mitigation Program must be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended.

- The following contracts and activities are exempt from Davis-Bacon requirements and related act labor standards except where indicated:
  - a. Prime Construction contracts of \$2,000 or less,
  - b. Single Family, Owner Occupied Residences,
  - c. Rehabilitation of residential properties designed for fewer than eight (8) families,
  - d. Volunteer labor if nominal benefits cannot be tied to productivity, hours worked, or in any way be construed as wages,
  - e. Employees of SCOR (force account labor),
  - f. Private or local funds used for rehab or construction unrelated to a Community Development Block Grant (CDBG) assisted project,
  - g. Holding/maintaining properties (land bank),
  - h. Some demolition activities may be exempt. However, demolition, clearance, and debris removal are covered by DBRA when planned as part of the same construction contract or subsequent construction which is part of a future construction project under another DBRA eligible activity,
  - i. Professional service activities such as acquisition, engineering, architectural, and administrative services are exempt and do not require an LSR, and
  - j. Labor and/or installation charges on equipment or material purchases if that portion of the contract is less than 13% of the total cost of the item(s) purchased.
- Construction Contracts of \$100,000 or less are exempt from Contract Work Hours and Safety Standards Act (CWHSSA) only.
- Convict labor is subject to DBRA, there are no exemptions for convict and/or prison inmate labor on DBRA covered contracts unless another exemption applies.

### Davis-Bacon Forms & Documents

- The following list may be requested as needed:
  - a. DBFD #1 – HUD Construction Contractor Labor Standards Guide 4812
  - b. DBFD #2 – LSCO/LSCC or Labor Standards Compliance Officer/Coordinator Designation Form
  - c. DBFD #3 – US Department of Labor’s “Notice to All Employees” Federal Poster
  - d. DBFD #4 – Sample Wage Decision
  - e. DBFD #5 – Ten-Day (TD) Confirmation Form

- f. DBFD #6 – HUD Labor Standards form 4010
- g. DBFD #7 – FWC or Final Wage Compliance Report
- h. DBFD #8 – PC or Project Completion Report
- i. DBFD #9 – PCC or Pre-Construction Conference Outline
- j. DBFD #10 – LSC or Labor Standards Compliance Record
- k. DBFD #11 – CID or Conflict of Interest Disclosure Form
- l. DBFD #12 – US DOL Weekly Certified Payroll Report Form
- m. DBFD #13 – Instructions for Completing US DOL Weekly Certified Payroll Report Form
- n. DBFD #14 – CPR or Certified Payroll Review Checklist/Restitution Worksheet
- o. DBFD #15 – HUD Record of Employee Interview
- p. DBFD #16 – Notice of Wage Compliance Finding(s)
- q. DBFD #17 – ME or Missing Employee Wage Schedule

### 3.02 Uniform Relocation Act (URA) Requirements

The Uniform Relocation Assistance and Real Property Acquisition Act (URA), in part and as amended, was passed by Congress in 1970, to establish minimum standards for federal, or federally funded, programs or projects that in-part protects displaced persons from their homes. The URA's protections apply to any tenant who is involuntarily displaced due to the acquisition, rehabilitation, or demolition of real property for federal or federally funded projects and requires that displaced person(s) are treated fairly, consistently, equitably, and did not suffer disproportionate injuries. The South Carolina Office of Resilience's (SCOR) Mitigation Program may purchase properties from owners who voluntarily sell their properties to the program, which could result in involuntary displacement of lawful tenants that may be residing in the buyout property. SCOR currently does not have eminent domain authority, which meets URA requirements for voluntary acquisition. SCOR's Mitigation Buyout program involves residential properties only.

SCOR's CDBG-Mitigation programs will follow all applicable requirements and waivers as outlined in Federal Register 84 FR 45838 and 86 FR 561. The applicable laws include the specific Codes of Federal Regulations for Community Planning and Development Programs, and Community Development Block Grants, 24 CFR 570.606 and 49 CFR part 24, which are applicable to these policies and procedures. The purpose of SCOR's URA policies and procedures are to:

- Establish a process to identify and document tenants whose primary residence is a property that will receive benefit from the program,
- Ensure outreach is made to safeguard the principles and requirements of the URA.

The *Fair Housing Act* requires all grantees of CDBG-MIT funds to certify that no person was excluded from participation in, denied the benefit of, or subjected to discrimination in any housing program or activity because of their age, race, color, creed, religion, familial status, national origin, sexual orientation, military status, sex, disability or marital status. SCOR, its subrecipients, and its contractors shall ensure that no applicant or tenant is treated in any way that violates the federal *Fair Housing Act*, the *Civil Rights requirements of Title 1 of the Housing and Community Development Act*, and the *South Carolina Fair Housing Law*. SCOR will ensure fair housing through the following:

- Fair Housing complaints will be processed in accordance with the federal Fair Housing

- requirements and directed to HUD or another appropriate agency;
- URA Specialists will assist all relocated households who believe that they have suffered illegal discrimination and will contact SCOR or the subrecipient immediately for review and assistance in filing a complaint with the HUD Office of Fair Housing and Equal Opportunity; and
- SCOR will administer all CDBG-MIT programs in accordance with this Fair Housing Policy and will comply with all related federal and state laws.

To ensure compliance with Section 504 of the *Fair Housing Act*, SCOR staff will ensure that advisory relocation services and all implementations of the URA requirements, including communication methods and forms, are accessible to all persons with special needs and will operate in a manner that does not discriminate or limit access to program services and benefits to persons with disabilities. SCOR staff will identify tenants who have difficulty speaking, reading, writing, or understanding English and will assist in the form of sign language, braille, interpreters who translates to and from the person's primary language, translation of all program documents, etc. as applicable or required. SCOR will also ensure compliance with Section 508 of the *Fair Housing Act* and will provide full access to electronic information for persons with disabilities

Owners who wish to participate in the voluntary buyout may be renting the buyout property to a tenant(s) or other non-owner occupants, further known as tenant(s). The owner's voluntary sale of the property will require the tenant(s) to move involuntarily, and those tenants may be considered as displaced due to the buyout. In these instances, all URA requirements will be followed, as amended by the applicable Federal Register Notices. Relocation assistance will only be provided to eligible displaced persons as determined by SCOR in accordance with URA and HUD regulations. Applicability of URA will be confirmed at the time each property owner completes the Beneficiary Intake Application. Tenant eligibility for URA will be confirmed once the owner has voluntarily entered into contract to sell the property to the SCOR Mitigation Buyout program. As the buyouts are voluntary, owners will not be considered as displaced persons and will not be eligible for URA.

## Definitions

**Comparable Replacement Dwelling (CRD)** - A CRD is a functionally equivalent dwelling that performs the same function and utility and has the principal features of the displacement dwelling and must meet DSS (Decent, Safe and Sanitary) or Housing Quality Standards (HQS) standards.

**Displacement Dwelling (DD)** – A dwelling, which is to be acquired by SCOR as a part of its Buyout Program, which will cause one or more tenant to become displaced persons under the URA.

**Displaced tenant** - One who involuntarily moves from real property or moves his or her personal property from real property as a direct result of acquisition of that property. A person will not be considered displaced if that person (49 CFR 24.2 (a) (9) (i)):

- Moves before the start of the buyout process unless SCOR determines the person moved uninformed as required by Move-In Notice guidance provided to landlords
- Initially began to occupy the property after the start date of the buyout process by SCOR and/or the date of the subrecipient VAN Notice
- Has occupied a property to obtain assistance under the URA
- After receiving a Notice of Relocation Eligibility, is notified in writing that he or she will not be

- displaced from the property
- Is determined to be in unlawful occupancy prior to or after the start of the buyout process, or has been evicted for cause, under applicable law
- Is not lawfully present in the United States
- Is required to move because of sale of the property to a person using down payment assistance provided under the American Dream Down Payment Initiative

**Displacement Agency** – The Federal agency, State, State agency, or person that acquires real property and displaces a person from that real property. The displacement agency is SCOR.

**Program** – Any activity or series of activities undertaken with Federal financial assistance received or anticipated to be received in any phase of the undertaking in accordance with Federal funding agency guidelines. For purposes of these policies and procedures, the program is the SCOR Buyout Program.

**Tenant** – A person, paying fair market rent by an arm's length transaction, willingly, without force or pressure, entitled under a rental agreement to occupy a dwelling unit to the exclusion of others. Under the URA, such tenants must also have been in occupancy for at least 90 days prior to the initiations of negotiations and be lawfully present in the United States at the time of displacement.

**Unlawful Occupant** – A person who occupies without property right, title, or payment of rent, or a person legally evicted with no legal rights to occupy a property under state law.

### Required Relocation Notices

A series of notices are used to keep owners and tenants informed as to displacement status, rights, eligibility (or lack of eligibility) for relocation assistance, and to provide required notices involving time limits. All notices sent to the owner and/or tenant will be personally served or sent by certified registered first-class mail, return receipt requested and. Notices will provide the name and phone number of the SCOR Program Manager and/or Buyout Case Manager that may be contacted for questions or additional assistance. All required URA notices shall be delivered to lawful tenants only. URA notices are based on HUD's Handbook 1378 and the URA Regulations and generally include:

- General Information Notice (GIN)
- HUD URA Brochure
- Notice of Eligibility
- 90-Day Notice

Other notices such as Notice of Non-Displacement Notice, Move-In Notice, and Notice of Intent to Acquire may be sent when applicable and necessary. SCOR will evaluate each landlord/tenant's notification needs on a case-by-case basis to determine the exact notices that must be distributed.

**General Information Notice (GIN)** - URA regulations require that persons who are may be displaced must be provided with a GIN notice as soon as feasible. If the buyout property is occupied by a tenant(s), the Case Manager will send the property owner(s) a GIN Notice via certified mail within 5 business days of receipt by SCOR of the beneficiary intake application and required lease materials. The property owner is required to return the signed certified mail receipt to SCOR acknowledging receipt of the GIN Notice. SCOR will send a GIN Notice and HUD Brochure 1042 via certified mail to the tenant(s) within 5 business



days of receipt by SCOR of the property owner's beneficiary intake application and required lease materials. The tenant(s) will be required to sign the certified mail receipt and return the signed mailing receipt to SCOR. Following receipt of the signed certified mail notice, SCOR will contact the tenant to schedule a Tenant Interview.

**Notice of Relocation Eligibility (NOE)** – URA regulations require that persons who are eligible for relocation assistance under URA receive a Notice of Eligibility. The NOE will be provided to the tenant promptly after the Initiation of Negotiation (ION). The designation of the ION is considered to be the date when an owner signs the Offer to Purchase Contract with SCOR for the voluntary buyout of the tenant's dwelling property. The NOE will describe the available relocation assistance, the estimated amount of assistance available to the tenant, and the procedures for obtaining the assistance.

**Ninety-Day (90) Notice** – URA regulations require that tenants who have been informed that they are eligible for URA relocation benefits and are required to move must be provided with a minimum of a 90-day written notice. SCOR will provide tenants who are displaced with the required 90-day Notice concurrently or after the tenant is issued a NOE.

**Combined Notice (NOE and 90-Day Notice)** – SCOR may issue a combined notice that includes the NOE and the 90-Day Notice as allowed by HUD policy. In such cases where a combined notice is provided, eligible tenants will be provided with a minimum of 90-days prior to requiring they move.

**Landlord URA FAQs** - Property owners with tenants in the buyout property will be provided with a URA Fact Sheet when the landlord/owner completes an application for the voluntary buyout program. The fact sheet will describe potential relocation assistance for tenants and their tenant's responsibilities during the application period. Tenants will receive several notices. Landlords will receive a copy of all URA required notices sent to the tenant by SCOR In order to keep all parties apprised of the status relocation activities, progress in the program, and program requirements.

**Notice of Non-Displacement** – Tenants who have been issued a GIN and are determined to not be a displaced person and/or are not otherwise eligible for URA assistance will be issued a Notice of Non-Displacement notice. This notice will advise such persons that they do not qualify as displaced and inform them of their right to appeal. SCOR will promptly send a Notice of Non-Displacement to a tenant when an owner withdraws from the voluntary buyout program, declines the Offer to Purchase, or the tenant is otherwise deemed ineligible for URA assistance. If a Notice of Non-Displacement is not issued and a tenant moves permanently from a buyout property, SCOR will review that specific case to see whether a change in the tenant's displacement status is necessary, given that such persons often qualify as displaced regardless of whether they were asked to vacate or not.

**Move-In Notice** –persons who intend to move into a property that has been enrolled in the Buyout program will be provided with a Move-In Notice that indicates that they may be displaced and will not receive URA relocation assistance. Once enrolled in the program, landlords will be informed of their responsibility to provide a Move-In Notice to a new tenant before leasing and occupying the property, and of their responsibility to inform SCOR of any new tenants. Move-In Notices are required to include the following information:

- An application has been submitted to the SCOR Voluntary Mitigation Buyout Program for the

rental property,

- The possible impact on the person if the application is approved and accepted by the owner,
- The tenant will not qualify for relocation assistance as a “displaced person” as a result of the buyout, if they choose to lease and occupy the property.

Landlords must provide the potential tenant with the *Move-In Notice* prior to leasing and occupying the property. The tenant must agree to occupy the property under the terms of the notice; when this occurs, the new tenant is not eligible for relocation assistance. The tenant will be required to sign and date the Move-In Notice and the landlord will return the signed notice to SCOR. SCOR will issue a Move-In Notice to new tenants when it is aware of the new tenant, however the primary responsibility for issuing this notice before the lease is signed is the landlords. The landlord’s eligibility to receive SCOR Buyout assistance may be jeopardized if the landlord fails to provide the Move-In Notice to the tenant before a lease is signed, if the tenant fails to sign the notice indicating their receipt and agreement before the lease is signed, and/or it is not provided at all. In addition, such failures may result in the landlord being required to provide financial relocation assistance to the tenant as a “displaced person” under URA.

**Notice of Intent to Acquire Real Property** – A written notice sent to the person(s) who will be displaced that establishes “early” eligibility for relocation assistance, prior to the ION date or a commitment of Federal financial support to a program. A Notice of Intent to Acquire Real Property will be followed by a NOE notification following the ION date. Although not impossible, SCOR does not anticipate issuing such a notice during the SCOR Mitigation Buyout Program because of the risks associated with establishing “early” eligibility.

A complete list of URA forms is available to SCOR Subrecipients and includes:

- Landlord URA FAQ Sheet
- Property Owner Tenant Survey (Part of the Beneficiary Intake Application)
- Tenant Timeline and Checklist
- General Information Notice (GIN)
- HUD URA Brochure 1042
- Tenant Initial Interview Checklist
- Comparable Replacement Dwelling Worksheet
- SCOR DSS Replacement Housing Inspection Form
- SCOR HQS Replacement Housing Inspection Form
- SCOR Replacement Housing Payment/HLR/Down Payment Assistance Calculation Worksheet
- SCOR Tenant Relocation Assistance Estimate Worksheet
- SCOR Notice of Eligibility (NOE) – RHP Entitlement Letter
- SCOR Notice of Eligibility (HLR) – HLR Entitlement Letter
- SCOR Notice of Nondisplacement Letter
- SCOR HLR Counteroffer Acceptance Letter
- SCOR HLR Final Offer Letter
- SCOR 90-day Notice
- Tenant Final Interview Checklist
- HUD Claim Form 40058

- SCOR Notice of Intent to Acquire – For Owners
- SCOR Notice of Intent to Acquire- For Tenants
- SCOR Move-In Notice

See Annex 3-21

### Eligibility for URA Relocation Assistance

To be eligible for relocation assistance, tenants must be:

- A lawful occupant of the buyout property and have documentation that they were in legal occupancy of the buyout property; Tenants in lawful occupancy of the buyout property for at least 90 days prior to the Initiations of Negotiations (ION) are eligible for full relocation advisory services and rental assistance payments; Tenants in lawful occupancy of the buyout property for less than 90 days prior to ION may receive services under Housing of Last Resort (HLR).
- Lawfully present in the United States at the time of assistance. Tenants displaced by the buyout must also be lawfully present at the time of displacement unless such ineligibility would result in an exception and extremely unusual hardship to that person's spouse, parent, or child who is a citizen of the United States, will be classified as Other Non-Owner Occupants and deemed eligible for URA Relocation Assistance and Advisory Services

The term other non-owner occupant refers to unlawful occupants occupying a property without right, title, or payment of rent, or a person legally evicted with no legal rights to occupy a property under state law both of which are ineligible for this program. SCOR will document and determine when such conditions are met based on whether a denial of relocation and advisory assistance to such a person will directly result in:

- A significant and demonstrable adverse impact on the health or safety of such spouse, parent, or child
- A significant and demonstrable adverse impact on the continued existence of the family unit of which such spouse, parent, or child is a member; or
- Any other impact that SCOR determines will have a significant and demonstrable adverse impact on such spouse, parent, or child.

If a tenant is evicted during the course of the owner's participation in the buyout program, SCOR will evaluate the evicted tenant's eligibility for relocation assistance. A tenant will not be considered a "displaced person" and therefore not eligible for URA when SCOR determines that an eviction occurred that was performed in accordance with the regulations and was not undertaken in order to avoid paying relocation costs. Property owners pursuing an eviction of a tenant are advised to obtain a court order for the eviction (even if the tenant has already moved). An eviction is considered allowable when the tenant demonstrates a serious or repeated violation of the material terms and conditions of the lease in accordance with State laws. If an eviction is necessary because the tenant does not cooperate with the relocation requirements or the requirement to move, the tenant is still entitled to relocation assistance as would be provided with a NOE. Owners are required to inform SCOR of any eviction process. A modified GIN notice will be sent to tenant advising of the possibility becoming ineligible for the URA assistance if eviction is carried out.

If a person is a tenant-occupant that moved into the buyout property after the property owner applied to the buyout program but was provided a written Move-In-Notice and approves the Notice before leasing and occupying the property, the tenant will not be considered a “displaced person” and will not be eligible for URA.

Homeowners may not prevent SCOR from notifying tenants of the benefits they may be eligible to receive. If a homeowner is noncompliant with URA requirements, this is cause for removal from the program.

If a person is ineligible for relocation assistance, SCOR will provide such persons a Notice of Ineligibility for Relocation Assistance, which will include the reason(s) they are ineligible, and their right to appeal the Agency’s determination.

Owners renting from their own LLC, Partnership, Corporation or unincorporated business are excluded from URA benefits and will be deemed ineligible.

Duplication of Benefits will not be considered for displaced tenants as any federal assistance received by the tenants was awarded for a different use.

### **Required Tenant Documentation**

Once the tenant has been issued a GIN, SCOR staff will schedule an interview with each displaced tenant. SCOR will require that the tenant provide the following documentation and information which will be necessary to calculate the relocation benefits and fill out required claims forms:

- Tenant Identification
- Proof of Income
- Proof of lawful presence
- Copy of executed lease
- Utility Bills (12-month average)
- Proof of primary residency
- If applicable, documentation of any federal assistance received previously

If the tenant moves after the landlord has applied to the buyout program without having received proper notifications from SCOR, or its subrecipient, about their potential rights under URA for rental assistance, the following should also be provided to SCOR in addition to the above documents:

- Documentation of actual moving expenses from the dwelling or the number of rooms of furniture moved, if any, at the time of displacement and/or affidavit from the landlord regarding the number of rooms occupied at the time of displacement
- Copy of current lease or purchase agreement, if permanently displaced, for their post-relocation dwelling,
- Copy of current utility bills (12-month average) for their post-relocation dwelling.

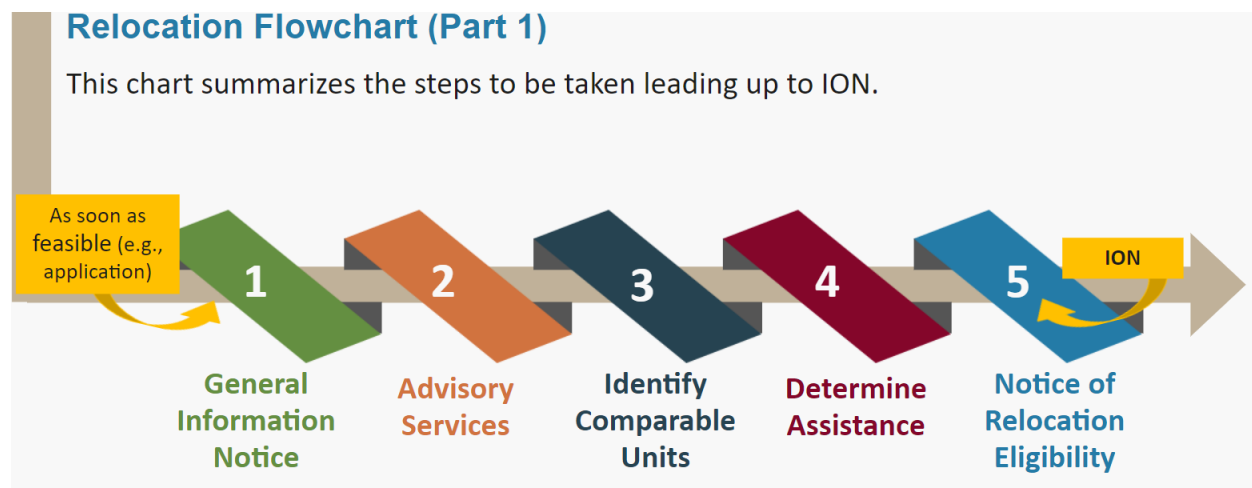
### **Relocation Assistance Advisory Services**

SCOR, and its subrecipients, will provide necessary and appropriate relocation advisory services to displaced tenants. SCOR will conduct relocation assistance and advisory services in person, or through the phone or virtual meetings with tenants based on the tenant’s preference. These services include, but are not limited to:

- Explaining to each displaced tenant their rights and responsibilities under the URA,
- Determining relocation needs and preferences of the tenant(s),
- Finding and referring tenant to social services from which they will benefit,
- Identifying available Comparable Replacement Dwellings and rental costs,
- Informing tenant of relocation payments and other assistance that may be available (e.g.: moving costs, replacement housing, down payment assistance),
- Detailing the eligibility requirements for each type of assistance,
- Reviewing procedures that must be followed to obtain assistance and providing help, as needed, in preparing and filing claims to receive assistance payments,
- An explanation of a tenant's right to appeal if they are not satisfied with SCOR's decisions, including written appeal procedures,
- Conducting inspections to ensure replacement dwellings meet applicable standards,
- Providing transportation for tenant to inspect housing options,
- When requested, ensure that modifications to the tenant's home (buyout property) that are part of the relocation assistance process appropriately address any identified hearing, visibility, or mobility limitations of the tenant and/or tenant's household members, and
- If applicable, work with a disabled tenant's designee who has the power of attorney to represent the tenant or is identified as the communication designee representing the tenant.

#### URA Procedures for Tenant-Occupied Buyout Properties

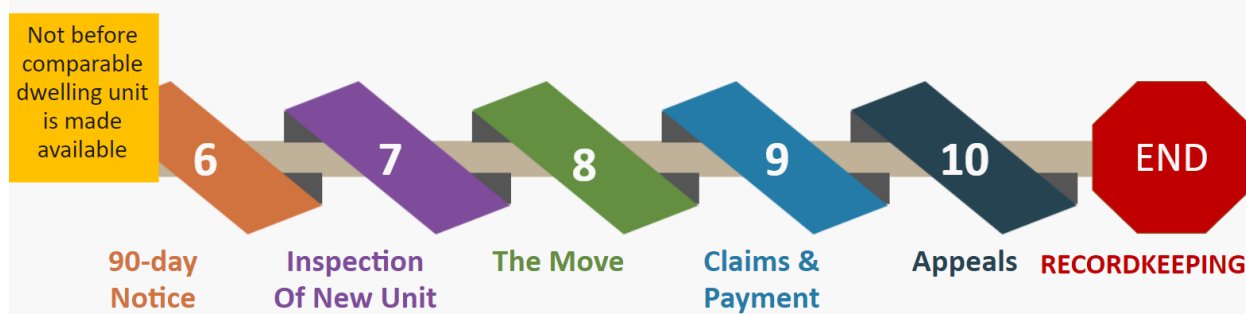
The URA procedures for tenant-occupied buyout properties are divided into two parts. The first part begins when a property owner completes a Beneficiary Intake Application for the SCOR Mitigation Voluntary Buyout Program for a tenant-occupied residential property.



The second part begins immediately after Initiation of Negotiations (ION), which is the date the property owner accepts an Offer to Purchase Contract for SCOR to purchase the tenant-occupied dwelling as part of a voluntary buyout project, and the Notice of Relocation Eligibility is issued to the tenant(s).

## Relocation Flowchart (Part 2)

The following slides will explain how information obtained prior to ION will be used when conducting actual relocation of project occupants.



### A) URA Procedures Part One:

#### 1. Identify Tenant-Occupied Properties and Issue Initial Notices

During the beneficiary intake application process, the property owner will indicate if they have a tenant(s) residing in the buyout property. If they have current tenant(s), the owner will complete the Homeowner Tenant Survey (HTO) form included in the Beneficiary Intake Application and provide a copy of the tenant's lease (or documentation of the history of rental payments if no lease is available). SCOR will provide the owner with the Landlord URA FAQ sheet and discuss the URA requirements and procedures with the property owner.

Once the property owner's intake application is considered complete, SCOR will send a GIN notice and a copy of the HUD Brochure 1042 via certified mail to the property owner and the tenant(s). See Section III. Relocation Notices for additional guidance.

#### 2. Conduct Tenant Interview

Within 5 business days of receipt of the signed mailing receipt from the tenant, SCOR will assign the tenant a Case Manager. The Case Manager will contact the tenant(s) to schedule a tenant interview. The Case Manager will collect the required documentation from the tenant (See Section VI. Required Tenant Documentation) and use the Tenant Eligibility & Advisory Services Interview Checklist and the Comparable Replacement Dwelling (CRD) Worksheet to guide each tenant through a step-by-step, self-paced relocation process without regard to race, color, religion, sex, age, handicap, familial status, or national origin, in accordance with 49 CFR 24.

In the interview, the Case Manager will:

- Explain the buyout program basics including the voluntary nature of the program and why the tenant is being contacted;
- Explain the tenant's eligibility for URA has not been assessed yet and the tenant must continue to pay rent and abide by the terms of their existing lease agreement;
- Review the GIN Notice, HUD brochure, and provide the opportunity for the tenant to ask questions;
- Collect information on tenant's existing rental unit using the Tenant Survey Form;

- Determine tenant relocation needs and preferences for comparable dwelling units;
- Explain to tenant that if at least one comparable dwelling unit cannot be found, a housing of last resort assistance option may be provided;
- Take other appropriate actions, as needed, to assist the tenant.

The Case Manager will be responsible for recording the documentation and information from the tenant interview into the system of record.

### **3. Research Comparable Replacement Dwelling**

After the tenant interview, the SCOR Case Manager will conduct research, attempting to identify and collect cost-related expenses for up to three (3) Comparable Replacement Dwelling (CRD). The property cannot be in the floodplain. The property does not have to possess every feature of the displacement. Mobile Home Units (MHUs) built before 1980 cannot be considered as comparable because they cannot obtain a red tag certification to clear DSS or HQS. All recreational vehicles are ineligible. SCOR will document CRD searches using the SCOR-MIT Comparable Dwelling Replacement Worksheet. The program will provide up to three comparable units to establish the payment threshold for the tenant's Rental Assistance Payment.

To be considered comparable, a dwelling must be:

- Decent, safe, and sanitary;
- Adequate in size to accommodate the new occupants;
- Located in a geographic area not subject to unreasonable adverse environmental conditions;
- Generally, not in a less desirable location than the tenant's displacement dwelling with respect to public utilities, commercial facilities, and public facilities;
- Reasonably accessible to the tenant's place of employment and/or school districts that household members may currently attend;
- On a site typical in size for residential development with normal site improvements, including customary landscaping, however, it need not include special improvements;
- Currently available to the tenant in the private market, meaning it is within the tenant's financial means,:
  - If, after rental assistance, the tenant's monthly rent and estimated average monthly utility costs for the CRD does not exceed the tenant's base monthly rental costs for the displacement dwelling
  - For a tenant receiving government housing assistance before displacement (living in a public housing unit), a replacement dwelling which reflects similar government housing assistance (in another public housing unit) is identified, which has the same government housing assistance program requirements related to size. If a tenant has a Housing Choice Voucher (HCV) in their displaced unit, then SCOR will ensure the replacement unit accepts HCV's.

Based upon permanent relocation needs of the displaced person(s), the Case Manager will proactively identify rental units that are available in the tenant's neighborhood or local community where possible. A minority whose Displacement Dwelling (DD) is located in an area of minority concentration must first be offered referrals to CRDs not located in areas of minority concentration, if available, before being offered referrals to CRDs located in other areas of minority concentration. The Case Manager will

determine, explain, and assign follow up actions, responsibilities, and deadlines, as needed, to move the tenant forward in the process.

Before SCOR will make a replacement housing payment, an inspection of the replacement dwelling must be completed to ensure it is decent, safe, and sanitary, and that it possesses all accessibility features that may be needed by displaced persons with disabilities, which are the standards required by HUD for Replacement Dwelling URA compliance. DSS standards are different from Housing Quality Standards (HQS) used for other HUD programs. Requirements for DSS housing must meet local housing and occupancy codes and at a minimum, such dwelling must:

- Be structurally sound, weather-tight, and in good repair
- Contain a safe electrical wiring system adequate for lighting and other devices
- Contain a heating system capable of sustaining a healthful temperature of approximately 70 degrees, unless unnecessary because of local climate
- Be adequate in size with respect to the number of rooms and living space needed to accommodate the displaced person subject to local occupancy codes and the policies of the displacing agency
- Have a separate, well-lit and ventilated functioning bathroom
- Contain unobstructed egress to safe, open space at ground level
- And for any displaced person with a disability, be free of any barriers which would preclude reasonable ingress, egress or use of the dwelling by such displaced person.

SCOR will utilize the SCOR-MIT DSS Replacement Housing Inspection Form to document the inspection results. The completed inspection form will be saved in the system of record.

If an eligible tenant chooses to move on their own, SCOR will be required to continue to provide advisory services, conduct research on comparable dwellings to ensure the cost of the new dwelling does not exceed that of a comparable, and conduct an inspection of the new dwelling to ensure it meets DSS standards. If these conditions are met, SCOR will deem the tenant's self-selected replacement dwelling to be comparable. Otherwise, the tenant will need to move to another dwelling or lose their eligibility for relocation assistance.

The more stringent Housing Quality Standards (HQS) Criteria is only required if a tenant currently receives housing assistance through a Housing Choice Voucher Program that requires the replacement dwelling meet this standard in order to retain vouchers should the tenant/ choose to remain in the Voucher Program. Use the HUD Housing Choice Voucher Program Inspection Checklist for HQS inspections. The completed inspection form must be saved in the system of record.

When a comparable dwelling unit cannot be found, the displaced person will be offered Housing of Last Resort.

#### **4. Determining Replacement Housing Payment Type**

SCOR will determine a person's eligibility for a Replacement Housing Payment (RHP) which may include replacement housing assistance (rental assistance or down payment assistance) and moving expenses. If eligible, a permanently displaced person is entitled to a payment for rental assistance, or down payment assistance, as computed in accordance with this manual. In order to be eligible for either payment, the



displaced person must:

- Have actually and lawfully occupied the displacement property for at least 90 days immediately prior to the ION; and
- Rent, or purchase, and occupy a decent, safe, and sanitary comparable replacement dwelling within 1 year of the displacement (i.e.: from the date the tenant moves from the displacement dwelling).

Note: A waiver was established in 81 FR 39702 that allows a property owner who is willing to participate in the Tenant-Based Rental Assistance (TBRA) housing program subsidy (Section 8 rental voucher or certificate), to allow a displaced tenant who only meets a portion or all of the traditional requirements to participate in the TBRA program. All or a portion of this assistance may be offered through a certificate or voucher for rental assistance (if available) provided under Section 8 if a Section 8 certificate or voucher is provided to a tenant. If the tenant currently receives assistance through a Housing Choice Voucher Program, then the dwelling must meet HQS rather than DSS standards. If a Section 8 certificate or voucher is provided to a tenant, SCOR must provide referrals to CRD units where the owner is willing to participate in Section 8 Tenant-Based Assistance Existing Housing Program. When provided, rental assistance will generally be in installments, in accordance with 42 U.S.C. 3537c.

**Rental Assistance Payment (RAP)** – Displaced persons may receive up to \$7,200 for rental assistance. At least one (1) and no more than three (3) comparable replacement dwellings (CRD) will be provided to the household to establish the payment threshold for the Tenant’s Rental Assistance Payment (RAP). The RAP is calculated in accordance with the following requirements:

- If available, three CRD’s shall be examined and the payment computed on the basis of the dwelling most nearly representative of, and equal to, or better than, the displacement dwelling.
- Comparable replacement dwellings shall, to the extent feasible, be selected from the neighborhood in which the displacement dwelling is located (but not in the floodplain), or in a similar neighborhood where housing costs are generally similar. An obviously overpriced dwelling will not be considered as a CRD.
- If a Low-to-Moderate (LMI) tenant goes to a replacement dwelling where the RAP is over the \$7,200 maximum, SCOR may elect to issue a Housing of Last Resort (HLR) payment in excess of the RAP maximum. This will be determined on a case-by-case basis using the SCOR Mitigation Special Case Panel.
- If two or more occupants of the same displacement dwelling move to separate replacement dwellings, each occupant is entitled to a reasonable prorated share, as determined by SCOR, of any relocation payments that would have been made if the occupants moved together to a CRD. If it is determined that two or more occupants maintained separate households within the same dwelling, such occupants have separate entitlements to relocation payments.
- SCOR will complete the SCOR-MIT Comparable Replacement Dwelling Worksheet.

**Housing of Last Resort Payment (HLR)** - SCOR will use the Housing of Last Resort (HLR) provision where a tenant cannot otherwise be appropriately housed within the monetary limits of replacement housing assistance. This situation may occur in high-cost housing areas or areas with low-and-moderate income (LMI) tenants who do not live in subsidized housing at the time of displacement. In these situations, providing additional financial assistance above HUD relocation housing assistance payment limits is

permissible and often the most feasible option. The determination of when a HLR option is necessary is done on a case-by-case basis, taking into consideration availability of comparable replacement housing in the area, resources available to provide comparable replacement housing, and the individual circumstances of each displaced tenant. A Housing of Last Resort Offer Letter will be sent to the tenant via certified mail providing the total amount of assistance that is offered.

A tenant is free to make an appeal if they receive and are unsatisfied with the HLR Offer Letter. SCOR Mitigation Special Case Panel will hear all HLR offer appeals. A tenant will be deemed to have voluntarily withdrawn from the relocation process if:

- The tenant was not offered at least one Comparable Replacement Dwelling and rejected a Housing of Last Resort offer without making a counteroffer, or
- Rejected a Final State Housing of Last Resort offer.

**Down Payment Assistance** - If a tenant decides to purchase a replacement property, the tenant can choose to receive Down Payment Assistance equal to the RHP they would have received if they rented a CRD, not to exceed \$7,200. A down payment assistance payment will be paid in a lump sum directly to the closing attorney for the replacement property.

## **5. Calculation Replacement Housing Assistance Award**

**Replacement Housing Assistance** - A replacement housing assistance payment will be made following the conclusion of the comparable replacement dwelling search. An eligible tenant will receive rental assistance payment when there is an increased cost associated with the cost of the replacement dwelling. The replacement housing assistance payment amount is calculated in accordance with the table below as 42 times the amount obtained by subtracting the base monthly rent for the displacement dwelling from the lesser of:

1. The monthly rent and estimated average monthly cost of utilities for a comparable replacement dwelling; or
2. The monthly rent and estimated average monthly cost of utilities for the DSS replacement dwelling occupied by the displaced person.

The maximum rental assistance for a Tenant is **\$7,200**. The tenant will receive the lesser of the amount calculated for the rental assistance payment or the maximum amount unless Housing of Last Resort is required.

## DETERMINING REPLACEMENT HOUSING PAYMENTS

| TENANT'S BASE MONTHLY RENTAL COST<br>(BMC)<br>(LESSER OF EITHER)   | MONTHLY RENT & UTILITY COST<br>DIFFERENTIAL (MCD)<br>(LESSER OF EITHER)  |
|--|--|
| <ul style="list-style-type: none"><li>•The average monthly cost for rent and utilities at the tenant's DD<br/>OR</li><li>•If the tenant is low-income, 30% of the tenant's average monthly gross household income based on HUD income limits. Note: 81 FR 39702 established a waiver, which SCOR will utilize as applicable, to use higher than 30% if a given tenant was paying the rent without demonstrable hardship.</li></ul> | <ul style="list-style-type: none"><li>•The CRD monthly rent &amp; estimated average monthly utility cost less BMC<br/>OR</li><li>•The CRD monthly rent and estimated average monthly utility cost for each tenant's actual replacement dwelling they have occupied whether it is comparable or not less BMC.</li></ul> |

**Base Monthly Rent** of the displacement dwelling is the lesser of:

1. The average monthly cost for rent and utilities at the displacement dwelling for one year or the rent payment period if less than one year, prior to displacement. For a tenant who paid little to no rent for the displacement dwelling, the fair market rent will be used unless its use would result in a hardship because of the person's income or other circumstances;
2. Thirty (30) percent of the displaced person's average monthly gross household income if the amount is classified as "low income" by HUD, meaning that the household's taxable income is 80% of the County's Area Median Income (AMI).
  - NOTE: The base monthly rent shall be established solely on the criteria under this bullet for households with incomes exceeding the "low income" limits of 80% of AMI for persons refusing to provide appropriate evidence of income, and for persons who are dependents. A full-time student may be assumed to be a dependent, unless the person demonstrates otherwise, or;
3. The total of the amounts designated for shelter and utilities if the displaced person is receiving a welfare assistance payment from a program that designates the amount for shelter and utilities.

**Determination of Utility Costs** – SCOR will examine the average monthly utility costs at the displacement dwelling. The determination will be based on one year or the rent payment period, whichever is less, prior to displacement. SCOR will estimate the average monthly utility costs at the comparable replacement dwelling and should be based on actual 12-month utility data for that unit to the extent possible.

The cost of phone, cable and internet are not considered part of utilities. Determining the amount of qualified utilities often can be challenging. If the current lease includes all utilities, this does not mean that a comparable unit must also include all utilities. Instead, a utility credit will be included in the RHP based on the comparable unit's needs. In order to simplify this process, SCOR will use the latest utility allowance schedule of a local or regional Housing Authority if it determines collection of utility use and

cost history for an existing unit is too difficult.

RHPs are given in installments, in accordance with 42 U.S.C. 3537c. Tenant will have their moving expenses paid on their behalf and receive a payment equal to 3 monthly RHP payments paid up front. The second payment equal to the remaining 39 monthly RHP installments will be paid to the tenant upon completion of their move. URA payments may be issued by SCOR as ACH payments or by check. A tenant's Case Manager will assist the tenant in setting up a SCIES Vendor account for ACH payments and assist with the completion of the URA payment claims forms as necessary and desired by the tenant.

If the tenant agrees to accept the HLR offer, the payment will be paid in two installments in the same manner as a Replacement Housing Payment (RHP). Tenant will have their moving expenses paid on their behalf and receive a payment equal to 3 monthly HLR payments paid up front. The second payment equal to the remaining 39 monthly HLR installments will be paid to the tenant upon completion of their move. The assistance payments contained within the HLR will be triggered to start when the tenant voluntarily moves from their dwelling.

**Moving Expense Payments** – Displaced persons eligible for URA assistance are entitled to a payment for their moving and related expenses that are determined to be reasonable and necessary. The displaced person may choose:

- Payment for actual reasonable moving and related expenses, OR
- Fixed Payment for moving expenses, OR
- Commercial Move Option.

If the tenant selects a fixed moving expense payment, the payment is based upon the number of rooms that must be moved or has been moved by the tenant and the most recent Federal Highway Administration's fixed moving expense chart (use most current data) ([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)).

| 2021 SOUTH CAROLINA FIXED MOVING COST SCHEDULE |         |         |         |         |         |         |         |            |                   |                       |
|--|---------|---------|---------|---------|---------|---------|---------|------------|-------------------|-----------------------|
| 1 Room   | 2 Rooms | 3 Rooms | 4 Rooms | 5 Rooms | 6 Rooms | 7 Rooms | 8 Rooms | Add'l Room | 1 Room – No Furn. | Add'l Room – No Furn. |
| \$700  | \$805   | \$1095  | \$1285  | \$1575  | \$1735  | \$1890  | \$2075  | \$225      | \$500             | \$75                  |

If the tenant elects to receive reimbursement for actual moving expenses, then the Case Manager will assist the tenant in obtaining three (3) quotes from moving companies. The lowest quote establishes the maximum amount that the program will pay for the move. The amount of the actual moving expenses is either the 1) lowest quote obtained, or 2) the actual moving expenses, whichever is less, and will be payable directly to the moving company at the conclusion of the move. SCOR will reimburse for actual moving expenses for moving a household up to 50 miles from the displacement dwelling.

A tenant may elect a commercial move option when the tenant cannot physically perform the packing, loading, moving, and unpacking necessary to move from their current dwelling and are unable to

physically carry out their own move. The SCOR Case Manager will work with the tenant to obtain three local, certified commercial moving company bids in the area within 50 miles of the displacement dwelling. The lower of three bids will be selected. The Case Manager will coordinate all aspects of the commercial move process. SCOR will pay the commercial moving company directly at the conclusion of the move.

The tenant must select the moving expense payment option and receive prior approval from SCOR or the tenant may not receive reimbursement. SCOR Case Managers will assist the tenants in completing all required forms in order to receive reimbursement, or to initiate direct payment to professional moving companies.

**Eligible Moving Expenses** – Eligible moving expenses are determined based on the cost of one, or a combination of methods as selected by the tenant prior to the move: self-move based on actual or fixed moving costs, and/or by a professional mover. Actual moving expenses may include:

- Transportation of the tenant's belongings and tenant's family (up to 50 miles);
- Packing, moving, and unpacking of household goods;
- Disconnecting and reconnecting household appliances and other personal property (e.g.: electricity, cable, internet, and phone);
- Storage of household goods (maximum of 12 months unless otherwise approved by SCOR);
- Insurance for the replacement value of property in connection with the move and storage;
- The replacement value of property that is lost, stolen, or damaged in the process of moving where insurance for such losses is not available;
- The cost of moving assistive equipment of the tenant's (where applicable);
- The furnishings and personal belongings of a live-in aide, and/or reasonable accommodations for disabled tenants; and,
- Other reasonable out-of-pocket expenses that are not prohibited.

**Ineligible Moving Expenses** – A displaced person may not claim or receive payment for the following moving and related expenses for residential moves:

- Relocation expenses not pre-approved in writing by SCOR;
- Interest on a loan to cover moving expenses;
- Personal injury;
- Any legal fee or other cost for preparing a claim for a relocation payment or for representing the claimant before SCOR;
- Expenses for searching for a replacement dwelling;
- Costs for storage of personal property on real property already owned or leased by the displaced person;
- Refundable security and utility deposits; and,
- Moving expenses beyond 50 miles from the displacement dwelling.

## **6. Initiation of Negotiation (ION)**

The Initiation of Negotiation (ION) begins when the owner signs the legally binding sales agreement, serving as a milestone for determining a person's eligibility for relocation assistance, including moving costs and replacement housing assistance payments. At this time, the Case Manager will provide information on any CRDs and associated costs that were identified.

## **7. Notice of Relocation Eligibility Issued**

The ION date triggers when each displaced household must be issued a Notice of Relocation Assistance Eligibility. However, if SCOR issues a Notice of Intent to Acquire Real Property and a tenant moves after that notice, but before the signing date of a legally binding sales agreement, the ION date for that tenant will be the tenant's actual move date from the property. Further requirements of the Case Manager are to:

- Make a final relocation assistance eligibility determination
- Hold the final Eligibility & Advisory Services Interview
- Send the tenant a Notice of Eligibility (NOE) by Certified Mail
- Start the process of providing relocation assistance, as applicable
- Notify the tenant that all claims for relocation assistance payments must be filed with SCOR no later than 18 months after the date of displacement
- Inform the tenant that all requests for reimbursements or relocation assistance payments must be supported by reasonable documentation to support expenses, which will be reviewed within five business days of receipt
- Promptly inform the tenant of any additional documentation required, and all records will be kept confidential, but reports will be submitted related to displacement activities as requested by SCOR and/or HUD
- Provide time for the tenant to share their preferences based on what CRD and assistance options may be available to them
- Continue to provide advisory services as needed

The Case Manager continues to provide advisory services by finalizing the tenant's placement into a replacement dwelling and advising on move preparation. During this step:

- The tenant's replacement dwelling is inspected to ensure it meets DSS or HQS compliance standards
- The Case Manager will send the tenant a 90-Day Notice,
- Complete HLR negotiations if applicable,
- Continue to provide advisory services as needed, and
- Continue to provide relocation assistance as applicable

The Case Manager continues to provide advisory services by finalizing the tenant's placement into a Replacement Dwelling and advising on move preparation. During this step:

- The tenant's replacement dwelling is inspected to ensure it meets DSS compliance standards or HQS compliance standards if a tenant currently receives housing assistance through a Housing Choice Voucher Program that requires the replacement dwelling meet this standard in order to retain vouchers and the tenant wants to remain in the Voucher Program
- The Case Manager will send the tenant a 90-Day Notice,
- Complete HLR negotiations if applicable,
- Continue to provide advisory services as needed, and
- Continue to provide relocation assistance as applicable

The Case Manager will then inform tenant of the Comparable Replacement Dwelling location and ensure tenant is given enough time to negotiate and enter into a purchase agreement or lease and, subject to reasonable safeguards, the tenant is assured of receiving the relocation assistance with sufficient time to complete the purchase or lease of the property. A comparable dwelling is made available to a tenant when SCOR:

- Informs the tenant of the unit's location;
- Provides sufficient time for the tenant to enter into a purchase agreement or lease for the property;
- And subject to reasonable safeguards, the tenant is assured of receiving relocation assistance and payments in sufficient time to complete the purchase or lease of the property (49 CFR 24.204(a)).
- If at least one comparable dwelling unit is not made available, the displaced person will be eligible to receive housing of last resort.

## **B) URA Procedures Part 2:**

### **8. Issuing 90-Day Notice**

A 90-Day Notice is issued to displaced households once a comparable replacement dwelling is made available for move-in. For example: If a comparable replacement dwelling is found but is not available for rent for 110 days, issuance of the 90-day notice must be delayed until 90 days from the available move-in date. The 90-day notice provides a minimum of 90 days of notice before a move out is required. This notice will provide the specific earliest date a displaced household will be required to move or say further notice of a specific move date requirement will be provided at a future time but will be at least 30 days in advance. If this notice is issued prior to a CRD being made available, it will clearly state the occupant will not have to move earlier than 90 days after a CRD is made available. This notice will not be issued prior to the NOE; however, the two notices may be combined if needed. If occupants move on their own before receiving a 90-Day Notice, SCOR will not provide this notice to those specific tenants.

### **9. Issuing Assistance Claims**

The tenant files relocation assistance claims, moves out and relocates to their comparable replacement dwelling. Once tenant's relocation is confirmed, relocation assistance claims are processed and paid until all compensatory relocation payments are made. Any time during this process after receiving a NOE Notice, a tenant may file a relocation assistance claim. SCOR will promptly process and pay or reject claims as it deems appropriate. The tenant has 12 months after moving to file an assistance claim, provided they followed the procedures outlined above and notified SCOR appropriately prior to the move.

Replacement Housing Assistance payments will be distributed as two payments. Once a comparable dwelling unit is found and made the available, and the displaced persons provides a signed lease or notarized statement attesting to the address they are moving to, SCOR will distribute a payment equal to 3 months of replacement housing assistance. If a displaced person is moving in in to temporary living quarters rent-free while they seek permanent housing, SCOR will not pay 3-months work of replacement housing assistance upfront.

After closing on the displaced dwelling property SCOR will distribute the remaining 39 months of replacement housing assistance payments to the tenant. In the circumstance where closing is delayed beyond 90 days from the time the tenant moves out, the tenant may request an additional incremental

payment. Along with the final URA payment, SCOR will provide the tenant a letter to sign and date attesting that this constitutes a last and final payment and the tenant has no claim against the state or county under URA.

Once all displaced tenants have completed relocation or voluntarily withdrawn, all URA requirements will be complete, and records will be retained as required by law. Property owners will be responsible for collecting all property keys from the tenant once the tenant has relocated, and safe-guarding the house to ensure it remains vacant until the real estate closing.

#### **Relocation Assistance Reimbursement and Payment Options:**

Moving Expenses – Tenant must choose prior to their move whether they wish to be reimbursed for moving expenses or have SCOR pay their mover on their behalf in advance of their move. SCOR will provide payment for moving expenses reasonable for South Carolina taking into consideration the number of rooms in the displacement dwelling, and whether the tenant owns and must move furniture, etc. as described in 81 FR 39702, which established a waiver for standards described in 49 CFR part 24

Security Deposits and Credit Checks – SCOR will reimburse reasonable and necessary cost of any security deposit required to rent a replacement dwelling unit, and for credit checks required to rent or purchase a replacement dwelling unit

Interim Living Costs – SCOR will reimburse a tenant for actual reasonable out-of-pocket costs incurred in connection with a displacement, including moving expenses and increased housing costs, if:

- A tenant must relocate temporarily because continued occupancy of the property constitutes a substantial danger to the health or safety of the person or the public; or
- A tenant is displaced from a “lower-income dwelling unit,” none of the Comparable Replacement Dwelling, further known as CRD, units to which the person has been referred qualifies as a lower-income dwelling unit, and a suitable lower-income dwelling unit is scheduled to become available.

### **3.03 Section 3**

The South Carolina Office of Resilience (SCOR) will follow the guidance laid out in Section 3 of the Housing and Urban Development Act of 1968, as amended. Section 3 requires SCOR to ensure that training, employment, and other economic opportunities generated by certain HUD financial assistance shall be directed, to the greatest extent feasible, and consistent with existing federal, state, and local laws and regulations, to low- and very low-income persons. Section 3 regulations do not mean Grantees or contractors are required to hire Section 3 residents or award contracts to Section 3 businesses. SCOR will ensure that Section 3 language is incorporated in all applicable contracting documents generated in conjunction with the use of HUD funding.

The SCOR Section 3 Coordinator serves as a resource to assist the contractors and subcontractors with Section 3 compliance. The Section 3 Coordinator may request additional documentation from the Contractor or subcontractors to ensure compliance.

Section 3 Covered Projects are Lead Hazard Control and Healthy Homes Projects of \$100,000 or more and other projects of \$200,000 or more. All contractors and subcontractors working on covered projects must



make a good faith effort to meet the following Section 3 goals. Good faith effort means taking and documenting actions to expand local economic opportunities. Such actions would include:

- Notifying Section 3 residents and businesses of available contract jobs, training, and employment opportunities,
- Encouraging Section 3 residents and businesses to apply, and
- Actually, employing them or awarding contracts.

The Section 3 goals, which must be met are listed below:

- Section 3 Workers should make up at least 25% of all labor hours, and
- Targeted Section 3 Workers should make up at least 5% of all labor hours. This 5% can be included as a part of the 25% overall goal.
- Subrecipients, contractors and subcontractors must report their efforts to meet Section 3 requirements by completing HUD Form 60002 at HUD's online reporting center. Directions can be found at: <https://www.hud.gov/sites/documents/1560002INSTRUCTIONS.PDF> . This applies to for the following:
  - State run or subrecipient run CDBG-MIT Infrastructure projects greater than \$200,000 must report their efforts to meet Section 3 requirements
  - CDBG-MIT Match projects where the grantee's match funds are greater than \$200,000, the applicant must report their efforts to meet the Section 3 requirements
  - CDBG-MIT Buyout projects that are greater than \$200,000 in demolition or have follow on construction projects

(Please Note: CDBG-MIT Buyout projects that have less than \$200,000 in demolition and going to greenspace would not require Section 3 reporting.)

- Copies of these reports must be sent to the SCOR Section 3 Coordinator on a quarterly basis. Subrecipients not meeting Section 3 numerical goals must demonstrate why meeting the goals was not feasible and will be given additional reporting requirements.

A Section 3 Worker is any worker who currently fits or when hired within the past five years fit into at least one of the following categories, as documented:

- The worker's income for the previous annualized calendar year would categorize them as low or very-low income,
- The worker is employed by a Section 3 business concern, or
- The worker is a participant of a YouthBuild program receiving assistance under the Workforce Innovation and Opportunity Act.

When considering a Section 3 Worker's Qualifications, their status may not be negatively affected by a prior arrest or conviction. However, this should not be construed as requiring the employment of a person

who meets the definition of a Section 3 worker. Section 3 workers are not exempt from meeting all required qualifications of any position to be filled.

A Targeted Section 3 Worker is a worker described in §§ 75.11, 75.21, or 75.29 who is currently employed or who was hired within the past five years and is still employed by a Section 3 business concern, and is documented to be:

- A resident of public housing or Section 8-assisted housing,
- A resident of another project managed by the PHA (Public Housing Authority) that is expending assistance, or
- A participant of a YouthBuild program receiving assistance under the Workforce Innovation and Opportunity Act.

When considering qualifications for Targeted Section 3 Workers, their status may not be negatively affected by a prior arrest or conviction. However, this should not be construed as requiring the employment of a person who meets the definition of a Targeted Section 3 worker. Targeted Section 3 workers are not exempt from meeting all required qualifications of any position to be filled.

A Section 3 Business Concern is a business, which was documented in the last six-month period to meet at least one of the following criteria:

- It is at least 51% owned and controlled by low- or very low-income persons,
- It is at least 51% owned and controlled by current public housing residents or residents who currently live in Section 8-assisted housing, or
- Over 75% of the labor hours performed for the business over the prior three-month period were performed by Section 3 workers.

A Section 3 Worker is any worker who currently fits or when hired within the past five years fit into at least one of the following categories, as documented:

- The worker's income for the previous annualized calendar year would categorize them as low or very-low income,
- The worker is employed by a Section 3 business concern, or
- The worker is a YouthBuild participant.

### **3.04 Fair Housing**

The South Carolina Office of Resilience (SCOR) during the operation of its HUD-funded Community Development Block Grant-Mitigation (CDBG-MIT) Programs, will comply with Federal Fair Housing laws and regulations when applicable.

### **3.05 Citizen Participation Plan**

SCOR values citizen and stakeholder engagement. South Carolina has developed a Citizen Participation Plan in compliance with § 24 CFR 91.115 and applicable HUD requirements to set forth the policies and procedures applicable to citizen participation. This plan is intended to maximize the opportunity for citizen involvement in the planning, development, and execution of the South Carolina CDBG-MIT program. To

facilitate citizen involvement, South Carolina has identified target actions to encourage participation and allow equal access to information about the program by all citizens. South Carolina intends to focus outreach efforts to facilitate participation from individuals of low and moderate income, non-English speaking persons, and other disadvantaged populations. SCOR has published its Action Plan in Spanish as well as English. In addition to citizen involvement, South Carolina encourages the participation of regional and State-wide institutions. South Carolina will consider any comments received in writing, via email, or expressed in-person at official public hearing events. Additionally, to permit public examination and public accountability, South Carolina will make the above information available to citizens, public agencies, and other interested parties upon request.

In anticipation of receiving federal CDBG-MIT funds, SCOR is required to incorporate specific citizen participation requirements. This plan outlines how SCOR intends to meet or has already met these requirements. As the agency administering the Mitigation Program, SCOR is committed to furthering fair housing through established affirmative marketing and outreach activities. SCOR will take steps based on the Fair Housing Act of 1968 to reduce disparities in housing choice, access, and opportunities based on protected class (e.g., race, color, religion, familial status, sex, national origin, or disability). Toward achieving that objective, SCOR will ensure that its outreach, communication, and public engagement efforts are comprehensive to reach as many impacted citizens as possible.

### **Outreach Activities and Public Hearings**

**“An invisible program is not a viable program.”<sup>1</sup>**

The objectives of SCOR’s outreach activities are to ensure that citizens and UGLGs (potential applicants) have an opportunity to comment on or suggest proposed uses for the funds, and to maximize public awareness and access to MIT program funds when available.

1. Create and update the CDBG-MIT Action Plan
2. Awareness and Education on CDBG-MIT Funding Opportunities

### ***Creation of the SC CDBG-MIT Action Plan***

During the development of the SC CDBG-MIT Action Plan, the state conducted in-person meetings with key regional stakeholders. Under the CDBG-MIT requirements, 24 CFR § 91.115, SCOR was required to hold one public hearing before the development of the draft CDBG-MIT Action Plan and one following the Action Plan being published for public comment. To maximize public awareness, SCOR held three public hearings, all of which are outlined in the Action Plan. A public comment period followed publication of the Action Plan.

### ***Update of the SC CDBG-MIT Action Plan***

SCOR will engage citizens throughout the program lifecycle to maximize the opportunity for input on proposed program changes that result in a Substantial Amendment. According to the Action Plan a

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<sup>1</sup> [https://www.hud.gov/sites/documents/HHPGM\\_FINAL\\_CH7.PDF](https://www.hud.gov/sites/documents/HHPGM_FINAL_CH7.PDF)

“substantial amendment” occurs when there is a:

- An addition or deletion of any allowable activity described in the approved application
- The addition of a covered project
- An allocation or re-allocation of more than \$5 million
- A change in planned beneficiaries

The following checklist should be used when implementing a substantial amendment. Please note that non-substantial amendments require HUD notification & placement on the website, but do not require public comment.

- Provide citizens with no less than 30 days to review and provide comment (if a substantial amendment)
- Create a summary of all comments received and include in the final Substantial Amendment submitted to HUD for approval
- Once approved by HUD, post the amendment to the SCOR website. All amendments shall be numbered sequentially.

#### ***Awareness and Education on CDBG Funding Opportunities***

Throughout the life of the program, CDBG staff will make a continual effort to inform and notify eligible entities of funding opportunities in the following program areas: infrastructure, buyouts, plans & studies, and fund matching. Each program may require slightly different outreach procedures. For instance, the buyout program, upon project approval, may conduct more citizen-based outreach through buyout interest meetings and intakes, whereas other program will remain more UGLG focused. Additionally, the Match program will focus their outreach on communities that have applied for mitigation funding through EMD and DNR that may need funding to meet those programs’ match requirements.

#### **Targeted Outreach**

##### ***Most Impacted & Distressed Counties***

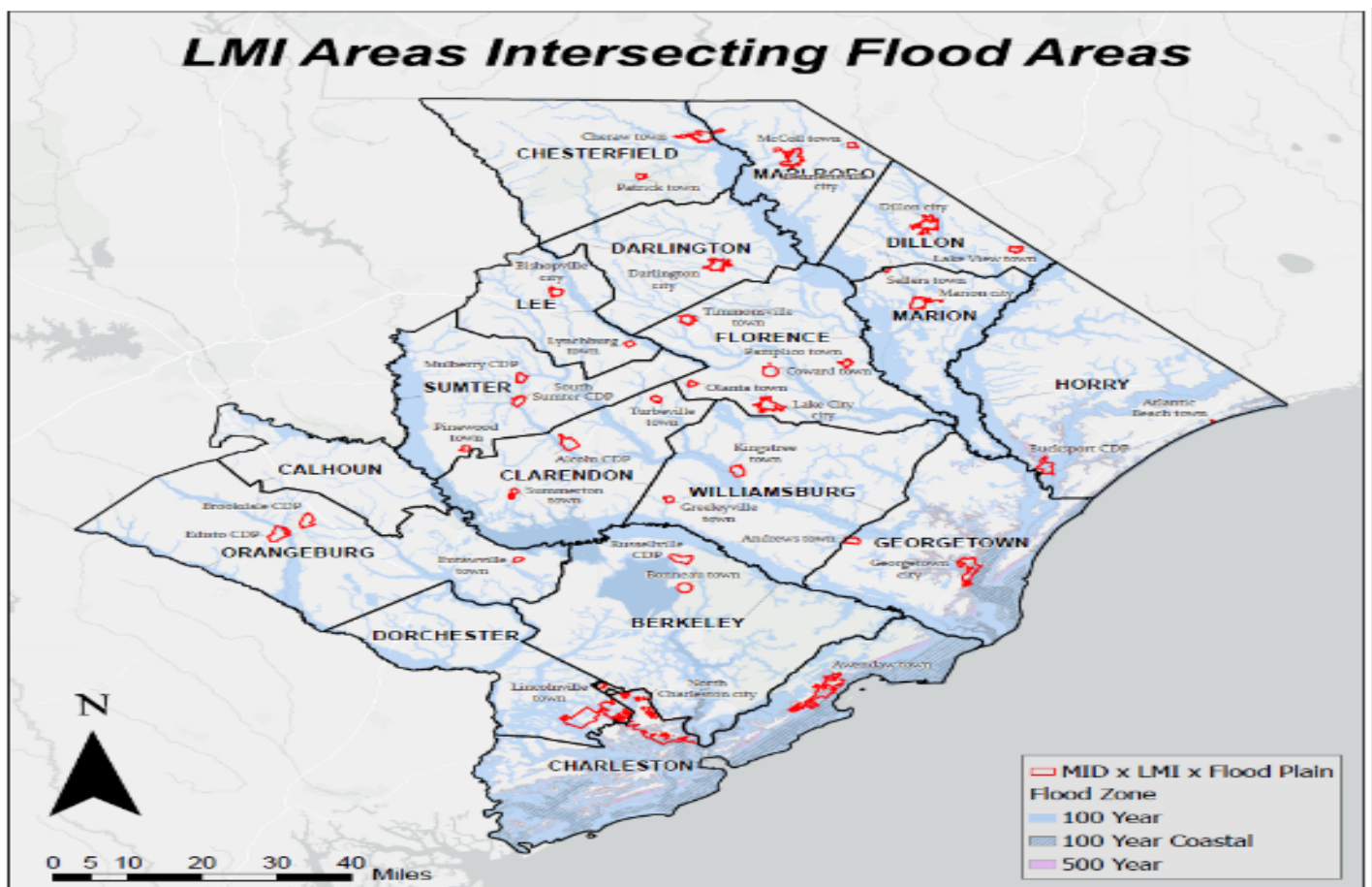
All outreach events should focus on, or take place in, the Most Impacted and Distressed areas that are eligible to apply for CDBG-MIT funding. These counties are listed below. In addition to the county governments, outreach should also focus on municipalities within and COGs covering these counties, who are eligible applicants:

| <b>HUD Most Impacted and Distressed Counties</b> | <b>SC Most Impacted and Distressed Counties</b> |
|--|---|
| 1. Charleston                                    | 10. Berkeley                                    |
| 2. Clarendon                                     | 11. Calhoun                                     |
| 3. Dorchester                                    | 12. Chesterfield                                |
| 4. Florence                                      | 13. Darlington                                  |

|                 |                |
|-----------------|----------------|
| 5. Georgetown   | 14. Dillon     |
| 6. Horry        | 15. Lee        |
| 7. Marion       | 16. Marlboro   |
| 8. Sumter       | 17. Orangeburg |
| 9. Williamsburg |                |

### ***LMI Communities***

In accordance with the CDBG-MIT Action Plan, outreach efforts will focus on low- and moderate-income communities. To understand where these communities are, the following map (Figure 1) identifies LMI communities within MID counties that are in the floodplain. This should be used as a base list of communities to reach out to.



**Figure 1**

### ***Other Disadvantaged Populations***

In addition to LMI communities, special efforts should be made to include hard to reach populations in outreach activities. These groups include

- Non-English-Speaking Persons (see checklist in Appendix B)
- Senior Citizens
- Persons with Disabilities

Use the following checklist to ensure an effort has been made to reach these populations. The items in it should be considered for each outreach event.

- Ensure the meeting location is ADA compliant with the Americans with Disabilities Act
- Provide reasonable accommodations for disabilities with reasonable advanced notice
- Consider best time and location for stakeholder access, convenience, and participation
- Research size of non-English speaking population of community and prepare translated resources accordingly

### Standard Outreach Event Types

|                         | Public Hearings  | Town Halls   | Road Shows   |
|-------------------------|--|--|--|
| <b>Purposes/Use</b>     | Held when creating and making substantial amendments to the SC CDBG-MIT Action Plan.   | Educating citizens on the opportunities for CDBG-MIT funding available to their communities.   | Educate potential applicants in a particular geographic area about CDGB-MIT funding opportunities and processes.   |
| <b>Main Audience(s)</b> | Key regional stakeholders including Councils of Government (COGs), county administration, legislators, public representatives, academic institutions & state agencies. | Citizens of a community within one of the identified MID counties.   | Elected officials and administration of towns, cities and counties, state agencies or Council of Governments. Be sure to provide a sign in sheet so that it can be referenced later. |
| <b>Content</b>          | Participant focused: collecting of input from citizens and stakeholders on the planning, development, and execution of the CDBG-MIT program.                           | An overall description of the CDBG-MIT program, content should be presented in an approachable way to the average citizen. Content may also be targeted to one program area of interest to community. May also include content from other programs that service the communities, such as SCOR's Disaster case Management Program (Palmetto Disaster Recovery). | More detailed information of requirements, application processes & recipient responsibilities. May include information about other programs of interest (SC DNR, SC EMD).            |
| <b>Event Location</b>   | SCOR Office, or various other accessible, central locations across the state. This will most likely require larger venues such as auditoriums.                         | A location that provides enough space for citizens, depending on the population of the community. Location should be familiar and accessible to all citizens of the community, such as the town hall, recreation center, library, etc.   | Public offices in the target area, or via Zoom, allowing attendance from multiple locations.   |

|                   |  |  |   |
|-------------------|--|--|---|
| <b>Scheduling</b> | <p>To be held after regular working hours to allow for maximum attendance. Use the following checklist for notice requirements:</p> <ul style="list-style-type: none"> <li>• Draft language to include disclaimer that those needing auxiliary aid or special assistance should all 48 hours before the hearing to request aid</li> <li>• Announced on agency website</li> <li>• Ad in local newspaper</li> <li>• Announced on social media</li> </ul> | <p>Should be scheduled in the evening, allowing for the most citizen attendance. Time should be left for citizen questions, explanations, and discussion. Could also coincide with regular community meeting schedule.</p> | <p>With the focus on officials and staff these shows may be held during regular business hours.</p> |
|-------------------|--|--|---|

### **Other Methods**

The Mitigation Program may perform other outreach activities in addition to previously described outreach events While our applicants are units of governments, greater community awareness will also result in encouraging applicants. Therefore, SCOR will communicate information about the program and public meetings through community organizations and news outlets, including but not limited to:

- Advertisements in local news media outlets, including newspapers and broadcast media that provides unique access for persons who are considered members of a protected class under the Fair Housing Act or have Limited English Proficiency (LEP). *See the Language Access & Special Needs section.*
- Informational flyers or door hangers advertising the program
- Distribution of informational flyers through government agencies, the faith community, schools, public and/or non-profit organizations, and other community groups.
- Outreach to municipal associations and legislators who represent eligible counties

### **Partners in Outreach**

SCOR will coordinate outreach efforts with other state agencies, non-profits, and other entities to assist South Carolina local governments in securing funding for mitigation studies, plans and projects. At some outreach events, such as Road Shows, the SCOR Mitigation team presents alongside other state agencies such as DNR & EMD, who present complementary mitigation programs.

## **3.06 Language Access & Special Needs**

The South Carolina Office of Resilience (SCOR) is committed to providing all citizens with equal access to information about its HUD-funded Community Development Block Grant-Mitigation (CDBG-MIT) programs, including persons with Limited English Proficiency (LEP) and disabilities. The State follows HUD's regulation, 24 CFR Part 1, "Nondiscrimination in Federally Assisted Programs of the Department of Housing and Urban Development—Effectuation of Title VI of the Civil Rights Act of 1964," which requires all recipients of federal financial assistance from HUD to provide meaningful access to LEP persons



SCOR has adopted a Language Assistance Plan (LAP) to provide meaningful access to its programs and activities by persons with LEP. In accordance with federal guidelines, SCOR will make reasonable efforts to provide or arrange free language assistance for its LEP persons. When a significant number of non-English speaking residents can be reasonably expected to participate in public hearings or open comment periods, materials to be handed out will be translated into the appropriate language, citizen comments in a language other than English will be translated, and translators will be present. These populations will be identified through the mapping of the Census and other data or non-profit or stakeholder identification of need. The SoVI® Targeted, specialized outreach will be conducted to these populations to ensure proper notice of the opportunity to attend hearings or provide input on all proposed plans. This includes all South Carolina residents who are interested or are already participating in a current or announced CDBG-MIT Program.

The LAP focuses on plans for individuals with limited English proficiency. Plans to meet the communication needs of clients who are deaf, hard-of-hearing, or blind are also important and will be properly addressed by reasonably complying with applicable legislation such as Section 504 and the Section 508 Amendment to the Rehabilitation Act of 1973, and Title II and Title III of the Americans with Disabilities Act (1990).

Meaningful access is free language assistance in accordance with federal guidelines. The number and proportion of persons with Limited English Proficiency (LEP) who are eligible to be served or likely to be encountered by the program or grantee are based on U.S Census Bureau American Community Survey (ACS) 2006-2010 population. Based on the eligible population, it was concluded that Spanish is the only majority language spoken in any eligible county for the CDBG-MIT Program. As a result of this initial population analysis, all Action Plans, any ensuing amendments, outreach materials, and any application and related guidance materials will be published in both English and Spanish.

### **Program Income**

The State does not intend to implement any programs that generate income as described in 24 CFR 570.489. If program income is generated, the State of South Carolina will utilize program income as follows: Income received prior to the grant closeout will be utilized as additional CDBG-MIT funds in the same manner as other CDBG-MIT funds referenced; any income received after the grant closeout, will be transferred to South Carolina's annual CDBG award.

If program income is generated, SCOR will input the amount of program income into DRGR on a quarterly basis. With the input of program income, the Project Budgets and Activity Budgets will also be updated. After the adjustments in DRGR have been made to account for program income, SCOR will resubmit the DRGR Action Plan for HUD approval.

### **3.07 Procurement**

SCOR's CDBG-MIT Program Procurement policy and procedures are governed by those specific procurement requirements set forth under 24 CFR Part 570, Part 85, 2 CFR 200.318-200.326 and all applicable State laws and regulations. Aligned with the requirements of these federal regulations, when procuring property or services to be paid for in whole or in part with CDBG-MIT funds, South Carolina will follow its own State procurement policies as those procedures are as stringent, or more so, than the federal procurement requirements. Furthermore, the State shall ensure that each procurement occurs



with full and open competition.

#### **SCOR Procurement**

SCOR follows South Carolina’s procurement policies with the requirements set forth under 2 CFR 200.318-200.36 ensuring fair and open competition. The full set of South Carolina procurement processes and the laws and regulations applicable thereto can be located at <http://procurement.sc.gov/legal/procurement-law>. SCOR’s CDBG-MIT Action Plan lays out further detail on how it executes procurement.

The following table provides a cross-reference between the federal regulatory requirement and its counterpart under South Carolina’s procurement law:

| <i>Federal Citation</i> | <i>Short Title</i>                                 | <i>South Carolina Consolidated Procurement Code &amp; South Carolina Budget and Control Board Regulations 19-45-445, et seq.</i>                    | <i>Short Title</i>  |
|-------------------------|--|---|---|
| 2 CFR 200.318           | General Procurement Standards                      | §11-35-20   | Purposes and Policies   |
| 2 CFR 200.319           | Competition  | §11-35-20(a)-(h)  | Purposes and Policies   |
| 2 CFR 200.320           | Methods of Procurement to be followed              | §§11-35-1510-1580   | Methods of source selection; Methods of Procurement to be followed including, but not limited to, Micro Purchases (§11-35-1550(2)(a)), Small Purchases, Competitive Sealed Bidding, Competitive Proposals and Non-Competitive Proposals/Sole Source |
| 2 CFR 200.321           | Contracting with Small, Minority, Women Owned Bus. | §§11-35-5010; 11-35-5210; 11-35-5230; 11-35-5240; 11-35-5260; 11-35-5270  | Article 21: Assistance to Minority Businesses; includes: Statement Policy/Implementation, Regulations for negotiations with State Minority Firms; MBE Utilization Plan; Reporting; Division of Small/MBE Certification                              |
| 2 CFR 200.322           | Procurement of Recovered Material                  | §11-35-3810; 19-445.2150  | Surplus Property Management   |
| 2 CFR 200.323           | Contract Cost and Price                            | §§11-35-2010(1); 11-35-3510; 11-35-1830; 11-35-1210(2)(C); 11-35-1550(2)(a); 11-35-1830; 11-35-3040; 11-35-3050; 11-35-3410(2)(a); 11-35-5230(a)(5) | Cost and/or Pricing Data; Contract Price Adjustments; Cost Principles; Fair and Reasonable Price Minority Firms   |
| 2 CFR 200.324           | Federal Awarding or pass-through Entity review     | (Compliance with this reg. to be achieved through execution of implementation of grant agreement with HUD)  |   |
| 2 CFR 200.325           | Bonding Requirements                               | §11-35-3030; 19.445-2145(C)(M)  | Bond and Security   |
| 2 CFR 200.326           | Contract Provision                                 | §11-35-3040   | Contract Clauses and their Administration   |

### Subrecipient Procurement

Subrecipients of SCOR's CDBG-MIT funded Mitigation program must comply with the South Carolina Consolidated Procurement Code, S.C Code Ann. § 11-35-10, et. Seq. The SCOR has also adopted 2 CFR 200.317 as it relates to the administration of CDBG-MIT programs, meaning CDBG-MIT Subrecipients are required to follow the Federal procurement requirements found in 2 CFR 200.318 through 200.326.

The standards and guidelines outlined in this manual are being furnished to ensure Subrecipients of CDBG-MIT funds procure materials and services in an efficient and economical manner that is in compliance with the applicable provisions of Federal and State laws and executive orders. The foregoing standards do not relieve CDBG-MIT Subrecipients of any contractual responsibilities under its contracts or local, state, or federal law. Subrecipients are responsible, in accordance with good administrative practice and sound business judgement, for the settlement of all contractual and administrative issues arising out of procurement entered in support of the grant.

The SCOR staff will relay the information contained herein to Subrecipients via the SCOR website, [www.scor.sc.gov](http://www.scor.sc.gov), through trainings and checklists, and during onsite monitoring and reviews. Additional resources may be found on the HUD Exchange website including example procurement documents and checklists. These samples can be used to assist Subrecipients in complying with federal regulations; however, Subrecipients should review all procurement documents and procedures to ensure they also comply with local and state laws and regulations.

Procurement for CDBG-MIT Subrecipients establishes standards and guidelines for procurement of supplies, equipment, construction, engineering, activity administration, architectural, consulting, and other professional services for CDBG-MIT programs. Subrecipients must comply with the South Carolina Consolidated Procurement Code, S.C Code Ann. § 11-35-10, et. Seq. SCOR has also adopted 2 CFR 200.317 as it relates to the administration of CDBG-MIT programs, meaning CDBG-MIT Subrecipients are required to follow the Federal procurement requirements found in 2 CFR 200.318 through 200.326. The following standards and guidelines are being furnished to ensure Subrecipients of CDBG-MIT funds procure materials and services in an efficient and economical manner in compliance with the applicable provisions of Federal and State laws and executive orders.

### **Conflicts of Interest**

A conflict of interest is, by definition, a conflict between the private interests and the official or professional responsibilities of a person in a position of trust. It is the intent of SCOR to encourage confidence in the integrity of all Program staff.

This includes all members of the SCOR management team, program staff, South Carolina State Employees, Subrecipients, Contractors, Subcontractors, and any additional team members. SCOR has a firm expectation that all staff will be diligent in the avoidance of potential and actual conflicts of interest, as well as perceptions of conflicts of interest. A conflict of interest may occur when the private interests of a person in a position of trust are inconsistent with or impede his/her official responsibilities. This is especially true when applicants are selected to receive assistance and when contracts for goods or services are awarded.

To establish internal controls for identifying potential conflicts of interest, all team members, employees, and other parties participating in the determination of eligibility and/or the distribution of funds, are expected to practice good judgment when presented with a situation, which may involve a potential or actual conflict.

All Program staff are required to make full disclosure to their supervisor of any interests, relationships, and holdings, which could potentially result in a conflict of interest. Potential conflicts of interest may include relationships with neighbors, acquaintances, friends, family members, and other members of the community. As soon as a project team member is aware they have a current or prior relationship or familiarity with a potential applicant they are required to immediately notify their supervisor. The supervisor will ensure that project team members do not process or interact with applications with potential conflicts of interest.

This separation of responsibility will ensure an unbiased approach to the processing of all applications and final eligibility determinations. The goal is for every South Carolina citizen and local government to have confidence their application is being processed with expedient efficiency and integrity. In the event a potential or actual conflict is reported, the Program Manager will review the circumstances in-depth and be responsible for determining the course of action to be taken if a conflict is found to exist. If a team member has any doubt as to whether a current or prior relationship poses a potential conflict of interest, they should request guidance from their supervisor.

#### **Local Procurement Policies**

Subrecipients of SCOR's CDBG-MIT funded Mitigation program must use the State's procurement process to secure contract services. In addition to ensuring compliance with the state procurement regulations (South Carolina Code of Laws 8-13-700). Subrecipients must ensure they are in compliance with all federal requirements contained in 2 CFR 200.318-326.

1. Oversight. Subrecipient must maintain oversight of contractors to ensure their perform is in accordance with the terms, conditions, and specifications of their contracts or purchase orders.
2. Standards of Conduct. Every Subrecipient must maintain written procedures covering conflicts of interest and governing the actions of its employees, agents, consultants, and elected officials engaged in the selection, award and administration of vendor contracts, the award of CDBG-MIT assistance, or the management of Federally assisted or purchased property.
  - For the procurement of goods and services, no employee, officer, or agent of the Subrecipient may participate in the selection, award, or administration of a vendor contract supported by a federal award if he/she has a real or apparent conflict of interest. Such a conflict of interest would arise when the employee, officer, agent, any member of his/her immediate family, his/her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in a tangible personal benefit from a firm considered for a vendor contract. (24 CFR 570.489(g), 2 CFR 200.318(c)(1))
  - The officers, employees, or agents of the Subrecipient may neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts.
  - The standards of conduct must also provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents of the Subrecipient
3. Avoidance of Unnecessary or Duplicative Items. Subrecipients must avoid the acquisition of unnecessary or duplicative items by giving consideration to consolidating or breaking out procurements to obtain a more economical purchase.

4. Value Engineering Clauses. Subrecipients are encouraged to use value engineering clauses in contracts for construction projects of sufficient size to offer reasonable opportunities for cost reductions.
5. Awarding to Responsible Contractors. Subrecipients must award contracts only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement. Consideration shall be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources.
6. Record Keeping. Subrecipients must maintain records sufficient to detail the history of procurement. These records shall include, but are not limited to, the following:
  - Rationale for the method of procurement
  - Selection of contract type
  - Contractor selection or rejection; and
  - The basis for the contract price
7. Time and Materials Contracts. Subrecipients may not use a time and materials contract for the purposes of this Mitigation Program.
8. Dispute Resolution. Subrecipients alone must be responsible, in accordance with good administrative practice and sound business judgment, for the settlement of all contractual and administrative issues arising out of procurements. These issues include, but are not limited to, source evaluation, protests, disputes, and claims. These standards do not relieve Subrecipients of any contractual responsibilities under its contracts.

#### Local Procurement Procedures

Subrecipients must have written procedures for procurement transactions that ensure all solicitations:

- Incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured
- Identify all requirements which the offerors must fulfill
- Identify all other factors to be used in evaluating bids or proposals; and
- Are conducted in a manner providing full and open competition
  - In order to ensure objective contractor performance and eliminate unfair competitive disadvantage, contractors that develop or draft specifications, requirements, statements of work, or invitations for bids or request for proposals must be excluded from competing for such procurements
  - Some situations considered to be restrictive of competition include, but are not limited to, the following:
    - Placing unreasonable requirements on firms in order for them to qualify to do business
    - Requiring unnecessary experience and excessive bonding
    - Noncompetitive pricing practices between firms or between affiliated companies
    - Noncompetitive contracts to consultants that are on retainer contracts
    - Organizational conflicts of interest
    - Specifying only 'brand name' products instead of allowing an equal product to be offered and describing the performance or other relevant requirements of the procurement; and

- Any arbitrary action in the procurement process

When using prequalified lists, Subrecipients must ensure that all lists of persons, firms, or products which are used in acquiring goods and services are current and include enough qualified sources to ensure maximum open and free competition. Also, Subrecipients must not preclude potential bidders from qualifying during the solicitation period.

### **Cost and Price Analysis**

For procurement actions in excess of the small purchase threshold, Subrecipients must perform a cost or price analysis. This requirement also applies to contract modifications and change orders.

#### **Price Analysis**

Price analysis is the process of evaluating and comparing prices for goods or services and should be documented in the procurement file. In conducting a proper price analysis, Subrecipients must request an adequate number of bids, proposals, or quotes for the materials, supplies, or services being procured for comparison. When comparing prices, Subrecipients should review for significant discrepancies to determine if the goods or services are comparable.

#### **Cost Analysis**

Subrecipients will utilize this process to help determine if proposed costs are allowable, reasonable, and allocable as described in 2 CFR 200.403-405. Prior to receiving bids or proposals, Subrecipients should establish an independent estimate for the goods or services to be procured. When conducting a cost analysis, Subrecipients must review and evaluate the separate elements of cost and negotiate profit in a received proposal.

A cost analysis is required when price competition does not exist. The following are examples of when cost analysis is used:

- The competitive proposal method is used
- The sole source procurement method is used
- Only one bid is received during a sealed bid procurement and
- A contract modification is requested that changes the price or total estimated cost (either upwards or downwards)

### **Conducting a Price and Cost Analysis**

Subrecipients should include the following in their analysis:

- Check the accuracy of the prices submitted
- Evaluate the necessity of the proposed cost items
- Evaluate the separate elements of cost
- Review proposal for potential cost overruns, taking into consideration the vendor's past performance
- Compare proposed prices to Subrecipient's independent cost estimate; and
- Compare proposed prices to previous cost estimates or actual costs incurred for similar work

## Price Guide Methodology

The South Carolina Office of Resilience (SCOR) utilizes a 2-part pricing methodology to ensure conformity with cost reasonableness guidelines set forth by the Housing and Urban Development guidelines and the South Carolina Office of Resilience Mitigation Action Plan.

### **Part I**

Part I takes into account industry standards by identifying similar, relevant studies and calculating an adjusted price based on project cost and area size with proportional mathematics. The resulting data offers a range with which the new price should sit.

### **Part II**

Part II guides price by multiplying a pre-determined base-price with 2-3 variables, contingent upon applicant-type. The variables used are complexity, scope, and number of focus areas. These variables were weighted differently in different scenarios to obtain the most accurate prices. At the time of price guide development, the Plans and Studies Program had 10 ongoing studies, meaning that 10 data points were available for use. These precedents were helpful starting points for developing base-prices.

Multiple scenarios were run in which the variables, complexity, scope, and number of focus areas, were weighted at 5%, 10%, 15%, and combinations of these three percentages. Different starting prices, based on the precedents set in the first 10 studies and variations of such precedents, were tested with the differently weighted scenarios. The resulting base-prices and variable weights were selected as they resulted in the most reasonable and sound price outcomes.

Each study will get ranked based on these variables. For example, if a City-wide project is very complex, has a robust scope, and has identified only one focus area of concern, the equation would be as follows: \$200,000 X 1.15 X 1.15 X .9 = \$238,050. This number must fall in the range identified in Part I. It is this resulting price that SCOR will bring to guide firm negotiations.

It is important to note that towns do not have number of focus areas as a variable due to their small size.

| Applicant Type | Base Cost    | Complexity | Scope |
|----------------|--------------|------------|-------|
| Town           | \$150,000.00 | 5%         | 10%   |

| Applicant Type | Base Cost    | Complexity | Scope | # of Focus Areas |
|----------------|--------------|------------|-------|------------------|
| City           | \$200,000.00 | 5%         | 5%    | 5%               |

| Applicant Type | Base Cost    | Complexity | Scope | # of Focus Areas |
|----------------|--------------|------------|-------|------------------|
| County         | \$450,000.00 | 5%         | 5%    | 5%               |

Once cost reasonableness has been completed, a memorandum will be drafted and placed into the project's file (See Annex 1).

### **Profit Negotiation**

Subrecipients must negotiate profit as a separate element of the price for each contract in which there is no price competition and, in all cases, where cost analysis is performed<sup>12</sup>. Per HUD's "Quick Guide to Cost and Price Analysis," all of the following criteria must be considered when negotiating profit:

- Complexity of the work to be performed
- Amount of risk the contractor may be exposed to (performance and/or cost)
- Contractor's investment and resources dedicated to performing the contract (labor, oversight, etc.)
- Use of subcontractors by the prime contractor and the nature of the work to be performed
- Quality of the contractor's past performance for similar work and
- Industry profit rates in the surrounding area for similar work

Subrecipients are responsible for maintaining records and any documentation used to support the profit negotiation.

### **Contracting with Historically Under-Utilized Businesses (HUB), Small and Minority Businesses, Women's Business Enterprises, And Labor Surplus Firms**

Subrecipients must take all necessary steps to affirmatively assure HUBs, small and minority businesses, women's business enterprises, and labor surplus firms are notified of bidding opportunities and utilized whenever possible. Affirmative steps must include the following:

- Placing qualified small and minority businesses and women's business enterprises on solicitation lists
- Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources
- Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises
- Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises
- Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce and
- Require the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in parts (1)-(5) above

### **Suspension and Debarment**

SCOR will follow the procurement debarment and suspension regulations implementing Executive Orders 12549 and 12689, 2 CFR part 180. These regulations restrict awards, subawards, and contracts with certain parties that are debarred, suspended, or otherwise excluded from or ineligible for participation in Federal assistance programs or activities<sup>2</sup>.

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<sup>2</sup> 2 CFR 200.318(h) and 2 CFR 200.213



Subrecipients must ensure, prior to award, that all contractors receiving CDBG-MIT funds have met all the eligibility requirements outlined in state and Federal law. At a minimum, the following steps must be taken to ensure contractor eligibility for all services procured.

- **Contractors:** All contractors, including professional consulting and engineering firms, must be cleared via a search of the Federal System of Award Management ('SAM') to ensure the contractor is in good standing and has not been debarred. The SAM portal can be found here: <https://sam.gov/SAM/pages/public/searchRecords/search.jsf>. A copy of the Sam search result must be kept in the subrecipients file on that contractor.
- **Subcontractors:** Subrecipients must notify the selected prime contractors that it is the sole responsibility of the prime contractor to verify subcontractor eligibility based on factors such as past performance, proof of liability insurance, possession of a federal tax number, debarment, and state licensing requirements

After a contractor has been verified in the Federal System for Award Management (SAM) and the State's Debarment List, a memorandum noting the checks and their findings will be prepared and placed into the project file (See Annex 2). It should be noted that if any of the above listed parties are deemed ineligible to receive CDBG-MIT funds after award of contract, the contract will be immediately terminated. The matter must be reported to SCOR for further action.

### **Methods of Procurement**

The methods of procurement should follow the more stringent of local, state, or federal requirement. If it appears requirements contradict federal procurement standards, Subrecipients may request Technical Assistance to determine the best method of procurement. Below are the minimum requirements that Subrecipients must utilize:

#### **Small Purchases**

The small purchase method is used for the acquisition of supplies or services greater than the micro-purchase threshold and less than or equal to the small purchase threshold. Small purchase procedures are relatively simple and do not require a formal solicitation for securing services, supplies, or other property. For local governments, the State small purchase threshold is \$10,000.

If small purchase procedures are used, price or rate quotations must be obtained from a minimum of three qualified sources. Documentation of the rate quotations must be maintained for record-keeping requirements.

#### **Sealed Bids (Formal Advertisement)**

Sealed bids, bids that are publicly solicited and a firm fixed price contract (lump sum or unit price) are awarded to the responsible bidder whose bid, conforming with all the material terms and conditions of the invitation for bids, is the lowest price. This is the preferred method for construction contracts.

#### **Competitive Proposals**

The procurement by competitive proposals technique is normally conducted with more than one source submitting an offer, and either a fixed price or cost-reimbursement type contract is awarded. It is generally used when conditions are not appropriate for the use of sealed bids. A Request for Proposal (RFP) is used

when qualifications and price are used in evaluating proposals and is the preferred method for administrative services. A Request for Qualification (RFQ) is used to procure architectural or engineering professional services where qualifications are used in evaluating proposals and price is not used as a selection factor.

### **Noncompetitive Proposals (Sole Source)**

Procurement by noncompetitive proposals is procurement through solicitation of a proposal from only one source and may only be used when one or more of the following circumstances apply:

- The item is available only from a single source
- The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation
- The federal awarding agency or pass-through entity expressly authorizes noncompetitive proposals in response to a written request from the non-Federal entity
- After solicitation of several sources, competition is determined inadequate

The following table outlines the four procurement methods used to procure materials, supplies, construction, and services.

| <b>Procurement Type</b>         | <b>Cost Reasonableness</b>  | <b>Contract Type</b>  | <b>Solicitation Method</b>   | <b>Applications</b>  |
|---------------------------------|---|---|--|--|
| Small Purchase                  | <ul style="list-style-type: none"> <li>• Price Analysis</li> </ul>                          | <ul style="list-style-type: none"> <li>• Purchase Order</li> <li>• Fixed Price</li> </ul>                                     | <ul style="list-style-type: none"> <li>• Quotations</li> <li>• Submitted Bids</li> </ul> | <ul style="list-style-type: none"> <li>• Supplies</li> <li>• Produced items</li> <li>• Single-task service</li> </ul>  |
| Sealed Bid (formal advertising) | <ul style="list-style-type: none"> <li>• Price Analysis</li> <li>• Cost Analysis</li> </ul> | <ul style="list-style-type: none"> <li>• Fixed Price</li> </ul>   | <ul style="list-style-type: none"> <li>• Submitted Bids</li> </ul>                       | <ul style="list-style-type: none"> <li>• Construction items</li> <li>• Produced or designed items</li> </ul>   |
| Competitive Proposals           | <ul style="list-style-type: none"> <li>• Price Analysis</li> <li>• Cost Analysis</li> </ul> | <ul style="list-style-type: none"> <li>• Cost Reimbursement</li> <li>• Fixed Price</li> <li>• Time &amp; Materials</li> </ul> | <ul style="list-style-type: none"> <li>• Submitted proposals</li> </ul>                  | <ul style="list-style-type: none"> <li>• Professional services</li> <li>• Multi-task services</li> <li>• Designed items</li> </ul>   |
| Noncompetitive proposals        | <ul style="list-style-type: none"> <li>• Cost Analysis</li> </ul>                           | <ul style="list-style-type: none"> <li>• Cost Reimbursement</li> <li>• Fixed Price</li> <li>• Time &amp; Materials</li> </ul> | <ul style="list-style-type: none"> <li>• Submitted proposals</li> </ul>                  | <ul style="list-style-type: none"> <li>• Produced items</li> <li>• Single task service</li> <li>• Professional services</li> <li>• Multi-task services</li> <li>• Designed item</li> </ul> |

### **Small Purchase Procedures**

Prior to utilizing the Small Purchase method of procurement, Subrecipients should consider the aggregate cost of the goods or services. To use this method of procurement, the aggregate dollar amount of the goods or services cannot exceed the small purchase threshold (see previous section).

Subrecipients cannot use the small purchase procurement method to make separate, sequential, or component purchases of goods or services with the intent of avoiding the competitive bidding and competitive proposal requirements.

When seeking quotes, Subrecipients must clearly explain to all vendors providing quotations that the information provided is being sought for informational purposes only and the request for quotation does not constitute a formal solicitation. Extra care must be given to avoid giving a vendor any competitive advantage in a future procurement initiative.

**Step 1: Comply with Davis-Bacon Act requirements, if Applicable**

Subrecipients must obtain prevailing wage rates as required by the Davis-Bacon and Related Acts and incorporate those wage rates into the procurement for construction (see Davis-Bacon section).

**Step 2: Contact a Minimum of Three (3) Vendors**

Subrecipients must use the Small Purchase Procurement Record to document quotes received. Quotations may be requested via telephone, fax, email, mail, or any other reasonable method.

Subrecipients must take all necessary steps to affirmatively assure HUBs, small and minority businesses, women's business enterprises, labor surplus firms, and Section 3 businesses are notified of bidding opportunities and utilized whenever possible (see Section Contracting with HUBs, SMBs, WBEs and labor Surplus Firms section).

**Step 3: Award the contract.**

Subrecipients should conduct a price analysis and award to the lowest responsible bidder (see Cost and price Analysis section). If the Subrecipient does not award the contract to the lowest bidder, the reasoning must be documented and in compliance with federal, state, and local regulations. Subrecipients must verify that the vendor is not debarred under the System for Award Management (see Section Suspension and Debarment Section).

**Step 4: Execute the contract.**

Subrecipients must submit the Small Purchase Procurement Record and Financial Interest Report to SCOR within 30 days of executing a prime contract. For subcontractors, the Financial Interest Report is due before the final draw.

**Sealed Bid Procedures (Formal Advertisement)**

Procurements for materials, equipment, and construction services with a total cost over the small purchase threshold (see Small Purchase Procedures section) must formally advertise for sealed bids. Procurement by sealed bids is the preferred method for procuring materials, equipment, and construction services if the following conditions apply:

- A complete, adequate, and realistic specification or purchase description is available
- Two or more responsible bidders are willing and able to compete effectively for the business; and
- The procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally on the basis of price

### **Step 1: Creation of Sealed Bid Packages**

Subrecipients must create a bid package, usually written by an architect or engineer and based off prepared plans or working drawings, that provides a clear and accurate description of technical requirements for materials and products and/or services to be provided on the project. This package must:

- Be sealed by an architect or engineer registered in The State of South Carolina and, if the project falls under the jurisdiction of another state agency, approval is required prior to construction
- For fire stations, garages, and/or buildings that will be accessible to the public once constructed, a certification that applicable standards of accessibility by the handicapped have been or will be satisfied must be executed and co-signed by a local jurisdictional official, filed in the contract documents file, and a copy must be sent to the State
- Contain all properly obtained lands, rights-of-way, and easements necessary for carrying out the project
- Contain processes and procedures in accordance with the provisions of the Uniform Relocation Act for the acquisition of land occurring during the project; and
- Contain all forms and contract provisions applicable to the project and required by federal and state laws and regulations

The base bid should include all components of the approved project and should not include any items which were not included in the approved applications or which have not received subsequent approval. SCOR approval should be received prior to awarding a bid that includes items not listed in an approved performance statement. Note: For fixed price contracts with unit cost pricing, the bid specifications should delineate some type of item, estimated quality, unit price, and total cost.

### **Step 2: Comply with Davis-Bacon Act Requirements**

Subrecipients must obtain prevailing wage rates as required by the Davis-Bacon and Related Acts and incorporate those wage rates into the procurement for construction (see Davis-Bacon section).

### **Step 3: Advertise for Bids**

The invitation for bids must be publicly advertised and bids shall be solicited from an adequate number of known suppliers, providing them sufficient time prior to the date set for opening the bids. The invitation for bids, which will include any specifications and pertinent attachments, shall define the items or services in order for the bidder to properly respond.

Subrecipients must take all necessary steps to affirmatively assure HUBs, small and minority businesses, women's business enterprises, labor surplus firms, and Section 3 businesses are notified of bidding opportunities and utilized whenever possible (see Section Contracting with HUBs, SMBs, WBEs and labor Surplus Firms section).

### **Step 4: Public Opening of Sealed Bid Packages**

All bids will be publicly opened at the time and place prescribed in the invitation for bids. All sealed bid packages must be opened in accordance with the following standards in addition to any requirements imposed by local, state, and federal law:

- All bids shall be opened and read aloud during the bid opening and the apparent low bidder should be determined during this time
- Bids shall undergo a review for both technical and legal responsiveness

- Bidders must be evaluated as having the capacity to furnish the products and/or services required; and
- Minutes of bid opening along with tabulation of bids shall be placed in the contract file

Subrecipients should take action within 45 days of the bid opening, or as otherwise specified in the bid documents, to either award a contract to the lowest responsible bidder or reject any and all bids for just cause. Any or all bids may be rejected if there is a sound documented reason.

If accepted, the Subrecipient and the lowest responsible bidder may, by mutual written consent, agree to extend the deadline for award by one or more extensions of 30 calendar days. Any final contracts awarded must be done so in compliance with the most recent federal wage decision. Subrecipients must maintain documentation of the date, time, and location of the public bid opening.

#### **Step 5: Award the Contract**

A firm, fixed-price contract award will be made in writing to the lowest responsive and responsible bidder. Where specified in bidding documents, factors such as discounts, transportation cost, and life cycle costs shall be considered in determining which bid is lowest. Payment discounts will only be used to determine the low bid when prior experience indicates that such discounts are usually opportune.

Subrecipients must verify that the vendor is not debarred under the System for Award Management prior to awarding a contract. If only one bid is received, the Subrecipient must receive approval from the SCOR before awarding the applicable contract.

#### **Procedures for Bids that Exceed Cost Estimates:**

In some instances, the lowest bid received will exceed the amount of funds estimated for a particular project. If this occurs, the Subrecipient shall consult with SCOR to determine the best course of action. Options include:

- Reject all bids received and re-advertise the project
- Revise or reduce specifications and re-advertise the project, if approved by SCOR
- Reallocate funds to cover the overage
- Seek other funding sources such as local funds to cover the overage; and

#### **Step 6: Execute the Contract**

Subrecipients must submit the Financial Interest Report to SCOR within 30 days of executing a prime contract. For subcontractors, the Financial Interest Report is due before the final draw.

#### **Competitive Proposal Procedures**

Procurement by competitive proposals is normally conducted with more than one source submitting an offer, and either a fixed price or cost-reimbursement type contract is awarded. It is generally used when conditions are not appropriate for the use of sealed bids.

#### **Request for Proposals (RFPs)**

RFPs are used to procure professional services such as grant administrative services. This does not include architectural and engineering (“A/E”) professional services where the competitive negotiation method is utilized.

### Request for Qualifications (RFQs)

RFQs are used to procure professional services such as engineering or architectural firms (A/E). RFQs use a competitive negotiation method. The selection is made based upon the competitor's qualifications, subject to negotiation of fair and reasonable compensation.

This method, where price is not used as a selection factor, can only be used in procurement of A/E professional services. It cannot be used to purchase other types of services though A/E firms are a potential source to perform the proposed effort. RFQs cannot be used to procure project management or construction management services.

All A/E contracting fees, even those provided for under either a fixed price contract or a cost reimbursement contract must be deemed reasonable and justifiable. If, after a project has been funded, there is a substantial change in the scope of the project, then SCOR must review and approve these changes and determine whether any additional funds are allowable.

The provision of funds for A/E services is entirely contingent upon the amount of funds deemed allowable by SCOR. Firms will not be compensated from the applicable CDBG-MIT program in the event of a project not receiving funding.

### Conducting an RFP/RFQ

#### **Step 1: Develop the Request for Proposals (RFP)/Request for Qualifications (RFQ) package**

The RFP/RFQ should include a clear and accurate description of the technical requirements for the material, product, or service to be procured. At a minimum, the RFP/RFQ package should include the following:

- Description of Subrecipient's requirements and the scope of services. Subrecipients must utilize Scopes of Work provided by SCOR in their contracts for grant administrators, engineers, and environmental service providers
- Factors and significant sub-factors that will be used to evaluate the proposal and their relative importance
- Detailed instructions on proposal requirements
- Deadline for submission; and
- Anticipated terms and conditions that will apply to a contract awarded under the solicitation
  - A solicitation may authorize offerors to propose alternative terms and conditions. When alternative terms and conditions are permitted, the evaluation approach should consider the potential impact on other terms and conditions or the requirement

### **Step 2: Advertise the RFP/RFQ**

Requests for proposals/requests for qualifications must be publicized and identify all evaluation factors and their relative importance. Subrecipients should allow sufficient time between the solicitation date and proposal deadline. Any response to publicized requests for proposals must be considered to the maximum extent practical.

Proposals must be solicited from an adequate number of qualified sources. Subrecipients must take all necessary steps to affirmatively assure HUBs, small and minority businesses, women's business enterprises, labor surplus firms, and Section 3 businesses are notified of bidding opportunities and utilized whenever possible.

### **Step 3: Evaluate and rate the proposals**

Subrecipients must have a written method for conducting technical evaluations of the proposals received and for selecting respondents. Materials received in response to RFPs and/or RFQs are typically reviewed in accordance with one of the following processes:

- **Competitive Point Range.** In using this review process, the Subrecipient shall establish a predetermined range of points for proposals that would be considered adequate for qualifying a responder for a particular solicitation. All responders whose proposals or qualification statements score within that range would be invited to an oral interview and asked to submit a best and final offer. The proposals would then be re-evaluated, and the highest scoring firm would be selected
- **Highest Point Earner.** In using this review process, the Subrecipient shall evaluate all proposals or qualification statements in accordance with predetermined selection criteria and award the contract to the overall highest scoring firm.

For counties, municipalities, and other public entities the local governing body has the final authority to award contracts and may select another respondent if the minutes of the local governing body meeting include justification for the selection. Subrecipients must maintain documentation of the date, time, and location of the public bid opening.

### **Step 4: Award the contract**

Contracts must be awarded to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered.

Subrecipients must also verify that the vendor is not debarred under the System for Award Management prior to awarding the contract. If only one bid or proposal is received, the Subrecipient must receive approval from the SCOR before awarding the applicable contract.

### **Step 5: Execute the Contract**

Subrecipients submit the Financial Interest Report to SCOR within 30 days of executing the contract.

#### **Noncompetitive Proposal Procedures (Sole Source)**

Subrecipients MUST obtain written approval from SCOR prior to using this procurement method. All requests to utilize non-competitive procurement must be submitted in writing by the Subrecipient to SCOR and include a justification as to why the contractor is the only known source to provide the goods or services under the contract. The justification and SCOR approval must be maintained for record-keeping requirements.

Procurement by noncompetitive proposals is procurement through solicitation of a proposal from only one source and may only be used when one or more of the following circumstances apply:

- The item is available only from a single source
- The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation
- The federal awarding agency or pass-through entity expressly authorizes noncompetitive proposals in response to a written request from the Subrecipient; or
- After solicitation of a number of sources, competition is determined inadequate
- Subrecipients should conduct a cost analysis to determine if proposed costs are allowable, reasonable, and allocable. Subrecipients must also verify that the vendor is not debarred under the System for Award Management

### 3.08 Contracting

#### Types of Contracts

##### **Purchase Orders:**

Purchase orders are a form of contract utilized for the purchase of supplies, single task services, and produced items procured through the small purchase method. A Purchase Order should contain, at a minimum, the following:

- Agency name and address
- Agency contract or Purchase Order number
- Date of the order
- Term of contract (delivery period after receipt of order or beginning and end dates)
- Contractor's name, payee/vendor identification number, address, and zip code
- NIGP class/item for each item
- Purchase Code Category
- List of contract documents and their order of precedence
- List of awarded items with quantity, unit of measure, unit price with extended totals, and
- Signature of authorized/certified purchasing representative



**Fixed Price Contract:**

A fixed price contract is suitable for the acquisition of commercial items, including construction, or for the acquisition of other supplies or services on the basis of reasonably definite functional or detailed specifications and when the contracting officer can establish fair and reasonable prices at the outset. This contract type:

- Places maximum risk and full responsibility for costs and resulting profit loss on the contractor
- Provides maximum incentive for the contractor to control costs and perform effectively and
- Imposes and minimum administrative burden upon the contracting parties.

**Cost Reimbursement Contract:**

A cost reimbursement contract is suitable for situations in which uncertainties are involved in contract performance that do not permit costs to be estimated with sufficient accuracy to establish a fixed contract price. These types of contracts establish an estimated total cost for the purpose of obligating funds and establishing a ceiling that the contractor may not exceed (except at their own risk).

**Required Contract Provisions**

*CDBG-MIT Program Requirements.* All contracts executed between the Subrecipient and a contractor must include the following CDBG-MIT Program requirements:

- Performance requirements and penalties
  - Project schedule including the performance period and completion date
  - Subrecipients must ensure contracts do not contain any cost plus or incentive savings provisions. No contracts must refer to compensation adjustments for cost plus or incentive savings provisions
  - All Section 3 covered contracts shall include the Section 3 clause; and other Federally Required Provisions. The Subrecipient's contracts must contain the applicable provisions described in Appendix II to Part 200—Contract Provisions for non-Federal Entity Contracts Under Federal Awards.
1. Remedies. Contracts for more than the simplified acquisition threshold currently set at \$150,000, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.
  2. Termination for cause and for convenience<sup>22</sup>. All contracts in excess of \$10,000 must address termination for cause and for convenience by the Subrecipient including the manner by which it will be affected and the basis for settlement.

3. Rights to Inventions Made Under a Contract or Agreement<sup>23</sup>. If the Federal award meets the definition of “funding agreement” under 37 CFR §401.2 (a) and the Subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the Subrecipient must comply with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.
4. Debarment and Suspension (Executive Orders 12549 and 12689)<sup>24</sup>. A contract award (see 2 CFR 180.220) must not be made to parties listed on the government-wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), “Debarment and Suspension.” SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.
5. Records of non-Federal entities<sup>25</sup>. The U.S. Department of Housing and Urban Development (HUD), Inspectors General, the Comptroller General of the United States, the South Carolina Office of resilience (SCOR), and the pass-through entity, or any of their authorized representatives, must have the right of access to any documents, papers, or other records of the non-Federal entity which are pertinent to the Federal award, in order to make audits, examinations, excerpts, and transcripts. The right also includes timely and reasonable access to the non-Federal entity's personnel for the purpose of interview and discussion related to such documents.
6. Record Retention. Financial records, supporting documents, statistical records, and all other non-Federal entity records pertinent to a Federal award must be retained for a period of three years from the date of submission of the final expenditure report or, for Federal awards that are renewed quarterly or annually, from the date of the submission of the quarterly or annual financial report, respectively, as reported to the Federal awarding agency or pass-through entity in the case of a Subrecipient. Federal awarding agencies and pass-through entities must not impose any other record retention requirements upon non-Federal entities. The only exceptions are the following:
  - a. If any litigation, claim, or audit is started before the expiration of the 3-year period, the records must be retained until all litigation, claims, or audit findings involving the records have been resolved and final action taken
  - b. When the non-Federal entity is notified in writing by the Federal awarding agency, cognizant agency for audit, oversight agency for audit, cognizant agency for indirect costs, or pass-through entity to extend the retention period.
  - c. Records for real property and equipment acquired with Federal funds must be retained for 3 years after final disposition
  - d. When records are transferred to or maintained by the Federal awarding agency or pass-through entity, the 3-year retention requirement is not applicable to the non-Federal entity
  - e. Records for program income transactions after the period of performance. In some cases, Subrecipients must report program income after the period of performance. Where there is

such a requirement, the retention period for the records pertaining to the earning of the program income starts from the end of the non-Federal entity's fiscal year in which the program income is earned

- f. Indirect cost rate proposals and cost allocations plans. This paragraph applies to the following types of documents and their supporting records: indirect cost rate computations or proposals, cost allocation plans, and any similar accounting computations of the rate at which a particular group of costs is chargeable (such as computer usage chargeback rates or composite fringe benefit rates)
  - g. If submitted for negotiation. If the proposal, plan, or other computation is required to be submitted to the Federal Government (or to the pass-through entity) to form the basis for negotiation of the rate, then the 3-year retention period for its supporting records starts from the date of such submission
  - h. If not submitted for negotiation. If the proposal, plan, or other computation is not required to be submitted to the Federal Government (or to the pass-through entity) for negotiation purposes, then the 3-year retention period for the proposal, plan, or computation and its supporting records starts from the end of the fiscal year (or other accounting period) covered by the proposal, plan, or other computation
7. Contracting with small and minority businesses, women's business enterprises, and labor surplus area firms.
- a. The non-Federal entity must take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible
  - b. Affirmative steps must include:
    - Placing qualified small and minority businesses and women's business enterprises on solicitation lists
    - Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources
    - Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses and women's business enterprise
    - Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises
    - Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business minority businesses, and women's business enterprises
    - Development Agency of the Department of Commerce; and vi. Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs (1) through (5) of this section
8. Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 CFR Part 60–1.3 must include the equal opportunity clause provided under 41 CFR 60–1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 CFR Part, 1964–1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment

Opportunity,” and implementing regulations at 41 CFR part 60, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.”

9. Davis-Bacon Act, as amended (40 U.S.C. 3141-3148)<sup>28</sup>. When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland “Anti-Kickback” Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”). The Act provides that each contractor or Subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.
10. 10.Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708)<sup>29</sup>. Where applicable, all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.
11. 11.Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended<sup>30</sup>. Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).
12. 12.Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)<sup>31</sup>. *Contractors* that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or

attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

13. 13.Solid Waste Disposal Act<sup>32</sup>. A non-Federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

### **Bonding Requirements**

Subrecipients are encouraged to accept the bonding policy and requirements of the SCOR for construction and facility improvement contracts and subcontracts exceeding the simplified acquisition threshold. For contracts over \$150,000, Subrecipients should require a bid guarantee from each bidder equivalent to five percent of the bid price consisting of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of his bid, execute such contractual documents as may be required within the time specified:

- For contracts over \$100,000, Subrecipients should require a performance bond on the part of the contractor for one hundred percent of the contract price as executed in connection with a contract to secure fulfillment of all the contractor's obligations under such contract
- Subrecipients should require a payment bond on the part of the contractor for one hundred percent of the contract price as executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract:
  - Municipalities: A payment bond is required if the contract exceeds \$50,000
  - Counties: A payment bond is required if the contract exceeds \$25,000

### **Workers' Compensation Requirements**

Subrecipients that enter into a building or construction contract shall require the contractor to certify in writing that the contractor provides workers' compensation insurance coverage for each employee of the contractor employed on the public project. Each subcontractor on the public project shall provide such a certificate relating to coverage of the subcontractor's employees to the general contractor, who shall provide the subcontractor's certificate to the Subrecipient. Additionally, Subrecipients must include in bid specifications and contracts the specific language and provisions found in 28 TAC §110.110(c)(7). Subrecipients are responsible for compliance with all applicable statutory policies.

### Changes to an Executed Contract

When changes to an executed contract are necessary which would result in a change to the Subrecipient Agreement, the Subrecipient should request an adjustment to both the Subrecipient Agreement and the Subrecipient contract.

When changes to an executed construction or contract are necessary, the Subrecipient must submit a Construction Change Order Form to SCOR prior to executing the change order. The SCOR must review all change orders to ensure costs are eligible and procured according to federal regulations as described in Sections 5.10-5.11. The SCOR will notify the Subrecipient in writing upon review. The Change Order must meet the following requirements:

- Sufficient grant or local funds are available to meet any increased costs
- The original contract price has not been increased by more than 25% or decreased (without the consent of the contractor) by more than 25%
- All items listed on the Change Order were competitively procured through the original bid or the SCOR has approved an exception and
- All items listed on the Change Order are eligible and comply with the Subrecipient Agreement, including the Performance Statement, Implementation Schedule, Budget, and environmental review requirements

### Equipment Purchases

Equipment purchased with CDBG-MIT funds must be used by the Subrecipient in the program or project for which it was acquired as long as needed, whether or not the project or program continues to be supported by the CDBG-MIT award.

When no longer needed for the original program or project\*, the equipment may be used in other activities supported by the Federal awarding agency, in the following order of priority:

- 1<sup>st</sup> Priority - Activities under the CDBG-MIT award which funded the original program or project; then
- 2<sup>nd</sup> Priority - Activities under Federal awards from other Federal awarding agencies. This includes consolidated equipment for information technology systems

*\* Subrecipients must consult their SCOR Grant Manager prior to utilizing the equipment for other purposes.*

When acquiring replacement equipment, Subrecipients should use the equipment to be replaced as a trade-in or sell the property and use the proceeds to offset the cost of the replacement property.

*Equipment Records.* Subrecipients must maintain a property record that includes the following information:

- Description of property
- Serial or other identifying number
- Federal Award Identification Number (FAIN)- funding source of property

- Title holder
- Acquisition date
- Cost
- Location
- Use and condition of the property; and
- Disposition date and sales price, if applicable

A physical inventory of the property must be taken, and the results reconciled with the property records at least once every two years.

### **Disposition Requirements**

Prior to disposing of any equipment purchased with CDBG-MIT funds, Subrecipients must request disposition instructions from the SCOR. Items of equipment with a current per unit fair market value of \$5,000 or less may be retained, sold, or otherwise disposed of with no further obligation to the SCOR. Items of equipment with a current per unit fair market value above \$5,000 must be sold and the funds must be reimbursed to the SCOR as a Cost Reduction Change Order.

### **Recordkeeping**

For each different type of service, a separate file must be created for documentation records. Subrecipients must maintain and make available all documentation utilized during the procurement process, including but not limited to:

- Policies and procedures for procurement
- Copies of all Invitation for Bids (“IFB”) and RFP/Qs published and mailed
  - Proof of advertisement, if applicable
  - Proof that an adequate number of firms/individuals were directly contacted for proposals (e.g., copies of sent emails, certified mail receipts, and/or fax confirmations)
- Copies of bidding and/or proposal packages
- Bid and proposal responses
- Records of bid and proposal evaluation evidencing method of selection used
- Evidence of cost and price analysis, if applicable
- Verification that the vendor is not on the SAM.gov debarred list
- Other procurement correspondence
- Minutes of award or hiring resolution
- Executed contract including all required contract provisions
- Record of equipment purchases, if applicable; and
- Disposition/sales procedures for equipment purchased with CDBG-MIT funds

### **3.09 Personal Identifiable Information (PII)**

SCOR’s CDBG-MIT funded Mitigation program will follow SCOR’s policies on handling and securing PII. The Mitigation program will maintain office and operational security at all times during its day-to-day operations and interactions with the public. This policy includes physical, information and cyber security. All SCOR, any contractors and any sub-contractors will adhere to all elements of SCOR’s policies related to PII.

### **3.10 Environmental Criteria and Standards**

All CDBG-MIT funded projects must complete an environmental review in accordance with 24 CFR Part 58 to ensure that the proposed project is compliant with the National Environmental Policy Act (NEPA) and related environmental and executive orders. Accordingly, environmental review activities will be carried out for each funded Program activity to ensure the activity does not negatively impact the property or surrounding social, cultural, and physical environment including historic resources. The HUD regulations in 24 CFR Part 58, Subpart B allows grantees to assume environmental review responsibilities. SCOR assumes the role of the Responsible Entity (RE), as outlined in the federal regulations, to undertake compliance effort for the Program. SCOR, or its grantees, will be responsible for performing all required environmental reviews for CDBG-MIT funded projects as applicable.

A key factor in performing an environmental review is the process to consider the ultimate effect/end result of a proposed project. For example, if CDBG-MIT funds are being used to acquire a site for a new construction project, the ultimate effect/results of the project are not solely the acquisition of the site, but also the construction of the project, including infrastructure. Therefore, the environmental review must address the impacts of both the CDBG-MIT funded land acquisition and any new construction/additions of the project. The environmental review must address the impacts to the actual project site and the surround area.

#### **Environmental Laws and Regulations**

Environmental reviews must address all compliance factors mandates for the level of review the project scope requires. The following provisions of law authorize state governments to assume HUD's environmental review responsibilities. SCOR or identified Subrecipients will act for HUD for environmental reviews, decision-making, and action that would otherwise apply to HUD under NEPA (National Environmental Policy Act) and other provisions of laws that further NEPA, as specified in 24 CFR Part 58. These regulations are referenced in 24 CFR Part 58.1(b).

The foremost environmental law is NEPA and implementing Executive Order 11514 (35 FR 4247, 3CFR, 1966-1970 Comp., p. 902) as amended by Executive Order 11991 and the implementing regulations of the Council on Environmental Quality (40 CFR parts 1500-1508). This is not an all-inclusive list as projects can cross over into other laws and authorities not listed here.

#### **NEPA**

According to 42 USC § 4321, the purposes NEPA are: To declare a national policy which will encourage productive and enjoyable harmony between man and his environment; to promote efforts which will prevent or eliminate damage to the environment and biosphere and stimulate the health and welfare of man; to enrich the understanding of the ecological systems and natural resources important to the Nation; and to establish a Council on Environmental Quality.

#### **Executive Order 11514 & 11991**

Protection and Enhancement of Environmental Quality

Executive Order clarifying the role of the CEQ and identifying the role of Federal agencies in implementing and enforcing NEPA.



### **Historic Preservation Requirements**

NEPA requires review of the impact of project activities on cultural resources including historic properties as defined under Section 106 of the National Historic Preservation Act (NHPA) and its implementing regulations at 36 CFR 800, as well as the Archaeological and Historic Data Preservation Act of 1974 (54 USC 312501-312508), and Executive Order 11593, Protection and Enhancement of the Cultural Environment. Section 106 of the National Historic Preservation Act (NHPA), and the implementing regulations at 36 CFR 800, requires the South Carolina State Historic Preservation Office (SHPO) to review all projects/undertakings that are federally funded, licensed, permitted, or assisted.

Construction activities will be closely coordinated by SCOR, or its Subrecipient, with the applicant and the South Carolina State Historic Preservation Office (SHPO). SCOR will sign the HUD SC FEMA Programmatic Agreement (“PA”) regarding National Historic Preservation Act Section 106 Compliance or execute the PA between the region IV of the U.S. Department of Housing and Urban Development (HUD) and the SC SHPO for the review of HUD-Funded activities. The PA provides for a more efficient means of compliance with Section 106 requirements. The costs associated with historic property mitigation are eligible costs up to the maximum benefit.

### **24 CFR Part 51: Environmental Criteria and Standards**

Description: This regulation provides environmental standards for determining project acceptability and necessary measures to ensure activities assisted by HUD achieve the goal of a suitable living environment. The environmental criteria include noise abatement and control and the siting of HUD-assisted projects near hazardous operations including explosives, flammables, runway clear zones at civil airports, and accident potential zones at military airfields.

### **24 CFR Part 55: Floodplain Management and Protection of Wetlands**

Description: HUD regulations to implement executive order 11988 related to development in floodplains. See HUD Exchange for more information and publication requirements. Completing the required 8-step process for projects located in a floodplain or wetlands will add a minimum of fifteen (15) days to the environmental review process. Note: Although Part 55 does not contain elevation requirements for non-critical actions, projects involving new construction and substantial improvements (as defined in 55.2(b)(10)) must be elevated or, for nonresidential structures, floodproofed to the base flood elevation of the floodplain in order to get flood insurance from FEMA.

If the project involves new construction or substantial improvement (as defined in 24 CFR 55.2(b)(10), NFIP regulations require that the affected structure(s) be elevated to the base flood elevation. State or local law or program policy may require additional elevation (or “freeboard”) beyond the minimum elevation requirements set by FEMA.

### **24 CFR Part 55.12(c): Regulatory Floodway and Coastal High Hazard Areas**

HUD specifically prohibits construction of CDBG funded projects in the regulatory floodway. The only exceptions are:

- The infrastructure is installed below the floodway using directional drilling below ground level (any potential erosion issues will be addressed in the 8-step process)
- The infrastructure is elevated above the floodway and installed above the base flood level, such as pipelines mounted to existing bridges above the base flood mark
- No housing or other structures “not functionally dependent” on the waterway will be funded if located within the floodway itself

HUD prohibits certain construction of CDBG funded projects in Coastal High Hazard Areas or V Zones. These are areas along the coast subject to inundation by the 1% annual chance flood event with additional hazards associated with storm or tidal induced waves. Because of the increased risks associated with V Zones, Part 55 prohibits critical actions and new construction in these areas unless an exception in section 55.12(c) applies or the project is a functionally dependent use, and otherwise requires the action to be designed for location in a Coastal High Hazard Area.

#### **24 CFR Part 58: Environmental Review Procedures for Entities Assuming HUD Environmental Responsibilities**

Description: The procedures outlined in this regulation are used by entities that assume HUD's environmental review responsibilities in determining program compliance with the intent of the NEPA and other related statutes. Applicable HUD programs under this regulation include only those in which a specific statute allows governing entities to assume the Federal responsibility.

#### **Environmental Review Process**

Once a project has been approved by the SCOR Steering Committee for CDBG-MIT funding, SCOR or its Subrecipients, will determine the level of environmental review required for each awarded project.

For State run projects, SCOR will solicit proposals from qualified professional firms to complete the environmental review and all public notification requirements. SCOR will review the completed report for compliance with HUD/NEPA requirements. Upon completion of the environmental review and required public notices, SCOR will submit the Request for Release of Funds (HUD form 7015.15) to HUD. Following receipt of the RROF, HUD will hold a public comment period before approving the use of HUD assistance through the Authority to Use Grant Funds (AUGF) (HUD form 7015.16).

For Subrecipient run projects, the subrecipient must evaluate whether they have staff with the appropriate expertise to complete the environmental review or whether they need to procure professional services. All procurement must follow State of South Carolina procurement requirements (See [Procurement] section of this manual). The subrecipient, or its contractor, will complete the required level of environmental review and submit the following to SCOR for review:

- A completed environmental report per HUD regulations
- Proof of all required notices and publications
- A copy of all comments received, and all responses issued. If no comments were received during the public comment period, provide a written statement certifying such

SCOR, assuming the role of the responsible entity, will review the submitted environmental review package for completion and compliance. Upon satisfactory completion, SCOR will submit the Request for Release of Funds (HUD form 7015.15) to HUD. Following receipt of the RROF, HUD will hold a public comment period before approving the use of HUD assistance through the Authority to Use Grant Funds (AUGF) (HUD form 7015.16). Once SCOR has received the AUGF from HUD, SCOR will notify grantees and/or contractors that choice-limiting actions on the project may commence.

SCOR, and its Subrecipients, are responsible for fully completing the required environmental reviews and working in good faith with the State or HUD where additional documentation may be necessary to resolve any outstanding environmental/historic preservation compliance factors. SCOR will monitor the environmental review implementation and audit the Environmental Review Record (ERR). SCOR and its Subrecipients must retain complete ERRs to be available for monitoring and compliance by SCOR and/or HUD. SCOR Subrecipients must provide SCOR access to project ERRs.

### **NEPA/Section 106 Review Procedures**

SCOR, its Subrecipients, or consultants, will utilize the guidance provided in the CEQ and Advisory Council on Historic Preservation (ACHP) [NEPA and NHPA: A Handbook for Integrating NEPA and Section 106](#) to integrate NEPA analysis and documentation with Section 106 review. The handbook provides practical advice and tips on how to align the independent statutory obligations of NEPA and Section 106 review for efficient and effective environmental review.

During the environmental review process, SCOR, its Subrecipients, or consultants will determine whether a property, or properties within the area of potential effect (APE), are listed in the National Register of Historic Places (NRHP) or located within a National Register Historic District (NRHD). As necessary, a Secretary of the Interior (SOI) Professional Qualified person (per 36 CFR Part 61) will draft a Determination of Eligibility (DOE) and send it SHPO for eligibility concurrence.

A [Section 106 Project Review Form](#) will be completed, along with all required supporting documentation, and submitted to the SHPO for review and approval. Consultation with appropriate Native American tribes or other participants who are entitled to comment on the Section 106 process (per 36 CFR 800.2). An assessment of project effect will be made. Mitigation measures may need incorporating to avoid or reduce adverse effects to the historic property, including historic districts.

For State run project activities that are included in the existing Programmatic Agreement, SCOR will submit a written request to the SHPO to seek concurrence that the proposed work is covered by the PA and does not require Section 106 consultation. Documentation of SHPO/Tribal consultation for NEPA and Section 106 must be provided in the Environmental Review Record prior to submitting a RROF to HUD.

### **Timing the Environmental Review with Project Activity**

HUD regulations at 24 CFR 58.22 prohibit grant recipients and their partners from committing or spending HUD or non-HUD funds on any activity that could have an adverse environmental impact or limit the choice of reasonable alternatives prior to completion of an environment review once a project has become "federal." This prohibition on "choice-limiting actions" prohibits physical activity, including acquisition, rehabilitation, and construction, as well as contracting for or committing to any of these

actions. The environmental review must be completed prior to any commitment of CDBG-MIT funds. The environmental review is considered complete once HUD has issued an Authorization to Use Grant Funds (AUGF) for the project.

Any money spent on choice-limiting actions prior to the completion of the environmental review will not be reimbursed with CDBG-MIT funds. Additionally, undertaking choice-limiting actions prior to the completion of the environmental review may result in a Finding of Significant Impact and could result in a project that is ineligible for CDBG-MIT funding. If an applicant has taken a choice-limiting action on an approved project prior to HUD issuance of AUGF, the applicant must contact the SCOR Mitigation Program Manager immediately for guidance.

### **Type of Environmental Review**

Once the scope of the mitigation project has been defined the appropriate level of environmental review can be determined. The HUD Environmental Review Procedures are outlined in 24 CFR Part 58 and other compliance requirements are outlined in their Environmental Criteria and Standards at 24 CFR Part 51.

### **Tiered Reviews**

For mitigation projects that do not have specific properties identified prior to the release of funding, HUD's Procedures as outlined in 24 CFR Part 58 allow for a tiered approach by conducting a broad-scale environmental review to eliminate some unnecessary and repetitive review at the site-specific level. A site-specific environmental review strategy is also developed at this stage to implement when specific locations are identified. It is anticipated that SCOR Mitigation Buyout Program projects may qualify for a tiered review. SCOR, or its subrecipient, will complete the Tier 1 environmental review and submit to HUD in accordance with the HUD Environmental Review Procedures as outline in 24 CFR Part 58 and other compliance requirements as outlined in the HUD Environmental Criteria and Standards at 24 CFR Part 51. The Tier 1 must be issued AUGF from HUD before any site-specific activities or funding is approved to proceed. The Tier I Review will:

- Identify and evaluate the issues that can be fully addressed and resolved, notwithstanding possible limited knowledge of the project.
- Establish the standards, constraints, and processes to be followed in the site-specific Tier II reviews.

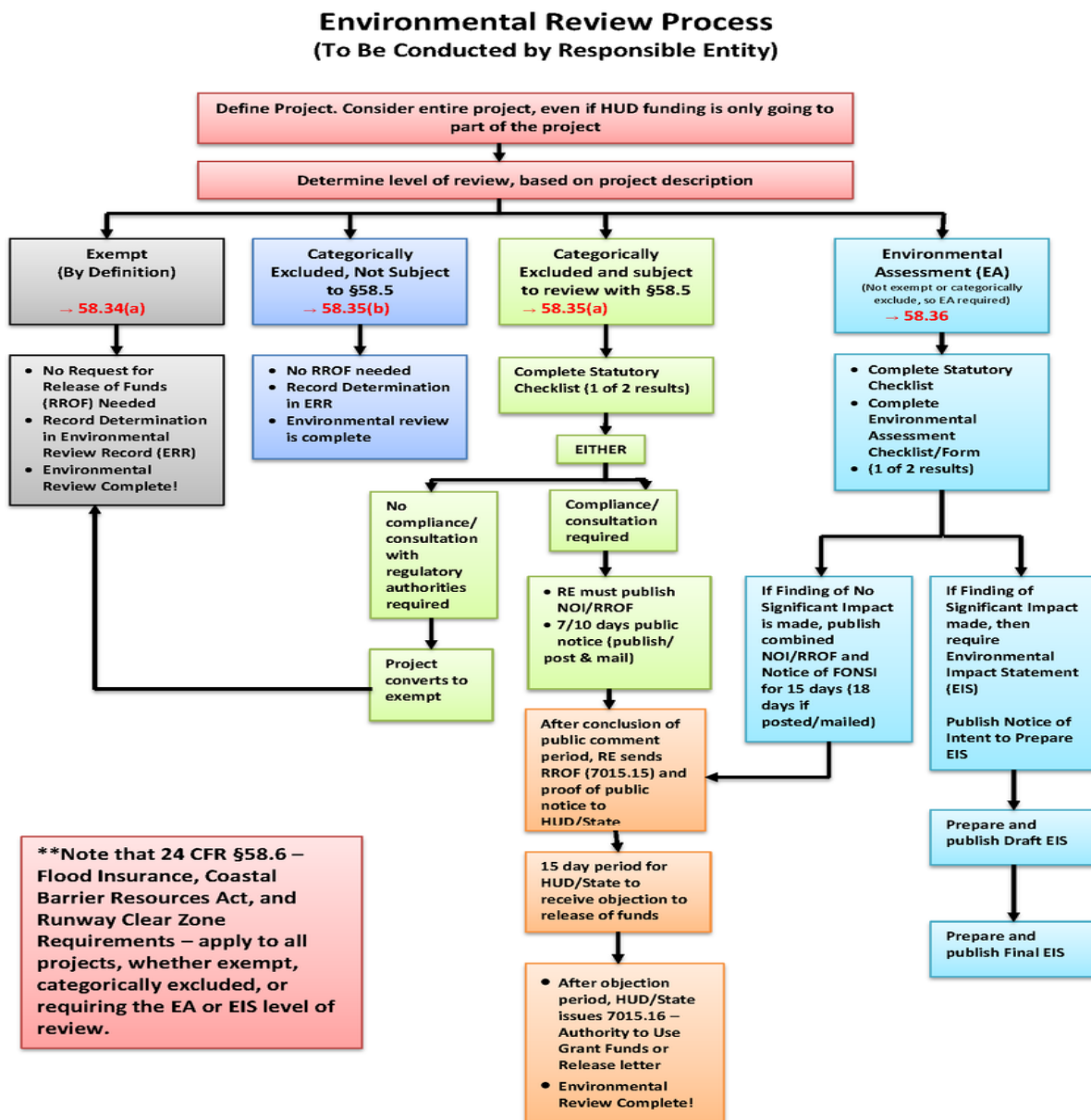
Where a tiered environmental review approach is used for the buyout program, a Tier II review will be initiated once it has been determined that the subject property and the property owner(s) are deemed eligible for the program. The Tier II reviews will be achieved through application review desktop research, direct field observation during the initial construction inspection, and agency coordination/consultation, as necessary. Reviews will be documented through the Environmental Review Records. Any resultant implementation conditions resulting from the environmental review will become part of the project contracts and/or agreements. The Tier II Review will:

- Evaluate the remaining issues based on the policies established in the broad-level Tier I review as individual sites are selected for review.
- Complete the Site-Specific Checklist

The Tier I must be completed with an authorization to use grant funds issued by HUD, and the Tier II must be completed and approved by the Responsible Entity Agency (SCOR), prior to SCOR, or its Subrecipient, issuing a written Offer to Purchase for a property.

### Other Environmental Review Types

Projects for which the specific site(s) is identified must assess the project scope to determine which of the five environmental review types is appropriate. The HUD-issued chart below outlines the five environmental review types and the requirements of each:



### **Exempt Activities**

Project activities that are exempt as defined in [24 CFR Part 58.34\(a\)](#), do not have to submit an RROF and Certification, and no further approval from HUD or the State is required for the drawdown of funds to carry out exempt activities.

It is not anticipated that CDBG-MIT funded mitigation project activities will be meet the criteria for exempt activities. If project activities are determined to be exempt, the responsible entity must document in writing its determination that each activity or project is exempt and meets the conditions specified for such exemption under this section. For all exempt projects the receive CDBG-MIT Funds, SCOR or its grantee will complete the HUD Form for [Environmental Review for Activity/Project that is Exempt or Categorically Excluded Not Subject to Section 58.5 Pursuant to 24 CFR Part 58.34\(a\) and 58.35\(b\)](#). The completed form will be submitted to SCOR for review and approval by the environmental certifying officer prior to commencement of project activities.

### **Categorically Excluded from NEPA, (CENST)**

Project Activities that are categorically excluded from NEPA, not subject to the related laws and authorities at 24 CFR 58.5 and 50.4, are defined in [24 CFR Part 58.34\(b\)](#). For these activities, no environmental impact statement or environmental assessment and finding of no significant impact (FONSIE) under NEPA is required, except in extraordinary circumstances (see §58.2(a)(3)). For project activities that are categorically excluded as defined in 24 CFR Part 58.34(b), the responsible entity does not have to publish a NOI/RROF or execute a certification and the recipient does not have to submit a RROF to HUD (or the State) except in the circumstances as described in 24 CFR Part 58.34(c).

However, the responsible entity remains responsible for carrying out any applicable requirements under 24 CFR 58.6 and must document in writing its determination that each activity or project is categorically exempt and meets the conditions specified for such exemption under this section. For all categorically exempt projects the receive CDBG-MIT Funds, SCOR, or its Subrecipient, will complete the HUD Form for [Environmental Review for Activity/Project that is Exempt or Categorically Excluded Not Subject to Section 58.5 Pursuant to 24 CFR Part 58.34\(a\) and 58.35\(b\)](#). The completed form will be submitted to SCOR for review and approval by the environmental certifying officer prior to commencement of project activities. The Environmental Review Record (ERR) must contain a well-organized written record of the process and determination made under this section.

### **Categorically excluded from NEPA, but subject to the related laws and authorities at 58.5 or 50.4 (CEST)**

Project activities that are categorically excluded from NEPA but subject to 24 CFR 58.5 and 50.4 must complete the statutory checklist to determine if further compliance/consultation is required. Applies to activities listed at [24 CFR 58.35\(a\)](#).

SCOR, or its Subrecipient, is responsible for writing its determination that each activity or project is categorically exempt and meets the conditions specified for such exemption under this section. For all categorically exempt projects that receive CDBG-MIT Funds, SCOR, or its Subrecipient, will complete the HUD Form for [Environmental Review for Activity/Project that is Categorically Excluded Subject to Section](#)

[58.5](#). The completed form will be submitted to SCOR for review and approval by the environmental certifying officer prior to commencement of project activities.

#### **Environmental Assessment (EA)**

All project activities that are not covered under a categorical exclusion or exemption must complete an Environmental Assessment. In addition to compliance with the laws and authorities at 24 CFR 50.4 or 24 CFR 58.6 and 58.5 (also known as the Statutory Checklist), environmental assessments must consider an array of additional potential impacts of the project. This resource lists the additional environmental assessment factors and National Environmental Policy Act (NEPA) analysis that would be required of an environmental assessment for HUD-assisted projects. It is expected that CDBG-MIT funded Infrastructure projects and CDBG-MIT funded buyouts that cannot use the Tiered Review process will require an Environmental Assessment level review.

SCOR or its Subrecipient, will complete the [Environmental Assessment Determinations and Compliance Findings for HUD-Assisted Projects 24 CFR Part 58 Form](#). The completed form will be submitted to SCOR for review and approval by the environmental certifying officer prior to commencement of project activities.

#### **Environmental Impact Statement (EIS)**

An Environmental Impact Statement (EIS) is a detailed written statement required by section 102(2)(C) of NEPA for a proposed major Federal action significantly affecting the quality of the human environment. An EIS is required in circumstances as defined in [24 CFR 58.37](#) or [24 CFR 50.42](#).

It is not anticipated that any SCOR CDBG-MIT funded projects will require an EIS review. If it is determined that an awarded project requires an EIS, SCOR, or its Subrecipients, must use the EIS format recommended by the CEQ regulations (40 CFR 1502.10) unless a determination is made on a particular project that there is a compelling reason to do otherwise. In such a case, the EIS format must meet the minimum requirements prescribed in 40 CFR 1502.10.

### **Asbestos and Lead-Based Paint Testing**

#### **Asbestos Containing Materials (ACM)**

SCOR, its Subrecipients, its contractors and sub-contractors will familiarize themselves with SC DHEC Regulation 61-68.1 regarding Standards of Performance for Asbestos Projects and provide notice to SC DHEC and secure all required proper permitting.

The EPA National Emissions Standards for Hazardous Air Pollutants (NESHAP) identifies air toxics regulations under the Clean Air Act which specify work practices for asbestos to be followed during demolitions and renovations of all facilities, including, but not limited to, structures, installations, and buildings (excluding residential buildings that have four or fewer dwelling units). The regulations require a thorough inspection where the demolition or renovation operation will occur. Performing the work in accordance with the Asbestos NESHAP helps to ensure that areas in use during the renovation are not contaminated and that the area under renovation, when it is complete, is also free of contamination.

An ACM assessment will be conducted if needed, by a certified ACM assessor. Mitigation buyout projects include demolition of the existing structures and therefore, must follow the ACM policies and procedures as described in this manual. When an ACM assessment is needed, the following will take place:

- The ACM assessor will be notified of houses qualifying for an assessment by the agency or contractor completing the environmental review.
- The ACM assessor will prepare an assessment report and provide the completed reports to the agency or contractor completing the environmental review. The ACM assessment reports will be included in the environmental review report and will be uploaded into the ERR and System of Record.
- The report will include at a minimum:
  - a. Delineation of existing ACM areas within the building
  - b. List of requirements for ACM remediation as required by EPA and SC DHEC regulations, and any other required sections based on HUD, EPA regulations; and
  - c. In the cases where ACM is found and remediation is required, the demolition contractor will retain an ACM remediation contractor to prepare an estimate of the remediation. This estimate will be included in the demolition contractors estimate provided to SCOR, or its Subrecipients.
  - d. Upon approval of demolition contract, the ACM assessor will make interim and/or final inspections and prepare a clearance report at the end of the demolition construction project.

For each buyout project, ACM is to be disposed of in accordance with applicable EPA, and any other applicable regulations unless an ACM inspection and testing have been performed to show the building does not contain ACM.

Prior to the demolition of any regulated facility, written notification must be submitted to SC DHEC no less than 10 working days in advance, even if an inspector determines that asbestos is not present at the facility. The DHEC Notification of Demolition Form (D-3428) must include certain required items of information about the owner, the contractor, the facility, and the demolition project. Required fees and a copy of the inspection report must be submitted along with notification of demolition. The demolition contractor, or its subcontractor, must obtain from SC DHEC prior to the demolition activity. This notification is in addition to any other demolition permits that may be issued by other local municipalities or county offices.

The demolition of private residences containing four or fewer units is exempt from the demolition notification requirements unless certain conditions apply including demolition that involves multiple private residences within a compact area under ownership and/or control of a single owner and/or operator. It is expected that Mitigation Buyout projects will not qualify for residential exemption and must following the demolition notification process with SC DHEC for removal of ACM.

Copies of all ACM assessment estimates, ACM assessment reports, ACM remediation estimates, and ACM remediation must be kept in the system of record.



**Lead-Based Paint (LBP)**

For houses built before 1978 (when EPA banned LBP) that are to be demolished as part of a housing buyout program, demolition contractors must properly demolish and dispose of construction debris. Where necessary, an LBP assessment will be conducted by a licensed LBP assessor. This assessment will most often occur in conjunction with an ACM assessment during the environmental review process.

The LBP assessor will be notified of houses qualifying for an assessment by SCOR, its Subrecipient, or its consultant. The LBP assessor will prepare an assessment report to be included in the environmental report and uploaded to the ERR and System of Record.

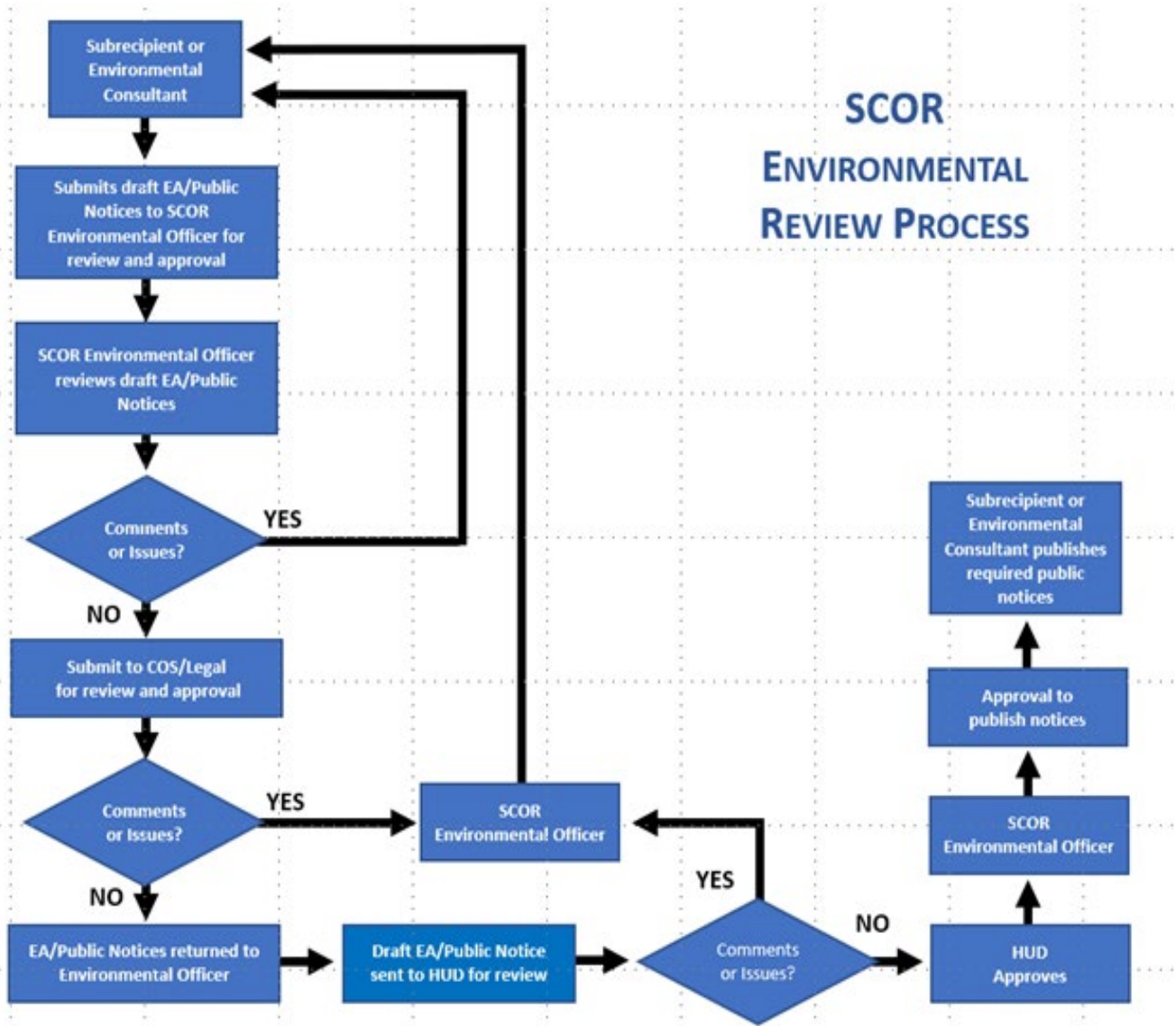
The LBP assessment report will include at a minimum:

- Delineation of existing lead-based paint areas within the structure
- List of Requirements for disposal of lead-based paint as required by HUD, EPA, and the SC DHEC regulations; and
- Any other required section based on HUD, EPA, and SC DHE regulations.

For houses built before 1978 that will be demolished as part of the buyout program, lead-based paint shall be disposed of in accordance with all applicable HUD, EPA and SC DHEC and any other applicable regulations unless lead-based paint inspection and testing have been performed to show that the structure does not contain LBP. For houses that were built in or after 1978, when EPA banned LBP, it is assumed that lead is not present.

**SCOR Internal Environmental Review Process**

SCOR will use an internal process for reviewing Environmental paperwork prior to being published for public comment. Environmental reviews will be done by the SCOR Environmental Officer, Chief of Staff and Legal section. SCOR will send HUD a preview for comment prior to actual publication to avoid the possibility of republishing.



### 3.11 Website Policy

#### Website Purpose

The South Carolina Office of Resilience (SCOR) will maintain a comprehensive website for the U.S. Department of Housing and Urban Development (HUD) CDBG-MIT program in accordance with Federal Register Notice 84 FR 45838, August 30, 2019.

The websites serve as a central source for CDBG-MIT (and CDBG-DR) information and is intended to provide transparency into SCOR's mitigation activities using these funds. The websites will host Action Plans and Amendments; Citizen Participation Policies; Public Hearing Notices; CDBG-MIT Program policies, eligibility requirements, and steps to apply for funding; procurement policies, solicitations, and awarded

contracts (including those procured by subrecipients); procedures for complaints, appeals, and fraud reporting; Quarterly Performance Reports; expenditure projections and outcomes; and for CDBG-MIT, information on the Mitigation Citizens Advisory Committee.

### Website Content

The SCOR websites for CDBG-MIT (and CDBG-DR) are located at <https://scor.sc.gov>

Website locations will be printed on all program advertisements and outreach materials. The State of South Carolina will adhere to ADA-compliant standards for website accessibility and readability. Content and website layout will be designed with best practices for adaptive use in mind. 84 FR 45838, Section V.A.3.a., mandates that all citizens have equal access to CDBG-MIT information, including persons with disabilities and those persons in the service area with Limited English Proficiency (LEP).

### CDBG-MIT Requirements

The information on the CDBG-MIT website will include, but may not be limited to, the following:

- CDBG-MIT Action Plans and Amendments
- CDBG-MIT Announcements of Public Hearings
- Citizen Participation Plan
- Information on the Mitigation Citizen's Advisory Committee
- Information on each CDBG-MIT program, eligibility requirements, and steps to apply
- CDBG-MIT Appeals Procedures
- CDBG-MIT Citizen Complaint Procedures
- CDBG-MIT Procurement
  - Procurement Policies
  - Current requests for proposal
  - Eligibility for competitive sub-awards
  - All awarded contracts to be paid with CDBG-MIT funds
- CDBG-MIT Quarterly Performance Reports
- CDBG-MIT Projected and actual expenditures
- A link to the CDBG-DR website
- Additional reporting as required by HUD

### Website Process

SCOR will ensure that the CDBG-MIT website is reviewed monthly and updated as required by this website policy. The Mitigation Website Coordinator will use the Monthly Website Update Checklist (Section 5) to complete the review. The website will be reviewed during the last week of every month and updated materials will be posted no later than the 15th of the following month.

## Website Person of Contact

| Name            | Email  | Phone          | Title                      |
|-----------------|--|----------------|----------------------------|
| Carissa Cochran | <a href="mailto:Carissa.Cochrane@scor.sc.gov">Carissa.Cochrane@scor.sc.gov</a> | (803) 413-3213 | Public Information Officer |
|                 | <a href="mailto:mitigation@scor.sc.gov">mitigation@scor.sc.gov</a>             | (803) 832-8004 |                            |

## Monthly Website Update Checklist

### MIT Website Checklist

| Item  | Up to date? |
|---|-------------|
| CDBG-MIT Action Plans and Amendments  |             |
| CDBG-MIT Announcements of Public Hearings   |             |
| Citizen Participation Plan  |             |
| Information on the Mitigation Citizen's Advisory Committee  |             |
| Information on each CDBG-MIT program, eligibility requirements, and steps to apply  |             |
| CDBG-MIT Appeals Procedures   |             |
| CDBG-MIT Citizen Complaint Procedures   |             |
| CDBG-MIT Procurement <ul style="list-style-type: none"><li>• Procurement Policies</li><li>• Current requests for proposal</li><li>• Eligibility for competitive sub-awards</li><li>• All awarded contracts to be paid with CDBG-MIT funds</li></ul> |             |
| CDBG-MIT Quarterly Performance Reports  |             |
| CDBG-MIT Projected and actual expenditures  |             |

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Printed Name

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Signature

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Date

### **3.12 Record Retention and Access**

SCOR will establish and maintain such records as may be necessary to facilitate review and audit of the State's administration of CDBG-MIT funds under 24 CFR § 570.493 by HUD. All records documenting funding decisions will be kept, regardless of the organizational level at which final funding decisions are made, so that they can be reviewed by HUD, the Inspector General, the Government Accountability Office, and citizens pursuant to the requirements of 24 CFR § 570.490. Representatives of HUD, the Inspector General, and the General Accounting Office will have access to all books, accounts, records, reports, files, and other papers, or property pertaining to the administration, receipt and use of CDBG-MIT funds and necessary to facilitate such reviews and audits. All records of the State will be retained for the greater of five (5) years from closeout of this grant. All physical and electronic records, following closeout of this grant, will be maintained by the South Carolina Office of Resilience.

### **3.13 Amendments to the Policy and Procedures Manual**

This manual contains the policies and procedures related to SCOR's Mitigation Program. As the program evolves, the applicable policies and procedures may be amended. Each amendment will be clearly outlined within this manual to include the substance of the amendment and the date for which the amendment occurred. The policy manual on the Mitigation program website, located at <https://scor.sc.gov>, will be updated within 3-business days of an update or a change to any policy or procedure.

**Annex 1**  
**Cost Reasonableness Memorandum Format**



HENRY D. MCMASTER, *Governor*  
BENJAMIN I. DUNCAN II, *Chief Resilience Officer*

**VERIFICATION OF COST REASONABLENESS**

For CDBG-Mitigation Project # PP-XX-XXXX-XX

[Insert Date]

The South Carolina Office of Resilience (SCOR), in accordance with the Housing and Urban Development guidelines and the South Carolina Office of Resilience Mitigation Action Plan, adheres to cost reasonableness standards when determining price per project. This is done to ensure costs are reasonable and consistent with market costs. All program expenditures are evaluated to ensure they are necessary and reasonable, allocable according to the CDBG contract, authorized or not prohibited under State/local laws and regulations, conform to limitations or exclusions (laws, terms, conditions of award, etc.), consistent with policies, regulations, and procedures, in accordance with appropriate professional accounting standards, adequately documented, and treated consistently (with non-CDBG costs).

SCOR utilizes a 2-part pricing methodology to ensure conformity with cost reasonableness guidelines. Part 1 examines industry standards by identifying similar, relevant studies and calculating an adjusted price based on proportional mathematics. The resulting data offers a range with which the new price should sit. Part 2 guides price by multiplying a pre-determined base-price with 2-3 variables, contingent upon applicant-type. The variables used are complexity, scope, and number of focus areas. These variables are weighted differently in different scenarios to obtain the most accurate price.

By the execution of this notice, SCOR acknowledges and confirms that all information set forth is true and correct.

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Funds Match, Plans & Studies Coordinator  
Mitigation Department

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South Carolina Office of Resilience  
632 Rosewood Drive, Columbia, SC 29201

P: 803-896-4215  
F: 803-771-2887  
[www.scor.sc.gov](http://www.scor.sc.gov)

**Annex 2**  
**Debarment Verification Memorandum Format**



HENRY D. MCMASTER, *Governor*  
BENJAMIN I. DUNCAN II, *Chief Resilience Officer*

**VERIFICATION OF STATE AND FEDERAL ELIGIBILITY TO RECEIVE CONTRACTS**

For CDBG-Mitigation Project # **PP-XX-XXXX-XX**

[Date]

South Carolina's Division of Procurement Services and the System for Award Management (SAM), have information regarding entities debarred, suspended, proposed for debarment, excluded or disqualified under the non-procurement common rule, or otherwise declared ineligible from receiving Federal contracts, State contracts, certain subcontracts, and certain Federal assistance and benefits.

South Carolina's Office of Resilience (SCOR) carries out its due diligence by conducting debarment research and verifying the eligibility of contracted firms using the aforementioned databases. The firm(s) listed below has been reviewed and cleared:

Firm Name:

DUNs Number:

By the execution of this notice, SCOR acknowledges and confirms that all information set forth is true and correct.

[Insert Signature of Program Coordinator],  
South Carolina Office of Resilience

South Carolina Office of Resilience  
632 Rosewood Drive, Columbia, SC 29201

P: 803-896-4215  
F: 803-771-2887  
[www.scor.sc.gov](http://www.scor.sc.gov)

**Annex 3**  
**Landlord URA FAQ Sheet**



**URA**  
**FREQUENTLY ASKED QUESTIONS**  
**FOR LANDLORDS**



**Q: WHAT IS URA?**

**A:** Under the Uniform Relocation Assistance (URA) and Real Property Acquisition Policies Act of 1970, as amended, eligible tenants that are involuntarily displaced from their rental property may be eligible for relocation payments and other assistance. SCOR is required by the U.S. Department of Housing and Urban Development (HUD) to follow URA requirements and regulations for the Community Development Block Grant-Mitigation funded buyout program.

**Q: WHY DO I NEED TO PROVIDE INFORMATION ABOUT MY TENANT?**

**A:** SCOR needs information about the tenant in order to determine the tenant(s) eligibility for URA benefits. This includes a copy of the current lease agreement, the tenants name and contact information, and the move-in dates (if not specified on the lease).

**Q: WHEN WILL MY TENANT(S) BE CONTACTED? WHAT WILL THEY BE TOLD?**

**A:** The tenant will receive a General Information Notice (GIN) via certified mail once the property owner has completed the buyout intake application. A copy of the GIN will also be sent to the property owner via certified mail. The GIN informs the tenant the property owner has applied to the SCOR CDBG-MIT buyout program and SCOR will be contacting the tenant soon with additional information. The GIN also stresses to the tenant that they should not move, and they must continue to pay rent and abide by the terms of the lease agreement. It also provides a point of contact for the owner and/or tenant to contact SCOR with any questions about URA. The tenant is informed that they will not be notified of their eligibility for URA until the owner enters into an agreement to sell the property to SCOR.

SCOR will contact the tenant after they have received the GIN to explain the URA program in more detail, and to ask questions about the current rental home. These questions will help SCOR to find a replacement dwelling for the tenant IF the owner elects to sell the property and the tenant is displaced.

**Q: WILL I GET COPIES OF ANY/ALL URA DOCUMENTS?**

**A:** Yes. The property owner will receive copies of all URA related documents that SCOR sends to the tenant.

**Q: WHAT HAPPENS IF MY TENANT(S) STOP PAYING RENT, VIOLATE THE TERMS OF THE LEASE, AND/OR MOVE OUT?**

**A:** If a tenant stops paying rent or otherwise violates the terms of their lease, they will jeopardize their eligibility for URA assistance. A landlord participating in the buyout program that pursues an eviction is advised to obtain a court order for the eviction (even if the tenant has already moved). An eviction is allowable when the tenant demonstrates a serious or repeated violation of the terms and condition of their lease.

**Q: I HAVE FRIENDS OR FAMILY STAYING IN THE PROPERTY WITHOUT A LEASE. DO THEY COUNT AS TENANTS?**

**A:** To be eligible for URA assistance, tenants must have documentation that they were in legal occupancy of the buyout property (i.e.: a written lease agreement) and must be in lawful occupancy of the buyout property for at least 90 days prior to the date the owner accepts the Offer to Purchase contract on the buyout property.

**Q: HOW MUCH IS URA ASSISTANCE AND WILL THOSE PAYMENTS FOR THE TENANT(S) COME OUT OF MY BUYOUT PROCEEDS?**

**A:** A tenant may be eligible for rental assistance payment and a moving and related expense payment of up to \$7,200 to be used to relocate to a new rental unit or to be used as down payment assistance for the purchase of a property. The URA payments for eligible tenants **WILL NOT** be deducted from the property owner's buyout proceeds. SCOR will fund the URA payments to eligible tenants using CDBG-MIT buyout project funds.

**Q: CAN I OPT OUT OF URA?**

**A:** If you apply to the SCOR MIT buyout program, you cannot opt out of URA. SCOR is required by Federal law to conduct URA whenever a property owner applies for CDBG-MIT assistance.

**Q: WHAT HAPPENS IF I DON'T ACCEPT THE OFFER TO PURCHASE ON MY PROPERTY?**

**A:** If you do not accept the offer to purchase the property, the tenant will receive a Notice of Non-Displacement informing them that they are **NOT** eligible for URA assistance because the property owner has elected not to sell the property. The owner will receive a copy of this notice as well.



**Annex 4**  
**General Information (GIN) Notice**



**South Carolina Office of Resilience**  
**Disaster Recovery Division**  
**Benjamin I. Duncan II, Chief Resilience Officer**  
632 Rosewood Drive  
Columbia, South Carolina 29201

**General Information Notice**

Date

*Tenant Name*  
*Tenant Address*  
*Tenant Address*  
*Tenant City, SC Tenant Zip*

Dear Tenant Name:

You are hereby notified that the South Carolina Office of Resilience's Buyout Program is interested in acquiring the residence you presently occupy at Tenant's Address. **THIS IS NOT A NOTICE TO VACATE**. Instead, it is to notify you of the possibility that you may be displaced if this buyout occurs. This notice also serves to inform you of your potential rights as a displaced person under a federal law known as the Uniform Relocation Assistance and Real Property Acquisition Policies Act (URA). If you are required to move due to this buyout, you may be eligible for relocation assistance and payments under the URA. **THIS IS NOT A NOTICE OF RELOCATION ELIGIBILITY**. However, if you are determined to be eligible for relocation assistance in the future, you may be eligible for:

- Relocation advisory services including help to find you another place to live
- At least 90 days advance written notice of the date you will be required to move
- Reimbursement for your moving expenses; and
- Either Replacement housing payments to enable you to rent a comparable replacement home, or down payment assistance if you prefer to purchase;
- Help in filing your payment claims and other necessary assistance to help you relocate successfully. You will also have the right to appeal the Mitigation Program's eligibility determination, if you feel that your application for assistance was not properly considered.

The enclosed HUD brochure, "Relocation Assistance to Tenants Displaced from Their Homes" provides an explanation of this assistance and other helpful information. Pursuant to Public Law 105-117, aliens not lawfully present in the United States are not eligible for relocation assistance, unless such ineligibility would result in exceptional hardship to a qualifying spouse, parent, or child. All persons seeking relocation assistance will be required to certify that they are a United States citizen or national, or an alien lawfully present in the United States.

You should **CONTINUE TO PAY YOUR RENT AND MEET ALL OTHER OBLIGATIONS SPECIFIED IN YOUR LEASE AGREEMENT**. Failure to do so may be cause for eviction. If the property is purchased as part of the buyout project, SCOR will stay in touch with you throughout the process to keep you informed on the relocation assistance you're eligible for, timelines for relocation, and individualized housing counseling. You are not limited to the replacement housing options that SCOR-MIT finds for you. You may also search for and choose your own replacement housing. If you find new housing on your own, you must contact SCOR and let us know of your selection **BEFORE** you make any moving plans to ensure you maintain eligibility for relocation assistance. **AGAIN, THIS IS NOT A NOTICE TO VACATE THE PREMISES AND DOES NOT ESTABLISH YOUR ELIGIBILITY FOR RELOCATION ASSISTANCE OR PAYMENTS AT THIS TIME.**

If you are determined to be displaced and are required to vacate the premises in the future, you will be informed in writing. In the event the proposed buyout does not proceed or if you are determined not to be displaced, you will also be notified in writing. Please acknowledge receipt of this letter with your signature at the bottom of the copy provided and return it to us in the self-addressed stamped envelope provided. Your cooperation is much appreciated. Please contact the below with any questions or concerns.

Sincerely,

[Case Manager]  
[telephone number]  
[email]  
cc: [Homeowner]

## Annex 5

### HUD Brochure 1042CPD-Relocation Assistance to Displaced Tenants (HUD-RADT) Brochure

#### RELOCATION ASSISTANCE TO TENANTS DISPLACED FROM THEIR HOMES

U.S. Department of Housing  
and Urban Development  
Office of Community Planning  
and Development

[www.hud.gov/relocation](http://www.hud.gov/relocation)

#### Introduction

This booklet describes the relocation payments and other relocation assistance provided under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA) to tenants displaced from their homes. This includes any family or individual that must move as a direct result of rehabilitation, demolition or acquisition for a project in which Federal funds are used.

If you are notified that you will be displaced, it is important that you **do not** move before you learn what you must do to receive the relocation payments and other assistance to which you are entitled.

Pursuant to Public Law 105-117, aliens not lawfully present in the United States are not eligible for relocation assistance, unless such ineligibility would result in exceptional and extremely unusual hardship to a qualifying spouse, parent, or child as defined at 49 CFR 24.208(h). **All** persons seeking relocation assistance will be required to certify that they are a United States citizen or national, or an alien lawfully present in the United States.

This booklet may not answer all of your questions. If you have more questions about your relocation, contact the Agency responsible for the project. (Check the back of this booklet for the name of the person to contact at the Agency.) Ask your questions before you move. Afterwards, it may be too late.

#### Summary of Relocation Assistance

As an eligible tenant displaced from your home, you will be offered the following advisory and financial assistance:

- **Advisory Services.** This includes referrals to comparable and suitable replacement homes, the inspection of replacement housing to ensure that it meets established standards, help in preparing claim forms for relocation payments and other assistance to minimize the impact of the move.
- **Payment for Moving Expenses.** You may choose either a:
  - \* Payment for Your Actual Reasonable Moving and Related Expenses, or
  - \* Fixed Moving Expense and Dislocation Allowance, or
  - \* A combination of both, based on circumstances.
- **Replacement Housing Assistance.** To enable you to rent, or if you prefer, buy a comparable or suitable replacement home, you may choose either:

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- \* Rental Assistance, or
- \* Purchase Assistance.

If you disagree with the Agency's decision as to the relocation assistance for which you are eligible, you may appeal that decision.

### **General Questions**

#### **How Will I Know I Am Eligible For Relocation Assistance?**

You should receive a written notice explaining your eligibility for relocation assistance. You should not move before receiving that notice. If you do, you may not receive relocation assistance.

#### **How Will The Agency Know How Much Help I Need?**

You will be contacted at an early date and personally interviewed by a representative of the Agency to determine your relocation needs and preferences for replacement housing and advisory services. The interviewer will ask certain questions about you and other members of your household, including questions about your income. It is to your advantage to provide the information so that the Agency can assist you in moving with a minimum of hardship. The information you give will be kept in confidence.

#### **How Soon Will I Have To Move?**

If possible, a mutually agreeable date for the move will be worked out. You will be given enough time to make plans for moving. Unless there is a health or safety emergency, you will not be required to move without at least 90 days advance written notice of (1) at least one "comparable replacement home" that is available to you and (2) the earliest date by which you must move.

#### **What Is A Comparable Replacement Home?**

A comparable replacement home is:

- Decent, safe, and sanitary.
- Functionally equivalent to (and equal or better than) your present home.
- Actually available for you to rent.
- Affordable.
- Reasonably accessible to your place of employment.
- Generally as well located with respect to public and commercial facilities, such as schools and shopping, as your present home.
- Not subject to unreasonable adverse environmental conditions.
- Available to all persons regardless of race, color, religion, sex, or national origin.

## **What is Decent, Safe, and Sanitary Housing?**

Decent, safe, and sanitary housing is housing that:

- Meets applicable housing and occupancy requirements.
- Is structurally sound, weathertight, and in good repair.
- Contains a safe, adequate electrical wiring system.
- Has adequate living space for the occupants.
- Has a kitchen with a sink, hot and cold running water, and connections for a stove and refrigerator (if you were displaced from a housekeeping unit).
- Has a separate, complete bathroom with hot and cold running water.
- Has heating as required by climatic conditions.
- Has an unobstructed exit to safe, open space at ground level.
- Meets standards protecting occupants from lead-based paint hazards.
- If you are person with a physical disability, is free of any barriers which would preclude your reasonable use of the unit.

## **Will The Agency Help Me Find A Replacement Home?**

Yes. You will be provided with referrals to housing that has been inspected to ensure that it meets established standards. If possible, you will be referred to at least three comparable replacement homes. The maximum financial assistance for which you may qualify will be based on the cost of the most representative comparable replacement home that is available to you. Promptly after you become eligible for relocation assistance, the Agency will inform you of such unit and the maximum payment available.

Once the Agency representative has a clear understanding of your needs and preferences, he or she will work with you to assure that you are given the best possible choice of housing. The Agency will offer you appropriate transportation to inspect these units.

If you would like to move to government-owned housing or obtain a Housing Choice Voucher (HCV) let the Agency representative know of your interest. Generally, an eligible displaced person receives preference for such long term housing assistance. You will be given assistance in completing any required application forms.

## **What If I Find My Own Replacement Housing?**

You have every right to find your own replacement housing. However, before you rent or buy, ask the Agency to inspect the unit to make sure that it is decent, safe, and sanitary. If the housing unit is not decent, safe, and sanitary, you will not receive a replacement housing payment.

## **What If I Encounter A Problem In Obtaining Housing Of My Choice?**



If you encounter a problem in buying or renting housing of your choice, notify the Agency immediately. The Agency will look into the matter and try to resolve it. You will receive this help whether you were referred to the housing unit or found it yourself.

If you are unable to buy or rent a housing unit because of discriminatory practices on the part of a real estate broker, rental agent, lender, or a property owner, the Agency will help you file a formal housing discrimination complaint with the U.S. Department of Housing and Urban Development or the appropriate State or local fair housing agency.

### **What Other Services Will I Receive?**

In addition to help in obtaining a comparable replacement home, other assistance, as necessary, will be provided in order to minimize the impact of your move. This assistance may include referral to appropriate public and private agencies that provide services concerning housing financing, employment, health, welfare, or legal assistance. The range of services depends on the needs of the person being displaced. You should ask the Agency representative to tell you about the specific services that will be available to help you and your family.

### **What Is a Payment For Actual Reasonable Moving and Related Expenses?**

You may choose to receive a relocation payment to cover the reasonable cost of your move. If you choose a Payment For Actual Reasonable Moving And Related Expenses, you may include in your claim the reasonable and necessary costs for:

- Transportation for you and your family.
- Packing, moving and unpacking your household goods.
- Disconnecting and reconnecting household appliances and other personal property (e.g., telephone and cable TV).
- Storage of household goods, as may be necessary.
- Insurance for the replacement value of your property during the move and necessary storage.
- The replacement value of property lost, stolen or damaged in the move (but not through your neglect) if insurance is not reasonably available.

The Agency will explain all eligible moving costs, as well as those which are not eligible. You must be able to account for any costs that you incur, so keep all your receipts. Select your mover with care. The Agency can help you select a reliable and reputable mover.

You may elect to pay your moving costs yourself and be repaid by the Agency or, if you prefer, you may have the Agency pay the mover. In either case, let the Agency know before you move.

### **What Is A Fixed Moving Expense And Dislocation Allowance?**

If you choose a Fixed Moving Expense and Dislocation Allowance, you will receive an allowance which is based on the number of rooms in your home or the number of rooms

of furniture you will be moving, as shown on a schedule. The Agency has a copy of the schedule and will help you decide whether choosing this allowance is in your best interest.

If you do not have a large amount of personal property to move, this payment should be more advantageous. No special documentation is required to support your claim. You need only move your personal property and complete the appropriate claim form in order to receive your payment.

#### **How Much Rental Assistance Will I Receive?**

You may be eligible to receive Rental Assistance for a 42-month period. The assistance is computed in the following manner:

The assistance needed for one month is determined by subtracting the "base monthly rent" for your present home from the cost of rent and utilities for your new home (or a comparable replacement home, if that cost is lower). That monthly need, if any, is multiplied by 42, to determine the total amount that you will receive. This amount will be paid directly to you. The Agency must provide the assistance in monthly installments or other periodic payments. Generally, the base monthly rent for your present home is the lesser of: (1) the monthly rent and average monthly cost for utilities, or (2) thirty (30) percent of your average monthly gross household income, if you are low-income based on HUD income limits.

**Examples:** Let's say that the monthly rent and average cost for utilities for your present home are \$250; the monthly rent and estimated average utility costs for a comparable replacement home are \$350; and your monthly gross income is \$700. In this case your "base monthly rent" would be \$210 because you are low-income and that amount (30 percent of your income) is less than the monthly cost of rent and utilities at your present home (\$250).

- If you rent a replacement home for \$360 per month, including estimated average monthly utility charges, you will receive \$5,880. That amount is 42 times \$140 (the difference between the "base monthly rent" for your present home (\$210) and the cost for a comparable replacement home (\$350)).
- If you rent a replacement home for \$310, including estimated average monthly utility charges, you will receive \$4,200. That amount is 42 times \$100 (the difference between the "base monthly rent" for your present home (\$210) and the actual cost of your new home (\$310)).

To qualify for rental assistance, you must rent and occupy a decent, safe, and sanitary home within one year after the date you move. However, the Agency will extend this period for good cause.

#### **If I Decide to Buy, Rather Than Rent, How Much Assistance Will I Receive?**

If you buy a replacement home, you may be eligible for assistance to make a down

payment equal to the amount you would receive if you rented a comparable replacement home (i.e., 42 times the amount obtained by subtracting the "base monthly rent" for your present home from the monthly rent and estimated average monthly utility costs for a comparable replacement home). A down payment assistance payment will be paid in a lump sum.

**Example:** Assuming the information in the prior examples, the downpayment assistance payment would be \$5,880. That amount is 42 times \$140 (the difference between the "base monthly rent" for your present home (\$210) and the monthly rent and estimated average monthly utilities cost for a comparable replacement home (\$350). The full amount of the payment must be applied to the purchase of the replacement dwelling.

### **Must I File A Claim To Obtain A Relocation Payment?**

Yes. You must file a claim for each relocation payment. The Agency will, however, provide you with the required claim form, help you to complete it, and explain the type of documentation, if any, that you must submit in order to receive the payment.

If you must pay any relocation expenses before you move (e.g., a security deposit when you sign a lease for your new home), discuss your financial needs with the Agency. While refundable deposits are not covered by URA payments, you may be able to obtain an advance payment to meet these costs. An advance payment may be placed in "escrow" or paid directly to a contractor to ensure that the move will be completed on a timely basis.

You must file your claim within 18 months after the date you move. However, it is to your advantage to file as soon as possible after you move. The sooner you submit your claim, the sooner it can be processed and paid. If you are unable to file your claim within 18 months, ask the Agency to extend this period.

Be careful not to confuse this 18-month period with the 12-month period within which you must rent (or buy) and occupy a replacement dwelling in order to be eligible for a replacement housing payment.

You will be paid promptly after you file an acceptable claim. If there is any question regarding your right to a relocation payment or the amount of the payment, you will be notified, in writing, of the problem and the action you may take to resolve the matter.

### **Will I Have To Pay Rent To The Agency Before I Move?**

If the Agency acquires the property in which you live, you may be required to pay a fair rent to the Agency for the period between the acquisition of the property and the date that you move. Such rent will not exceed the market rent for comparable properties in the area.

### **Do I Have To Pay Federal Income Taxes On My Relocation Payments?**

No. Section 216 of the URA states that you need not report relocation payments as part of your gross income for Federal tax purposes. For information on State or local income taxes, you should check with the State or local income tax office in your area or with your personal

tax advisor.

### **What If I Don't Receive The Required Assistance. Can I Appeal?**

If you disagree with the Agency's decision as to your right to relocation assistance or the amount of a payment, or the adequacy of the housing to which you have been referred, you may appeal the decision to the Agency.

The Agency will inform you of its appeal procedures. At a minimum, you will have 60 days to file your appeal with the Agency after you receive written notification of the Agency's determination on your claim. Your appeal must be in writing. However, if you need help, the Agency will assist you in preparing your appeal.

If you are a low- or moderate-income person and are dissatisfied with the Agency's determination on your appeal, you may have an additional right to request administrative review of that decision (e.g., by HUD or the State).

You can expect a fair decision on any appeal. However, if you are not satisfied with the final administrative decision on your appeal, you may seek review of the matter by the courts.

### **I Have More Questions. Who Will Answer Them?**

If you have further questions after reading this booklet, contact the Agency and discuss your concerns with an Agency representative.

Agency :

Address:


Office Hours:

Telephone No.:

Person to Contact:



**Annex 6**  
**Comparable Replacement Dwelling (CRD) Worksheet**

|  <b>SCOR-MIT</b><br><b>Comparable Replacement Dwelling Worksheet</b> |  | <b>South Carolina Office of Resilience</b><br><b>Disaster Recovery Division</b><br><b>Benjamin I. Duncan II, Chief Resilience Officer</b><br>632 Rosewood Drive<br>Columbia, South Carolina 29202 |  |
|---|--|---|--|
| <b>Tenant Name:</b>   |  | <b>Number of Adults in Household:</b>   |  |
| <b>Comparison of Properties:</b>  |  | <b>Number of Children in Household:</b>   |  |
| <b>Displacement Dwelling Address:</b>   |  | <b>Comparable Address #1:</b>   |  |
| <b>Comparable Address #2:</b>   |  | <b>Comparable Address #3:</b>   |  |
| 1.  | Property Address:  |   |  |
| 2.  | Number of Stories:   |   |  |
| 3.  | Type of Construction:  |   |  |
| 4.  | Age in Number of Years:  |   |  |
| 5.  | General Condition:   |   |  |
| 6.  | Total Square Feet (GLA):   |   |  |
| 7.  | Total Number of Rooms:   |   |  |
| 8.  | Total Number of Bedrooms:  |   |  |
| 9.  | Total Number of Bathrooms:   |   |  |
| 10.   | Family Room:   |   |  |
| 11.   | Porch or Patio:  |   |  |
| 12.   | Fireplace:   |   |  |
| 13.   | Basement Size:   |   |  |
| 14.   | Basement Completion:   |   |  |
| 15.   | Type of Heating:   |   |  |
| 16.   | Type of Air Conditioning:  |   |  |
| 17.   | Garage:  |   |  |
| 18.   | Lot Size:  |   |  |
| 19.   | Site Improvements:   |   |  |
| 20.   | Public Utilities:  |   |  |
| 21.   | Public Facilities:   |   |  |
| 22.   | Neighborhood:  |   |  |
| 23.   | Distance to Work:  |   |  |
| 24.   | Distance to Displacement Dwelling:                                 |   |  |
| 25.   | Decent, Safe & Sanitary:   |   |  |
| 26.   | Rental Agent & Phone Number:                                       |   |  |
| 27.   | Date Available:  |   |  |
| 28.   | Monthly Rental Cost:   |   |  |
| 29.   | Est. Average Monthly Utilities:                                    |   |  |
| 30.   | Estimated Total Monthly Cost:                                      |   |  |
| 31.   | Legally Comparable (LC) Dwellings:                                 |   |  |
| 32.   | If No LCs, Select Most Comparable or Tenant's Relocation Dwelling: |   |  |
| Provide Rationale for Selection:  |  |   |  |

URAFD#7 – CRD Worksheet – Internal – Updated 2/18/22

# Annex 7

## Tenant Relocation Eligibility & Advisory Services Interview Checklist



**South Carolina Office of Resilience**  
**Disaster Recovery Division**  
 Benjamin I. Duncan II, Chief Resilience Officer  
 632 Rosewood Drive  
 Columbia, South Carolina 29201

### Tenant Relocation Eligibility & Advisory Services Interview Checklist

☐ **Confirm the Tenant's/Other Non-Owner Occupant's Eligibility & Obtain Information on the Household:**

- Tenant's Name: \_\_\_\_\_
- Address: \_\_\_\_\_
- Months or years lived at Address: \_\_\_\_\_ (Documentation Required).
- US citizen or alien lawfully present in US: ☐ Yes ☐ No (Documentation Required).
- List All Household Members, Genders, Age, Employment Status, Annual Income & Special Needs (Documentation Required):

| Household Member                         | Gender | Age | Employment | Annual Income | Special Needs | Relocation Challenges & Preferences |
|--|--------|-----|------------|---------------|---------------|-------------------------------------|
|  |        |     |            |               |               |                                     |
|  |        |     |            |               |               |                                     |
|  |        |     |            |               |               |                                     |
|  |        |     |            |               |               |                                     |
|  |        |     |            |               |               |                                     |
|  |        |     |            |               |               |                                     |
|  |        |     |            |               |               |                                     |
|  |        |     |            |               |               |                                     |
| Total Income for Members Age 18 & Older: |        |     |            |               |               |                                     |

☐ **Explain All Available Relocation Assistance:**

- Moving Expenses for Personal Property
- Incidentals (Deposits & Closing Costs If Tenant Purchases a Replacement Dwelling)
- Relocation Housing Assistance Payments (RHPs)
- Housing of Last Resort
- Down Payment Assistance Program (If Tenant Purchases a Replacement Dwelling)

☐ **Provide Current List of Comparable Replacement Dwellings:**

- Review Legally Comparable Dwellings Located If Any
- Review Most Comparable Dwellings Located If Any
- Offer to Provide Transportation to Assistance Tenant in Locating Other Replacement Housing, If Applicable

☐ **Explain the Relocation Process, Timeline & Inspection of Relocation Property:**

☐ **Explain the Right & Process to Appeal**

☐ **Review Claim Forms & Offer to Aid with Completing Claim Forms if Needed:**

☐ **Give Information & Make Referrals to Other Available Assistance (Federal & State, Social Services & Nonprofits):**


☐ **Provide Counseling & Other Required, and Appropriate Assistance to Minimize Relocation Hardship & Adjustments:**

☐ Summarize Relocation Plan & Any Special Needs and/or Preferences Below

List all required documentation due from tenant, due dates & how tenant will get the information to the State

# Annex 8

## Tenant/Other Non-Owner Occupant Relocation Assistance (T-ORA) Estimate

|  |   |            |
|--|---|------------|
|  <p><b>SOUTH CAROLINA<br/>OFFICE OF<br/>RESILIENCE</b></p>  | <p><b>South Carolina Office of Resilience</b><br/> <b>Disaster Recovery Division</b><br/>         Benjamin I. Duncan II, Chief Resilience Officer<br/>         632 Rosewood Drive<br/>         Columbia, South Carolina 29201</p> |            |
| <b>SCOR-MIT Tenant/Other Non-Owner Occupant Relocation Assistance Estimate</b>   |   |            |
| Name: _____  | Address: _____  |            |
| Type of Move: _____  | Phone Number: _____   |            |
| <b>A. Truck Rental Costs (Invoices or Receipts Required for Payment):</b><br>\$ _____ Per Day X _____ Days = \$ _____<br>\$ _____ Per Mile X _____ Miles Per Trip X _____ Trips = \$ _____<br>Gasoline & Oil \$ _____<br>Truck Insurance \$ _____ Total Truck Rental Costs \$ _____  |   |            |
| <b>B. Labor Costs (Invoices or Receipts Required for Payment):</b><br>Pack & Unpack = _____ Hours (Number of Movers x Hours per Mover)<br>Load & Unload = _____ Hours (Number of Movers x Hours per Mover)<br>Driving Time = _____ Hours (Number of Hours per Trip x Number of Trips)<br>Total Labor Costs = _____ Hours X \$ _____ Per Hour = \$ _____  |   |            |
| <b>C. Miscellaneous Costs (Invoices or Receipts Required for Payment):</b><br>_____ Regular Packing Cartons X \$ _____ Each = \$ _____<br>_____ Miscellaneous Packing Cartons X \$ _____ Each = \$ _____<br>_____ Dozen Pads X \$ _____ Per Dozen = \$ _____<br>_____ Dollies X \$ _____ Per Day X _____ Days = \$ _____<br>_____ Personal Property Insurance @ \$ _____ Per Day X _____ Days = \$ _____<br>_____ Personal Miles X \$ _____ Per Mile = \$ _____<br>_____ Disconnect & Reconnect of Equipment (Explain Below) = \$ _____<br>_____ Utility Transfers (Explain Below) = \$ _____<br>_____ Special Services (Explain Below) = \$ _____<br>Explanations: _____<br>Total Miscellaneous Costs: \$ _____ |   |            |
| <b>D. Monthly <input type="checkbox"/> RHP or <input type="checkbox"/> HLR Payments or <input type="checkbox"/> One-Time Down Payment Assistance if Purchasing Replacement Dwelling:</b><br>Total Costs = \$ _____ Per Month X 42 Months = \$ _____  |   |            |
| <b>E. Incidentals (Closing Costs) if Purchasing Replacement Dwelling (Explain Below):</b><br>Explanation: _____<br>Total Incidentals Cost: \$ _____  |   |            |
| <b>F. Relocation Cost Estimate Grand Total (A + B + C + D + E) = \$ _____ (May Change Based Circumstances)</b>   |   |            |
| Estimate Prepared By:  |   |            |
| Preparer Signature _____   | Preparer Printed Name _____   | Date _____ |
| Preparer Title _____   |   |            |

URAFD#9 – T-ORA Estimate – Internal – Updated 2/18/22

## Replacement Housing Assistance Payment, Housing of Last Resort & Down Payment Assistance (RHPHLR-DPA) Calculation Form

Although the URA generally limits RHP amounts to \$7,200\* (see below) for 90-day or greater tenants. These payment amounts oftentimes must be exceeded as required under "Housing of Last Resort" to ensure that displaced persons can relocate to comparable, decent, safe and sanitary (DSS) housing within their financial means. RHP costs can amount to a significant part of a project's total relocation costs.

The URA requires that comparable, DSS replacement housing, within a person's financial means be made available before that person may be displaced. When such housing cannot be provided, agencies must provide additional or alternative assistance under "housing of last resort." Housing of last resort may involve the use of replacement housing payments that exceed the URA maximum amounts. Housing of last resort may also involve the use of other methods of providing comparable, DSS housing within a person's financial means.

Down Payment Assistance for Displaced Tenants - 90-day occupants (49 CFR 24.402(c)) Displaced tenants may be eligible for down payment assistance instead of a rental assistance payment. This payment is based on a rental assistance payment determination as shown above and may be used as a downpayment for the purchase of a DSS replacement dwelling. Using the calculation example above, the displaced person is eligible for downpayment assistance of up to \$7,200 based on their low-income status.

|  |   |
|--|---|
| <p>The lesser of rent and estimated utility costs for the comparable replacement dwelling the agency has selected as most comparable or the rent and estimated utility costs for the actual DSS replacement dwelling rented and occupied</p> | <p>The lesser of:<br/><br/>Thirty percent of the tenant's average monthly gross household income if the amount is classified as "low-income" by HUD's Annual Survey of Income Limits for Public Housing and Section 8 Programs. (<br/><a href="http://www.fhwa.dot.gov/realstate/us/ualic.htm">http://www.fhwa.dot.gov/realstate/us/ualic.htm</a>)</p> <p>The monthly rent and average utility costs of the displacement dwelling</p> |
|--|---|

# Annex 10

## HUD Claim Form 40058-Rental Assistance or Down Payment Assistance

### Claim for Rental Assistance or Down Payment Assistance (49 CFR 24.402 and 24.401(f))

U.S. Department of Housing  
and Urban Development  
Office of Community Planning  
and Development

OMB Approval No. 2508-0016  
(exp. 04/30/2018)

See page 3 for Public Reporting Burden and  
Privacy Act Statements before completing this form

(Form has been revised. See last page.)

|                     |  |                        |             |
|---------------------|--|------------------------|-------------|
| For Agency Use Only | Name of Agency<br>SC Office of Resilience Mitigation Program | Project Name or Number | Case Number |
|---------------------|--|------------------------|-------------|

**Instructions:** This claim form is for the use of families and individuals applying for rental or down payment assistance under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA) and may also be used by a 90-day homeowner-occupant who chooses to rent rather than buy a replacement home. The Agency will help you complete the form. HUD also provides information on these requirements and other guidance materials on its website at [www.hud.gov/relocation](http://www.hud.gov/relocation). If the full amount of your claim is not approved, the Agency will provide you with a written explanation of the reason. If you are not satisfied with the Agency's determination, you may appeal that determination. The Agency will explain how to make an appeal.

**Displaced persons must rent/purchase and occupy a decent, safe and sanitary replacement dwelling within one year from the date of displacement for replacement housing payment eligibility (see 24.402(a)(2)). All claims for payments must be filed no later than 18 months from the date of displacement (see 24.207(d)).**

|  |                         |
|--|-------------------------|
| 1a. Your Name(s) (You are the Claimant(s)) and Present Mailing Address | 1b. Telephone Number(s) |
|--|-------------------------|

|  |  |
|--|--|
| 2a. Have all members of the household moved to the same dwelling?<br><input type="checkbox"/> Yes <input type="checkbox"/> No (If "No", list the names of all members and the addresses to which they moved in the Remarks Section.) | 2b. Do you (or will you) receive a Federal, State, or local housing program subsidy at the dwelling you moved to? <input type="checkbox"/> Yes <input type="checkbox"/> No |
|--|--|

| Dwelling                    | Address | When Did You Rent/Buy This Unit? | When Did You Move To This Unit? | When Did You Move Out of This Unit? |
|-----------------------------|---------|----------------------------------|---------------------------------|-------------------------------------|
| 3. Unit That You Moved From |         |                                  |                                 |                                     |
| 4. Unit That You Moved To   |         |                                  |                                 |                                     |

#### 5. Certification of Legal Residency in the United States (Please read instructions below before completing this section.)

**Instructions:** To qualify for relocation advisory services or relocation payments authorized by the Uniform Relocation Assistance and Real Property Acquisition Policies Act, a "displaced person" must be a United States citizen or national, or an alien lawfully present in the United States. **The certification below must be completed in order to receive any relocation benefits.** (This certification may not have any standing with regard to applicable State laws providing relocation benefits.) **Your signature on this claim form constitutes certification.** See 49 CFR 24.208(g) & (h) for hardship exceptions.

Please address only the category (Individual or family) that describes your occupancy status. For item (2), please fill in the correct number of persons.

#### RESIDENTIAL HOUSEHOLDS

- (1) Individual. I certify that I am: (check one)  
☐ a citizen or national of the United States  
☐ an alien lawfully present in the United States.
- (2) Family. I certify that there are \_\_\_\_\_ persons in my household and that  
 \_\_\_\_\_ are citizens or nationals of the United States and \_\_\_\_\_ are aliens lawfully present in the United States.

| 6. Determination of Person's Financial Means (Not applicable to 90-day homeowner-occupants who choose to rent. Enter NA in item 6(6).)                                    |  | Household Income |                         |
|---|--|------------------|-------------------------|
|   |  | Claimant (a)     | For Agency Use Only (b) |
| (1) Total number of persons in the household (See item 5(1) or (2))   |  |                  |                         |
| (2) Annual Gross Household Income. (49 CFR 24.2(a)(14)). Enter name of each household member with income (include the income of persons not lawfully present in the U.S.) |  | \$               | \$                      |
| (3) Total Gross Annual Income (Sum of entries in item 6(2))   |  | \$               | \$                      |
| (4) URA low income limit for number of persons in item 6(1). If item 6(3) is greater than item 6(4) - Family is not low-income. See 49 CFR 24.402 (b)(2)(ii)              |  |                  | \$                      |
| (5) Gross Monthly Income (Divide item 6(3) by 12)   |  | \$               | \$                      |
| (6) 30% of item 6(5) or "NA". (If gross annual income item 6(3) is greater than URA low income limit in item 6(4), enter "NA".)   |  | \$               | \$                      |

Previous editions are obsolete

Page 1 of 3

form HUD-40058 (06/2016)



**7. Determination of Rent and Average Monthly Utility Costs (See 49 CFR 24.402(b))**

**Instructions:** To compute the payment, entries on line (8) must reflect all utility services. Therefore, identify on lines (2) through (5) each utility necessary to provide electricity, gas, other heating/cooking fuels, water and sewer. In those cases where the utility service is not covered by the monthly rent, indicate the estimated out-of-pocket monthly cost. In those cases where the utility service is covered by the monthly rent, enter "IMR" (In Monthly Rent). Determine the estimated average monthly cost of a utility service by dividing the reasonable estimated yearly cost by 12. If a monthly housing program subsidy (e.g., Housing Choice Voucher/Section 8, other) has been provided, enter the applicable amount on line (7).

| Monthly Cost  | Unit That You Moved From<br>(For Homeowner-Occupant, rent will be determined by the agency.) |                            | Unit That You Moved To<br>(Do not complete if claim is for down payment assistance.) |                            | Comparable Replacement Dwelling |
|---|--|----------------------------|--|----------------------------|---------------------------------|
|   | (a)<br>Claimant  | (b)<br>For Agency Use Only | (c)<br>Claimant  | (d)<br>For Agency Use Only | (e)<br>To Be Provided By Agency |
| (1) Rent (The monthly rental amount due under the terms and conditions of occupancy. If utilities are not included in rent, list in item 7(2) to (5)) | \$   | \$                         | \$   | \$                         | \$                              |
| (2)   |  |                            |  |                            |                                 |
| (3)   |  |                            |  |                            |                                 |
| (4)   |  |                            |  |                            |                                 |
| (5)   |  |                            |  |                            |                                 |
| (6) Gross Monthly Rent and Utility Costs (add item 7(1) through (5))  | \$   | \$                         | \$   | \$                         | \$                              |
| (7) Monthly Housing Subsidy, if applicable (e.g., Housing Choice Voucher/Section 8, other)  | \$   | \$                         | \$   | \$                         | \$                              |
| (8) Net Monthly Rent and Utility Costs (subtract item 7(7) from item 7(6)) (Enter these amounts on the appropriate lines in item 8.)                  | \$   | \$                         | \$   | \$                         | \$                              |

| 8. Computation of Payment: If you are filing for down payment assistance, check this box <input type="checkbox"/> and skip item 8(1).  |  | To Be Completed By Claimant<br>(a) | For Agency Use Only<br>(b) |
|--|--|------------------------------------|----------------------------|
| (1) Monthly Rent and Average Monthly Utility Costs for Unit That You Moved To (From item 7(8), Column (c))   |  | \$                                 | \$                         |
| (2) Monthly Rent and Average Monthly Utility Costs for Comparable Replacement Dwelling (From item 7(8), Column (e)) (To be provided by the Agency)   |  |                                    |                            |
| (3) Lesser of item 8(1) or (2) (If claim is for down payment assistance, enter amount from item 8(2))  |  |                                    |                            |
| (4) Monthly Rent and Average Monthly Utility Costs for Unit That You Moved From (From item 7(8), Column (a)) (For Homeowner-Occupants who choose to rent, to be determined by the agency.)   |  |                                    |                            |
| (5) 30% of Average Gross Monthly Household Income (From item 6(6), Column (a)). If item 6(6) is "NA", enter "NA" here.   |  |                                    |                            |
| (6) Lesser of item 8(4) or 8(5)  |  |                                    |                            |
| (7) Monthly Need (Subtract item 8(6) from item 8(3))   |  |                                    |                            |
| (8) Amount of Payment Claim (Amount on item 8(7) multiplied by 42) (For a Homeowner-Occupant who elects to rent, this amount cannot exceed the difference between the acquisition cost of the displacement dwelling and the cost of a comparable replacement dwelling. See form HUD-40057, item 5(5).) |  | \$                                 | \$                         |
| (9) Amount Previously Received (if any)  |  |                                    |                            |
| (10) Amount Requested (Subtract item 8(9) from 8(8))   |  | \$                                 | \$                         |

**9. Certification By Claimant(s):** I certify that the information on this claim form and supporting documentation is true and complete and that I have not been paid for these expenses by any other source.

Signature(s) of Claimant(s) & Date

X

**Warning:** HUD will prosecute false claims and statements. Conviction may result in criminal and/or civil penalties. (18 U.S.C. 1001, 1010, 1012; 31 U.S.C. 3729, 3802)

Previous editions are obsolete

Page 2 of 3

form HUD-40058 (06/2016)

|                                      |  |  |  |
|--------------------------------------|--|--|--|
| <b>To be Completed by the Agency</b> | 10. Effective date (mm/dd/yyyy) of eligibility for relocation assistance   | 11. Date (mm/dd/yyyy) replacement dwelling inspected and found decent, safe and sanitary | 12. Date (mm/dd/yyyy) person occupied replacement dwelling |
|                                      | 13. Payment To Be Made In: <input type="checkbox"/> Lump Sum <input type="checkbox"/> Monthly Installments <input type="checkbox"/> Other Installments<br><small>(only for down payment assistance) (specify in the Remarks Section)</small> |  |  |
| Payment Action                       | Amount of Payment  | Signature  | Name (Type or Print)                                       |
| 14. Recommended                      | \$   |  | Date (mm/dd/yyyy)  |
| 15. Approved                         | \$   |  |  |
| Remarks                              |  |  |  |

Remarks continued on a separate page? ☐ Yes ☐ No

(NOTE: Updated to incorporate MAP-21 statutory changes to the URA effective on 10/01/2014. Please note the current URA regulations of 49 CFR part 24 will be revised in a future URA rule making to reflect MAP-21 changes. For additional information on MAP-21 changes to the URA for HUD programs and projects, refer to HUD Notice CPD-14-09 at the following website: <http://portal.hud.gov/hudportal/documents/huddoc?id=14-09pdn.pdf>.)



**Annex 11**  
**URAFD#13 –Notice of Relocation Eligibility (NOE) & Relocation Assistance Entitlement (RAE – RHP)**  
**Letter**

|   |  |
|---|--|
|  <p><b>SOUTH CAROLINA</b><br/>OFFICE OF<br/><b>RESILIENCE</b></p>  | <p style="text-align: right;"><b>South Carolina Office of Resilience</b><br/><b>Disaster Recovery Division</b><br/>Benjamin I. Duncan II, Chief Resilience Officer<br/>632 Rosewood Drive<br/>Columbia, South Carolina 29201</p> |
| <b>SCOR-MIT Notice of Eligibility (NOE) &amp; Relocation Assistance Entitlement (RAE-RHP) Letter</b>  |  |
| <p>Date _____</p> <p><u>Tenant Name</u> _____</p> <p><u>Tenant Address</u> _____</p> <p><u>Tenant Address</u> _____</p> <p><u>Tenant City, SC</u> <u>Tenant Zip</u> _____</p> <p>Dear <u>Tenant Name</u>:</p> <p>This is to advise you that on <u>Month Date, Year</u> the South Carolina Office of Resilience Mitigation Program (SCOR-MIT) initiated negotiations for the property you currently occupy and that on <u>Month Date, Year</u> SCOR-MIT entered into an agreement to purchase that property. <b>THIS IS NOT A NOTICE TO VACATE.</b></p> <p>This letter is to notify you of your eligibility for relocation assistance as a displaced person. If you occupied this property on the date negotiations were initiated or on the date you receive written notice from the State to vacate this property, you may be reimbursed for moving expenses. If you occupied this property for at least 90 days prior to initiation of negotiations, you may also be eligible for replacement housing payments (RHPs) to assist you in renting or purchasing replacement housing. An RHP estimate has been calculated in the amount of \$ XXX.XX per month to assist you in renting a replacement dwelling. This amount was determined in an analysis of rent and utility costs for an available comparable rental dwelling in your area. This dwelling is located at <u>Address; City Zip Code</u> and is available to rent if you so desire. It has been found to meet the requirements of comparability to your current dwelling in accordance with federal regulations. The rental price is \$ XXX.XX per month, plus an estimated \$XXX.XX per month for utility costs. The difference between this and your current home equals the monthly RHP payment mentioned above. Of course, you are welcome to choose another comparable replacement dwelling rather than the one suggested.</p> <p>Should you choose another comparable replacement dwelling, the actual RHP will be the difference between the amount you pay for rent and estimated utilities at your decent, safe, and sanitary replacement dwelling and the amount you pay for rent plus utilities at your present dwelling over 42-Months, not to exceed a total of \$7,200.00 for the entire 42-Month period. Once you decide on your replacement dwelling and the final RHP amount has been determined, you will have your moving expenses paid on your behalf and receive a payment equal to 3 monthly RHP installments paid up front when you receive your 90-Day Notice. A second payment equal to the remaining 39 monthly RHP installments will be paid to you upon completion of your move.</p> <p>Should you choose to purchase a replacement dwelling rather than renting, you are eligible to receive the amount you would have received for rental assistance in the form of down payment assistance up to a maximum of \$7,200.00. This amount must be applied toward the purchase price of your replacement dwelling, which you actually purchase and occupy, and/or eligible incidental expenses incurred as a result of purchasing the replacement dwelling.</p> <p>Your relocation assistance will include a current listing of sales and rental housing in your area, information on interest rates, closing costs, typical down payments, FHA, VA and conventional loan requirements, and local ordinances pertaining to housing and building codes. A SCOR-MIT Case Manager will assist you in securing replacement housing, and fully explain our program and applicable relocation benefits. You may contact your SCOR-MIT Case Manager at 632 Rosewood Drive, Columbia, SC 29201 or (803) XXX-XXXX.</p> <p>All payments to which you are entitled will be made available in sufficient time to allow you to rent or purchase a decent, safe, and sanitary replacement home. You may appeal the State's eligibility determination or amount of relocation payments by submitting a written appeal to the SCOR-MIT Special Case Panel at the address above within 30 calendar days of the date of this letter. Please acknowledge receipt of this letter with your signature at the bottom of the copy provided and return it to us in the self-addressed stamped envelope provided. Your cooperation is much appreciated!</p> <p style="text-align: center; margin-top: 20px;">URAFD#13 – NOE Notice &amp; Relocation Assistance Entitlement (RHP Version) – External – Updated 2/18/22</p> |  |

**Annex 12**  
**URAFD#14 – Notice of Relocation Eligibility (NOE) & Relocation Assistance Entitlement (RAE – HLR)**  
**Letter**

|  |   |
|--|---|
|  <p><b>SOUTH CAROLINA</b><br/>OFFICE OF<br/><b>RESILIENCE</b></p>   | <p style="text-align: right;"><b>South Carolina Office of Resilience</b><br/><b>Disaster Recovery Division</b><br/><b>Benjamin I. Duncan II, Chief Resilience Officer</b><br/>632 Rosewood Drive<br/>Columbia, South Carolina 29201</p> |
| <b>SCOR-MIT Notice of Eligibility (NOE) &amp; Relocation Assistance Entitlement (RAE-HLR) Letter</b>   |   |
| <p>Date _____</p> <p><u>Tenant Name</u> _____</p> <p><u>Tenant Address</u> _____</p> <p><u>Tenant City, SC</u> _____ <u>Tenant Zip</u> _____</p> <p>Dear <u>Tenant Name</u>:</p> <p>This is to advise you that on <u>Month Date, Year</u> the South Carolina Office of Resilience Mitigation Program (SCOR-MIT) initiated negotiations for the property you currently occupy and that on <u>Month Date, Year</u> SCOR-MIT entered into an agreement to purchase that property. <b>THIS IS NOT A NOTICE TO VACATE.</b></p> <p>This letter is to notify you of your eligibility for relocation assistance as a displaced person. If you occupied this property on the date negotiations were initiated or on the date you receive written notice from the State to vacate this property, you may be reimbursed for moving expenses. If you occupied this property for at least 90 days prior to initiation of negotiations, you may also have been eligible for replacement housing payments (RHPs) to assist you in renting or purchasing replacement housing. However, because no comparable replacement dwelling has been located for you, SCOR-MIT is prepared to offer you a Housing of Last Resort Payment (HLR) of \$XXX.XX for 42 months totaling \$X,XXX.XX. This amount was determined in an analysis using average monthly rent of \$XXX.XX and average monthly utility cost of \$XXX.XX for available rental dwellings in your area. This amount should allow you to find a replacement dwelling. If you agree to this offer, you will have your moving expenses paid on your behalf and receive a payment equal to 3 monthly HLR installments paid up front when you receive your 90-Day Notice. A second payment equal to the remaining 39 monthly HLR installments will be paid to you upon completion of your move.</p> <p>Should you choose to purchase a replacement dwelling rather than renting, you are eligible to receive down payment assistance of \$7,200.00. This amount must be applied toward the purchase price of your replacement dwelling, which you actually purchase and occupy, and/or eligible incidental expenses incurred as a result of purchasing the replacement dwelling. Your relocation assistance will include a current listing of sales and rental housing in your area, information on interest rates, closing costs, typical down payments, FHA, VA and conventional loan requirements, and local ordinances pertaining to housing and building codes. A SCOR-MIT Case Manager will assist you in securing replacement housing, and fully explain our program and applicable relocation benefits. You may contact your SCOR-MIT Case Manager at 632 Rosewood Drive, Columbia, SC 29201 or (803) XXX-XXXX.</p> <p>All payments to which you are entitled will be made available in sufficient time to allow you to rent or purchase a decent, safe, and sanitary replacement home. Please be advised that you may make a counteroffer to the State's HLR offer and acknowledge receipt of this letter by completing the counteroffer section of the copy provided, signing at the bottom of that copy, and returning it to us in the self-addressed stamped envelope provided. You may appeal the State's determination of eligibility or your relocation assistance amount by submitting a written appeal to the SCOR-MIT Special Case Panel at 632 Rosewood Drive, Columbia, SC 29201 no later than 30 calendar days after the date of this letter. <b>THIS IS NOT A NOTICE TO VACATE.</b> SCOR will not require you to move from the property you now occupy without providing at least 90 days written notice. Your continued cooperation is much appreciated!</p> <p><b>BY SIGNING BELOW AND PRINTING YOUR NAME YOU ACKNOWLEDGE YOU HAVE RECEIVED THIS LETTER, ARE RETURNING THE COPY PROVIDED, AND WILL CONTACT YOUR CASE MANAGER IF YOU HAVE ANY QUESTIONS. IF YOU AGREE TO THE STATE'S HLR OFFER, PLEASE CHECK THAT BOX BEFORE SIGNING &amp; RETURNING THE COPY. IF YOU ARE PURCHASING YOUR REPLACEMENT DWELLING AND WOULD LIKE TO ACCEPT THE DOWN PAYMENT ASSISTANCE PLEASE CHECK THAT BOX BEFORE SIGNING &amp; RETURNING THE COPY. IF YOU WISH TO MAKE A COUNTEROFFER TO THE STATE'S OFFER, PLEASE CHECK THAT BOX &amp; COMPLETE THE COUNTEROFFER SECTION BEFORE SIGNING &amp; RETURNING THE COPY:</b></p> <p><input type="checkbox"/> I agree to the State's HLR offer and will contact my Case Manager to discuss my next steps.</p> <p><input type="checkbox"/> I would like to purchase my replacement home and would like to accept the \$7,200.00 down payment assistance.</p> <p><input type="checkbox"/> I WISH TO MAKE A COUNTEROFFER – I believe the State should provide me with a monthly HLR payment of \$ _____ per month for 42 months. I have explained why I believe this amount is more reasonable on the lines on the next page (Use Extra Pages if Needed):</p> <p style="text-align: center;">URAFD#14 – NOE Notice &amp; Relocation Assistance Entitlement (HLR Version) – External – Updated 2/18/22</p> |   |

Explanation of Counteroffer:

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\_\_\_\_\_  
Tenant's Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Tenant's Printed Name

URAFD#14 – NOE Notice & Relocation Assistance Entitlement (HLR Version) – External – Updated 2/18/22

**Annex 13**  
**URAFD#15 – 90-Day Notice**

|   |  |
|---|--|
|  <p><b>SOUTH CAROLINA</b><br/>OFFICE OF<br/>RESILIENCE</p>   | <p style="text-align: right;"><b>South Carolina Office of Resilience</b><br/><b>Disaster Recovery Division</b><br/>Benjamin I. Duncan II, Chief Resilience Officer<br/>632 Rosewood Drive<br/>Columbia, South Carolina 29201</p> |
| <b>SCOR-MIT 90-Day Notice</b>   |  |
| <p>Date _____</p> <p><u>Tenant Name</u> _____</p> <p><u>Tenant Address</u> _____</p> <p><u>Tenant Address</u> _____</p> <p><u>Tenant City, SC Tenant Zip</u> _____</p> <p>Dear <u>Tenant Name</u>:</p> <p>This is to advise you that on <u>Month Date, Year</u> the South Carolina Office of Resilience Mitigation Program (SCOR-MIT) enter into an agreement to purchase the property you currently occupy.</p> <p>As a displaced occupant you may be entitled to Replacement Housing Assistance to support you in renting or purchasing a replacement dwelling, and reimbursement for certain expenses and incidental costs. Recently, you were recently mailed a <i>Notice of Relocation Eligibility and Relocation Assistance Entitlement Letter</i> detailing the types and amounts of assistance for which you would be eligible and providing you with the requirements to receive this assistance. Please call your Case Manager immediately if you have not received this letter.</p> <p><b>THIS IS NOT A NOTICE TO VACATE.</b> SCOR-MIT will not require you to move your personal property from the property you now occupy until <u>Month Date, Year</u>, which is 90 days after the date of this notice. If you have any questions, please contact your SCOR-MIT Case Manager at (803) XXX-XXXX.</p> <p>Please acknowledge receipt of this letter with your signature at the bottom of the copy provided and return it to us in the self-addressed stamped envelope provided. Your continued cooperation is much appreciated!</p> <p style="text-align: right; margin-top: 200px;">URAFD#15 – 90-Day Notice – External – Updated 2/18/22</p> |  |

**Annex 14**  
**URAFD#16 – Housing of Last Resort (HLR) Counteroffer Acceptance Letter**



**South Carolina Office of Resilience**  
**Disaster Recovery Division**  
Benjamin I. Duncan II, Chief Resilience Officer  
632 Rosewood Drive  
Columbia, South Carolina 29201

**SCOR-MIT Housing of Last Resort Counteroffer Acceptance Letter**

Date

Tenant Name  
Tenant Address  
Tenant Address  
Tenant City, SC Tenant Zip

Dear Tenant Name:

This is to advise you that on Month Date, Year the South Carolina Office of Resilience Mitigation Program (SCOR-MIT) initiated negotiations for the property you currently occupy and that on Month Date, Year SCOR-MIT entered into an agreement to purchase that property. **THIS IS NOT A NOTICE TO VACATE.**

On Month, Date, Year, you were sent a Notice of Relocation Eligibility & Relocation Assistance Entitlement Letter. In that letter you were offered a Housing of Last Resort payment of \$XXX.XX per month for 42 months totaling \$X,XXX.XX or \$7,200.00 in down payment assistance to help you with finding a replacement dwelling. You responded to this offer by making a counteroffer of \$XXX.XX per month for 42 months totaling \$X,XXX.XX.

SCOR-MIT has decided to accept your counteroffer. You will have your moving expenses paid on your behalf when you move. You will receive a payment equal to 3 monthly HLR installments paid up front when you receive your 90-Day Notice. A second and final payment equal to the remaining 39 monthly HLR installments will be paid to you upon completion of your move.

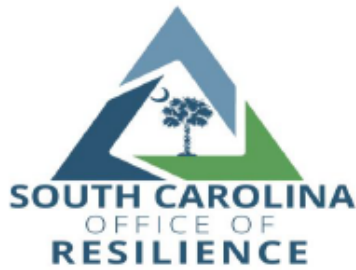
**THIS IS NOT A NOTICE TO VACATE.** The South Carolina Office of Resilience Mitigation Program will not require you to move from the property you now occupy without providing at least 90 days written notice. If you have questions, please contact Mitigation Constituent Services at (803) XXX-XXXX.

Please acknowledge receipt of this letter with your signature at the bottom of the copy provided and return it to us in the self-addressed stamped envelope provided. Your cooperation is much appreciated!

URAFD#16 – HLR Counteroffer Acceptance Letter – External – Updated 2/18/22



**Annex 15**  
**URAFD#17 – Housing of Last Resort (HLR) Final Offer Letter**



**South Carolina Office of Resilience**  
**Disaster Recovery Division**  
Benjamin I. Duncan II, Chief Resilience Officer  
632 Rosewood Drive  
Columbia, South Carolina 29201

**SCOR-MIT Housing of Last Resort (HLR) Final Offer Letter**

Date

Tenant Name

Tenant Address

Tenant Address

Tenant City, SC Tenant Zip

Dear Tenant Name:

This is to advise you that on Month Date, Year the South Carolina Office of Resilience Mitigation Program (SCOR-MIT) initiated negotiations for the property you currently occupy and that on Month Date, Year SCOR-MIT entered into an agreement to purchase that property. **THIS IS NOT A NOTICE TO VACATE.**

On Month, Date, Year, you were sent a Notice of Relocation Eligibility & Relocation Assistance Entitlement Letter. In that letter you were offered a HLR payment of \$XXX.XX per month for 42 months totaling \$X,XXX.XX or \$7,200.00 in down payment assistance to help you with finding a replacement dwelling. You responded to this offer by making a counteroffer of \$XXX.XX per month for 42 months totaling \$X,XXX.XX.

After careful consideration, SCOR-MIT has decided to reject your counteroffer and make you one final HLR offer of \$XXX.XX per month for 42 months totaling \$X,XXX.XX. If you agree to this offer, you will have your moving expenses paid on your behalf and receive a payment equal to 3 monthly HLR payments paid up front when you receive your 90-Day Notice. A second and final payment equal to the remaining 39 monthly HLR installments will be paid to you upon completion of your move.

All payments to which you are entitled will be made available in sufficient time to allow you to rent or purchase a decent, safe, and sanitary replacement home. You may appeal the State's determination of eligibility, your relocation assistance amount or down payment assistance amount by submitting a written appeal to the SCOR-MIT Special Case Panel, 632 Rosewood Drive, Columbia, SC 29201 no later than 30 calendar days after the date of this letter. **THIS IS NOT A NOTICE TO VACATE.** SCOR-MIT will not require you to move from the property you now occupy without providing at least 90 days written notice. If you have questions, please contact your Case Manager at (803) XXX-XXXX.

Please acknowledge receipt of this letter and let us know if you accept this final offer by checking the correct box, placing your signature and printed name at the bottom of the copy provided and returning it to us in the self-addressed stamped envelope provided. Your cooperation is much appreciated!

URAFD#17 – HLR Final Offer Letter – External – Updated 2/18/22

**Annex 16**  
**URAFD#18 – Notice of Intent to Acquire Real Property (NOIA) Notice**



**South Carolina Office of Resilience**  
**Disaster Recovery Division**  
Benjamin I. Duncan II, Chief Resilience Officer  
632 Rosewood Drive  
Columbia, South Carolina 29201

**SCOR-MIT Notice of Intent to Acquire**

Date

Tenant Name  
Tenant Address  
Tenant Address  
Tenant City, SC Tenant Zip

Dear Tenant Name:

You are hereby notified that the South Carolina Office of Resilience's Mitigation Program intends to acquire the residence you presently occupy at Tenant's Address. Initiation of negotiations for this property is expected to occur on or about Month Date, Year.

**THIS IS NOT A NOTICE TO VACATE.** This is a Notice of Intent to Acquire, which ESTABLISHES YOUR ELIGIBILITY FOR RELOCATION ASSISTANCE IN ACCORDANCE WITH STATE AND FEDERAL REGULATIONS IF YOU ARE DISPLACED. To be considered displaced, a person must legally occupy this property at initiation of negotiations or on the date this Notice of Intent to Acquire is issued.


All legal tenants of at least 90 days before the date of this notice will be offered relocation assistance, which may include housing referrals, payment of reasonable moving expenses for moving personal property up to a maximum of 50 miles, replacement housing payments to assist in renting or purchasing replacement housing, help in filing payment claims, and other necessary assistance to help them relocate successfully. To be eligible for any replacement housing payments, occupants must relocate to decent, safe, and sanitary housing. Occupants who have moved prior to the date of this letter are considered to have moved for personal reasons and will not be eligible for relocation payments.

Please be advised that SCOR-MIT will not require you to move permanently from your residence until at least one comparable replacement dwelling has been made available or you accept a Housing of Last Resort (HLR) offer. You can be assured you will be informed of the location of comparable replacement dwellings, receive relocation assistance and payments to which you are entitled, and provided sufficient time to negotiate renting or purchasing a replacement home. In any case, you will not be required to move without at least 90 days written notice. You may appeal the State's eligibility determination or the amount of relocation payment by submitting a written appeal to the SCOR-MIT Special Case Panel at 632 Rosewood Street, Columbia, SC 29201 within 30 calendar days of the date of your *Notice of Eligibility*. Make sure you inform your SCOR-MIT Case Manager at (803) XXX-XXXX before you move to ensure you do not nullify your eligibility for relocation benefits.

Please acknowledge receipt of this letter with your signature at the bottom of the copy provided and return it to us in the self-addressed stamped envelope provided. Your cooperation is much appreciated!

URAFD#18 – Notice of Intent to Acquire (NOIA Notice) – External – Updated 2/18/22

**Annex 17**  
**DSS Replacement Housing Inspection Form**

|   |  |
|---|--|
|  <p><b>SOUTH CAROLINA<br/>OFFICE OF<br/>RESILIENCE</b></p>   | <p style="text-align: right;"><b>South Carolina Office of Resilience</b><br/> <b>Disaster Recovery Division</b><br/>         Benjamin I. Duncan II, Chief Resilience Officer<br/>         632 Rosewood Drive<br/>         Columbia, South Carolina 29201</p>   |
| <b>SCOR-MIT DSS Replacement Housing Inspection Form</b>   |  |
| <b>Tenant Name:</b>   | <b>Replacement Address:</b>  |
| <b>Landlord Name:</b>   | <b>Phone Number:</b>   |
| <b>About This Tool</b>  |  |
| <p>The standards for housing unit inspections under SCOR-MIT are Decent, Sanitary &amp; Secure (DSS) Standards required by HUD for Replacement Dwelling URA compliance. DSS Standards are different from Housing Quality Standards (HQS) used for other HUD programs. The more stringent HQS Criteria is only required if a tenant/other non-owner occupant currently receives housing assistance through a Housing Choice Voucher Program that requires the replacement dwelling meet this standard in order to retain vouchers should the tenant/other non-owner occupant choose to remain in the Voucher Program. Use the HUD Housing Choice Voucher Program Inspection Checklist for HQS inspections.</p> |  |
| <b>Mark "A" for<br/>Approved or "D"<br/>for Deficient</b>   | <b>Housing Unit Inspection Elements &amp; DSS Standard</b>   |
|   | Structure & Materials – Housing Unit must be structurally sound so as to: 1) Not to pose any threat to the health & safety of occupants and 2) To protect the residents from hazards.  |
|   | Access – Housing Unit must be: 1) Accessible & capable of being utilized without unauthorized use of other private properties and 2) Provide alternate means of egress in case of fire.  |
|   | Space & Security – Each resident must be: 1) Afforded adequate space & security for themselves and their belongings and 2) Provided with an acceptable place to sleep.   |
|   | Interior Air Quality – Every room or space in Housing Unit must be: 1) Provided with natural or mechanical ventilation and 2) Be free of pollutants in the air at levels that threaten the health of residents.  |
|   | Water Supply – The water supply must be free from contamination.   |
|   | Sanitary Facilities – Residents must have access to sufficient sanitary facilities that: 1) Are in proper operating condition, 2) May be used in privacy, and 3) Adequate for personal cleanliness and the disposal of human waste.  |
|   | Thermal Environment – Housing Unit must have adequate heating and/or cooling facilities in proper operating condition.   |
|   | Illumination & Electricity – Housing Unit must have adequate natural or artificial illumination to: 1) Permit normal indoor activities and 2) Support the health and safety of residents. Sufficient electrical sources must be provided to permit use of essential electrical appliances while assuring safety from fire.   |
|   | Food Preparation & Refuse Disposal – All food preparation areas must contain suitable space and equipment to store, prepare, and serve food in a sanitary manner.  |
|   | Sanitary Condition – Housing Unit and any equipment must be maintained in sanitary condition.  |
|   | Fire Safety/Standard A (Both standards must be approved to pass) – Each Housing Unit must include at least one battery-operated or hard-wired smoke detector, in proper working condition, on each occupied level of the unit. Smoke detectors must be located, to the extent practicable, in a hallway adjacent to a bedroom. If the unit is occupied by hearing impaired persons, smoke detectors must have an alarm system designed for hearing-impaired persons in each bedroom occupied by a hearing-impaired person. |
|   | Fire Safety/Standard B (Both standards must be approved to pass) – The public areas of each Housing Unit must be equipped with a sufficient number, but not less than one for each area, of battery-operated or hard-wired smoke detectors. Public areas include, but are not limited to, laundry rooms, day care centers, hallways, stairwells, & other common areas.   |
| <b>Inspection<br/>Outcome</b>   | <input type="checkbox"/> Property meets all of the standards above & is approved<br><input type="checkbox"/> Property does not meet all of the standards above & is not approved (See notes on back for explanation)   |
| <p>I confirm that: 1) I am not a HUD certified inspector, 2) I have evaluated the property located at the replacement address on the top of this form to the best of my ability and 3) My findings are represented by the box I have checked in the Inspection Outcome Section above and my notes on the back of this form, if any.</p>   |  |
| Evaluator Signature _____   | Date _____   |
| Evaluator Printed Name _____  |  |

URAFD#19 – DSS Replacement Housing Inspection Form – Internal – Updated 2/18/22



**Annex 18**  
**Notice of Nondisplacement**



**South Carolina Office of Resilience**  
**Disaster Recovery Division**  
**Benjamin I. Duncan II, Chief Resilience Officer**  
632 Rosewood Drive  
Columbia, South Carolina 29201

**Notice of Relocation Non-Eligibility**

Date

Tenant Name

Tenant Address

Tenant Address

Tenant City, SC Zip

Dear Tenant Name:

Under the Uniform Relocation Assistance and Real Property Acquisition Policies Act (URA), displaced persons may be eligible for relocation assistance and payments. One objective of the URA is to ensure relocation assistance is provided to displaced persons to lessen the emotional and financial impact of displacement. Determining URA eligibility can often be a long process, and to ensure tenant's rights are met, a General Information Notice (GIN) is mailed to owners and their tenants during the initial phase of a buyout program. The GIN serves as an explanation of tenant rights and eligibility for relocation assistance.

A GIN was mailed to you on (DATE) informing you of the interest in acquiring property at (ADDRESS) and notifying you of your possible URA eligibility. In the GIN, it advises it is **not a notice to vacate the premises** as well as states **tenant should continue paying rent and meet any other obligations as stated in the lease agreement.**

It is noted that on (DATES) the terms of your lease were broken (REASON). As a result of these actions, you are no longer eligible for URA benefits. You may appeal the State's eligibility determination by submitting a written appeal to the SCOR Special Case Panel at the address above within 30 calendar days of the date of this letter. Please acknowledge receipt of this letter with your signature at the bottom of the copy provided and return in the enclosed self-addressed, stamped envelope.

Sincerely,

Title

cc: (Homeowner)

## Annex 19

### Notice of Intent to Acquire for Owner



HENRY D. MCMASTER, Governor  
BENJAMIN I. DUNCAN II, Chief Resilience Officer

#### NOTICE OF INTENT TO ACQUIRE MOVE-IN NOTICE FOR OWNER

DATE

Owner Name  
Address.  
Address

RE: property address

Dear [HOMEOWNER] and Other Interested Parties:

The purpose of this letter is to inform you that the South Carolina Office of Resilience's (SCOR) Mitigation Program, herein known as the Agency, intends to acquire your property located at (Property Address) if you agree to voluntarily sell the property for a price agreeable to the Agency. The Agency has identified the area in which your property is located as a "project" area for potential voluntary property buyouts. Because Federal financial assistance is involved, you and your tenant are protected by the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA), as amended.

If your property is tenant-occupied, each tenant should be encouraged not to move until you have received an Offer of Just Compensation. Each lawful tenant determined to be eligible, as a displaced person will be assisted if the property is acquired. A representative of our Agency will contact each tenant to discuss their eligibility for assistance under the URA.

The Agency wishes to caution you that any tenant who moves into the property identified herein for possible acquisition after the date of this letter, (date), may not be entitled to displaced person assistance from the Agency. In the event you wish to provide housing to a tenant after this date, and you personally wish to pay for such assistance, please contact the Agency before you allow the tenant to occupy or lease the unit since URA assistance for a displaced person can be quite expensive. **If you wish to lease a vacant unit to a new tenant, but not be responsible for displacement assistance, be certain to complete the attached Move-in Notice (Sample) and have it executed by the tenant prior to the tenant leasing and occupying your unit.**

NOTE: If an Agency determines that a person occupies a property, or is allowed to occupy a property, for the purpose of obtaining relocation assistance, and the HUD Field Office that administers URA requirements for HUD-assisted programs in the jurisdiction concurs in that determination, the tenant will not be entitled to assistance as a displaced person. If you wish to discuss the Agency's intent to acquire your property, the contents of this letter, or the required acquisition process, please contact (Name of Person) at (Phone Number). Any correspondence or documents you wish to submit to the Agency should be mailed to (SCOR Address), Attention (Name of Person). This letter, and all future correspondence you receive from the Agency, are important and should be kept in a place of safekeeping.

Sincerely,

[Name]  
Mitigation Buyout Program Coordinator, Disaster Recovery Division  
[Phone]  
[email]

cc:

Enclosures

**Annex 20**  
**Tenant Survey (to be inserted into beneficiary application)**

\*\*INSERT INTO BENEFICIARY APPLICATION\*\*

| <b>TENANT SURVEY</b><br><b>(MUST be completed for rental properties)</b>  |                                    |                                    |   |
|---|------------------------------------|------------------------------------|---|
| Is the property a certified rental property through the Section 8 program: <input type="checkbox"/> No <input type="checkbox"/> Yes   |                                    |                                    |   |
| Is the property currently occupied by a tenant(s):<br><input type="checkbox"/> No <input type="checkbox"/> Yes (If yes, you must provide requested information for each current occupant below) |                                    |                                    |   |
| Tenant Name   | Lease Start Date (or Move-in Date) | Current Monthly Rent               | Current Average Monthly Cost of Utilities |
|   |                                    |                                    |   |
|   |                                    |                                    |   |
|   |                                    |                                    |   |
|   |                                    |                                    |   |
|   |                                    |                                    |   |
|   |                                    |                                    |   |
|   |                                    |                                    |   |
|   |                                    |                                    |   |
| <b>Composition of Tenant Household Members</b><br>(Indicate number of tenant household members for each category below)   |                                    |                                    |   |
| Tenant Name<br>Adults 18+ or Older  | Adults with<br>Special Needs       | Children 17<br>years or<br>younger | Children with Special Needs               |
|   |                                    |                                    |   |
| <b>Verification of Tenant-Occupied Residential Rental</b>   |                                    |                                    |   |
| Provide a copy of the current lease agreement: <input type="checkbox"/> Attached <input type="checkbox"/> Not Attached  |                                    |                                    |   |
| If no lease, provide documentation of tenant payment history: <input type="checkbox"/> Attached <input type="checkbox"/> Not Attached   |                                    |                                    |   |
| If not attached, why: Please explain the current lease/rental agreement you have with the property owner and date it is due to renew/expire:  |                                    |                                    |   |

## Annex 21

### Tenant Timeline and Checklist

| Tenant Timeline & Checklist  | Checkoff<br>as Done      | Date<br>Complete |
|--|--------------------------|------------------|
| Receive Tenant Survey from homeowner (file in System of Record)  | <input type="checkbox"/> |                  |
| Send homeowner GIN Notice  | <input type="checkbox"/> |                  |
| Send each tenant a GIN Notice & HUD Brochure.  | <input type="checkbox"/> |                  |
| Contact tenant: <ul style="list-style-type: none"> <li>• Review HUD Brochure 1042</li> <li>• Review the Buyout Program</li> <li>• Review tenant rights and responsibilities</li> <li>• Confirm/update survey information; collect additional household data</li> <li>• Review the relocation process &amp; available aid</li> <li>• Inform documentation needed to be eligible for relocation assistance</li> <li>• Provide time for tenant to share their relocation preferences</li> <li>• Define CRD and HLR</li> <li>• Review moving options and reimbursement options</li> <li>• Offer advisory services</li> </ul> | <input type="checkbox"/> |                  |
| Begin research on available comparable replacement dwellings: <ul style="list-style-type: none"> <li>• Inspect CRD(s) to ensure meets DSS/HQS compliance</li> </ul>  | <input type="checkbox"/> |                  |
| After ION date <ul style="list-style-type: none"> <li>• Send 90-Day Notice</li> <li>• Send Notice of Relocation Eligibility (NOE) by Certified Mail</li> <li>• Complete final relocation assistance eligibility determination</li> <li>• Start the process of providing relocation assistance as applicable.<br/>If tenant appeals, follow appeal process</li> </ul>   | <input type="checkbox"/> |                  |
| Receive tenant's agreement to NOE with RHP or HLR<br>*if tenant appeals, follow appeals process.   | <input type="checkbox"/> |                  |
| Contact tenant & set move date   | <input type="checkbox"/> |                  |
| Conduct follow-up as necessary to support tenant until move completed.   | <input type="checkbox"/> |                  |
| Tenant move is confirmed – relocation complete.  | <input type="checkbox"/> |                  |
|  |                          |                  |
| APPEALS:   |                          |                  |
|  |                          |                  |
|  |                          |                  |
|  |                          |                  |
|  |                          |                  |
|  |                          |                  |
|  |                          |                  |

## **Annex 22**

### **Buyout Program Internal Audit Plan**

#### **MITIGATION BUYOUT PROGRAM – AUDIT PLAN**

##### **Background and Purpose**

The purpose of this plan is to provide consistent methodologies for conducting internal audits for the CDBG-MIT Buyout program and establish monitoring priorities within available resources. Internal Audit is independent of SCOR's CDBG-MIT Program and reports directly to the Chief of Staff/General Counsel. Internal Audit performs compliance and financial audit reviews on program activities to ensure they are:

- Necessary, reasonable, and allocable.
- Authorized or not prohibited.
- Conform to limitations or exclusions.
- Consistent with policies, regulations, and procedures.
- In accordance with appropriate professional accounting standards.
- Adequately documented; and treated consistently.

##### **Buyout Property File Review Audit Plan Outline**

- I. **Audit Engagement Email**
  - a. Purpose
  - b. Scope of audit
  - c. Documents to be reviewed
- II. **Audit Checklist**
  - a. Environmental
  - b. Eligibility
  - c. DOB
  - d. Appraisals
  - e. Offer to Purchase
  - f. Contract
  - g. Closing
  - h. Demo
  - i. Property File Closeout
- III. **Audit Findings Letter**
  - a. Scope
  - b. Results
  - c. Conclusions
  - d. Recommendations
  - e. Acknowledgment of satisfactory performance

##### **Preliminary File Reviews**

###### **File Review Scope**

- Overall Buyout Program: 25%
- MSCP: 100%

- Scope will be limited to the reason the MSCP case is presented to panel.

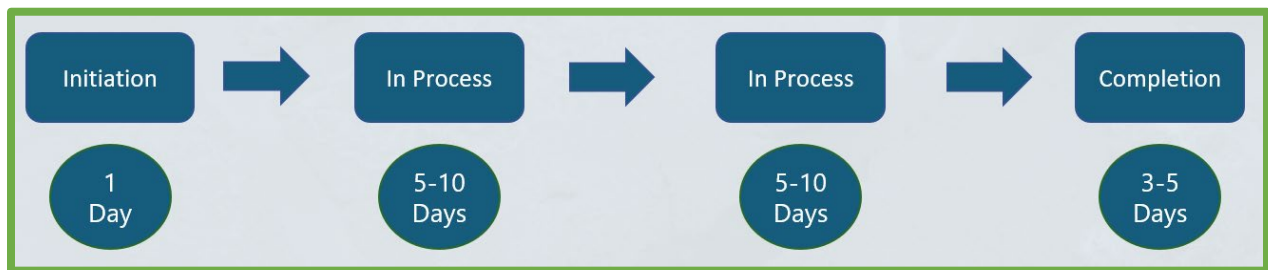
#### **Documentation Reviewed**

- Environmental
- Eligibility
- Duplication of Benefits
- Appraisals
- Offer to Purchase

#### **Frequency**

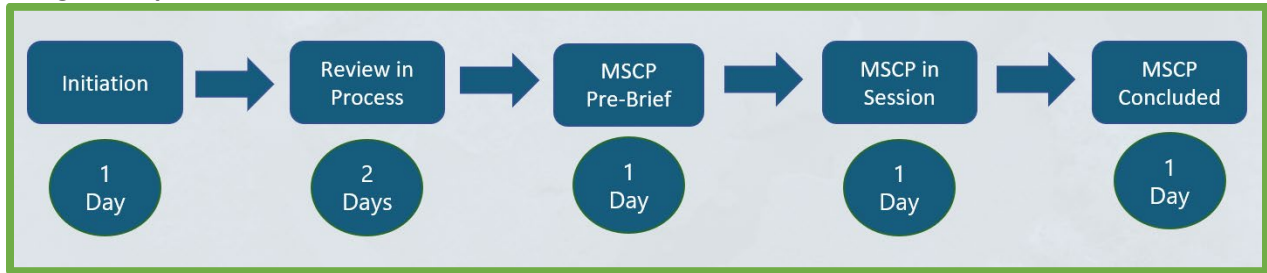
The Mitigation Buyout Program staff will notify Internal Audit staff once batches or “cohorts” of property files are ready for review. The Internal Audit staff will then conduct preliminary file reviews on a weekly basis (as needed). The Internal Audit staff will send MIT staff a weekly “case review” email to track progress.

#### **Preliminary File Review Timeline**



1. The Mitigation staff will notify Internal Audit that files are ready for review.
2. Internal Audit will send an engagement email to the Mitigation staff.
3. Internal Audit reviews files and will:
  - a. Clear case to move forward to the next stage in buyout process via email or email Mitigation staff the preliminary findings.
4. The Mitigation staff reviews email from Audit and if there are no findings:
  - a. The Mitigation staff will move case to the next stage in the buyout process.
  - b. If there are findings, the Mitigation staff will email correction(s) and/or explanation(s) to Internal Audit; and/or send the case to Mitigation Special Case Panel.
5. Internal Audit reviews Mitigation’s email with corrections/explanations and will:
  - a. Clear case to move forward to the next stage in buyout process via email or suggest case be sent to Mitigation Special Case Panel.

### Mitigation Special Case Panel Timeline



1. Mitigation staff notifies Internal Audit that MSCP packets are ready for review at least 48 hours in advance.
2. Internal Audit reviews SCP Packets
3. Audit notes are prepared for SCP session.
4. Audit and MSPC members address case related issues before the official MSCP session in the MSCP Pre-Brief.
5. Audit expresses concerns and/or opinion during the MSCP session.
6. Panel motions to approve, deny, or table the discussion.
7. Audit adds MSCP notes to SOR.

Audit shall research and investigate any information as deemed needed and may challenge the proposed item as submitted. **Internal Audit will forward any concerns regarding the information, findings, and the proposal to the South Carolina Chief Resilience Officer (CRO).** The CRO will make a final determination as to whether the State will fund any items designated as inappropriate by Internal Audit.

### **Compliance Audits**

#### **Compliance Audit Scope**

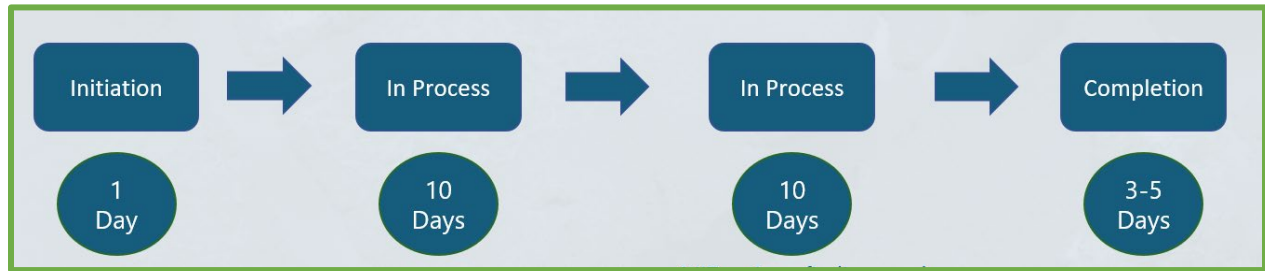
- Overall Buyout Program: 25% minimum
- MSCP: 100%
- Scope will be limited to the reason the MSCP case is presented to panel.

#### **Documentation Reviewed**

- Environmental
- Eligibility
- Duplication of Benefits
- Appraisals
- Offer to Purchase
- Contract
- Closing
- Demo
- Property File Closeout

### Frequency

Upon notification of the demolition schedule, Internal Audit will begin the compliance audit process.



1. Internal Audit sends engagement email to Mitigation Program staff.
2. Internal Audit will randomly select case files to audit. Internal Audit may also select specific cases to audit to comply with federal regulations.
3. Audit will examine case files, requested documentation, & conduct interviews with Mitigation staff (as needed). If there are no findings Audit will:
  - a. Email Mitigation staff a “No Findings” letter acknowledging satisfactory performance.
  - b. If there are findings, Audit will email preliminary findings to Mitigation staff.
4. Mitigation staff reviews findings and will:
  - a. Email correction(s) and/or explanation(s) to Audit.
5. Audit performs final review of files and will:
  - a. Update findings, as necessary and submit official audit findings to Mitigation staff.
6. MIT reviews findings and provides a response (agree or disagree).
7. Internal Audit conducts post audit interview (if applicable).
8. Completed audit package is sent to Management.
9. Once approved by management, audit package will be uploaded to the SOR.



**Annex 23**  
**Davis-Bacon Applicability to Demolition Work**



**Office of Labor Relations**  
***LABOR RELATIONS LETTERS***

**Date: August 12, 2009**

**Letter No. LR 2009-01**

**Subject: Davis-Bacon applicability to demolition work**  
**I. Purpose**  
**II. General principles**  
**III. Character of work for “covered” demolition**

**I. Purpose**

The purpose of this Letter is to discuss the applicability of Davis-Bacon wage requirements to demolition work conducted in relation to HUD program activity. In addition, this Letter provides guidance concerning character of work determinations where demolition work is covered by Davis-Bacon requirements.

**II. General principles**

Demolition, by itself, is not necessarily considered to be *construction, alteration or repair* (i.e., activities to which Davis-Bacon requirements may apply). As a result, Davis-Bacon wage requirements are not typically triggered by demolition work, alone. However, if subsequent construction at the site is planned as part of the same contract or if subsequent construction is contemplated as part of a future construction project, then the demolition work is considered to be part of the overall construction project. In such cases, if the subsequent construction work is subject to Davis-Bacon requirements, then the demolition would likewise be covered by Davis-Bacon requirements.<sup>1</sup>

Therefore, in most cases, demolition is *not* covered by Davis-Bacon requirements *unless* it will be followed by Davis-Bacon – covered construction. This principle remains true whether the demolition is financed or assisted with HUD program funds or with other (non-HUD) funding. There are very few exceptions. For example, Davis-Bacon requirements apply to demolition work where such requirements are imposed by statutory provisions that specify demolition as a Davis-Bacon – covered activity<sup>2</sup>.

In the context of HUD program activity, Davis-Bacon coverage of demolition would necessarily involve knowledge that there will be subsequent construction *and* that the

<sup>1</sup> See All Agency Memorandum 190 and DOL Field Operations Handbook, para 15d02, available in the Library at [www.wdol.gov](http://www.wdol.gov), and HUD Handbook 1344.1, para 7-5, available at in the Library at [www.hud.gov/offices/olr](http://www.hud.gov/offices/olr). *Note:* Davis-Bacon applicability to subsequent construction may be triggered by HUD-assisted demolition. For example, the use of CDBG funds to finance demolition work that will be followed by construction work financed from other sources may trigger Davis-Bacon requirements on the construction work and thus, also, on the demolition. Please contact the HUD Labor Relations staff for your area for assistance with applicability determinations.

<sup>2</sup> Housing Act of 1949, Urban Renewal Program.

subsequent construction work will be covered by Davis-Bacon. This knowledge, whether of planned or contemplated construction work, implies that there is documented evidence of the expected subsequent construction. Such evidence may include contract specifications; disposition plans; budgets; applications for assistance; and similar records.

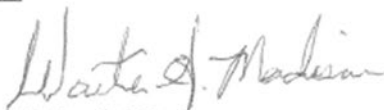
### III. **Character of work for “covered” demolition**

When demolition work is covered by Davis-Bacon wage requirements, the next issue is the determination of the character of work for wage determination purposes – whether the applicable wage decision is residential, building, highway, or heavy. In such cases, the determining factor for character of work is the *end result* of the work at that site. That is, whether the end result is “residential” (single-family homes or apartments 4 stories or less in height); “building” (e.g., an apartment building greater than 4 stories, an office building, parking garage, or community center); “highway” (e.g., a parking lot, streets, or sidewalks); or “heavy” (e.g., an outdoor swimming pool).<sup>3</sup>

For example, the demolition of a 16-story apartment building that results in the construction of 2-story townhomes would be subject to a residential wage decision; the demolition of an office building that is followed by the construction of a parking lot would be subject to a highway wage decision.

Finally, in some circumstances, it may be known that the demolition will be followed by Davis-Bacon – covered construction work but the *character* of the end result is not yet determined. For example, it isn’t known at the time the demolition is conducted whether the following construction will involve low-rise apartments (4 stories or less) or a high-rise apartment building (5 or more stories). In such cases, a heavy wage decision is applicable.

Any questions regarding this Letter should be directed to the Regional or Field HUD Labor Relations staff responsible for the jurisdiction involved. A list of Labor Relations staff, the jurisdictions they serve, and contact information is available at the Office of Labor Relations web site: [www.hud.gov/offices/olr](http://www.hud.gov/offices/olr)



Waite H. Madison  
Director  
Office of Labor Relations

<sup>3</sup> See AAMs 130 and 131.