

**COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS  
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**COMMONWEALTH REGISTER**

**VOLUME 46  
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**VOLUME 46**  
**NUMBER 04**  
**April 15, 2024**

**EMERGENCY**

Emergency Amendments to the NMHC CDBG-DR  
 Homebuyer Activities Policies & Procedures and the  
 CDBG-DR Homeowner Rehabilitation & Reconstruction  
 Policies & Procedures  
**Northern Marianas Housing Corporation ..... 050798**

**PROPOSED**

Proposed Amendments to the NMHC CDBG-DR  
 Homeowner Activities Policies & Procedures and the  
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**Department of Labor ..... 051075**



# NORTHERN MARIANAS HOUSING CORPORATION

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## PUBLIC NOTICE

### EMERGENCY AMENDMENTS TO THE NORTHERN MARIANAS HOUSING CORPORATION'S CDBG-DR HOMEBUYER ACTIVITIES POLICIES & PROCEDURES AND THE CDBG-DR HOMEOWNER REHABILITATION & RECONSTRUCTION POLICIES & PROCEDURES

EMERGENCY ADOPTION AND IMMEDIATE EFFECT: The Northern Marianas Housing Corporation (NMHC) finds that:

(1) the attached Amendments to its CDBG-DR Homebuyer Activities Policies & Procedures and the CDBG-DR Rehabilitation & Reconstruction Policies & Procedures, shall be adopted immediately on an emergency basis because the public interest so requires, for the reasons stated below. 1 CMC § 9104(b), (c) and 1 CMC § 9105(b)(2)); and

(2) the same proposed Amendments to its CDBG-DR Homebuyer Activities Policies & Procedures and the CDBG-DR Rehabilitation & Reconstruction Policies & Procedures shall be adopted, after a proper notice and comment period, as permanent regulations pursuant to the Administrative Procedure Act, 1 CMC § 9104(a).

AUTHORITY: These proposed regulations are promulgated under the authority of the Board of Directors, through its Chairperson, to promulgate rules and regulations pursuant to 2 CMC § 4433(t).

The Administrative Procedure Act provides that an agency may adopt an emergency regulation upon fewer than 30 days' notice if it states its reasons in writing:

(1) If an agency finds that the public interest so requires, or that an imminent peril to the public health, safety, or welfare requires adoption of a regulation upon fewer than 30 days' notice, and states in writing its reasons for that finding, it may, with the concurrence of the Governor, proceed without prior notice or hearing or upon any abbreviated notice and hearing that it finds practicable, to adopt an emergency regulation. The regulation may be effective for a period of not longer than 120 days, but the adoption of an identical regulation under subsections (a)(1) and (a)(2) of this section is not precluded.

(2) No regulation adopted is valid unless adopted in substantial compliance with this section. 1 CMC § 9104(b), (c).

**THE TERMS AND SUBSTANCE:** The Amendments to the CDBG-DR Homebuyer Activities Policies & Procedures and the CDBG-DR Rehabilitation & Reconstruction Policies & Procedures affect the regulations relating to §100-100.3-705 Grant Amount, adding a new section §100-100.3-710 Determination of Unit Size and Occupancy Standards, §100-100.3-705 Grant Amount, adding a new section §100-100.3-710 Determination of Unit Size and Occupancy Standards and §100-100.4-205 Target Group.

**THE SUBJECTS AND ISSUES INVOLVED:** The Amendments modify the regulations set forth for determining minimum and maximum of grant amount, setting unit size determination and occupancy standards and removing the income limits specifically for the CDBG-DR Homeowner Rehabilitation & Reconstruction Policies & Procedures.

**ADOPTION OF EMERGENCY REGULATIONS FOR 120 DAYS:** The Northern Marianas Housing Corporation “NMHC” has followed the procedures of 1 CMC § 9104(b) to adopt these Proposed Regulations on an emergency basis for 120 days.

**REASONS FOR EMERGENCY ADOPTION:** The Northern Marianas Housing Corporation (NMHC) finds that the public interest requires adoption of these Amendments to the CDBG-DR Homebuyer Activities Policies & Procedures and the CDBG-DR Rehabilitation & Reconstruction Policies & Procedures on an emergency basis, for the following reasons:

1. These amendments are needed to clarify grant amounts, address unmet housing needs, set unit size determinations and occupancy standards, and to qualify higher income households whose homes have been directly impacted by Typhoon Mangkhut and Super Typhoon Yutu.


**DIRECTIONS FOR FILING AND PUBLICATION:** The Amendments to NMHC’s CDBG-DR Homebuyer Activities Policies & Procedures and the CDBG-DR Rehabilitation & Reconstruction Policies & Procedures shall be published in the Commonwealth Register in the section/s on emergency and proposed regulations (*see* 1 CMC § 9102(a)(1)) and posted in convenient places in the Civic Center and in local government offices in each senatorial district. (1 CMC § 9104(a)(1))

The Northern Marianas Housing Corporation (NMHC) shall take appropriate measures to make these Rules and Regulations known to the persons who may be affected by them (1 CMC 9105(b)(2)).


**IMMEDIATE EFFECT:** These emergency rules and regulations become effective immediately upon filing with the Commonwealth Register and delivery to the Governor. (1 CMC § 9105(b)(2)) The Northern Marianas Housing Corporation (NMHC) has found that this effective date is required by the public interest or is necessary because of imminent peril to the public health, safety, or welfare. (*Id.*)

**TO PROVIDE COMMENTS:** No comments are required for these emergency rules and regulations. However, the related Notice of Proposed Amendments to the CDBG-DR Homebuyer Activities Policies & Procedures and the CDBG-DR Rehabilitation & Reconstruction Policies & Procedures will specify comment procedures. Please see the notice regarding these emergency Amendments to the Procurement Regulations being presented as proposed regulations, in the March 2024, Commonwealth Register.

The attached emergency regulations were approved by the Northern Marianas Housing Corporation (NMHC) on February 22, 2024.

Submitted by:   
Merced "Marcie" M. Tomokane  
Chairwoman  
NMHC Board of Directors


03/04/2024  
Date

Received by:   
Oscar M. Babauta  
Special Assistant for Administration

03/06/2024  
Date

Concurred by:   
Arnold I. Palacios  
Governor

3/7/24  
Date

Filed and Recorded by:   
Esther R.M. San Nicolas  
Commonwealth Registrar

04.15.2024  
Date

Pursuant to 1 CMC § 2153(e) and 1 CMC § 9104(a)(3), the proposed Amendments to the NMHC CDBG-DR Homebuyer Activities Policies & Procedures and the CDBG-DR Rehabilitation & Reconstruction Policies & Procedures attached hereto have been reviewed and approved as to form and legal sufficiency by the CNMI Attorney General and shall be published (1 CMC § 2153(f) (publication of rules and regulations)).

Dated the 26 day of March, 2024.

  
EDWARD MANIBUSAN  
Attorney General

TITLE 100: NORTHERN MARIANAS HOUSING CORPORATION

SUBCHAPTER 100-100.3  
CDBG-DR POLICIES AND PROCEDURES FOR  
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**Part 001 - General Provisions**

**§ 100-100.3-001 Introduction**

- (a) As a result of the 2018 storms, namely Typhoon Mangkhut and Super Typhoon Yutu, the Commonwealth of the Northern Mariana Islands (CNMI) received an allocation of Community Development Block Grant Disaster Recovery (CDBG-DR) funds which will be administered by the Northern Marianas Housing Corporation (NMHC). NMHC has developed the Homebuyer Program patterned after HUD's HOME program to cover the eligible costs to construct a new home, acquire a home, or to acquire and renovate a home. The governor of the CNMI has placed housing as the highest recovery priority. The total allocation amount under this Program is \$59,009,534.
- (b) At the time of Typhoon Mangkhut and Super Typhoon Yutu, the CNMI was still and most recently recovering from Typhoon Soudelor that hit the islands in 2015. The Soudelor event received only FEMA assistance and did not receive HUD CDBG-DR funds so recovery efforts have been slow and on-going.
- (c) A shortage of available homes for sale or vacant house lots was in existence prior to the typhoons mentioned above. Overall damage to the housing stock compounded the shortage of affordable housing stock. Further, in July of 2017, there were still 2,614 homestead applicants on the waiting list per the Department of Public Lands, demonstrating the continuing need for affordable housing.
- (d) The CDBG-DR Homebuyer Program provides an opportunity for first-time homebuyers to build resilient homes or to purchase existing homes in lower risk areas and to add to the housing stock of typhoon-proof homes.
- (e) Funds will be made available for eligible projects and to eligible beneficiaries through the following forms of financial assistance or subsidy:
  - (1) Grants for acquisition (land or home) or for new construction of home. Must be applicant's primary residence
  - (2) Downpayment assistance
  - (3) Closing cost assistance
- (f) Due to the limited availability of CDBG-DR funds allocated to the Commonwealth of the Northern Mariana Islands (CNMI) from the U.S. Department of Housing and Urban Development (HUD), financial assistance will be limited to qualified extremely low, very low-, low-, and moderate-income homebuyers. No less than eighty percent (80%) of CDBG-DR funds will be used to assist families with income levels at or below 80 percent of the area median income while the remaining twenty percent (20%) of the funds will be used to assist families with income levels at or below 120 percent of the area median income. Eligible households over 80% AMI will meet the national objective of urgent need. These families' income eligibility is based on their annual income. Annual income for this purpose is the gross amount of income anticipated by all adults in a family during the 12 months following the

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effective date of the determination. The determination of income and allowances as a criterion to qualify these homebuyers shall be guided by 24 CFR Part 5 (Part 5 annual income).

- (g) NMHC, on behalf of the CNMI, has been tasked with the responsibility and administration of the CDBG-DR Homebuyer Program. Support services will also be provided by NMHC's Fiscal Division (FD) with respect to CDBG-DR related disbursement of funds and collection of payments, accounting, and maintenance of financial records. NMHC's AMD Property Manager will provide technical assistance and work with the CDBG-DR Project Manager, in-house engineer/architect, and hired A&E firms with respect to reasonableness of cost estimates, dwelling unit inspections, and other related matters. Overall, the NMHC Corporate Director will assume ultimate responsibility for the efficient and proper administration of the CDBG-DR Homebuyer Program in accordance with federal and local statutory and regulatory requirements.
- (h) With these policies and procedures, NMHC will strive to accomplish the following objectives:
- (1) Provide for the efficient and effective administration of the CDBG-DR Program wherein eligible beneficiaries can avail the financial assistance provided for the construction of their principal residence, acquisition of their principal residence, or acquisition and repair of their principal residence;
  - (2) Foster positive working relationships among NMHC, homebuyers assisted with CDBG-DR monies, and Minority and Women-Owned Businesses (MBE/WBE); as well as prospective developers;
  - (3) Enforce the 2018 International Building Code (IBC) enacted by law and any updates approved by regulations by the CNMI Department of Public Works; and HUD-prescribed residential building standards; and
  - (4) Preserve and improve the general housing stock of the CNMI. There was an existing housing shortage prior to the storms and the housing/homebuyer market has been stressed and exacerbated by the storms.
- (i) These policies and procedures shall govern; however, in situations in which these policies and procedures are silent, NMHC's general standard grants policies/procedures to address these situations in the administration of the CDBG-DR Homebuyer Program will apply.

### § 100-100.3-005      **Public Announcement**

(a) **Publicity.**

- Upon notification from HUD of the approval of the grant agreement, NMHC shall publish such approval within thirty calendar days from the date of the approval. General information of the CDBG-DR Homebuyer Program shall be published in the print media

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of the widest local circulation and other suitable means available (social media, CDBG-DR website, etc.). CDBG-DR Homebuyer Program information shall also be posted on public and private bulletin boards where announcements are commonly posted. Grant applications may be submitted on or after a specified date to be stated in the public notice.

- (1) Note: When it is determined that CDBG-DR funds have been exhausted, the application intake may be closed until funding is once again available. Those applicants who did not submit their grant applications when funds were available may do so once NMHC is notified by HUD of the availability of funds and after such notice is published.
- (2) As of the date of this posting, the program is closed. Not all of the current pool of accepted applicants will be able to be served by the program with the current funding available. Care will be taken to ensure that the appropriate number of low and moderate applicants are served based on the Action Plan.
- (3) LMI Applicants who were denied assistance under the prior loan program based on high debt-to-income ratios, and who may be otherwise eligible, shall be **PRIORITIZED** under the grant program over the current pool of eligible applicants currently being served, and before the program is re-opened to the public and after determined to meet the following criteria or conditions:
  - a. Continued interest and eligibility for program assistance;
  - b. Determination of Ability to Maintain Housing as prescribed under § 100-100.3.-201 (e); and
  - c. Receive assistance based in the order of applicants' time stamped application.
- (b) Contents. Program announcements shall inform interested applicants on how and where they may obtain an application and additional information on the type of CDBG-DR Homebuyer Program activity being administered in the CNMI. Such announcements shall further contain the following information:
  - (1) Brief overview of the Homebuyer program;
  - (2) General list of eligible activities available;
  - (3) Amount of funds available;
  - (4) General eligibility requirements to qualify for financial assistance;
  - (5) Homebuyer selection process;
  - (6) Fair Housing logo and Equal Opportunity language;

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- (7) Opening date for acceptance of applications;
- (c) Affirmative Marketing. To ensure that all persons are effectively and adequately informed about the CDBG-DR Homebuyer Program and the availability of funds, brochures or program information notices shall be provided and distributed or posted in the following locations and shall contain the information described in subsection (b). Brochures and/or program information notices shall be made available at the following public and private areas:
- (1) U.S. Post Offices;
  - (2) Major shopping centers;
  - (3) Public health centers;
  - (4) Places of worship;
  - (5) Government office buildings;
  - (6) The Nutrition Assistance Program (Food Stamp) office(s); and
  - (7) U.S. Social Security Administration office(s).

### **Part 100 - Application**

#### **§ 100-100.3-101 Formal Application**

Upon initial determination of eligibility after completion of the pre-qualification process, which involves household income and citizenship verification, applicants may obtain a Uniform Residential Grant Application form along with a checklist of required documents in order to complete the application submission. Those applicants who are initially determined eligible shall be notified to provide additional documents to further process their applications. Proper completion of the formal application and submission of supplemental information shall be in accordance with CDBG-DR Homebuyer Program and NMHC grant processing procedures. Grant which applications shall be completed and signed by applicant(s) requesting assistance and such signature(s) shall certify to the truth of all statements contained therein.

*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. Under penalties of perjury, I/we certify that the information presented above is true and accurate to the best of my/our knowledge and belief. I/We further understand that providing false representations herein constitutes an act of fraud. False, misleading or incomplete information may result in my ineligibility to participate in this program or any other programs that will accept this document. Title 18, Section 1001 of the U.S. Code states that a person is guilty of a FELONY if he/she knowingly and willfully makes a false statement to any department of the United States Government*

#### **§ 100-100.3-105 Supplemental Information**

- (a) Completed applications shall be submitted together with the following supporting information which shall be used solely for the purpose of determining applicant eligibility for financial assistance:

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- (1) Prior year's income tax return and/or W-2 Tax Form;
- (2) Recent check stubs for the past two months prior to applying for CDBG-DR program financial assistance of all household members that are 18 years old or older;
- (3) Other forms of documentation of income (i.e., Social Security payments, SSI, retirement income, etc.), if any;
- (4) Interested applicants must provide proof of ownership such as fee simple title to the property. Ownership may also include leases of 40 years or more provided that the applicant must have at least a minimum of thirty (30) years leasehold interest remaining on the property to be improved.
- (5) If property has been identified, proof of land ownership or lease agreement for principal residence to be used as collateral for the grant. Non-indigenous residents cannot own land and must provide a lease agreement.

If no land ownership or lease agreement is available, lot number and lot description must be provided for parcel that the applicant is planning to purchase;

- (6) Property map for principal residence;
  - (7) Preliminary Title Report (PTR) showing clear title to property;
  - (8) Savings and checking account(s) information, if any; and
- (b) A checklist of the above-described supplemental information shall be provided with each formal application obtained. Additional information may be requested if deemed necessary by NMHC to ensure the eligibility of each applicant. NMHC must complete the Borrower's income eligibility within six months before the homebuyer(s) acquires the property.
- (c) To substantiate eligibility, supplemental information submitted with each grant application shall be verified in writing, from a reliable third party and such verification shall be considered valid for a period of one hundred eighty calendar days from the date the verification was completed. Prior to verifying any applicant information, NMHC shall obtain written authorization from the applicants.

- (d) If a written third-party verification is not used, notarized statements or signed affidavits by the applicants shall be an acceptable form of verification, but only in situations where a more acceptable form of verification cannot be obtained.

**Part 200 - Eligibility**

**§ 100-100.3-201 Eligibility Requirements**

- (a) Must be a U.S. Citizen or green card holder.
- (b) Must be a first-time homebuyer. A **first-time homebuyer** is an individual who has had no ownership in a principal residence during the 3-year period ending on the date of purchase of the property or new home construction completion. This includes a spouse (if meets the above test, they are considered **first-time homebuyers**).
- (c) Must be a resident of the CNMI at the time of application or have been a resident of the CNMI at the time of the qualifying event.

(d) Household Income.

- (1) Homebuyer(s) must qualify as a low-income household as defined in Section 3(b)(2) of the Housing Act of 1937. Income eligibility is determined based on annual income. Combined anticipated gross household income of adults 18 years old or older, must not exceed 80% of the median income for the area (adjusted for family size), as prescribed by HUD (see § 100-100.3201(a)(2)). However, household income of adults 18 years old or older exceeding 80% of the median income for the area but not greater than 120% will also be eligible for assistance.

To qualify for the First Time Homebuyer Program, applicants must meet prescribed income limits as published annually by HUD. Priority is given to applicants at 80% or less of median income based on household size. The program will also serve those households in the 81% to 120% range. The most current income limits can be found at:

<https://www.huduser.gov/portal/datasets/il/il2022/2022summary.odn>

- (2) NMHC shall use HUD's Section 8 of Part 5 Technical Guidelines as the basis in calculating annual gross household income. NMHC will verify their income using at least two months of source documentation such as wage statements, interest statements, and SSI documents to determine if program applicants are income eligible.
- (3) CDBG-DR Homebuyer Program Underwriting Guidelines and Subsidy Layering is further outlined herein under Part 1200, § 100-100.3-1201.

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- (e) **Determination of Ability to Maintain Housing.** NMHC shall evaluate the gross monthly income of both applicant and co-applicant (homebuyers) combined, to determine the amount available for housing costs. This would include insurance, utilities, and typical maintenance costs. This will ensure that the new homeowner will be able to afford the home over the affordability period.
- (f) **Property Ownership.** Interested applicants must provide proof of ownership such as fee simple title to the property. Ownership also includes leases of 40 years or more provided that the applicant must have at least a minimum of thirty (30) years leasehold interest remaining on the property to be improved. If the applicant does not yet own the property, a parcel description must be provided to facilitate the completion of the required tiered environmental review.
- (g) **Principal Residence and Annual Recertification.**
  - (1) Homebuyers/Applicants approved to receive financial assistance must occupy the property as their principal/primary residence immediately upon completion of all CDBG-DR Homebuyer funded activities. An annual recertification for principal residency notice and form shall be sent to homebuyers/borrowers to complete, sign, and submit to NMHC in order to confirm and have on file that they are continually occupying the mortgaged property and housing. The following stipulations apply for a principal residence:
    - (i) A deed restriction or covenant running with the land shall incorporate this requirement;
    - (ii) The grant documents between the homeowner and NMHC shall also incorporate this requirement;
    - (iii) Temporary subleases are not allowed.
  - (2) Annual recertifications shall be required for all CDBG-DR homebuyer-assisted borrowers. This is conducted in order for homeowners to maintain compliance with the affordability restrictions.
  - (3) Annual recertifications through field visits may be conducted if the required completed form has not been provided, or if the account status is pending probate, or the account has been accelerated to the collection attorney for foreclosure proceedings. The Grant Specialist shall verify the borrower(s) principal residence and, as necessary, to take photos and document the status of the residential unit.
- (h) **Grant Cancellation.** NMHC reserves the right to cancel any grant if in its opinion the homebuyer(s)/applicant(s) have not substantially complied with all the terms and conditions of the grant agreement and restrictive covenant.

**Part 300 - Affordability Restrictions**

**§ 100-100.3-301 Long Term Affordability**

The Federal Register notice requires that new construction of housing (not impacted by the qualifying disaster) remain affordable for a specific period of time.,  
NMHC will impose the following affordability periods:

	Minimum Length of the Affordability Period
Rehabilitation	5 years
New Construction	15 years

- (a) The affordability requirements are to be imposed by deed restrictions, covenants running with the land, or other mechanisms approved by HUD, except that the affordability restrictions may terminate upon transfer in lieu of foreclosure. NMHC may use its right of first refusal, as set forth in the grant documents, to purchase the housing before the transfer in lieu of foreclosure to preserve affordability.
- (b) The affordability restrictions shall continue according to the original terms if, during the original affordability period, the owner of record before the termination event, or any entity that includes the former owner or those whom, the former owner has or had family or business ties, obtains an ownership interest in the project or property. If a home purchased with CDBG-DR assistance is sold during the affordability period, recapture provisions apply to ensure the continued provision of affordable homeownership. Grant payoffs do not end the affordability period.

**§ 100-100.3-305 Right of First Refusal**

During the affordability period, the homeowner(s) agrees not to sell or assign the residence hereby built or purchased to any persons or persons unless and until homeowner(s) proposes to sell same to NMHC, its successors or assigns, on terms consistent with preserving affordability and allows then sixty (60) days' time within which to purchase said residence.

**§ 100-100.3-310 Resale**

[Reserved]

**§ 100-100.3-315 Recapture**

- (a) Recapture. NMHC will ensure that it recoups all or a portion of the CDBG-DR grant assistance provided to the homebuyer(s) if the housing unit ceases to be the principal residence of the homebuyer(s) for the duration of the period of affordability. All subsidy amounts (in the form of grants) that directly benefited the property owner (i.e., through grants, down payment and/or closing cost assistance,) are also subject to recapture.

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Recapture is capped at what is available out of net proceeds for agreements after January 2021. Net proceeds are defined as the sales price less superior non CDBG-DR debt (if any) fewer closing costs. NMHC will utilize the following recapture options:

- (1) Recapture entire amount. NMHC may recapture the entire amount of the grant and/or subsidy from the homebuyer(s) if the sale of the property occurs within halfway into the given affordability period. For example, a homebuyer was approved for a \$50,000 CDBG-DR grant to construct a home. The affordability period is therefore, ten years. On the fourth year, the borrower sells the house for \$60,000. Since the borrower failed to comply with the minimum five years of the ten-year affordability period, the recaptured amount is \$50,000.
  - (2) Forgiveness. NMHC may reduce the grant amount and/or subsidy to be recaptured on a pro rata basis for the period the homebuyer(s) has/have owned and occupied the housing unit measured against the required affordability period; however, homebuyer(s) must occupy the housing unit at a minimum of five years or at least halfway into the affordability period, whichever is greater, in order to qualify for this recapture option. For example, if the CDBG-DR subsidy is \$60,000 with 15-year affordability and the owner sells the property in the 8th year of ownership the recapture amount will equal \$12,000. ( $\$60,000/15$  years affordability period x 2 years remaining = \$8,000 recapture.)
  - (3) Buyer's recovery of initial investment. The homebuyer(s) investment (down payment and capital improvements made by the owner since purchase) may be repaid in full before any CDBG-DR funds are recaptured, provided that the homebuyer(s) occupied the housing unit at a minimum of ten years before the sale of the property and the homebuyer's household income level is at or below 50% of the area median income in order to qualify for this recapture option.
  - (4) Shared appreciation. In the case where net proceeds exceed the amount necessary to repay both the homebuyer(s)' investment and the CDBG-DR assistance, the excess proceeds may be shared proportionately (i.e., percentage of investment provided) by both parties.
- (b) When the recapture requirement is triggered due to a voluntary or involuntary sale during the period of affordability and there are no net proceeds or the net proceeds are insufficient to repay the HOME investment due, NMHC may recapture an amount less than or equal to the net proceeds available.
  - (c) Circumstances Under Which Recapture Will Apply. Recapture restrictions must be used in cases where grants were provided to the homebuyer(s) in order to subsidize the purchase of the property to cover the down payment or closing costs.
  - (d) Legal Instrument to Enforce Recapture. NMHC must use deed restrictions, land covenants, or other similar legal documents to enforce these recapture restrictions. These requirements will also be included in grant agreements.

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**Part 400 - Homebuyer Costs**

**§ 100-100.3-401 Eligible Costs**

(a) Hard costs include:

- (1) Acquisition of land and existing structures;
- (2) Site preparation or improvement, including demolition;
- (3) Securing buildings; and
- (4) Construction materials and labor.

(b) Soft costs include:

- (1) Credit reports;
- (2) Title binders and insurance;
- (3) Recordation fees;
- (4) Legal & accounting fees;
- (5) Appraisals;
- (6) Architectural/engineering fees, including specifications and job progress inspections;
- (7) Environmental investigations, which shall be addressed in the commitment letter as a condition before any Homebuyer activity is to be committed or funded;
- (8) Homebuyer counseling provided to purchasers of CDBG-DR-assisted housing;
- (9) Management fees; and
- (10) Direct project costs incurred by the PJ.

(c) Relocation costs include:

- (1) Replacement housing, moving costs, and out-of-pocket expenses;
- (2) Advisory services; and
- (3) Staff and overhead related to relocation assistance and services.

(d) Grant closing fees and related costs:

NMHC shall charge \$3,914.00 (more or less, depending on current costs) to the applicant for certain grant closing fees and other related costs such as but not limited to the following:

- |    |                   |             |  |
|----|-------------------|-------------|--|
| a. | <u>\$14.00</u>    | <u>----</u> | <u>Credit Report</u>                             |
| b. | <u>\$200.00</u>   | <u>----</u> | <u>Preliminary Title Report (PTR)</u>            |
| c. | <u>\$600.00</u>   | <u>----</u> | <u>Appraisal Report</u>                          |
| d. | <u>\$150.00</u>   | <u>----</u> | <u>Recordation of Covenant</u>                   |
| e. | <u>\$1,050.00</u> | <u>----</u> | <u>First Annual Premium for Hazard Insurance</u> |
| f. | <u>\$500.00</u>   | <u>----</u> | <u>Initial Utility Connection</u>                |
| g. | <u>\$1,400.00</u> | <u>----</u> | <u>Title Policy</u>                              |

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\$3,914.00 Total

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Grant closing fees and associated hard and soft costs may be bundled into the total approved grant amount. A borrower who is approved for a \$120,000 grant may use a portion of the grant to pay for the grant closing costs and soft costs. In this case, the \$3,914.00 incurred closing costs shall be subtracted from the total approved grant of \$120,000 and the resulting net amount of \$116,086.00 shall then be used for the construction, purchase and/or rehabilitation of their principal residence.

CUC utility connection: Homebuyer(s) are responsible for ensuring that there are no outstanding issues with CUC and resolving any such issues. Any costs not related to initially connecting to CUC utilities are not granted closing fees and related costs and none of the approved grant amount will be used to resolve such issues.

- (e) If the homebuyer(s) opt to have a private inspector perform unit inspection, the first/initial unit inspection fee may be covered by NMHC, subject to any conditions set by NMHC. Any cost associated with any subsequent inspection shall be the responsibility of the homebuyer client(s).
- (f) NMHC hired construction managers will inspect the home to determine if work is still needed in order to comply with the Green Building and other required construction standards,

### **Part 500 - Notification to Applicants**

#### **§ 100-100.3-501 Notification of Eligibility or Ineligibility**

- (a) Eligible Applicants. NMHC shall send written notifications to all applicants determined eligible for financial assistance. Such notification shall be mailed no later than five working days after the determination and shall contain a listing of additional information to be submitted for completion of the grant file. Eligible applicant(s) shall be given thirty calendar days to submit the additional information requested. Applicant(s) that do not submit all pending information before the thirty (30) calendar day deadline, shall have their applications file placed in the inactive files. Extensions may be granted.
- (b) Ineligible Homebuyers/Applicants. All ineligible applicants shall be notified in writing of their ineligibility. Such notification shall be mailed no later than five working days after the determination of ineligibility and shall include a description/reason for such determination. Please see § 100-100.3-605 for Appeals Process.

### **Part 600 - Grant Processing**

#### **§ 100-100.3-601 Selection**

- (a) Financial assistance shall be based on available CDBG-DR Program funds and such assistance shall be awarded to eligible applicants on a first come, first-serve basis. The application will have the date and time stamped when received; however, to be considered

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received, the application must be completely filled-out and the applicant has submitted all additional information requested by NMHC to perform an eligibility review.

- (b) Potential homebuyers displaced by the storms and can show (completed application form along with all necessary documents) their incomes do not exceed 80% of AMI will be prioritized. No less than 80% of the funding will be reserved for those applicants at or below 80% AMI.
- (c) In the event that there are more applicants than available funds, NMHC shall establish and maintain an applicant waiting list. Applicants placed on the waiting list shall be assisted in the event that funds available are not entirely used up or committed by the homebuyers/applicants initially awarded financial assistance. Those applicants unable to be assisted with remaining funds shall be given first priority if and when additional funds are available.
- (d) Applicants who were initially determined to be ineligible for the loan program will receive reconsideration for the grant program before the program is re-opened to the general public.

### **§ 100-100.3-605 Administration; Approval; Appeals Process**

#### **(a) Program Administration.**

- (1) The CDBG-DR Housing Administrator, with the assistance of NMHC's MCD Manager shall be responsible for the CDBG-DR Homebuyer program implementation and management of related tasks. The CDBG-DR Housing Administrator shall supervise division staff in grant origination, underwriting and closings under the CDBG-DR Homebuyer program. However, the duplication of benefits analysis must be conducted by the CDBG-DR Compliance Manager to determine net financial assistance to be provided to the homebuyer applicant.
- (2) The CDBG-DR Housing Administrator and MCD Manager shall review each submitted application, ensure all supporting documentation is in place and make any necessary recommendations to the Corporate Director prior to the Corporate Director making the final decision on the grant application.

#### **(b) Grant Review and Approval**

- (1) Under the direction of the CDBG-DR Housing Administrator, a CDBG-DR Grant Supervisor and/or a Grant Specialist shall review and verify all applicants' income, assets, liabilities, title reports, and any other requested reports and documentation. Upon completion of the review process, the Grant Specialist shall prepare a grant write-up containing his/her recommendations.
- (2) In the interim, after the CDBG-DR Housing Administrator review, the MCD Manager shall review the grant write-up for concurrence before submitting the same to the Corporate Director for a final decision. Final approval or denial of any CDBG-DR grant or grant shall be made by the Corporate Director except as follows:

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- (i) If the Corporate Director is off-island or on extended leave at the time the grant or grant is submitted to him/her for a final decision, then the Deputy Corporate Director may make the final decision to approve or deny the CDBG-DR grant; or
  - (ii) If the Corporate Director and Deputy Corporate Director are both simultaneously off-island or on extended leave at the time the grant or grant is submitted for a final decision, then the Acting Corporate Director may make the final decision to approve or deny the CDBG-DR grant.
  - (3) For purpose of these policies, off-island or extended leave shall be defined as an absence or leave that extends for more than three working days after the grant or grant is submitted to the Corporate Director for his or her final decision.
  - (4) A written notice of the final decision shall be provided to the applicant.
  - (5) Once the applicant has been approved, as soon as a property or site has been identified, the Grant Specialist is notified so that the tiered environmental review can be completed.
- (c) Grant/Denial Appeals Process.
- (1) Applicants denied assistance under the CDBG-DR Homebuyer program may appeal the final decision to the NMHC Board of Directors by submitting their appeal in writing to the Corporate Director within ten (10) working days of the written notice of the final decision.
  - (2) Any appeal submitted must indicate the basis for the appeal and include any supporting documents. Upon receipt of an appeal, the Corporate Director shall submit the same to the Board of Directors for review and action at the next scheduled Board meeting.

### **§ 100-100.3-610 Homebuyer/New Construction Counseling Session**

- (a) All applicants for grant assistance must attend a Homebuyer/New Construction Education and Counseling Session that will be provided by NMHC. NMHC employees providing housing counseling will be HUD certified housing counselors, and NMHC will have applied directly to HUD and received approval, or NMHC will have applied to a HUD-approved intermediary and received approval by the entity to be its affiliate. NMHC shall notify the applicant(s) of the date, time, and location of the session. The education and counseling session shall be scheduled after the grant has been preliminarily approved and may be conducted before or on the day that NMHC issues the commitment letter to the applicant(s). The counseling session shall include a discussion of the terms and conditions of the grant, educate the new homeowner(s) of their financial responsibilities, the importance of budgeting, making timely payments, foreclosure prevention, as well as home maintenance and repair measures. Acceptable delivery method for housing counseling may be in-person, phone, or internet. Duration of the housing counseling is eight (8) hours. Upon completion of the housing counseling, the borrower(s) will receive a counseling certificate and this counseling certificate is valid for 2 years. Funding for housing counseling will come from project-related soft costs.

- (b) NMHC shall inform applicant(s) at the time of their submission of their application of the required homebuyer/new construction counseling session and again in written form when NMHC notifies the applicant(s) of NMHC's preliminary approval of their grant request. Failure to attend the required Homebuyer/New Construction Education and Counseling Session may be grounds for denial or cancellation of assistance.

**Part 700 - Terms and Conditions of Grant**

**§ 100-100.3-701 Maximum Homebuyer Programs Grant Amount**

- (a) The amount of CDBG-DR Homebuyer grant funds that may be used for a new construction, purchase, or for an acquisition and repair shall be based on the funding required, not to exceed the program cap.
- (b) For NMHC-owned properties, NMHC may sell the property directly to the CDBG-DR Homebuyer-approved applicant(s) but only after the property has been publicly auctioned at least once and resulted in an unsuccessful bid.

**§ 100-100.3-705 Minimum and Maximum CDBG-DR Homebuyer Program Grant Amount**

- (a) The minimum grant amount shall not be less than \$1,000.00.
- (b) The maximum grant amount shall not exceed the prevailing funding cap set by NMHC based on local prevailing costs for construction (New Construction housing projects) and appraised value determined by certified independent appraisal companies.
- (i) New construction project costs presented by contractors may exceed maximum grant and NMHC may approve such costs provided that are deemed justified and cost reasonable and supported by independent cost estimates.
- (ii) NMHC, through the assistance of a private A&E Firm, may update independent cost estimates periodically and as may be needed or required.

**The maximum grant amount shall not exceed \$250,000.00.**

Provided that circumstances, where additional costs may be incurred, will be reviewed against cost reasonableness guidelines and to meet reasonable accommodations and accessibility requirements.

**§ 100-100.3-710 Determination of Unit Size and Occupancy Standards**

- (a) **Fair Housing.** The Fair Housing Act ("Act") (42 U.S.C. §§ 3601-19) prohibits discrimination in the sale, rental, and financing of dwellings, and in other housing-related transactions, based on race, color, national origin, religion, sex (including gender identity and sexual orientation), familial status, and disability. Discrimination includes a failure to make a change, exception, or adjustment to a policy, practice, procedure, or service when such accommodation may be necessary for an individual with a disability to enjoy and use

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housing. In addition to the requirements under the Act, there may be additional requirements for recipients of federal assistance from HUD.

(b) **Housing Unit Suitability.** Homes acquired, purchased, or newly constructed with CDBG-DR funds under this program, at a minimum, shall be decent, safe, and sanitary.

(c) **Determination of Unit Size.** Limited funding notwithstanding, NMHC shall ensure that the following occupancy standards are observed.

(1) **Occupancy Standards.** Occupancy standards are rules about the number of people that can live in a bedroom or at a property. These standards are usually based on the number of bedrooms at a property, but they can also take into account the total amount of livable square footage. Oftentimes, a combination of both makes the final call about how many people can live there. HUD occupancy standards are the rules set up by the Department of Housing and Urban Development. These federal occupancy standards are part of the Fair Housing Act Amendment, and they are the overarching rules for occupancy.

(2) **Unit Bedroom Size.** NMHC has set the following Occupancy Standards for family and unit size:

- (i) All bedrooms with one person should have at least 70 square feet.
- (ii) Shared bedrooms must have at least 50 square feet per person.
- (iii) Kitchens and other non-habitable rooms cannot be used as a bedroom.
- (iv) Every unit should have an overall occupant limitation based on its overall size:
  - (i) 1-2 occupants: must have at least 120 square feet living room.
  - (ii) 3-5 occupants: must have at least 120 square feet living room and 80 square feet dining room.
  - (iii) 6 or more occupants: must have at least 150 square feet living room and 100 square feet dining room.

No. of Family Members	No. of Bedrooms
1-2	2
3-4	2
5-6	3
7-8	4
9 and above	5

(v) **Exceptions.** In certain unique conditions and situations, NMHC, on a case-by-case basis, may grant exceptions when warranted and after thorough review of grant applications.

**§ 100-100.3-735 After-Construction Property Value, After-Rehabilitation Property Value, or Property Value at Initial Purchase (if Acquisition Only).**

**§ 100-100.3-740 Security, Restrictive Covenant, Homeowner Requirements**

(a) To ensure affordability for CDBG-DR funds invested, NMHC shall place a restrictive covenant on the property. The restrictive covenant shall be maintained for no less than the term of the affordability period.

- (b) NMHC will execute a written agreement with the homebuyer that will specify the use of CDBG-DR funds, description of the project, roles and responsibilities, compliance with affordability period requirements, qualifications for affordable homeowner housing, monitoring, the purchase price, date by which housing must be acquired, address or legal description of the property, and duration of the agreement. Additionally, the purchase price, date by which housing must be acquired, address or legal description of the property must be indicated in the applicable written agreement.
- (c) During the term of the grant, homebuyer shall also be required to maintain, at their expense, property insurance on the mortgaged property for fire, earthquake, typhoon, and flood damage (if applicable) covering the replacement value of all properties at a minimum equal to the grant amount. Financial hardships will be reviewed on a case-by-case basis.
- (d) NMHC will require the homebuyer to execute and file for record a deed or deeds of restriction, land covenant or similar legal documents approved by HUD that will assure compliance with the principal residency and affordability period requirements and enforce CDBG-DR restrictions.

**Part 900 - Miscellaneous Circumstances Affecting Grant Agreement**

**§ 100-100.3-901 Assumption of a Grant**

- (1) Death of a homebuyer/borrower: Upon the death of the borrower which occurs within the affordability period, the entire unpaid balance of the grant shall be immediately due and payable. Title transfer without sale triggers the CDBG-DR recapture agreement enforceable through the restrictive deed or land covenant. The Corporate Director may allow assumption of the grant by the heirs of the borrower if a final decree in the probate of the borrower identifies the heirs and approves distribution to them of the improved property and the grant, and if the heirs themselves would qualify as a new applicant for the grant.
- (2) At the sole discretion of the NMHC Board, the grant may be assumed by a legal heir of a deceased borrower(s) of the CDBG-DR-assisted unit. This assumption exception is permitted where transfer of title is through the laws of descent provided that the heir is of legal age, meets all CDBG-DR Program eligibility requirements and has a full, undivided interest in the real property. The heir will be required to fill out an application and will be subject to credit, income, and asset verification.
- (3) Default for Violation of Grant Agreement and/or Restrictive Covenant. In situations where a default is imminent, the Corporate Director may allow a borrower to have a CDBG-DR eligible immediate relative (i.e., mother, father, brother, sister, son, daughter) assume the grant, all for the purpose of preserving the affordability period.
  - (a) Default. NMHC may use its right of first refusal, as set forth in the grant documents, written agreement with homebuyer, and restrictive deed or land covenant, to reclaim the housing to preserve affordability. Default triggers the

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CDBG-DR recapture agreement enforceable through the restrictive deed or land covenant.

- (b) Recapture in the Event of Default. If the CDBG-DR assisted property is subject to recapture terms, NMHC has three options:
  - (i) Recapture Option 1: NMHC will recapture and pay to the CNMI CDBGCR account the net proceeds from the foreclosure sale of the property in accordance with the recapture terms; or
  - (ii) Recapture Option 2: NMHC may purchase the CDBG-DR assisted property at foreclosure sale and additional CDBG-DR funds may be spent. However, the total amount of the original and additional CDBG-DR funds spent may not exceed the maximum per unit subsidy amount.
  - (iii) Recapture Option 3: NMHC will allow the homeowner in default to repay the entire amount of the CDBG-DR investment and own the property free and clear. In this event, the affordability period will be terminated,

### **Part 1100 - Performing New Construction Work**

#### **§ 100-100.3-1101 Performing New Construction Work**

- (a) NMHC Independent Cost Estimate: NMHC or its procured construction manager will establish an estimated cost for construction and/or rehabilitation of the property to be acquired. This cost estimate will be used to validate that the winning bid is acceptable as being “eligible, necessary, and reasonable.”
- (b) Contractor Cost Estimates: The homebuyer(s)/applicant(s) shall be responsible in obtaining a minimum of three written construction cost estimates from at least three NMHC approved contractors, and each cost estimate submitted must include, at a minimum, the following information: bid price, cost breakdown of materials and labor charges, and schedule for completion of work.
- (c) Selection of Contractor/Contract Award: The homebuyer(s) shall have the right to select whichever contractor to perform the construction work, provided that NMHC has assessed the sources and uses of funds and determined that the costs are reasonable, provided that the contractor’s quotation and the appraiser’s after-construction estimated value does not exceed the approved grant amount and provided that the contractor is an NMHC-approved contractor. Should it exceed the grant amount, the homeowner shall choose to either deposit the difference or negotiate with contractor in reducing the contract amount. Should the borrower not be able to deposit the difference or the contractor unwilling to lower the contract amount, then the borrower shall select his/her/their next choice. The homebuyer(s) shall submit a contractor selection notice notifying NMHC of his/her/their selection. NMHC may, at its own discretion, select the appropriate contractor for the applicant if the

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homebuyer project is deeply subsidized using additional CDBG-DR funds. Deeply subsidized means additional funding assistance on top of the underwritten funding assistance.

(d) **Construction Contract:** The construction contract is a binding agreement strictly between the homebuyer(s) and the contractor whereby the contractor will provide the construction or repair work for a specified and agreed upon price. As NMHC's role is to finance the construction of the project, it is not a party to the construction contract. However, at any time the contractual provisions are not followed, NMHC shall have the right to withhold any progress payment until the contractor has complied with such provisions. The construction contract shall include, but is not limited to, the following provisions:

- (1) Contractor's name and mailing address;
- (2) Homeowner(s) name and mailing address;
- (3) Date of the contract, the contract amount, and payment schedule for each incremental billing;
- (4) Calendar days to complete the work (includes Saturdays, Sundays, and holidays);
- (5) Contractor will provide the performance bond, and labor and material payment bond up to the contract amount, as well as a builder's risk policy for the project;
- (6) The contractor will provide all the construction plans and permits necessary to comply with applicable local and federal laws;
- (7) Issuance of the notice to proceed or the commencement of the project;
- (8) Contractor will provide a one-year warranty on all work completed;
- (9) NMHC's right to inspect the progress of the project and right to withhold progress payments;
- (10) Change order procedures, if any; and
- (11) A provision for liquidated damages must be included in the construction contract which shall be negotiated between the homebuyer(s) and the contractor.
- (12) Description of the work to be performed so that inspections can be conducted and, for rehabilitation, so that housing will meet NMHC's rehabilitation standards.

(e) **Contractor Notification and Pre-Construction Requirements:** Once NMHC is in receipt of the borrower(s)/homebuyer(s) contractor selection notice, NMHC shall notify the contractor of the homebuyer(s) selection of their company. NMHC shall inform the

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contractor of the scheduled pre-construction conference and shall likewise inform the contractor of the required construction documents for submission as listed below:

- (1) Building permit (if applicable)
  - (2) Earthmoving and erosion control permit (if applicable)
  - (3) Construction contract
  - (4) Performance and payment bonds
  - (5) Plans and specification approved by DPW
  - (6) Private inspector's contract (if applicable)
  - (7) Notice that an environmental review and clearance has been conducted, and Authorization to Use Grant Funds has been received.
  - (8) Verification that any mitigation measures identified in the course of the environmental review have been incorporated into the plans and specification approved by DPW.
- (e) Project Duration: Construction must start within 12 months of NMHC's execution of the CDBG-DR written agreement with the homebuyer(s).

- (1) Progress payment requests shall be submitted to NMHC by the contractor incrementally as specified in the payment schedule. NMHC shall ensure that all work description indicated on the payment schedule is completed prior to releasing contractor's payment. An original and a copy of the requests must be submitted to NMHC. The contractor shall freely use his/her/their company's billing form when submitting a payment request. The payment request shall be accompanied with the following whenever applicable: inspection reports (DPW and/or private inspector), geotesting results, termite treatment certification and/or warranty, builder's warranty, and borrower/homebuyer's acceptance of the project. In addition, each billing submitted must include pictures of the progress of the project and a copy of the payment schedule.
- (2) Payment schedule shall be as follows:
  - (i) Payment request number 1 shall not be more than 10% of the contract amount. This shall include the installation of the project sign board accompanied with a picture, the delivery of materials to the construction site, and commencement of the project.
  - (ii) Payment request number 2 shall not be more than 25% of the contract amount.
  - (iii) Payment request number 3 shall not be more than 25% of the contract amount.
  - (iv) Payment request number 4 shall not be more than 25% of the contract amount.

- (v) Payment request number 5 shall be the 15% retainage request when all work is completed. The final payment request shall be accompanied with the certificate of occupancy from the Commonwealth Building Safety Office, builder's warranty, window warranty if subcontracted, termite treatment warranty, final inspection report from the DPW and if applicable, the private inspector's, certificate of acceptance from the homeowners, geotesting results if applicable, pictures of project interior and exterior, and DEQ certificate of use (sewage disposal system), if applicable.
- (3) Change Order Procedures. From time to time, the homebuyer(s) may request for changes in the plans and specifications. In the event that this should occur, the following steps must be taken to address such request:
- (i) The borrower/homebuyer must notify contractor in written form of the proposed changes and provide NMHC a copy of the notification.
  - (ii) Upon receipt of the notification, the contractor must cease work at the project site and obtain NMHC's approval of the change order request. Upon approval the contractor shall then provide NMHC a revised plan and specifications, including a revised payment schedule (if scheduled payments will be altered by the proposed changes). The contractor must obtain NMHC's approval of the change order request.
  - (iii) Once the change order request is approved, the homeowner will be required to deposit the additional money needed to NMHC (if applicable) to carry out the change order. The contractor will be required to submit the revised plans and specifications to DPW for approval.
  - (iv) Should the change order request be denied, then the contractor shall resume work to ensure timely completion of the project. The contractor may not be able to complete the project on time because of the delays the change order request may have caused. Therefore, the homebuyer(s) shall give the contractor additional days equal to the time the work was ceased up until the time the change order request was denied to complete the project. The homebuyer shall not charge the contractor for liquidated damages during this period.
- (4) Once the contractor has obtained the DPW's approval of the plans and specifications, then it shall provide NMHC with the same copy. The contractor shall proceed in carrying out the change order and completing the project.
- (f) Inspections: NMHC shall have the right, during the construction or improvement of the building, to inspect the same and to reject and to require to be replaced, any material or workmanship that does not comply with the plans and specifications, without any liability on the part of NMHC, as to workmanship or materials therein. Such inspection is solely for financing purposes and for the disbursement of funds, and any inspection or approval

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of any construction phase or increments of said dwelling shall not be deemed as a warranty by NMHC of the workmanship and material therein.

- (g) Inspector: Upon completion, the building is subject to inspection by the Building Safety Office of the Department of Public Works (DPW) prior to the issuance of an occupancy permit or other permits as provided in the Building Safety Code codified in 3 CMC § 7101 et seq. Applicant(s) may have a private inspector, (i.e., a qualified licensed engineer or a qualified licensed architect), conduct inspection with the costs with such inspection to be handled in accordance with § 100-100.2-240.
  
- (h) Minimum Property Standards (MPS): For new construction of housing and acquisition rehabilitation of housing, the 2018 International Building Code enacted by law and any updates approved by regulation by the Department of Public Works Building Safety Office and zoning laws (if applicable for Tinian and Rota), International Energy Conservation Code, NMHC written design standards for single family housing new/rehabilitation, and accessibility requirements (where applicable) must be adhered to.
  - (1) Further adherence to CDBG-DR acquisition and repair standards, which details the methods, materials, and other requirements that the housing must meet upon completion, including each of the following:
    - (i) Health and Safety [24 CFR 92.251(b)(1)(i)]
    - (ii) Major systems that were rehabilitated or replaced as part of the rehabilitation [24 CFR 92.251(b)(1)(ii)]
    - (iii) Lead-based paint [24 CFR 92.251(b)(1)(iii)]
    - (iv) Disaster mitigation, if applicable [24 CFR 92.251(b)(1)(vi)]
    - (v) State and local codes, ordinances and zoning requirements [24 CFR 92.251(b)(1)(vii)]
    - (vi) Minimum deficiencies that must be corrected based on inspectable items and areas in HUD's Uniform Physical Condition Standards [24 CFR 92.251(b)(1)(viii)]
    - (vii) HUD Green Building Standards or Green Building Retrofit Checklist, as required by Federal Register Notice.
  
- (i) Homebuyer(s), through their contractors, must ensure that they are familiar with these requirements. PJs using MPS may rely on inspections performed by a qualified person. If using CDBG-DR funds solely for acquisition, the property must also meet the minimum property standards mentioned above or HUD's Uniform Physical Condition Standards (UPCS). The contractor will provide all the construction plans and permits necessary to comply with applicable local and federal laws.
  
- (j) Project Completion:
  - (1) Project shall be completed prior to the termination of the CDBG-DR Grant Agreement with HUD.

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(2) Project completion information shall be entered in the Disaster Recovery Grant Reporting (DRGR) System within 120 days of the final project draw.

(k) Record Retention:

(1) NMHC shall retain CDBG-DR homebuyer project records for five years after project completion. [24 CFR 92.508(c)(2)]

(2) NMHC shall retain documents imposing recapture provisions for five years after the period of affordability terminates. [24 CFR 92.508(c)(2)]

(3) NMHC shall retain CDBG-DR homebuyer project written agreement records for five years after the agreement terminates. [24 CFR 92.508(c)(4)]

### Part 1200 - Homebuyer Underwriting

#### § 100-100.3-1201 Guidelines and Referenced Sections

In order to determine the specific amount of CDBG-DR assistance needed to ensure that the unit is affordable and sustainable over the long-term, NMHC's CDBG-DR Homebuyer Program design reflects and incorporates underwriting standards that the HOME regulations at § 92.254(f) has set forth; and further examines the following for each homebuyer:

- (a) Program Eligibility and income;
- (b) Monthly expenses;
- (c) Assets or cash reserve, as applicable; and
- (d) Appropriateness of the amount of assistance

In addition to the underwriting provisions of these regulations, the following applies to Homebuyer activities:

(a) Determining income eligibility.

(1) The NMHC CDBG-DR Homebuyer Program methodology for determining income-eligibility, income as a component of underwriting, income verification and required source documentations, treatment and the calculation of assets are derived from the HUD *Part 5 Technical Guidelines* as herein stated

- (i) To receive CDBG-DR assistance, households must have incomes at or below 80 percent of the area median household income, adjusted for household size, and determined annually by HUD. Households with incomes at or below 120 percent of the area median household income, adjusted for household size, are also eligible for assistance.
- (ii) CDBG-DR Homebuyer Program regulations require that income of all family members be included in the determination of income for the purpose of eligibility. The HOME regulations at 24 CFR 92.203 (d) require that a PJ

must project a household's income for the next 12 months. Chapter Two of the Part 5 Technical Guide reviews this in detail. The NMHC CDBG-DR Homebuyer Program shall also use the same methodology of projecting income for the purpose of underwriting.

- (iii) The Part 5 definition of annual income provides specific guidance pertaining to whose income in a household must be included in that calculation. Chapter Three reviews this in detail.
- (iv) Gross amount. NMHC uses the monthly gross amounts, before any deductions have been taken, for those types of income counted. Adjusted income is not required for CDBG-DR-funded homebuyer or for owner-occupied rehabilitation as per the Part 5 Technical Guide.
- (v) The CDBG-DR Homebuyer program requires that the grantee determine income eligibility of CDBG-DR applicants by examining source documents, such as wage statements or interest statements, as evidence of annual income. NMHC requires additional supporting information to confirm eligibility and for purposes of underwriting. This is specified in §100-100.3-105, Supplemental Information. Review of documents and third-party verification is further reviewed in detail in Chapter Two of the Part 5 Technical Guide.
- (vi) What to include as an Asset. There is no asset limitation for participation in the CDBG-DR Homebuyer Program. Eligible families are not required to “spend down” assets before they can participate in the Program. Income from assets is, however, recognized as part of annual income under the Part 5 definition.
- (vii) In general terms, an asset is a cash or non-cash item that can be converted to cash. Income that is earned, such as interest on a savings or checking account, is counted or factored into annual income. Chapter Three of the Part 5 Technical Guide explains in detail the treatment of assets and considers what is to be included as an asset, as well as explaining actual income from assets.
- (vii) Recurring monthly expenses, or those that are considered fixed monthly living expenses such as utilities and transportation costs are the type of expenses should be considered in the underwriting process and must be carefully budgeted and monitored by the homebuyer. The housing counseling shall address these types of essential expenses so that it does not decrease residual income and affect the homebuyer's ability to sustain the property.

## **TITLE 100: NORTHERN MARIANAS HOUSING CORPORATION**

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- (b) The affordability restrictions that will be imposed on the property, a grant will only be extended to applicant(s) who will make their assisted unit their primary residence (see § 100-100.3-201(d)).

### **§ 100-100.3-1205     Subsidy Layering**

- (a) NMHC may provide eligible homebuyers with additional locally funded assistance to cover additional housing cost that is deemed to have exceeded the maximum CDBG-DR assistance limit.
- (b) Homebuyer(s) that are approved for any additional, or supplemental assistance whether it be a CDBG-DR grant or with NMHC's local funds, shall be required to choose from NMHC's house design and layouts. Such house layout and unit size is dependent on the household size, the original approved CDBG-DR assistance, as well as the total estimated costs to construct a new principal residence.

### **§ 100-100.3-1210     Acronyms Reference Section**

[For Homebuyer Policies and Procedures]

- (a)     AIA—American Institute of Architects
- (b)     AMI—Area Median Income
- (c)     CD—Corporate Director
- (d)     CFR—Code of Federal Regulations
- (e)     CNMI—Commonwealth of the Northern Mariana Islands
- (f)     CPSC—Consumer Product Safety Commission
- (g)     DCD—Deputy Corporate Director
- (h)     DEQ—Department of Environmental Quality
- (i)     DPW—Department of Public Works
- (j)     DTI—Debt-to-Income Ratio
- (k)     EA—Environmental Assessment
- (l)     GFE—Good Faith Estimate

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- (m) HOME Program—U.S. HUD Homeownership Investment Partnerships Program
- (n) HQS—Housing Quality Standards
- (o) MCD—Mortgage Credit Division
- (p) MPS—Minimum Property Standards
- (q) MPV—Maximum Property Value
- (r) NAHA—National Affordable Housing Act
- (s) NEPA—National Environmental Policy Act
- (t) NMHC—Northern Marianas Housing Corporation
- (u) NTP—Notice to Proceed
- (v) PITI—Principal, Interest, Taxes, and Insurance
- (w) PJ—Participating Jurisdiction
- (x) PTI—Payment-to-Income Ratio
- (y) PTR—Preliminary Title Report
- (z) RER—Rehab Environmental Review
- (aa) RESPA—Real Estate Settlement Procedures Act
- (bb) SCRA—Service members Civil Relief Act
- (cc) SSI—Supplemental Security Income [Social Security]
- (dd) TCD—Time Certificates of Deposits
- (ee) TILA—Truth in Lending Act
- (ff) U.S. HUD—United States Department of Housing and Urban Development
- (gg) USDA RD—United States Department of Agriculture Rural Development
- (hh) USPAP—Uniform Standard of Professional Appraisal Practice

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(ii) VOE—Verification of Employment

## **APPENDIX A.1: Crosscutting Requirements**

### **1.1 Crosscutting Requirements**

#### **1.2 Fair Housing**

The Fair Housing Act requires all grantees, subrecipients, and/or developers funded in whole or in part with HUD financial assistance 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. The Program complies with and enforces the Civil Rights requirements of Title I of the Housing and Community Development Act (HCDA) and the Fair Housing Law.

Projects must also assess how planning decisions may affect members of protected classes, racially and ethnically concentrated areas, as well as concentrated areas of poverty; will promote the availability of affordable housing in low-poverty, non-minority areas where appropriate; and will respond to natural hazard-related impacts. Program staff will use demographic, geographic, and social vulnerability analyses to determine any positive or negative impacts to protected classes. Should a project present negative impacts, project scope or design will be reassessed to mitigate such impacts.

#### **1.3 Environmental Review**

Early environmental coordination must be completed to ensure effective implementation of all CDBG-DR Programs. CDBG-DR funding is contingent upon compliance with both local and federal environmental regulations. This includes compliance with NEPA and related environmental and historic preservation legislation and executive orders. In general, NMHC serves as the lead agency for the purposes of NEPA.

HUD's Environmental Review process allows grantees to serve as the "Responsible Entity" to assume environmental review responsibilities under NEPA. As the grantee, NMHC serves as the Responsible Entity (through authorization from the Governor) as it relates to environmental review responsibilities under NEPA. Within NMHC, Environmental Review Staff will be responsible for performing environmental reviews and compiling the Environmental Review Records (ERR). Reviews are conducted either directly or using qualified environmental service contractors. NMHC's Corporate Director, as the Certifying Officer, is responsible with certifying that NMHC's environmental reviews follow NEPA and HUD environmental regulations.

Federal Register Notice FR-6182-N-01 authorizes recipients of CDBG-DR funds under the Appropriations Act to adopt any environmental review, approval, or permit performed by a Federal agency for the same project to satisfy responsibilities with respect to environmental review, approval, or permit. NMHC will notify HUD in writing of its decision to adopt another agency's environmental review. NMHC will also retain a copy of the review in its environmental records. Further information concerning the environmental review process is set forth in the

Environmental Policies and Procedures. Further information concerning the specific HUD requirements for the adoption of other Federal agency environmental reviews can be found in the HUD Memorandum dated March 4, 2013, *Adoption of FEMA and Other Federal Environmental Reviews Processing for Hurricane Sandy Supplemental Appropriation (H.R. 152) Activities*. Additional information on the environmental review process in general is set forth in Section § 100-100.4-335, Environmental Review Procedures for Entities Assuming HUD Environmental Responsibilities (24 C.F.R. Part 58).

## **1.4 Labor Standards**

The Davis-Bacon and Related Acts (DBRA) applies to all federally funded or assisted construction contracts in excess of \$2,000. This may apply to projects that are fully or partially funded with CDBG-DR, including FEMA or FHWA match programs. In matched projects, only the scope of the CDBG-DR portion of the project are subject to crosscutting requirements DBRA requires all workers employed by contractors or subcontractors on CDBG-DR programs, 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 DBRA, as amended. DBRA also requires that workers on federally-assisted projects are paid not less than weekly.

Wage information for labor under CDBG-DR programs will be tracked in detail by both NMHC and relevant Implementing Partners and subrecipients throughout the life of the Program. Compliance for this requirement may be tracked in the following ways:

- (1) Additional NMHC Program staff hired to track wages and verify contractor and agency compliance
- (2) External contractor hired by NMHC to track DBRA compliance
- (3) Enhanced TA provided to Implementing Partners to track DBRA compliance

Davis Bacon applies to the rehabilitation of residential property only if the property contains 8 or more units under common ownership, on same or contiguous lots, or with common financing. Residential property that contains 7 or fewer units is exempt. Although the statute refers to the rehabilitation of residential property, this exemption has been interpreted to include the new construction of residential property containing 7 or fewer units. Typically, single-family homeowner properties are excluded under this exemption.

For prime contracts in excess of \$100,000, contractors and subcontractors must also, under the provisions of the Contract Work Hours and Safety Standards Act, as amended, pay laborers and mechanics, including guards and watchmen, at least one and one-half times their regular pay for all hours worked over 40 in a work week. Additionally, NMHC must follow the reporting requirements per HUD and U.S. Department of Labor (DOL) regulations. This requirement also extends to NMHC subrecipients, Implementing Partners, and contractors.

The Fair Labor Standards Act of 1938 (FLSA), as amended, establishes the basic minimum wage levels for all work and requires the payment of overtime at the rate of at least one and one-half times the basic hourly rate of pay for hours worked in excess of 40 per week. These labor standards are applicable to the entire construction contract whether or not CDBG-DR funds finance only a portion of the project.

## **1.5 Limited English Proficiency**

Federal Executive Order 13166 requires NMHC and all satellite offices, programs, subrecipients, contractors, subcontractors, and/or developers funded whole or in part with CDBG-DR financial assistance to ensure fair and meaningful access to programs and services for families and individuals with Limited English Proficiency (LEP) and/or deaf/hard of hearing. Compliance with this requirement is detailed in NMHC's Language Action Plan (LAP) and will be coordinated and tracked by the Monitoring and Compliance division at VIHFA. Depending on the program, NMHC, Implementing Partners, sub-recipients, and subcontractors will share the following expectations to comply with this Executive Order:

- (1) Document Translation: All documents defined as "vital documents" will be translated into Chamorro or Carolinian by NMHC, Implementing Partners, and sub-recipients. A "vital document" is defined as a document that includes information regarding eligibility requirements, applications and instructions, program eligibility determinations, and appeals procedures. NMHC may aid to ensure this requirement is met.
- (2) Where required, seek feedback from the community the project serves (advocacy groups serve vital role).

Language maps provided in the Language Action Plan will be used to determine the project's location and subsequent language context and if proactive LEP outreach will be required. These maps will be included as part of the Project Assessment Form used by NMHC to review the eligibility, priority level, and impacts of a potential project.

## **1.6 Minority and/or Women-Owned Business Enterprises**

The Federal Executive Order 12432 guidelines require selected federal agencies to promote and increase the utilization of Minority-Owned and Women-Owned Business Enterprises (M/WBEs). Following procurement guidelines under 2 CFR 200.321, NMHC must make efforts to ensure that all subrecipients, contractors, subcontractors, and/or developers funded in whole or in part with HUD CDBG-DR financial assistance encourage participation in contracts and other economic opportunities by small and minority firms, women-owned business enterprises (WBEs), and labor surplus area firms whenever possible. NMHC will accept a MWBE certification from another state, local or regional, DPW, SBA HUB Zone, SBA 8-A certification (economically disadvantaged and 51% locally-owned), and other eligible certification processes. Documentation and goals regarding M/WBE percentages and reporting will be determined in the contracting agreements.

## **1.7 Section 3 Economic Opportunities**

Section 3 is triggered when the award of CDBG-DR funds for new construction and rehabilitation projects if the construction contract is \$200,000 or more.

## **TITLE 100: NORTHERN MARIANAS HOUSING CORPORATION**

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Section 3 of the Housing and Urban Development Act of 1968 is to “ensure that employment and other economic opportunities generated by certain U.S. Department of Housing and Urban Development (HUD) financial assistance for housing and community development programs shall, to the greatest extent feasible, be directed to low and very low income individuals, especially recipients of government assistance for housing and to businesses which provide economic opportunities to low and very low income individuals.”

The Section 3 program requires that recipients of HUD CDBG-DR funds, to the greatest extent feasible, provide (a) employment and training, and (b) contracting opportunities for low- or very-low-income residents in connection with construction projects in their neighborhoods.

It requires any “Section 3” project (construction contract of \$200,000 or more) to report in three categories of labor hours:

- Total project labor hours
- Section 3 labor hours (any position where wages are at or below the threshold for a 1-person household at 80% AMI).
- Section 3 targeted worker (Section 3 worker living in proximity to the project site)

It also specifically encourages economic opportunities for households who are recipients of government assistance for housing. NMHC and all administering entities will follow and require relevant contractors to follow Section 3 requirements in contracting.

Section 3 applies to the CNMI, as recipient of HUD funding, as well as to subrecipients or Implementing Partners/Sub-recipients receiving HUD funding exceeding \$200,000. Whenever any portion of HUD funding is invested into projects involving housing construction, demolition or rehabilitation, commercial/private improvements for economic development, or other public construction (e.g., roads, sewers, community centers, and public facilities), the requirements of Section 3 apply.

In conjunction with construction activity, Section 3 applies to projects that are fully or partially funded with CDBG-DR assistance, including projects that are financed in conjunction with territory, local, or private matching or leveraged funds, provided that the Section 3 monetary threshold requirements are met. In particular:

- In conjunction with construction activities, Section 3 applies to contractors or subcontractors that receive contracts more than \$200,000 for Section 3-covered projects/activities. Once it is determined that Section 3 applies to a project, the requirements apply to all contracts for construction work arising in connection with that project exceeding \$200,000, including those not funded with CDBG-DR assistance. Contractors or subcontractors are required to comply with the Section 3 regulations in the same manner as the Commonwealth; and
- “Section 3-covered contract” includes professional service contracts, provided that the work to be performed is generated by the expenditure of funds in furtherance of Section 3 covered work (e.g., housing construction, housing rehabilitation, and other public construction), arising relating to construction projects. Professional service contracts that may constitute Section 3-covered contracts include construction contract oversight,

engineering, architectural, environmental and property evaluation, construction progress and draw inspections, and prevailing wage labor compliance.

The regulations pertain to total labor hours required to complete Section 3-covered projects and activities. If the expenditure of funding for an otherwise covered project and activity does not result in new employment, contracting, or training opportunities, Section 3 reporting will still be required.

When NMHC awards CDBG-DR funds to other governmental departments, nonprofit organizations, subrecipients or other funded entities, NMHC will require they document how reasonable attempts were made to reach numerical goals set forth at 24 CFR Part 75. (25% total hours for Section 3 workers, 5% total labor hours for targeted Section 3 workers). NMHC will inform its Implementing Partners and other funded entities of the requirements of Section 3, including the language required to be inserted into all construction-related contracts, assist them and their contractors with achieving compliance, and monitor their performance with respect to the Section 3 objectives and requirements.

Implementing Partners/Sub-recipients will receive training on this requirement and methods of compliance, technical assistance from Program staff, and continual monitoring from NMHC. Currently, a Section 3 Plan is under development, the details of which will be included in an update to this manual.

## **1.8 System for Award Management (SAMs)**

SAM is the federal System for Award Management and is a requirement for doing business with the U.S. government. All vendors are required to register in SAM in order to be awarded contracts under the CDBG-DR program. Vendors are required to complete a one-time registration to provide basic information relevant to procurement and financial transactions. Vendors must update or renew their registration annually to maintain an active status.

## **1.9 Uniform Relocation and Real Property Acquisition Act (49 CFR 24)**

The Uniform Relocation Assistance and Real Property Acquisition Act (URA) is a federal law that establishes minimum standards for federally funded programs and projects that require the acquisition of real property (real estate) or displace persons from their homes, businesses, or farms. The URA's protections and assistance apply to the acquisition, rehabilitation, or demolition of real property for federal or federally funded projects. The phrase "program or project" is defined in 49 CFR Part 24 as, "any activity or series of activities undertaken by a federal agency or with federal financial assistance received or anticipated in any phase of an undertaking in accordance with the federal funding agency guidelines."

The objectives of the URA are:

- To provide uniform, fair and equitable treatment of persons whose real property is acquired or who are displaced in connection with federally funded projects;
- To ensure relocation assistance is provided to displaced persons to lessen the emotional and financial impact of displacement;

## TITLE 100: NORTHERN MARIANAS HOUSING CORPORATION

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- To ensure that no individual or family is displaced unless decent, safe, and sanitary (DSS) housing is available within the displaced person's financial means;
- To help improve the housing conditions of displaced persons living in substandard housing; and,
- To encourage and expedite acquisition by agreement and without coercion.

49 CFR 24.101(c)(1) provides that the subpart B requirements also apply to the acquisition of permanent and/or temporary easements necessary for the project. However, 49 CFR 24.101(c)(2) provides an exception for the acquisition of temporary easements which exclusively benefit the property owner.

**Demonstrable Hardship** - A demonstrable hardship is a substantial change in an applicant's financial situation that will prohibit or severely affect their ability to provide a minimal standard of living or the basic necessities of life including food, housing, clothing and transportation without causing economic distress well beyond mere inconvenience as shown by objective evidence. A demonstrable hardship must be occurring after the named storms. The demonstrable hardship must be of a severe, involuntary and unexpected nature. It must not be one that is generally shared by other applicants affected by the named storms. Examples of demonstrable hardships may include job loss, failure of a business, divorce, severe medical illness, injury, death of a family member or spouse, unexpected and extraordinary medical bills, disability, substantial income reduction, unusual and excessive amount of debt due to a natural disaster, etc. None of the listed examples above, individually or taken together, automatically establish a demonstrable hardship nor is the listing above exhaustive as there may be other factors relevant to the issue of demonstrable hardship in a particular case. If an applicant believes that they are in the state of demonstrable hardship and that the demonstrable hardship causes them to not comply with any of the program policies, they may present their existence of a demonstrable hardship to their case worker (housing or grant specialist) and the Program will evaluate on a case-by-case basis after review of all of the circumstances. Applicants claiming a Demonstrable Hardship shall be required to provide evidence of such claimed Demonstrable Hardship to the case worker.

***Not Suitable for Rehabilitation*** – properties where the cost of rehabilitation exceeds the after rehab appraisal and there is not a compelling historical or community justification to save the property.

APPENDIX A.2: HOMEBUYER APPLICATION CHECKLIST



NORTHERN MARIANAS HOUSING CORPORATION
Community Development Block Grant - Disaster Recovery (CDBG-DR) Division
P.O. BOX 500514, Saipan, MP 96950-0514
Email: cnmi-cdbg-dr@nmhcgov.net
Website: http://www.cnmi-cdbgdr.com

Tels: (670) 233-9447
233-9448
233-9449
233-9450
Fax: (670) 233-9452

CDBG-DR PROGRAM LOAN APPLICATION CHECKLIST

Applicant(s): \_\_\_\_\_ Date: \_\_\_\_\_ Submission Date: \_\_\_\_\_

In order to complete your application for assistance, we need the following items as checked below:

- Uniform Residential Loan Application
Eligibility Release Form (each adult member of the household must sign date and initial)
Use of Funds Certification (both Applicant and Co-Applicant must sign)
Duplication of Benefits Affidavit and Subrogation Agreement (both Applicant and Co-Applicant must sign)
Verification of Employment (employee's employer must complete this form)
Statement of Unemployment (each adult member of the household who is unemployed must complete this form)
Verification of Child Support Payments, if applicable
Social Security - Consent to Release Information (must be completed by each household member)
Check/Pay stubs (4 most current)
1040 Tax Form for previous two (2) years (20\_\_ and 20\_\_)
Division of Tax & Revenue- Certificate of Compliance (for both Applicant and Co-Applicant)
Loan Payment record(s), if any
Checking Account Statement (6 most recent statements)
Savings Account Statement (most recent statement)
Assets - Retirement - 401 (a)/4k, Supplemental Life, etc. (most recent statement with each cash value)
Divorce Decree, Judgment(s), etc., if applicable
Certificate of Title, Deed, or Residential Homestead Permit, etc. with Property Map (if applicable)
FEMA Applicant Information Request form (both Applicant and Co-Applicant must sign)
Photo I.D. - Driver's License, MOS, Passport (for applicants only) and Birth Certificates (for each member of the household)
Documentation for any Federal assistance such as WIC, MEDICAD, MEDICARE, LIHEAP, NAP, CHILDCARE ASSISTANCE, etc.
Utility Bill (most current)
If a bankruptcy has been filed, a copy of your discharge letter (WE CANNOT PROCEED WITHOUT THE LETTER)
Affidavit

Due to the fact that many families are in the same position you are and the high demand for our services, we ask that you notify us one (1) day prior to your appointment if are unable to attend. If you are unable to submit ALL the necessary photocopied documents to your appointment, your eligibility assistance may be delayed.

Please read carefully:

As head of the household, I declare that members of my household have no ownership, in full or in part, of any assets other than those identified above, the value of which have been disclosed. Please sign below:

APPLICANT/DATE \_\_\_\_\_

CO-APPLICANT/DATE \_\_\_\_\_

DR LOAN SPECIALIST/DATE \_\_\_\_\_



"NMHC is an equal employment and fair housing public agency"

Tinian Field Office
Tel: (670)433-9213
Fax: (670)433-3690

CDBG-DR Office
Tel: (670)233-9447/9448/9449

Rota Field Office
Tel: (670)532-9410
Fax: (670)532-9441

**NORTHERN MARIANAS HOUSING CORPORATION**

**SUBCHAPTER 100-100.4  
POLICIES AND PROCEDURES FOR CDBG-DR HOMEOWNER  
REHABILITATION AND RECONSTRUCTION**

<b>Part 001</b>	<b>General Provisions</b>			Responsibilities (24 C.F.R. Part 58)
§ 100-100.4-001	Introduction			
§ 100-100.4-002	Public Announcement	§ 100-100.4-340		Rehabilitation or Reconstruction Grant Application
<b>Part 100</b>	<b>Purpose and Requirements</b>			
§ 100-100.4-101	Purpose of the Program	§ 100-100.4-345		Application Intake and Processing
§ 100-100.4-102	Ineligible Activities	§ 100-100.4-350		Verification of Income
§ 100-100.4-103	General Requirements	§ 100-100.4-355		Administration, Approval, Appeals Process
<b>Part 200</b>	<b>Grant Specifications</b>			
§ 100-100.4-201	Grant Amount	§ 100-100.4-360		Homeowner Counseling Session
§ 100-100.4-202	Determination of Unit Size and Occupancy Standards	§ 100-100.4-365		Grant Agreement
		§ 100-100.4-370		Preliminary Title Report (PTR)
§ 100-100.4-205	Target Group			Contractor Selection Process
§ 100-100.4-210	Income Eligibility	§ 100-100.4-374		
§ 100-100.4-215	Property Eligibility			
§ 100-100.4-235	Use of Grant Funds	§ 100-100.4-375		Pre-Construction Conference
§ 100-100.4-240	Eligible Costs	§ 100-100.4-380		Submission of Pre-Construction Documents
<b>Part 300</b>	<b>Grant Application Process</b>			
§ 100-100.4-301	Confidentiality			
§ 100-100.4-305	Discrimination Prohibited	<b>Part 400</b>	<b>Rehabilitation</b>	
§ 100-100.4-310	Pre-Qualification Interview	§ 100-100.4-401		Performing Rehabilitation Work
§ 100-100.4-315	Eligibility Notification			
§ 100-100.4-320	Ineligible Applicants	<b>Part 500</b>		
§ 100-100.4-325	Initial Inspection of Residence	<b>Part 600</b>	<b>Affordability</b>	
§ 100-100.4-330	Lead-Based Paint	§ 100-100.4-601		Affordability Restrictions
§ 100-100.4-335	Environmental Review Procedures for Entities Assuming HUD Environmental	<b>Part 700</b>	<b>Conveyance</b>	
		§ 100-100.4-701		Sale, Conveyance, or Transfer of Property

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## **Part 800 Assumption**

§ 100-100.4-801 Grant Assumption

## **Part 1000 Ethics**

§ 100-100.4-1001 Conflict of Interest

## **Part 1100 Miscellaneous**

§ 100-100.4-1101 Acronyms Reference  
Section

§ 100-100.4-1105 Homeowner  
Rehabilitation

# NORTHERN MARIANAS HOUSING CORPORATION

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## Part 001 - General Provisions

### § 100-100.4-001 Introduction

As a result of the 2018 storms, namely Typhoon Mangkhut and Super Typhoon Yutu, the Commonwealth of the Northern Mariana Islands (CNMI) received an allocation of Community Development Block Grant Disaster Recovery (CDBG-DR) funds which will be administered by the Northern Marianas Housing Corporation (NMHC). NMHC has developed the Homeowner Rehabilitation and Reconstruction Program to cover the eligible costs to rehabilitate or reconstruct storm-related damaged properties in order to restore them back to decent, safe, and sanitary conditions. The governor of the CNMI has placed housing as the highest recovery priority. The total allocation amount at this time under this Program is \$39,407,033.

Due to the limited availability of CDBG-DR funds allocated to the CNMI from the U.S. Department of Housing and Urban Development (HUD), financial assistance will be prioritized for the elderly or disabled extremely low-income families and then to low- to very low-income homeowners subject to HUD income limits which are published annually (<https://www.huduser.gov/portal/datasets/il.html>). NMHC has recognized these target groups to assist under the CDBG-DR program. Funds will be made available for eligible homeowner rehabilitation and reconstruction activities through grants to assist in the rehabilitation and reconstruction of their principal place of residence. The Program is designed to create a habitable living environment for homeowners with the most serious and significant damaged homes, and to serve as many impacted households as possible. As such, the Program requires the use of standard building materials, which may not restore some damaged homes to pre-storm conditions if luxury materials were damaged in the storm. To ensure the funding will assist the maximum number of households, rehabilitation and/or reconstruction work and materials will be limited to those items necessary to make the home livable and compliant with referenced building codes and HUD requirements.

Homeowner rehabilitation activities include those items identified at the initial inspection which are necessary in bringing the home in compliance with the 2018 International Building Code enacted by law and any updates approved by regulation by the CNMI Department of Public Works Building Safety Office and zoning laws (if applicable for Tinian and Rota), International Energy Conservation Code as adopted by the CNMI government, NMHC written design standards for single family housing new/rehabilitation, and accessibility requirements (where applicable) including the reduction of lead-based paint hazards and the remediation of other home health hazards.

The NMHC, on behalf of the CNMI, has been designated as the responsible entity in implementing and carrying out the objectives of the program. The Office of Housing under the CDBG-DR Program, Planning Division, will be responsible for the day-to-day operations of the Homeowner Rehabilitation and Reconstruction Program. Services include program outreach to potential eligible homeowners, application intake, program eligibility verification (both for the household and property), Duplication of Benefits review, Verification of Benefits analysis, award calculation, and

## NORTHERN MARIANAS HOUSING CORPORATION

documentation execution, scope development and construction oversight. Support services will be provided by NMHC's Mortgage and Credit Division and Fiscal Division with respect to maintenance of financial records. Overall, the NMHC Corporate Director will assume ultimate responsibility for the efficient and proper administration of this program in accordance with statutory and regulatory requirements. Through these policies and procedures and by imposing NMHC and HUD-prescribed residential rehabilitation standards, NMHC will preserve and improve the quality of the housing stock of the CNMI that incurred damage during Typhoon Mangkhut and Super Typhoon Yutu.

### § 100-100.4-002 Public Announcement

#### (a) Publicity.

- (1) Upon notification from HUD of the approval of the grant agreement, NMHC shall publish such approval within thirty (30) calendar days from the date of the approval. General information of the Homeowner Rehabilitation and Reconstruction Program shall be published in the print media of the widest local circulation, on the NMHC website, and other suitable means available. The program information shall also be posted in public and private bulletin boards where announcements are commonly posted. Grant applications may be submitted on or after a specified date to be stated in the public notice.
- (2) With the conversion of the Homeowner Rehabilitation and Reconstruction Program from a loan to a grant program, NMHC will review the applications of all those determined to be ineligible due to high debt-to-income ratios when the program was structured as a loan program. It is believed that many of those who did not satisfy underwriting requirements will now be eligible for assistance,
- (3) Once the revised group of applicants has been identified, if additional funds remain, NMHC will conduct additional outreach. That outreach will focus on low- and moderate-income areas where there were storm impacts, and low rates of application to ensure that those most in need of assistance are aware of the new program guidelines and requirements.

#### (b) Contents. Program announcements shall inform interested applicants on how and where they may obtain an application and additional information on the types of homeowner program activities being administered in the CNMI. Such announcements shall further contain the following information:

- (1) Brief overview of the Homeowner Rehabilitation and Reconstruction Program;
- (2) General list of eligible activities available;
- (3) Amount of funding available;
- (4) General eligibility requirements to qualify for financial assistance;
- (5) Homeowner selection process;
- (6) Fair Housing logo and Equal Opportunity language; and
- (7) Opening date for acceptance of applications.

## NORTHERN MARIANAS HOUSING CORPORATION

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(c) **Affirmative Marketing.** To ensure that all persons are effectively and adequately informed about the rehabilitation and reconstruction program and the availability of funds, especially to those least likely to apply without regard to race, color, national origin, sex, religion, familial status, and disability, a marketing strategy such as brochures or information notices shall be provided and distributed or posted in the following locations and shall contain the information described in subsection (b). NMHC shall maintain records of actions taken to affirmatively market the program, and maintain records to assess the results of those actions. Brochures and/or program information notices shall be made available at the following public and private areas:

- (1) U.S. Post Offices;
- (2) Major shopping centers;
- (3) Public health centers;
- (4) Places of worship;
- (5) Government office buildings;
- (6) The Nutrition Assistance Program (Food Stamp) office(s); and
- (7) U.S. Social Security Administration office(s).

### **Part 100 - Purpose and Requirements**

#### **§ 100-100.4-101 Purpose of the Program**

The purpose of the program is to provide assistance in the form of grants to extremely low, very low and low-income families for the rehabilitation or reconstruction of their principal residence. The rehabilitation goal is to repair or reconstruct storm damaged homes, increasing the economic life of the existing dwelling, providing energy efficiency, and ensuring a safe, decent, and healthy living environment for assisted families.

If funding remains after serving all the low to moderate income households, then the program will consider applicants with household incomes 81% **or greater** AMI.

The **rehabilitation component** will be available to serve homeowners whose homes received Major or Severe damage but do not meet the definition of destroyed or substantially damaged. NMHC will use the services of A&E firms to provide construction management which includes conducting damage assessments, design services, developing scopes of work and costs estimates, progress inspections, and contractor assessments. The construction managers will work closely with the Housing Division staff, contractors, and homeowners throughout the rehabilitation or reconstruction process.

The **reconstruction component** will be available to serve homeowners whose homes were destroyed or substantially damaged. Applicants that have already demolished their storm-damaged homes must also provide documentation evidencing the pre-storm structure type, total square footage, and that the damage to the home was caused by the storm. Applicants

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must also provide notices of condemnation, substantial damage notifications, or other notices requiring the property be demolished.

### §100-100.4-102 Ineligible Activities

The following activities are *ineligible* and CDBG-DR grant funds *cannot* be used for any portion:

- Assistance for homeowners whose home was in a flood hazard zone and previously received federal flood disaster assistance and failed to maintain the required flood insurance;
- Assistance for homeowners for (a) whose property sustained damage in the typhoons and was located in a floodplain at the time of the disaster, **and** (b) the owner did not maintain flood insurance on the damaged property, even if the property owner was not required to obtain and maintain such flood insurance (see Section 4.4 below);
- Forced mortgage payoffs;
- SBA home/business loan payoffs;
- Funding for units occupied by any households except the owner household (no rental or lease properties are allowed);
- Funding for second homes; or
- Compensation payments.

### § 100-100.4-103 General Requirements

To qualify for rehabilitation assistance, the applicant(s) must meet the following:

- (a) Qualify as Low Moderate-Income family as defined by HUD but including applicants who are above the 120% of AMI. Eligible households over 80% AMI will meet the national objective of urgent need;
- (b) The dwelling must be the applicant's primary residence prior to the storms and prior to applying for rehabilitation or reconstruction assistance;
- (c) Must occupy and continue to occupy residence after the completion of such repairs for five (5) years and for reconstruction for a period of ten (10) years;
- (d) Own the property under an approved form of ownership as set forth in 24 CFR § 92.254(c), and as specified below:
  - (1) Has fee simple title to the property;
  - (2) Maintains a 10-year leasehold interest in the property;
  - (3) Maintains an equivalent form of ownership approved by HUD.
  - (4) Undergo duplication of benefits analysis.

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- (e) Applicants not meeting any one of the above, do not qualify for assistance under this program.

Title 18, Section 100 I, et seq. of the United States Code, the general false statement statute, outlaws making materially false statements, intentional or negligent misrepresentations in matters within the jurisdiction of a federal agency or department, such as federal disaster relief funding. Civil or criminal penalties, including but not limited to fine, imprisonment or both, as well as repayment of any assistance provided, may be pursued. Under Section 100 I, a statement is a crime if it is false, regardless of whether it is made under oath. Failure to disclose accurate and complete information may affect eligibility requirements. Some of the information submitted by applicants will be validated through third-party sources during the eligibility process.

The following is incorporated into all application and grant documents:

***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. Under penalties of perjury, I/we certify that the information presented above is true and accurate to the best of my/our knowledge and belief. I/We further understand that providing false representations herein constitutes an act of fraud. False, misleading or incomplete information may result in my ineligibility to participate in this program or any other programs that will accept this document. Title 18, Section 1001 of the U.S. Code states that a person is guilty of a FELONY if he/she knowingly and willfully makes a false statement to any department of the United States Government*

### **Part 200 - Grant Specifications**

#### **§ 100-100.4-201 Grant Amount**

- (a) The maximum grant amount is capped at \$200,000, excluding possible optional relocation costs. In special circumstances, a Review Panel, impaneled by the Corporate Director, may authorize a greater amount.
- (b) Reconstruction projects may exceed the rehabilitation projects' maximum of \$200,000 that are deemed justified and cost reasonable and supported by independent cost estimates.
- (c) NMHC, through the assistance of a private A&E Firm, may update independent cost estimates currently capped at \$200,000 for rehabilitation projects periodically and as may be needed.

#### **§ 100-100.4-202 Unit Size Determination and Occupancy Standards**

- (a) **Fair Housing.** The Fair Housing Act ("Act") (42 U.S.C. §§ 3601-19) prohibits discrimination in the sale, rental, and financing of dwellings, and in other housing-related transactions, based on race, color, national origin, religion, sex (including gender identity and sexual orientation), familial status, and disability. Discrimination includes a failure to make a change, exception, or adjustment to a policy, practice, procedure, or service when such accommodation may be necessary for an individual with a disability to enjoy and use

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housing. In addition to the requirements under the Act, there may be additional requirements for recipients of federal assistance from HUD.

(b) **Housing Unit Suitability.** Homes acquired, purchased, or newly constructed with CDBG-DR funds under this program, at a minimum, shall be decent, safe, and sanitary.

(c) **Determination of Unit Size.** Limited funding notwithstanding, NMHC shall ensure that the following occupancy standards are observed.

(1) **Occupancy Standards.** Occupancy standards are rules about the number of people that can live in a bedroom or at a property. These standards are usually based on the number of bedrooms at a property, but they can also take into account the total amount of livable square footage. Oftentimes, a combination of both makes the final call about how many people can live there. HUD occupancy standards are the rules set up by the Department of Housing and Urban Development. These federal occupancy standards are part of the Fair Housing Act Amendment, and they are the overarching rules for occupancy.

(2) **Unit Bedroom Size.** NMHC has set the following Occupancy Standards for family and unit size:

- (i) All bedrooms with one person should have at least 70 square feet.
- (ii) Shared bedrooms must have at least 50 square feet per person.
- (iii) Kitchens and other non-habitable rooms cannot be used as a bedroom.
- (iv) Every unit should have an overall occupant limitation based on its overall size:
  - (i) 1-2 occupants: must have at least 120 square feet living room.
  - (ii) 3-5 occupants: must have at least 120 square feet living room and 80 square feet dining room.
  - (iii) 6 or more occupants: must have at least 150 square feet living room and 100 square feet dining room.

No. of Family Members	No. of Bedrooms
1-2	2
3-4	2
5-6	3
7-8	4
9 and above	5

(v) **Exceptions.** In certain unique conditions and situations, NMHC, on a case-by-case basis, may grant exceptions when warranted and after thorough review of grant applications.

### § 100-100.4-205 Target Group

Because of the limited funding allocated to the CNMI, NMHC has recognized the need to prioritize the level of assistance to qualified families. In the event that there are more applicants than available funds, NMHC shall establish and maintain an applicant waiting list. All applicants being assisted, as well as those placed on the waiting list shall be processed on a first come, first serve basis, based in the priority needs as described below:

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NMHC will categorize the target groups based on income levels as follows:

- (a) 0% to 80% AMI- 1<sup>st</sup> priority:
- (b) 81 or greater AMI- 2<sup>nd</sup> priority:

### § 100-100.4-210 Income Eligibility

NMHC shall use the HUD CPD Income Eligibility Calculator when determining income eligibility. NMHC shall also refer to the Technical Guide for Determining Income and Allowances for the CDBG-DR Program, Third Edition in verifying the household's assets and income which can be found in the HUD website. The NMHC shall adopt the guide and make use of the 1040 income and asset calculation worksheets including any and all forms required in determining an applicant's annual and adjusted income. Information provided by the applicant shall be accompanied with proper documentations (i.e., check stubs, bank statements, 1040 tax forms, etc.). The anticipated gross annual household income and assets for the next twelve months is used in determining if an applicant(s) is/are eligible to participate in the program. NMHC shall calculate the weekly average income and assets and multiply it by 52 weeks. If the total household income falls within the 80% area median income as indicated in § 100-100.4-220(b), the applicant(s) is/are eligible to participate in the program. Households whose incomes are 81% or greater of the area median income are also eligible once LMI households have been served.

### § 100-100.4-215 Property Eligibility

- (a) Property Ownership: Interested applicant(s) must provide proof of fee simple ownership or must have at least a 10-year leasehold interest in the property to be improved. In addition, the applicant must be present and have interest on the property on or before the presidential disaster declaration date for Typhoon Mangkhut or Super Typhoon Yutu. The assisted unit must be located in the CNMI, more specifically, on Saipan, Rota, or Tinian.
- (b) In the event of the death of an applicant that has been determined as eligible but prior to grant execution, their heirs who are able to document they were occupants of the residence at the time of the disaster and can prove current ownership through heirship will be eligible to apply for Program assistance.

If an owner occupant of a property damaged by Typhoon Mangkhut and/or Super Typhoon Yutu has passed away, their heirs may apply for Program assistance, provided they are able to submit evidence the damaged property was also the heir's primary residence at the time of one of the storms.

Heirs who were not occupants at the time of either disaster event are not eligible for Program assistance.

- (c) Conformance to Property Standards: All assisted properties that are rehabilitated with CDBG-DR assisted funds must meet the program's established rehabilitation standards (see

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APPENDIX A.2). The Rehabilitation Standards are the program's guidelines of acceptable construction methods and materials to be used when performing rehabilitation and the quality standards that the property must meet when all rehabilitation work is completed.

NMHC's The CDBG-DR Written Rehabilitation Standards shall detail the methods, materials and requirements that the housing must meet upon completion of rehab, including all of the following:

- (1) Health and Safety - identifying all life-threatening deficiencies that must be addressed immediately if the housing is occupied [24 CFR 92.251(b)(1)(i)];
- (2) Major systems – requiring that, upon project completion, each major system, as defined in 24 CFR 92.251(b)(1)(ii), had a remaining useful life of a minimum of 5 years, or for a longer period as specified by the NMHC, or the major system was rehabilitated or replaced as part of the rehabilitation [24 CFR 92.251(b)(1)(ii)];
- (3) Lead-based paint [24 CFR 92.251(b)(1)(iii)];
- (4) Disaster mitigation (if applicable) – requiring the property meet the disaster mitigation requirements [24 CFR 92.251(b)(1)(vi)];
- (5) State and local codes, ordinances and zoning requirements [24 CFR 92.251(b)(1)(vii)];
- (6) Minimum deficiencies that must be corrected based on inspectable items and areas in HUD's Uniform Physical Condition Standards [24 CFR 92.251(b)(1)(viii)].

After rehabilitation or reconstruction is complete, NMHC shall make the rehabilitation standards available to the Department of Public Works (DPW) inspectors and the inspectors shall use them as a guide to certify that completed work was done accordingly. This certification will become part of the applicant record.

(d) Local/State, National, or International Codes: Upon completion of rehabilitation or reconstruction work, the CDBG-DR assisted owner-occupied rehabilitation property must meet the 2018 International Building Code (2018) enacted by law and updates approved by regulation by the CNMI Department of Public Works Building Safety Office, zoning laws, and International Energy Conservation Code as adopted by the CNMI government. The property must also meet the Green Building and Energy Efficiency Standards as outline in the attached documents, consistent with the Federal Register Notice requirements.

(e) Upon completion of rehabilitation work, the CDBG-DR assisted owner-occupied rehabilitation property must meet accessibility requirements, where applicable;

The homeowner must also maintain, at their own expense, property insurance on the property covering fire, earthquake, and typhoon... An insurance waiver may be granted, in whole or in part, to homeowners who show financial hardship.

(f) Principal Residence and Annual Recertification:

- (1) CDBG-DR rehab applicants approved to receive financial assistance must own the property and occupy the property as their principal residence at the time of application,

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upon completion of the CDBG-DR-funded project, and throughout the NMHC affordability period. In order to maintain compliance with the affordability restrictions, borrower(s) shall be recertified annually for principal residency throughout their affordability period. An annual recertification for principal residency notices and form shall be sent to homeowners/borrowers to complete, sign, and submit to NMHC in order to confirm and have on file that they are continually occupying the property and housing. The following stipulations apply for a principal residence:

- (i) A deed restriction or covenant running with the land shall incorporate this requirement;
  - (ii) A written agreement between the homeowner and NMHC shall also incorporate this requirement;
  - (iii) Temporary subleases are not allowed.
- (2) Annual recertifications are conducted in order for homeowners to maintain compliance with the affordability restrictions.
- (3) Annual recertifications through field visits may be conducted if the required completed form has not been provided, or if the account status is pending probate, or the account has been accelerated to the collection attorney for foreclosure proceedings. The Program Specialist shall verify the borrower(s) principal residence and, as necessary, to take photos and document the status of the residential unit.
- (4) Affordability periods during which the homeowner must maintain the home as his/her primary residence are as follows:
- a. Rehabilitation 5 years
  - b. Reconstruction 10 years
5. Extended Terms: Should a financial hardship beyond the homeowner's control exists, a request for a waiver of the repayment provisions of the affordability requirement can be considered, The borrower(s) must provide NMHC with documentation justifying their inability to meet the affordability term while at the same time providing an adequate standard of living for his/her/their family. Financial hardship includes, but is not limited to:
- (1) Reduction-in-force;
  - (2) Reduction in pay;
  - (3) Family medical emergency (including death of an immediate family member: parents, siblings, child(ren), spouse, and in-laws);
  - (4) Medical condition (including career-ending injury) that causes homeowner to discontinue employment. The borrower's physician must complete the homebuyer/homeowner program disability eligibility verification to certify the borrower's medical condition;
  - (5) Temporary relocation (provided that at least one of the original household members is still residing in the assisted unit; or
  - (6) Natural disaster.

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### § 100-100.4-235 Use of Grant Funds

- (a) (1) The grant funds will be used to assist existing homeowners to repair, rehabilitate, or reconstruct owner-occupied housing units affected by the storms for the primary purpose of correcting dwelling deficiencies ensuring a safe and healthy living condition, and preserving and extending the physical life of the dwelling. All corrections shall conform to the 2018 International Building Code enacted by law and any updates approved by regulation by the CNMI Department of Public Works Building Safety Office, zoning laws, International Energy Conservation Code as adopted by the CNMI government, and also ensure that it meets the NMHC HOME/CDBG-DR Rehabilitation Standards as adopted by the NMHC Board.
- (2) Special purpose homeowner repairs such as weatherization, emergency repairs, and accessibility may only be undertaken within a more comprehensive scope of work that brings the housing unit up to standard.
- (b) (1) Rehabilitation - This includes the alteration, improvement, or modification of an existing structure. It also includes moving an existing structure to a new foundation. Rehabilitation may include adding rooms outside the existing walls of a structure.
- (2) Adding a housing unit is considered new construction and is not eligible.
- (c) Reconstruction - In most instances, applicant(s) requesting assistance under this program live in substandard homes which are often unsafe and unsanitary. Many of which are termite infested and dilapidated to the point where a complete tearing down of the unit would be most appropriate. These types of structures would most likely endanger the households during storms and other calamities. Reconstruction refers to rebuilding a structure on the same lot where the housing unit is standing at the time of the storms. CDBG-DR funds may be used to build a new foundation or repair an existing foundation. Reconstruction may take place on the same foundation that the existing structure was on. Reconstruction may take place anywhere on the lot. During reconstruction, the number of rooms per unit may change, but the number of units may not.
- (d) Luxury items and improvements are not eligible, including but not limited to: barbecue pits, bathhouses, exterior hot tubs, saunas, whirlpool baths, swimming pools, satellite dishes, tennis courts, and granite counter tops. Any additions or alterations to provide for commercial use are not eligible.

### § 100-100.4-240 Eligible Costs

CDBG-DR funds can be used to cover the hard rehabilitation costs necessary to meet required rehabilitation standards and associated “soft costs.” CDBG-DR funds may be used to pay for property improvements that are considered standard for the area. However, non-essential luxury or cosmetic improvements to the property are not permitted.

- (1) Hard costs include the following:
- (i) Meeting the rehabilitation standards;

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- (ii) Meeting applicable codes, standards, and ordinances;
- (iii) Essential improvements;
- (iv) Energy-related improvements;
- (v) Lead-based paint hazard reduction;
- (vi) Accessibility for disabled persons;
- (vii) Repair or replacement of major housing systems;
- (viii) Incipient repairs and general property improvements of a non-luxury nature; and
- (ix) Site improvements and utility connections.

(2) Soft costs include the following:

- (i) Financing fees;
- (ii) Preliminary title report (PTR) and lender’s title policy, if applicable;
- (iii) Recordation fees, transaction taxes;
- (iv) Legal and accounting fees;
- (v) Appraisals;
- (vi) Architectural/engineering fees, including specifications and job progress inspections;
- (vii) Project costs incurred by the grantee that are directly related to a specific project.

(b) NMHC shall set aside \$2,050.00 (more or less, depending on current costs) per project from the program budget to assist each qualified rehab or recon borrower to pay for the following grant closing fees and other related costs. This form of assistance shall not be in any way, a part of the rehab grant amount extended to the client. Borrowers will not be required to pay back any of this amount so long as they are in compliance with NMHC affordability restrictions. The entire amount shall be immediately due and payable by the borrower should NMHC determine that borrower(s) are not in compliance with NMHC affordability restrictions.

(1)	\$500.00	Utility connection*;
(2)	\$1,200.00	First annual premium for hazard insurance;
(3)	\$250.00	Recordation of covenant
(4)	\$100.00	Preliminary title report (PTR);
	\$2,050.00	Total

\*Borrower must ensure that there are no outstanding issues with the utility company

(1) If the homeowner(s) opt to have a private inspector perform unit inspection, the first/initial unit inspection fee may be covered by NMHC, subject to any conditions set by NMHC. Any cost associated with any subsequent inspection shall be the responsibility of the homeowner(s).

**Part 300 - Grant Application Process**

**§ 100-100.4-301 Confidentiality**

As is NMHC’s practice, all applicant information is kept confidential and shall be made available only to the applicant, the applicant’s authorized representative; HUD and the Comptroller General

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of the United States, any of their representatives, have the right of access to any pertinent books, documents, papers or other records of the participating jurisdiction, state recipients, and subrecipients, in order to make audits, examinations, excerpts, and transcripts; and authorized NMHC personnel.

### **§ 100-100.4-305 Discrimination Prohibited**

Under no circumstances shall any of the NMHC Board of Directors, its officers, employees, agents, or contractors providing services to the corporation discriminate any applicant on the basis of race, color, national origin, religion, sex, ancestry, disability, or familial status (including children under the age of 18 living with parents or legal custodians, pregnant women, and people securing custody of children under the age of 18).

### **§ 100-100.4-310 Pre-Qualification Interview**

- (a) Before an applicant can be given a formal application, the interviewing program specialist must conduct a pre-qualification interview to initially determine an applicant's eligibility for assistance. A Homeowner Rehabilitation and Reconstruction Program Pre-Qualification Interview Worksheet shall be completed by the interviewing program specialist.
- (b) The information collected from the applicant during these processes subject to verification. As a result, applicants whose threshold eligibility elements cannot be verified may later be determined ineligible for the program.
- (c) The following documentation is required to determine eligibility (see File Checklist):
  - (1) Completed application
  - (2) Valid current ID (applicant and co-applicant)
  - (3) Proof of citizenship
  - (4) Documentation of principal residency – date of storm
  - (5) Proof of ownership
  - (6) Income documentation
  - (7) Tie to disaster documentation
  - (8) Documentation for duplication of benefits determination (FEMA, SBA, private insurance, charity)
  - (9) Current mortgage statement
  - (10) Receipts or other documentation of repairs made by applicant with funds provided
  - (11) Power of attorney (if applicable)
  - (12) Communication designee (if applicable)
  - (13) Homestead permit and/or deed (if applicable)

### **§ 100-100.4-315 Eligibility Notification**

Once the applicant(s) has been pre-qualified and have been later determined eligible for the program, NMHC shall officially notify the applicant(s) in writing of their eligibility. Such

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notification shall be mailed no later than five (5) working days after the determination and shall contain a listing of additional information to be submitted for completion of the applicant's file. Eligible applicant(s) shall be given thirty (30) calendar days to submit the additional information requested. Applicant(s) who do not submit all pending information before the thirty (30) calendar day deadline, shall have their application(s) file placed in the inactive files.

### **§ 100-100.4-320 Ineligible Applicants**

All ineligible applicants shall be notified in writing of their ineligibility. Such notification shall be mailed no later than five (5) working days after the determination of ineligibility and shall include a description/reason of such determination. Those found ineligible may appeal such determination to the Corporate Director within ten (10) working days from the date of receipt of the ineligibility notice. The Corporate Director will then review the appeal and render a decision within thirty (30) days from the date of receipt of the appeal letter. Ineligible applicants may further appeal the Corporate Director's decision to the NMHC Board for reconsideration.

### **§ 100-100.4-325 Initial Inspection of Residence**

Initial inspections shall be conducted by NMHC's A&E firm contractor(s) or project manager and in coordination with the program specialists or an NMHC representative to identify and verify deficiencies noted by eligible homeowners/applicants. NMHC personnel conducting the inspections shall note deficiencies in written form and shall document (i.e., obtain pictures) the condition of the unit. Such inspections shall also verify the eligibility and be the basis in estimating the costs of the rehabilitation activities requested and in developing the scope of work for the rehabilitation project. The applicant and the inspection personnel (A&E firm), as well as the responsible program specialist, shall work cooperatively to develop the scope of work for the project. The rehab scope of work needs to adequately describe the work to be performed so the housing will meet NMHC's written rehabilitation standards at completion. The scope of work must be an eligible activity as described in § 100-100.4-235. The A&E firm providing the scope of work will also provide NMHC with an estimated cost of repairs that will serve as the independent cost estimate against which construction bids will be evaluated. The scope of work shall be provided to three (3) NMHC-approved contractors by the borrower(s) who shall prepare a cost breakdown estimate for the project. The estimates shall then be submitted along with the applicant(s) choice of contractor for the project upon submission of his/her/their grant application. If the applicant(s)'s choice of contractor is not on NMHC's approved contractor listing, the contractor shall be vetted prior to award of the contract. With regard to reconstruction projects, NMHC may provide pre-approved house plans to the applicant that best fit the footprint of the destroyed home. NMHC may, at its own discretion, select the appropriate contractor for the applicant if the rehab project is deeply subsidized using additional CDBG-DR funds. Deeply subsidized means additional funding assistance on top of the underwritten funding assistance.

### **§ 100-100.4-330 Lead-Based Paint**

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- (a) The federal government banned lead-based paint from housing in 1978. Deteriorating lead-based paint (peeling, chipping, chalking, cracking, or damaged) is a hazard and needs immediate attention.
- (1) For Homeowner Rehabilitation Projects: Before any rehabilitation work is done, homeowners must provide documentation that shows that their homes were built either before or after January 1, 1978. Such documentation may include a copy of the building permit, if one can be provided; a notarized declaration/affidavit by the homeowner(s) or contractor attesting to the completion date of the home construction; and the age of the dwelling unit/property.
- (b) For those homes deemed to have been completed before January 1, 1978, they must be checked for lead in one of two ways, or both:
- (1) A paint inspection which shows the lead content of every different type of painted surface in the home;
- (2) A risk assessment which shows if there are any sources of serious lead exposure (such as peeling paint and lead dust). A risk assessment provides the homeowner the necessary actions to take when addressing these hazards.
- (c) Only a trained, certified professional is allowed to check the home for such hazards. Only a certified lead “abatement” contractor is allowed to permanently remove lead hazards. However, if the risk assessment does not reveal any lead-based paint hazards, NMHC will not require the homeowner to conduct any abatement of hazards.
- (d) For those homes that were completed before January 1, 1978, the following forms must be completed by the contractor:
- (1) Lead Hazard Evaluation Notice;
- (2) Notice of Lead Hazard Reduction;
- (3) Relocation Screening Sheet for Projects with Lead Hazard Reduction Activities;
- (4) Protection of Occupants’ Belongings and Worksite Preparation for Projects with Lead Hazard Reduction Activities; and
- (5) Property Owner/Rehab Contractor Contract Addendum Reduction of Lead Paint Hazards
- (e) The following are required activities to address lead-based paint;
- (1) NMHC-issued Notifications
- (i) Lead Hazard Information Pamphlet—Occupants, owners, and purchasers must receive the EPA/HUD/Consumer Product Safety Commission (CPSC) lead hazard information pamphlet, or an EPA-approved equivalent.
- (ii) Notice of Lead Hazard Evaluation or Presumption—Occupants, owners, and purchasers must be notified of the results of any lead hazard evaluation work or the presumption of lead-based paint or lead hazards.

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- (2) Notice of Lead Hazard Reduction Activity—Occupants, owners, and purchasers must be notified of the results of any lead hazard reduction work.
- (3) Lead Hazard Evaluation—Evaluation methods include visual assessments, paint testing, and risk assessments.
- (4) Lead Hazard Reduction—Reduction methods described include paint stabilization, interim controls, standard treatments, and abatement.

### **§ 100-100.4-335 Environmental Review Procedures for Entities Assuming HUD Environmental Responsibilities (24 C.F.R. Part 58)**

- (a) CDBG-DR rehabilitation activities to be undertaken by NMHC are subject to the environmental review requirements at 24 C.F.R. Part 58. NMHC is the responsible entity and is responsible for ensuring that the environmental review process is satisfied before CDBG-DR funds are committed to specific project site.
- (b) Rehabilitation of homeowner housing may be categorically excluded per 24 C.F.R. §58.35(a)(3) when the following conditions are met:
  - (1) The building is for residential use and has one to four units;
  - (2) The density will not increase beyond four units; and
  - (3) The land use will not change.
- (c) Reconstruction of a single-family unit in a new location on the same lot is classified as new construction for the purposes of environmental review. Reconstruction of homeowner housing may be categorically excluded per 24 C.F.R. § 58.35(4)(i) when it is an individual action (reconstruction only) on a one to four family dwelling and there are no more than 4 dwelling units on any one site.
- (d) Homeowner rehabilitation housing categorically excluded per 24 C.F.R. § 58.35 is categorically excluded from an environmental assessment (EA) and finding of no significant impact (FONSI) under the National Environmental Policy Act (NEPA) except for extraordinary circumstances. To document compliance with environmental review requirements, NMHC must:
  - (1) Complete the Rehab Environmental Review (RER) (which includes the Notice of Intent to Request Release of Funds for Tiered Projects and Programs, submitting a RROF to HUD, and obtaining the ATUGF from HUD), in accordance with 24 CFR 58; and,
  - (2) Complete the Tier @ Site Specific Review - RER Appendix A when an individual loan or grant application is received before approving any site-specific grant for each structure, document and implement the mitigation of impacts as necessary, and keep all supporting documents in the Environmental Review Record as evidence of compliance.

### **§ 100-100.4-340 Rehabilitation or Reconstruction Grant Application**

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(a) Applicants determined eligible for assistance will be provided a Rehabilitation or Reconstruction Grant Application. A checklist of all required documentation for submission is attached to the grant application. Preliminary requirements include:

- (1) Certificate of title/deed/homestead permit/lease agreement;
- (2) Property map and sketch of direction to property;
- (3) Program eligibility release form
- (4) 1040 tax form for the previous tax year;
- (5) Latest two (2) months of pay stubs;
- (6) Verification of employment;
- (7) Current loan statement or loan payment record;
- (8) Most recent savings account statement (TCD, bonds, form passbook, money market accounts);
- (9) The last six (6) months checking account statement available;
- (10) Profit sharing plan (bank or duty-free employees);
- (11) Most recent retirement plan statement;
- (12) Current certification of child care expenses;
- (13) Current Certificate of Compliance from Division of Revenue and Taxation; ;'
- (14) Judgments (if any); divorce statement and/or probate decree;
- (15) Verification of medical expenses (transportation and medication);
- (16) Verification of full-time student status;
- (17) Business income tax forms for three (3) previous years, if applicable;
- (18) Verification of Social Security or SSDI benefits;
- (19) Verification of pension and annuities;
- (20) Verification of Veterans Affairs benefits;
- (21) Most current financial statements, if applicable.

(b) A duplication of benefits verification will also be performed to determine actual grant assistance.

### **§ 100-100.4-345      Application Intake and Processing**

### **§ 100-100.4-350                      Verification of Income**

As part of determining income eligibility (to determine income eligibility, NMHC needs to consider the income of ALL household members), the applicant(s) shall provide NMHC with an executed Program Eligibility Release Form to conduct a third-party verification, if needed.

### **§ 100-100.4-355      Administration, Approval, Appeals Process**

(a) Program Administration

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- (1) The Housing Administrator is tasked in implementing and managing of related tasks. The Housing Administrator shall assign program specialists to assist in grant signings under the Homeowner Rehabilitation and Reconstruction Program.
- (2) The Housing Administrator shall review each submitted application, ensure all supportive documentation is in place and complete, and concur or make any necessary recommendations to the Corporate Director prior to the Corporate Director making the final decision on the grant application.

### (b) Grant Review & Approval

Under the direction of the Housing Administrator, a grant specialist shall review and verify all applicants' income, title reports, and any other requested reports and documentation. Upon completion of the review process, the grant specialist shall prepare the grant document.

- (1) The Housing Administrator shall review the grant application for concurrence before submitting the same to the Corporate Director for a final decision. Final approval or denial of any grant shall be made by the Corporate Director except as follows:
  - (i) If the Corporate Director is off-island or on extended leave at the time the loan or grant is submitted to him/her for a final decision, then the Deputy Corporate Director may make the final decision to approve or deny the grant; or
  - (ii) If the Corporate Director and Deputy Corporate Director are both simultaneously off island or on extended leave at the time the grant is submitted for a final decision, then the Acting Corporate Director may make the final decision to approve or deny the grant.
- (2) For purposes of these policies, off-island or extended leave shall be defined as an absence or leave that extends for more than three (3) working days after the loan or grant is submitted to the Corporate Director for his or her final decision.
- (3) A written notice of the final decision shall be provided to the applicant and a copy/report of the decision shall be provided to the NMHC Board of Directors for informational purposes.

### (c) Grant Denial Appeals Process

- (1) Applicants denied assistance under this program may appeal the final decision to the NMHC Board of Directors (Board) by submitting their appeal in writing to the Corporate Director within ten (10) calendar days of the written notice of the final decision.
- (2) Any appeal submitted must indicate the basis for the appeal and include any supporting documents. Upon receipt of an appeal, the Corporate Director shall submit the same to the Board of Directors for review and action at the next scheduled Board meeting.

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### § 100-100.4-360 Homeowner Counseling Session

All applicants for grant assistance must attend a Homeownership/Homebuyer Education and Counseling Session that will be provided by NMHC. On or before August 1, 2021, NMHC employees providing housing counseling will be HUD certified housing counselors, and NMHC will have applied directly to HUD and received approval, or NMHC will have applied to a HUD-approved intermediary and received approval by the entity to be its affiliate. NMHC shall notify the applicant(s) of the date, time, and location of the session. The education and counseling session shall be scheduled after the grant has been preliminarily approved and may be conducted before or on the day that NMHC issues the commitment letter to the applicant(s). The counseling session shall include a discussion of the terms and conditions of the grant, educate the homeowner(s) of their financial responsibilities, the importance of budgeting, making timely payments, foreclosure prevention, as well as home maintenance and repair measures. Acceptable delivery method for housing counseling may be in-person, phone, or internet. Duration of the housing counseling is eight (8) hours. Upon completion of the housing counseling, the grant recipients will receive a counseling certificate and this counseling certificate is valid for 2 years. Funding for housing counseling will come from project-related soft costs.

NMHC shall inform applicant(s) at the time of their submission of their application of the required homeowner counseling session and again in written form when NMHC notifies the applicant(s) of NMHC's preliminary approval of their grant request. Failure to attend the required Homeownership/Homebuyer Education and Counseling Session may be grounds for denial or cancellation of assistance.

### § 100-100.4-365 Grant Agreement

Once the grant application has been approved by the NMHC Corporate Director, the responsible grant specialist shall prepare the grant agreement for the Corporate Director's signature. The grant agreement is a binding agreement between NMHC and the borrower(s) wherein it discloses the terms and conditions of the grant including that the housing is the principal residence of an income qualified homeowner; the amount of the grant, the rehabilitation work to be performed; the completion date; and the property standards that must be met.

- (a) The responsible program specialist shall obtain a written certification (via email or memo format) from the Chief Financial Officer or Finance Manager that funds are available for the project before the Corporate Director executes the grant agreement.
- (b) After the grant agreement has been signed and dated by the Corporate Director, the responsible program specialist shall schedule the applicant(s) to come in and also sign and date the document should they agree with the terms and conditions.
- (c) NMHC must reexamine the household's income eligibility if the determination was made more than six (6) months before signing the Grant Agreement.

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- (d) NMHC must set up the activity in DRGR following execution of the grant agreement and commitment of CDBG-DR funds.

### § 100-100.4-370 Preliminary Title Report (PTR)

- (a) The responsible program specialist shall order a preliminary title report (PTR) on behalf of the applicant(s) within two (2) weeks after the applicants have executed their grant agreement. The purpose in obtaining a title report is to ascertain ownership of the proposed property.
- (b) A title search and review of recorded ownership information is conducted to verify that the property to be assisted with CDBG-DR funds is held in one of the eligible forms of ownership.
- (c) The responsible program specialist shall obtain the preliminary title report (PTR) by submitting an email request to the local title companies. The project will be granted on a first come, first served basis to the company agreeing to the rate set by NMHC.
- (d) The Program Specialist shall obtain an updated PTR prior to grant signing to ensure that the ownership of the property is verified and there are no liens that will cloud the title.

### § 100-100.4-374 Contractor Selection Process

- (a) All vendors and contractors are required to register with NMHC in order to do business with our agency. Interested vendors/contractors are provided a registration packet that lists all required documents, i.e., valid CNMI business license, financial statements, certificate of good standing from the CNMI DOL, actively registered with SAM, etc. Something similar bidder/offeror's responsibility or possess the capacity and capabilities to carry out and complete contractual obligations prior to awarding of a contract.
- (b) NMHV maintain a list of approved contractors that is continuously updated when a new contractor completes the vetting process and is registered with NMHC
- (c) Awards shall be made only to responsible contractors. To be determined responsible, a prospective contractor must: (1) Have adequate financial resources to perform the contract, or the ability to obtain them; (2) Be able to comply with the required delivery or performance schedule; (3) Have a satisfactory performance record; (4) Have a satisfactory record of integrity and business ethics; (5) Have the necessary organization, experience, and skills, (or the ability to obtain them) required to successfully perform the contract; (6) Have the necessary production, construction, and technical equipment facilities, or the ability to obtain them; (7) Provide evidence of validity to conduct business in the Commonwealth (valid business license(s), up-to-date BGRT payments, Certificate of Good Standing from NMI Department of Labor, Certificate of Insurance Compliance from NMI

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Department of Commerce, Payment and Performance Bond Insurance (as applicable), Employees listing with valid permits and identification to reside and work in the Commonwealth, etc.); and (8) Be otherwise qualified and eligible to receive an award under applicable laws and rules. (b) Obtaining information. Prior to award, the Procurement Officer shall obtain information from the bidder or offeror necessary to make a determination of responsibility using the factors in subsection (a) above. The unreasonable failure of a bidder or offeror to promptly supply information in connection with an inquiry with respect to responsibility may be grounds for determination of non-responsibility with respect to that bidder or offeror. (c) Right of non-disclosure. Information furnished by a bidder or offeror pursuant to subsection (b) may not be disclosed outside of the office of the Procurement Officer, or any other NMHC official involved without prior consent by the bidder or offeror. (d) Non-responsibility determination. When a bid or proposal on which a contract award would otherwise be made is rejected because the prospective contractor is found to be nonresponsible, a written determination shall be signed by the Procurement Officer stating the basis for the determination and this shall be placed in the contract file.

- (d) Once an applicant is approved for the program a scope of work is developed by the A/E firm under contract to NMHC,
- (e) NMHC provides a list of approved contractors along with the approved scope of work to the Homeowner.
- (f) The homeowner provides the scope of work to at least three contractors for bid. If the homeowner wishes to use a contractor not on the NMHC list, that contractor's name must be submitted to MNHC for vetting and approval before they can be allowed to bid,
- (g) The homeowner selects the contractor with whom they wish to work.
- (h) The final selection of a contractor is submitted to NMHC for approval.
  - i. The final bid selected need not be the lowest bid as long as it is within 10% of the independent cost estimate.
  - ii. If the selected contractor exceeds 10% of the independent cost estimate and the homeowner insists on using that contractor then the homeowner must provide funding in advance of contract signing to cover any costs in excess of 10% of the independent cost estimate.
  - iii. Homeowners who are unable or unwilling to provide the excess funding needed have the option to either utilize a contractor with a lower bid or withdraw from the program.
  - iv. The contract is between the contractor and the homeowner.

### § 100-100.4-375 Pre-Construction Conference

- (a) The pre-construction conference shall be held after NMHC's receipt of the PTR and the same has been determined to have met NMHC's requirement as indicated in § 100-100.4-370. The

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responsible program specialist shall inform the homeowner(s) and their contractor, and their private inspector (if applicable), in written form of the scheduled pre-construction conference. The notice shall include the date, time, and location of the conference. The conference shall be conducted by the responsible grant specialist and shall include the homeowner(s), their contractor, and their private inspector (if applicable).

- (b) The homeowner(s) and their contractor, and if applicable, their private inspector, are to be provided with information such as their rights and responsibilities before, during, and after the rehabilitation period of their home.

### **§ 100-100.4-380 Submission of Pre-Construction Documents**

The NMHC shall notify the contractor of the homeowner(s) selection of his/her/their company and shall likewise instruct the contractor to submit the required construction documents listed below. These documents are to be provided to NMHC within thirty 30 days from the date of notice.

- (a) Building permit (if applicable);
- (b) Zoning Permit (if applicable);
- (c) Earthmoving & erosion control permit (if applicable);
- (d) Construction contract;
- (e) Performance bond;
- (f) Plans & specifications approved by DPW;
- (g) Private inspector's contract (if applicable).

### **Part 400 - Rehabilitation**

#### **§ 100-100.4-401 Performing Rehabilitation Work**

- (a) NMHC's Architecture and Engineering firm will be responsible for the development of the scope of work and determination of an estimated cost of repairs in advance of procuring bids for construction.
- (b) Contractor Cost Estimates. The homeowner(s) shall be responsible in obtaining a minimum of three (3) written rehabilitation cost estimates from at least three (3) NMHC approved contractors, and each cost estimate submitted must include, at a minimum, the following information: bid price, cost breakdown of materials and labor charges, and schedule for completion of work.

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- (c) **Selection of Contractor.** The homeowner(s) shall have the right to select a contractor to perform the rehabilitation work, provided that the contractor's quotation and after rehab value does not exceed the independent cost estimate provided by the A/E firm plus or minus 10%. The contractor must be an NMHC-approved contractor or if not an approved contractor, then NMHC must vet the contractor prior to award of the project. Should it exceed the grant amount, the homeowner shall negotiate with the contractor in reducing the contract amount. If the contractor is not willing to lower the contract amount, then the borrower shall select his/her/their next choice. Once the homeowner and contractor agree to the project and cost, the homeowner shall submit a contractor selection notice notifying NMHC of his/her/their selection.
- (d) **Construction Contract.** The construction contract is a binding agreement strictly between the homeowner and the contractor whereby the contractor will provide the rehabilitation or repair or reconstruction work for a specified and agreed upon price. As NMHC's role is to finance the construction of the project, it is not a party to the construction contract. However, NMHC will monitor the construction process and, at any time the contractual provisions are not followed, NMHC shall meet with the homeowner and contractor to discuss the dispute and come to a mutual agreement. The construction contract shall include, but is not limited to, the following provisions:
- (1) Contractor's name and mailing address;
  - (2) Homeowner(s) name and mailing address;
  - (3) Date of the contract, the contract amount, and payment schedule for each incremental billing;
  - (4) Calendar days to complete the work (includes Saturdays, Sundays, and holidays);
  - (5) Contractor will provide the performance bond, labor and material payment bond up to the contract amount, as well as a builder's risk policy for the project;
  - (6) The contractor will provide all the construction plans and permits necessary to comply with applicable local and federal laws;
  - (7) Issuance of the notice to proceed or the commencement of the project and that the rehab must start within 12 months of NMHC executing the commitment letter with the borrower;
  - (8) Contractor will provide a one-year warranty on all work completed;
  - (9) NMHC's right to inspect the progress of the project and right to withhold progress payments;
  - (10) Change order procedures, if any;
  - (11) A provision for liquidated damages must be included in the construction contract which shall be negotiated between the homeowner and contractor; and
  - (12) Description of the work to be performed so that inspections can be conducted and, for rehabilitation, so that housing will meet NMHC's rehabilitation standards.
- (e) **Contractor Notification and Pre-Construction Requirements.** Once NMHC is in receipt of the homeowner's contractor selection notice, NMHC shall notify the contractor of the homeowner's selection of their company. NMHC shall inform the contractor of the scheduled

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pre-construction conference and shall likewise inform the contractor of the required construction documents for submission as listed below.

- (1) Building permit (if applicable);
  - (2) Zoning permit (if applicable);
  - (3) Earthmoving and erosion control permit (if applicable);
  - (4) Construction contract;
  - (5) Performance and payment bonds;
  - (6) Plans and specification approved by DPW;
  - (7) Private inspector's contract (if applicable).
- (f) Project Duration –Rehabilitation projects should be completed within nine (9) months following execution of a Grant Agreement. Reconstruction projects should be completed within twelve (12) months following execution of a Grant Agreement. Contract extensions may be granted in extenuating circumstances upon approval of NMHC.
- (1) Progress payment requests shall be submitted to NMHC by the contractor incrementally as specified in the payment schedule. NMHC shall ensure that all work description indicated on the payment schedule is completed prior to releasing the contractor's payment. An original and a copy of the request must be submitted to the NMHC. The contractor shall freely use his/her/their company's billing form when submitting a payment request. The payment request shall be accompanied with the following whenever applicable: inspection reports (DPW and/or private inspector), geotesting results, termite treatment certification and/or warranty, builder's warranty, and/or homeowner's acceptance of the project. In addition, each billing submitted must include pictures of the progress of the project and a copy of the payment schedule.
  - (2) Payment schedule shall be as follows:
    - (i) Payment request number 1 shall not be more than 10% of the contract amount. This shall include the installation of the project sign board accompanied with a picture, the delivery of materials to the construction site and commencement of the project;
    - (ii) Payment request number 2 shall not be more than 25% of the contract amount;
    - (iii) Payment request number 3 shall not be more than 25% of the contract amount;
    - (iv) Payment request number 4 shall not be more than 25% of the contract amount;
    - (v) Payment request number 5 shall be the 15% retainage request when all work is completed. The final payment request shall be accompanied with the certificate of occupancy from DPW's Building Safety Office, builder's warranty, window warranty if subcontracted, termite treatment warranty, final inspection report from the DPW and if applicable, the private inspector's inspection report, certificate of acceptance from the homeowners, geotesting results if applicable, pictures of the project's interior and exterior, and DEQ certificate of use (sewage disposal system), if applicable.

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- (3) **Change Order Procedures.** From time to time, homeowners may request for changes in the plans and specifications. In the event that this should occur, the following steps must be taken to address such request:
- (i) Homeowner must notify contractor in written form of the proposed changes and provide NMHC a copy of the notification.
  - (ii) Upon receipt of the notification, the contractor must cease work at the project site and obtain NMHC's approval of the change order request. A/E firm or HMHC staff will review change order for cost reasonableness. Upon approval the contractor shall then provide NMHC with the revised plans and specifications, including a revised payment schedule (if scheduled payments will be altered by the proposed changes). The contractor must obtain NMHC's approval of the change order request.
  - (iii) Once the change order request is approved, the grant agreement will be revised to reflect the new amount. The contractor will be required to submit the revised plans and specifications to DPW for approval.
  - (iv) Should the change order request be denied, then the contractor shall resume work to ensure timely completion of the project. The contractor may not be able to complete the project on time because of the delays the change order request may have caused. Therefore, the homeowners shall give the contractor additional days equal to the time the work was ceased up until the time the change order request was denied to complete the project. The homeowner shall not charge the contractor liquidated damages during this period.
  - (v) Once the contractor has obtained the DPW's approval of the plans and specifications, then it shall provide the NMHC with the same copy. The contractor shall proceed in carrying out the change order and completing the project.
  - (vi) **Inspections:** NMHC shall have the right, during the rehabilitation work or improvement of the unit, to inspect the same and with justification, to reject and to require to be replaced, any material or workmanship that does not comply with the plans and specifications, without any liability on the part of NMHC, as to workmanship or materials therein. Such inspection is solely for financing purposes and for the disbursement of funds, and any inspection or approval of any rehabilitation phase or increments of said dwelling shall not be deemed as a warranty by NMHC of the workmanship and material therein.
  - (vii) **Inspector:** Progress and final inspections shall be conducted by the Building Safety Office of the Department of Public Works (DPW) to ensure all work performed is done according to the plans and specifications as approved by the applicant and DPW and applicable property standards. Homeowner(s) may have a private inspector, (i.e., a qualified licensed engineer or a qualified licensed architect), conduct inspection at the homeowner's costs with such inspection to be handled in accordance with § 100-100.4-240.
  - (viii) **Minimum Property Standards (MPS):** For new construction of housing and acquisition and/or rehabilitation of housing, CNMI Building Safety Code and

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zoning laws (if applicable for Tinian and Rota), International Energy Conservation Code, NMHC written design standards for single-family housing new/rehabilitation, and accessibility requirements (where applicable) must be adhered to. Homeowners, through their contractors, must ensure that they are familiar with these requirements. NMHC may rely on inspections performed by a qualified person.

- (ix) The contractor will provide all the construction plans and permits necessary to comply with applicable local and federal laws.

**Part 500**

**Part 600 - Affordability**

**§ 100-100.4-601 NMHC Affordability Restrictions**

- (a) Long Term Affordability: NMHC has elected to impose NMHC affordability requirements that require that assisted properties remain affordable for a specific period of time, depending on the nature of the activity funded:

DR Funds Invested per Unit	Minimum Length of the Affordability Period
Rehabilitation	5 years
Reconstruction	10 years

**(1) Affordability Restrictions**

- (i) The affordability requirements are to be imposed by deed restrictions, covenants running with the land, or other mechanisms approved by HUD, except that the affordability restrictions may terminate upon foreclosure or transfer in lieu of foreclosure or upon grant repayment

**(2) Affordability and Special Exceptions**

- (i) The affordability restrictions shall be revived according to the original terms if, during the original affordability period, the owner of record before the termination event, or any entity that includes the former owner or those whom, the former owner has or had family or business ties, obtains an ownership interest in the project or property. If a home rehabilitated with CDBG-DR assistance is sold during the NMHC affordability period, NMHC recapture provisions apply to ensure the continued provision of affordable homeownership.

- (b) Right of First Refusal. During the affordability period, the homeowner(s) agrees not to sell or assign the residence hereby rehabilitated to any persons unless and until homeowner(s) proposes to sell same to NMHC, its successors or assigns on terms consistent with preserving affordability and allows then sixty (60) days' time within which to purchase said residence.

- (c) Recapture. NMHC will ensure that it recoups all or a portion of the assistance provided to the homeowner(s) if the housing unit ceases to be the principal residence of the

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homeowner(s) for the duration of the period of affordability. Subsidy amounts (in the form of grants) that directly benefited the property owner are subject to recapture. Recapture is capped at what is available out of net proceeds for agreements. Net proceeds are defined as the sales price less superior non CDBG-DR debt (if any) less closing costs. NMHC shall utilize the following recapture options:

Reduction during NMHC Affordability Period. NMHC may reduce the grant amount to be recaptured on a pro rata basis for the period the homeowner(s) has/have owned and occupied the housing unit measured against the required NMHC affordability period;

- (d) Note: When the recapture requirement is triggered due to a voluntary or involuntary sale during the period of affordability and there are no net proceeds or the net proceeds are insufficient to repay the CDBG-DR investment due, NMHC may recapture an amount less than or equal to the net proceeds available.
- (e) Legal Instruments to Enforce Recapture. NMHC must use deed restrictions, land covenants, or other similar legal documents approved by HUD to enforce these recapture restrictions as approved by HUD.

### **Part 700 - Conveyance**

#### **§ 100-100.4-701 Sale, Conveyance, or Transfer of Property**

- (a) Enforcement of the terms of the recapture provisions as set forth in the written agreements/commitment letters is triggered upon the sale, conveyance, or transfer of title of the rehabilitated real property under this program during the NMHC affordability period which may not necessarily result in the repayment of all CDBG-DR assistance. Upon sale of the home and enforcement of the recapture provisions, the affordability period will terminate.
- (b) At the sole discretion of NMHC, a title transfer will only be permitted through the laws of descent or upon selling the property, provided that NMHC has been properly informed and the same has consented to such sale. If should any of these occur, one must submit his/her intention to sell the property and request for the NMHC Board's approval for the transfer of title. If the title changes hand through the laws of descent during the affordability period, the affordability period may not terminate and continue with the new homeowner if the new homeowner satisfies the eligibility requirements. The new homeowner may assume the affordability period if the new homeowner meets the eligibility requirements. If the title changes hand through the laws of decent during the NMHC affordability period and the new homeowner does not meet the eligibility requirements, NMHC will enforce the terms of recapture set forth in the commitment letter and enforced with recorded deed restrictions or land covenants. Upon enforcement of the recapture provisions, the NMHC affordability period will terminate.

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## Part 800 - Assumption

### § 100-100.4-801 Grant Assumption

- (a) Death of a Borrower—Immediately upon notification to NMHC of a borrower’s death, the surviving borrower or a family member of the borrower(s) shall complete a deceased borrower’s report and/or submit a copy of the death certificate.
- (1) In situations where there exists a surviving co-applicant, that applicant may stay in the home for the duration of the grant affordability period.
  - (2) If both borrowers are deceased, NMHC may allow for a qualified heir to occupy the home upon probate court decree which shall be provided to NMHC).
    - (i) This assumption exception is permitted where transfer of title is through the laws of descent provided that the heir is of legal age, meets all program eligibility requirements and has a full, undivided interest in the real property. The heir will be required to fill out an application and execute a grant agreement update and will be subject to a can income verification.
    - (ii) The heir or heirs of the deceased will be responsible in maintaining the property as they await the probate decree. Once they are in receipt of the decree, they must submit it to NMHC so that NMHC will prepare an amendment to the grant agreement.

## Part 1000 Ethics

### § 100-100.4-1001 Conflict of Interest

- (a) Under no circumstances shall any immediate family members (whether by blood, marriage or adoption) the spouse, parent (including a stepparent), child (including a stepchild); brother, sister (including a stepbrother or stepsister), grandparent, grandchild, and in-laws of a covered person, elected or appointed officials of the CNMI government, NMHC’s Board of Directors, its officers, agents, and employees may participate in any CDBG-DR assisted projects or units including the procurement of materials, or have an interest in any contracted services, or be a beneficiary in any proceeds. Other provisions in 24 C.F.R. § 92.356 shall apply. Conflict of interest applies to covered persons who exercise or have exercised any functions or responsibilities with respect to activities assisted with CDBG-DR funds or who are in a position to participate in a decision-making process or gain inside information with regard to these activities. Covered persons may not obtain a financial interest or financial benefit from a CDBG-DR activity, or have a financial interest in any contract, subcontract, or agreement with respect to the CDBG-DR assisted activity, or the proceeds from such activity, either for themselves or those with whom they have business or immediate family ties, during their tenure or for one year thereafter.
- (b) Exceptions: Threshold requirements. Upon the written request of the participating jurisdiction, HUD may grant an exception to the provisions above on a case-by-case basis when it determines that the exception will serve to further the purposes of the CDBG-DR

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Program and the effective and efficient administration of the participating jurisdiction's program or project. An exception may be considered only after the participating jurisdiction has provided the following:

- (1) A disclosure of the nature of the conflict, accompanied by an assurance that there has been public disclosure of the conflict and a description of how the public disclosure was made; and
  - (2) An opinion of the participating jurisdiction's or state recipient's attorney that the interest for which the exception is sought would not violate state or local law.
- (c) Factors to be considered for exceptions. In determining whether to grant a requested exception after the participating jurisdiction has satisfactorily met the requirements mentioned above, HUD will consider the cumulative effects of the following factors, where applicable:
- (1) Whether the exception would provide a significant cost benefit or an essential degree of expertise to the program or project which would otherwise not be available;
  - (2) Whether the person affected is a member of a group or class of low-income persons intended to be the beneficiaries of the assisted activity, and the exception will permit such person to receive generally the same interests or benefits as are being made available or provided to the group or class;
  - (3) Whether the affected person has withdrawn from his or her functions or responsibilities, or the decision-making process with respect to the specific assisted activity in question;
  - (4) Whether the interest or benefit was present before the affected person was in a position as described in paragraph (c) of this section;
  - (5) Whether undue hardship will result either to the participating jurisdiction or the person affected when weighed against the public interest served by avoiding the prohibited conflict; and
  - (6) Any other relevant considerations.

### **Part 1100 - Miscellaneous**

#### **§ 100-100.4-1101 Acronyms Reference Section**

[For Rehab and Reconstruction Program Policies and Procedures]

- (a) AIA—American Institute of Architects
- (b) AMI—Area Median Income
- (c) CD—Corporate Director
- (d) CDBG-DR – Community Development Block Grant Disaster Recovery
- (e) CFR—Code of Federal Regulations

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- (f) CNMI—Commonwealth of the Northern Mariana Islands
- (g) CPSC—Consumer Product Safety Commission
- (h) DCD—Deputy Corporate Director
- (i) DEQ—Department of Environmental Quality
- (j) DPW—Department of Public Works
- (k) DTI—Debt-to-Income Ratio
- (l) EA—Environmental Assessment
- (m) GFE—Good Faith Estimate
- (n) HOME Program—U.S. HUD Homeownership Investment Partnerships Program
- (o) LEP—Limited English Proficiency
- (p) LMI—Low Moderate Income
- (q) MCD—Mortgage Credit Division
- (r) MBE—Minority-Owned Business Enterprise
- (s) MPS—Minimum Property Standards
- (t) MPV—Maximum Property Value
- (u) NAHA—National Affordable Housing Act
- (v) NEPA—National Environmental Policy Act
- (w) NMHC—Northern Marianas Housing Corporation
- (x) NTP—Notice to Proceed
- (y) PII—Personally Identifiable Information
- (z) PITI—Principal, Interest, Taxes, and Insurance
- (aa) PJ—Participating Jurisdiction

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- (bb) PTI—Payment-to-Income Ratio
- (cc) PTR—Preliminary Title Report
- (dd) RER—Rehab Environmental Review
- (ee) RESPA—Real Estate Settlement Procedures Act
- (ff) SCRA—Service Members Civil Relief Act
- (gg) SSI—Supplemental Security Income [Social Security]
- (hh) TCD—Time Certificates of Deposits
- (ii) TILA—Truth in Lending Act
- (jj) U.S. HUD—United States Department of Housing and Urban Development
- (kk) USDA RD—United States Department of Agriculture Rural Development
- (ll) USPAP—Uniform Standard of Professional Appraisal Practice
- (mm) VOE—Verification of Employment
- (nn) WMBE—Women-owned or minority-owned business enterprise

### Definitions:

**Adjusted Gross Income (AGI):** AGI is an individual's total gross income minus specific deductions. Adjusted income is derived by subtracting any of the five allowed deductions that apply to household from the household's annual (gross) income. For elderly or disabled households, deductions for the type of household, dependent childcare, medical and disability assistance expenses are allowed; family households may deduct dependent, childcare and disability assistance expenses.

**Area Median Income (AMI):** Calculated annual limits based on HUD-estimated median family income with adjustments based on family size used for demonstrating LMI beneficiaries in the program. May also be referred to as Area Median Family Income (AMFI) in other program documents.

**Beneficiary:** An individual, person, family or household receiving advantage or assistance from the CDBG-DR funding.

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**Builder/Contractor:** (Used interchangeably) A person who contracts to reconstruct or repair houses and or supervise building operations.

**Case Management:** The collaborative process of providing services that include assessment, planning, facilitation, coordination and advocacy for reconstruction or rehabilitation to individual homeowner applicants to ensure they fully understand the Program's housing solutions, resulting in clear and transparent determination of eligibility, reconstruction or rehabilitation options, assistance award amounts, the construction management process, documentation and ongoing compliance requirements. Case Managers will work to decrease barriers for homeowners to participate in the program wherever possible. Case Workers will explain the Program's solutions and provide information on the Reconstruction/Rehabilitation process in standardize formats.

**Common Area Under Roof:** The total area under the common roof is primarily interior, conditioned spaces and, for single-story homes is equal to the footprint of the house. The term is also synonymous with the eligible area. Exterior spaces such as detached porches and garages are considered *ineligible* areas.

**Damage Assessment:** A report resulting in a physical inspection of the housing unit to document damage from the event. The assessment must be conducted by a certified or licensed inspector and is required to specifically and clearly document storm-related property damage via photographic evidence and detailed narratives. Damage assessments must include a final estimated cost of repairs according to local code, an assessment of cost-effectiveness of each recommended activity (reconstruction or rehabilitation), mold remediation and the total amount of assistance needed to bring the home up to code at completion.

**Demolition:** The clearance and proper disposal of dilapidated building and improvement materials.

**Duplication of Benefits:** The amount determined by the Program that would represent financial assistance covering costs that have been received from another source for the same need. The Robert T. Stafford Disaster Assistance and Emergency Relief Act (Stafford Act) prohibits any person, business concern, or other entity from receiving financial assistance from CDBG-DR funding with respect to any part of 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 for the same need. A Duplication of Benefit amount determined by the Program would result in the reduction of an award amount.

**Environmental Review:** All qualified projects must undergo an environmental review process. This process ensures that the activities comply with National Environmental Policy Act (NEPA) and other applicable federal and territorial laws. 24 CFR Part 58 Environmental Review Procedures for Entities Assuming HUD Environmental Responsibilities as well as Related Federal Laws and Authorities Listings under 24 CFR 50.4 and 58.6 will be followed.

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**Estimated Cost of Repair (ECR):** The report resulting from a damage assessment detailing the estimated project costs necessary to repair /or reconstruct the home to the minimum housing rehabilitation for mitigation and elevation efforts to reduce the impact of future storms.

**Federal Emergency Management Agency (FEMA):** The agency of the United States Department of Homeland Security standards, and costs with the primary purpose of coordinating the response to a disaster that has occurred within the United States and that overwhelms the resources of local authorities.

**FEMA-Designated High-Risk Area:** Areas designated by FEMA as vulnerable to significant wind and/or storm surge damage and areas located in the 100-year flood zones. These areas will be identified during the environmental review process for each participating jurisdiction.

**Flood Hazard Area:** The land area covered by the floodwaters of the base flood is the Special Flood Hazard Area (SFHA) on NFIP maps. The SFHA is the area where the National Flood Insurance Program's (NFIP's) floodplain management regulations must be enforced and the area where the mandatory purchase of flood insurance applies. The SFHA includes Zones A, AO, AH, A1-30, AE, A99, AR, AR/A1-30, AR/AE, AR/AO, AR/AH, AR/A, VO, V1-30, VE, and V.

**Flood Insurance:** The Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a) requires that projects receiving federal assistance and located in an area identified by FEMA as being within a Special Flood Hazard Areas (SFHA) be covered by flood insurance under the National Flood Insurance Program (NFIP). For property owners to be able to purchase flood insurance, the community must be participating in the NFIP. If the community is not participating in the NFIP, federal assistance cannot be used in those areas.

**Floodplain:** FEMA designates floodplains as geographic zones subject to varying levels of flood risk. Each zone reflects the severity or type of potential flooding in the area.

"100-year floodplain" - the geographical area defined by FEMA as having one percent chance of being inundated by a flooding event in any given year.

"500-year floodplain" - the geographical area defined by FEMA as having a 0.2 percent change of being inundated by a flooding event in any given year.

**Household:** A household is defined as all persons occupying the same housing unit, regardless of their relationship to each other. The occupants could consist of a single family (including a family that consists of a single individual), two or more families living together, or any other group of related or unrelated persons who share living arrangements. For housing activities, the test of meeting the LMI National Objective is based on the combined income of the household.

**Individual Mitigation Measures (IMM):** Activities designed to mitigate and/or reduce risk beyond the pre-disaster condition of a housing unit when the activities are above and beyond

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federal, state, or local units, and the payment of flood insurance are not IMM activities. Examples of IMM activities include elevation above the base flood elevation level, or the addition of storm shutters, disaster proof windows, roof straps, etc. as long as those improvements are not required to comply with local code requirements and did not exist on the housing unit prior to the disaster damage.

**Low- to Moderate-Income (LMI) National Objective:** Activities which benefit households whose total annual gross income does not exceed 80% of Area Median Income (AMI), adjusted for family size. Income eligibility will be determined and verified in accordance with 24 CFR Part 5 requirements using procedures as stated in the Technical Guide for Determining Income and Allowances, 3<sup>rd</sup> Edition (HUD-1780-CPD). The most current income limits, published annually by HUD, shall be used to verify the income eligibility of each household applying for assistance at the time assistance is provided.

**Major or Severe Damages:** \$8,000 or more of FEMA inspected real property damage or 1 foot or more of flood water on the first floor. Inspection documentation must be maintained in the project file (a copy of the FEMA inspection, or photographic evidence of the flood water damage).

**Manufactured Housing Unit (MHU):** A structure, transportable in one or more sections which in the traveling mode is 8 body-feet or more in width, and 40 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 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.

**Minimum Housing Standards:** Assisted properties will meet the following standards upon project completion: each living unit will be used and maintained individually, having access such that it is unnecessary to pass through any other living unit, will include utilities and a water supply and will meet the CNMI building codes in place at the time of assistance. Fixtures and finishes will be of "standard" and not "luxury" quality.

**Mitigation:** Improvements made to a property specifically to reduce the possibility of future property damage, personal and commercial hardship, as well as long lasting monetary burden. For example, creating a flood mitigation program such as an acquisition of at-risk flood-prone property/housing, and elevation of housing in high-risk floodplains are too visible and effective mitigation projects that can be taken to make residents and communities safe in the face of natural disasters.

**Modular Home:** A home built-in sections in a factory to meet state, local, or regional building codes. Once assembled, the modular unit becomes permanently fixed to one site.

**National Flood Insurance Program (NFIP):** The National Flood Insurance Program aims to reduce the impact of flooding on private and public structures by providing affordable insurance to property owners, renters and businesses and by encouraging communities to adopt and enforce floodplain management regulations.

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**New Construction:** The site preparation for, and the construction of, an entirely new residential structure in a location that did not previously contain a residential structure.

**Reconstruction:** Demolition and rebuilding of a residential structure, including a modular housing unit, on the same lot and in substantially the same footprint and manner as the previous housing unit (whether demolished with CDBG-DR assistance, or demolished prior to Program application). This activity also includes replacing an existing substandard site-built, modular housing, or manufactured housing unit (MHU). The number of units may not be increased, and the total square footage of the reconstructed structure may not be substantially increased beyond the original principal residence square footage. However, the number of rooms within a unit may be increased or decreased based on the applicant's current household size.

**Rehabilitation:** Repair or restoration of a storm-damaged housing unit to applicable CNMI building and construction codes, and minimum property standards for a residential dwelling.

**Single Family Home:** A single unit containing any group of rooms located within a dwelling and forming a single habitable unit with facilities which are used or intended to be used for living, sleeping and cooking. A single-family home may be detached or attached to another single unit.

**Subrogation Agreement:** An agreement executed by the homeowner beneficiary agreeing to repay any duplicative assistance if the homeowner beneficiary later receives other disaster assistance for the same purpose as disaster recovery funds already received.

**Substantial Damage:** Storm damage sustained by a structure whereby the cost of restoring the structure to its pre-storm damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred (44 CFR 59.1). Substantial damage includes properties that were fully destroyed by the storm events. A substantially damaged determination may be made by a Commonwealth government official or floodplain manager, or the determination may be made by the CDBG-DR Program based on the Estimated Cost to Repair.

**Uniform Relocation Assistance and Real Property Acquisitions Policies Act of 1970, as amended (Title 49 CFR Part 24) (42 U.S.C. 4601 et seq.) (URA):** URA applies to all acquisitions of real property or displacements of persons resulting from federal or federally assisted program projects. The objective of the URA 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 involuntary displacements from residential units (49 CFR Subpart B) and acquisition or multifamily damaged/occupied activities that require the relocation of tenants.

Since participation in the Homeowner Reconstruction and Rehabilitation Program is voluntary, permanent relocation compensation is not available to the property owners.

However, NMHC must assure that the Uniform Relocation Act requirements will be followed and that both displaced occupants and any current occupants if any of the project are identified. These occupants are entitled to advisory services, in the form of notices and counseling, moving and/or

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storage expenses, and coverage of all displacement costs for temporary or permanent relocation pursuant to formula and applicable Federal Register notices. The program will monitor displaced and current tenants and maintain records from the inception of the project. Failure to do so can lead to unexpected and substantial costs and work delay.

**Demonstrable Hardship** - A demonstrable hardship is a substantial change in an applicant's financial situation that will prohibit or severely affect their ability to provide a minimal standard of living or the basic necessities of life including food, housing, clothing and transportation without causing economic distress well beyond mere inconvenience as shown by objective evidence. A demonstrable hardship must be occurring after the named storms. The demonstrable hardship must be of a severe, involuntary and unexpected nature. It must not be one that is generally shared by other applicants affected by the named storms. Examples of demonstrable hardships may include job loss, failure of a business, divorce, severe medical illness, injury, death of a family member or spouse, unexpected and extraordinary medical bills, disability, substantial income reduction, unusual and excessive amount of debt due to a natural disaster, etc. None of the listed examples above, individually or taken together, automatically establish a demonstrable hardship nor is the listing above exhaustive as there may be other factors relevant to the issue of demonstrable hardship in a particular case. If an applicant believes that they are in the state of demonstrable hardship and that the demonstrable hardship causes them to not comply with any of the program policies, they may present their existence of a demonstrable hardship to their case worker (housing or grant specialist) and the Program will evaluate on a case-by-case basis after review of all of the circumstances. Applicants claiming a Demonstrable Hardship shall be required to provide evidence of such claimed Demonstrable Hardship to the case worker.

**Not Suitable for Rehabilitation** – properties where the cost of rehabilitation exceeds the after-rehab appraisal and there is not a compelling historical or community justification to save the property.

**Urgent Need National Objective:** An activity that addresses an urgent need, defined as a situation where existing conditions pose serious and immediate threat to the health or welfare of the community and are recent or recently became urgent. The Territory, along with any and all subrecipient (s), must document no funds are available and costs cannot be financed for the activities. The CDBG certification requirements set forth in 24 CFR 570.208(c) and 570.489(d) have been waived per 83 FR 5844. The Territory and the subrecipients must document how each activity, program, and/or project funded under this National Objective category responds to a disaster-related impact. (See 24 CFR 570.208(c) and applicable Federal Register Notices which are 83 FR 5844 and 83 FR 40314.)

### § 100-100.4-1105

### Homeowner Rehabilitation

#### Records Management

NMHC will comply with 24 CFR Part 5.2, Compliance with the Privacy Act, which requires the safeguarding of personally identifiable information (PII) by:

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- Minimizing the use of PII on program documents and records.
- Providing access to PII only to those who require it for official business.
- Securing PII appropriately for paper or electronic forms.
- Training for data security and compliance with the Privacy Act will be provided to all employees and contractors (if applicable) as part of their on boarding process.

In accordance with HUD regulations, as a grantee and recipient of CDBG-DR funds, NMHC follows the records retention as cited in 2 CFR Part 200.333-337, which includes financial records, supporting documents, statistical records and all other pertinent records are maintained for five (5) years after closeout of the grant between HUD and NMHC.

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## **APPENDIX A.1: Crosscutting Requirements**

### **1.1 Crosscutting Requirements**

#### **1.2 Fair Housing**

The Fair Housing Act requires all grantees, subrecipients, and/or developers funded in whole or in part with HUD financial assistance 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. The Program complies with and enforces the Civil Rights requirements of Title I of the Housing and Community Development Act (HCDA) and the Fair Housing Law.

Projects must also assess how planning decisions may affect members of protected classes, racially and ethnically concentrated areas, as well as concentrated areas of poverty; will promote the availability of affordable housing in low-poverty, non-minority areas where appropriate; and will respond to natural hazard-related impacts. Program staff will use demographic, geographic, and social vulnerability analyses to determine any positive or negative impacts to protected classes. Should a project present negative impacts, project scope or design will be re-assessed to mitigate such impacts.

#### **1.3 Environmental Review**

Early environmental coordination must be completed to ensure effective implementation of all CDBG-DR Programs. CDBG-DR funding is contingent upon compliance with both local and federal environmental regulations. This includes compliance with NEPA and related environmental and historic preservation legislation and executive orders. In general, NMHC serves as the lead agency for purposes of NEPA.

HUD's Environmental Review process allows grantees to serve as the "Responsible Entity" to assume environmental review responsibilities under NEPA. As the grantee, NMHC serves as the Responsible Entity (through authorization from the Governor) as it relates to environmental review responsibilities under NEPA. Within NMHC, Environmental Review Staff will be responsible for performing environmental reviews and compiling the Environmental Review Records (ERR). Reviews are conducted either directly or using qualified environmental service contractors. NMHC's Corporate Director, as the Certifying Officer, is ultimately responsible with certifying that NMHC's environmental reviews follow NEPA and HUD environmental regulations.

Federal Register Notice FR-6182-N-01 authorizes recipients of CDBG-DR funds under the Appropriations Act to adopt any environmental review, approval, or permit performed by a Federal agency for the same project to satisfy responsibilities with respect to environmental review, approval, or permit. The other agency's environmental review must cover all project

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activities funded by the HUD recipient for each project. NMHC will notify HUD in writing of its decision to adopt another agency's environmental review. NMHC will also retain a copy of the review in its environmental records. Further information concerning the specific HUD requirements for the adoption of other Federal agency environmental reviews can be found in the HUD Memorandum dated March 4, 2013, *Adoption of FEMA and Other Federal Environmental Reviews Processing for Hurricane Sandy Supplemental Appropriation (H.R. 152) Activities*. Additional information on the environmental review process in general is set forth in Section § 100-100.4-335, Environmental Review Procedures for Entities Assuming HUD Environmental Responsibilities (24 C.F.R. Part 58).

### 1.4 Labor Standards

The Davis-Bacon and Related Acts (DBRA) applies to all federally-funded or assisted construction contracts in excess of \$2,000. This may apply to projects that are fully or partially funded with CDBG-DR, including FEMA or FHWA match programs. In matched projects, only the scope of the CDBG-DR portion of the project are subject to crosscutting requirements DBRA requires all workers employed by contractors or subcontractors on CDBG-DR programs, 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 DBRA, as amended. DBRA also requires that workers on federally-assisted projects are paid not less than weekly.

Wage information for labor under CDBG-DR programs will be tracked in detail by both NMHC and relevant Implementing Partners and subrecipients throughout the life of the Program. Compliance for this requirement may be tracked in the following ways:

1. Additional NMHC Program staff hired to track wages and verify contractor and agency compliance
2. External contractor hired by NMHC to track DBRA compliance
3. Enhanced TA provided to Implementing Partners to track DBRA compliance

Procedures for this process are currently under development and will be incorporated in a future update to this document.

For prime contracts in excess of \$100,000, contractors and subcontractors must also, under the provisions of the Contract Work Hours and Safety Standards Act, as amended, pay laborers and mechanics, including guards and watchmen, at least one and one-half times their regular pay for all hours worked over 40 in a work week. Additionally, NMHC must follow the reporting requirements per HUD and U.S. Department of Labor (DOL) regulations. This requirement also extends to NMHC subrecipients, Implementing Partners, and contractors.

The Fair Labor Standards Act of 1938 (FLSA), as amended, establishes the basic minimum wage levels for all work and requires the payment of overtime at the rate of at least one and one-half times the basic hourly rate of pay for hours worked in excess of 40 per week. These labor standards are applicable to the entire construction contract whether or not CDBG-DR funds finance only a portion of the project.

## **1.5 Limited English Proficiency**

Federal Executive Order 13166 requires NMHC and all satellite offices, programs, subrecipients, contractors, subcontractors, and/or developers funded whole or in part with CDBG-DR financial assistance to ensure fair and meaningful access to programs and services for families and individuals with Limited English Proficiency (LEP) and/or deaf/hard of hearing. Compliance with this requirement is detailed in NMHC's Language Action Plan (LAP) and will be coordinated and tracked by the Monitoring and Compliance division at NMHC. Depending on the program, NMHC, Implementing Partners, sub-recipients, and subcontractors will share the following expectations to comply with this Executive Order:

1. Document Translation: All documents defined as "vital documents" will be translated into Chamorro or Carolinian by NMHC, Implementing Partners, and sub-recipients. A "vital document" is defined as a document that includes information regarding eligibility requirements, applications and instructions, program eligibility determinations, and appeals procedures. NMHC may aid ensure this requirement is met.
2. Where required, seek feedback from the community the project serves (advocacy groups serve vital role).

Language maps provided in the Language Action Plan will be used to determine the project's location and subsequent language context and if proactive LEP outreach will be required. These maps will be included as part of the Project Assessment Form used by NMHC to review the eligibility, priority level, and impacts of a potential project.

## **1.6 Minority and/or Women-Owned Business Enterprises**

The Federal Executive Order 12432 guidelines require selected federal agencies to promote and increase the utilization of Minority-Owned and Women-Owned Business Enterprises (M/ WBEs). Following procurement guidelines under 2 CFR 200.321, NMHC must make efforts to ensure that all subrecipients, contractors, subcontractors, and/or developers funded in whole or in part with HUD CDBG-DR financial assistance encourage participation in contracts and other economic opportunities by small and minority firms, women-owned business enterprises (WBEs), and labor surplus area firms whenever possible. NMHC will accept a MWBE certification from another state, local or regional, DPW, SBA HUB Zone, SBA 8-A certification (economically disadvantaged and 51% locally-owned), and other eligible certification processes. Documentation and goals regarding M/WBE percentages and reporting will be determined in the contracting agreements.

## **1.7 Section 3 Economic Opportunities**

Section 3 is triggered when the award of CDBG-DR funds for new construction and rehabilitation projects creates the need for new employment, contracting, or training opportunities, and the project or contract exceeds \$200,000.

Section 3 of the Housing and Urban Development Act of 1968 is to "ensure that employment and

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other economic opportunities generated by certain U.S. Department of Housing and Urban Development (HUD) financial assistance for housing and community development programs shall, to the greatest extent feasible, be directed to low and very low income individuals, especially recipients of government assistance for housing and to businesses which provide economic opportunities to low and very low income individuals.”

The Section 3 program requires that recipients of HUD CDBG-DR funds, to the greatest extent feasible, provide (a) employment and training, and (b) contracting opportunities for low- or very-low-income residents in connection with construction projects in their neighborhoods.

It also specifically encourages economic opportunities for households who are recipients of government assistance for housing. NMHC and all administering entities will follow and require relevant contractors to follow Section 3 requirements in contracting.

Section 3 applies to the CNMI, as recipient of HUD funding, as well as to subrecipients or Implementing Partners/Sub-recipients receiving HUD funding exceeding \$200,000. Whenever any portion of HUD funding is invested into projects involving housing construction, demolition or rehabilitation, commercial/private improvements for economic development, or other public construction (e.g., roads, sewers, community centers, and public facilities), the requirements of Section 3 apply.

In conjunction with construction activity, Section 3 applies to projects that are fully or partially funded with CDBG-DR assistance, including projects that are financed in conjunction with territory, local, or private matching or leveraged funds, provided that the Section 3 monetary threshold requirements are met. In particular:

- In conjunction with construction activities, Section 3 applies to contractors or subcontractors if the total project or contract amount is \$200,000 or more. Once it is determined that Section 3 applies to a project, the requirements apply to all contracts for construction work arising in connection with that project including those not funded with CDBG-DR assistance. Contractors or subcontractors are required to comply with the Section 3 regulations in the same manner as the Commonwealth; and
- “Section 3-covered contract” includes professional service contracts, provided that the work to be performed is generated by the expenditure of funds in furtherance of Section 3 covered work (e.g., housing construction, housing rehabilitation, and other public construction), arising relating to construction projects. Professional service contracts that may constitute Section 3-covered contracts include construction contract oversight, engineering, architectural, environmental and property evaluation, construction progress and draw inspections, and prevailing wage labor compliance. Contracts with contractors that require advance degrees are not required to report labor hours.

The regulations pertain all covered projects and include the following reporting requirements:

- All project labor hours
- All Section 3 worker labor hours

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- All Targeted Section 3 labor hours

HUD as established the following benchmarks for all covered contracts:

- Section 3 workers – 25% of total labor hours
- Targeted Section 3 workers – 5% of total labor hours

When NMHC awards CDBG-DR funds to other governmental departments, nonprofit organizations, subrecipients or other funded entities, NMHC will require they document how reasonable attempts were made to reach numerical goals set forth at 24 CFR Part 135.30. NMHC will inform its Implementing Partners and other funded entities of the requirements of Section 3, including the language required to be inserted into all construction-related contracts, assist them and their contractors with achieving compliance, and monitor their performance with respect to the Section 3 objectives and requirements.

Implementing Partners/Sub-recipients will receive training on this requirement and methods of compliance, technical assistance from Program staff, and continual monitoring from NMHC. Currently, a Section 3 Plan is under development, the details of which will be included in an update to this manual.

### **1.8 System for Award Management (SAMs)**

SAM is the federal System for Award Management and is a requirement for doing business with the U.S. government. All vendors are required to register in SAM in order to be awarded contracts under the CDBG-DR program. Vendors are required to complete a one-time registration to provide basic information relevant to procurement and financial transactions. Vendors must update or renew their registration annually to maintain an active status.

### **1.9 Uniform Relocation and Real Property Acquisition Act (49 CFR 24)**

The Uniform Relocation Assistance and Real Property Acquisition Act (URA), is a federal law that establishes minimum standards for federally funded programs and projects that require the acquisition of real property (real estate) or displace persons from their homes, businesses, or farms. The URA's protections and assistance apply to the acquisition, rehabilitation, or demolition of real property for federal or federally funded projects. The phrase "program or project" is defined in 49 CFR Part 24 as, "any activity or series of activities undertaken by a federal agency or with federal financial assistance received or anticipated in any phase of an undertaking in accordance with the federal funding agency guidelines."

The objectives of the URA are:

- To provide uniform, fair and equitable treatment of persons whose real property is acquired or who are displaced in connection with federally funded projects;
- To ensure relocation assistance is provided to displaced persons to lessen the emotional and financial impact of displacement;
- To ensure that no individual or family is displaced unless decent, safe, and sanitary (DSS) housing is available within the displaced person's financial means;

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- To help improve the housing conditions of displaced persons living in substandard housing; and,
- To encourage and expedite acquisition by agreement and without coercion.

49 CFR 24.101(c)(1) provides that the subpart B requirements also apply to the acquisition of permanent and/or temporary easements necessary for the project. However, 49 CFR 24.101(c)(2) provides an exception for the acquisition of temporary easements which exclusively benefit the property owner.

### **1.10 Voluntary (Optional) Relocation Assistance**

NMNC intends to provide voluntary relocation assistance to homeowners who must vacate their homes while repairs or reconstruction occur. Refer to the RARAP policy for details on how this program will be implemented and administered.

## APPENDIX A.2: Construction Standards

NMHC's CDBG-DR Written Rehabilitation Standards shall detail the methods, materials, and requirements that the housing must meet upon completion of rehab, including all of the following:

- (1) **Exigent Health and Safety (EHS).** Identifying all life-threatening deficiencies<sup>1</sup> that present a direct threat to life or well-being, e.g., that are likely to cause severe injury or reduction in physical or mental ability. These EHS life-threatening deficiencies include: locked emergency/fire exit egress, missing/broken electrical cover plates/switches/outlets, inoperable smoke detectors, and exposed wires/missing covers. See Attachment B.
- (2) **Major Systems.** Requiring that, upon project completion, each major system, as defined by federal regulation, had a remaining useful life of 5 years, or for a longer period as specified by NMHC, or the major system was rehabilitated or replaced as part of the rehabilitation. Major systems are: structural support; roofing; cladding and weatherproofing (e.g., windows, doors, siding, gutters); plumbing; electrical; and heating, ventilation, and air conditioning. For rental housing, the participating jurisdiction's standards must require the participating jurisdiction to estimate (based on age and condition) the remaining useful life of these systems, upon project completion of each major systems. For multifamily housing projects of 26 units or more, the participating jurisdiction's standards must require the participating jurisdiction to determine the useful life of major systems through a capital needs assessment of the project. For rental housing, if the remaining useful life of one or more major system is less than the applicable period of affordability, the participating jurisdiction's standards must require the participating jurisdiction to ensure that a replacement reserve is established and monthly payments are made to the reserve that are adequate to repair or replace the systems as needed. For homeownership housing, the participating jurisdiction's standards must require, upon project completion, each of the major systems to have a remaining useful life for a minimum of 5 years or for such longer period specified by the participating jurisdiction, or the major systems must be rehabilitated or replaced as part of the rehabilitation work<sup>2</sup>.
- (3) **Lead-based Paint.** NMHC's standards must conform with HUD's lead-based paint requirements at 24 CFR part 35<sup>3</sup>.
- (4) **Disaster Mitigation (if applicable).** Require the property to meet the disaster mitigation requirements, e.g., housing to be improved to mitigate the impact of potential disasters (e.g., earthquake, hurricanes, flooding, and wildfires) in accordance with State and local codes, ordinances, and requirements<sup>4</sup> such as the 2018 International Building Code or most current building code adopted by the CNMI Department of Public Works Building Safety Office, zoning laws (note: zoning is currently applicable to Saipan only), International Energy Code, etc.

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<sup>1</sup> 24 CFR 92.251(b)(1)(i)

<sup>2</sup> 24 CFR 92.251(b)(1)(ii)

<sup>3</sup> 24 CFR 92.251.(b)(1)(iii)

<sup>4</sup> 24 CFR 982.251(b)(1)(vi)

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- (5) **State and Local Codes, Ordinances, and Zoning Requirements.** NMHC's standards must require the housing to meet all applicable State and local codes, ordinances, and requirements in accordance to the 2018 International Building Code or most current building code adopted by the CNMI Department of Public Works Building Safety Office, zoning laws (note: zoning is currently applicable to Saipan only), International Energy Code, or, in the absence of a State or local building code, the International Building Code of the International Code Council<sup>5</sup>.
- (6) **Uniform Physical Conditions Standards.** NMHC's standards must reflect upon completion, the CDBG-DR-assisted project and units will be decent, safe, sanitary, and in good repair as described in 24 CFR 5.705. HUD will establish non-life threatening and minimum deficiencies that must be corrected under NMHC's standards based on inspectable items and inspected areas from HUD-prescribed physical inspection procedures (Uniform Physical Conditions Standards) pursuant to 24 CFR 5.705<sup>6</sup>. See Attachment B.

### GENERAL NOTES:

1. **Scope Verification.** The contractor shall field verify locations, sizes, and quantities of work required for the project. Any quantities provided by NMHC need to be field verified for accuracy and exact installation requirements.

The contractor is responsible for coordinating with an in-house or third-party Architectural and Engineering (A&E) firm for their project design, proposal, and scope of work for review and certification as required.

2. **Tools, Material, and Equipment.** The contractor will supply all tools, materials, and equipment required to perform the Scope of Work unless otherwise specified.
3. **Permits, Inspections, and Testing.** Contractors and Subcontractors shall be responsible for all permits including but not limited to, the Saipan Zoning Board, the Bureau of Environmental and Coastal Quality (BECQ), and the Department of Public Works (DPW), inspections, testing, fees and licensing as pertaining to the law, ordinances, and regulations and as required to complete their respective Scopes of Work in this Agreement. The contractor shall pay for the entire cost of any remedial work resulting from a failed inspection.
4. **Taxes.** The contractor shall be responsible for all federal, state, and local taxes imposed directly or indirectly for its Services required to fill this Agreement.
5. **Insurance.** The contractor shall provide and maintain General Liability and Worker's Compensation insurance throughout the Term of this Agreement and Project duration. The contractor shall provide certificates of insurance or other acceptable evidence of insurance (i.e.,

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<sup>5</sup> 24 CFR 92.251(b)(1)(vii)

<sup>6</sup> 24 CFR 92.251(b)(1)(viii)

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payment and performance bond) in the amount of 100 percent of the rehabilitation contract sum upon execution of this Agreement.

6. **Clean-Up.** The contractor is responsible for daily cleanup of all areas where work is performed and disposal of debris.

### NMHC PROJECT PROPOSAL STANDARD REQUIREMENTS:

- a) Contractors and/or A&E firms are to conduct assessments of the client's existing home and property condition, existing home structural condition, existing plumbing and drainage system conditions, and existing electrical condition. The contractor and/or A&E firm will also need to verify the home's existing power pole drop line and water meter locations for planning purposes and reference in the scope of work development.

Also, the contractor will identify any potentially life-threatening conditions to include but not limited to:

- Lead-Based Paint
  - Asbestos
  - Mold
  - Structural issues/failures
- b) The contractor and/or A&E firm is responsible for securing as-built measurements of the home and project site for conversion to AutoCAD format for planning, layout renovation, and development of the rehabilitation scope of work.
  - c) Only contractors on NMHC's approved contractor listing are eligible to work on home grant clients' new or rehab home projects.

**Note:** Interested contractors not currently listed on NMHC's contractor listing must first submit all documents as listed on the request for qualifications notice to be added to the contractor listing and become eligible to work on housing projects.

- d) The contractor is responsible for applying for all permits necessary for a new house construction proposal or renovation, extension, rehab project for a regular home or disability home project for the record.
- e) The contractor is responsible for having all project design drawings reviewed and certified by a licensed A&E firm. The contractor will utilize the certified drawings to apply for the DPW Building Permit as required.
- f) The contractor is responsible for complying with all DPW Building Safety Code requirements including but not limited to: inspections, report documentation, and testing reports throughout the

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construction process for new, rehab, renovation home projects for regular home or disability home construction, extensions, or house conversions to disability home compliance projects.

- g) The Contractor is responsible for gathering and maintaining all project records and documentation required by DPW for the issuance of the Certificate of Occupancy upon project completion. Copies of all reports are also to be submitted to NMHC.
- h) The contractor is required to conduct a pre-final inspection of the project with the homeowner and NMHC officials, before final inspection with DPW Building Safety inspectors, to test all the building systems and finishing work.
- i) Any major systems, as defined below, installed by the contractor shall have a warranty of no less than 5 years. Such warranty shall be stipulated on the rehabilitation contract between the contractor and the homeowner. Should it be determined at any time during the 5-year warranty period that a major system failure was a result of the work completed by the contractor then the contractor will be obligated to repair the failure.
- j) All other rehabilitation work performed by the contractor shall have a warranty period of no less than 1 year, beginning on the date of the Certificate of Occupancy issued by the Department of Public Works. Such warranty shall be stipulated on the rehabilitation contract between the contractor and the homeowner.

Major systems as defined by 24 CFR 92.251(b)(1)(ii)] – Structural support; roofing; cladding and weatherproofing (e.g., windows, doors, gutters); plumbing; electrical; and heating, ventilation, and air conditioning.

### ZONING REFERENCES AND REQUIREMENTS:

- a) Contractors are required to apply for all zoning permit(s)/clearance(s) required for a home renovation or rehabbing project, including any new home extension projects. Contractors will need to ensure full compliance with all zoning setback requirements.

**Example:** For any extension in the front of the house, the extension should be 15' feet away from the front property line to the new front wall extension. For the left or right-side, the zoning setback requirements are 10' feet away from the boundary line to a new building wall extension. And for the rear setback, zoning requires 20' feet clearance away from the rear property line. Any failure to meet these requirements may result in the home client having to pay for zoning variance fees.

- b) Zoning fencing setback requirements - For any proposed fencing for the front side of the house facing the road entry, the fence line should be two feet inward of the property line. For the left, right, and rear side setbacks, the requirement is one foot inward the property line.

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- c) Should a new septic tank and leaching field be required, the Zoning office setback requirements are a minimum of ten feet at any angle from the property line for both the septic tank and leaching field.

**Note:** New septic tanks should be constructed fifteen feet from the house. DEQ also has regulations on Septic tanks and leaching fields that need to be adhered to.

### **SITE WORK:**

- a) All debris including abandoned vehicles, scrap material, metal objects, trash, vegetation, and other objects that pose a safety and/or health threat, as determined by the local jurisdiction or person qualified to make such a determination, must be removed from the property before the start of construction.
- b) Any identified lead-based paint hazards must be abated by the contractor per the guidelines outlined in 24 CFR 92.251(b)(1)(iii).
- c) Any ground-level hazards i.e., potholes around the home must be backfilled to finish grade elevation to prevent tripping hazards.
- d) If required, any existing boundary fencing around the house/project site that can be repaired must be restored to a safe condition. If the fencing poses safety and/or health hazard then it must be immediately removed from the project site.

**Note:** Repairing of an existing boundary fence does not alleviate the contractor from installing the required protective hoarding around the house/project site.

### **PEST CONTROL:**

- a) Termite control shall be applied by a reliable and licensed termite control company familiar with local soils and termite control conditions and licensed by the Division of Environmental Quality.
  - 1. The contractor shall apply for all permits necessary for pest treatment.
- b) The contractor shall attain a certification of 2-year warranty and retreatment should ground nesting of termite occurs within the 2 years at no cost to the homeowner.
- c) The contractor shall apply termite treatment for any new construction, renovation, rehab, and extension project as required.

### **FOUNDATIONS:**

- a) Footings will be designed for an assumed allowable soil bearing capacity of 3,000 PSI

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- b) All structural fill beneath footings and slab-on-grade shall be placed 12 inches thick on 8-inch maximum layers. Foundation Backfill will be compacted to 95% compaction maximum dry density.
  
- c) Any soft spots encountered during excavation operations for foundations shall be over excavated till hard dirt limits, then backfilled with suitable material and properly compacted to 95%.
  
- d) Compaction tests for the foundation shall be required and paid for by the homeowner if not included in the contract after receiving the compaction test result for the record. The tests must be performed by a licensed soil testing firm.

**CONCRETE AND REINFORCEMENT:**

- 1. All concrete shall develop a minimum compressive strength at the end of 28 days as follows:
  - Foundation                                3,000 PSI        Max slump    @4 inches
  - Beams, Walls & Columns        3,000 PSI        Max Slump    @4 inches
  - Suspended Roof Slab                3,000 PSI        Max Slump    @4 inches
  - Slab on Grade                        2,500 PSI        Max Slump    @5 inches
  - Sidewalk / Pathway                2,000 PSI        Max Slump    @5 inches
  - Driveway & Car Parking            3,000 PSI        Max Slump    @4 inches

**Note:** For a concrete flat rooftop on the middle portion, pour 7½” thick concrete slab, sloping to all corners of the house’s downspouts or drainage passageways at 5” finish. A 2½” slope to be applied in the middle of the rooftop to prevent water ponding on the rooftop.

**TESTING:**

- 1. Compression Tests: All concrete placed for foundations, structural slabs, beams, and columns shall have a minimum of three cylinders taken for every 50 cubic yards of concrete placed or for any one concrete placement. Concrete cylinders shall be tested for compressive strength at a testing laboratory. Two compression tests shall be performed at 14 days and one compression test at 28 days for each set of three cylinders taken.
  
- 2. Slump tests @ 3”- 4” : A slump test shall be taken in the presence of the architect or engineer for each batch of concrete delivered to the job site and shall be taken before placing any concrete. In the event a slump test fails, the entire batch of concrete shall be rejected, including removal of concrete already placed, without cost to the homeowner for the record.

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3. Additional water to concrete mixture batch at the job site shall not be permitted.
4. All materials and workmanship shall conform with the 2018 International Building Code requirements for residential projects. All contractors must comply with the code for receiving the finished project's Certificate of Occupancy.

### **MAINTAIN MINIMUM CONCRETE COVERAGE FOR REINFORCING STEEL AS FOLLOWS:**

1. For concrete cast against and permanently exposed to earth @ 3"
2. Concrete exposed to earth or weather no. 5 rebar or smaller @ 1 ½"
3. Concrete not exposed to earth or in contact with ground slabs & walls @ ¾"
4. Concrete not exposed to earth or in contact with beams & columns @ 1 ½"
5. Reinforcement of new walls and columns shall be dowelled to supporting footings, beams, columns and walls with bars of the same size and spacing as vertical and horizontal bars

### **STRIPPING OF FORMS AND SHORES:**

1. For foundation forms, it can be removed after 24 hours after pouring curing time. For Walls and Columns forms, they should be removed after 48 hours minimum. For concrete roof beams and roof slabs, forms should be removed after 14 days minimum. All forms can be removed after 28 days of the date.
2. All concrete shall be kept moist for a minimum of 7 days immediately after placing by the use of wet burlap, fog spraying, curing compounds, and other approved methods an architect or engineer.
3. No heavy construction load is permitted more than 50% of the specified design load within the 28 days of concrete placement. In cases, do not overload more than the specified design load after the 28 days of placement. No concentrated load is permitted except over supporting columns and walls.

### **CONCRETE BLOCK WALL:**

1. Masonry units shall have a factory's minimum compressive strength of 1,000 PSI.
2. Masonry units shall be sound, dry, clean, and free from cracks when placed in the structure.
3. Where masonry unit cutting is necessary, all work should be neat and true.
4. The maximum aggregate size shall be 3/8" for pouring CMU block cells.
5. Concrete block units shall be laid in the common bond pattern unless otherwise shown.
6. For wall thickness 4", 6" and 8", use No. 4 vertical rebars @ 16" on center typical.

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7. Horizontal bars are placed at every two layers of blocks all around w/No.3 rebars typical.
8. For all corner walls, vertical bars install three No.5 vertical rebars on each side from the corner out @2' feet typical.
9. For all intersection walls, vertical bars install four No.5 vertical rebars one in center of T and one on each side out @2' feet typical.
10. For all end walls install two No.4 vertical bars w/No.3 bars C-ties @ 12" O.C. typical.

**Note:** Any new door or window to be opened up on an existing concrete house wall, construct a new lintel beam at 12" out from each side on top by 8" height by wall thickness typical and new 4" thick concrete sidings on both sides of window edging typically for door openings.

11. "Dur-O-Wal" reinforcement shall be continuous around all walls, corners, and intersections and shall lap @ 12" minimum splicing for all vertical rebar extension for all walls to roof beam level as required.
12. All CMU block cells shall be solidly filled with cement grout. Grout all cells below slab on grade. Typical unless noted otherwise.
13. When plastering roof beams and columns. Apply concrete bonding into your cement mixture and paintbrush the portions before plastering.
14. Any hollow sound on existing and newly plastered walls found on walls to be chipped removed out and re-plaster all hollow walls detected to its solid sound plaster condition.

**Note:** To be inspected and verified for approval for the record.

15. For painted finish. Apply muriatic acid on newly plastered walls. Wash down, dry up before applying two primer coats on newly plastered walls, and then apply two coated final painting finish. For existing concrete wall paint scrape and water blast all bubbling peeling out paint on walls, ceilings, etc. Apply one primer coat on existing dirty/stained washed walls before applying its new final paint color.
16. Any hollow sound on the existing floor, wall and counter ceramics, chip out and remove. Install new floor, wall, and counter ceramic with no hollow sound on the ceramic finishing work.

**Note:** To be inspected and verified for approval for the record.

### CONCRETE WALL AND CONCRETE ROOF STRUCTURE EXTENSION:

- a) For rehabbing an existing semi-concrete house to construct a new concrete roof structure on top, the contractor will construct new 8"x12" concrete columns with a 10" thick foundation concrete

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pouring by 30" square column footings. If the existing house is longer than 20', the contractor will construct another new column in between or in the middle for more structural support. The specifications are only for a house renovation with concrete roof ceiling height at 8' to 9' flooring finish to roof ceiling finish. For a 10' roof ceiling or over, the contractor will construct a 12"x12" size concrete columns for all with a 10" thick concrete pouring by 36" square column footings. Rebar sizes are standard sizes approved from its building permit plans as specified. See construction drawings for rebar sizes and dimensions.

**Note:** To refurbish/renovate a damaged roof on an existing semi-concrete house, replacing or repairing a tin roof will not be accepted as a rehab project. All eligible applicants must have their rooftop converted solid concrete mitigate any future disasters as outlined in 24 CFR 92.251(b)(1)(vi) and to comply with the rehab program requirement for homeowner insurance.

**Note:** The existing CMU walls to be used as existing concrete wall partitions. Do Not depend on the existing wall as wall bearing walls for the record. It will only serve as a non-bearing wall. The new concrete columns are designed to carry the new 5" thick concrete roof slab with new 17"x8" or 10" concrete roof beams that are specified in the structural construction drawings for the record.

### PLUMBING STANDARD NOTES:

1. Install a new ¾" ball valve at the existing CUC water meter box facing the house. Secure with cover level to the existing grade. (For emergency shut off valve).
2. Run a new ¾" PVC cold water line into the house project. (Following the Plumbing Floor Plans and Specifications).
3. For cold water lines, use PVC water pipes and for hot water lines, use CPVC water pipes.
4. For the waste line, use ABS pipes for all drainage waste line.
5. Make sure that the electric water heater has a Pressure Relief valve down at 12" above ground level. This is to ensure that should the water heater tank be over-pressured; the valve opens to relieve the pressure in the tank and prevent tank explosion.
6. Check slopes of waste/soil lines. Piping below 3" diameter shall be sloped at ¼" per foot. Piping over 3" shall be sloped at 1/8" per foot for the proper sloping waste line to the septic tank as required in the plumbing code.
7. Lay new water lines higher than sewer/waste lines to prevent contamination. Provide sand cushion around any plumbing piping. Keep water lines away from soil/sewer lines if in the same trench by at least 24".
8. Install new air chambers for all fixture supply piping. Use 18" air chamber, one size larger than branch piping.
9. Testing of water lines pressures for 100 PSI for one hour without any drop in water pressure. Retest all leaky joints. Submit all test results together with the rest of the closing reports.

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10. Static testing of waste lines and vent lines to 10' static head for at least one hour. Retest all leaky joints when detected until it has no more leak for the record. Submit all test results together with the rest of the closing reports.
11. Always check that the flow of the waste/soil lines is correct. The vent line is directed to the rooftop at 18" above the roofline. For sewer line, use long sweep elbow or tee.
12. Whenever a water closet is installed, make sure there is a minimum 2" vent thru roof at 18" above the rooftop.
13. Provide floor drains on 2<sup>nd</sup> or higher floors for housekeeping.
14. Clearwater lines and waste lines away from foundation footings, columns, and beams.
15. Do not install/embed water lines in concrete. Provide piping chase or sleeves.
16. Provide shut off valves at strategic points in the water lines.
17. For propane gas lines, use galvanized piping for LPG gas lines. Encased LPG piping in PVC piping, if piping is installed underground. Use a One bigger size PVC pipe to sleeve the galvanized pipe inside before pouring under the slab.
18. Always provide strap around water heaters, gas tanks to prevent it from moving during an earthquake.
19. Provide cushion sleeves around any piping penetrating through concrete walls and floors.
20. Provide 36" standpipe for washer and P-trap shall be above ground readily accessible. Do not install P-trap under the ground.
21. Provide P-traps for floor drains, shower drains, kitchen sinks, and lavatories.
22. Provide ground or floor cleanouts at every 50'. Provide cleanouts to every angle as required in the plumbing code for preventive maintenance.
23. Do not install sewer lines in the same trench as water lines. Where there is crossing, concrete encase the sewer line 10' at 10" around the line to the end of crossing. Sewer lines should be always located deeper than the water lines in a trench.
24. For a long stretch of hot water piping lines, provide a loop comprising of elbows to offset expansion for safety purposes.
25. Provide 2" high overflow piping above a flat rooftop in addition to roof drains.
26. Provide supports for piping under slabs.
27. Provide vent piping 10' away horizontally from any window or door. Preferably, install a vent to terminate above the roof at 18" above finish rooftop.
28. The contractor shall be responsible for chipping existing concrete floors and walls to install new plumbing piping. The contractor is responsible also to restore floor slabs and walls to the original condition. These are part of the rehab and renovation work process. All extra work

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shall not be an additional cost to the homeowner. Everything should be included in the contract.

29. Standard sizes for water, soil/waste, and vent lines for each fixture are as follows:

<b>Fixture:</b>	<b>Cold Water:</b>	<b>Hot Water:</b>	<b>Soil/Waste:</b>	<b>Vent:</b>
Floor Drain			2" ABS	2" ABS
Water Closet	½" PVC		3" or 4" ABS	2" ABS
Urinal	¾" PVC		2" ABS	2" ABS
Kitchen Sink	½" PVC	½" CPVC	2" ABS	2" ABS
Lavatory	½" PVC	½" CPVC	2" ABS	2" ABS
Shower	½" PVC	½" CPVC	2" ABS	2" ABS
Dirty Kitchen Sink	½" PVC	½" CPVC	2" ABS	2" ABS

**Note:** Always tighten, secure, brace, and clamp all wall-mounted fixtures properly. Provide concrete splash boxes for drainage downspouts.

**ELECTRICAL STANDARD NOTES:**

1. The contractor is responsible for obtaining permits for temporary power hook up including applying and paying hookup and monthly use fees for their use for the project without cost to homeowners for the record.
2. GFCI outlets to be installed in any kitchen counter at 4' min. away from the sink.
3. Use the GFCI outlet for the restroom wall outlet. Do not use a regular outlet.
4. Use the GFCI outlet for the outside wall outlet with a weatherproof cover typical.
5. Design for outlets should be limited to 8 outlets for a 20-amp single pole breaker.
6. Design for lights should be limited to 8 lights for a 20-amp single pole breaker.
7. Provide at least one outlet in the hallway for housekeeping use.
8. Installing new electrical boxes shall include an adapter, lock nut, and bushing. Bushing shall be insulated.
9. The service entrance conduit shall be galvanized steel per CUC requirements.
10. Conduits underground shall be PVC.
11. For any exposed conduits it shall be a rigid aluminum or galvanized steel.
12. Conduits inside building in-ceiling or exposed may be electrical metallic tubing-EMT.
13. Minimum size for homerun shall be ¾" conduit for easy pulling.

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14. For computer circuits, make sure the ground wire is isolated.
15. All power circuit conduit shall have ground wire.
16. Follow electrical wires standard color-coding per National Electrical Code. For residential rehab, projects shall be a 120/240 Volt system, 1 phase:

Phase A-color Black Phase B-color Red Neutral color: White Ground color: Green

**Note:** The neutral and grounding colors shall be the correct color wire throughout without any exception. Avoid color coding with electrical tape. Electrical hazard.

17. Splicing shall be the plastic pressure type connectors. For larger wires, splicing shall be terminal lugs type.
18. Any conduit crossing roadways or in traffic areas shall be embedded in concrete, or located per NEC. The minimum conduit depth is 18" to top of the conduit.
19. Separate communications conduits from power conduits by at least 12" laterally. The minimum conduit size shall be ¾" conduit. Provide pull wire in every empty communications conduit extending 12" at both ends for computer and TV. line connections.
20. Contractor to coordinate with telephone/internet company to seek the advice of where hand holes or access panels may be located for ease of pulling and service.
21. Be sure to apply rust spray paint to all electrical boxes before embedding them in concrete.
22. Position outlets on a horizontal orientation.
23. Where to put new light switches, place them right after opening a door on the closest wall at 4' height typical.
24. Light switches to be set on a vertical position at 4' height center of electrical boxes.
25. Conduits underground outside the house building shall have warning tape at 12" below grade.
26. Maximum bends in conduits shall be limited to three (3).
27. Standard Breaker amp size and its proper wire size use to prevent power shortage and fire for health and safety measures.
28. For reference, a 20-amp circuit breaker has a total of 1,920 Watts.
29. For a single-pole 20-amp circuit breaker, use No. 12 solid wires. Separate outlets and lights circuit breaker switch.
30. Use No. 12 solid wires for receptacle outlets. A limit of 8-outlets per 20-amp single pole circuit breaker switch.

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31. Use No. 12 solid wires for light fixtures. A limit of 8-lights per 20amp single pole circuit breaker switch.
32. Use a 20-amp single pole circuit breaker with a No. 12 solid wire. For 110 volts air conditioning separately, use a ½” electrical conduit from the panel box to outlet location.
33. Use a 30-amp double pole circuit breaker with a No. 10 solid wire. For 220 volts air conditioning separately, use a ¾” electrical conduit from the panel box to the outlet location
34. Use a 50-amp double pole circuit breaker with No. 6 stranded wires in a 1” electrical conduit for electrical range.
35. Use a 20-amp single pole circuit breaker with a No. 12 solid wire. For a refrigerator separately, use a ½” electrical conduit from the panel box to outlet location.
36. Use a 20-amp single pole circuit breaker with a No. 12 solid wire, for computer station separately, use a ½” electrical conduit from the panel box to outlet location.
37. Use a 30-amp double pole circuit breaker with a No. 10 solid wire. For 220 volts Electric Water Heater separately, use a ¾” electrical conduit from the panel box to outlet location.
38. For reference information, using a 100amp double pole circuit breaker use a # 2 wire.
39. A 125-amp double pole circuit breaker uses a # 1 wire.
40. A 150-amp double pole circuit breaker uses a # 1/0 wire.
41. A 175-amp double pole circuit breaker uses a # 2/0 wire.
42. A 200-amp double pole circuit breaker uses a # 3/0 wire.
43. Make sure any electrical splicing to be connected uses an electrical connector, not electrical tape.
44. Make sure to tighten all loose connections properly.
45. Provide 4” high concrete pad for mounting an electrical water heater equipment. Allow for 4” extra distance on the width and length of the water heater.
46. Exposed conduits in exposed areas shall be painted to match the adjacent wall finish.
47. All equipment and disconnect switch in weather shall be sealed waterproof.
48. All testing work shall be performed by the contractor and the contractor shall pay for all water, fuel, electricity, instrument, and personal.
49. The contractor shall submit a written guarantee certificate warranting all materials and workmanship free of defects for one year from the date of acceptance.
50. The contractor must submit As-Built drawings of the electrical system after project along with Certificate of Occupancy

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### ELECTRICAL MOUNTING HEIGHT REQUIREMENTS FOR ELECTRICAL:

- |                                |   |
|--------------------------------|---|
| 1. Meter Box Height            | 5'-6" from finish grade to center of the meter box  |
| 2. Panel Box Height            | 5'-0" from finish floor to top of the panel box     |
| 3. Light Switches Height       | 48" from finish floor to center of the elect. Box   |
| 4. Outlet Height               | 12" from fin. floor, for ADA outlet height 15"- 48" |
| 5. Fire Alarm Height           | 5'- 6" from finish floor to center of the pull box  |
| 6. Fire Alarm Horn/Bell Height | 7'- 6" from finish floor to center of the box       |
| 7. Disconnect Switch           | 5'- 6" from finish floor to the center of the box   |

### ELECTRICAL GENERAL NOTES:

1. All electrical work shall be per the applicable sections of the National Electrical Code (NEC) latest edition, and the rules and regulations of the Dept. of Public Works and the Commonwealth Utilities Corporation.
2. All equipment and materials shall be UL listed where the listing is available for that type of equipment or conform to ANSI or NEMA standards.
3. Workmanship shall conform to the construction practices recommended by the American Electricians, Handbook by Croft, and shall be subject to the approval of the agency who has jurisdiction and the electrical engineer.
4. Conduit shall be EMT (indoor dry) locations concealed above ground, rigid aluminum (exposed installations, PVC (underfloor slab or grade, and inside concrete). Flexible conduit shall be jacketed type and per NEC 350.
5. Wiring shall be typed THWN, THW, XHHN, 600 volts. The conductor shall be copper.
6. Minimum size conduit shall be ½" inch diameter unless otherwise noted; minimum wire size shall be #12 AWG. Do Not Use #14 wires.
7. Electrical work shall be under the full supervision of a master electrician or a professional electrical engineer licensed to practice in the CNMI.
8. Panelboard shall be complete with bus bars, enclosure trim, molded case circuit breakers, bolt-on type branch circuit breakers, grounding, and neutral terminal lugs, panel board director, and keys. The laminated nameplate shall be provided on the front cover of the panel board or transformer.
9. All electrical devices and equipment exposed to weather shall be weatherproof.

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10. Any device may be relocated within 10' of the location shown in the plans subject to the direction by the electrical engineer. Any such relocation shall be performed without additional cost to the homeowner.
11. The electrical contractor shall coordinate with a mechanical contractor for exact locations of water lines and waste lines before rough-in work.
12. Grounding:
  - a. Metallic enclosures, raceways, and electrical shall be grounded per NEC 250. Provide green ground wire in every raceway per NEC Table 250-95.
  - b. Grounding connection of the grounded circuit conductor (Neutral) shall be made only at the service disconnection means per NEC 250-23(a). Grounding on the neutral shall not be made on the load side of the service disconnect. The neutral shall not be made on the load side of the service disconnect. The neutral conductor shall be insulated from all equipment enclosures or any grounded parts. Bonding of the neutral bus to the ground bus in sub-panels shall be removed.
13. The electrical panel board and main switchboard, power meter box shall be furnished completely assembled from the factory.
14. Contractor to provide all labor, materials, equipment, tools, and all necessary materials including wire connectors, tapes, markers, etc. to accomplish the work shown in the plans. The cost of permits shall be the contractor's responsibility.
15. Minimum service clearance in front of the main switchboard shall be 4'.
16. Testing: Operation, Insulation Resistance, Grounding Tests.

### FINISH MATERIAL STANDARDS:

#### Flooring Standards:

- (a) For the living room, dining room, kitchen room, hallways, and bedrooms floor, the finish is to be plastered level with a vinyl tile or ceramic tile finish (depending on cost and durability).
- (b) For the standard restroom floor finishing, to be a ceramic finish with white cement grouted finish. The restroom floor ceramic must be approved nonslip type of ceramic finish.

**Note:** Ceramic color should be the client's choice of ceramic color on the contractor's approved standard min. ceramic size.

- (c) For all concrete stoops, landings and sidewalks floor finish, to be plastered sweep finish and for the carport, floor finish to be plastered fine finish.

**Note:** Plaster the sides of the concrete sidewalks, landings, ramps, and garage floorings.

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### Door Standards:

- (a) For the exterior front entry door, use a 1¼" thick x 36"x 6'-8" solid core decorative door with heavy-duty door hinges, regular doorknob, deadbolt with keys, painted varnish finish, and door bottom with threshold and a door stopper on the back.

**Note:** Use a lever-type doorknob for a disability or elderly rehab home project.

- (b) For any exterior exit door, use a 1¼" thick x 32"x 6'-8" min. regular solid core door with heavy-duty door hinges, regular doorknob with a deadbolt, painted varnish finish, and door bottom with threshold and a door stopper on the back.

**Note:** For disability or elderly rehab home project, use a lever type door knob with keys and a 36" size regular solid core door.

- (c) For bedroom doors, use a 1½" thick x 36", 34", 32", or 30"x 6'-8" min. regular hollow-core door with light-duty door hinges and regular doorknob w/no key type and door painted with a varnish finish and a door stopper installed on the back.

- (d) Aluminum Typhoon Shutters. Homeowners may include if the rehabilitation budget is sufficient, the installation of aluminum typhoon shutters on the exterior main entrance and rear exit doors of the housing unit.

- Typhoon shutters must be accordion-type with lock and key.
- Use 3"x1/4" screws to bolt the typhoon shutters to the concrete wall. The minimum number of screws is 3 per side.

**Note:** For a disability rehab home project, use a lever type door knob with keys only on 36" door size.

### Window Standards:

- (a) Living room window min. size 4'x4' sliding glass window with a ¼" thick safety tempered glass with aluminum frame. 4 screws on each side.
- (b) Kitchen window min. size 3'x3' sliding glass window with a ¼" thick safety tempered glass window with aluminum frame. 3 screws on each side.
- (c) Dining room window min. size 3'x4' Height with a ¼" thick safety tempered sliding glass window with aluminum frame. 3 screws on each side and 4 screws each on top and bottom.
- (d) Bedroom window must have at least one set 4'x4' sliding glass window (For egress, in case of fire) with a ¼" thick safety tempered glass window with aluminum frame. 4 screws on each side.
- (e) Restroom window min. standard size. 2'x2' sliding glass window with a ¼" thick safety tempered glass window with aluminum frame. 2 screws on each side.
- (f) Seal all window edgings inside and outside
- (g) All windows shall also include window screens
- (h) Frame Color to be Clients choice of color

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- (i) Install new typhoon metal brackets at the outside walls for all windows w/painted finish
- (j) Use 3"x1/4" screws to bolt the sliding windows to the concrete wall. The minimum number of screws per window is mentioned above.
- (k) Aluminum Typhoon Shutters. Homeowners may include if the rehabilitation budget is sufficient, the installation of aluminum typhoon shutters on all housing unit windows.
  - Typhoon shutters must be accordian-type with lock and key.
  - Use 3"x1/4" screws to bolt the typhoon shutters to the concrete wall. The minimum number of screws is 3 per side.

**Note:** All aluminum typhoon shutters shall meet or exceed the wind rating outlined in the 2018 International Building Code (IBC) and the Tropical Energy Code.

### **Faucet Standards:**

- (a) Kitchen Sink Faucet to be a regular faucet type.

**Note:** For disability or elderly Rehab Home Project to be a lever faucet set type.

- (b) Restroom Lavatory Sink Faucet to be a regular faucet type.

**Note:** For disability or elderly Rehab Home Project to be a lever faucet set type.

### **Regular and Disability Rehab Home Projects Standard Finishes:**

- (a) For disability, concrete sidewalk & landing size requirements. Concrete sidewalk width 36" min. and for landing size 5' sq. no less.

**Note:** Sidewalks and landings that are higher than 7" above existing grade during rehab work, requires all sides to be backfilled at 4" finish grade at 1' level and slope out at 4' on both sides to existing grade elevation, otherwise install new aluminum hand railings within 33" to 36" height along the hazard sidewalk, ramps and landings pathway.

**Note:** For regular rehab home projects sidewalks, same at 36" and for landing 36" sq. is allowable.

- (b) For the front entry and exit doors outside, construct a 5' sq. concrete stoop floor landing at 1/2" lower from the finished house floor elevation.
- (c) The restroom floor elevation should be 1/2" lower from the inside house flooring. Also, for the shower room flooring is 1/2" lower than the restroom flooring as required.
- (d) Install hand railings along any sidewalks or pathways and landings that are higher than 7" above finish grade.
- (e) Construct a new concrete ramp at a ratio of 1" drop = 1' slope.

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- (f) Install smoke alarms in bedrooms and hallways as required by Building Safety Code. Smoke alarms must be hard-wired smoke alarms and that the smoke alarms are interconnected.
- (g) Install water sprinklers with warning fire light signals for impairment of client individuals only.
- (h) In designing a new rehab disability home layout extension or for reconstructed disability house floor plan design, consider a 3' clear passage for a wheelchair to maneuver from the entry of the house to the inside of the house. Ensure that in your design layout, take into consideration the furniture space in planning for wheelchair accessibility, through bedrooms, restroom(s), living room, kitchen, dining, and for exiting the exit door to the outside of the house with no hazards along for emergency purposes as required.
- (i) Disability lavatory height should be set at 34" maximum.
- (j) disability water closet height from the finished floor to the toilet seat is within 17" to 19". Note: For regular standard toilet height is 15" from the finished floor to the toilet seat.
- (k) Install a new 2' ADA grab bars on the back of ADA toilet centered, 2' length on shower faucet wall and 42" on the side shower wall at height within 33" to 36".
- (l) Install ADA medicine cabinet at 40" from the finished floor to the bottom of the medicine cabinet.

**Note:** For regular standard medicine cabinet height is 64" from the finished floor to center of the medicine cabinet.

- (m) Install a towel hanging bar within 36" to 48" for disability or regular restroom.
- (n) Install a toilet paper holder to the nearest wall at 19" above the finished floor and a maximum of 36" from the rear wall.
- (o) Rehab finishing projects paint colors to be the home client's choice of paint color for all paint finishing work.

All technical reference information applies to all building systems standard needs for new house construction, rehabilitation project, renovation project and house conversion to disability home compliance project that meet all current CNMI local building code regulations and meet Housing Quality Standards (HQS) and Uniform Physical Condition Standards (UPCS) requirements.

The HUD CPD Green Building Retrofit Checklist will also be included in the rehabilitation standards (Attachment A). "CPD recognizes that not all elements of the checklist will be applicable in all climates and geographies. Because of this, CPD will consider exceptions to these standards based on climate or geography, if a grantee identifies the specific standards that aren't applicable, including offering alternatives if available, and CPD's Office of Environment and Energy accepts the grantee's request."

Other building systems may be accepted provided that they meet or exceed the standards mentioned above. Third-party certifications or specific standard testing methods are required to substantiate or validate the claims.

Attachment A:

**HUD CPD Green Building Retrofit Checklist**

The CPD Green Retrofit Checklist promotes energy efficiency and green building practices for residential retrofit projects. Grantees must follow the checklist in its entirety and apply all measures within the Checklist to the extent applicable to the particular building type being retrofitted. The phrase “when replacing” in the Checklist refers to the mandatory replacement with specified green improvements, products, and fixtures only when replacing those systems during the normal course of the retrofit.

*Note:* CPD recognizes that not all elements of the checklist will be applicable in all climates and geographies. Because of this, CPD will consider exceptions to these standards based on climate or geography, if a grantee identifies the specific standards that aren’t applicable, including offering alternatives if available, and CPD’s Office of Environment and Energy accepts the grantee's request.

**WATER AND ENERGY CONSERVATION MEASURES**

- Water-Conserving Fixtures**  
Install or retrofit water conserving fixtures in any unit and common facility, use the following specifications: Toilets-- 1.28 gpf; Urinals-- 0.5 gpf; Showerheads-- 2.0 gpm; Kitchen faucets-- 2.0 gpm; and Bathroom faucets-- 1.5gpm. [gpf = gallons per flush; gpm = gallons per minute]
- ENERGY STAR Appliances**  
Install ENERGY STAR-labeled clothes washers, dishwashers, and refrigerators, if these appliance categories are provided in units or common areas.
- Air Sealing: Building Envelope**  
Seal all accessible gaps and penetrations in the building envelope. If applicable, use low VOC caulk or foam.
- Insulation: Attic** (if applicable to building type)  
For attics with closed floor cavities directly above the conditioned space, blow in insulation per manufacturer's specifications to a minimum density of 3.5 Lbs. per cubic foot (CF). For attics with open floor cavities directly above the conditioned space, install insulation to meet or exceed IECC levels.
- Insulation: Flooring** (if applicable to building type)  
Install  $\geq$  R-19 insulation in contact with the subfloor in buildings with floor systems over vented crawl spaces. Install a 6-mil vapor barrier in contact with 100% of the floor of the crawl space (the ground), overlapping seams and piers at least 6 inches.
- Duct Sealing** (if applicable to building type)

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In buildings with ducted forced-air heating and cooling systems, seal all penetrations of the air distribution system to reduce leakage in order to meet or exceed ENERGY STAR for Homes' duct leakage standard.

- Air Barrier System**  
Ensure continuous unbroken air barrier surrounding all conditioned space and dwelling units. Align insulation completely and continuously with the air barrier.
- Radiant Barriers: Roofing**  
When replacing or making a substantial repair to the roof, use radiant barrier sheathing or other radiant barrier material; if economically feasible, also use cool roofing materials.
- Windows**  
When replacing windows, install geographically appropriate ENERGY STAR rated windows.
- Sizing of Heating and Cooling Equipment**  
When replacing, size heating and cooling equipment in accordance with the Air Conditioning Contractors of America (ACCA) Manuals, Parts J and S, or 2012 ASHRAE Handbook–HVAC Systems and Equipment or most recent edition.
- Domestic Hot Water Systems**  
When replacing domestic water heating system(s), ensure the system(s) meet or exceed the efficiency requirements of ENERGY STAR for Homes' Reference Design. Insulate pipes by at least R-4.
- Efficient Lighting: Interior Units**  
Follow the guidance appropriate for the project type: install the ENERGY STAR Advanced Lighting Package (ALP); **OR** follow the ENERGY STAR MFHR program guidelines, which require that 80% of installed lighting fixtures within units must be ENERGY STAR-qualified or have ENERGY STAR-qualified lamps installed; **OR** when replacing, new fixtures and ceiling fans must meet or exceed ENERGY STAR efficiency levels.
- Efficient Lighting: Common Areas and Emergency Lighting** (if applicable to building type)  
Follow the guidance appropriate for the project type: use ENERGY STAR-labeled fixtures or any equivalent high-performance lighting fixtures and bulbs in all common areas; **OR** when replacing, new common space and emergency lighting fixtures must meet or exceed ENERGY STAR efficiency levels. For emergency lighting, if installing new or replacing, all exist signs shall meet or exceed LED efficiency levels and conform to local building codes.
- Efficient Lighting: Exterior**  
Follow the guidance appropriate for the project type: install ENERGY STAR-qualified fixtures or LEDs with a minimum efficacy of 45 lumens/watt; **OR** follow the ENERGY STAR MFHR program guidelines, which require that 80% of outdoor lighting fixtures must be ENERGY STAR-qualified or have ENERGY STAR-qualified lamps installed; **OR** when replacing, install ENERGY STAR compact fluorescents or LEDs with a minimum efficacy of 45 lumens/watt.

INDOOR AIR QUALITY

- Air Ventilation: Single Family and Multifamily** (three stories or fewer)  
Install an in-unit ventilation system capable of providing adequate fresh air per ASHRAE 62.2 requirements.
- Air Ventilation: Multifamily** (four stories or more)  
Install apartment ventilation systems that satisfy ASHRAE 62.2 for all dwelling units and common area ventilation systems that satisfy ASHRAE 62.1 requirements. If economically feasible, consider heat/energy recovery for 100% of corridor air supply.
- Composite Wood Products that Emit Low/No Formaldehyde**  
Composite wood products must be certified compliant with California 93120. If using a composite wood product that does not comply with California 93120, all exposed edges and sides must be sealed with low-VOC sealants.
- Environmentally Preferable Flooring**  
When replacing flooring, use environmentally preferable flooring, including the FloorScore certification. Any carpet products used must meet the Carpet and Rug Institute's Green Label or Green Label Plus certification for carpet, pad, and carpet adhesives.
- Low/No VOC Paints and Primers**  
All interior paints and primers must be less than or equal to the following VOC levels: Flats--50 g/L; Non-flats--50 g/L; Floor--100 g/L. [g/L = grams per liter; levels are based on a combination of the Master Painters Institute (MPI) and GreenSeal standards.]
- Low/No VOC Adhesives and Sealants**  
All adhesives must comply with Rule 1168 of the South Coast Air Quality Management District. All caulks and sealants must comply with regulation 8, rule 51, of the Bay Area Air Quality Management District.
- Clothes Dryer Exhaust**  
Vent clothes dryers directly to the outdoors using rigid-type duct work.
- Mold Inspection and Remediation**  
Inspect the interior and exterior of the building for evidence of moisture problems. Document the extent and location of the problems, and implement the proposed repairs according to the Moisture section of the EPA Healthy Indoor Environment Protocols for Home Energy Upgrades.
- Combustion Equipment**  
When installing new space and water-heating equipment, specify power-vented or direct vent combustion equipment.

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- Mold Prevention: Water Heaters**  
Provide adequate drainage for water heaters that includes drains or catch pans with drains piped to the exterior of the dwelling.
  
- Mold Prevention: Surfaces**  
When replacing or repairing bathrooms, kitchens, and laundry rooms, use materials that have durable, cleanable surfaces.
  
- Mold Prevention: Tub and Shower Enclosures**  
When replacing or repairing tub and/or shower enclosures, use non-paper-faced backing materials such as cement board, fiber cement board, or equivalent in bathrooms.
  
- Integrated Pest Management**  
Seal all wall, floor, and joint penetrations with low-VOC caulking or other appropriate sealing methods to prevent pest entry. [If applicable, provide training to multifamily buildings staff.]
  
- Lead-Safe Work Practices**  
For properties built before 1978, if the project will involve disturbing painted surfaces or cleaning up lead contaminated dust or soil, use certified renovation or lead abatement contractors and workers using lead-safe work practices and clearance examinations consistent with the more stringent of EPA's Renovation, Repair, and Painting Rule and HUD's Lead Safe Housing Rule.
  
- Radon Testing and Mitigation (if applicable based on building location)**  
For buildings in EPA Radon Zone 1 or 2, test for radon using the current edition of American Association of Radon Scientists and Technologists (AARST)'s Protocols for Radon Measurement in Homes Standard for Single-Family Housing or Duplexes, or AARST's Protocol for Conducting Radon and Radon Decay Product Measurements in Multifamily Buildings. To install radon mitigation systems in buildings with radon level of 4 pCi/L or more, use ASTM E 2121 for single-family housing or duplexes, or AARST's Radon Mitigation Standards for Multifamily Buildings. For new construction, use AARST's Reducing Radon in New Construction of 1 & 2 Family Dwellings and Townhouses, or ASTM E 1465.

**Attachment B: Uniform Physical Condition Standards for Single Family Housing Rehabilitation – Requirements for Site**

<b>Inspectable Item</b>	<b>Observable Deficiency</b>	<b>Type and Degree of Deficiency That Must Be Addressed</b>
Fencing and Gates	Damaged/Failing/Leaning	
	Holes	
	Missing Sections	
Grounds	Erosion/Rutting Areas	

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	Overgrown/Penetrating Vegetation	
	Ponding/Site Drainage (affecting unit)	
Health and Safety	Air Quality – Sewer Odor Detected	
	Air Quality – Propane/Natural Gas/Methane Gas Detected	
	Electrical Hazards – Exposed Wires/Open Panels	
	Electrical Hazards – Water Leaks on/near Electrical Equipment	
	Flammable Materials – Improperly Stored	
	Garbage and Debris – Outdoors	
	Play Equipment – Broken or Damaged	
	Hazards – Other (e.g., outbuildings)	
	Hazards – Sharp Edges	
	Hazards – Tripping	
	Infestation – Insects	
	Infestation – Rats/Mice/Vermin	
Mailboxes/Project Signs	Mailbox Missing/Damaged	
	Signs Damaged	
Driveways	Cracks	
	Potholes/Loose Material	
	Settlement/Heaving	
Retaining Walls	Damaged/Falling/Leaning	
Storm Drainage	Damaged/Obstructed	
Walkways/Steps	Broken/Missing Hand Railing	
	Cracks/Settlement/Heaving	
	Spalling	

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**Attachment B: Uniform Physical Condition Standards for Single Family  
Housing Rehabilitation – Requirements for Site**

<b>Inspectable Item</b>	<b>Observable Deficiency</b>	<b>Type and Degree of Deficiency That Must Be Addressed</b>
Doors	Damaged Frames/Threshold/Lintels/Trim	
	Damaged Hardware/Locks	
	Damaged Surface (Holes/Paint/Rusting/Glass)	
	Damaged/Missing Screen/Storm/Security Door	
	Deteriorated/Missing Caulking/Seals	
	Missing Door	
Foundations	Cracks/Gaps Spalling/Exposed Rebar	
	Cracks/Gaps Spalling/Exposed Rebar	
Health and Safety	Electrical Hazards – Exposed Wires/Open Panels	
	Electrical Hazards – Water Leaks on/near Electrical Equipment	
	Flammable/Combustible Materials – Improperly Stored	
	Garbage and Debris – Outdoors	
	Hazards – Other	
	Hazards – Sharp Edges	
	Hazards – Tripping	
	Infestation – Insects	
	Infestation – Rats/Mice Vermin	
	Lighting	Broken Fixtures/Bulbs
Roofs	Damaged Soffits/Fascia	
	Damaged Vents	
	Damaged/Clogged Drains	

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	Damaged/Torn Membrane/Missing Ballast	
	Missing/Damaged Components from	
	Downspout/Gutter	
	Ponding	
<b>Walls</b>	Cracks/Gaps	
	Damaged Chimneys	
	Missing/Damaged Caulking/Mortar	
	Missing Pieces/Holes/Spalling	
	Stained/Peeling/Needs Paint	
<b>Windows</b>	Broken/Missing/Cracked Panes	
	Damaged Sills/Frames/Lintels/Trim	
	Damaged/Missing Screens	
	Missing/Deteriorated Caulking/Seals/Glazing Compound	
	Peeling/Needs Paint	
	Security Bars Prevent Egress	

**Attachment B: Uniform Physical Condition Standards for Single Family Housing Rehabilitation – Requirements for Site**

<b>Inspectable Item</b>	<b>Observable Deficiency</b>	<b>Type and Degree of Deficiency That Must Be Addressed</b>
<b>Bathroom</b>	Bathroom Cabinets - Damaged/Missing	
	Lavatory Sink - Damaged/Missing	
	Plumbing - Clogged Drains	
	Plumbing - Leaking Faucet/Pipes	
	Shower/Tub - Damaged/Missing	
	Ventilation/Exhaust System – Inoperable (if applicable)	
	Water Closet/Toilet - Damaged/Clogged/Missing	

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<b>Ceiling</b>	<b>Bulging/Buckling</b>	
	<b>Holes/Missing Tiles/Panels/Cracks</b>	
	<b>Peeling/Needs Paint</b>	
	<b>Water Stains/Water Damage/Mold/Mildew</b>	
<b>Doors</b>	<b>Damaged Frames/Threshold/Lintels/Trim</b>	
	<b>Damaged Hardware/Locks</b>	
	<b>Damaged/Missing Screen/Storm/Security Door</b>	
	<b>Damaged Surface - Holes/Paint/Rusting/Glass</b>	
	<b>Deteriorated/Missing Seals (Entry Only)</b>	
	<b>Missing Door</b>	
<b>Electrical System</b>	<b>Blocked Access to Electrical Panel</b>	
	<b>Burnt Breakers</b>	
	<b>Evidence of Leaks/Corrosion</b>	
	<b>Frayed Wiring</b>	
	<b>GFI - Inoperable</b>	
	<b>Missing Breakers/Fuses</b>	
	<b>Missing Covers</b>	
<b>Floors</b>	<b>Bulging/Buckling</b>	
	<b>Floor Covering Damage</b>	
	<b>Missing Flooring Tiles</b>	
	<b>Peeling/Needs Paint</b>	
	<b>Rot/Deteriorated Subfloor</b>	
	<b>Water Stains/Water Damage/Mold/Mildew</b>	
<b>Health and Safety</b>	<b>Air Quality - Mold and/or Mildew Observed</b>	
	<b>Air Quality - Sewer Odor Detected</b>	
	<b>Air Quality - Propane/Natural Gas/Methane Gas</b>	
	<b>Detected</b>	
	<b>Electrical Hazards - Exposed Wires/Open Panels</b>	
	<b>Electrical Hazards - Water Leaks on/near Electrical</b>	
	<b>Equipment</b>	
	<b>Flammable Materials - Improperly Stored</b>	
	<b>Garbage and Debris - Indoors</b>	
	<b>Garbage and Debris - Outdoors</b>	
	<b>Hazards - Other</b>	
	<b>Hazards - Sharp Edges</b>	
	<b>Hazards – Tripping</b>	

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	Infestation - Insects	
	Infestation – Rats/Mice/Vermin	
Hot Water Heater	Inoperable Unit/Components	
	Leaking Valves/Tanks/Pipes	
	Pressure Relief Valve Missing	
	Rust/Corrosion	

**Attachment B: Uniform Physical Condition Standards for Single Family Housing Rehabilitation – Requirements for Site**

<b>Inspectable Item</b>	<b>Observable Deficiency</b>	<b>Type and Degree of Deficiency That Must Be Addressed</b>
HVAC System	Inoperable	
	Misaligned Chimney/Ventilation System	
	Noisy/Vibrating/Leaking	
	Rust/Corrosion	
Kitchen	Cabinets - Missing/Damaged	
	Countertops - Missing/Damaged	
	Dishwasher/Garbage Disposal –	
	Leaking/Inoperable	
	Plumbing - Clogged Drains	
	Plumbing - Leaking Faucet/Pipes	
	Range Hood/Exhaust Fans - Excessive	
	Grease/Inoperable	
	Range/Stove - Missing/Damaged/Inoperable	
	Refrigerator- Missing/Damaged/Inoperable	
	Sink – Damaged/Missing	
Laundry Area (Room)	Dryer Vent – Missing/Damaged/Inoperable	
Lighting	Missing/Inoperable Fixture	
Outlets/Switches	Missing	
	Missing/Broken Cover Plates	
Patio/Porch/Balcony	Baluster/Side Railings Damaged	
Smoke Detector	Missing/Inoperable	
Stairs	Broken/Damaged/Missing Steps	
	Broken/Missing Hand Railing	
Walls	Bulging/Buckling	
	Damaged	

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	Damaged/Deteriorated Trim	
	Peeling/Needs Paint	
	Water Stains/Water Damage/Mold/Mildew	
Windows	Cracked/Broken/Missing Panes	
	Damaged/Rotting Window Sill	
	Missing/Deteriorated Caulking/Seals/Glazing Compound	
	Inoperable/Not Lockable	
	Peeling/Needs Paint	
	Security Bars Prevent Egress	

**APPENDIX A.3: Environmental Review**

**ENVIRONMENTAL REVIEW**

**Policy and Procedures**

CDBG-DR requires that an environmental review be completed for every activity before funds (even non-CDBG-DR funds associated with the activity) are committed or expended. Such environmental reviews must comply with the National Environmental Policy Act of 1969 (NEPA) and the related authorities listed at 24 CFR Part 58. An environmental review must be conducted considering federal laws, authorities, and regulations which address noise, air quality, historic properties, floodplains, wetlands, water quality, solid waste disposal, manmade hazards, farmlands protection, wild and scenic rivers, coastal areas, endangered species and others. In accordance with 24 CFR Part 58, recipients, owners, developers, sponsors or any other third-party partners cannot take any physical actions on a site, begin construction, commit, expend, or enter into any legally binding agreements that constitute choice limiting actions for any HUD or non-HUD funds before the environmental review process has been completed and the jurisdiction has received a Release of Funds approval.

**Tier I Review: Target Area Assessment**

The Northern Marianas Housing Corporation (NMHC) may conduct a tiered environmental review under 24 CFR 58.15 for its CDBG-DR Action Plan. A tiered environmental review allows for a general assessment of the impacts of an activity on the environment prior to identification of a specific site. The Tier 1 review addresses and analyzes those environmental impacts related to the proposed activities that might occur on a typical site within the geographic area. The Tier 1 review also assesses project effects

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related to a longer list of environmental factors (e.g., compatibility with surrounding land uses, conformance with zoning plans, nuisances that affect site safety, displacement of people or businesses, solid waste management, etc.). All environment compliance requirements satisfactorily resolved in this first level of review, meaning findings of no significant impact or impact requiring mitigation, are excluded from any additional examination or consideration once the Tier 1 review is completed. The Tier 1 review identifies those compliance requirements that cannot be resolved until specific project locations become known. Site specific issues that cannot be resolved in a Tier 1 review may include: aboveground storage tanks that present a safety hazard to buildings and occupants of buildings; new residential units located in close proximity to the airport which generates high levels of noise; soils that are not suitable for multifamily structures; asbestos removal that may be necessary; or other potential impacts. The Tier 2 Site Specific Review will address such issues.

### **Tier II: Site Specific Project Review**

A review for each individual property is required once sites are selected. The Tier 2 review focuses only on the environmental compliance requirements that could not be resolved in the Tier 1 Target Area Assessment. The NMHC or Implementing Partners (recipients of DR funds) performs the Tier 2 review. When NMHC identifies specific properties or sites within the target area and is ready to obligate funds (e.g., to buy a property, finance repairs, demolish a structure, etc.) it will use the written standards, checklists and narratives set forth in the Tier 1 review process to determine if there are any environmental issues associated with the site. This Site-Specific Project Review documents in writing that compliance standards for the specific project are met, and that required mitigation measures, if any, will be incorporated into the project. The Tier 2 review must be completed before funds (including non-CDBG-DR funds) are committed or expended on the project. The Tier 2 Site Specific Project Review will be maintained in the project files.

## **Environmental Procedures**

### **STEP 1: Environmental Review Determination**

In accordance with above internal review procedures, the Project Manager and/or Housing Administrator will review the program/project scope of work and determine at what level of environmental review needs to be conducted. The environmental consultant will provide technical assistance and support on complex environmental issues. The NEPA classifications that will be determined are listed below:

#### **1. Exempt – Subject to Related Laws at 24 CFR 58.34**

Activities that by their very nature will have no physical impact upon the environment are exempt from NEPA requirements as well as Part 58.5. In these cases, NMHC does not need to check for compliance with the requirements or perform an environmental review, consultation, or other action under NEPA. Some examples from NEPA requirements include:

- Environmental studies, plans & strategies
- Administrative & management expenses

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- Inspections & testing properties
- Engineering or design costs
- Technical assistance & training
- Any of the CEST activities at §58.35(a) if Federal laws and authorities at §58.5 are not triggered

### 2. Categorically Excluded, not Subject to 58.5. (24 CFR 58.35)

Activities in this section are categorically excluded from the requirements at 58.5, due to HUD's determination that such activities will not alter any conditions that would require a NEPA review or a compliance determination under 58.5. When performing a categorically excluded activity not subject to 58.5, NMHC does not need to publish a Notice of Intent/Request for Release of Funds (NOI/RROF). Following the award of program funds, no further approval from HUD will be needed with respect to environmental requirements. Examples of categorically excluded, not subject to NEPA requirements are:

- Tenant-based rental assistance
- Supportive services
- Operating costs including maintenance, security, operation, utilities, furnishings, equipment, supplies, staff training and recruitment and other incidental costs
- Economic development activities not associated with construction or expansion of existing operations
- Activities to assist homebuyers
- Affordable housing pre-development costs
- Supplemental assistance of previously-approved project

### 3. Categorically Excluded Subject to 58.5

*Any of the categorically excluded activities in 58.35 are exempt from NEPA, provided that there are no circumstances that require compliance with any other federal law and authorities cited in 58.5.* Using the statutory checklist, and after consulting with applicable agencies and organizations, NMHC can designate an activity as exempt if it can show that none of the federal laws and authorities are triggered through funding this activity. The statutory checklist deals with non-NEPA regulation which grantees must adhere to such as historic and wildlife preservation, floodplain management, noise control, etc. Examples of categorically excluded, subject to NEPA requirements are:

- Acquisition, repair, improvement, reconstruction or rehabilitation of public facilities and improvements when:
  - Facilities and improvements are in place
  - No more than 20% change in size or capacity
  - No change in land use
- Removal of architectural barriers that restrict accessibility
- Rehabilitation of buildings and improvements:
  - Residential Structures of 1 – 4 units: no more than 4 units; no change in land use; cannot increase into floodplain or wetland
  - Multifamily Residential Structures: unit density does not change more than

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20%; no change in land use; cost of rehab is less than 75% of replacement cost after rehabilitation

- Commercial, Industrial and Public Buildings: size and capacity does not increase by more than 20%; no change in land use
- Individual action on up to four dwelling units (One 4-unit structure or four 1- unit structures or any combination in between):
- Individual action on a project of five or more housing units when sites are more than 2000 feet apart and no more than four units on any one site.
- Acquisition, disposition or finance of existing structure or vacant land if retained for same use.
- Combination of any of the above activities.

#### **4. Subject to an Environmental Assessment (24 CFR 58.36)**

If a project is not exempt or categorically excluded under the above sections, NMHC must prepare an Environmental Assessment (EA). An EA is a concise public document that includes all the evidence and analysis supporting the NMHC's decision as to whether an environmental impact statement is warranted or if an activity will result in no significant impact to the environment. Examples when environmental assessments are needed are:

- New Construction (more than five (5) units);
- Construction of Public Facilities;
- Infrastructure Development;
- New construction, demolition and/or reconstruction of five or more single family units on scattered sites that are less than 2,000 feet apart;
- Extending the footprint of a single-family unit into the floodplain or wetland area or expanding the footprint of a structure that is already in a floodplain or wetland area;
- Major rehabilitation or reconstruction of multifamily residential units that increases or decreases the unit density more than 20 percent;
- Conversion of a non-residential structure to create a residential use;
- Acquisition of land for development of a housing subdivision;
- Activities that are normally exempt or categorically excluded but have an extraordinary circumstance that requires further review.

**NMHC must file the completed checklist and a statement in the Environmental Review Record.**

#### **5. Subject to an environmental impact statement (24 CFR 58.37)**

If a project is subject to a full EA and is determined to have a potentially significant impact on the human environment, then an Environmental Impact Statement (EIS) is required. An EIS is also required if the project fits at least one of the following criteria:

- It would provide a site or sites for or result in the construction of hospitals or nursing homes containing more than 2,500 or more beds;
- It would remove, demolish, convert or substantially rehabilitate 2,500 or more

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existing housing units or would result in the construction or installation of 2,500 or more housing units;

- It would provide enough additional water and sewer capacity to support 2,500 or more additional housing units.

The Loan/Grant Supervisor or Project Supervisor must concur on the final environmental review determination (such as “Conversion to Exempt” or issuance of a “FONSI”). Depending on the type of project, the grant specialist, construction inspector, or administrative assistant receives the environmental review document log, scan, and digitally file in the NMHC shared drive to ensure all environmental records are maintained together.

**STEP 2: Preparation of Environmental Review**

Once the level of environmental review is determined, the loan/grant supervisor or project supervisor will include the determination in the Environmental Assessment file. The loan/grant supervisor or project supervisor will prepare environmental records.

The estimated timeframe, depending on consultations require for completing Environmental Process is as follows:

<b>Environmental Determination</b>	<b>Estimated Timeline for Preparation</b>
Exempt	1 Day
Categorically Excluded not Subject to 58.5	1 Day
Categorically Excluded Subject to 58.5	30-75 Days
Environmental Assessment	45-100 Days
Environmental Impact Statement	1-2 Years

**Tiered Environmental Review**

Environmental Reviews may be tiered to avoid repetition. Tiered reviews are used to identify and evaluate issues ripe for decision, excluding issues not relevant to the program, policy or project.

They are appropriate when:

- Evaluating a policy or proposal
- Early Stages of Development
- When site-specific analysis is not feasible and more narrowed and focused review is better done at a later date
- *Tiered environmental reviews are not appropriate for projects requiring an Environmental Assessment.*

This review is conducted to achieve both compliance and speed because it does not require upfront identification of assisted properties.

## NORTHERN MARIANAS HOUSING CORPORATION

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In short, a tiered review focuses on a specific geographical area to address and analyze environmental impacts related to the proposed activities that might occur on the typical project site within that area. The specific addresses/locations of the individual properties are not known at this time. However, once individual project sites are located, any remaining environmental compliance issues that could not be resolved until project locations became known are completed according to standards for approval previously established for the target area. NMHC's tiered review focuses on scattered sites located throughout a particular targeted area.

The Tier 1 addresses all laws and authorities possible and establishes a plan (narrative) for the site-specific or subsequent review. NMHC must publish a public notice of intent to request a release of funds (NOI/RROF) and submit RROF as described in Step 3.

The Tier 2 site-specific review does not require a public notice or RROF required unless there are unanticipated impacts or impacts that are not adequately addressed in the Tier 1 review.

### **8-Step Decision Making Process for Projects in the Floodplain**

1. Determine whether the action is located in a 100-year floodplain (or a 500-year floodplain for critical actions).
2. Notify the public for early review of the proposal and involve the affected and interested public in the decision-making process.
3. Identify and evaluate practicable alternatives. Identify the project site selection criteria and consider several alternative sites and actions:
  - A. Locate the project within the floodplain
  - B. Consider modifying the project
  - C. Obtain a Letter of Map Amendment (LOMA) or Letter of Map Revision (LOMR)or
  - A. Locate the Project Outside of the Floodplain
  - B. Consider other sites
  - C. Consider no action or alternative actions that serve the same purpose
4. Identify Potential Direct and Indirect Impacts of Associated with Floodplain Development.
5. Where practicable, design or modify the proposed action to minimize the potential adverse impacts to lives, property, and natural values within the floodplain and to restore, and preserve the values of the floodplain.
6. Re-evaluate the Alternatives.
7. Determination of No Practicable Alternative
8. Implement the Proposed Action

**STEP 3: Publication of Notice of Intent (NOI) Request for Release of Funds (RROF) and Finding of No Significant Impact (FONSI)**

**Categorical Exclusions**

NMHC will publish a Notice of Intent to Request a Release of Funds (NOI/RROF) for projects that are Categorically Excluded Subject to §58.5 and projects requiring EAs, using the HUD recommended format. At a minimum, NMHC staff shall publish the NOI/RROF notice in a newspaper of general circulation and on the CDBG-DR website. Additionally, the following shall be notified:

1. Individuals and groups known to be interested in the activities
2. Appropriate tribal, local, State and Federal agencies

NMHC must consider the comments and make modifications, if appropriate, in response to the comments, before it certifies and submits the RROF to HUD. The public comment period is 7 days when published, counting from the day after the publication.

**Environmental Assessments (EA)**

If NMHC makes a Finding of No Significant Impact from an EA, it must prepare a Finding of No Significant Impact (FONSI) notice, using the HUD recommended format. At a minimum, NMHC staff shall publish the FONSI/NOI/RROF combined notice in a newspaper of general circulation and on the CDBG-DR website. Additionally, the following shall be notified:

1. Individuals and groups known to be interested in the activities
2. Appropriate tribal, local, State and Federal agencies

The FONSI public comment period is 15 days when published, counting from the day after the publication. NMHC typically publishes a FONSI notice at the same time it publishes the NOI/RROF. If the notices are released as a combined notice, the combined notice shall clearly indicate that it is intended to meet two separate procedural requirements; and, advise the public to specify in their comments which "notice" their comments address. The public comment period is 15 days when published, counting from the day after the publication.



# NORTHERN MARIANAS HOUSING CORPORATION

P.O. BOX 500514, Saipan, MP 96950-0514

Email: [nmhc@nmhc.gov.mp](mailto:nmhc@nmhc.gov.mp)

Website: <http://www.nmhc.gov.net>

## PUBLIC NOTICE

### PROPOSED AMENDMENTS TO THE NORTHERN MARIANAS HOUSING CORPORATION'S COMMUNITY DEVELOPMENT BLOCK GRANT – DISASTER RECOVERY (CDBG-DR) HOMEOWNER REHABILITATION AND RECONSTRUCTION PROGRAM AND HOMEBUYER ACTIVITIES PROGRAM POLICIES AND PROCEDURES

**Notice of Intended Action:** The Board of Directors of the Northern Marianas Housing Corporation intends to amend the NMHC's Community Development Block Grant – Disaster Recovery (CDBG-DR) Homeowner Rehabilitation and Reconstruction Program and Homebuyer Activities Program Policies and Procedures pursuant to the Administrative Procedure Act, 1 CMC § 9104(a). If adopted, these Amendments to the Regulations will become effective ten (10) calendar days after publication of a Notice of Adoption in the Commonwealth Register after compliance with 1 CMC §§ 9102, 9104(a), and 9105(b).

**Authority:** The proposed Amendments are promulgated under the authority of the Board of Directors, through its Chairperson, to promulgate rules and regulations pursuant to 2 CMC § 4433(t).

**Terms and Substance:** The proposed Amendments to the NMHC's Community Development Block Grant – Disaster Recovery (CDBG-DR) Homeowner Rehabilitation and Reconstruction Program and Homebuyer Activities Program Policies and Procedures affect the regulations relating to add §§ **100-100.3.710** and **100-100.4-202** to establish unit size determinations and occupancy standards.

**Citation of Related and/or Affected Statutes, Rules and Regulations.** The proposed Amendments relating to add §§ **100-100.3.710** and **100-100.4-202** to establish unit size determinations and occupancy standards.

**Directions for Filing and Publication:** These proposed Amendments to the Northern Marianas Housing Corporation's Community Development Block Grant – Disaster Recovery (CDBG-DR) Homeowner Rehabilitation and Reconstruction Program and Homebuyer Activities Program Policies and Procedures shall be published in the Commonwealth Register in the section on proposed and newly adopted regulations (1 CMC § 9102(a)(1)) and posted in convenient places in the civic center and in local government offices in each senatorial district; the Public Notice of Proposed Adoption shall be both in English and in the principal vernacular (1 CMC § 9104(a)(1)).

**Comments:** Interested parties may submit written comments on the proposed amendments to Jesse S. Palacios, Corporate Director, NMHC, to the following address, fax or email address, with the

subject line “Proposed Amendments to the NMHC’s Community Development Block Grant – Disaster Recovery (CDBG-DR) Homeowner Rehabilitation and Reconstruction Program and Homebuyer Activities Program Policies and Procedures:”


NORTHERN MARIANAS HOUSING CORPORATION

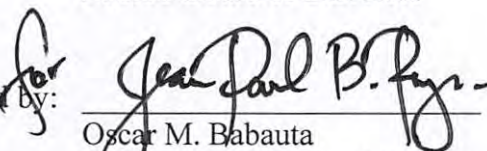
PO Box 500514  
Saipan, MP 96950  
Fax: 234-9021


Email address: [jspalacios@nmhcgov.net](mailto:jspalacios@nmhcgov.net)

Comments, data, views, or arguments are due within thirty (30) calendar days from the date of publication of this notice. 1 CMC § 9104(a)(2). If you have any questions, you may reach NMHC at telephone nos. 234-6866/234-9447/234-7689.

The attached proposed Amendments to the Northern Marianas Housing Corporation’s Community Development Block Grant – Disaster Recovery (CDBG-DR) Homeowner Rehabilitation and Reconstruction Program and Homebuyer Activities Program Policies and Procedures Policies & Procedures were approved by the Northern Marianas Housing Corporation (NMHC) on February 16, 2024.


Submitted by:   
Merced “Marcie” M. Tomokane  
Chairperson  
NMHC Board of Directors  
Date: 03/22/2024

Received by:   
Oscar M. Babauta  
Special Assistant for Administration  
Date: 03/26/2024

Filed and Recorded by:   
Esther R.M. San Nicolas  
Commonwealth Registrar  
Date: 04.15.2024

Pursuant to 1 CMC § 2153(e) and 1 CMC § 9104(a)(3) the proposed Amendments to the Community Development Block Grant – Disaster Recovery (CDBG-DR) Homeowner Rehabilitation and Reconstruction Program and Homebuyer Activities Program Regulations attached hereto have been reviewed and approved as to form and legal sufficiency by the CNMI Attorney General and shall be published (1 CMC § 2153(f) (publication of rules and regulations)).

Dated the 26 day of March, 2024.

  
Edward Manibusan  
Attorney General



# NORTHERN MARIANAS HOUSING CORPORATION

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## NUTISIAN PUPBLIKU

### MANMAPROPONI NA TINILAIKA GI NORTHERN MARIANAS HOUSING CORPORATION'S COMMUNITY DEVELOPMENT BLOCK GRANT – DISASTER RECOVERY (CDBG-DR) POLICIES YAN I MANERAN PRUGRĀMAN HOMEOWNER REHABILITATION YAN MANRIPEHAN YAN MAMĀHAN GUMA' OSINO PROPIEDĀT

**Nutisia i Ma'intensiona na Aksión:** I Kuetpun Mandirektot gi Northern Marianas Housing Corporation ha intensiona para u amenda i NMHC's Community Development Block Grant – Disaster Recovery (CDBG-DR) i Policies yan i Maneran PrugrĀman Homeowner Rehabilitation yan Manripehan yan MamĀhan Guma' osino PropiedĀt sigun gi Ākton Administrative Procedure, 1 CMC § 9104(a). Yanggin ma'adĀpta, esti siha na Tinilaika gi Regulasion siempri umifektibu gi dies (10) dihas gi halum kalendĀriu dispues di publikasion nu i Nutisian AdĀptasion gi halum Rehistran Commonwealth dispues di compliance yan i 1 CMC §§ 9102, 9104(a), yan 9105(b).

**ĀturidĀt:** I maproponi na Tinilaika siha manmacho'gui gi papa' i aturidĀt nu i Kuetpun Mandirektot, ginen Kabesiyun-ñiĥa, para u macho'gui i areklamentu yan regulasion siha sigun gi 2 CMC § 4433(t).

**I Tema yan SustĀnsian i PalĀbra siha:** I maproponi na Tinilaika siha gi NMHC's Community Development Block Grant – Disaster Recovery (CDBG-DR) i Policies yan i Maneran PrugrĀman Homeowner Rehabilitation yan Manripehan yan MamĀhan Guma' osino PropiedĀt ha afekta i regulasion ni umasosiĀt ya para hu man na halom nuebu na §§ 100-100.3.710 and 100-100.4-202 sa para hu ma estable si i unit size determinations yan occupancy standards.

**Sitasion i AsosiĀt yan/pat i Manina'fekta na Statutes, Areklamentu yan Regulasion siha:** I maproponi na Tinilaika siha ni umasosiĀt ya para hu man na halom nuebu na §§ 100-100.3.710 and 100-100.4-202 sa para hu ma estable si i unit size determinations yan occupancy standards.

**Direksion siha para u Mapo'lu yan Publikasion:** Esti i maproponi na Tinilaika siha gi Northern Marianas Housing Corporation's Community Development Block Grant – Disaster Recovery (CDBG-DR) i Policies yan i Maneran PrugrĀman Homeowner Rehabilitation yan MamĀhan Guma' osino PropiedĀt debi na u mapublika gi halum i Rehistran Commonwealth gi halum seksion i maproponi yan nuebu na ma'adĀpta na regulasion siha (1 CMC § 9102(a)(1)) yan u mapega gi hĀlum mankumbinienti na lugĀt gi halum i Civic Center yan i hĀlum ufisinan gubietnamentu siha gi kada distritun senadot; i Nutisian Pupbliku put i Maproponi na Adaptasion debi na gi finu' Inglis yan i dos na lingguĀhi natibu. (1 CMC § 9104(a)(1)).

**Upiñon siha:** I intirisao na petsona siha siña muna'hålum tinigi' upiñon siha put i manmaproponi na Tinilaika siha guatu gi as Jesse S. Palacios, Corporate Director, NMHC gi sigienti na address, fax, pat email address, yan i ráyan suhetu "Maproponi na Tinilaika siha gi NMHC's Community Development Block Grant – Disaster Recovery (CDBG-DR) i Policies yan i Maneran Prugrâman Homeowner Rehabilitation yan Mamâhan Guma' osino Propiedât."

NORTHERN MARIANAS HOUSING CORPORATION

PO Box 500514


Saipan, MP 96950

Fax: 234-9021

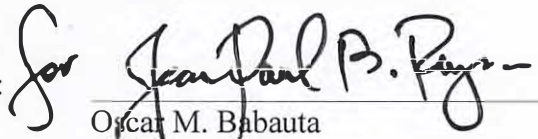
Email address: [jspalacios@nmhcgov.net](mailto:jspalacios@nmhcgov.net)

I upiñon, infotmasion yan kunistasion siha debi na u fanhålum gi hålum trenta (30) dihas ginin i fetchan publikasion esti na nutisia. I CMC § 9104(a)(2). Kumu guaha maseha hâfa na kuestion-mu, siña un âgang i NMHC gi numirun tilifon gi 234-6866/234-9447, 234-7689.

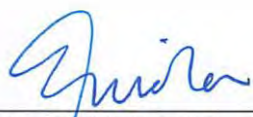
I chechettun na maproponi na Tinilaika siha gi Northern Marianas Housing Corporation's Community Development Block Grant – Disaster Recovery (CDBG-DR) i Policies yan i Maneran Prugrâman Homeowner Rehabilitation yan Mamâhan Guma' osino Propiedât maninaprueba ni i Northern Marianas Housing Corporation (NMHC) gi Febreru Disi Sais, 2024.

Nina'halum as:   
Merced "Marcie" M. Tomokane  
Kabesiyu  
Kuetpun Mandirektot NMHC

Fetcha: 03/02/2024

Rinisibi as:   
Oscar M. Babauta  
Ispislat Na Ayudanti Para I Atministrasion

Fetcha: 03/26/2024

Pine'lu yan  
Ninota as:   
Esther R.M. San Nicolas  
Rehistran Commonwealth

Fetcha: 04.15.2024

Sigun gi I CMC § 2153(e) yan I CMC § 9104(a)(3) i maproponi na Tinilaika siha gi Regulasion Community Development Block Grant – Disaster Recovery (CDBG-DR) i Policies yan i Maneran Prugrâman Homeowner Rehabilitation yan Manripehan yan Mamâhan Guma' osino Propiedât ni chechettun guini maribisa yan maninaprueba komu para u fotma yan ligât sufisienti ginen i Abugâdu Hinirât iya CNMI yan debi na u mapublikia (I CMC § 2153(f) (publikasion nu areklamentu yan regulasion siha)).

Mafetcha gi diha 26 gi Matso, 2024.

  
Edward Manibusan  
Abugâdu Hinirât



# NORTHERN MARIANAS HOUSING CORPORATION

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234-6866

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## ARONGORONGOL TOULAP

### PWOMWOL LIIWEL NGÁLI

#### NORTHERN MARIANAS HOUSING CORPORATION'S COMMUNITY DEVELOPMENTAL BLOCK GRANT – DISASTER RECOVERY (CDBG-DR) HOMEOWNER REHABILITATION ME RECONSTRUCTION PROGRAM ME HOMEBUYER ASCTIVITIES PROGRAM POLICIES ME PROCEDURES

**Arong reel Ipighil Mwóghut:** Board-il Directors me Northern Marianas Housing Corporation rebwe ipighil liiweli NMHC's Community Development Block Grant–Disaster Recovery (CDBG-DR) Homeowner Rehabilitation me Reconstruction Program me Homebuyer Activities Program Policies me Procedures sáangi Administrative Procedure Act, 1 CMC § 9104(a). Ngáre a adopted ló, Liiwel kkaal ngáli Mwóghútúghút kkaal llól seigh (10) ráal mwiril akkatééwow mellól Commonwealth Register ebwe bwunguló Arongorongol Adoption mwiril yaal angúungú fengál me 1 CMC §§ 9102, 9104(a), me 9105(b).

**Bwángil:** Reel pwomwol Liiwel kkaal ebwe arongowow faal bwángil Board of Directors, sáangi layúr Chairperson, ebwe arongowow allégh me mwóghutughut sáangi 2 CMC § 4433(t).

**Kkapsal me Aweewel:** Pwomwol Liiwel ngáli yaar NMHC Community Development Block Gant – Disaster Recovery (CDBG-DR) Homeowner Rehabilitation me Reconstruction Program me Homebuyer Activities Program Policies me Procedures ee liiweli mwóghutughut ikka ee schuu ngáli §§100-100.3. 710 me 100-100.4-202 reel ebwe fféerétá unit size determination me occupancy standard.

**Citation reel Milikka ee Schuu me/ngare “Affected Statutes”, Allégh me Mwóghutughut:** Reel pwomwol Liiwel ikka ee schuu ngáli add §§100-100.3 me §100-100.4-202 ebwe ayoora unit size me occupancy standard.

**Afal reel Ammwelil me Akkatééwowul:** Ikkaal pwomwol Liiwel ngáli Northern Marianas Housing Corporation Community Block Grant – Disaster Recovery (CDBG-DR) Homeowner Rehabilitation me Reconstruction Program me Homebuyer Activities Program Policies me Procedures ebwe arongolong lóll Commonwealth Register llól tánil ffél mwóghutughut ikka ra adóptáánil (1 CMC § 9102(a)(1) me ebwe a appaschetá llól bwuley kka efil mellól civic center bwal llól government offices llól ghal ikkey senatorial district; ebwe lo Arongorongol Toulap reel Pwomwol Liiwel kkaal ebwe llól English me mwáliasch (1 CMC § 9104(a)(1)).

**Kkapas:** Schóó kka re tipáli rebwe isiisilong ischil kkapas reel iyeel pwomwol liiwel kkaal rebwe isch ngáli Jesse S. Palacios, Corporate Director, NMHC, ngáli féléfiél iye amwirimwiritiw, fax ngáre email address, ebwe lo wóól subject line bwe “Proposed Amendments to the NMHC's

Community Development Block Grant – Disaster Recovery (CDBG-DR) Homeowners Rehabilitation and Reconstruction Program and Homebuyer Activities Program Policies and Procedures”.

NORTHERN MARIANAS HOUSING CORPORATION

PO Box 500514  
Saipan, MP 96950  
Fax: 234-9021

Email address: [jspalacios@nmhcgov.net](mailto:jspalacios@nmhcgov.net)

Kkupas, data, views, ngäre angüingü ebwe toolong llól eliigh (30) ráál mwiril yaal akkatééwow arongorong yeel. 1 CMC § 9104(a)(2). Ngäre eyoor yóómw aiyegh, faingiló NMHC me 234-6866/234-9447/234-7689.


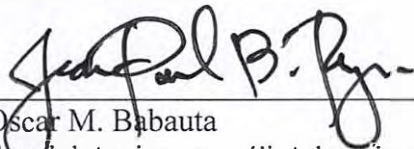
Reel pwomwol Liiwel ikka ee appasch ngáli Northern Marianas Housing Corporation’s Community Development Block Grant – Disaster Recovery (CDBG-DR) Homeowner Rehabilitation me Reconstruction Program me Homebuyer Activities Program Policies & Procedures sáangi Northern Marianas Housing Corporation (NMHC) wóól Maischigh 16, 2024.

Isáliyalong:

  
Merced “Marcie” M. Tomokane  
Chairperson  
NMHC Board of Directors


Ráál: 03/22/2024

Bwughiyal

  
  
Oscar M. Babauta  
Special Assistant ngáli Administration

Ráál: 03/26/2024

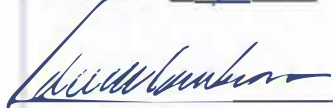
Ammwelil:

  
Esther R.M. San Nicolas  
Commonwealth Register

Ráál: 04.15.2024

Sáangi 1 CMC § 2153(e) me 1 CMC § 9104(a)(3) ra takkal amwuri físchiiy me átirowa ppwommwol Liiwel ngáli Mwóghutughutúl Procurement ikka e appasch bwe aa ffil reel fféerúl me legal sufficiency sáangi Soulemelemil Allégh Lapalal CNMI me ebwe akkatééwow (1 CMC § 2153(f) (akkatééwowul allégh me mwóghutughut)).

Ghikkil wóól 26 ráálil Mailap, 2024.

  
Edward Manibusan  
Soulemelemil Allégh Lapalal

**NORTHERN MARIANAS HOUSING CORPORATION**

**SUBCHAPTER 100-100.4  
POLICIES AND PROCEDURES FOR CDBG-DR HOMEOWNER  
REHABILITATION AND RECONSTRUCTION**

<b>Part 001</b>	<b>General Provisions</b>		Responsibilities (24 C.F.R. Part 58)
§ 100-100.4-001	Introduction		
§ 100-100.4-002	Public Announcement	§ 100-100.4-340	Rehabilitation or Reconstruction Grant Application
<b>Part 100</b>	<b>Purpose and Requirements</b>		
§ 100-100.4-101	Purpose of the Program	§ 100-100.4-345	Application Intake and Processing
§ 100-100.4-102	Ineligible Activities	§ 100-100.4-350	Verification of Income Administration, Approval, Appeals Process
§ 100-100.4-103	General Requirements	§ 100-100.4-355	Homeowner Counseling Session
<b>Part 200</b>	<b>Grant Specifications</b>		
§ 100-100.4-201	Grant Amount	§ 100-100.4-360	Grant Agreement
§ 100-100.4-202	Determination of Unit Size and Occupancy Standards	§ 100-100.4-365	Preliminary Title Report (PTR)
§ 100-100.4-205	Target Group	§ 100-100.4-370	Contractor Selection Process
§ 100-100.4-210	Income Eligibility	§ 100-100.4-374	Pre-Construction Conference
§ 100-100.4-215	Property Eligibility	§ 100-100.4-375	Submission of Pre-Construction Documents
§ 100-100.4-235	Use of Grant Funds	§ 100-100.4-380	
§ 100-100.4-240	Eligible Costs		
<b>Part 300</b>	<b>Grant Application Process</b>		
§ 100-100.4-301	Confidentiality		
§ 100-100.4-305	Discrimination Prohibited	<b>Part 400</b>	<b>Rehabilitation</b>
§ 100-100.4-310	Pre-Qualification Interview	§ 100-100.4-401	Performing Rehabilitation Work
§ 100-100.4-315	Eligibility Notification		
§ 100-100.4-320	Ineligible Applicants	<b>Part 500</b>	
§ 100-100.4-325	Initial Inspection of Residence	<b>Part 600</b>	<b>Affordability</b>
§ 100-100.4-330	Lead-Based Paint	§ 100-100.4-601	Affordability Restrictions
§ 100-100.4-335	Environmental Review Procedures for Entities Assuming HUD Environmental	<b>Part 700</b>	<b>Conveyance</b>
		§ 100-100.4-701	Sale, Conveyance, or Transfer of Property

**NORTHERN MARIANAS HOUSING CORPORATION**

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**Part 800 Assumption**

§ 100-100.4-801 Grant Assumption

**Part 1000 Ethics**

§ 100-100.4-1001 Conflict of Interest

**Part 1100 Miscellaneous**

§ 100-100.4-1101 Acronyms Reference  
Section

§ 100-100.4-1105 Homeowner  
Rehabilitation

# NORTHERN MARIANAS HOUSING CORPORATION

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## Part 001 - General Provisions

### § 100-100.4-001 Introduction

As a result of the 2018 storms, namely Typhoon Mangkhut and Super Typhoon Yutu, the Commonwealth of the Northern Mariana Islands (CNMI) received an allocation of Community Development Block Grant Disaster Recovery (CDBG-DR) funds which will be administered by the Northern Marianas Housing Corporation (NMHC). NMHC has developed the Homeowner Rehabilitation and Reconstruction Program to cover the eligible costs to rehabilitate or reconstruct storm-related damaged properties in order to restore them back to decent, safe, and sanitary conditions. The governor of the CNMI has placed housing as the highest recovery priority. The total allocation amount at this time under this Program is \$39,407,033.

Due to the limited availability of CDBG-DR funds allocated to the CNMI from the U.S. Department of Housing and Urban Development (HUD), financial assistance will be prioritized for the elderly or disabled extremely low-income families and then to low- to very low-income homeowners subject to HUD income limits which are published annually (<https://www.huduser.gov/portal/datasets/il.html>). NMHC has recognized these target groups to assist under the CDBG-DR program. Funds will be made available for eligible homeowner rehabilitation and reconstruction activities through grants to assist in the rehabilitation and reconstruction of their principal place of residence. The Program is designed to create a habitable living environment for homeowners with the most serious and significant damaged homes, and to serve as many impacted households as possible. As such, the Program requires the use of standard building materials, which may not restore some damaged homes to pre-storm conditions if luxury materials were damaged in the storm. To ensure the funding will assist the maximum number of households, rehabilitation and/or reconstruction work and materials will be limited to those items necessary to make the home livable and compliant with referenced building codes and HUD requirements.

Homeowner rehabilitation activities include those items identified at the initial inspection which are necessary in bringing the home in compliance with the 2018 International Building Code enacted by law and any updates approved by regulation by the CNMI Department of Public Works Building Safety Office and zoning laws (if applicable for Tinian and Rota), International Energy Conservation Code as adopted by the CNMI government, NMHC written design standards for single family housing new/rehabilitation, and accessibility requirements (where applicable) including the reduction of lead-based paint hazards and the remediation of other home health hazards.

The NMHC, on behalf of the CNMI, has been designated as the responsible entity in implementing and carrying out the objectives of the program. The Office of Housing under the CDBG-DR Program, Planning Division, will be responsible for the day-to-day operations of the Homeowner Rehabilitation and Reconstruction Program. Services include program outreach to potential eligible homeowners, application intake, program eligibility verification (both for the household and property), Duplication of Benefits review, Verification of Benefits analysis, award calculation, and

## NORTHERN MARIANAS HOUSING CORPORATION

documentation execution., scope development and construction oversight. Support services will be provided by NMHC's Mortgage and Credit Division and Fiscal Division with respect to maintenance of financial records. Overall, the NMHC Corporate Director will assume ultimate responsibility for the efficient and proper administration of this program in accordance with statutory and regulatory requirements. Through these policies and procedures and by imposing NMHC and HUD-prescribed residential rehabilitation standards, NMHC will preserve and improve the quality of the housing stock of the CNMI that incurred damage during Typhoon Mangkhut and Super Typhoon Yutu.

### § 100-100.4-002 Public Announcement

#### (a) Publicity.

- (1) Upon notification from HUD of the approval of the grant agreement, NMHC shall publish such approval within thirty (30) calendar days from the date of the approval. General information of the Homeowner Rehabilitation and Reconstruction Program shall be published in the print media of the widest local circulation, on the NMHC website, and other suitable means available. The program information shall also be posted in public and private bulletin boards where announcements are commonly posted. Grant applications may be submitted on or after a specified date to be stated in the public notice.
- (2) With the conversion of the Homeowner Rehabilitation and Reconstruction Program from a loan to a grant program, NMHC will review the applications of all those determined to be ineligible due to high debt-to-income ratios when the program was structured as a loan program. It is believed that many of those who did not satisfy underwriting requirements will now be eligible for assistance,
- (3) Once the revised group of applicants has been identified, if additional funds remain, NMHC will conduct additional outreach. That outreach will focus on low- and moderate-income areas where there were storm impacts, and low rates of application to ensure that those most in need of assistance are aware of the new program guidelines and requirements.

#### (b) Contents. Program announcements shall inform interested applicants on how and where they may obtain an application and additional information on the types of homeowner program activities being administered in the CNMI. Such announcements shall further contain the following information:

- (1) Brief overview of the Homeowner Rehabilitation and Reconstruction Program;
- (2) General list of eligible activities available;
- (3) Amount of funding available;
- (4) General eligibility requirements to qualify for financial assistance;
- (5) Homeowner selection process;
- (6) Fair Housing logo and Equal Opportunity language; and
- (7) Opening date for acceptance of applications.

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(c) **Affirmative Marketing.** To ensure that all persons are effectively and adequately informed about the rehabilitation and reconstruction program and the availability of funds, especially to those least likely to apply without regard to race, color, national origin, sex, religion, familial status, and disability, a marketing strategy such as brochures or information notices shall be provided and distributed or posted in the following locations and shall contain the information described in subsection (b). NMHC shall maintain records of actions taken to affirmatively market the program, and maintain records to assess the results of those actions. Brochures and/or program information notices shall be made available at the following public and private areas:

- (1) U.S. Post Offices;
- (2) Major shopping centers;
- (3) Public health centers;
- (4) Places of worship;
- (5) Government office buildings;
- (6) The Nutrition Assistance Program (Food Stamp) office(s); and
- (7) U.S. Social Security Administration office(s).

### **Part 100 - Purpose and Requirements**

#### **§ 100-100.4-101 Purpose of the Program**

The purpose of the program is to provide assistance in the form of grants to extremely low, very low and low-income families for the rehabilitation or reconstruction of their principal residence. The rehabilitation goal is to repair or reconstruct storm damaged homes, increasing the economic life of the existing dwelling, providing energy efficiency, and ensuring a safe, decent, and healthy living environment for assisted families.

If funding remains after serving all the low to moderate income households, then the program will consider applicants with household incomes 81% **or greater** AMI.

The **rehabilitation component** will be available to serve homeowners whose homes received Major or Severe damage but do not meet the definition of destroyed or substantially damaged. NMHC will use the services of A&E firms to provide construction management which includes conducting damage assessments, design services, developing scopes of work and costs estimates, progress inspections, and contractor assessments. The construction managers will work closely with the Housing Division staff, contractors, and homeowners throughout the rehabilitation or reconstruction process.

The **reconstruction component** will be available to serve homeowners whose homes were destroyed or substantially damaged. Applicants that have already demolished their storm-damaged homes must also provide documentation evidencing the pre-storm structure type, total square footage, and that the damage to the home was caused by the storm. Applicants

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must also provide notices of condemnation, substantial damage notifications, or other notices requiring the property be demolished.

### **§100-100.4-102 Ineligible Activities**

The following activities are *ineligible* and CDBG-DR grant funds *cannot* be used for any portion:

- Assistance for homeowners whose home was in a flood hazard zone and previously received federal flood disaster assistance and failed to maintain the required flood insurance;
- Assistance for homeowners for (a) whose property sustained damage in the typhoons and was located in a floodplain at the time of the disaster, **and** (b) the owner did not maintain flood insurance on the damaged property, even if the property owner was not required to obtain and maintain such flood insurance (see Section 4.4 below);
- Forced mortgage payoffs;
- SBA home/business loan payoffs;
- Funding for units occupied by any households except the owner household (no rental or lease properties are allowed);
- Funding for second homes; or
- Compensation payments.

### **§ 100-100.4-103 General Requirements**

To qualify for rehabilitation assistance, the applicant(s) must meet the following:

- (a) Qualify as Low Moderate-Income family as defined by HUD but including applicants who are above the 120% of AMI. Eligible households over 80% AMI will meet the national objective of urgent need;
- (b) The dwelling must be the applicant's primary residence prior to the storms and prior to applying for rehabilitation or reconstruction assistance;
- (c) Must occupy and continue to occupy residence after the completion of such repairs for five (5) years and for reconstruction for a period of ten (10) years;
- (d) Own the property under an approved form of ownership as set forth in 24 CFR § 92.254(c), and as specified below:
  - (1) Has fee simple title to the property;
  - (2) Maintains a 10-year leasehold interest in the property;
  - (3) Maintains an equivalent form of ownership approved by HUD.
  - (4) Undergo duplication of benefits analysis.

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- (e) Applicants not meeting any one of the above, do not qualify for assistance under this program.

Title 18, Section 1001, et seq. of the United States Code, the general false statement statute, outlaws making materially false statements, intentional or negligent misrepresentations in matters within the jurisdiction of a federal agency or department, such as federal disaster relief funding. Civil or criminal penalties, including but not limited to fine, imprisonment or both, as well as repayment of any assistance provided, may be pursued. Under Section 1001, a statement is a crime if it is false, regardless of whether it is made under oath. Failure to disclose accurate and complete information may affect eligibility requirements. Some of the information submitted by applicants will be validated through third-party sources during the eligibility process.

The following is incorporated into all application and grant documents:

*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. Under penalties of perjury, I/we certify that the information presented above is true and accurate to the best of my/our knowledge and belief. I/We further understand that providing false representations herein constitutes an act of fraud. False, misleading or incomplete information may result in my ineligibility to participate in this program or any other programs that will accept this document. Title 18, Section 1001 of the U.S. Code states that a person is guilty of a FELONY if he/she knowingly and willfully makes a false statement to any department of the United States Government*

### Part 200 - Grant Specifications

#### § 100-100.4-201 Grant Amount

- (a) The maximum grant amount is capped at \$200,000, excluding possible optional relocation costs. In special circumstances, a Review Panel, impaneled by the Corporate Director, may authorize a greater amount.
- (b) Reconstruction projects may exceed the rehabilitation projects' maximum of \$200,000 that are deemed justified and cost reasonable and supported by independent cost estimates.
- (c) NMHC, through the assistance of a private A&E Firm, may update independent cost estimates currently capped at \$200,000 for rehabilitation projects periodically and as may be needed.

#### § 100-100.4-202 Unit Size Determination and Occupancy Standards

- (a) **Fair Housing.** The Fair Housing Act ("Act") (42 U.S.C. §§ 3601-19) prohibits discrimination in the sale, rental, and financing of dwellings, and in other housing-related transactions, based on race, color, national origin, religion, sex (including gender identity and sexual orientation), familial status, and disability. Discrimination includes a failure to make a change, exception, or adjustment to a policy, practice, procedure, or service when such accommodation may be necessary for an individual with a disability to enjoy and use

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housing. In addition to the requirements under the Act, there may be additional requirements for recipients of federal assistance from HUD.

- (b) Housing Unit Suitability. Homes acquired, purchased, or newly constructed with CDBG-DR funds under this program, at a minimum, shall be decent, safe, and sanitary.
(c) Determination of Unit Size. Limited funding notwithstanding, NMHC shall ensure that the following occupancy standards are observed.

(1) Occupancy Standards. Occupancy standards are rules about the number of people that can live in a bedroom or at a property. These standards are usually based on the number of bedrooms at a property, but they can also take into account the total amount of livable square footage. Oftentimes, a combination of both makes the final call about how many people can live there. HUD occupancy standards are the rules set up by the Department of Housing and Urban Development. These federal occupancy standards are part of the Fair Housing Act Amendment, and they are the overarching rules for occupancy.

(2) Unit Bedroom Size. NMHC has set the following Occupancy Standards for family and unit size:

- (i) All bedrooms with one person should have at least 70 square feet.
(ii) Shared bedrooms must have at least 50 square feet per person.
(iii) Kitchens and other non-habitable rooms cannot be used as a bedroom.
(iv) Every unit should have an overall occupant limitation based on its overall size:
(i) 1-2 occupants: must have at least 120 square feet living room.
(ii) 3-5 occupants: must have at least 120 square feet living room and 80 square feet dining room.
(iii) 6 or more occupants: must have at least 150 square feet living room and 100 square feet dining room.

Table with 2 columns: No. of Family Members, No. of Bedrooms. Rows include 1-2, 3-4, 5-6, 7-8, and 9 and above.

(v) Exceptions. In certain unique conditions and situations, NMHC, on a case-by-case basis, may grant exceptions when warranted and after thorough review of grant applications.

§ 100-100.4-205 Target Group

Because of the limited funding allocated to the CNMI, NMHC has recognized the need to prioritize the level of assistance to qualified families. In the event that there are more applicants than available funds, NMHC shall establish and maintain an applicant waiting list. All applicants being assisted, as well as those placed on the waiting list shall be processed on a first come, first serve basis, based in the priority needs as described below:

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NMHC will categorize the target groups based on income levels as follows:

(a) 0% to 80% AMI- 1<sup>st</sup> priority:

(b) 81 **or greater** AMI- 2<sup>nd</sup> priority:

### § 100-100.4-210 Income Eligibility

NMHC shall use the HUD CPD Income Eligibility Calculator when determining income eligibility. NMHC shall also refer to the Technical Guide for Determining Income and Allowances for the CDBG-DR Program, Third Edition in verifying the household's assets and income which can be found in the HUD website. The NMHC shall adopt the guide and make use of the 1040 income and asset calculation worksheets including any and all forms required in determining an applicant's annual and adjusted income. Information provided by the applicant shall be accompanied with proper documentations (i.e., check stubs, bank statements, 1040 tax forms, etc.). The anticipated gross annual household income and assets for the next twelve months is used in determining if an applicant(s) is/are eligible to participate in the program. NMHC shall calculate the weekly average income and assets and multiply it by 52 weeks. If the total household income falls within the 80% area median income as indicated in § 100-100.4-220(b), the applicant(s) is/are eligible to participate in the program. Households whose incomes are 81% **or greater** of the area median income are also eligible once LMI households have been served.

### § 100-100.4-215 Property Eligibility

- (a) Property Ownership: Interested applicant(s) must provide proof of fee simple ownership or must have at least a 10-year leasehold interest in the property to be improved. In addition, the applicant must be present and have interest on the property on or before the presidential disaster declaration date for Typhoon Mangkhut or Super Typhoon Yutu. The assisted unit must be located in the CNMI, more specifically, on Saipan, Rota, or Tinian.
- (b) In the event of the death of an applicant that has been determined as eligible but prior to grant execution, their heirs who are able to document they were occupants of the residence at the time of the disaster and can prove current ownership through heirship will be eligible to apply for Program assistance.

If an owner occupant of a property damaged by Typhoon Mangkhut and/or Super Typhoon Yutu has passed away, their heirs may apply for Program assistance, provided they are able to submit evidence the damaged property was also the heir's primary residence at the time of one of the storms.

Heirs who were not occupants at the time of either disaster event are not eligible for Program assistance.

- (c) Conformance to Property Standards: All assisted properties that are rehabilitated with CDBG-DR assisted funds must meet the program's established rehabilitation standards (see

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APPENDIX A.2). The Rehabilitation Standards are the program's guidelines of acceptable construction methods and materials to be used when performing rehabilitation and the quality standards that the property must meet when all rehabilitation work is completed.

NMHC's The CDBG-DR Written Rehabilitation Standards shall detail the methods, materials and requirements that the housing must meet upon completion of rehab, including all of the following:

- (1) Health and Safety - identifying all life-threatening deficiencies that must be addressed immediately if the housing is occupied [24 CFR 92.251(b)(1)(i)];
- (2) Major systems – requiring that, upon project completion, each major system, as defined in 24 CFR 92.251(b)(1)(ii), had a remaining useful life of a minimum of 5 years, or for a longer period as specified by the NMHC, or the major system was rehabilitated or replaced as part of the rehabilitation [24 CFR 92.251(b)(1)(ii)];
- (3) Lead-based paint [24 CFR 92.251(b)(1)(iii)];
- (4) Disaster mitigation (if applicable) – requiring the property meet the disaster mitigation requirements [24 CFR 92.251(b)(1)(vi)];
- (5) State and local codes, ordinances and zoning requirements [24 CFR 92.251(b)(1)(vii)];
- (6) Minimum deficiencies that must be corrected based on inspectable items and areas in HUD's Uniform Physical Condition Standards [24 CFR 92.251(b)(1)(viii)].

After rehabilitation or reconstruction is complete, NMHC shall make the rehabilitation standards available to the Department of Public Works (DPW) inspectors and the inspectors shall use them as a guide to certify that completed work was done accordingly. This certification will become part of the applicant record.

**(d) Local/State, National, or International Codes:** Upon completion of rehabilitation or reconstruction work, the CDBG-DR assisted owner-occupied rehabilitation property must meet the 2018 International Building Code (2018) enacted by law and updates approved by regulation by the CNMI Department of Public Works Building Safety Office, zoning laws, and International Energy Conservation Code as adopted by the CNMI government. The property must also meet the Green Building and Energy Efficiency Standards as outline in the attached documents, consistent with the Federal Register Notice requirements.

**(e)** Upon completion of rehabilitation work, the CDBG-DR assisted owner-occupied rehabilitation property must meet accessibility requirements, where applicable;

The homeowner must also maintain, at their own expense, property insurance on the property covering fire, earthquake, and typhoon... An insurance waiver may be granted, in whole or in part, to homeowners who show financial hardship.

**(f) Principal Residence and Annual Recertification:**

- (1) CDBG-DR rehab applicants approved to receive financial assistance must own the property and occupy the property as their principal residence at the time of application,

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upon completion of the CDBG-DR-funded project, and throughout the NMHC affordability period. In order to maintain compliance with the affordability restrictions, borrower(s) shall be recertified annually for principal residency throughout their affordability period. An annual recertification for principal residency notices and form shall be sent to homeowners/borrowers to complete, sign, and submit to NMHC in order to confirm and have on file that they are continually occupying the property and housing. The following stipulations apply for a principal residence:

- (i) A deed restriction or covenant running with the land shall incorporate this requirement;
  - (ii) A written agreement between the homeowner and NMHC shall also incorporate this requirement;
  - (iii) Temporary subleases are not allowed.
- (2) Annual recertifications are conducted in order for homeowners to maintain compliance with the affordability restrictions.
- (3) Annual recertifications through field visits may be conducted if the required completed form has not been provided, or if the account status is pending probate, or the account has been accelerated to the collection attorney for foreclosure proceedings. The Program Specialist shall verify the borrower(s) principal residence and, as necessary, to take photos and document the status of the residential unit.
- (4) Affordability periods during which the homeowner must maintain the home as his/her primary residence are as follows:
- a. Rehabilitation 5 years
  - b. Reconstruction 10 years
5. Extended Terms: Should a financial hardship beyond the homeowner's control exist, a request for a waiver of the repayment provisions of the affordability requirement can be considered. The borrower(s) must provide NMHC with documentation justifying their inability to meet the affordability term while at the same time providing an adequate standard of living for his/her/their family. Financial hardship includes, but is not limited to:
- (1) Reduction-in-force;
  - (2) Reduction in pay;
  - (3) Family medical emergency (including death of an immediate family member: parents, siblings, child(ren), spouse, and in-laws);
  - (4) Medical condition (including career-ending injury) that causes homeowner to discontinue employment. The borrower's physician must complete the homebuyer/homeowner program disability eligibility verification to certify the borrower's medical condition;
  - (5) Temporary relocation (provided that at least one of the original household members is still residing in the assisted unit; or
  - (6) Natural disaster.

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### § 100-100.4-235 Use of Grant Funds

- (a) (1) The grant funds will be used to assist existing homeowners to repair, rehabilitate, or reconstruct owner-occupied housing units affected by the storms for the primary purpose of correcting dwelling deficiencies ensuring a safe and healthy living condition, and preserving and extending the physical life of the dwelling. All corrections shall conform to the 2018 International Building Code enacted by law and any updates approved by regulation by the CNMI Department of Public Works Building Safety Office, zoning laws, International Energy Conservation Code as adopted by the CNMI government, and also ensure that it meets the NMHC HOME/CDBG-DR Rehabilitation Standards as adopted by the NMHC Board.
- (2) Special purpose homeowner repairs such as weatherization, emergency repairs, and accessibility may only be undertaken within a more comprehensive scope of work that brings the housing unit up to standard.
- (b) (1) Rehabilitation - This includes the alteration, improvement, or modification of an existing structure. It also includes moving an existing structure to a new foundation. Rehabilitation may include adding rooms outside the existing walls of a structure.
- (2) Adding a housing unit is considered new construction and is not eligible.
- (c) Reconstruction - In most instances, applicant(s) requesting assistance under this program live in substandard homes which are often unsafe and unsanitary. Many of which are termite infested and dilapidated to the point where a complete tearing down of the unit would be most appropriate. These types of structures would most likely endanger the households during storms and other calamities. Reconstruction refers to rebuilding a structure on the same lot where the housing unit is standing at the time of the storms. CDBG-DR funds may be used to build a new foundation or repair an existing foundation. Reconstruction may take place on the same foundation that the existing structure was on. Reconstruction may take place anywhere on the lot. During reconstruction, the number of rooms per unit may change, but the number of units may not.
- (d) Luxury items and improvements are not eligible, including but not limited to: barbecue pits, bathhouses, exterior hot tubs, saunas, whirlpool baths, swimming pools, satellite dishes, tennis courts, and granite counter tops. Any additions or alterations to provide for commercial use are not eligible.

### § 100-100.4-240 Eligible Costs

CDBG-DR funds can be used to cover the hard rehabilitation costs necessary to meet required rehabilitation standards and associated “soft costs.” CDBG-DR funds may be used to pay for property improvements that are considered standard for the area. However, non-essential luxury or cosmetic improvements to the property are not permitted.

- (1) Hard costs include the following:
- (i) Meeting the rehabilitation standards;

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- (ii) Meeting applicable codes, standards, and ordinances;
- (iii) Essential improvements;
- (iv) Energy-related improvements;
- (v) Lead-based paint hazard reduction;
- (vi) Accessibility for disabled persons;
- (vii) Repair or replacement of major housing systems;
- (viii) Incipient repairs and general property improvements of a non-luxury nature; and
- (ix) Site improvements and utility connections.

(2) Soft costs include the following:

- (i) Financing fees;
- (ii) Preliminary title report (PTR) and lender’s title policy, if applicable;
- (iii) Recordation fees, transaction taxes;
- (iv) Legal and accounting fees;
- (v) Appraisals;
- (vi) Architectural/engineering fees, including specifications and job progress inspections;
- (vii) Project costs incurred by the grantee that are directly related to a specific project.

(b) NMHC shall set aside \$2,050.00 (more or less, depending on current costs) per project from the program budget to assist each qualified rehab or recon borrower to pay for the following grant closing fees and other related costs. This form of assistance shall not be in any way, a part of the rehab grant amount extended to the client. Borrowers will not be required to pay back any of this amount so long as they are in compliance with NMHC affordability restrictions. The entire amount shall be immediately due and payable by the borrower should NMHC determine that borrower(s) are not in compliance with NMHC affordability restrictions.

(1)	\$500.00	Utility connection*;
(2)	\$1,200.00	First annual premium for hazard insurance;
(3)	\$250.00	Recordation of covenant
(4)	\$100.00	Preliminary title report (PTR);
	\$2,050.00	Total

\*Borrower must ensure that there are no outstanding issues with the utility company

(1) If the homeowner(s) opt to have a private inspector perform unit inspection, the first/initial unit inspection fee may be covered by NMHC, subject to any conditions set by NMHC. Any cost associated with any subsequent inspection shall be the responsibility of the homeowner(s).

**Part 300 - Grant Application Process**

**§ 100-100.4-301 Confidentiality**

As is NMHC’s practice, all applicant information is kept confidential and shall be made available only to the applicant, the applicant’s authorized representative; HUD and the Comptroller General

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of the United States, any of their representatives, have the right of access to any pertinent books, documents, papers or other records of the participating jurisdiction, state recipients, and subrecipients, in order to make audits, examinations, excerpts, and transcripts; and authorized NMHC personnel.

### **§ 100-100.4-305      Discrimination Prohibited**

Under no circumstances shall any of the NMHC Board of Directors, its officers, employees, agents, or contractors providing services to the corporation discriminate any applicant on the basis of race, color, national origin, religion, sex, ancestry, disability, or familial status (including children under the age of 18 living with parents or legal custodians, pregnant women, and people securing custody of children under the age of 18).

### **§ 100-100.4-310      Pre-Qualification Interview**

- (a) Before an applicant can be given a formal application, the interviewing program specialist must conduct a pre-qualification interview to initially determine an applicant's eligibility for assistance. A Homeowner Rehabilitation and Reconstruction Program Pre-Qualification Interview Worksheet shall be completed by the interviewing program specialist.
- (b) The information collected from the applicant during these processes subject to verification. As a result, applicants whose threshold eligibility elements cannot be verified may later be determined ineligible for the program.
- (c) The following documentation is required to determine eligibility (see File Checklist):
  - (1) Completed application
  - (2) Valid current ID (applicant and co-applicant)
  - (3) Proof of citizenship
  - (4) Documentation of principal residency – date of storm
  - (5) Proof of ownership
  - (6) Income documentation
  - (7) Tie to disaster documentation
  - (8) Documentation for duplication of benefits determination (FEMA, SBA, private insurance, charity)
  - (9) Current mortgage statement
  - (10) Receipts or other documentation of repairs made by applicant with funds provided
  - (11) Power of attorney (if applicable)
  - (12) Communication designee (if applicable)
  - (13) Homestead permit and/or deed (if applicable)

### **§ 100-100.4-315      Eligibility Notification**

Once the applicant(s) has been pre-qualified and have been later determined eligible for the program, NMHC shall officially notify the applicant(s) in writing of their eligibility. Such

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notification shall be mailed no later than five (5) working days after the determination and shall contain a listing of additional information to be submitted for completion of the applicant's file. Eligible applicant(s) shall be given thirty (30) calendar days to submit the additional information requested. Applicant(s) who do not submit all pending information before the thirty (30) calendar day deadline, shall have their application(s) file placed in the inactive files.

### **§ 100-100.4-320 Ineligible Applicants**

All ineligible applicants shall be notified in writing of their ineligibility. Such notification shall be mailed no later than five (5) working days after the determination of ineligibility and shall include a description/reason of such determination. Those found ineligible may appeal such determination to the Corporate Director within ten (10) working days from the date of receipt of the ineligibility notice. The Corporate Director will then review the appeal and render a decision within thirty (30) days from the date of receipt of the appeal letter. Ineligible applicants may further appeal the Corporate Director's decision to the NMHC Board for reconsideration.

### **§ 100-100.4-325 Initial Inspection of Residence**

Initial inspections shall be conducted by NMHC's A&E firm contractor(s) or project manager and in coordination with the program specialists or an NMHC representative to identify and verify deficiencies noted by eligible homeowners/applicants. NMHC personnel conducting the inspections shall note deficiencies in written form and shall document (i.e., obtain pictures) the condition of the unit. Such inspections shall also verify the eligibility and be the basis in estimating the costs of the rehabilitation activities requested and in developing the scope of work for the rehabilitation project. The applicant and the inspection personnel (A&E firm), as well as the responsible program specialist, shall work cooperatively to develop the scope of work for the project. The rehab scope of work needs to adequately describe the work to be performed so the housing will meet NMHC's written rehabilitation standards at completion. The scope of work must be an eligible activity as described in § 100-100.4-235. The A&E firm providing the scope of work will also provide NMHC with an estimated cost of repairs that will serve as the independent cost estimate against which construction bids will be evaluated. The scope of work shall be provided to three (3) NMHC-approved contractors by the borrower(s) who shall prepare a cost breakdown estimate for the project. The estimates shall then be submitted along with the applicant(s) choice of contractor for the project upon submission of his/her/their grant application. If the applicant(s)'s choice of contractor is not on NMHC's approved contractor listing, the contractor shall be vetted prior to award of the contract. With regard to reconstruction projects, NMHC may provide pre-approved house plans to the applicant that best fit the footprint of the destroyed home. NMHC may, at its own discretion, select the appropriate contractor for the applicant if the rehab project is deeply subsidized using additional CDBG-DR funds. Deeply subsidized means additional funding assistance on top of the underwritten funding assistance.

### **§ 100-100.4-330 Lead-Based Paint**

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- (a) The federal government banned lead-based paint from housing in 1978. Deteriorating lead-based paint (peeling, chipping, chalking, cracking, or damaged) is a hazard and needs immediate attention.
- (1) For Homeowner Rehabilitation Projects: Before any rehabilitation work is done, homeowners must provide documentation that shows that their homes were built either before or after January 1, 1978. Such documentation may include a copy of the building permit, if one can be provided; a notarized declaration/affidavit by the homeowner(s) or contractor attesting to the completion date of the home construction; and the age of the dwelling unit/property.
- (b) For those homes deemed to have been completed before January 1, 1978, they must be checked for lead in one of two ways, or both:
- (1) A paint inspection which shows the lead content of every different type of painted surface in the home;
- (2) A risk assessment which shows if there are any sources of serious lead exposure (such as peeling paint and lead dust). A risk assessment provides the homeowner the necessary actions to take when addressing these hazards.
- (c) Only a trained, certified professional is allowed to check the home for such hazards. Only a certified lead “abatement” contractor is allowed to permanently remove lead hazards. However, if the risk assessment does not reveal any lead-based paint hazards, NMHC will not require the homeowner to conduct any abatement of hazards.
- (d) For those homes that were completed before January 1, 1978, the following forms must be completed by the contractor:
- (1) Lead Hazard Evaluation Notice;
- (2) Notice of Lead Hazard Reduction;
- (3) Relocation Screening Sheet for Projects with Lead Hazard Reduction Activities;
- (4) Protection of Occupants’ Belongings and Worksite Preparation for Projects with Lead Hazard Reduction Activities; and
- (5) Property Owner/Rehab Contractor Contract Addendum Reduction of Lead Paint Hazards
- (e) The following are required activities to address lead-based paint;
- (1) NMHC-issued Notifications
- (i) Lead Hazard Information Pamphlet—Occupants, owners, and purchasers must receive the EPA/HUD/Consumer Product Safety Commission (CPSC) lead hazard information pamphlet, or an EPA-approved equivalent.
- (ii) Notice of Lead Hazard Evaluation or Presumption—Occupants, owners, and purchasers must be notified of the results of any lead hazard evaluation work or the presumption of lead-based paint or lead hazards.

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- (2) Notice of Lead Hazard Reduction Activity—Occupants, owners, and purchasers must be notified of the results of any lead hazard reduction work.
- (3) Lead Hazard Evaluation—Evaluation methods include visual assessments, paint testing, and risk assessments.
- (4) Lead Hazard Reduction—Reduction methods described include paint stabilization, interim controls, standard treatments, and abatement.

### **§ 100-100.4-335 Environmental Review Procedures for Entities Assuming HUD Environmental Responsibilities (24 C.F.R. Part 58)**

- (a) CDBG-DR rehabilitation activities to be undertaken by NMHC are subject to the environmental review requirements at 24 C.F.R. Part 58. NMHC is the responsible entity and is responsible for ensuring that the environmental review process is satisfied before CDBG-DR funds are committed to specific project site.
- (b) Rehabilitation of homeowner housing may be categorically excluded per 24 C.F.R. §58.35(a)(3) when the following conditions are met:
  - (1) The building is for residential use and has one to four units;
  - (2) The density will not increase beyond four units; and
  - (3) The land use will not change.
- (c) Reconstruction of a single-family unit in a new location on the same lot is classified as new construction for the purposes of environmental review. Reconstruction of homeowner housing may be categorically excluded per 24 C.F.R. § 58.35(4)(i) when it is an individual action (reconstruction only) on a one to four family dwelling and there are no more than 4 dwelling units on any one site.
- (d) Homeowner rehabilitation housing categorically excluded per 24 C.F.R. § 58.35 is categorically excluded from an environmental assessment (EA) and finding of no significant impact (FONSI) under the National Environmental Policy Act (NEPA) except for extraordinary circumstances. To document compliance with environmental review requirements, NMHC must:
  - (1) Complete the Rehab Environmental Review (RER) (which includes the Notice of Intent to Request Release of Funds for Tiered Projects and Programs, submitting a RROF to HUD, and obtaining the ATUGF from HUD), in accordance with 24 CFR 58; and
  - (2) Complete the Tier @ Site Specific Review - RER Appendix A when an individual loan or grant application is received before approving any site-specific grant for each structure, document and implement the mitigation of impacts as necessary, and keep all supporting documents in the Environmental Review Record as evidence of compliance.

### **§ 100-100.4-340 Rehabilitation or Reconstruction Grant Application**

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(a) Applicants determined eligible for assistance will be provided a Rehabilitation or Reconstruction Grant Application. A checklist of all required documentation for submission is attached to the grant application. Preliminary requirements include:

- (1) Certificate of title/deed/homestead permit/lease agreement;
- (2) Property map and sketch of direction to property;
- (3) Program eligibility release form
- (4) 1040 tax form for the previous tax year;
- (5) Latest two (2) months of pay stubs;
- (6) Verification of employment;
- (7) Current loan statement or loan payment record;
- (8) Most recent savings account statement (TCD, bonds, form passbook, money market accounts);
- (9) The last six (6) months checking account statement available;
- (10) Profit sharing plan (bank or duty-free employees);
- (11) Most recent retirement plan statement;
- (12) Current certification of child care expenses;
- (13) Current Certificate of Compliance from Division of Revenue and Taxation; ;'
- (14) Judgments (if any); divorce statement and/or probate decree;
- (15) Verification of medical expenses (transportation and medication);
- (16) Verification of full-time student status;
- (17) Business income tax forms for three (3) previous years, if applicable;
- (18) Verification of Social Security or SSDI benefits;
- (19) Verification of pension and annuities;
- (20) Verification of Veterans Affairs benefits;
- (21) Most current financial statements, if applicable.

(b) A duplication of benefits verification will also be performed to determine actual grant assistance.

### **§ 100-100.4-345      Application Intake and Processing**

### **§ 100-100.4-350                      Verification of Income**

As part of determining income eligibility (to determine income eligibility, NMHC needs to consider the income of ALL household members), the applicant(s) shall provide NMHC with an executed Program Eligibility Release Form to conduct a third-party verification, if needed.

### **§ 100-100.4-355      Administration, Approval, Appeals Process**

(a) Program Administration

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- (1) The Housing Administrator is tasked in implementing and managing of related tasks. The Housing Administrator shall assign program specialists to assist in grant signings under the Homeowner Rehabilitation and Reconstruction Program.
- (2) The Housing Administrator shall review each submitted application, ensure all supportive documentation is in place and complete, and concur or make any necessary recommendations to the Corporate Director prior to the Corporate Director making the final decision on the grant application.

### (b) Grant Review & Approval

Under the direction of the Housing Administrator, a grant specialist shall review and verify all applicants' income, title reports, and any other requested reports and documentation. Upon completion of the review process, the grant specialist shall prepare the grant document.

- (1) The Housing Administrator shall review the grant application for concurrence before submitting the same to the Corporate Director for a final decision. Final approval or denial of any grant shall be made by the Corporate Director except as follows:
  - (i) If the Corporate Director is off-island or on extended leave at the time the loan or grant is submitted to him/her for a final decision, then the Deputy Corporate Director may make the final decision to approve or deny the grant; or
  - (ii) If the Corporate Director and Deputy Corporate Director are both simultaneously off island or on extended leave at the time the grant is submitted for a final decision, then the Acting Corporate Director may make the final decision to approve or deny the grant.
- (2) For purposes of these policies, off-island or extended leave shall be defined as an absence or leave that extends for more than three (3) working days after the loan or grant is submitted to the Corporate Director for his or her final decision.
- (3) A written notice of the final decision shall be provided to the applicant and a copy/report of the decision shall be provided to the NMHC Board of Directors for informational purposes.

### (c) Grant Denial Appeals Process

- (1) Applicants denied assistance under this program may appeal the final decision to the NMHC Board of Directors (Board) by submitting their appeal in writing to the Corporate Director within ten (10) calendar days of the written notice of the final decision.
- (2) Any appeal submitted must indicate the basis for the appeal and include any supporting documents. Upon receipt of an appeal, the Corporate Director shall submit the same to the Board of Directors for review and action at the next scheduled Board meeting.

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### § 100-100.4-360 Homeowner Counseling Session

All applicants for grant assistance must attend a Homeownership/Homebuyer Education and Counseling Session that will be provided by NMHC. On or before August 1, 2021, NMHC employees providing housing counseling will be HUD certified housing counselors, and NMHC will have applied directly to HUD and received approval, or NMHC will have applied to a HUD-approved intermediary and received approval by the entity to be its affiliate. NMHC shall notify the applicant(s) of the date, time, and location of the session. The education and counseling session shall be scheduled after the grant has been preliminarily approved and may be conducted before or on the day that NMHC issues the commitment letter to the applicant(s). The counseling session shall include a discussion of the terms and conditions of the grant, educate the homeowner(s) of their financial responsibilities, the importance of budgeting, making timely payments, foreclosure prevention, as well as home maintenance and repair measures. Acceptable delivery method for housing counseling may be in-person, phone, or internet. Duration of the housing counseling is eight (8) hours. Upon completion of the housing counseling, the grant recipients will receive a counseling certificate and this counseling certificate is valid for 2 years. Funding for housing counseling will come from project-related soft costs.

NMHC shall inform applicant(s) at the time of their submission of their application of the required homeowner counseling session and again in written form when NMHC notifies the applicant(s) of NMHC's preliminary approval of their grant request. Failure to attend the required Homeownership/Homebuyer Education and Counseling Session may be grounds for denial or cancellation of assistance.

### § 100-100.4-365 Grant Agreement

Once the grant application has been approved by the NMHC Corporate Director, the responsible grant specialist shall prepare the grant agreement for the Corporate Director's signature. The grant agreement is a binding agreement between NMHC and the borrower(s) wherein it discloses the terms and conditions of the grant including that the housing is the principal residence of an income qualified homeowner; the amount of the grant, the rehabilitation work to be performed; the completion date; and the property standards that must be met.

- (a) The responsible program specialist shall obtain a written certification (via email or memo format) from the Chief Financial Officer or Finance Manager that funds are available for the project before the Corporate Director executes the grant agreement.
- (b) After the grant agreement has been signed and dated by the Corporate Director, the responsible program specialist shall schedule the applicant(s) to come in and also sign and date the document should they agree with the terms and conditions.
- (c) NMHC must reexamine the household's income eligibility if the determination was made more than six (6) months before signing the Grant Agreement.

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- (d) NMHC must set up the activity in DRGR following execution of the grant agreement and commitment of CDBG-DR funds.

### § 100-100.4-370 Preliminary Title Report (PTR)

- (a) The responsible program specialist shall order a preliminary title report (PTR) on behalf of the applicant(s) within two (2) weeks after the applicants have executed their grant agreement. The purpose in obtaining a title report is to ascertain ownership of the proposed property.
- (b) A title search and review of recorded ownership information is conducted to verify that the property to be assisted with CDBG-DR funds is held in one of the eligible forms of ownership.
- (c) The responsible program specialist shall obtain the preliminary title report (PTR) by submitting an email request to the local title companies. The project will be granted on a first come, first served basis to the company agreeing to the rate set by NMHC.
- (d) The Program Specialist shall obtain an updated PTR prior to grant signing to ensure that the ownership of the property is verified and there are no liens that will cloud the title.

### § 100-100.4-374 Contractor Selection Process

- (a) All vendors and contractors are required to register with NMHC in order to do business with our agency. Interested vendors/contractors are provided a registration packet that lists all required documents, i.e., valid CNMI business license, financial statements, certificate of good standing from the CNMI DOL, actively registered with SAM, etc. Something similar bidder/offeree's responsibility or possess the capacity and capabilities to carry out and complete contractual obligations prior to awarding of a contract.
- (b) NMHV maintain a list of approved contractors that is continuously updated when a new contractor completes the vetting process and is registered with NMHC
- (c) Awards shall be made only to responsible contractors. To be determined responsible, a prospective contractor must: (1) Have adequate financial resources to perform the contract, or the ability to obtain them; (2) Be able to comply with the required delivery or performance schedule; (3) Have a satisfactory performance record; (4) Have a satisfactory record of integrity and business ethics; (5) Have the necessary organization, experience, and skills, (or the ability to obtain them) required to successfully perform the contract; (6) Have the necessary production, construction, and technical equipment facilities, or the ability to obtain them; (7) Provide evidence of validity to conduct business in the Commonwealth (valid business license(s), up-to-date BGRT payments, Certificate of Good Standing from NMI Department of Labor, Certificate of Insurance Compliance from NMI

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Department of Commerce, Payment and Performance Bond Insurance (as applicable), Employees listing with valid permits and identification to reside and work in the Commonwealth, etc.); and (8) Be otherwise qualified and eligible to receive an award under applicable laws and rules. (b) Obtaining information. Prior to award, the Procurement Officer shall obtain information from the bidder or offeror necessary to make a determination of responsibility using the factors in subsection (a) above. The unreasonable failure of a bidder or offeror to promptly supply information in connection with an inquiry with respect to responsibility may be grounds for determination of non-responsibility with respect to that bidder or offeror. (c) Right of non-disclosure. Information furnished by a bidder or offeror pursuant to subsection (b) may not be disclosed outside of the office of the Procurement Officer, or any other NMHC official involved without prior consent by the bidder or offeror. (d) Non-responsibility determination. When a bid or proposal on which a contract award would otherwise be made is rejected because the prospective contractor is found to be nonresponsible, a written determination shall be signed by the Procurement Officer stating the basis for the determination and this shall be placed in the contract file.

- (d) Once an applicant is approved for the program a scope of work is developed by the A/E firm under contract to NMHC,
- (e) NMHC provides a list of approved contractors along with the approved scope of work to the Homeowner.
- (f) The homeowner provides the scope of work to at least three contractors for bid. If the homeowner wishes to use a contractor not on the NMHC list, that contractor's name must be submitted to MNHC for vetting and approval before they can be allowed to bid,
- (g) The homeowner selects the contractor with whom they wish to work.
- (h) The final selection of a contractor is submitted to NMHC for approval.
  - i. The final bid selected need not be the lowest bid as long as it is within 10% of the independent cost estimate.
  - ii. If the selected contractor exceeds 10% of the independent cost estimate and the homeowner insists on using that contractor then the homeowner must provide funding in advance of contract signing to cover any costs in excess of 10% of the independent cost estimate.
  - iii. Homeowners who are unable or unwilling to provide the excess funding needed have the option to either utilize a contractor with a lower bid or withdraw from the program.
  - iv. The contract is between the contractor and the homeowner.

### **§ 100-100.4-375 Pre-Construction Conference**

- (a) The pre-construction conference shall be held after NMHC's receipt of the PTR and the same has been determined to have met NMHC's requirement as indicated in § 100-100.4-370. The

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responsible program specialist shall inform the homeowner(s) and their contractor, and their private inspector (if applicable), in written form of the scheduled pre-construction conference. The notice shall include the date, time, and location of the conference. The conference shall be conducted by the responsible grant specialist and shall include the homeowner(s), their contractor, and their private inspector (if applicable).

- (b) The homeowner(s) and their contractor, and if applicable, their private inspector, are to be provided with information such as their rights and responsibilities before, during, and after the rehabilitation period of their home.

### **§ 100-100.4-380 Submission of Pre-Construction Documents**

The NMHC shall notify the contractor of the homeowner(s) selection of his/her/their company and shall likewise instruct the contractor to submit the required construction documents listed below. These documents are to be provided to NMHC within thirty 30 days from the date of notice.

- (a) Building permit (if applicable);
- (b) Zoning Permit (if applicable);
- (c) Earthmoving & erosion control permit (if applicable);
- (d) Construction contract;
- (e) Performance bond;
- (f) Plans & specifications approved by DPW;
- (g) Private inspector's contract (if applicable).

### **Part 400 - Rehabilitation**

#### **§ 100-100.4-401 Performing Rehabilitation Work**

- (a) NMHC's Architecture and Engineering firm will be responsible for the development of the scope of work and determination of an estimated cost of repairs in advance of procuring bids for construction.
- (b) Contractor Cost Estimates. The homeowner(s) shall be responsible in obtaining a minimum of three (3) written rehabilitation cost estimates from at least three (3) NMHC approved contractors, and each cost estimate submitted must include, at a minimum, the following information: bid price, cost breakdown of materials and labor charges, and schedule for completion of work.

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- (c) **Selection of Contractor.** The homeowner(s) shall have the right to select a contractor to perform the rehabilitation work, provided that the contractor's quotation and after rehab value does not exceed the independent cost estimate provided by the A/E firm plus or minus 10%. The contractor must be an NMHC-approved contractor or if not an approved contractor, then NMHC must vet the contractor prior to award of the project. Should it exceed the grant amount, the homeowner shall negotiate with the contractor in reducing the contract amount. If the contractor is not willing to lower the contract amount, then the borrower shall select his/her/their next choice. Once the homeowner and contractor agree to the project and cost, the homeowner shall submit a contractor selection notice notifying NMHC of his/her/their selection.
- (d) **Construction Contract.** The construction contract is a binding agreement strictly between the homeowner and the contractor whereby the contractor will provide the rehabilitation or repair or reconstruction work for a specified and agreed upon price. As NMHC's role is to finance the construction of the project, it is not a party to the construction contract. However, NMHC will monitor the construction process and, at any time the contractual provisions are not followed, NMHC shall meet with the homeowner and contractor to discuss the dispute and come to a mutual agreement. The construction contract shall include, but is not limited to, the following provisions:
- (1) Contractor's name and mailing address;
  - (2) Homeowner(s) name and mailing address;
  - (3) Date of the contract, the contract amount, and payment schedule for each incremental billing;
  - (4) Calendar days to complete the work (includes Saturdays, Sundays, and holidays);
  - (5) Contractor will provide the performance bond, labor and material payment bond up to the contract amount, as well as a builder's risk policy for the project;
  - (6) The contractor will provide all the construction plans and permits necessary to comply with applicable local and federal laws;
  - (7) Issuance of the notice to proceed or the commencement of the project and that the rehab must start within 12 months of NMHC executing the commitment letter with the borrower;
  - (8) Contractor will provide a one-year warranty on all work completed;
  - (9) NMHC's right to inspect the progress of the project and right to withhold progress payments;
  - (10) Change order procedures, if any;
  - (11) A provision for liquidated damages must be included in the construction contract which shall be negotiated between the homeowner and contractor; and
  - (12) Description of the work to be performed so that inspections can be conducted and, for rehabilitation, so that housing will meet NMHC's rehabilitation standards.
- (e) **Contractor Notification and Pre-Construction Requirements.** Once NMHC is in receipt of the homeowner's contractor selection notice, NMHC shall notify the contractor of the homeowner's selection of their company. NMHC shall inform the contractor of the scheduled

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pre-construction conference and shall likewise inform the contractor of the required construction documents for submission as listed below.

- (1) Building permit (if applicable);
  - (2) Zoning permit (if applicable);
  - (3) Earthmoving and erosion control permit (if applicable);
  - (4) Construction contract;
  - (5) Performance and payment bonds;
  - (6) Plans and specification approved by DPW;
  - (7) Private inspector's contract (if applicable).
- (f) **Project Duration** –Rehabilitation projects should be completed within nine (9) months following execution of a Grant Agreement. Reconstruction projects should be completed within twelve (12) months following execution of a Grant Agreement. Contract extensions may be granted in extenuating circumstances upon approval of NMHC.
- (1) Progress payment requests shall be submitted to NMHC by the contractor incrementally as specified in the payment schedule. NMHC shall ensure that all work description indicated on the payment schedule is completed prior to releasing the contractor's payment. An original and a copy of the request must be submitted to the NMHC. The contractor shall freely use his/her/their company's billing form when submitting a payment request. The payment request shall be accompanied with the following whenever applicable: inspection reports (DPW and/or private inspector), geotesting results, termite treatment certification and/or warranty, builder's warranty, and/or homeowner's acceptance of the project. In addition, each billing submitted must include pictures of the progress of the project and a copy of the payment schedule.
  - (2) Payment schedule shall be as follows:
    - (i) Payment request number 1 shall not be more than 10% of the contract amount. This shall include the installation of the project sign board accompanied with a picture, the delivery of materials to the construction site and commencement of the project;
    - (ii) Payment request number 2 shall not be more than 25% of the contract amount;
    - (iii) Payment request number 3 shall not be more than 25% of the contract amount;
    - (iv) Payment request number 4 shall not be more than 25% of the contract amount;
    - (v) Payment request number 5 shall be the 15% retainage request when all work is completed. The final payment request shall be accompanied with the certificate of occupancy from DPW's Building Safety Office, builder's warranty, window warranty if subcontracted, termite treatment warranty, final inspection report from the DPW and if applicable, the private inspector's inspection report, certificate of acceptance from the homeowners, geotesting results if applicable, pictures of the project's interior and exterior, and DEQ certificate of use (sewage disposal system), if applicable.

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- (3) **Change Order Procedures.** From time to time, homeowners may request for changes in the plans and specifications. In the event that this should occur, the following steps must be taken to address such request:
- (i) Homeowner must notify contractor in written form of the proposed changes and provide NMHC a copy of the notification.
  - (ii) Upon receipt of the notification, the contractor must cease work at the project site and obtain NMHC's approval of the change order request. A/E firm or HMHC staff will review change order for cost reasonableness. Upon approval the contractor shall then provide NMHC with the revised plans and specifications, including a revised payment schedule (if scheduled payments will be altered by the proposed changes). The contractor must obtain NMHC's approval of the change order request.
  - (iii) Once the change order request is approved, the grant agreement will be revised to reflect the new amount. The contractor will be required to submit the revised plans and specifications to DPW for approval.
  - (iv) Should the change order request be denied, then the contractor shall resume work to ensure timely completion of the project. The contractor may not be able to complete the project on time because of the delays the change order request may have caused. Therefore, the homeowners shall give the contractor additional days equal to the time the work was ceased up until the time the change order request was denied to complete the project. The homeowner shall not charge the contractor liquidated damages during this period.
  - (v) Once the contractor has obtained the DPW's approval of the plans and specifications, then it shall provide the NMHC with the same copy. The contractor shall proceed in carrying out the change order and completing the project.
  - (vi) **Inspections:** NMHC shall have the right, during the rehabilitation work or improvement of the unit, to inspect the same and with justification, to reject and to require to be replaced, any material or workmanship that does not comply with the plans and specifications, without any liability on the part of NMHC, as to workmanship or materials therein. Such inspection is solely for financing purposes and for the disbursement of funds, and any inspection or approval of any rehabilitation phase or increments of said dwelling shall not be deemed as a warranty by NMHC of the workmanship and material therein.
  - (vii) **Inspector:** Progress and final inspections shall be conducted by the Building Safety Office of the Department of Public Works (DPW) to ensure all work performed is done according to the plans and specifications as approved by the applicant and DPW and applicable property standards. Homeowner(s) may have a private inspector, (i.e., a qualified licensed engineer or a qualified licensed architect), conduct inspection at the homeowner's costs with such inspection to be handled in accordance with § 100-100.4-240.
  - (viii) **Minimum Property Standards (MPS):** For new construction of housing and acquisition and/or rehabilitation of housing, CNMI Building Safety Code and

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zoning laws (if applicable for Tinian and Rota), International Energy Conservation Code, NMHC written design standards for single-family housing new/rehabilitation, and accessibility requirements (where applicable) must be adhered to. Homeowners, through their contractors, must ensure that they are familiar with these requirements. NMHC may rely on inspections performed by a qualified person.

- (ix) The contractor will provide all the construction plans and permits necessary to comply with applicable local and federal laws.

**Part 500**

**Part 600 - Affordability**

**§ 100-100.4-601 NMHC Affordability Restrictions**

- (a) Long Term Affordability: NMHC has elected to impose NMHC affordability requirements that require that assisted properties remain affordable for a specific period of time, depending on the nature of the activity funded:

DR Funds Invested per Unit	Minimum Length of the Affordability Period
Rehabilitation	5 years
Reconstruction	10 years

(1) Affordability Restrictions

- (i) The affordability requirements are to be imposed by deed restrictions, covenants running with the land, or other mechanisms approved by HUD, except that the affordability restrictions may terminate upon foreclosure or transfer in lieu of foreclosure or upon grant repayment

(2) Affordability and Special Exceptions

- (i) The affordability restrictions shall be revived according to the original terms if, during the original affordability period, the owner of record before the termination event, or any entity that includes the former owner or those whom, the former owner has or had family or business ties, obtains an ownership interest in the project or property. If a home rehabilitated with CDBG-DR assistance is sold during the NMHC affordability period, NMHC recapture provisions apply to ensure the continued provision of affordable homeownership.

- (b) Right of First Refusal. During the affordability period, the homeowner(s) agrees not to sell or assign the residence hereby rehabilitated to any persons unless and until homeowner(s) proposes to sell same to NMHC, its successors or assigns on terms consistent with preserving affordability and allows then sixty (60) days' time within which to purchase said residence.

- (c) Recapture. NMHC will ensure that it recoups all or a portion of the assistance provided to the homeowner(s) if the housing unit ceases to be the principal residence of the

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homeowner(s) for the duration of the period of affordability. Subsidy amounts (in the form of grants) that directly benefited the property owner are subject to recapture. Recapture is capped at what is available out of net proceeds for agreements. Net proceeds are defined as the sales price less superior non CDBG-DR debt (if any) less closing costs. NMHC shall utilize the following recapture options:

Reduction during NMHC Affordability Period. NMHC may reduce the grant amount to be recaptured on a pro rata basis for the period the homeowner(s) has/have owned and occupied the housing unit measured against the required NMHC affordability period;

- (d) Note: When the recapture requirement is triggered due to a voluntary or involuntary sale during the period of affordability and there are no net proceeds or the net proceeds are insufficient to repay the CDBG-DR investment due, NMHC may recapture an amount less than or equal to the net proceeds available.
- (e) Legal Instruments to Enforce Recapture. NMHC must use deed restrictions, land covenants, or other similar legal documents approved by HUD to enforce these recapture restrictions as approved by HUD.

### **Part 700 - Conveyance**

#### **§ 100-100.4-701 Sale, Conveyance, or Transfer of Property**

- (a) Enforcement of the terms of the recapture provisions as set forth in the written agreements/commitment letters is triggered upon the sale, conveyance, or transfer of title of the rehabilitated real property under this program during the NMHC affordability period which may not necessarily result in the repayment of all CDBG-DR assistance. Upon sale of the home and enforcement of the recapture provisions, the affordability period will terminate.
- (b) At the sole discretion of NMHC, a title transfer will only be permitted through the laws of descent or upon selling the property, provided that NMHC has been properly informed and the same has consented to such sale. If should any of these occur, one must submit his/her intention to sell the property and request for the NMHC Board's approval for the transfer of title. If the title changes hand through the laws of descent during the affordability period, the affordability period may not terminate and continue with the new homeowner if the new homeowner satisfies the eligibility requirements. The new homeowner may assume the affordability period if the new homeowner meets the eligibility requirements. If the title changes hand through the laws of decent during the NMHC affordability period and the new homeowner does not meet the eligibility requirements, NMHC will enforce the terms of recapture set forth in the commitment letter and enforced with recorded deed restrictions or land covenants. Upon enforcement of the recapture provisions, the NMHC affordability period will terminate.

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## Part 800 - Assumption

### § 100-100.4-801 Grant Assumption

- (a) Death of a Borrower—Immediately upon notification to NMHC of a borrower’s death, the surviving borrower or a family member of the borrower(s) shall complete a deceased borrower’s report and/or submit a copy of the death certificate.
- (1) In situations where there exists a surviving co-applicant, that applicant may stay in the home for the duration of the grant affordability period.
  - (2) If both borrowers are deceased, NMHC may allow for a qualified heir to occupy the home upon probate court decree which shall be provided to NMHC).
    - (i) This assumption exception is permitted where transfer of title is through the laws of descent provided that the heir is of legal age, meets all program eligibility requirements and has a full, undivided interest in the real property. The heir will be required to fill out an application and execute a grant agreement update and will be subject to a can income verification.
    - (ii) The heir or heirs of the deceased will be responsible in maintaining the property as they await the probate decree. Once they are in receipt of the decree, they must submit it to NMHC so that NMHC will prepare an amendment to the grant agreement.

## Part 1000 Ethics

### § 100-100.4-1001 Conflict of Interest

- (a) Under no circumstances shall any immediate family members (whether by blood, marriage or adoption) the spouse, parent (including a stepparent), child (including a stepchild); brother, sister (including a stepbrother or stepsister), grandparent, grandchild, and in-laws of a covered person, elected or appointed officials of the CNMI government, NMHC’s Board of Directors, its officers, agents, and employees may participate in any CDBG-DR assisted projects or units including the procurement of materials, or have an interest in any contracted services, or be a beneficiary in any proceeds. Other provisions in 24 C.F.R. § 92.356 shall apply. Conflict of interest applies to covered persons who exercise or have exercised any functions or responsibilities with respect to activities assisted with CDBG-DR funds or who are in a position to participate in a decision-making process or gain inside information with regard to these activities. Covered persons may not obtain a financial interest or financial benefit from a CDBG-DR activity, or have a financial interest in any contract, subcontract, or agreement with respect to the CDBG-DR assisted activity, or the proceeds from such activity, either for themselves or those with whom they have business or immediate family ties, during their tenure or for one year thereafter.
- (b) Exceptions: Threshold requirements. Upon the written request of the participating jurisdiction, HUD may grant an exception to the provisions above on a case-by-case basis when it determines that the exception will serve to further the purposes of the CDBG-DR

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Program and the effective and efficient administration of the participating jurisdiction's program or project. An exception may be considered only after the participating jurisdiction has provided the following:

- (1) A disclosure of the nature of the conflict, accompanied by an assurance that there has been public disclosure of the conflict and a description of how the public disclosure was made; and
  - (2) An opinion of the participating jurisdiction's or state recipient's attorney that the interest for which the exception is sought would not violate state or local law.
- (c) Factors to be considered for exceptions. In determining whether to grant a requested exception after the participating jurisdiction has satisfactorily met the requirements mentioned above, HUD will consider the cumulative effects of the following factors, where applicable:
- (1) Whether the exception would provide a significant cost benefit or an essential degree of expertise to the program or project which would otherwise not be available;
  - (2) Whether the person affected is a member of a group or class of low-income persons intended to be the beneficiaries of the assisted activity, and the exception will permit such person to receive generally the same interests or benefits as are being made available or provided to the group or class;
  - (3) Whether the affected person has withdrawn from his or her functions or responsibilities, or the decision-making process with respect to the specific assisted activity in question;
  - (4) Whether the interest or benefit was present before the affected person was in a position as described in paragraph (c) of this section;
  - (5) Whether undue hardship will result either to the participating jurisdiction or the person affected when weighed against the public interest served by avoiding the prohibited conflict; and
  - (6) Any other relevant considerations.

### **Part 1100 - Miscellaneous**

#### **§ 100-100.4-1101 Acronyms Reference Section**

[For Rehab and Reconstruction Program Policies and Procedures]

- (a) AIA—American Institute of Architects
- (b) AMI—Area Median Income
- (c) CD—Corporate Director
- (d) CDBG-DR – Community Development Block Grant Disaster Recovery
- (e) CFR—Code of Federal Regulations

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- (f) CNMI—Commonwealth of the Northern Mariana Islands
- (g) CPSC—Consumer Product Safety Commission
- (h) DCD—Deputy Corporate Director
- (i) DEQ—Department of Environmental Quality
- (j) DPW—Department of Public Works
- (k) DTI—Debt-to-Income Ratio
- (l) EA—Environmental Assessment
- (m) GFE—Good Faith Estimate
- (n) HOME Program—U.S. HUD Homeownership Investment Partnerships Program
- (o) LEP—Limited English Proficiency
- (p) LMI—Low Moderate Income
- (q) MCD—Mortgage Credit Division
- (r) MBE—Minority-Owned Business Enterprise
- (s) MPS—Minimum Property Standards
- (t) MPV—Maximum Property Value
- (u) NAHA—National Affordable Housing Act
- (v) NEPA—National Environmental Policy Act
- (w) NMHC—Northern Marianas Housing Corporation
- (x) NTP—Notice to Proceed
- (y) PII—Personally Identifiable Information
- (z) PITI—Principal, Interest, Taxes, and Insurance
- (aa) PJ—Participating Jurisdiction

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- (bb) PTI—Payment-to-Income Ratio
- (cc) PTR—Preliminary Title Report
- (dd) RER—Rehab Environmental Review
- (ee) RESPA—Real Estate Settlement Procedures Act
- (ff) SCRA—Service Members Civil Relief Act
- (gg) SSI—Supplemental Security Income [Social Security]
- (hh) TCD—Time Certificates of Deposits
- (ii) TILA—Truth in Lending Act
- (jj) U.S. HUD—United States Department of Housing and Urban Development
- (kk) USDA RD—United States Department of Agriculture Rural Development
- (ll) USPAP—Uniform Standard of Professional Appraisal Practice
- (mm) VOE—Verification of Employment
- (nn) WMBE—Women-owned or minority-owned business enterprise

### Definitions:

**Adjusted Gross Income (AGI):** AGI is an individual's total gross income minus specific deductions. Adjusted income is derived by subtracting any of the five allowed deductions that apply to household from the household's annual (gross) income. For elderly or disabled households, deductions for the type of household, dependent childcare, medical and disability assistance expenses are allowed; family households may deduct dependent, childcare and disability assistance expenses.

**Area Median Income (AMI):** Calculated annual limits based on HUD-estimated median family income with adjustments based on family size used for demonstrating LMI beneficiaries in the program. May also be referred to as Area Median Family Income (AMFI) in other program documents.

**Beneficiary:** An individual, person, family or household receiving advantage or assistance from the CDBG-DR funding.

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**Builder/Contractor:** (Used interchangeably) A person who contracts to reconstruct or repair houses and or supervise building operations.

**Case Management:** The collaborative process of providing services that include assessment, planning, facilitation, coordination and advocacy for reconstruction or rehabilitation to individual homeowner applicants to ensure they fully understand the Program's housing solutions, resulting in clear and transparent determination of eligibility, reconstruction or rehabilitation options, assistance award amounts, the construction management process, documentation and ongoing compliance requirements. Case Managers will work to decrease barriers for homeowners to participate in the program wherever possible. Case Workers will explain the Program's solutions and provide information on the Reconstruction/Rehabilitation process in standardize formats.

**Common Area Under Roof:** The total area under the common roof is primarily interior, conditioned spaces and, for single-story homes is equal to the footprint of the house. The term is also synonymous with the eligible area. Exterior spaces such as detached porches and garages are considered *ineligible* areas.

**Damage Assessment:** A report resulting in a physical inspection of the housing unit to document damage from the event. The assessment must be conducted by a certified or licensed inspector and is required to specifically and clearly document storm-related property damage via photographic evidence and detailed narratives. Damage assessments must include a final estimated cost of repairs according to local code, an assessment of cost-effectiveness of each recommended activity (reconstruction or rehabilitation), mold remediation and the total amount of assistance needed to bring the home up to code at completion.

**Demolition:** The clearance and proper disposal of dilapidated building and improvement materials.

**Duplication of Benefits:** The amount determined by the Program that would represent financial assistance covering costs that have been received from another source for the same need. The Robert T. Stafford Disaster Assistance and Emergency Relief Act (Stafford Act) prohibits any person, business concern, or other entity from receiving financial assistance from CDBG-DR funding with respect to any part of 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 for the same need. A Duplication of Benefit amount determined by the Program would result in the reduction of an award amount.

**Environmental Review:** All qualified projects must undergo an environmental review process. This process ensures that the activities comply with National Environmental Policy Act (NEPA) and other applicable federal and territorial laws. 24 CFR Part 58 Environmental Review Procedures for Entities Assuming HUD Environmental Responsibilities as well as Related Federal Laws and Authorities Listings under 24 CFR 50.4 and 58.6 will be followed.

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**Estimated Cost of Repair (ECR):** The report resulting from a damage assessment detailing the estimated project costs necessary to repair /or reconstruct the home to the minimum housing rehabilitation for mitigation and elevation efforts to reduce the impact of future storms.

**Federal Emergency Management Agency (FEMA):** The agency of the United States Department of Homeland Security standards, and costs with the primary purpose of coordinating the response to a disaster that has occurred within the United States and that overwhelms the resources of local authorities.

**FEMA-Designated High-Risk Area:** Areas designated by FEMA as vulnerable to significant wind and/or storm surge damage and areas located in the 100-year flood zones. These areas will be identified during the environmental review process for each participating jurisdiction.

**Flood Hazard Area:** The land area covered by the floodwaters of the base flood is the Special Flood Hazard Area (SFHA) on NFIP maps. The SFHA is the area where the National Flood Insurance Program's (NFIP's) floodplain management regulations must be enforced and the area where the mandatory purchase of flood insurance applies. The SFHA includes Zones A, AO, AH, A1-30, AE, A99, AR, AR/A1-30, AR/AE, AR/AO, AR/AH, AR/A, VO, VI-30, VE, and V.

**Flood Insurance:** The Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a) requires that projects receiving federal assistance and located in an area identified by FEMA as being within a Special Flood Hazard Areas (SFHA) be covered by flood insurance under the National Flood Insurance Program (NFIP). For property owners to be able to purchase flood insurance, the community must be participating in the NFIP. If the community is not participating in the NFIP, federal assistance cannot be used in those areas.

**Floodplain:** FEMA designates floodplains as geographic zones subject to varying levels of flood risk. Each zone reflects the severity or type of potential flooding in the area.

"100-year floodplain" - the geographical area defined by FEMA as having one percent chance of being inundated by a flooding event in any given year.

"500-year floodplain" - the geographical area defined by FEMA as having a 0.2 percent change of being inundated by a flooding event in any given year.

**Household:** A household is defined as all persons occupying the same housing unit, regardless of their relationship to each other. The occupants could consist of a single family (including a family that consists of a single individual), two or more families living together, or any other group of related or unrelated persons who share living arrangements. For housing activities, the test of meeting the LMI National Objective is based on the combined income of the household.

**Individual Mitigation Measures (IMM):** Activities designed to mitigate and/or reduce risk beyond the pre-disaster condition of a housing unit when the activities are above and beyond

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federal, state, or local units, and the payment of flood insurance are not IMM activities. Examples of IMM activities include elevation above the base flood elevation level, or the addition of storm shutters, disaster proof windows, roof straps, etc. as long as those improvements are not required to comply with local code requirements and did not exist on the housing unit prior to the disaster damage.

**Low- to Moderate-Income (LMI) National Objective:** Activities which benefit households whose total annual gross income does not exceed 80% of Area Median Income (AMI), adjusted for family size. Income eligibility will be determined and verified in accordance with 24 CFR Part 5 requirements using procedures as stated in the Technical Guide for Determining Income and Allowances, 3<sup>rd</sup> Edition (HUD-1780-CPD). The most current income limits, published annually by HUD, shall be used to verify the income eligibility of each household applying for assistance at the time assistance is provided.

**Major or Severe Damages:** \$8,000 or more of FEMA inspected real property damage or 1 foot or more of flood water on the first floor. Inspection documentation must be maintained in the project file (a copy of the FEMA inspection, or photographic evidence of the flood water damage).

**Manufactured Housing Unit (MHU):** A structure, transportable in one or more sections which in the traveling mode is 8 body-feet or more in width, and 40 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 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.

**Minimum Housing Standards:** Assisted properties will meet the following standards upon project completion: each living unit will be used and maintained individually, having access such that it is unnecessary to pass through any other living unit, will include utilities and a water supply and will meet the CNMI building codes in place at the time of assistance. Fixtures and finishes will be of "standard" and not "luxury" quality.

**Mitigation:** Improvements made to a property specifically to reduce the possibility of future property damage, personal and commercial hardship, as well as long lasting monetary burden. For example, creating a flood mitigation program such as an acquisition of at-risk flood-prone property/housing, and elevation of housing in high-risk floodplains are too visible and effective mitigation projects that can be taken to make residents and communities safe in the face of natural disasters.

**Modular Home:** A home built-in sections in a factory to meet state, local, or regional building codes. Once assembled, the modular unit becomes permanently fixed to one site.

**National Flood Insurance Program (NFIP):** The National Flood Insurance Program aims to reduce the impact of flooding on private and public structures by providing affordable insurance to property owners, renters and businesses and by encouraging communities to adopt and enforce floodplain management regulations.

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**New Construction:** The site preparation for, and the construction of, an entirely new residential structure in a location that did not previously contain a residential structure.

**Reconstruction:** Demolition and rebuilding of a residential structure, including a modular housing unit, on the same lot and in substantially the same footprint and manner as the previous housing unit (whether demolished with CDBG-DR assistance, or demolished prior to Program application). This activity also includes replacing an existing substandard site-built, modular housing, or manufactured housing unit (MHU). The number of units may not be increased, and the total square footage of the reconstructed structure may not be substantially increased beyond the original principal residence square footage. However, the number of rooms within a unit may be increased or decreased based on the applicant's current household size.

**Rehabilitation:** Repair or restoration of a storm-damaged housing unit to applicable CNMI building and construction codes, and minimum property standards for a residential dwelling.

**Single Family Home:** A single unit containing any group of rooms located within a dwelling and forming a single habitable unit with facilities which are used or intended to be used for living, sleeping and cooking. A single-family home may be detached or attached to another single unit.

**Subrogation Agreement:** An agreement executed by the homeowner beneficiary agreeing to repay any duplicative assistance if the homeowner beneficiary later receives other disaster assistance for the same purpose as disaster recovery funds already received.

**Substantial Damage:** Storm damage sustained by a structure whereby the cost of restoring the structure to its pre-storm damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred (44 CFR 59.1). Substantial damage includes properties that were fully destroyed by the storm events. A substantially damaged determination may be made by a Commonwealth government official or floodplain manager, or the determination may be made by the CDBG-DR Program based on the Estimated Cost to Repair.

**Uniform Relocation Assistance and Real Property Acquisitions Policies Act of 1970, as amended (Title 49 CFR Part 24) (42 U.S.C. 4601 et seq.) (URA):** URA applies to all acquisitions of real property or displacements of persons resulting from federal or federally assisted program projects. The objective of the URA 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 involuntary displacements from residential units (49 CFR Subpart B) and acquisition or multifamily damaged/occupied activities that require the relocation of tenants.

Since participation in the Homeowner Reconstruction and Rehabilitation Program is voluntary, permanent relocation compensation is not available to the property owners.

However, NMHC must assure that the Uniform Relocation Act requirements will be followed and that both displaced occupants and any current occupants if any of the project are identified. These occupants are entitled to advisory services, in the form of notices and counseling, moving and/or

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storage expenses, and coverage of all displacement costs for temporary or permanent relocation pursuant to formula and applicable Federal Register notices. The program will monitor displaced and current tenants and maintain records from the inception of the project. Failure to do so can lead to unexpected and substantial costs and work delay.

**Demonstrable Hardship** - A demonstrable hardship is a substantial change in an applicant's financial situation that will prohibit or severely affect their ability to provide a minimal standard of living or the basic necessities of life including food, housing, clothing and transportation without causing economic distress well beyond mere inconvenience as shown by objective evidence. A demonstrable hardship must be occurring after the named storms. The demonstrable hardship must be of a severe, involuntary and unexpected nature. It must not be one that is generally shared by other applicants affected by the named storms. Examples of demonstrable hardships may include job loss, failure of a business, divorce, severe medical illness, injury, death of a family member or spouse, unexpected and extraordinary medical bills, disability, substantial income reduction, unusual and excessive amount of debt due to a natural disaster, etc. None of the listed examples above, individually or taken together, automatically establish a demonstrable hardship nor is the listing above exhaustive as there may be other factors relevant to the issue of demonstrable hardship in a particular case. If an applicant believes that they are in the state of demonstrable hardship and that the demonstrable hardship causes them to not comply with any of the program policies, they may present their existence of a demonstrable hardship to their case worker (housing or grant specialist) and the Program will evaluate on a case-by-case basis after review of all of the circumstances. Applicants claiming a Demonstrable Hardship shall be required to provide evidence of such claimed Demonstrable Hardship to the case worker.

***Not Suitable for Rehabilitation*** – properties where the cost of rehabilitation exceeds the after-rehab appraisal and there is not a compelling historical or community justification to save the property.

**Urgent Need National Objective:** An activity that addresses an urgent need, defined as a situation where existing conditions pose serious and immediate threat to the health or welfare of the community and are recent or recently became urgent. The Territory, along with any and all subrecipient (s), must document no funds are available and costs cannot be financed for the activities. The CDBG certification requirements set forth in 24 CFR 570.208(c) and 570.489(d) have been waived per 83 FR 5844. The Territory and the subrecipients must document how each activity, program, and/or project funded under this National Objective category responds to a disaster-related impact. (See 24 CFR 570.208(c) and applicable Federal Register Notices which are 83 FR 5844 and 83 FR 40314.)

### § 100-100.4-1105

### Homeowner Rehabilitation

#### Records Management

NMHC will comply with 24 CFR Part 5.2, Compliance with the Privacy Act, which requires the safeguarding of personally identifiable information (PII) by:

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- Minimizing the use of PII on program documents and records.
- Providing access to PII only to those who require it for official business.
- Securing PII appropriately for paper or electronic forms.
- Training for data security and compliance with the Privacy Act will be provided to all employees and contractors (if applicable) as part of their on boarding process.

In accordance with HUD regulations, as a grantee and recipient of CDBG-DR funds, NMHC follows the records retention as cited in 2 CFR Part 200.333-337, which includes financial records, supporting documents, statistical records and all other pertinent records are maintained for five (5) years after closeout of the grant between HUD and NMHC.

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## APPENDIX A.1: Crosscutting Requirements

### 1.1 Crosscutting Requirements

#### 1.2 Fair Housing

The Fair Housing Act requires all grantees, subrecipients, and/or developers funded in whole or in part with HUD financial assistance 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. The Program complies with and enforces the Civil Rights requirements of Title I of the Housing and Community Development Act (HCDA) and the Fair Housing Law.

Projects must also assess how planning decisions may affect members of protected classes, racially and ethnically concentrated areas, as well as concentrated areas of poverty; will promote the availability of affordable housing in low-poverty, non-minority areas where appropriate; and will respond to natural hazard-related impacts. Program staff will use demographic, geographic, and social vulnerability analyses to determine any positive or negative impacts to protected classes. Should a project present negative impacts, project scope or design will be re-assessed to mitigate such impacts.

#### 1.3 Environmental Review

Early environmental coordination must be completed to ensure effective implementation of all CDBG-DR Programs. CDBG-DR funding is contingent upon compliance with both local and federal environmental regulations. This includes compliance with NEPA and related environmental and historic preservation legislation and executive orders. In general, NMHC serves as the lead agency for purposes of NEPA.

HUD's Environmental Review process allows grantees to serve as the "Responsible Entity" to assume environmental review responsibilities under NEPA. As the grantee, NMHC serves as the Responsible Entity (through authorization from the Governor) as it relates to environmental review responsibilities under NEPA. Within NMHC, Environmental Review Staff will be responsible for performing environmental reviews and compiling the Environmental Review Records (ERR). Reviews are conducted either directly or using qualified environmental service contractors. NMHC's Corporate Director, as the Certifying Officer, is ultimately responsible with certifying that NMHC's environmental reviews follow NEPA and HUD environmental regulations.

Federal Register Notice FR-6182-N-01 authorizes recipients of CDBG-DR funds under the Appropriations Act to adopt any environmental review, approval, or permit performed by a Federal agency for the same project to satisfy responsibilities with respect to environmental review, approval, or permit. The other agency's environmental review must cover all project

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activities funded by the HUD recipient for each project. NMHC will notify HUD in writing of its decision to adopt another agency's environmental review. NMHC will also retain a copy of the review in its environmental records. Further information concerning the specific HUD requirements for the adoption of other Federal agency environmental reviews can be found in the HUD Memorandum dated March 4, 2013, *Adoption of FEMA and Other Federal Environmental Reviews Processing for Hurricane Sandy Supplemental Appropriation (H.R. 152) Activities*. Additional information on the environmental review process in general is set forth in Section § 100-100.4-335, Environmental Review Procedures for Entities Assuming HUD Environmental Responsibilities (24 C.F.R. Part 58).

### 1.4 Labor Standards

The Davis-Bacon and Related Acts (DBRA) applies to all federally-funded or assisted construction contracts in excess of \$2,000. This may apply to projects that are fully or partially funded with CDBG-DR, including FEMA or FHWA match programs. In matched projects, only the scope of the CDBG-DR portion of the project are subject to crosscutting requirements DBRA requires all workers employed by contractors or subcontractors on CDBG-DR programs, 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 DBRA, as amended. DBRA also requires that workers on federally-assisted projects are paid not less than weekly.

Wage information for labor under CDBG-DR programs will be tracked in detail by both NMHC and relevant Implementing Partners and subrecipients throughout the life of the Program. Compliance for this requirement may be tracked in the following ways:

1. Additional NMHC Program staff hired to track wages and verify contractor and agency compliance
2. External contractor hired by NMHC to track DBRA compliance
3. Enhanced TA provided to Implementing Partners to track DBRA compliance

Procedures for this process are currently under development and will be incorporated in a future update to this document.

For prime contracts in excess of \$100,000, contractors and subcontractors must also, under the provisions of the Contract Work Hours and Safety Standards Act, as amended, pay laborers and mechanics, including guards and watchmen, at least one and one-half times their regular pay for all hours worked over 40 in a work week. Additionally, NMHC must follow the reporting requirements per HUD and U.S. Department of Labor (DOL) regulations. This requirement also extends to NMHC subrecipients, Implementing Partners, and contractors.

The Fair Labor Standards Act of 1938 (FLSA), as amended, establishes the basic minimum wage levels for all work and requires the payment of overtime at the rate of at least one and one-half times the basic hourly rate of pay for hours worked in excess of 40 per week. These labor standards are applicable to the entire construction contract whether or not CDBG-DR funds finance only a portion of the project.

## **1.5 Limited English Proficiency**

Federal Executive Order 13166 requires NMHC and all satellite offices, programs, subrecipients, contractors, subcontractors, and/or developers funded whole or in part with CDBG-DR financial assistance to ensure fair and meaningful access to programs and services for families and individuals with Limited English Proficiency (LEP) and/or deaf/hard of hearing. Compliance with this requirement is detailed in NMHC's Language Action Plan (LAP) and will be coordinated and tracked by the Monitoring and Compliance division at NMHC. Depending on the program, NMHC, Implementing Partners, sub-recipients, and subcontractors will share the following expectations to comply with this Executive Order:

1. Document Translation: All documents defined as "vital documents" will be translated into Chamorro or Carolinian by NMHC, Implementing Partners, and sub-recipients. A "vital document" is defined as a document that includes information regarding eligibility requirements, applications and instructions, program eligibility determinations, and appeals procedures. NMHC may aid ensure this requirement is met.
2. Where required, seek feedback from the community the project serves (advocacy groups serve vital role).

Language maps provided in the Language Action Plan will be used to determine the project's location and subsequent language context and if proactive LEP outreach will be required. These maps will be included as part of the Project Assessment Form used by NMHC to review the eligibility, priority level, and impacts of a potential project.

## **1.6 Minority and/or Women-Owned Business Enterprises**

The Federal Executive Order 12432 guidelines require selected federal agencies to promote and increase the utilization of Minority-Owned and Women-Owned Business Enterprises (M/ WBEs). Following procurement guidelines under 2 CFR 200.321, NMHC must make efforts to ensure that all subrecipients, contractors, subcontractors, and/or developers funded in whole or in part with HUD CDBG-DR financial assistance encourage participation in contracts and other economic opportunities by small and minority firms, women-owned business enterprises (WBEs), and labor surplus area firms whenever possible. NMHC will accept a MWBE certification from another state, local or regional, DPW, SBA HUB Zone, SBA 8-A certification (economically disadvantaged and 51% locally-owned), and other eligible certification processes. Documentation and goals regarding M/WBE percentages and reporting will be determined in the contracting agreements.

## **1.7 Section 3 Economic Opportunities**

Section 3 is triggered when the award of CDBG-DR funds for new construction and rehabilitation projects creates the need for new employment, contracting, or training opportunities, and the project or contract exceeds \$200,000.

Section 3 of the Housing and Urban Development Act of 1968 is to "ensure that employment and

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other economic opportunities generated by certain U.S. Department of Housing and Urban Development (HUD) financial assistance for housing and community development programs shall, to the greatest extent feasible, be directed to low and very low income individuals, especially recipients of government assistance for housing and to businesses which provide economic opportunities to low and very low income individuals.”

The Section 3 program requires that recipients of HUD CDBG-DR funds, to the greatest extent feasible, provide (a) employment and training, and (b) contracting opportunities for low- or very-low-income residents in connection with construction projects in their neighborhoods.

It also specifically encourages economic opportunities for households who are recipients of government assistance for housing. NMHC and all administering entities will follow and require relevant contractors to follow Section 3 requirements in contracting.

Section 3 applies to the CNMI, as recipient of HUD funding, as well as to subrecipients or Implementing Partners/Sub-recipients receiving HUD funding exceeding \$200,000. Whenever any portion of HUD funding is invested into projects involving housing construction, demolition or rehabilitation, commercial/private improvements for economic development, or other public construction (e.g., roads, sewers, community centers, and public facilities), the requirements of Section 3 apply.

In conjunction with construction activity, Section 3 applies to projects that are fully or partially funded with CDBG-DR assistance, including projects that are financed in conjunction with territory, local, or private matching or leveraged funds, provided that the Section 3 monetary threshold requirements are met. In particular:

- In conjunction with construction activities, Section 3 applies to contractors or subcontractors if the total project or contract amount is \$200,000 or more. Once it is determined that Section 3 applies to a project, the requirements apply to all contracts for construction work arising in connection with that project including those not funded with CDBG-DR assistance. Contractors or subcontractors are required to comply with the Section 3 regulations in the same manner as the Commonwealth; and
- “Section 3-covered contract” includes professional service contracts, provided that the work to be performed is generated by the expenditure of funds in furtherance of Section 3 covered work (e.g., housing construction, housing rehabilitation, and other public construction), arising relating to construction projects. Professional service contracts that may constitute Section 3-covered contracts include construction contract oversight, engineering, architectural, environmental and property evaluation, construction progress and draw inspections, and prevailing wage labor compliance. Contracts with contractors that require advance degrees are not required to report labor hours.

The regulations pertain all covered projects and include the following reporting requirements:

- All project labor hours
- All Section 3 worker labor hours

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- All Targeted Section 3 labor hours

HUD as established the following benchmarks for all covered contracts:

- Section 3 workers – 25% of total labor hours
- Targeted Section 3 workers – 5% of total labor hours

When NMHC awards CDBG-DR funds to other governmental departments, nonprofit organizations, subrecipients or other funded entities, NMHC will require they document how reasonable attempts were made to reach numerical goals set forth at 24 CFR Part 135.30. NMHC will inform its Implementing Partners and other funded entities of the requirements of Section 3, including the language required to be inserted into all construction-related contracts, assist them and their contractors with achieving compliance, and monitor their performance with respect to the Section 3 objectives and requirements.

Implementing Partners/Sub-recipients will receive training on this requirement and methods of compliance, technical assistance from Program staff, and continual monitoring from NMHC. Currently, a Section 3 Plan is under development, the details of which will be included in an update to this manual.

### **1.8 System for Award Management (SAMs)**

SAM is the federal System for Award Management and is a requirement for doing business with the U.S. government. All vendors are required to register in SAM in order to be awarded contracts under the CDBG-DR program. Vendors are required to complete a one-time registration to provide basic information relevant to procurement and financial transactions. Vendors must update or renew their registration annually to maintain an active status.

### **1.9 Uniform Relocation and Real Property Acquisition Act (49 CFR 24)**

The Uniform Relocation Assistance and Real Property Acquisition Act (URA), is a federal law that establishes minimum standards for federally funded programs and projects that require the acquisition of real property (real estate) or displace persons from their homes, businesses, or farms. The URA's protections and assistance apply to the acquisition, rehabilitation, or demolition of real property for federal or federally funded projects. The phrase "program or project" is defined in 49 CFR Part 24 as, "any activity or series of activities undertaken by a federal agency or with federal financial assistance received or anticipated in any phase of an undertaking in accordance with the federal funding agency guidelines."

The objectives of the URA are:

- To provide uniform, fair and equitable treatment of persons whose real property is acquired or who are displaced in connection with federally funded projects;
- To ensure relocation assistance is provided to displaced persons to lessen the emotional and financial impact of displacement;
- To ensure that no individual or family is displaced unless decent, safe, and sanitary (DSS) housing is available within the displaced person's financial means;

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- To help improve the housing conditions of displaced persons living in substandard housing; and,
- To encourage and expedite acquisition by agreement and without coercion.

49 CFR 24.101(c)(1) provides that the subpart B requirements also apply to the acquisition of permanent and/or temporary easements necessary for the project. However, 49 CFR 24.101(c)(2) provides an exception for the acquisition of temporary easements which exclusively benefit the property owner.

### **1.10 Voluntary (Optional) Relocation Assistance**

NMNC intends to provide voluntary relocation assistance to homeowners who must vacate their homes while repairs or reconstruction occur. Refer to the RARAP policy for details on how this program will be implemented and administered.

## APPENDIX A.2: Construction Standards

NMHC's CDBG-DR Written Rehabilitation Standards shall detail the methods, materials, and requirements that the housing must meet upon completion of rehab, including all of the following:

- (1) **Exigent Health and Safety (EHS).** Identifying all life-threatening deficiencies<sup>1</sup> that present a direct threat to life or well-being, e.g., that are likely to cause severe injury or reduction in physical or mental ability. These EHS life-threatening deficiencies include: locked emergency/fire exit egress, missing/broken electrical cover plates/switches/outlets, inoperable smoke detectors, and exposed wires/missing covers. See Attachment B.
- (2) **Major Systems.** Requiring that, upon project completion, each major system, as defined by federal regulation, had a remaining useful life of 5 years, or for a longer period as specified by NMHC, or the major system was rehabilitated or replaced as part of the rehabilitation. Major systems are: structural support; roofing; cladding and weatherproofing (e.g., windows, doors, siding, gutters); plumbing; electrical; and heating, ventilation, and air conditioning. For rental housing, the participating jurisdiction's standards must require the participating jurisdiction to estimate (based on age and condition) the remaining useful life of these systems, upon project completion of each major systems. For multifamily housing projects of 26 units or more, the participating jurisdiction's standards must require the participating jurisdiction to determine the useful life of major systems through a capital needs assessment of the project. For rental housing, if the remaining useful life of one or more major system is less than the applicable period of affordability, the participating jurisdiction's standards must require the participating jurisdiction to ensure that a replacement reserve is established and monthly payments are made to the reserve that are adequate to repair or replace the systems as needed. For homeownership housing, the participating jurisdiction's standards must require, upon project completion, each of the major systems to have a remaining useful life for a minimum of 5 years or for such longer period specified by the participating jurisdiction, or the major systems must be rehabilitated or replaced as part of the rehabilitation work<sup>2</sup>.
- (3) **Lead-based Paint.** NMHC's standards must conform with HUD's lead-based paint requirements at 24 CFR part 35<sup>3</sup>.
- (4) **Disaster Mitigation (if applicable).** Require the property to meet the disaster mitigation requirements, e.g., housing to be improved to mitigate the impact of potential disasters (e.g., earthquake, hurricanes, flooding, and wildfires) in accordance with State and local codes, ordinances, and requirements<sup>4</sup> such as the 2018 International Building Code or most current building code adopted by the CNMI Department of Public Works Building Safety Office, zoning laws (note: zoning is currently applicable to Saipan only), International Energy Code, etc.

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<sup>1</sup> 24 CFR 92.251(b)(1)(i)

<sup>2</sup> 24 CFR 92.251(b)(1)(ii)

<sup>3</sup> 24 CFR 92.251.(b)(1)(iii)

<sup>4</sup> 24 CFR 982.251(b)(1)(vi)

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- (5) **State and Local Codes, Ordinances, and Zoning Requirements.** NMHC's standards must require the housing to meet all applicable State and local codes, ordinances, and requirements in accordance to the 2018 International Building Code or most current building code adopted by the CNMI Department of Public Works Building Safety Office, zoning laws (note: zoning is currently applicable to Saipan only), International Energy Code, or, in the absence of a State or local building code, the International Building Code of the International Code Council<sup>5</sup>.
- (6) **Uniform Physical Conditions Standards.** NMHC's standards must reflect upon completion, the CDBG-DR-assisted project and units will be decent, safe, sanitary, and in good repair as described in 24 CFR 5.705. HUD will establish non-life threatening and minimum deficiencies that must be corrected under NMHC's standards based on inspectable items and inspected areas from HUD-prescribed physical inspection procedures (Uniform Physical Conditions Standards) pursuant to 24 CFR 5.705<sup>6</sup>. See Attachment B.

### GENERAL NOTES:

1. **Scope Verification.** The contractor shall field verify locations, sizes, and quantities of work required for the project. Any quantities provided by NMHC need to be field verified for accuracy and exact installation requirements.

The contractor is responsible for coordinating with an in-house or third-party Architectural and Engineering (A&E) firm for their project design, proposal, and scope of work for review and certification as required.

2. **Tools, Material, and Equipment.** The contractor will supply all tools, materials, and equipment required to perform the Scope of Work unless otherwise specified.
3. **Permits, Inspections, and Testing.** Contractors and Subcontractors shall be responsible for all permits including but not limited to, the Saipan Zoning Board, the Bureau of Environmental and Coastal Quality (BECQ), and the Department of Public Works (DPW), inspections, testing, fees and licensing as pertaining to the law, ordinances, and regulations and as required to complete their respective Scopes of Work in this Agreement. The contractor shall pay for the entire cost of any remedial work resulting from a failed inspection.
4. **Taxes.** The contractor shall be responsible for all federal, state, and local taxes imposed directly or indirectly for its Services required to fill this Agreement.
5. **Insurance.** The contractor shall provide and maintain General Liability and Worker's Compensation insurance throughout the Term of this Agreement and Project duration. The contractor shall provide certificates of insurance or other acceptable evidence of insurance (i.e.,

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<sup>5</sup> 24 CFR 92.251(b)(1)(vii)

<sup>6</sup> 24 CFR 92.251(b)(1)(viii)

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payment and performance bond) in the amount of 100 percent of the rehabilitation contract sum upon execution of this Agreement.

6. **Clean-Up.** The contractor is responsible for daily cleanup of all areas where work is performed and disposal of debris.

### NMHC PROJECT PROPOSAL STANDARD REQUIREMENTS:

- a) Contractors and/or A&E firms are to conduct assessments of the client's existing home and property condition, existing home structural condition, existing plumbing and drainage system conditions, and existing electrical condition. The contractor and/or A&E firm will also need to verify the home's existing power pole drop line and water meter locations for planning purposes and reference in the scope of work development.

Also, the contractor will identify any potentially life-threatening conditions to include but not limited to:

- Lead-Based Paint
  - Asbestos
  - Mold
  - Structural issues/failures
- b) The contractor and/or A&E firm is responsible for securing as-built measurements of the home and project site for conversion to AutoCAD format for planning, layout renovation, and development of the rehabilitation scope of work.
  - c) Only contractors on NMHC's approved contractor listing are eligible to work on home grant clients' new or rehab home projects.

**Note:** Interested contractors not currently listed on NMHC's contractor listing must first submit all documents as listed on the request for qualifications notice to be added to the contractor listing and become eligible to work on housing projects.

- d) The contractor is responsible for applying for all permits necessary for a new house construction proposal or renovation, extension, rehab project for a regular home or disability home project for the record.
- e) The contractor is responsible for having all project design drawings reviewed and certified by a licensed A&E firm. The contractor will utilize the certified drawings to apply for the DPW Building Permit as required.
- f) The contractor is responsible for complying with all DPW Building Safety Code requirements including but not limited to: inspections, report documentation, and testing reports throughout the

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construction process for new, rehab, renovation home projects for regular home or disability home construction, extensions, or house conversions to disability home compliance projects.

- g) The Contractor is responsible for gathering and maintaining all project records and documentation required by DPW for the issuance of the Certificate of Occupancy upon project completion. Copies of all reports are also to be submitted to NMHC.
- h) The contractor is required to conduct a pre-final inspection of the project with the homeowner and NMHC officials, before final inspection with DPW Building Safety inspectors, to test all the building systems and finishing work.
- i) Any major systems, as defined below, installed by the contractor shall have a warranty of no less than 5 years. Such warranty shall be stipulated on the rehabilitation contract between the contractor and the homeowner. Should it be determined at any time during the 5-year warranty period that a major system failure was a result of the work completed by the contractor then the contractor will be obligated to repair the failure.
- j) All other rehabilitation work performed by the contractor shall have a warranty period of no less than 1 year, beginning on the date of the Certificate of Occupancy issued by the Department of Public Works. Such warranty shall be stipulated on the rehabilitation contract between the contractor and the homeowner.

Major systems as defined by 24 CFR 92.251(b)(1)(ii)] – Structural support; roofing; cladding and weatherproofing (e.g., windows, doors, gutters); plumbing; electrical; and heating, ventilation, and air conditioning.

### ZONING REFERENCES AND REQUIREMENTS:

- a) Contractors are required to apply for all zoning permit(s)/clearance(s) required for a home renovation or rehabbing project, including any new home extension projects. Contractors will need to ensure full compliance with all zoning setback requirements.

**Example:** For any extension in the front of the house, the extension should be 15' feet away from the front property line to the new front wall extension. For the left or right-side, the zoning setback requirements are 10' feet away from the boundary line to a new building wall extension. And for the rear setback, zoning requires 20' feet clearance away from the rear property line. Any failure to meet these requirements may result in the home client having to pay for zoning variance fees.

- b) Zoning fencing setback requirements - For any proposed fencing for the front side of the house facing the road entry, the fence line should be two feet inward of the property line. For the left, right, and rear side setbacks, the requirement is one foot inward the property line.

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- c) Should a new septic tank and leaching field be required, the Zoning office setback requirements are a minimum of ten feet at any angle from the property line for both the septic tank and leaching field.

**Note:** New septic tanks should be constructed fifteen feet from the house. DEQ also has regulations on Septic tanks and leaching fields that need to be adhered to.

### **SITE WORK:**

- a) All debris including abandoned vehicles, scrap material, metal objects, trash, vegetation, and other objects that pose a safety and/or health threat, as determined by the local jurisdiction or person qualified to make such a determination, must be removed from the property before the start of construction.
- b) Any identified lead-based paint hazards must be abated by the contractor per the guidelines outlined in 24 CFR 92.251(b)(1)(iii).
- c) Any ground-level hazards i.e., potholes around the home must be backfilled to finish grade elevation to prevent tripping hazards.
- d) If required, any existing boundary fencing around the house/project site that can be repaired must be restored to a safe condition. If the fencing poses safety and/or health hazard then it must be immediately removed from the project site.

**Note:** Repairing of an existing boundary fence does not alleviate the contractor from installing the required protective hoarding around the house/project site.

### **PEST CONTROL:**

- a) Termite control shall be applied by a reliable and licensed termite control company familiar with local soils and termite control conditions and licensed by the Division of Environmental Quality.
  - 1. The contractor shall apply for all permits necessary for pest treatment.
- b) The contractor shall attain a certification of 2-year warranty and retreatment should ground nesting of termite occurs within the 2 years at no cost to the homeowner.
- c) The contractor shall apply termite treatment for any new construction, renovation, rehab, and extension project as required.

### **FOUNDATIONS:**

- a) Footings will be designed for an assumed allowable soil bearing capacity of 3,000 PSI

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- b) All structural fill beneath footings and slab-on-grade shall be placed 12 inches thick on 8-inch maximum layers. Foundation Backfill will be compacted to 95% compaction maximum dry density.
- c) Any soft spots encountered during excavation operations for foundations shall be over excavated till hard dirt limits, then backfilled with suitable material and properly compacted to 95%.
- d) Compaction tests for the foundation shall be required and paid for by the homeowner if not included in the contract after receiving the compaction test result for the record. The tests must be performed by a licensed soil testing firm.

### CONCRETE AND REINFORCEMENT:

1. All concrete shall develop a minimum compressive strength at the end of 28 days as follows:

• Foundation	3,000 PSI	Max slump	@4 inches
• Beams, Walls & Columns	3,000 PSI	Max Slump	@4 inches
• Suspended Roof Slab	3,000 PSI	Max Slump	@4 inches
• Slab on Grade	2,500 PSI	Max Slump	@5 inches
• Sidewalk / Pathway	2,000 PSI	Max Slump	@5 inches
• Driveway & Car Parking	3,000 PSI	Max Slump	@4 inches

**Note:** For a concrete flat rooftop on the middle portion, pour 7½” thick concrete slab, sloping to all corners of the house’s downspouts or drainage passageways at 5” finish. A 2½” slope to be applied in the middle of the rooftop to prevent water ponding on the rooftop.

### TESTING:

1. Compression Tests: All concrete placed for foundations, structural slabs, beams, and columns shall have a minimum of three cylinders taken for every 50 cubic yards of concrete placed or for any one concrete placement. Concrete cylinders shall be tested for compressive strength at a testing laboratory. Two compression tests shall be performed at 14 days and one compression test at 28 days for each set of three cylinders taken.
2. Slump tests @ 3”- 4” : A slump test shall be taken in the presence of the architect or engineer for each batch of concrete delivered to the job site and shall be taken before placing any concrete. In the event a slump test fails, the entire batch of concrete shall be rejected, including removal of concrete already placed, without cost to the homeowner for the record.

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3. Additional water to concrete mixture batch at the job site shall not be permitted.
4. All materials and workmanship shall conform with the 2018 International Building Code requirements for residential projects. All contractors must comply with the code for receiving the finished project's Certificate of Occupancy.

### **MAINTAIN MINIMUM CONCRETE COVERAGE FOR REINFORCING STEEL AS FOLLOWS:**

1. For concrete cast against and permanently exposed to earth @ 3"
2. Concrete exposed to earth or weather no. 5 rebar or smaller @ 1 ½"
3. Concrete not exposed to earth or in contact with ground slabs & walls @ ¾"
4. Concrete not exposed to earth or in contact with beams & columns @ 1 ½"
5. Reinforcement of new walls and columns shall be dowelled to supporting footings, beams, columns and walls with bars of the same size and spacing as vertical and horizontal bars

### **STRIPPING OF FORMS AND SHORES:**

1. For foundation forms, it can be removed after 24 hours after pouring curing time. For Walls and Columns forms, they should be removed after 48 hours minimum. For concrete roof beams and roof slabs, forms should be removed after 14 days minimum. All forms can be removed after 28 days of the date.
2. All concrete shall be kept moist for a minimum of 7 days immediately after placing by the use of wet burlap, fog spraying, curing compounds, and other approved methods an architect or engineer.
3. No heavy construction load is permitted more than 50% of the specified design load within the 28 days of concrete placement. In cases, do not overload more than the specified design load after the 28 days of placement. No concentrated load is permitted except over supporting columns and walls.

### **CONCRETE BLOCK WALL:**

1. Masonry units shall have a factory's minimum compressive strength of 1,000 PSI.
2. Masonry units shall be sound, dry, clean, and free from cracks when placed in the structure.
3. Where masonry unit cutting is necessary, all work should be neat and true.
4. The maximum aggregate size shall be 3/8" for pouring CMU block cells.
5. Concrete block units shall be laid in the common bond pattern unless otherwise shown.
6. For wall thickness 4", 6" and 8", use No. 4 vertical rebars @ 16" on center typical.

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7. Horizontal bars are placed at every two layers of blocks all around w/No.3 rebars typical.
8. For all corner walls, vertical bars install three No.5 vertical rebars on each side from the corner out @2' feet typical.
9. For all intersection walls, vertical bars install four No.5 vertical rebars one in center of T and one on each side out @2' feet typical.
10. For all end walls install two No.4 vertical bars w/No.3 bars C-ties @ 12" O.C. typical.

**Note:** Any new door or window to be opened up on an existing concrete house wall, construct a new lintel beam at 12" out from each side on top by 8" height by wall thickness typical and new 4" thick concrete sidings on both sides of window edging typically for door openings.

11. "Dur-O-Wal" reinforcement shall be continuous around all walls, corners, and intersections and shall lap @ 12" minimum splicing for all vertical rebar extension for all walls to roof beam level as required.
12. All CMU block cells shall be solidly filled with cement grout. Grout all cells below slab on grade. Typical unless noted otherwise.
13. When plastering roof beams and columns. Apply concrete bonding into your cement mixture and paintbrush the portions before plastering.
14. Any hollow sound on existing and newly plastered walls found on walls to be chipped removed out and re-plaster all hollow walls detected to its solid sound plaster condition.

**Note:** To be inspected and verified for approval for the record.

15. For painted finish. Apply muriatic acid on newly plastered walls. Wash down, dry up before applying two primer coats on newly plastered walls, and then apply two coated final painting finish. For existing concrete wall paint scrape and water blast all bubbling peeling out paint on walls, ceilings, etc. Apply one primer coat on existing dirty/stained washed walls before applying its new final paint color.
16. Any hollow sound on the existing floor, wall and counter ceramics, chip out and remove. Install new floor, wall, and counter ceramic with no hollow sound on the ceramic finishing work.

**Note:** To be inspected and verified for approval for the record.

### CONCRETE WALL AND CONCRETE ROOF STRUCTURE EXTENSION:

- a) For rehabbing an existing semi-concrete house to construct a new concrete roof structure on top, the contractor will construct new 8"x12" concrete columns with a 10" thick foundation concrete

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pouring by 30" square column footings. If the existing house is longer than 20', the contractor will construct another new column in between or in the middle for more structural support. The specifications are only for a house renovation with concrete roof ceiling height at 8' to 9' flooring finish to roof ceiling finish. For a 10' roof ceiling or over, the contractor will construct a 12"x12" size concrete columns for all with a 10" thick concrete pouring by 36" square column footings. Rebar sizes are standard sizes approved from its building permit plans as specified. See construction drawings for rebar sizes and dimensions.

**Note:** To refurbish/renovate a damaged roof on an existing semi-concrete house, replacing or repairing a tin roof will not be accepted as a rehab project. All eligible applicants must have their rooftop converted solid concrete mitigate any future disasters as outlined in 24 CFR 92.251(b)(1)(vi) and to comply with the rehab program requirement for homeowner insurance.

**Note:** The existing CMU walls to be used as existing concrete wall partitions. Do Not depend on the existing wall as wall bearing walls for the record. It will only serve as a non-bearing wall. The new concrete columns are designed to carry the new 5" thick concrete roof slab with new 17"x8" or 10" concrete roof beams that are specified in the structural construction drawings for the record.

### **PLUMBING STANDARD NOTES:**

1. Install a new ¾" ball valve at the existing CUC water meter box facing the house. Secure with cover level to the existing grade. (For emergency shut off valve).
2. Run a new ¾" PVC cold water line into the house project. (Following the Plumbing Floor Plans and Specifications).
3. For cold water lines, use PVC water pipes and for hot water lines, use CPVC water pipes.
4. For the waste line, use ABS pipes for all drainage waste line.
5. Make sure that the electric water heater has a Pressure Relief valve down at 12" above ground level. This is to ensure that should the water heater tank be over-pressured; the valve opens to relieve the pressure in the tank and prevent tank explosion.
6. Check slopes of waste/soil lines. Piping below 3" diameter shall be sloped at ¼" per foot. Piping over 3" shall be sloped at 1/8" per foot for the proper sloping waste line to the septic tank as required in the plumbing code.
7. Lay new water lines higher than sewer/waste lines to prevent contamination. Provide sand cushion around any plumbing piping. Keep water lines away from soil/sewer lines if in the same trench by at least 24".
8. Install new air chambers for all fixture supply piping. Use 18" air chamber, one size larger than branch piping.
9. Testing of water lines pressures for 100 PSI for one hour without any drop in water pressure. Retest all leaky joints. Submit all test results together with the rest of the closing reports.

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10. Static testing of waste lines and vent lines to 10' static head for at least one hour. Retest all leaky joints when detected until it has no more leak for the record. Submit all test results together with the rest of the closing reports.
11. Always check that the flow of the waste/soil lines is correct. The vent line is directed to the rooftop at 18" above the roofline. For sewer line, use long sweep elbow or tee.
12. Whenever a water closet is installed, make sure there is a minimum 2" vent thru roof at 18" above the rooftop.
13. Provide floor drains on 2<sup>nd</sup> or higher floors for housekeeping.
14. Clearwater lines and waste lines away from foundation footings, columns, and beams.
15. Do not install/embed water lines in concrete. Provide piping chase or sleeves.
16. Provide shut off valves at strategic points in the water lines.
17. For propane gas lines, use galvanized piping for LPG gas lines. Encased LPG piping in PVC piping, if piping is installed underground. Use a One bigger size PVC pipe to sleeve the galvanized pipe inside before pouring under the slab.
18. Always provide strap around water heaters, gas tanks to prevent it from moving during an earthquake.
19. Provide cushion sleeves around any piping penetrating through concrete walls and floors.
20. Provide 36" standpipe for washer and P-trap shall be above ground readily accessible. Do not install P-trap under the ground.
21. Provide P-traps for floor drains, shower drains, kitchen sinks, and lavatories.
22. Provide ground or floor cleanouts at every 50'. Provide cleanouts to every angle as required in the plumbing code for preventive maintenance.
23. Do not install sewer lines in the same trench as water lines. Where there is crossing, concrete encase the sewer line 10' at 10" around the line to the end of crossing. Sewer lines should be always located deeper than the water lines in a trench.
24. For a long stretch of hot water piping lines, provide a loop comprising of elbows to offset expansion for safety purposes.
25. Provide 2" high overflow piping above a flat rooftop in addition to roof drains.
26. Provide supports for piping under slabs.
27. Provide vent piping 10' away horizontally from any window or door. Preferably, install a vent to terminate above the roof at 18" above finish rooftop.
28. The contractor shall be responsible for chipping existing concrete floors and walls to install new plumbing piping. The contractor is responsible also to restore floor slabs and walls to the original condition. These are part of the rehab and renovation work process. All extra work

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shall not be an additional cost to the homeowner. Everything should be included in the contract.

29. Standard sizes for water, soil/waste, and vent lines for each fixture are as follows:

<b>Fixture:</b>	<b>Cold Water:</b>	<b>Hot Water:</b>	<b>Soil/Waste:</b>	<b>Vent:</b>
Floor Drain			2" ABS	2" ABS
Water Closet	½" PVC		3" or 4" ABS	2" ABS
Urinal	¾" PVC		2" ABS	2" ABS
Kitchen Sink	½" PVC	½" CPVC	2" ABS	2" ABS
Lavatory	½" PVC	½" CPVC	2" ABS	2" ABS
Shower	½" PVC	½" CPVC	2" ABS	2" ABS
Dirty Kitchen Sink	½" PVC	½" CPVC	2" ABS	2" ABS

**Note:** Always tighten, secure, brace, and clamp all wall-mounted fixtures properly. Provide concrete splash boxes for drainage downspouts.

**ELECTRICAL STANDARD NOTES:**

1. The contractor is responsible for obtaining permits for temporary power hook up including applying and paying hookup and monthly use fees for their use for the project without cost to homeowners for the record.
2. GFCI outlets to be installed in any kitchen counter at 4' min. away from the sink.
3. Use the GFCI outlet for the restroom wall outlet. Do not use a regular outlet.
4. Use the GFCI outlet for the outside wall outlet with a weatherproof cover typical.
5. Design for outlets should be limited to 8 outlets for a 20-amp single pole breaker.
6. Design for lights should be limited to 8 lights for a 20-amp single pole breaker.
7. Provide at least one outlet in the hallway for housekeeping use.
8. Installing new electrical boxes shall include an adapter, lock nut, and bushing. Bushing shall be insulated.
9. The service entrance conduit shall be galvanized steel per CUC requirements.
10. Conduits underground shall be PVC.
11. For any exposed conduits it shall be a rigid aluminum or galvanized steel.
12. Conduits inside building in-ceiling or exposed may be electrical metallic tubing-EMT.
13. Minimum size for homerun shall be ¾" conduit for easy pulling.

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14. For computer circuits, make sure the ground wire is isolated.
15. All power circuit conduit shall have ground wire.
16. Follow electrical wires standard color-coding per National Electrical Code. For residential rehab, projects shall be a 120/240 Volt system, 1 phase:

Phase A-color Black Phase B-color Red      Neutral color: White      Ground color: Green

**Note:** The neutral and grounding colors shall be the correct color wire throughout      without      any exception. Avoid color coding with electrical tape. Electrical hazard.

17. Splicing shall be the plastic pressure type connectors. For larger wires, splicing shall be terminal lugs type.
18. Any conduit crossing roadways or in traffic areas shall be embedded in concrete, or located per NEC. The minimum conduit depth is 18" to top of the conduit.
19. Separate communications conduits from power conduits by at least 12" laterally. The minimum conduit size shall be ¾" conduit. Provide pull wire in every empty communications conduit extending 12" at both ends for computer and TV. line connections.
20. Contractor to coordinate with telephone/internet company to seek the advice of where hand holes or access panels may be located for ease of pulling and service.
21. Be sure to apply rust spray paint to all electrical boxes before embedding them in concrete.
22. Position outlets on a horizontal orientation.
23. Where to put new light switches, place them right after opening a door on the closest wall at 4' height typical.
24. Light switches to be set on a vertical position at 4' height center of electrical boxes.
25. Conduits underground outside the house building shall have warning tape at 12" below grade.
26. Maximum bends in conduits shall be limited to three (3).
27. Standard Breaker amp size and its proper wire size use to prevent power shortage and fire for health and safety measures.
28. For reference, a 20-amp circuit breaker has a total of 1,920 Watts.
29. For a single-pole 20-amp circuit breaker, use No. 12 solid wires. Separate outlets and lights circuit breaker switch.
30. Use No. 12 solid wires for receptacle outlets. A limit of 8-outlets per 20-amp single pole circuit breaker switch.

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31. Use No. 12 solid wires for light fixtures. A limit of 8-lights per 20amp single pole circuit breaker switch.
32. Use a 20-amp single pole circuit breaker with a No. 12 solid wire. For 110 volts air conditioning separately, use a ½” electrical conduit from the panel box to outlet location.
33. Use a 30-amp double pole circuit breaker with a No. 10 solid wire. For 220 volts air conditioning separately, use a ¾” electrical conduit from the panel box to the outlet location
34. Use a 50-amp double pole circuit breaker with No. 6 stranded wires in a 1” electrical conduit for electrical range.
35. Use a 20-amp single pole circuit breaker with a No. 12 solid wire. For a refrigerator separately, use a ½” electrical conduit from the panel box to outlet location.
36. Use a 20-amp single pole circuit breaker with a No. 12 solid wire, for computer station separately, use a ½” electrical conduit from the panel box to outlet location.
37. Use a 30-amp double pole circuit breaker with a No. 10 solid wire. For 220 volts Electric Water Heater separately, use a ¾” electrical conduit from the panel box to outlet location.
38. For reference information, using a 100amp double pole circuit breaker use a # 2 wire.
39. A 125-amp double pole circuit breaker uses a # 1 wire.
40. A 150-amp double pole circuit breaker uses a # 1/0 wire.
41. A 175-amp double pole circuit breaker uses a # 2/0 wire.
42. A 200-amp double pole circuit breaker uses a # 3/0 wire.
43. Make sure any electrical splicing to be connected uses an electrical connector, not electrical tape.
44. Make sure to tighten all loose connections properly.
45. Provide 4” high concrete pad for mounting an electrical water heater equipment. Allow for 4” extra distance on the width and length of the water heater.
46. Exposed conduits in exposed areas shall be painted to match the adjacent wall finish.
47. All equipment and disconnect switch in weather shall be sealed waterproof.
48. All testing work shall be performed by the contractor and the contractor shall pay for all water, fuel, electricity, instrument, and personal.
49. The contractor shall submit a written guarantee certificate warranting all materials and workmanship free of defects for one year from the date of acceptance.
50. The contractor must submit As-Built drawings of the electrical system after project along with Certificate of Occupancy

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### ELECTRICAL MOUNTING HEIGHT REQUIREMENTS FOR ELECTRICAL:

- |                                |   |
|--------------------------------|---|
| 1. Meter Box Height            | 5'-6" from finish grade to center of the meter box  |
| 2. Panel Box Height            | 5'-0" from finish floor to top of the panel box     |
| 3. Light Switches Height       | 48" from finish floor to center of the elect. Box   |
| 4. Outlet Height               | 12" from fin. floor, for ADA outlet height 15"- 48" |
| 5. Fire Alarm Height           | 5'- 6" from finish floor to center of the pull box  |
| 6. Fire Alarm Horn/Bell Height | 7'- 6" from finish floor to center of the box       |
| 7. Disconnect Switch           | 5'- 6" from finish floor to the center of the box   |

### ELECTRICAL GENERAL NOTES:

1. All electrical work shall be per the applicable sections of the National Electrical Code (NEC) latest edition, and the rules and regulations of the Dept. of Public Works and the Commonwealth Utilities Corporation.
2. All equipment and materials shall be UL listed where the listing is available for that type of equipment or conform to ANSI or NEMA standards.
3. Workmanship shall conform to the construction practices recommended by the American Electricians, Handbook by Croft, and shall be subject to the approval of the agency who has jurisdiction and the electrical engineer.
4. Conduit shall be EMT (indoor dry) locations concealed above ground, rigid aluminum (exposed installations, PVC (underfloor slab or grade, and inside concrete). Flexible conduit shall be jacketed type and per NEC 350.
5. Wiring shall be typed THWN, THW, XHHN, 600 volts. The conductor shall be copper.
6. Minimum size conduit shall be ½" inch diameter unless otherwise noted; minimum wire size shall be #12 AWG. Do Not Use #14 wires.
7. Electrical work shall be under the full supervision of a master electrician or a professional electrical engineer licensed to practice in the CNMI.
8. Panelboard shall be complete with bus bars, enclosure trim, molded case circuit breakers, bolt-on type branch circuit breakers, grounding, and neutral terminal lugs, panel board director, and keys. The laminated nameplate shall be provided on the front cover of the panel board or transformer.
9. All electrical devices and equipment exposed to weather shall be weatherproof.

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10. Any device may be relocated within 10' of the location shown in the plans subject to the direction by the electrical engineer. Any such relocation shall be performed without additional cost to the homeowner.
11. The electrical contractor shall coordinate with a mechanical contractor for exact locations of water lines and waste lines before rough-in work.
12. Grounding:
  - a. Metallic enclosures, raceways, and electrical shall be grounded per NEC 250. Provide green ground wire in every raceway per NEC Table 250-95.
  - b. Grounding connection of the grounded circuit conductor (Neutral) shall be made only at the service disconnection means per NEC 250-23(a). Grounding on the neutral shall not be made on the load side of the service disconnect. The neutral shall not be made on the load side of the service disconnect. The neutral conductor shall be insulated from all equipment enclosures or any grounded parts. Bonding of the neutral bus to the ground bus in sub-panels shall be removed.
13. The electrical panel board and main switchboard, power meter box shall be furnished completely assembled from the factory.
14. Contractor to provide all labor, materials, equipment, tools, and all necessary materials including wire connectors, tapes, markers, etc. to accomplish the work shown in the plans. The cost of permits shall be the contractor's responsibility.
15. Minimum service clearance in front of the main switchboard shall be 4'.
16. Testing: Operation, Insulation Resistance, Grounding Tests.

### FINISH MATERIAL STANDARDS:

#### Flooring Standards:

- (a) For the living room, dining room, kitchen room, hallways, and bedrooms floor, the finish is to be plastered level with a vinyl tile or ceramic tile finish (depending on cost and durability).
- (b) For the standard restroom floor finishing, to be a ceramic finish with white cement grouted finish. The restroom floor ceramic must be approved nonslip type of ceramic finish.

**Note:** Ceramic color should be the client's choice of ceramic color on the contractor's approved standard min. ceramic size.

- (c) For all concrete stoops, landings and sidewalks floor finish, to be plastered sweep finish and for the carport, floor finish to be plastered fine finish.

**Note:** Plaster the sides of the concrete sidewalks, landings, ramps, and garage floorings.

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### Door Standards:

- (a) For the exterior front entry door, use a 1¾" thick x 36"x 6'-8" solid core decorative door with heavy-duty door hinges, regular doorknob, deadbolt with keys, painted varnish finish, and door bottom with threshold and a door stopper on the back.

**Note:** Use a lever-type doorknob for a disability or elderly rehab home project.

- (b) For any exterior exit door, use a 1¾" thick x 32"x 6'-8" min. regular solid core door with heavy-duty door hinges, regular doorknob with a deadbolt, painted varnish finish, and door bottom with threshold and a door stopper on the back.

**Note:** For disability or elderly rehab home project, use a lever type door knob with keys and a 36" size regular solid core door.

- (c) For bedroom doors, use a 1½" thick x 36", 34", 32", or 30"x 6'-8" min. regular hollow-core door with light-duty door hinges and regular doorknob w/no key type and door painted with a varnish finish and a door stopper installed on the back.

- (d) Aluminum Typhoon Shutters. Homeowners may include if the rehabilitation budget is sufficient, the installation of aluminum typhoon shutters on the exterior main entrance and rear exit doors of the housing unit.

- Typhoon shutters must be accordion-type with lock and key.
- Use 3"x1/4" screws to bolt the typhoon shutters to the concrete wall. The minimum number of screws is 3 per side.

**Note:** For a disability rehab home project, use a lever type door knob with keys only on 36" door size.

### Window Standards:

- (a) Living room window min. size 4'x4' sliding glass window with a ¼" thick safety tempered glass with aluminum frame. 4 screws on each side.
- (b) Kitchen window min. size 3'x3' sliding glass window with a ¼" thick safety tempered glass window with aluminum frame. 3 screws on each side.
- (c) Dining room window min. size 3'x4' Height with a ¼" thick safety tempered sliding glass window with aluminum frame. 3 screws on each side and 4 screws each on top and bottom.
- (d) Bedroom window must have at least one set 4'x4' sliding glass window (For egress, in case of fire) with a ¼" thick safety tempered glass window with aluminum frame. 4 screws on each side.
- (e) Restroom window min. standard size. 2'x2' sliding glass window with a ¼" thick safety tempered glass window with aluminum frame. 2 screws on each side.
- (f) Seal all window edgings inside and outside
- (g) All windows shall also include window screens
- (h) Frame Color to be Clients choice of color

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- (i) Install new typhoon metal brackets at the outside walls for all windows w/painted finish
- (j) Use 3"x1/4" screws to bolt the sliding windows to the concrete wall. The minimum number of screws per window is mentioned above.
- (k) Aluminum Typhoon Shutters. Homeowners may include if the rehabilitation budget is sufficient, the installation of aluminum typhoon shutters on all housing unit windows.
  - Typhoon shutters must be accordion-type with lock and key.
  - Use 3"x1/4" screws to bolt the typhoon shutters to the concrete wall. The minimum number of screws is 3 per side.

**Note:** All aluminum typhoon shutters shall meet or exceed the wind rating outlined in the 2018 International Building Code (IBC) and the Tropical Energy Code.

### Faucet Standards:

- (a) Kitchen Sink Faucet to be a regular faucet type.

**Note:** For disability or elderly Rehab Home Project to be a lever faucet set type.

- (b) Restroom Lavatory Sink Faucet to be a regular faucet type.

**Note:** For disability or elderly Rehab Home Project to be a lever faucet set type.

### Regular and Disability Rehab Home Projects Standard Finishes:

- (a) For disability, concrete sidewalk & landing size requirements. Concrete sidewalk width 36" min. and for landing size 5' sq. no less.

**Note:** Sidewalks and landings that are higher than 7" above existing grade during rehab work, requires all sides to be backfilled at 4" finish grade at 1' level and slope out at 4' on both sides to existing grade elevation, otherwise install new aluminum hand railings within 33" to 36" height along the hazard sidewalk, ramps and landings pathway.

**Note:** For regular rehab home projects sidewalks, same at 36" and for landing 36" sq. is allowable.

- (b) For the front entry and exit doors outside, construct a 5' sq. concrete stoop floor landing at 1/2" lower from the finished house floor elevation.
- (c) The restroom floor elevation should be 1/2" lower from the inside house flooring. Also, for the shower room flooring is 1/2" lower than the restroom flooring as required.
- (d) Install hand railings along any sidewalks or pathways and landings that are higher than 7" above finish grade.
- (e) Construct a new concrete ramp at a ratio of 1" drop = 1' slope.

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- (f) Install smoke alarms in bedrooms and hallways as required by Building Safety Code. Smoke alarms must be hard-wired smoke alarms and that the smoke alarms are interconnected.
- (g) Install water sprinklers with warning fire light signals for impairment of client individuals only.
- (h) In designing a new rehab disability home layout extension or for reconstructed disability house floor plan design, consider a 3' clear passage for a wheelchair to maneuver from the entry of the house to the inside of the house. Ensure that in your design layout, take into consideration the furniture space in planning for wheelchair accessibility, through bedrooms, restroom(s), living room, kitchen, dining, and for exiting the exit door to the outside of the house with no hazards along for emergency purposes as required.
- (i) Disability lavatory height should be set at 34" maximum.
- (j) disability water closet height from the finished floor to the toilet seat is within 17" to 19". Note: For regular standard toilet height is 15" from the finished floor to the toilet seat.
- (k) Install a new 2' ADA grab bars on the back of ADA toilet centered, 2' length on shower faucet wall and 42" on the side shower wall at height within 33" to 36".
- (l) Install ADA medicine cabinet at 40" from the finished floor to the bottom of the medicine cabinet.

**Note:** For regular standard medicine cabinet height is 64" from the finished floor to center of the medicine cabinet.

- (m) Install a towel hanging bar within 36" to 48" for disability or regular restroom.
- (n) Install a toilet paper holder to the nearest wall at 19" above the finished floor and a maximum of 36" from the rear wall.
- (o) Rehab finishing projects paint colors to be the home client's choice of paint color for all paint finishing work.

All technical reference information applies to all building systems standard needs for new house construction, rehabilitation project, renovation project and house conversion to disability home compliance project that meet all current CNMI local building code regulations and meet Housing Quality Standards (HQS) and Uniform Physical Condition Standards (UPCS) requirements.

The HUD CPD Green Building Retrofit Checklist will also be included in the rehabilitation standards (Attachment A). "CPD recognizes that not all elements of the checklist will be applicable in all climates and geographies. Because of this, CPD will consider exceptions to these standards based on climate or geography, if a grantee identifies the specific standards that aren't applicable, including offering alternatives if available, and CPD's Office of Environment and Energy accepts the grantee's request."

Other building systems may be accepted provided that they meet or exceed the standards mentioned above. Third-party certifications or specific standard testing methods are required to substantiate or validate the claims.

Attachment A:

**HUD CPD Green Building Retrofit Checklist**

The CPD Green Retrofit Checklist promotes energy efficiency and green building practices for residential retrofit projects. Grantees must follow the checklist in its entirety and apply all measures within the Checklist to the extent applicable to the particular building type being retrofitted. The phrase “when replacing” in the Checklist refers to the mandatory replacement with specified green improvements, products, and fixtures only when replacing those systems during the normal course of the retrofit.

*Note:* CPD recognizes that not all elements of the checklist will be applicable in all climates and geographies. Because of this, CPD will consider exceptions to these standards based on climate or geography, if a grantee identifies the specific standards that aren’t applicable, including offering alternatives if available, and CPD’s Office of Environment and Energy accepts the grantee's request.

**WATER AND ENERGY CONSERVATION MEASURES**

- Water-Conserving Fixtures**  
Install or retrofit water conserving fixtures in any unit and common facility, use the following specifications: Toilets-- 1.28 gpf; Urinals-- 0.5 gpf; Showerheads-- 2.0 gpm; Kitchen faucets-- 2.0 gpm; and Bathroom faucets-- 1.5gpm. [gpf = gallons per flush; gpm = gallons per minute]
- ENERGY STAR Appliances**  
Install ENERGY STAR-labeled clothes washers, dishwashers, and refrigerators, if these appliance categories are provided in units or common areas.
- Air Sealing: Building Envelope**  
Seal all accessible gaps and penetrations in the building envelope. If applicable, use low VOC caulk or foam.
- Insulation: Attic** (if applicable to building type)  
For attics with closed floor cavities directly above the conditioned space, blow in insulation per manufacturer's specifications to a minimum density of 3.5 Lbs. per cubic foot (CF). For attics with open floor cavities directly above the conditioned space, install insulation to meet or exceed IECC levels.
- Insulation: Flooring** (if applicable to building type)  
Install  $\geq$  R-19 insulation in contact with the subfloor in buildings with floor systems over vented crawl spaces. Install a 6-mil vapor barrier in contact with 100% of the floor of the crawl space (the ground), overlapping seams and piers at least 6 inches.
- Duct Sealing** (if applicable to building type)

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In buildings with ducted forced-air heating and cooling systems, seal all penetrations of the air distribution system to reduce leakage in order to meet or exceed ENERGY STAR for Homes' duct leakage standard.

- Air Barrier System**  
Ensure continuous unbroken air barrier surrounding all conditioned space and dwelling units. Align insulation completely and continuously with the air barrier.
- Radiant Barriers: Roofing**  
When replacing or making a substantial repair to the roof, use radiant barrier sheathing or other radiant barrier material; if economically feasible, also use cool roofing materials.
- Windows**  
When replacing windows, install geographically appropriate ENERGY STAR rated windows.
- Sizing of Heating and Cooling Equipment**  
When replacing, size heating and cooling equipment in accordance with the Air Conditioning Contractors of America (ACCA) Manuals, Parts J and S, or 2012 ASHRAE Handbook--HVAC Systems and Equipment or most recent edition.
- Domestic Hot Water Systems**  
When replacing domestic water heating system(s), ensure the system(s) meet or exceed the efficiency requirements of ENERGY STAR for Homes' Reference Design. Insulate pipes by at least R-4.
- Efficient Lighting: Interior Units**  
Follow the guidance appropriate for the project type: install the ENERGY STAR Advanced Lighting Package (ALP); **OR** follow the ENERGY STAR MFHR program guidelines, which require that 80% of installed lighting fixtures within units must be ENERGY STAR-qualified or have ENERGY STAR-qualified lamps installed; **OR** when replacing, new fixtures and ceiling fans must meet or exceed ENERGY STAR efficiency levels.
- Efficient Lighting: Common Areas and Emergency Lighting (if applicable to building type)**  
Follow the guidance appropriate for the project type: use ENERGY STAR-labeled fixtures or any equivalent high-performance lighting fixtures and bulbs in all common areas; **OR** when replacing, new common space and emergency lighting fixtures must meet or exceed ENERGY STAR efficiency levels. For emergency lighting, if installing new or replacing, all exist signs shall meet or exceed LED efficiency levels and conform to local building codes.
- Efficient Lighting: Exterior**  
Follow the guidance appropriate for the project type: install ENERGY STAR-qualified fixtures or LEDs with a minimum efficacy of 45 lumens/watt; **OR** follow the ENERGY STAR MFHR program guidelines, which require that 80% of outdoor lighting fixtures must be ENERGY STAR-qualified or have ENERGY STAR-qualified lamps installed; **OR** when replacing, install ENERGY STAR compact fluorescents or LEDs with a minimum efficacy of 45 lumens/watt.

INDOOR AIR QUALITY

- Air Ventilation: Single Family and Multifamily** (three stories or fewer)  
Install an in-unit ventilation system capable of providing adequate fresh air per ASHRAE 62.2 requirements.
- Air Ventilation: Multifamily** (four stories or more)  
Install apartment ventilation systems that satisfy ASHRAE 62.2 for all dwelling units and common area ventilation systems that satisfy ASHRAE 62.1 requirements. If economically feasible, consider heat/energy recovery for 100% of corridor air supply.
- Composite Wood Products that Emit Low/No Formaldehyde**  
Composite wood products must be certified compliant with California 93120. If using a composite wood product that does not comply with California 93120, all exposed edges and sides must be sealed with low-VOC sealants.
- Environmentally Preferable Flooring**  
When replacing flooring, use environmentally preferable flooring, including the FloorScore certification. Any carpet products used must meet the Carpet and Rug Institute's Green Label or Green Label Plus certification for carpet, pad, and carpet adhesives.
- Low/No VOC Paints and Primers**  
All interior paints and primers must be less than or equal to the following VOC levels: Flats--50 g/L; Non-flats--50 g/L; Floor--100 g/L. [g/L = grams per liter; levels are based on a combination of the Master Painters Institute (MPI) and GreenSeal standards.]
- Low/No VOC Adhesives and Sealants**  
All adhesives must comply with Rule 1168 of the South Coast Air Quality Management District. All caulks and sealants must comply with regulation 8, rule 51, of the Bay Area Air Quality Management District.
- Clothes Dryer Exhaust**  
Vent clothes dryers directly to the outdoors using rigid-type duct work.
- Mold Inspection and Remediation**  
Inspect the interior and exterior of the building for evidence of moisture problems. Document the extent and location of the problems, and implement the proposed repairs according to the Moisture section of the EPA Healthy Indoor Environment Protocols for Home Energy Upgrades.
- Combustion Equipment**  
When installing new space and water-heating equipment, specify power-vented or direct vent combustion equipment.

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- Mold Prevention: Water Heaters**  
Provide adequate drainage for water heaters that includes drains or catch pans with drains piped to the exterior of the dwelling.
  
- Mold Prevention: Surfaces**  
When replacing or repairing bathrooms, kitchens, and laundry rooms, use materials that have durable, cleanable surfaces.
  
- Mold Prevention: Tub and Shower Enclosures**  
When replacing or repairing tub and/or shower enclosures, use non-paper-faced backing materials such as cement board, fiber cement board, or equivalent in bathrooms.
  
- Integrated Pest Management**  
Seal all wall, floor, and joint penetrations with low-VOC caulking or other appropriate sealing methods to prevent pest entry. [If applicable, provide training to multifamily buildings staff.]
  
- Lead-Safe Work Practices**  
For properties built before 1978, if the project will involve disturbing painted surfaces or cleaning up lead contaminated dust or soil, use certified renovation or lead abatement contractors and workers using lead-safe work practices and clearance examinations consistent with the more stringent of EPA's Renovation, Repair, and Painting Rule and HUD's Lead Safe Housing Rule.
  
- Radon Testing and Mitigation** (if applicable based on building location)  
For buildings in EPA Radon Zone 1 or 2, test for radon using the current edition of American Association of Radon Scientists and Technologists (AARST)'s Protocols for Radon Measurement in Homes Standard for Single-Family Housing or Duplexes, or AARST's Protocol for Conducting Radon and Radon Decay Product Measurements in Multifamily Buildings. To install radon mitigation systems in buildings with radon level of 4 pCi/L or more, use ASTM E 2121 for single-family housing or duplexes, or AARST's Radon Mitigation Standards for Multifamily Buildings. For new construction, use AARST's Reducing Radon in New Construction of 1 & 2 Family Dwellings and Townhouses, or ASTM E 1465.

**Attachment B: Uniform Physical Condition Standards for Single Family Housing Rehabilitation – Requirements for Site**

<b>Inspectable Item</b>	<b>Observable Deficiency</b>	<b>Type and Degree of Deficiency That Must Be Addressed</b>
Fencing and Gates	Damaged/Failing/Leaning	
	Holes	
	Missing Sections	
Grounds	Erosion/Rutting Areas	

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	Overgrown/Penetrating Vegetation	
	Ponding/Site Drainage (affecting unit)	
Health and Safety	Air Quality – Sewer Odor Detected	
	Air Quality – Propane/Natural Gas/Methane Gas Detected	
	Electrical Hazards – Exposed Wires/Open Panels	
	Electrical Hazards – Water Leaks on/near Electrical Equipment	
	Flammable Materials – Improperly Stored	
	Garbage and Debris – Outdoors	
	Play Equipment – Broken or Damaged	
	Hazards – Other (e.g., outbuildings)	
	Hazards – Sharp Edges	
	Hazards – Tripping	
	Infestation – Insects	
	Infestation – Rats/Mice/Vermin	
Mailboxes/Project Signs	Mailbox Missing/Damaged	
	Signs Damaged	
Driveways	Cracks	
	Potholes/Loose Material	
	Settlement/Heaving	
Retaining Walls	Damaged/Falling/Leaning	
Storm Drainage	Damaged/Obstructed	
Walkways/Steps	Broken/Missing Hand Railing	
	Cracks/Settlement/Heaving	
	Spalling	

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**Attachment B: Uniform Physical Condition Standards for Single Family  
Housing Rehabilitation – Requirements for Site**

<b>Inspectable Item</b>	<b>Observable Deficiency</b>	<b>Type and Degree of Deficiency That Must Be Addressed</b>
Doors	Damaged Frames/Threshold/Lintels/Trim	
	Damaged Hardware/Locks	
	Damaged Surface (Holes/Paint/Rusting/Glass)	
	Damaged/Missing Screen/Storm/Security Door	
	Deteriorated/Missing Caulking/Seals	
	Missing Door	
Foundations	Cracks/Gaps Spalling/Exposed Rebar	
	Cracks/Gaps Spalling/Exposed Rebar	
Health and Safety	Electrical Hazards – Exposed Wires/Open Panels	
	Electrical Hazards – Water Leaks on/near Electrical Equipment	
	Flammable/Combustible Materials – Improperly Stored	
	Garbage and Debris – Outdoors	
	Hazards – Other	
	Hazards – Sharp Edges	
	Hazards – Tripping	
	Infestation – Insects	
	Infestation – Rats/Mice Vermin	
Lighting	Broken Fixtures/Bulbs	
Roofs	Damaged Soffits/Fascia	
	Damaged Vents	
	Damaged/Clogged Drains	

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	Damaged/Torn Membrane/Missing Ballast	
	Missing/Damaged Components from	
	Downspout/Gutter	
	Ponding	
Walls	Cracks/Gaps	
	Damaged Chimneys	
	Missing/Damaged Caulking/Mortar	
	Missing Pieces/Holes/Spalling	
	Stained/Peeling/Needs Paint	
Windows	Broken/Missing/Cracked Panes	
	Damaged Sills/Frames/Lintels/Trim	
	Damaged/Missing Screens	
	Missing/Deteriorated Caulking/Seals/Glazing Compound	
	Peeling/Needs Paint	
	Security Bars Prevent Egress	

**Attachment B: Uniform Physical Condition Standards for Single Family Housing Rehabilitation – Requirements for Site**

<b>Inspectable Item</b>	<b>Observable Deficiency</b>	<b>Type and Degree of Deficiency That Must Be Addressed</b>
Bathroom	Bathroom Cabinets - Damaged/Missing	
	Lavatory Sink - Damaged/Missing	
	Plumbing - Clogged Drains	
	Plumbing - Leaking Faucet/Pipes	
	Shower/Tub - Damaged/Missing	
	Ventilation/Exhaust System – Inoperable (if applicable)	
	Water Closet/Toilet - Damaged/Clogged/Missing	

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<b>Ceiling</b>	<b>Bulging/Buckling</b>	
	Holes/Missing Tiles/Panels/Cracks	
	Peeling/Needs Paint	
	Water Stains/Water Damage/Mold/Mildew	
<b>Doors</b>	<b>Damaged Frames/Threshold/Lintels/Trim</b>	
	Damaged Hardware/Locks	
	Damaged/Missing Screen/Storm/Security Door	
	Damaged Surface - Holes/Paint/Rusting/Glass	
	Deteriorated/Missing Seals (Entry Only)	
	Missing Door	
<b>Electrical System</b>	<b>Blocked Access to Electrical Panel</b>	
	Burnt Breakers	
	Evidence of Leaks/Corrosion	
	Frayed Wiring	
	GFI - Inoperable	
	Missing Breakers/Fuses	
	Missing Covers	
<b>Floors</b>	<b>Bulging/Buckling</b>	
	Floor Covering Damage	
	Missing Flooring Tiles	
	Peeling/Needs Paint	
	Rot/Deteriorated Subfloor	
	Water Stains/Water Damage/Mold/Mildew	
<b>Health and Safety</b>	<b>Air Quality - Mold and/or Mildew Observed</b>	
	Air Quality - Sewer Odor Detected	
	Air Quality - Propane/Natural Gas/Methane Gas	
	Detected	
	Electrical Hazards - Exposed Wires/Open Panels	
	Electrical Hazards - Water Leaks on/near Electrical	
	Equipment	
	Flammable Materials - Improperly Stored	
	Garbage and Debris - Indoors	
	Garbage and Debris - Outdoors	
	Hazards - Other	
	Hazards - Sharp Edges	
	Hazards - Tripping	

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	Infestation - Insects	
	Infestation – Rats/Mice/Vermin	
Hot Water Heater	Inoperable Unit/Components	
	Leaking Valves/Tanks/Pipes	
	Pressure Relief Valve Missing	
	Rust/Corrosion	

**Attachment B: Uniform Physical Condition Standards for Single Family Housing Rehabilitation – Requirements for Site**

<b>Inspectable Item</b>	<b>Observable Deficiency</b>	<b>Type and Degree of Deficiency That Must Be Addressed</b>
HVAC System	Inoperable	
	Misaligned Chimney/Ventilation System	
	Noisy/Vibrating/Leaking	
	Rust/Corrosion	
Kitchen	Cabinets - Missing/Damaged	
	Countertops - Missing/Damaged	
	Dishwasher/Garbage Disposal – Leaking/Inoperable	
	Plumbing - Clogged Drains	
	Plumbing - Leaking Faucet/Pipes	
	Range Hood/Exhaust Fans - Excessive Grease/Inoperable	
	Range/Stove - Missing/Damaged/Inoperable	
	Refrigerator- Missing/Damaged/Inoperable	
	Sink – Damaged/Missing	
Laundry Area (Room)	Dryer Vent – Missing/Damaged/Inoperable	
Lighting	Missing/Inoperable Fixture	
Outlets/Switches	Missing	
	Missing/Broken Cover Plates	
Patio/Porch/Balcony	Baluster/Side Railings Damaged	
Smoke Detector	Missing/Inoperable	
Stairs	Broken/Damaged/Missing Steps	
	Broken/Missing Hand Railing	
Walls	Bulging/Buckling	
	Damaged	

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	Damaged/Deteriorated Trim	
	Peeling/Needs Paint	
	Water Stains/Water Damage/Mold/Mildew	
Windows	Cracked/Broken/Missing Panes	
	Damaged/Rotting Window Sill	
	Missing/Deteriorated Caulking/Seals/Glazing Compound	
	Inoperable/Not Lockable	
	Peeling/Needs Paint	
	Security Bars Prevent Egress	

**APPENDIX A.3: Environmental Review**

**ENVIRONMENTAL REVIEW**

**Policy and Procedures**

CDBG-DR requires that an environmental review be completed for every activity before funds (even non-CDBG-DR funds associated with the activity) are committed or expended. Such environmental reviews must comply with the National Environmental Policy Act of 1969 (NEPA) and the related authorities listed at 24 CFR Part 58. An environmental review must be conducted considering federal laws, authorities, and regulations which address noise, air quality, historic properties, floodplains, wetlands, water quality, solid waste disposal, manmade hazards, farmlands protection, wild and scenic rivers, coastal areas, endangered species and others. In accordance with 24 CFR Part 58, recipients, owners, developers, sponsors or any other third-party partners cannot take any physical actions on a site, begin construction, commit, expend, or enter into any legally binding agreements that constitute choice limiting actions for any HUD or non-HUD funds before the environmental review process has been completed and the jurisdiction has received a Release of Funds approval.

**Tier I Review: Target Area Assessment**

The Northern Marianas Housing Corporation (NMHC) may conduct a tiered environmental review under 24 CFR 58.15 for its CDBG-DR Action Plan. A tiered environmental review allows for a general assessment of the impacts of an activity on the environment prior to identification of a specific site. The Tier 1 review addresses and analyzes those environmental impacts related to the proposed activities that might occur on a typical site within the geographic area. The Tier 1 review also assesses project effects

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related to a longer list of environmental factors (e.g., compatibility with surrounding land uses, conformance with zoning plans, nuisances that affect site safety, displacement of people or businesses, solid waste management, etc.). All environment compliance requirements satisfactorily resolved in this first level of review, meaning findings of no significant impact or impact requiring mitigation, are excluded from any additional examination or consideration once the Tier 1 review is completed. The Tier 1 review identifies those compliance requirements that cannot be resolved until specific project locations become known. Site specific issues that cannot be resolved in a Tier 1 review may include: aboveground storage tanks that present a safety hazard to buildings and occupants of buildings; new residential units located in close proximity to the airport which generates high levels of noise; soils that are not suitable for multifamily structures; asbestos removal that may be necessary; or other potential impacts. The Tier 2 Site Specific Review will address such issues.

### **Tier II: Site Specific Project Review**

A review for each individual property is required once sites are selected. The Tier 2 review focuses only on the environmental compliance requirements that could not be resolved in the Tier 1 Target Area Assessment. The NMHC or Implementing Partners (recipients of DR funds) performs the Tier 2 review. When NMHC identifies specific properties or sites within the target area and is ready to obligate funds (e.g., to buy a property, finance repairs, demolish a structure, etc.) it will use the written standards, checklists and narratives set forth in the Tier 1 review process to determine if there are any environmental issues associated with the site. This Site-Specific Project Review documents in writing that compliance standards for the specific project are met, and that required mitigation measures, if any, will be incorporated into the project. The Tier 2 review must be completed before funds (including non-CDBG-DR funds) are committed or expended on the project. The Tier 2 Site Specific Project Review will be maintained in the project files.

## **Environmental Procedures**

### **STEP 1: Environmental Review Determination**

In accordance with above internal review procedures, the Project Manager and/or Housing Administrator will review the program/project scope of work and determine at what level of environmental review needs to be conducted. The environmental consultant will provide technical assistance and support on complex environmental issues. The NEPA classifications that will be determined are listed below:

#### **1. Exempt – Subject to Related Laws at 24 CFR 58.34**

Activities that by their very nature will have no physical impact upon the environment are exempt from NEPA requirements as well as Part 58.5. In these cases, NMHC does not need to check for compliance with the requirements or perform an environmental review, consultation, or other action under NEPA. Some examples from NEPA requirements include:

- Environmental studies, plans & strategies
- Administrative & management expenses

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- Inspections & testing properties
- Engineering or design costs
- Technical assistance & training
- Any of the CEST activities at §58.35(a) if Federal laws and authorities at §58.5 are not triggered

### 2. Categorically Excluded, not Subject to 58.5. (24 CFR 58.35)

Activities in this section are categorically excluded from the requirements at 58.5, due to HUD's determination that such activities will not alter any conditions that would require a NEPA review or a compliance determination under 58.5. When performing a categorically excluded activity not subject to 58.5, NMHC does not need to publish a Notice of Intent/Request for Release of Funds (NOI/RROF). Following the award of program funds, no further approval from HUD will be needed with respect to environmental requirements. Examples of categorically excluded, not subject to NEPA requirements are:

- Tenant-based rental assistance
- Supportive services
- Operating costs including maintenance, security, operation, utilities, furnishings, equipment, supplies, staff training and recruitment and other incidental costs
- Economic development activities not associated with construction or expansion of existing operations
- Activities to assist homebuyers
- Affordable housing pre-development costs
- Supplemental assistance of previously-approved project

### 3. Categorically Excluded Subject to 58.5

*Any of the categorically excluded activities in 58.35 are exempt from NEPA, provided that there are no circumstances that require compliance with any other federal law and authorities cited in 58.5.* Using the statutory checklist, and after consulting with applicable agencies and organizations, NMHC can designate an activity as exempt if it can show that none of the federal laws and authorities are triggered through funding this activity. The statutory checklist deals with non-NEPA regulation which grantees must adhere to such as historic and wildlife preservation, floodplain management, noise control, etc. Examples of categorically excluded, subject to NEPA requirements are:

- Acquisition, repair, improvement, reconstruction or rehabilitation of public facilities and improvements when:
  - Facilities and improvements are in place
  - No more than 20% change in size or capacity
  - No change in land use
- Removal of architectural barriers that restrict accessibility
- Rehabilitation of buildings and improvements:
  - Residential Structures of 1 – 4 units: no more than 4 units; no change in land use; cannot increase into floodplain or wetland
  - Multifamily Residential Structures: unit density does not change more than

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20%; no change in land use; cost of rehab is less than 75% of replacement cost after rehabilitation

- Commercial, Industrial and Public Buildings: size and capacity does not increase by more than 20%; no change in land use
- Individual action on up to four dwelling units (One 4-unit structure or four 1-unit structures or any combination in between):
- Individual action on a project of five or more housing units when sites are more than 2000 feet apart and no more than four units on any one site.
- Acquisition, disposition or finance of existing structure or vacant land if retained for same use.
- Combination of any of the above activities.

#### 4. Subject to an Environmental Assessment (24 CFR 58.36)

If a project is not exempt or categorically excluded under the above sections, NMHC must prepare an Environmental Assessment (EA). An EA is a concise public document that includes all the evidence and analysis supporting the NMHC's decision as to whether an environmental impact statement is warranted or if an activity will result in no significant impact to the environment. Examples when environmental assessments are needed are:

- New Construction (more than five (5) units);
- Construction of Public Facilities;
- Infrastructure Development;
- New construction, demolition and/or reconstruction of five or more single family units on scattered sites that are less than 2,000 feet apart;
- Extending the footprint of a single-family unit into the floodplain or wetland area or expanding the footprint of a structure that is already in a floodplain or wetland area;
- Major rehabilitation or reconstruction of multifamily residential units that increases or decreases the unit density more than 20 percent;
- Conversion of a non-residential structure to create a residential use;
- Acquisition of land for development of a housing subdivision;
- Activities that are normally exempt or categorically excluded but have an extraordinary circumstance that requires further review.

**NMHC must file the completed checklist and a statement in the Environmental Review Record.**

#### 5. Subject to an environmental impact statement (24 CFR 58.37)

If a project is subject to a full EA and is determined to have a potentially significant impact on the human environment, then an Environmental Impact Statement (EIS) is required. An EIS is also required if the project fits at least one of the following criteria:

- It would provide a site or sites for or result in the construction of hospitals or nursing homes containing more than 2,500 or more beds;
- It would remove, demolish, convert or substantially rehabilitate 2,500 or more

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existing housing units or would result in the construction or installation of 2,500 or more housing units;

- It would provide enough additional water and sewer capacity to support 2,500 or more additional housing units.

The Loan/Grant Supervisor or Project Supervisor must concur on the final environmental review determination (such as “Conversion to Exempt” or issuance of a “FONSI”). Depending on the type of project, the grant specialist, construction inspector, or administrative assistant receives the environmental review document log, scan, and digitally file in the NMHC shared drive to ensure all environmental records are maintained together.

### **STEP 2: Preparation of Environmental Review**

Once the level of environmental review is determined, the loan/grant supervisor or project supervisor will include the determination in the Environmental Assessment file. The loan/grant supervisor or project supervisor will prepare environmental records.

The estimated timeframe, depending on consultations require for completing Environmental Process is as follows:

<b>Environmental Determination</b>	<b>Estimated Timeline for Preparation</b>
Exempt	1 Day
Categorically Excluded not Subject to 58.5	1 Day
Categorically Excluded Subject to 58.5	30-75 Days
Environmental Assessment	45-100 Days
Environmental Impact Statement	1-2 Years

### **Tiered Environmental Review**

Environmental Reviews may be tiered to avoid repetition. Tiered reviews are used to identify and evaluate issues ripe for decision, excluding issues not relevant to the program, policy or project.

They are appropriate when:

- Evaluating a policy or proposal
- Early Stages of Development
- When site-specific analysis is not feasible and more narrowed and focused review is better done at a later date
- *Tiered environmental reviews are not appropriate for projects requiring an Environmental Assessment.*

This review is conducted to achieve both compliance and speed because it does not require upfront identification of assisted properties.

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In short, a tiered review focuses on a specific geographical area to address and analyze environmental impacts related to the proposed activities that might occur on the typical project site within that area. The specific addresses/locations of the individual properties are not known at this time. However, once individual project sites are located, any remaining environmental compliance issues that could not be resolved until project locations became known are completed according to standards for approval previously established for the target area. NMHC's tiered review focuses on scattered sites located throughout a particular targeted area.

The Tier 1 addresses all laws and authorities possible and establishes a plan (narrative) for the site-specific or subsequent review. NMHC must publish a public notice of intent to request a release of funds (NOI/RROF) and submit RROF as described in Step 3.

The Tier 2 site-specific review does not require a public notice or RROF required unless there are unanticipated impacts or impacts that are not adequately addressed in the Tier 1 review.

### **8-Step Decision Making Process for Projects in the Floodplain**

1. Determine whether the action is located in a 100-year floodplain (or a 500-year floodplain for critical actions).
2. Notify the public for early review of the proposal and involve the affected and interested public in the decision-making process.
3. Identify and evaluate practicable alternatives. Identify the project site selection criteria and consider several alternative sites and actions:
  - A. Locate the project within the floodplain
  - B. Consider modifying the project
  - C. Obtain a Letter of Map Amendment (LOMA) or Letter of Map Revision (LOMR)or
  - A. Locate the Project Outside of the Floodplain
  - B. Consider other sites
  - C. Consider no action or alternative actions that serve the same purpose
4. Identify Potential Direct and Indirect Impacts of Associated with Floodplain Development.
5. Where practicable, design or modify the proposed action to minimize the potential adverse impacts to lives, property, and natural values within the floodplain and to restore, and preserve the values of the floodplain.
6. Re-evaluate the Alternatives.
7. Determination of No Practicable Alternative
8. Implement the Proposed Action

**STEP 3: Publication of Notice of Intent (NOI) Request for Release of Funds (RROF) and Finding of No Significant Impact (FONSI)**

**Categorical Exclusions**

NMHC will publish a Notice of Intent to Request a Release of Funds (NOI/RROF) for projects that are Categorical Excluded Subject to §58.5 and projects requiring EAs, using the HUD recommended format. At a minimum, NMHC staff shall publish the NOI/RROF notice in a newspaper of general circulation and on the CDBG-DR website. Additionally, the following shall be notified:

1. Individuals and groups known to be interested in the activities
2. Appropriate tribal, local, State and Federal agencies

NMHC must consider the comments and make modifications, if appropriate, in response to the comments, before it certifies and submits the RROF to HUD. The public comment period is 7 days when published, counting from the day after the publication.

**Environmental Assessments (EA)**

If NMHC makes a Finding of No Significant Impact from an EA, it must prepare a Finding of No Significant Impact (FONSI) notice, using the HUD recommended format. At a minimum, NMHC staff shall publish the FONSI/NOI/RROF combined notice in a newspaper of general circulation and on the CDBG-DR website. Additionally, the following shall be notified:

1. Individuals and groups known to be interested in the activities
2. Appropriate tribal, local, State and Federal agencies

The FONSI public comment period is 15 days when published, counting from the day after the publication. NMHC typically publishes a FONSI notice at the same time it publishes the NOI/RROF. If the notices are released as a combined notice, the combined notice shall clearly indicate that it is intended to meet two separate procedural requirements; and, advise the public to specify in their comments which "notice" their comments address. The public comment period is 15 days when published, counting from the day after the publication.

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SUBCHAPTER 100-100.3  
CDBG-DR POLICIES AND PROCEDURES FOR  
HOMEBUYER ACTIVITIES

**Part 001 - General Provisions**

§ 100-100.3-001 Introduction

§ 100-100.3-005 Public  
Announcement

Homebuyer Program  
Grant Amount

§ 100-100.3-710 **Determination of Unit  
Size and Occupancy  
Standards**

**Part 100 - Application**

§ 100-100.3-101 Formal Application

§ 100-100.3-105 Supplemental  
Information

§ 100-100.3-735 After-Construction  
Property Value, After-  
Rehabilitation Property  
Value, or Property Value  
at Initial Purchase (if  
Acquisition Only).

**Part 200 - Eligibility**

§ 100-100.3-201 Eligibility Requirements

§ 100-100.3-740 Security, Restrictive  
Covenant,  
Homeowner  
Requirements

**Part 300 - Affordability Restrictions**

§ 100-100.3-301 Long Term Affordability

§ 100-100.3-305 Right of First Refusal

§ 100-100.3-310 Resale

§ 100-100.3-315 Recapture

**Part 900 - Miscellaneous Circumstances  
Affecting Grant Agreement**

§ 100-100.3-901 Assumption of a Grant

**Part 400 - Homebuyer Costs**

§ 100-100.3-401 Eligible Costs

**Part 1100 - Performing New Construction  
Work**

§ 100-100.3-1101 Performing New  
Construction Work

**Part 500 - Notification to Applicants**

§ 100-100.3-501 Notification of  
Eligibility or  
Ineligibility

**Part 1200 - Homebuyer Underwriting**

§ 100-100.3-1201 Guidelines and  
Referenced Sections

§ 100-100.3-1205 Subsidy Layering

§ 100-100.3-1210 Acronyms Reference  
Section

**Part 600 - Grant Processing**

§ 100-100.3-601 Selection

§ 100-100.3-605 Administration;  
Approval; Appeals  
Process

§ 100-100.3-610 Homebuyer/New  
Construction Counseling  
Session

**APPENDIX A.1: Crosscutting Requirements**

1.1 Crosscutting Requirements

1.2 Fair Housing

1.3 Environmental Review

1.4 Labor Standards

1.5 Limited English Proficiency

1.6 Minority and/or Women-Owned  
Business Enterprises

1.7 Section 3 Economic Opportunities

1.8 System for Award Management (SAMs)

**Part 700 - Terms and Conditions of Grant**

§ 100-100.3-701 Maximum Homebuyer  
Program Grant Amount

§ 100-100.3-705 Maximum and  
Minimum CDBG-DR

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1.9 Uniform Relocation and Real Property  
Acquisition Act (49 CFR 24)

**APPENDIX A.2: HOMEBUYER  
APPLICATION  
CHECKLIST**

**Part 001 - General Provisions**

**§ 100-100.3-001 Introduction**

- (a) As a result of the 2018 storms, namely Typhoon Mangkhut and Super Typhoon Yutu, the Commonwealth of the Northern Mariana Islands (CNMI) received an allocation of Community Development Block Grant Disaster Recovery (CDBG-DR) funds which will be administered by the Northern Marianas Housing Corporation (NMHC). NMHC has developed the Homebuyer Program patterned after HUD's HOME program to cover the eligible costs to construct a new home, acquire a home, or to acquire and renovate a home. The governor of the CNMI has placed housing as the highest recovery priority. The total allocation amount under this Program is \$59,009,534.
- (b) At the time of Typhoon Mangkhut and Super Typhoon Yutu, the CNMI was still and most recently recovering from Typhoon Soudelor that hit the islands in 2015. The Soudelor event received only FEMA assistance and did not receive HUD CDBG-DR funds so recovery efforts have been slow and on-going.
- (c) A shortage of available homes for sale or vacant house lots was in existence prior to the typhoons mentioned above. Overall damage to the housing stock compounded the shortage of affordable housing stock. Further, in July of 2017, there were still 2,614 homestead applicants on the waiting list per the Department of Public Lands, demonstrating the continuing need for affordable housing.
- (d) The CDBG-DR Homebuyer Program provides an opportunity for first-time homebuyers to build resilient homes or to purchase existing homes in lower risk areas and to add to the housing stock of typhoon-proof homes.
- (e) Funds will be made available for eligible projects and to eligible beneficiaries through the following forms of financial assistance or subsidy:
  - (1) Grants for acquisition (land or home) or for new construction of home. Must be applicant's primary residence
  - (2) Downpayment assistance
  - (3) Closing cost assistance
- (f) Due to the limited availability of CDBG-DR funds allocated to the Commonwealth of the Northern Mariana Islands (CNMI) from the U.S. Department of Housing and Urban Development (HUD), financial assistance will be limited to qualified extremely low, very low-, low-, and moderate-income homebuyers. No less than eighty percent (80%) of CDBG-DR funds will be used to assist families with income levels at or below 80 percent of the area median income while the remaining twenty percent (20%) of the funds will be used to assist families with income levels at or below 120 percent of the area median income. Eligible households over 80% AMI will meet the national objective of urgent need. These families' income eligibility is based on their annual income. Annual income for this purpose is the gross amount of income anticipated by all adults in a family during the 12 months following the

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effective date of the determination. The determination of income and allowances as a criterion to qualify these homebuyers shall be guided by 24 CFR Part 5 (Part 5 annual income).

(g) NMHC, on behalf of the CNMI, has been tasked with the responsibility and administration of the CDBG-DR Homebuyer Program. Support services will also be provided by NMHC's Fiscal Division (FD) with respect to CDBG-DR related disbursement of funds and collection of payments, accounting, and maintenance of financial records. NMHC's AMD Property Manager will provide technical assistance and work with the CDBG-DR Project Manager, in-house engineer/architect, and hired A&E firms with respect to reasonableness of cost estimates, dwelling unit inspections, and other related matters. Overall, the NMHC Corporate Director will assume ultimate responsibility for the efficient and proper administration of the CDBG-DR Homebuyer Program in accordance with federal and local statutory and regulatory requirements.

(h) With these policies and procedures, NMHC will strive to accomplish the following objectives:

- (1) Provide for the efficient and effective administration of the CDBG-DR Program wherein eligible beneficiaries can avail the financial assistance provided for the construction of their principal residence, acquisition of their principal residence, or acquisition and repair of their principal residence;
- (2) Foster positive working relationships among NMHC, homebuyers assisted with CDBG-DR monies, and Minority and Women-Owned Businesses (MBE/WBE); as well as prospective developers;
- (3) Enforce the 2018 International Building Code (IBC) enacted by law and any updates approved by regulations by the CNMI Department of Public Works; and HUD-prescribed residential building standards; and
- (4) Preserve and improve the general housing stock of the CNMI. There was an existing housing shortage prior to the storms and the housing/homebuyer market has been stressed and exacerbated by the storms.

(i) These policies and procedures shall govern; however, in situations in which these policies and procedures are silent, NMHC's general standard grants policies/procedures to address these situations in the administration of the CDBG-DR Homebuyer Program will apply.

### § 100-100.3-005 Public Announcement

(a) Publicity.

- Upon notification from HUD of the approval of the grant agreement, NMHC shall publish such approval within thirty calendar days from the date of the approval. General information of the CDBG-DR Homebuyer Program shall be published in the print media

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of the widest local circulation and other suitable means available (social media, CDBG-DR website, etc.). CDBG-DR Homebuyer Program information shall also be posted on public and private bulletin boards where announcements are commonly posted. Grant applications may be submitted on or after a specified date to be stated in the public notice.

- (1) Note: When it is determined that CDBG-DR funds have been exhausted, the application intake may be closed until funding is once again available. Those applicants who did not submit their grant applications when funds were available may do so once NMHC is notified by HUD of the availability of funds and after such notice is published.
  - (2) As of the date of this posting, the program is closed. Not all of the current pool of accepted applicants will be able to be served by the program with the current funding available. Care will be taken to ensure that the appropriate number of low and moderate applicants are served based on the Action Plan.
  - (3) LMI Applicants who were denied assistance under the prior loan program based on high debt-to-income ratios, and who may be otherwise eligible, shall be **PRIORITIZED** under the grant program over the current pool of eligible applicants currently being served, and before the program is re-opened to the public and after determined to meet the following criteria or conditions:
    - a. Continued interest and eligibility for program assistance;
    - b. Determination of Ability to Maintain Housing as prescribed under § 100-100.3.-201 (e); and
    - c. Receive assistance based in the order of applicants' time stamped application.
- (b) Contents. Program announcements shall inform interested applicants on how and where they may obtain an application and additional information on the type of CDBG-DR Homebuyer Program activity being administered in the CNMI. Such announcements shall further contain the following information:
- (1) Brief overview of the Homebuyer program;
  - (2) General list of eligible activities available;
  - (3) Amount of funds available;
  - (4) General eligibility requirements to qualify for financial assistance;
  - (5) Homebuyer selection process;
  - (6) Fair Housing logo and Equal Opportunity language;

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(7) Opening date for acceptance of applications;

(c) Affirmative Marketing. To ensure that all persons are effectively and adequately informed about the CDBG-DR Homebuyer Program and the availability of funds, brochures or program information notices shall be provided and distributed or posted in the following locations and shall contain the information described in subsection (b). Brochures and/or program information notices shall be made available at the following public and private areas:

- (1) U.S. Post Offices;
- (2) Major shopping centers;
- (3) Public health centers;
- (4) Places of worship;
- (5) Government office buildings;
- (6) The Nutrition Assistance Program (Food Stamp) office(s); and
- (7) U.S. Social Security Administration office(s).

### **Part 100 - Application**

#### **§ 100-100.3-101      Formal Application**

Upon initial determination of eligibility after completion of the pre-qualification process, which involves household income and citizenship verification, applicants may obtain a Uniform Residential Grant Application form along with a checklist of required documents in order to complete the application submission. Those applicants who are initially determined eligible shall be notified to provide additional documents to further process their applications. Proper completion of the formal application and submission of supplemental information shall be in accordance with CDBG-DR Homebuyer Program and NMHC grant processing procedures. Grant which applications shall be completed and signed by applicant(s) requesting assistance and such signature(s) shall certify to the truth of all statements contained therein.

*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. Under penalties of perjury, I/we certify that the information presented above is true and accurate to the best of my/our knowledge and belief. I/We further understand that providing false representations herein constitutes an act of fraud. False, misleading or incomplete information may result in my ineligibility to participate in this program or any other programs that will accept this document. Title 18, Section 1001 of the U.S. Code states that a person is guilty of a FELONY if he/she knowingly and willfully makes a false statement to any department of the United States Government*

#### **§ 100-100.3-105      Supplemental Information**

(a) Completed applications shall be submitted together with the following supporting information which shall be used solely for the purpose of determining applicant eligibility for financial assistance:

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- (1) Prior year's income tax return and/or W-2 Tax Form;
  - (2) Recent check stubs for the past two months prior to applying for CDBG-DR program financial assistance of all household members that are 18 years old or older;
  - (3) Other forms of documentation of income (i.e., Social Security payments, SSI, retirement income, etc.), if any;
  - (4) Interested applicants must provide proof of ownership such as fee simple title to the property. Ownership may also include leases of 40 years or more provided that the applicant must have at least a minimum of thirty (30) years leasehold interest remaining on the property to be improved.
  - (5) If property has been identified, proof of land ownership or lease agreement for principal residence to be used as collateral for the grant. Non-indigenous residents cannot own land and must provide a lease agreement.  
  
If no land ownership or lease agreement is available, lot number and lot description must be provided for parcel that the applicant is planning to purchase;
  - (6) Property map for principal residence;
  - (7) Preliminary Title Report (PTR) showing clear title to property;
  - (8) Savings and checking account(s) information, if any; and
- (b) A checklist of the above-described supplemental information shall be provided with each formal application obtained. Additional information may be requested if deemed necessary by NMHC to ensure the eligibility of each applicant. NMHC must complete the Borrower's income eligibility within six months before the homebuyer(s) acquires the property.
- (c) To substantiate eligibility, supplemental information submitted with each grant application shall be verified in writing, from a reliable third party and such verification shall be considered valid for a period of one hundred eighty calendar days from the date the verification was completed. Prior to verifying any applicant information, NMHC shall obtain written authorization from the applicants.

- (d) If a written third-party verification is not used, notarized statements or signed affidavits by the applicants shall be an acceptable form of verification, but only in situations where a more acceptable form of verification cannot be obtained.

**Part 200 - Eligibility**

**§ 100-100.3-201 Eligibility Requirements**

- (a) Must be a U.S. Citizen or green card holder.
- (b) Must be a first-time homebuyer. A **first-time homebuyer** is an individual who has had no ownership in a principal residence during the 3-year period ending on the date of purchase of the property or new home construction completion. This includes a spouse (if meets the above test, they are considered **first-time homebuyers**).
- (c) Must be a resident of the CNMI at the time of application or have been a resident of the CNMI at the time of the qualifying event.

(d) Household Income.

- (1) Homebuyer(s) must qualify as a low-income household as defined in Section 3(b)(2) of the Housing Act of 1937. Income eligibility is determined based on annual income. Combined anticipated gross household income of adults 18 years old or older, must not exceed 80% of the median income for the area (adjusted for family size), as prescribed by HUD (see § 100-100.3201(a)(2)). However, household income of adults 18 years old or older exceeding 80% of the median income for the area but not greater than 120% will also be eligible for assistance.

To qualify for the First Time Homebuyer Program, applicants must meet prescribed income limits as published annually by HUD. Priority is given to applicants at 80% or less of median income based on household size. The program will also serve those households in the 81% to 120% range. The most current income limits can be found at:

<https://www.huduser.gov/portal/datasets/il/il2022/2022summary.odn>

- (2) NMHC shall use HUD's Section 8 of Part 5 Technical Guidelines as the basis in calculating annual gross household income. NMHC will verify their income using at least two months of source documentation such as wage statements, interest statements, and SSI documents to determine if program applicants are income eligible.
- (3) CDBG-DR Homebuyer Program Underwriting Guidelines and Subsidy Layering is further outlined herein under Part 1200, § 100-100.3-1201.

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- (e) **Determination of Ability to Maintain Housing.** NMHC shall evaluate the gross monthly income of both applicant and co-applicant (homebuyers) combined, to determine the amount available for housing costs. This would include insurance, utilities, and typical maintenance costs. This will ensure that the new homeowner will be able to afford the home over the affordability period.
- (f) **Property Ownership.** Interested applicants must provide proof of ownership such as fee simple title to the property. Ownership also includes leases of 40 years or more provided that the applicant must have at least a minimum of thirty (30) years leasehold interest remaining on the property to be improved. If the applicant does not yet own the property, a parcel description must be provided to facilitate the completion of the required tiered environmental review.
- (g) **Principal Residence and Annual Recertification.**
- (1) Homebuyers/Applicants approved to receive financial assistance must occupy the property as their principal/primary residence immediately upon completion of all CDBG-DR Homebuyer funded activities. An annual recertification for principal residency notice and form shall be sent to homebuyers/borrowers to complete, sign, and submit to NMHC in order to confirm and have on file that they are continually occupying the mortgaged property and housing. The following stipulations apply for a principal residence:
- (i) A deed restriction or covenant running with the land shall incorporate this requirement;
  - (ii) The grant documents between the homeowner and NMHC shall also incorporate this requirement;
  - (iii) Temporary subleases are not allowed.
- (2) Annual recertifications shall be required for all CDBG-DR homebuyer-assisted borrowers. This is conducted in order for homeowners to maintain compliance with the affordability restrictions.
- (3) Annual recertifications through field visits may be conducted if the required completed form has not been provided, or if the account status is pending probate, or the account has been accelerated to the collection attorney for foreclosure proceedings. The Grant Specialist shall verify the borrower(s) principal residence and, as necessary, to take photos and document the status of the residential unit.
- (h) **Grant Cancellation.** NMHC reserves the right to cancel any grant if in its opinion the homebuyer(s)/applicant(s) have not substantially complied with all the terms and conditions of the grant agreement and restrictive covenant.

**Part 300 - Affordability Restrictions**

**§ 100-100.3-301 Long Term Affordability**

The Federal Register notice requires that new construction of housing (not impacted by the qualifying disaster) remain affordable for a specific period of time., NMHC will impose the following affordability periods:

	Minimum Length of the Affordability Period
Rehabilitation	5 years
New Construction	15 years

- (a) The affordability requirements are to be imposed by deed restrictions, covenants running with the land, or other mechanisms approved by HUD, except that the affordability restrictions may terminate upon transfer in lieu of foreclosure. NMHC may use its right of first refusal, as set forth in the grant documents, to purchase the housing before the transfer in lieu of foreclosure to preserve affordability.
- (b) The affordability restrictions shall continue according to the original terms if, during the original affordability period, the owner of record before the termination event, or any entity that includes the former owner or those whom, the former owner has or had family or business ties, obtains an ownership interest in the project or property. If a home purchased with CDBG-DR assistance is sold during the affordability period, recapture provisions apply to ensure the continued provision of affordable homeownership. Grant payoffs do not end the affordability period.

**§ 100-100.3-305 Right of First Refusal**

During the affordability period, the homeowner(s) agrees not to sell or assign the residence hereby built or purchased to any persons or persons unless and until homeowner(s) proposes to sell same to NMHC, its successors or assigns, on terms consistent with preserving affordability and allows then sixty (60) days' time within which to purchase said residence.

**§ 100-100.3-310 Resale**

[Reserved]

**§ 100-100.3-315 Recapture**

- (a) Recapture. NMHC will ensure that it recoups all or a portion of the CDBG-DR grant assistance provided to the homebuyer(s) if the housing unit ceases to be the principal residence of the homebuyer(s) for the duration of the period of affordability. All subsidy amounts (in the form of grants) that directly benefited the property owner (i.e., through grants, down payment and/or closing cost assistance,) are also subject to recapture.

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Recapture is capped at what is available out of net proceeds for agreements after January 2021. Net proceeds are defined as the sales price less superior non CDBG-DR debt (if any) fewer closing costs. NMHC will utilize the following recapture options:

- (1) **Recapture entire amount.** NMHC may recapture the entire amount of the grant and/or subsidy from the homebuyer(s) if the sale of the property occurs within halfway into the given affordability period. For example, a homebuyer was approved for a \$50,000 CDBG-DR grant to construct a home. The affordability period is therefore, ten years. On the fourth year, the borrower sells the house for \$60,000. Since the borrower failed to comply with the minimum five years of the ten-year affordability period, the recaptured amount is \$50,000.
  - (2) **Forgiveness.** NMHC may reduce the grant amount and/or subsidy to be recaptured on a pro rata basis for the period the homebuyer(s) has/have owned and occupied the housing unit measured against the required affordability period; however, homebuyer(s) must occupy the housing unit at a minimum of five years or at least halfway into the affordability period, whichever is greater, in order to qualify for this recapture option. For example, if the CDBG-DR subsidy is \$60,000 with 15-year affordability and the owner sells the property in the 8th year of ownership the recapture amount will equal \$12,000. ( $\$60,000/15$  years affordability period x 2 years remaining = \$8,000 recapture.)
  - (3) **Buyer's recovery of initial investment.** The homebuyer(s) investment (down payment and capital improvements made by the owner since purchase) may be repaid in full before any CDBG-DR funds are recaptured, provided that the homebuyer(s) occupied the housing unit at a minimum of ten years before the sale of the property and the homebuyer's household income level is at or below 50% of the area median income in order to qualify for this recapture option.
  - (4) **Shared appreciation.** In the case where net proceeds exceed the amount necessary to repay both the homebuyer(s)' investment and the CDBG-DR assistance, the excess proceeds may be shared proportionately (i.e., percentage of investment provided) by both parties.
- (b) When the recapture requirement is triggered due to a voluntary or involuntary sale during the period of affordability and there are no net proceeds or the net proceeds are insufficient to repay the HOME investment due, NMHC may recapture an amount less than or equal to the net proceeds available.
- (c) **Circumstances Under Which Recapture Will Apply.** Recapture restrictions must be used in cases where grants were provided to the homebuyer(s) in order to subsidize the purchase of the property to cover the down payment or closing costs.
- (d) **Legal Instrument to Enforce Recapture.** NMHC must use deed restrictions, land covenants, or other similar legal documents to enforce these recapture restrictions. These requirements will also be included in grant agreements.

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**Part 400 - Homebuyer Costs**

**§ 100-100.3-401 Eligible Costs**

(a) Hard costs include:

- (1) Acquisition of land and existing structures;
- (2) Site preparation or improvement, including demolition;
- (3) Securing buildings; and
- (4) Construction materials and labor.

(b) Soft costs include:

- (1) Credit reports;
- (2) Title binders and insurance;
- (3) Recordation fees;
- (4) Legal & accounting fees;
- (5) Appraisals;
- (6) Architectural/engineering fees, including specifications and job progress inspections;
- (7) Environmental investigations, which shall be addressed in the commitment letter as a condition before any Homebuyer activity is to be committed or funded;
- (8) Homebuyer counseling provided to purchasers of CDBG-DR-assisted housing;
- (9) Management fees; and
- (10) Direct project costs incurred by the PJ.

(c) Relocation costs include:

- (1) Replacement housing, moving costs, and out-of-pocket expenses;
- (2) Advisory services; and
- (3) Staff and overhead related to relocation assistance and services.

(d) Grant closing fees and related costs:

NMHC shall charge \$3,914.00 (more or less, depending on current costs) to the applicant for certain grant closing fees and other related costs such as but not limited to the following:

- |    |                   |             |  |
|----|-------------------|-------------|--|
| a. | <u>\$14.00</u>    | <u>----</u> | <u>Credit Report</u>                             |
| b. | <u>\$200.00</u>   | <u>----</u> | <u>Preliminary Title Report (PTR)</u>            |
| c. | <u>\$600.00</u>   | <u>----</u> | <u>Appraisal Report</u>                          |
| d. | <u>\$150.00</u>   | <u>----</u> | <u>Recordation of Covenant</u>                   |
| e. | <u>\$1,050.00</u> | <u>----</u> | <u>First Annual Premium for Hazard Insurance</u> |
| f. | <u>\$500.00</u>   | <u>----</u> | <u>Initial Utility Connection</u>                |
| g. | <u>\$1,400.00</u> | <u>----</u> | <u>Title Policy</u>                              |

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\$3,914.00 Total

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Grant closing fees and associated hard and soft costs may be bundled into the total approved grant amount. A borrower who is approved for a \$120,000 grant may use a portion of the grant to pay for the grant closing costs and soft costs. In this case, the \$3,914.00 incurred closing costs shall be subtracted from the total approved grant of \$120,000 and the resulting net amount of \$116,086.00 shall then be used for the construction, purchase and/or rehabilitation of their principal residence.

CUC utility connection: Homebuyer(s) are responsible for ensuring that there are no outstanding issues with CUC and resolving any such issues. Any costs not related to initially connecting to CUC utilities are not granted closing fees and related costs and none of the approved grant amount will be used to resolve such issues.

- (e) If the homebuyer(s) opt to have a private inspector perform unit inspection, the first/initial unit inspection fee may be covered by NMHC, subject to any conditions set by NMHC. Any cost associated with any subsequent inspection shall be the responsibility of the homebuyer client(s).
- (f) NMHC hired construction managers will inspect the home to determine if work is still needed in order to comply with the Green Building and other required construction standards,

### **Part 500 - Notification to Applicants**

#### **§ 100-100.3-501 Notification of Eligibility or Ineligibility**

- (a) Eligible Applicants. NMHC shall send written notifications to all applicants determined eligible for financial assistance. Such notification shall be mailed no later than five working days after the determination and shall contain a listing of additional information to be submitted for completion of the grant file. Eligible applicant(s) shall be given thirty calendar days to submit the additional information requested. Applicant(s) that do not submit all pending information before the thirty (30) calendar day deadline, shall have their applications file placed in the inactive files. Extensions may be granted.
- (b) Ineligible Homebuyers/Applicants. All ineligible applicants shall be notified in writing of their ineligibility. Such notification shall be mailed no later than five working days after the determination of ineligibility and shall include a description/reason for such determination. Please see § 100-100.3-605 for Appeals Process.

### **Part 600 - Grant Processing**

#### **§ 100-100.3-601 Selection**

- (a) Financial assistance shall be based on available CDBG-DR Program funds and such assistance shall be awarded to eligible applicants on a first come, first-serve basis. The application will have the date and time stamped when received; however, to be considered

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received, the application must be completely filled-out and the applicant has submitted all additional information requested by NMHC to perform an eligibility review.

- (b) Potential homebuyers displaced by the storms and can show (completed application form along with all necessary documents) their incomes do not exceed 80% of AMI will be prioritized. No less than 80% of the funding will be reserved for those applicants at or below 80% AMI.
- (c) In the event that there are more applicants than available funds, NMHC shall establish and maintain an applicant waiting list. Applicants placed on the waiting list shall be assisted in the event that funds available are not entirely used up or committed by the homebuyers/applicants initially awarded financial assistance. Those applicants unable to be assisted with remaining funds shall be given first priority if and when additional funds are available.
- (d) Applicants who were initially determined to be ineligible for the loan program will receive reconsideration for the grant program before the program is re-opened to the general public.

### **§ 100-100.3-605 Administration; Approval; Appeals Process**

#### **(a) Program Administration.**

- (1) The CDBG-DR Housing Administrator, with the assistance of NMHC's MCD Manager shall be responsible for the CDBG-DR Homebuyer program implementation and management of related tasks. The CDBG-DR Housing Administrator shall supervise division staff in grant origination, underwriting and closings under the CDBG-DR Homebuyer program. However, the duplication of benefits analysis must be conducted by the CDBG-DR Compliance Manager to determine net financial assistance to be provided to the homebuyer applicant.
- (2) The CDBG-DR Housing Administrator and MCD Manager shall review each submitted application, ensure all supporting documentation is in place and make any necessary recommendations to the Corporate Director prior to the Corporate Director making the final decision on the grant application.

#### **(b) Grant Review and Approval**

- (1) Under the direction of the CDBG-DR Housing Administrator, a CDBG-DR Grant Supervisor and/or a Grant Specialist shall review and verify all applicants' income, assets, liabilities, title reports, and any other requested reports and documentation. Upon completion of the review process, the Grant Specialist shall prepare a grant write-up containing his/her recommendations.
- (2) In the interim, after the CDBG-DR Housing Administrator review, the MCD Manager shall review the grant write-up for concurrence before submitting the same to the Corporate Director for a final decision. Final approval or denial of any CDBG-DR grant or grant shall be made by the Corporate Director except as follows:

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- (i) If the Corporate Director is off-island or on extended leave at the time the grant or grant is submitted to him/her for a final decision, then the Deputy Corporate Director may make the final decision to approve or deny the CDBG-DR grant; or
  - (ii) If the Corporate Director and Deputy Corporate Director are both simultaneously off-island or on extended leave at the time the grant or grant is submitted for a final decision, then the Acting Corporate Director may make the final decision to approve or deny the CDBG-DR grant.
  - (3) For purpose of these policies, off-island or extended leave shall be defined as an absence or leave that extends for more than three working days after the grant or grant is submitted to the Corporate Director for his or her final decision.
  - (4) A written notice of the final decision shall be provided to the applicant.
  - (5) Once the applicant has been approved, as soon as a property or site has been identified, the Grant Specialist is notified so that the tiered environmental review can be completed.
- (c) Grant/Denial Appeals Process.
- (1) Applicants denied assistance under the CDBG-DR Homebuyer program may appeal the final decision to the NMHC Board of Directors by submitting their appeal in writing to the Corporate Director within ten (10) working days of the written notice of the final decision.
  - (2) Any appeal submitted must indicate the basis for the appeal and include any supporting documents. Upon receipt of an appeal, the Corporate Director shall submit the same to the Board of Directors for review and action at the next scheduled Board meeting.

### **§ 100-100.3-610 Homebuyer/New Construction Counseling Session**

- (a) All applicants for grant assistance must attend a Homebuyer/New Construction Education and Counseling Session that will be provided by NMHC. NMHC employees providing housing counseling will be HUD certified housing counselors, and NMHC will have applied directly to HUD and received approval, or NMHC will have applied to a HUD-approved intermediary and received approval by the entity to be its affiliate. NMHC shall notify the applicant(s) of the date, time, and location of the session. The education and counseling session shall be scheduled after the grant has been preliminarily approved and may be conducted before or on the day that NMHC issues the commitment letter to the applicant(s). The counseling session shall include a discussion of the terms and conditions of the grant, educate the new homeowner(s) of their financial responsibilities, the importance of budgeting, making timely payments, foreclosure prevention, as well as home maintenance and repair measures. Acceptable delivery method for housing counseling may be in-person, phone, or internet. Duration of the housing counseling is eight (8) hours. Upon completion of the housing counseling, the borrower(s) will receive a counseling certificate and this counseling certificate is valid for 2 years. Funding for housing counseling will come from project-related soft costs.

- (b) NMHC shall inform applicant(s) at the time of their submission of their application of the required homebuyer/new construction counseling session and again in written form when NMHC notifies the applicant(s) of NMHC's preliminary approval of their grant request. Failure to attend the required Homebuyer/New Construction Education and Counseling Session may be grounds for denial or cancellation of assistance.

**Part 700 - Terms and Conditions of Grant**

**§ 100-100.3-701 Maximum Homebuyer Programs Grant Amount**

- (a) The amount of CDBG-DR Homebuyer grant funds that may be used for a new construction, purchase, or for an acquisition and repair shall be based on the funding required, not to exceed the program cap.
- (b) For NMHC-owned properties, NMHC may sell the property directly to the CDBG-DR Homebuyer-approved applicant(s) but only after the property has been publicly auctioned at least once and resulted in an unsuccessful bid.

**§ 100-100.3-705 Minimum and Maximum CDBG-DR Homebuyer Program Grant Amount**

- (a) The minimum grant amount shall not be less than \$1,000.00.
- (b) The maximum grant amount shall not exceed the prevailing funding cap set by NMHC based on local prevailing costs for construction (New Construction housing projects) and appraised value determined by certified independent appraisal companies.
- (i) New construction project costs presented by contractors may exceed maximum grant and NMHC may approve such costs provided that are deemed justified and cost reasonable and supported by independent cost estimates.
- (ii) NMHC, through the assistance of a private A&E Firm, may update independent cost estimates periodically and as may be needed or required.

**The maximum grant amount shall not exceed \$250,000.00.**

Provided that circumstances, where additional costs may be incurred, will be reviewed against cost reasonableness guidelines and to meet reasonable accommodations and accessibility requirements.

**§ 100-100.3-710 Determination of Unit Size and Occupancy Standards**

- (a) **Fair Housing.** The Fair Housing Act ("Act") (42 U.S.C. §§ 3601-19) prohibits discrimination in the sale, rental, and financing of dwellings, and in other housing-related transactions, based on race, color, national origin, religion, sex (including gender identity and sexual orientation), familial status, and disability. Discrimination includes a failure to make a change, exception, or adjustment to a policy, practice, procedure, or service when such accommodation may be necessary for an individual with a disability to enjoy and use

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housing. In addition to the requirements under the Act, there may be additional requirements for recipients of federal assistance from HUD.

(b) **Housing Unit Suitability.** Homes acquired, purchased, or newly constructed with CDBG-DR funds under this program, at a minimum, shall be decent, safe, and sanitary.

(c) **Determination of Unit Size.** Limited funding notwithstanding, NMHC shall ensure that the following occupancy standards are observed.

(1) **Occupancy Standards.** Occupancy standards are rules about the number of people that can live in a bedroom or at a property. These standards are usually based on the number of bedrooms at a property, but they can also take into account the total amount of livable square footage. Oftentimes, a combination of both makes the final call about how many people can live there. HUD occupancy standards are the rules set up by the Department of Housing and Urban Development. These federal occupancy standards are part of the Fair Housing Act Amendment, and they are the overarching rules for occupancy.

(2) **Unit Bedroom Size.** NMHC has set the following Occupancy Standards for family and unit size:

- (i) All bedrooms with one person should have at least 70 square feet.
- (ii) Shared bedrooms must have at least 50 square feet per person.
- (iii) Kitchens and other non-habitable rooms cannot be used as a bedroom.
- (iv) Every unit should have an overall occupant limitation based on its overall size:
  - (i) 1-2 occupants: must have at least 120 square feet living room.
  - (ii) 3-5 occupants: must have at least 120 square feet living room and 80 square feet dining room.
  - (iii) 6 or more occupants: must have at least 150 square feet living room and 100 square feet dining room.

No. of Family Members	No. of Bedrooms
1-2	2
3-4	2
5-6	3
7-8	4
9 and above	5

(v) **Exceptions.** In certain unique conditions and situations, NMHC, on a case-by-case basis, may grant exceptions when warranted and after thorough review of grant applications.

**§ 100-100.3-735 After-Construction Property Value, After-Rehabilitation Property Value, or Property Value at Initial Purchase (if Acquisition Only).**

**§ 100-100.3-740 Security, Restrictive Covenant, Homeowner Requirements**

(a) To ensure affordability for CDBG-DR funds invested, NMHC shall place a restrictive covenant on the property. The restrictive covenant shall be maintained for no less than the term of the affordability period.

- (b) NMHC will execute a written agreement with the homebuyer that will specify the use of CDBG-DR funds, description of the project, roles and responsibilities, compliance with affordability period requirements, qualifications for affordable homeowner housing, monitoring, the purchase price, date by which housing must be acquired, address or legal description of the property, and duration of the agreement. Additionally, the purchase price, date by which housing must be acquired, address or legal description of the property must be indicated in the applicable written agreement.
- (c) During the term of the grant, homebuyer shall also be required to maintain, at their expense, property insurance on the mortgaged property for fire, earthquake, typhoon, and flood damage (if applicable) covering the replacement value of all properties at a minimum equal to the grant amount. Financial hardships will be reviewed on a case-by-case basis.
- (d) NMHC will require the homebuyer to execute and file for record a deed or deeds of restriction, land covenant or similar legal documents approved by HUD that will assure compliance with the principal residency and affordability period requirements and enforce CDBG-DR restrictions.

**Part 900 - Miscellaneous Circumstances Affecting Grant Agreement**

**§ 100-100.3-901 Assumption of a Grant**

- (1) Death of a homebuyer/borrower: Upon the death of the borrower which occurs within the affordability period, the entire unpaid balance of the grant shall be immediately due and payable. Title transfer without sale triggers the CDBG-DR recapture agreement enforceable through the restrictive deed or land covenant. The Corporate Director may allow assumption of the grant by the heirs of the borrower if a final decree in the probate of the borrower identifies the heirs and approves distribution to them of the improved property and the grant, and if the heirs themselves would qualify as a new applicant for the grant.
- (2) At the sole discretion of the NMHC Board, the grant may be assumed by a legal heir of a deceased borrower(s) of the CDBG-DR-assisted unit. This assumption exception is permitted where transfer of title is through the laws of descent provided that the heir is of legal age, meets all CDBG-DR Program eligibility requirements and has a full, undivided interest in the real property. The heir will be required to fill out an application and will be subject to credit, income, and asset verification.
- (3) Default for Violation of Grant Agreement and/or Restrictive Covenant. In situations where a default is imminent, the Corporate Director may allow a borrower to have a CDBG-DR eligible immediate relative (i.e., mother, father, brother, sister, son, daughter) assume the grant, all for the purpose of preserving the affordability period.
  - (a) Default. NMHC may use its right of first refusal, as set forth in the grant documents, written agreement with homebuyer, and restrictive deed or land covenant, to reclaim the housing to preserve affordability. Default triggers the

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CDBG-DR recapture agreement enforceable through the restrictive deed or land covenant.

- (b) Recapture in the Event of Default. If the CDBG-DR assisted property is subject to recapture terms, NMHC has three options:
  - (i) Recapture Option 1: NMHC will recapture and pay to the CNMI CDBGCR account the net proceeds from the foreclosure sale of the property in accordance with the recapture terms; or
  - (ii) Recapture Option 2: NMHC may purchase the CDBG-DR assisted property at foreclosure sale and additional CDBG-DR funds may be spent. However, the total amount of the original and additional CDBG-DR funds spent may not exceed the maximum per unit subsidy amount.
  - (iii) Recapture Option 3: NMHC will allow the homeowner in default to repay the entire amount of the CDBG-DR investment and own the property free and clear. In this event, the affordability period will be terminated,

### **Part 1100 - Performing New Construction Work**

#### **§ 100-100.3-1101 Performing New Construction Work**

- (a) NMHC Independent Cost Estimate: NMHC or its procured construction manager will establish an estimated cost for construction and/or rehabilitation of the property to be acquired. This cost estimate will be used to validate that the winning bid is acceptable as being “eligible, necessary, and reasonable.”
- (b) Contractor Cost Estimates: The homebuyer(s)/applicant(s) shall be responsible in obtaining a minimum of three written construction cost estimates from at least three NMHC approved contractors, and each cost estimate submitted must include, at a minimum, the following information: bid price, cost breakdown of materials and labor charges, and schedule for completion of work.
- (c) Selection of Contractor/Contract Award: The homebuyer(s) shall have the right to select whichever contractor to perform the construction work, provided that NMHC has assessed the sources and uses of funds and determined that the costs are reasonable, provided that the contractor’s quotation and the appraiser’s after-construction estimated value does not exceed the approved grant amount and provided that the contractor is an NMHC-approved contractor. Should it exceed the grant amount, the homeowner shall choose to either deposit the difference or negotiate with contractor in reducing the contract amount. Should the borrower not be able to deposit the difference or the contractor unwilling to lower the contract amount, then the borrower shall select his/her/their next choice. The homebuyer(s) shall submit a contractor selection notice notifying NMHC of his/her/their selection. NMHC may, at its own discretion, select the appropriate contractor for the applicant if the

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homebuyer project is deeply subsidized using additional CDBG-DR funds. Deeply subsidized means additional funding assistance on top of the underwritten funding assistance.

- (d) **Construction Contract:** The construction contract is a binding agreement strictly between the homebuyer(s) and the contractor whereby the contractor will provide the construction or repair work for a specified and agreed upon price. As NMHC's role is to finance the construction of the project, it is not a party to the construction contract. However, at any time the contractual provisions are not followed, NMHC shall have the right to withhold any progress payment until the contractor has complied with such provisions. The construction contract shall include, but is not limited to, the following provisions:
- (1) Contractor's name and mailing address;
  - (2) Homeowner(s) name and mailing address;
  - (3) Date of the contract, the contract amount, and payment schedule for each incremental billing;
  - (4) Calendar days to complete the work (includes Saturdays, Sundays, and holidays);
  - (5) Contractor will provide the performance bond, and labor and material payment bond up to the contract amount, as well as a builder's risk policy for the project;
  - (6) The contractor will provide all the construction plans and permits necessary to comply with applicable local and federal laws;
  - (7) Issuance of the notice to proceed or the commencement of the project;
  - (8) Contractor will provide a one-year warranty on all work completed;
  - (9) NMHC's right to inspect the progress of the project and right to withhold progress payments;
  - (10) Change order procedures, if any; and
  - (11) A provision for liquidated damages must be included in the construction contract which shall be negotiated between the homebuyer(s) and the contractor.
  - (12) Description of the work to be performed so that inspections can be conducted and, for rehabilitation, so that housing will meet NMHC's rehabilitation standards.
- (e) **Contractor Notification and Pre-Construction Requirements:** Once NMHC is in receipt of the borrower(s)/homebuyer(s) contractor selection notice, NMHC shall notify the contractor of the homebuyer(s) selection of their company. NMHC shall inform the

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contractor of the scheduled pre-construction conference and shall likewise inform the contractor of the required construction documents for submission as listed below:

- (1) Building permit (if applicable)
  - (2) Earthmoving and erosion control permit (if applicable)
  - (3) Construction contract
  - (4) Performance and payment bonds
  - (5) Plans and specification approved by DPW
  - (6) Private inspector's contract (if applicable)
  - (7) Notice that an environmental review and clearance has been conducted, and Authorization to Use Grant Funds has been received.
  - (8) Verification that any mitigation measures identified in the course of the environmental review have been incorporated into the plans and specification approved by DPW.
- (e) Project Duration: Construction must start within 12 months of NMHC's execution of the CDBG-DR written agreement with the homebuyer(s).
- (1) Progress payment requests shall be submitted to NMHC by the contractor incrementally as specified in the payment schedule. NMHC shall ensure that all work description indicated on the payment schedule is completed prior to releasing contractor's payment. An original and a copy of the requests must be submitted to NMHC. The contractor shall freely use his/her/their company's billing form when submitting a payment request. The payment request shall be accompanied with the following whenever applicable: inspection reports (DPW and/or private inspector), geotesting results, termite treatment certification and/or warranty, builder's warranty, and borrower/homebuyer's acceptance of the project. In addition, each billing submitted must include pictures of the progress of the project and a copy of the payment schedule.
  - (2) Payment schedule shall be as follows:
    - (i) Payment request number 1 shall not be more than 10% of the contract amount. This shall include the installation of the project sign board accompanied with a picture, the delivery of materials to the construction site, and commencement of the project.
    - (ii) Payment request number 2 shall not be more than 25% of the contract amount.
    - (iii) Payment request number 3 shall not be more than 25% of the contract amount.
    - (iv) Payment request number 4 shall not be more than 25% of the contract amount.

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- (v) Payment request number 5 shall be the 15% retainage request when all work is completed. The final payment request shall be accompanied with the certificate of occupancy from the Commonwealth Building Safety Office, builder's warranty, window warranty if subcontracted, termite treatment warranty, final inspection report from the DPW and if applicable, the private inspector's, certificate of acceptance from the homeowners, geotesting results if applicable, pictures of project interior and exterior, and DEQ certificate of use (sewage disposal system), if applicable.
- (3) Change Order Procedures. From time to time, the homebuyer(s) may request for changes in the plans and specifications. In the event that this should occur, the following steps must be taken to address such request:
- (i) The borrower/homebuyer must notify contractor in written form of the proposed changes and provide NMHC a copy of the notification.
  - (ii) Upon receipt of the notification, the contractor must cease work at the project site and obtain NMHC's approval of the change order request. Upon approval the contractor shall then provide NMHC a revised plan and specifications, including a revised payment schedule (if scheduled payments will be altered by the proposed changes). The contractor must obtain NMHC's approval of the change order request.
  - (iii) Once the change order request is approved, the homeowner will be required to deposit the additional money needed to NMHC (if applicable) to carry out the change order. The contractor will be required to submit the revised plans and specifications to DPW for approval.
  - (iv) Should the change order request be denied, then the contractor shall resume work to ensure timely completion of the project. The contractor may not be able to complete the project on time because of the delays the change order request may have caused. Therefore, the homebuyer(s) shall give the contractor additional days equal to the time the work was ceased up until the time the change order request was denied to complete the project. The homebuyer shall not charge the contractor for liquidated damages during this period.
- (4) Once the contractor has obtained the DPW's approval of the plans and specifications, then it shall provide NMHC with the same copy. The contractor shall proceed in carrying out the change order and completing the project.
- (f) Inspections: NMHC shall have the right, during the construction or improvement of the building, to inspect the same and to reject and to require to be replaced, any material or workmanship that does not comply with the plans and specifications, without any liability on the part of NMHC, as to workmanship or materials therein. Such inspection is solely for financing purposes and for the disbursement of funds, and any inspection or approval

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of any construction phase or increments of said dwelling shall not be deemed as a warranty by NMHC of the workmanship and material therein.

(g) **Inspector:** Upon completion, the building is subject to inspection by the Building Safety Office of the Department of Public Works (DPW) prior to the issuance of an occupancy permit or other permits as provided in the Building Safety Code codified in 3 CMC § 7101 et seq. Applicant(s) may have a private inspector, (i.e., a qualified licensed engineer or a qualified licensed architect), conduct inspection with the costs with such inspection to be handled in accordance with § 100-100.2-240.

(h) **Minimum Property Standards (MPS):** For new construction of housing and acquisition rehabilitation of housing, the 2018 International Building Code enacted by law and any updates approved by regulation by the Department of Public Works Building Safety Office and zoning laws (if applicable for Tinian and Rota), International Energy Conservation Code, NMHC written design standards for single family housing new/rehabilitation, and accessibility requirements (where applicable) must be adhered to.

(1) Further adherence to CDBG-DR acquisition and repair standards, which details the methods, materials, and other requirements that the housing must meet upon completion, including each of the following:

- (i) Health and Safety [24 CFR 92.251(b)(1)(i)]
- (ii) Major systems that were rehabilitated or replaced as part of the rehabilitation [24 CFR 92.251(b)(1)(ii)]
- (iii) Lead-based paint [24 CFR 92.251(b)(1)(iii)]
- (iv) Disaster mitigation, if applicable [24 CFR 92.251(b)(1)(vi)]
- (v) State and local codes, ordinances and zoning requirements [24 CFR 92.251(b)(1)(vii)]
- (vi) Minimum deficiencies that must be corrected based on inspectable items and areas in HUD's Uniform Physical Condition Standards [24 CFR 92.251(b)(1)(viii)]
- (vii) HUD Green Building Standards or Green Building Retrofit Checklist, as required by Federal Register Notice.

(i) Homebuyer(s), through their contractors, must ensure that they are familiar with these requirements. PJs using MPS may rely on inspections performed by a qualified person. If using CDBG-DR funds solely for acquisition, the property must also meet the minimum property standards mentioned above or HUD's Uniform Physical Condition Standards (UPCS). The contractor will provide all the construction plans and permits necessary to comply with applicable local and federal laws.

(j) Project Completion:

(1) Project shall be completed prior to the termination of the CDBG-DR Grant Agreement with HUD.

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(2) Project completion information shall be entered in the Disaster Recovery Grant Reporting (DRGR) System within 120 days of the final project draw.

(k) Record Retention:

(1) NMHC shall retain CDBG-DR homebuyer project records for five years after project completion. [24 CFR 92.508(c)(2)]

(2) NMHC shall retain documents imposing recapture provisions for five years after the period of affordability terminates. [24 CFR 92.508(c)(2)]

(3) NMHC shall retain CDBG-DR homebuyer project written agreement records for five years after the agreement terminates. [24 CFR 92.508(c)(4)]

### Part 1200 - Homebuyer Underwriting

#### § 100-100.3-1201 Guidelines and Referenced Sections

In order to determine the specific amount of CDBG-DR assistance needed to ensure that the unit is affordable and sustainable over the long-term, NMHC's CDBG-DR Homebuyer Program design reflects and incorporates underwriting standards that the HOME regulations at § 92.254(f) has set forth; and further examines the following for each homebuyer:

- (a) Program Eligibility and income;
- (b) Monthly expenses;
- (c) Assets or cash reserve, as applicable; and
- (d) Appropriateness of the amount of assistance

In addition to the underwriting provisions of these regulations, the following applies to Homebuyer activities:

(a) Determining income eligibility.

(1) The NMHC CDBG-DR Homebuyer Program methodology for determining income-eligibility, income as a component of underwriting, income verification and required source documentations, treatment and the calculation of assets are derived from the HUD *Part 5 Technical Guidelines* as herein stated

- (i) To receive CDBG-DR assistance, households must have incomes at or below 80 percent of the area median household income, adjusted for household size, and determined annually by HUD. Households with incomes at or below 120 percent of the area median household income, adjusted for household size, are also eligible for assistance.
- (ii) CDBG-DR Homebuyer Program regulations require that income of all family members be included in the determination of income for the purpose of eligibility. The HOME regulations at 24 CFR 92.203 (d) require that a PJ

must project a household's income for the next 12 months. Chapter Two of the Part 5 Technical Guide reviews this in detail. The NMHC CDBG-DR Homebuyer Program shall also use the same methodology of projecting income for the purpose of underwriting.

- (iii) The Part 5 definition of annual income provides specific guidance pertaining to whose income in a household must be included in that calculation. Chapter Three reviews this in detail.
- (iv) Gross amount. NMHC uses the monthly gross amounts, before any deductions have been taken, for those types of income counted. Adjusted income is not required for CDBG-DR-funded homebuyer or for owner-occupied rehabilitation as per the Part 5 Technical Guide.
- (v) The CDBG-DR Homebuyer program requires that the grantee determine income eligibility of CDBG-DR applicants by examining source documents, such as wage statements or interest statements, as evidence of annual income. NMHC requires additional supporting information to confirm eligibility and for purposes of underwriting. This is specified in §100-100.3-105, Supplemental Information. Review of documents and third-party verification is further reviewed in detail in Chapter Two of the Part 5 Technical Guide.
- (vi) What to include as an Asset. There is no asset limitation for participation in the CDBG-DR Homebuyer Program. Eligible families are not required to "spend down" assets before they can participate in the Program. Income from assets is, however, recognized as part of annual income under the Part 5 definition.
- (vii) In general terms, an asset is a cash or non-cash item that can be converted to cash. Income that is earned, such as interest on a savings or checking account, is counted or factored into annual income. Chapter Three of the Part 5 Technical Guide explains in detail the treatment of assets and considers what is to be included as an asset, as well as explaining actual income from assets.
- (vii) Recurring monthly expenses, or those that are considered fixed monthly living expenses such as utilities and transportation costs are the type of expenses should be considered in the underwriting process and must be carefully budgeted and monitored by the homebuyer. The housing counseling shall address these types of essential expenses so that it does not decrease residual income and affect the homebuyer's ability to sustain the property.

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- (b) The affordability restrictions that will be imposed on the property, a grant will only be extended to applicant(s) who will make their assisted unit their primary residence (see § 100-100.3-201(d)).

### **§ 100-100.3-1205     Subsidy Layering**

- (a) NMHC may provide eligible homebuyers with additional locally funded assistance to cover additional housing cost that is deemed to have exceeded the maximum CDBG-DR assistance limit.
- (b) Homebuyer(s) that are approved for any additional, or supplemental assistance whether it be a CDBG-DR grant or with NMHC's local funds, shall be required to choose from NMHC's house design and layouts. Such house layout and unit size is dependent on the household size, the original approved CDBG-DR assistance, as well as the total estimated costs to construct a new principal residence.

### **§ 100-100.3-1210     Acronyms Reference Section**

[For Homebuyer Policies and Procedures]

- (a)     AIA—American Institute of Architects
- (b)     AMI—Area Median Income
- (c)     CD—Corporate Director
- (d)     CFR—Code of Federal Regulations
- (e)     CNMI—Commonwealth of the Northern Mariana Islands
- (f)     CPSC—Consumer Product Safety Commission
- (g)     DCD—Deputy Corporate Director
- (h)     DEQ—Department of Environmental Quality
- (i)     DPW—Department of Public Works
- (j)     DTI—Debt-to-Income Ratio
- (k)     EA—Environmental Assessment
- (l)     GFE—Good Faith Estimate

## **TITLE 100: NORTHERN MARIANAS HOUSING CORPORATION**

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- (m) HOME Program—U.S. HUD Homeownership Investment Partnerships Program
- (n) HQS—Housing Quality Standards
- (o) MCD—Mortgage Credit Division
- (p) MPS—Minimum Property Standards
- (q) MPV—Maximum Property Value
- (r) NAHA—National Affordable Housing Act
- (s) NEPA—National Environmental Policy Act
- (t) NMHC—Northern Marianas Housing Corporation
- (u) NTP—Notice to Proceed
- (v) PITI—Principal, Interest, Taxes, and Insurance
- (w) PJ—Participating Jurisdiction
- (x) PTI—Payment-to-Income Ratio
- (y) PTR—Preliminary Title Report
- (z) RER—Rehab Environmental Review
- (aa) RESPA—Real Estate Settlement Procedures Act
- (bb) SCRA—Service members Civil Relief Act
- (cc) SSI—Supplemental Security Income [Social Security]
- (dd) TCD—Time Certificates of Deposits
- (ee) TILA—Truth in Lending Act
- (ff) U.S. HUD—United States Department of Housing and Urban Development
- (gg) USDA RD—United States Department of Agriculture Rural Development
- (hh) USPAP—Uniform Standard of Professional Appraisal Practice

(ii) VOE—Verification of Employment

## **APPENDIX A.1: Crosscutting Requirements**

### **1.1 Crosscutting Requirements**

#### **1.2 Fair Housing**

The Fair Housing Act requires all grantees, subrecipients, and/or developers funded in whole or in part with HUD financial assistance 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. The Program complies with and enforces the Civil Rights requirements of Title I of the Housing and Community Development Act (HCDA) and the Fair Housing Law.

Projects must also assess how planning decisions may affect members of protected classes, racially and ethnically concentrated areas, as well as concentrated areas of poverty; will promote the availability of affordable housing in low-poverty, non-minority areas where appropriate; and will respond to natural hazard-related impacts. Program staff will use demographic, geographic, and social vulnerability analyses to determine any positive or negative impacts to protected classes. Should a project present negative impacts, project scope or design will be reassessed to mitigate such impacts.

#### **1.3 Environmental Review**

Early environmental coordination must be completed to ensure effective implementation of all CDBG-DR Programs. CDBG-DR funding is contingent upon compliance with both local and federal environmental regulations. This includes compliance with NEPA and related environmental and historic preservation legislation and executive orders. In general, NMHC serves as the lead agency for the purposes of NEPA.

HUD's Environmental Review process allows grantees to serve as the "Responsible Entity" to assume environmental review responsibilities under NEPA. As the grantee, NMHC serves as the Responsible Entity (through authorization from the Governor) as it relates to environmental review responsibilities under NEPA. Within NMHC, Environmental Review Staff will be responsible for performing environmental reviews and compiling the Environmental Review Records (ERR). Reviews are conducted either directly or using qualified environmental service contractors. NMHC's Corporate Director, as the Certifying Officer, is responsible with certifying that NMHC's environmental reviews follow NEPA and HUD environmental regulations.

Federal Register Notice FR-6182-N-01 authorizes recipients of CDBG-DR funds under the Appropriations Act to adopt any environmental review, approval, or permit performed by a Federal agency for the same project to satisfy responsibilities with respect to environmental review, approval, or permit. NMHC will notify HUD in writing of its decision to adopt another agency's environmental review. NMHC will also retain a copy of the review in its environmental records. Further information concerning the environmental review process is set forth in the

Environmental Policies and Procedures. Further information concerning the specific HUD requirements for the adoption of other Federal agency environmental reviews can be found in the HUD Memorandum dated March 4, 2013, *Adoption of FEMA and Other Federal Environmental Reviews Processing for Hurricane Sandy Supplemental Appropriation (H.R. 152) Activities*. Additional information on the environmental review process in general is set forth in Section § 100-100.4-335, Environmental Review Procedures for Entities Assuming HUD Environmental Responsibilities (24 C.F.R. Part 58).

## **1.4 Labor Standards**

The Davis-Bacon and Related Acts (DBRA) applies to all federally funded or assisted construction contracts in excess of \$2,000. This may apply to projects that are fully or partially funded with CDBG-DR, including FEMA or FHWA match programs. In matched projects, only the scope of the CDBG-DR portion of the project are subject to crosscutting requirements DBRA requires all workers employed by contractors or subcontractors on CDBG-DR programs, 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 DBRA, as amended. DBRA also requires that workers on federally-assisted projects are paid not less than weekly.

Wage information for labor under CDBG-DR programs will be tracked in detail by both NMHC and relevant Implementing Partners and subrecipients throughout the life of the Program. Compliance for this requirement may be tracked in the following ways:

- (1) Additional NMHC Program staff hired to track wages and verify contractor and agency compliance
- (2) External contractor hired by NMHC to track DBRA compliance
- (3) Enhanced TA provided to Implementing Partners to track DBRA compliance

Davis Bacon applies to the rehabilitation of residential property only if the property contains 8 or more units under common ownership, on same or contiguous lots, or with common financing, Residential property that contains 7 or fewer units is exempt. Although the statute refers to the rehabilitation of residential property, this exemption has been interpreted to include the new construction of residential property containing 7 or fewer units. Typically, single-family homeowner properties are excluded under this exemption.

For prime contracts in excess of \$100,000, contractors and subcontractors must also, under the provisions of the Contract Work Hours and Safety Standards Act, as amended, pay laborers and mechanics, including guards and watchmen, at least one and one-half times their regular pay for all hours worked over 40 in a work week. Additionally, NMHC must follow the reporting requirements per HUD and U.S. Department of Labor (DOL) regulations. This requirement also extends to NMHC subrecipients, Implementing Partners, and contractors.

The Fair Labor Standards Act of 1938 (FLSA), as amended, establishes the basic minimum wage levels for all work and requires the payment of overtime at the rate of at least one and one-half times the basic hourly rate of pay for hours worked in excess of 40 per week. These labor standards are applicable to the entire construction contract whether or not CDBG-DR funds finance only a portion of the project.

## **1.5 Limited English Proficiency**

Federal Executive Order 13166 requires NMHC and all satellite offices, programs, subrecipients, contractors, subcontractors, and/or developers funded whole or in part with CDBG-DR financial assistance to ensure fair and meaningful access to programs and services for families and individuals with Limited English Proficiency (LEP) and/or deaf/hard of hearing. Compliance with this requirement is detailed in NMHC's Language Action Plan (LAP) and will be coordinated and tracked by the Monitoring and Compliance division at VIHFA. Depending on the program, NMHC, Implementing Partners, sub-recipients, and subcontractors will share the following expectations to comply with this Executive Order:

- (1) Document Translation: All documents defined as "vital documents" will be translated into Chamorro or Carolinian by NMHC, Implementing Partners, and sub-recipients. A "vital document" is defined as a document that includes information regarding eligibility requirements, applications and instructions, program eligibility determinations, and appeals procedures. NMHC may aid to ensure this requirement is met.
- (2) Where required, seek feedback from the community the project serves (advocacy groups serve vital role).

Language maps provided in the Language Action Plan will be used to determine the project's location and subsequent language context and if proactive LEP outreach will be required. These maps will be included as part of the Project Assessment Form used by NMHC to review the eligibility, priority level, and impacts of a potential project.

## **1.6 Minority and/or Women-Owned Business Enterprises**

The Federal Executive Order 12432 guidelines require selected federal agencies to promote and increase the utilization of Minority-Owned and Women-Owned Business Enterprises (M/WBEs). Following procurement guidelines under 2 CFR 200.321, NMHC must make efforts to ensure that all subrecipients, contractors, subcontractors, and/or developers funded in whole or in part with HUD CDBG-DR financial assistance encourage participation in contracts and other economic opportunities by small and minority firms, women-owned business enterprises (WBEs), and labor surplus area firms whenever possible. NMHC will accept a MWBE certification from another state, local or regional, DPW, SBA HUB Zone, SBA 8-A certification (economically disadvantaged and 51% locally-owned), and other eligible certification processes. Documentation and goals regarding M/WBE percentages and reporting will be determined in the contracting agreements.

## **1.7 Section 3 Economic Opportunities**

Section 3 is triggered when the award of CDBG-DR funds for new construction and rehabilitation projects if the construction contract is \$200,000 or more.

## TITLE 100: NORTHERN MARIANAS HOUSING CORPORATION

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Section 3 of the Housing and Urban Development Act of 1968 is to “ensure that employment and other economic opportunities generated by certain U.S. Department of Housing and Urban Development (HUD) financial assistance for housing and community development programs shall, to the greatest extent feasible, be directed to low and very low income individuals, especially recipients of government assistance for housing and to businesses which provide economic opportunities to low and very low income individuals.”

The Section 3 program requires that recipients of HUD CDBG-DR funds, to the greatest extent feasible, provide (a) employment and training, and (b) contracting opportunities for low- or very-low-income residents in connection with construction projects in their neighborhoods.

It requires any “Section 3” project (construction contract of \$200,000 or more) to report in three categories of labor hours:

- Total project labor hours
- Section 3 labor hours (any position where wages are at or below the threshold for a 1-person household at 80% AMI).
- Section 3 targeted worker (Section 3 worker living in proximity to the project site)

It also specifically encourages economic opportunities for households who are recipients of government assistance for housing. NMHC and all administering entities will follow and require relevant contractors to follow Section 3 requirements in contracting.

Section 3 applies to the CNMI, as recipient of HUD funding, as well as to subrecipients or Implementing Partners/Sub-recipients receiving HUD funding exceeding \$200,000. Whenever any portion of HUD funding is invested into projects involving housing construction, demolition or rehabilitation, commercial/private improvements for economic development, or other public construction (e.g., roads, sewers, community centers, and public facilities), the requirements of Section 3 apply.

In conjunction with construction activity, Section 3 applies to projects that are fully or partially funded with CDBG-DR assistance, including projects that are financed in conjunction with territory, local, or private matching or leveraged funds, provided that the Section 3 monetary threshold requirements are met. In particular:

- In conjunction with construction activities, Section 3 applies to contractors or subcontractors that receive contracts more than \$200,000 for Section 3-covered projects/activities. Once it is determined that Section 3 applies to a project, the requirements apply to all contracts for construction work arising in connection with that project exceeding \$200,000, including those not funded with CDBG-DR assistance. Contractors or subcontractors are required to comply with the Section 3 regulations in the same manner as the Commonwealth; and
- “Section 3-covered contract” includes professional service contracts, provided that the work to be performed is generated by the expenditure of funds in furtherance of Section 3 covered work (e.g., housing construction, housing rehabilitation, and other public construction), arising relating to construction projects. Professional service contracts that may constitute Section 3-covered contracts include construction contract oversight,

engineering, architectural, environmental and property evaluation, construction progress and draw inspections, and prevailing wage labor compliance.

The regulations pertain to total labor hours required to complete Section 3-covered projects and activities. If the expenditure of funding for an otherwise covered project and activity does not result in new employment, contracting, or training opportunities, Section 3 reporting will still be required.

When NMHC awards CDBG-DR funds to other governmental departments, nonprofit organizations, subrecipients or other funded entities, NMHC will require they document how reasonable attempts were made to reach numerical goals set forth at 24 CFR Part 75. (25% total hours for Section 3 workers, 5% total labor hours for targeted Section 3 workers). NMHC will inform its Implementing Partners and other funded entities of the requirements of Section 3, including the language required to be inserted into all construction-related contracts, assist them and their contractors with achieving compliance, and monitor their performance with respect to the Section 3 objectives and requirements.

Implementing Partners/Sub-recipients will receive training on this requirement and methods of compliance, technical assistance from Program staff, and continual monitoring from NMHC. Currently, a Section 3 Plan is under development, the details of which will be included in an update to this manual.

### **1.8 System for Award Management (SAMs)**

SAM is the federal System for Award Management and is a requirement for doing business with the U.S. government. All vendors are required to register in SAM in order to be awarded contracts under the CDBG-DR program. Vendors are required to complete a one-time registration to provide basic information relevant to procurement and financial transactions. Vendors must update or renew their registration annually to maintain an active status.

### **1.9 Uniform Relocation and Real Property Acquisition Act (49 CFR 24)**

The Uniform Relocation Assistance and Real Property Acquisition Act (URA) is a federal law that establishes minimum standards for federally funded programs and projects that require the acquisition of real property (real estate) or displace persons from their homes, businesses, or farms. The URA's protections and assistance apply to the acquisition, rehabilitation, or demolition of real property for federal or federally funded projects. The phrase "program or project" is defined in 49 CFR Part 24 as, "any activity or series of activities undertaken by a federal agency or with federal financial assistance received or anticipated in any phase of an undertaking in accordance with the federal funding agency guidelines."

The objectives of the URA are:

- To provide uniform, fair and equitable treatment of persons whose real property is acquired or who are displaced in connection with federally funded projects;
- To ensure relocation assistance is provided to displaced persons to lessen the emotional and financial impact of displacement;

## TITLE 100: NORTHERN MARIANAS HOUSING CORPORATION

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- To ensure that no individual or family is displaced unless decent, safe, and sanitary (DSS) housing is available within the displaced person's financial means;
- To help improve the housing conditions of displaced persons living in substandard housing; and,
- To encourage and expedite acquisition by agreement and without coercion.

49 CFR 24.101(c)(1) provides that the subpart B requirements also apply to the acquisition of permanent and/or temporary easements necessary for the project. However, 49 CFR 24.101(c)(2) provides an exception for the acquisition of temporary easements which exclusively benefit the property owner.

**Demonstrable Hardship** - A demonstrable hardship is a substantial change in an applicant's financial situation that will prohibit or severely affect their ability to provide a minimal standard of living or the basic necessities of life including food, housing, clothing and transportation without causing economic distress well beyond mere inconvenience as shown by objective evidence. A demonstrable hardship must be occurring after the named storms. The demonstrable hardship must be of a severe, involuntary and unexpected nature. It must not be one that is generally shared by other applicants affected by the named storms. Examples of demonstrable hardships may include job loss, failure of a business, divorce, severe medical illness, injury, death of a family member or spouse, unexpected and extraordinary medical bills, disability, substantial income reduction, unusual and excessive amount of debt due to a natural disaster, etc. None of the listed examples above, individually or taken together, automatically establish a demonstrable hardship nor is the listing above exhaustive as there may be other factors relevant to the issue of demonstrable hardship in a particular case. If an applicant believes that they are in the state of demonstrable hardship and that the demonstrable hardship causes them to not comply with any of the program policies, they may present their existence of a demonstrable hardship to their case worker (housing or grant specialist) and the Program will evaluate on a case-by-case basis after review of all of the circumstances. Applicants claiming a Demonstrable Hardship shall be required to provide evidence of such claimed Demonstrable Hardship to the case worker.

***Not Suitable for Rehabilitation*** – properties where the cost of rehabilitation exceeds the after rehab appraisal and there is not a compelling historical or community justification to save the property.

APPENDIX A.2: HOMEBUYER APPLICATION CHECKLIST



NORTHERN MARIANAS HOUSING CORPORATION
Community Development Block Grant – Disaster Recovery (CDBG-DR) Division
P.O. BOX 500514, Saipan, MP 96950-0514
Email: cnmi-cdbg-dr@nmhcgov.net
Website: http://www.cnmi-cdbgdr.com

Tels: (670) 233-9447
233-9448
233-9449
233-9450
Fax: (670) 232-9452

CDBG-DR PROGRAM LOAN APPLICATION CHECKLIST

Applicant(s): \_\_\_\_\_ Date: \_\_\_\_\_ Submission Date: \_\_\_\_\_

In order to complete your application for assistance, we need the following items as checked below:

- Uniform Residential Loan Application
Eligibility Release Form (each adult member of the household must sign date and initial)
Use of Funds Certification (both Applicant and Co-Applicant must sign)
Duplication of Benefits Affidavit and Subrogation Agreement (both Applicant and Co-Applicant must sign)
Verification of Employment (employee's employer must complete this form)
Statement of Unemployment (each adult member of the household who is unemployed must complete this form)
Verification of Child Support Payments, if applicable
Social Security - Consent to Release Information (must be completed by each household member)
Check/Pay stubs (4 most current)
1040 Tax Form for previous two (2) years (20\_\_ and 20\_\_)
Division of Tax & Revenue- Certificate of Compliance (for both Applicant and Co-Applicant)
Loan Payment record(s), if any
Checking Account Statement (6 most recent statements)
Savings Account Statement (most recent statement)
Assets – Retirement 401 (a)/(k), Supplemental Life, etc. (most recent statement with each cash value)
Divorce Decree, Judgment(s), etc., if applicable
Certificate of Title, Deed, or Residential Homestead Permit, etc. with Property Map (if applicable)
FEMA Applicant Information Request form (both Applicant and Co-Applicant must sign)
Photo I.D. -Driver's License, MOS, Passport (for applicants only) and Birth Certificates (for each member of the household)
Documentation for any Federal assistance such as WIC, MEDICAID, MEDICARE, LIHEAP, NAP, CHILDCARE ASSISTANCE, etc.
Utility Bill (most current)
If a bankruptcy has been filed, a copy of your discharge letter (WE CANNOT PROCEED WITHOUT THE LETTER)
Affidavit

Due to the fact that many families are in the same position you are and the high demand for our services, we ask that you notify us one (1) day prior to your appointment if are unable to attend. If you are unable to submit ALL the necessary photocopied documents to your appointment, your eligibility assistance may be delayed.

Please read carefully:

As head of the household, I declare that members of my household have no ownership, in full or in part, of any assets other than those identified above, the value of which have been disclosed. Please sign below:

APPLICANT/DATE

CO-APPLICANT/DATE

DR LOAN SPECIALIST/DATE



"NMHC is an equal employment and fair housing public agency"

Tinian Field Office
Tel: (670)433-9213
Fax: (670)433-3690

CDBG-DR Office
Tel: (670)233-9447/(670)418-9449

Rota Field Office
Tel: (670)532-9410
Fax: (670)532-9441



# Department of Finance

P.O. Box 5234 CHRB  
Saipan, MP 96950

Phone: (670) 664-1100 / Fax: (670) 664-1115



## **PUBLIC NOTICE OF PROPOSED AMENDMENTS TO REGULATIONS to the DEPARTMENT OF FINANCE, DIVISION OF CUSTOMS SERVICE**

### **INTENDED ACTION TO ADOPT THESE PROPOSED AMENDED REGULATIONS:**

The Department of Finance – Division of Customs Biosecurity intends to amend the Customs Service Regulations, pursuant to the procedures of the Administrative Procedure Act (APA), 1 CMC § 9104(a). If adopted, these amendments will become effective ten days after the publication of a Notice of Adoption in the Commonwealth Register. 1 CMC §9105(b)

**AUTHORITY:** These amendments are promulgated under the authority set forth in the Commonwealth Code, including but not limited to 1 CMC §2553, 1 CMC §2557, 1 CMC §252021, 1 CMC §1104, 1 CMC §1402, 4 CMC §1425 and §1820.


**THE TERMS AND SUBSTANCE:** The purpose of the amendments to Customs Service Regulations Chapter 70-10 is to eliminate bonded warehouses in the Commonwealth of the Northern Mariana Islands.

**DIRECTIONS FOR FILING AND PUBLICATION:** These proposed amended regulations shall be published in the Commonwealth Register in the section on Proposed and Newly Adopted Regulations (1 CMC § 9102(a)(1)) and posted in convenient places in the civic center and in local government offices in each senatorial district, both in English and in the principal vernacular. 1 CMC § 9104(a)(1)


**TO PROVIDE COMMENTS:** Interested parties may submit written comments on the proposed regulations to Tracy B. Norita, Secretary of Finance, via US mail to the Dept. of Finance, P O Box 5234 CHRB, or via hand-delivery to the Office of the Secretary of Finance, Capitol Hill, Saipan, MP. Comments, data, views, or arguments are due within 30 days from the date of publication in this notice. 1 CMC § 9104(a)(2)




Department of Finance  
P O Box 5234 CHRB Saipan, MP 96950  
670-664-1100 [info@dof.gov.mp](mailto:info@dof.gov.mp)

Submitted by:  4/11/2024  
TRACY B. NORITA  
Secretary of Finance Date

Received by:  04/11/2024  
OSCAR BABAUTA  
Governor's Special Assistant  
for Administration Date

Filed & Recorded by:  04.15.24  
ESTHER SAN NICOLAS  
Commonwealth Register Date

Pursuant to 1 CMC § 2153(e) and 1 CMC § 9104(a)(3) the proposed regulations attached hereto have been reviewed and approved as to form and legal sufficiency by the CNMI Attorney General and shall be published, pursuant to 1 CMC § 2153(f).

 4/15/2024  
EDWARD MANIBUSAN  
Attorney General Date



# Department of Finance

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Saipan, MP 96950

Phone: (670) 664-1100/Fax: (670) 664-1115



## ARONGORONGOL TOULAP REEL POMMWOL LIIWEL NGALI MWOGHUTUGHUTUL DEPATTAMENTOOL FINANCE, DIVISION OF CUSTOMS

**ARONGORONG REEL MANGEMANGIL MWOGHUT:** Depattamentool Finance, Division of Customs (Customs) re atirow reel akkateewowul liiwel kka e amwirimwirtiwi ngali Mwoghutughutul Customs Service. Re mangemangil rebwe adoptaali mwoghutughut kkal bwe ebwe lleghlo, sangi Administrative Procedure Act, 1 CMC § 9 104(a). Ngare re adoptaali, ebwe bwungulo liiwel kkal llo l seigh ráál mwiril aal akkateewow reel Notice of Adoption llo l Commonwealth register. 1 CMC § 9105(b).

**BWANGIL:** Liiwel kkal nge aa ffil reel ffeerul faal bwangil iye ebwe mmwetelo mmwal llo l Commonwealth Code ebwe bwal aschuulong, nge ese yoor pilil ngali, 1 CMC § 2553, 1 CMC § 2557, 1 CMC § 25201. 4 CMC § 1104, 4 CMC § 1402, 4 CMC § 1425 me 4 CMC § 1820.

**KKAPASAL ME AWEEWEL:** Bwulul liiwel ngali Customs Service Regulations Chapter 70-10 nge ebwe itittiw afal me mwoghut ngali peiragh me rebwe ayoora bwe ebwe weewelo enforcement reel alleghul Commonwealth me Teel Faluw kka Efang llo l Marianas iye Customs re lemeli; re mwuschel bwe Customs rebwe lemeli kkosas ikka e toolong me faluw kka akkaaw reel alongal tappal kkosas, wares, ngare merchandise ngali assessment me collection reel tax; me bwal atippa mil kka e nngaw ngaliir aramas me akkaaw ikka esoor bwangil ngare e nngaw nge re bweibwoghlong.

**AFAL REEL AMMWELIL ME AKKATEEWOWUL:** Pommwol liiwel kkal nge ebwe akkateewow llo l Commonwealth Register loll talil pommwol me ffil mwoghutughut kka ra adoptaali (1 CMC § 9102(a)(1)) me ebwe apascheta llo l civic center me llo l gobetnamento llo l senatorial district, fengal reel kkasal English me mwaliyaasch (1 CMC § 9 104(a) (1)).

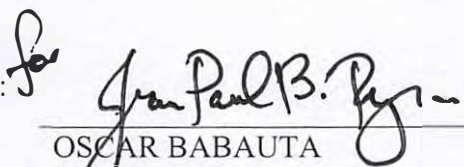
**FOOS:** Scho kka re mwuschel isiisilong iischil mangemang wool pommwol mwoghutughut kka rebwe isch ngali Tracy B. Norita, Sekkretoriyal Finance, via U. S. Mail ngali Depattamentool Finance, P. O. Box 5234, CHRB, Seipel, MP 96950, ngare bwughilo reel Bwulasiyol Sekkretoriyal Finance, Asungul, Seipel, MP, Isiisilongol mangemang, data, views, ngare angingi ebwe toolong llo l eliigh (30) ráál mwiril aal a kateewow arongorong yeel. 1 CMC § 9 104(a) (2).





Department of Finance  
P O Box 5234 CHRB Saipan, MP 96950  
670-664-1100 [info@dof.gov.mp](mailto:info@dof.gov.mp)

Isaliyalong:   
\_\_\_\_\_  
TRACY B. NORITA  
Sekretoriyal Finance

4/11/2024  
Ráál

Bwughiyal:   
\_\_\_\_\_  
OSCAR BABAUTA  
Special Assistant ngali  
Administration

04/11/2024  
Ráál

Ammwelil:   
\_\_\_\_\_  
ESTHER SAN NICOLAS  
Commonwealth Register 

04.15.2024  
Ráál

Sangi 1 CMC §2153 (e) me 1 CMC § 9104(a)(3) reel pomnwol mwoghutughut ikka e appasch bwe ra takkal amwuri fischiiy me atirowa bwe aa ffil reel ffeerul me legal sufficiency sangi Soulemelemil Allegh Lapalpal CNMI me ebwe akkateewow. 1 CMC § 2153(f).

  
\_\_\_\_\_  
EDWARD MANIBUSAN  
Soulemelemil Allegh Lapalpal

4/15/2024  
Ráál



# Department of Finance

P.O. Box 5234 CHR8

Saipan, MP 96950

Phone: (670) 664-1100/Fax: (670) 664-1115



## NUTISIAN PUPBLIKU NI MANMAPROPONI NA REGULASION SIHA PARA I DIPATTAMENTON I FINANSIAT, DIBISION I CUSTOMS

**NUTISIA PUT I AKSION NI MA'INTENSIONA:** I Dipattamenton i Finansiat, Dibision i Customs (Customs) ma'apl'ueba i publikasion i tinattiyi na amendasion siha para iyo-niha Customs Service Regulations. Ma'intensiona para u ma'adapta esti siha na regulasion kumu petrnamenti, sigun para i Aktun Administrative Procedures, 1 CMC § 91 04(a). Kwnu ma' adapta, esti siha na regulasion siempri mu ifektibu gi Mlum dies (1 0) dihas dispues di publikasion nu i Nutisian i Adaptasion gi M.lum i Rehisl'an Commonwealth. (1 CMC § 9 105(b))

**ATURIDAT:** Esti na amendasion siha para u macho'gui gi papa' i aturidat ni mapega mona gi halum i Commonwealth Code iningklusi, lao ti chi-na para, 1 CMC § 2553, 1 CMC § 2557, 1 CMC § 25201, 4 CMC § 1 104, 4 CMC § 1402, 4 CMC § 1425 yan 4 CMC § 1 820.

**I TEMA YAN SVST ANSIAN I P ALARRA SIHA:** I intensiona i amendasion siha para i Customs Service Regulations Chapter 70-10 para u ma'estapblesi i policy yan i manera siha ni para u ma'implimenta ya mapribeni unifotmi na enforcement i lai I Commonwealth gi Sangkattan na Islas Marianas ni mamananea gi Customs; manisisita i Customs para u gubietna i imports i todú articles, fektus, pat kosas para i ibaluasion yan kuleksion i tax siha; yan para i inturompi i piligru na elements yan otrú contraband.

**DIREKSION PARA V MAPO'LV YAN MAPUPBLIKA:** Esti i manmaproponi na amend as ion siha debi na u mapupblika gi hruum i Rehistran i Commonwealth gi halum i seksiona ni maproponi yan nuebu na ma'adapta na regulasion siha (1 CMC § 91 02(a)(1 )) yan u mapega gi hll lum i kumbinienti na lugat gi halum civic center yan gi hruum ufisinin gubietnarnentu siha gi halum distritun senadot, parehu Englis yan gi lingguahln natibu (1 CMC § 9 104(a)(1)).

**UPINON SIHA:** I manintirisao na petsona siha sina manna'halum tinigi' upinon ni manmaproponi na regulasion siha para i Sekriwian i Finansiat, Tracy B. Norita, via U.S. mail para Dipattamenton i Finansiat, P.O, Box 5234 CHR8, Saipan, MP 96950, pat intrega halum gi Ufisinin i Sekretarian Finansiat. I upinon, data, views, pat agumentu siha nisisita u fanhruum gi halum trenta (30) dihas ni tinattitiyi gi fetchan kalendariu gi publikasion nu esti na nutisia. 1 CMC 91 04(a)(2).



Department of Finance  
P O Box 5234 CHRB Saipan, MP 96950  
670-664-1100 [info@dof.gov.mp](mailto:info@dof.gov.mp)

Nina' halum as:

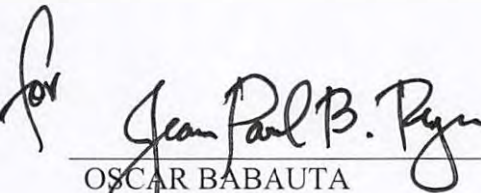


TRACY B. NORITA  
Sekritarian I Finansiiit

4/11/2024

Fetcha

Rinisibi as:



OSCAR BABAUTA  
Ispisat Na Ayudanti Para  
Atministrasion

04/11/2024

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Pine'lu yan  
Ninota as:



ESTHER SAN NICOLAS  
Rehistran Commonwealth

04.15.2024

Fetcha

Sigun i 1 CMC § 2153(e) yan i 1 CMC § 9104(a)(3) i manmaproponi na regulasion siha ni manechettun guini ni manmaribisa yan manma'aprueba kumu fotma yan sufisienti ligat ginin i Abugadu Henerat CNMI yan debi na u mapupblika, 1 CMC § 2153(f).



EDWARD MANIBUSAN  
Abugadu Henerat

4/15/2024

Fetcha

**TITLE 70: DEPARTMENT OF FINANCE**

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Subchapter Authority: 1 CMC §§ 2553 and 2557; 4 CMC §§ 1402(e) and 1425.

Subchapter History: Amdts Adopted 43 Com. Reg. 44685 (Jan. 28, 2021); Amdts Proposed 42 Com. Reg. 44422 (Nov. 28, 2020); Amdts Adopted 42 Com. Reg. 44071 (Sept. 28, 2020); Amdts Proposed 42 Com. Reg. 43856 (July 28, 2020); Amdts Adopted 41 Com. Reg. 41616 (Apr. 28, 2019); Amdts Proposed 41 Com. Reg. 41490 (Mar. 28, 2019); Amdts Adopted 41 Com. Reg. 041330 (Jan. 28, 2019); Amdts Proposed 40 Com. Reg. 040839 (July 28, 2018); Amdts Adopted 39 Com. Reg. 40374 (Nov. 28, 2017); Amdts Proposed 39 Com. Reg. 39962 (Sept. 28, 2017); Amdts Adopted 34 Com. Reg. 32270 (Jan. 30, 2012); Amdts Proposed

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33 Com. Reg. 32075 (Oct. 26, 2011); Amdts Adopted 27 Com. Reg. 24124 (Mar. 17, 2005); Amdts Emergency and Proposed 27 Com. Reg. 23917 (Feb. 17, 2005) (effective for 120 days from Jan. 28, 2005); Amdts Adopted 26 Com. Reg. 23009 (Oct. 26, 2004); Amdts Proposed 26 Com. Reg. 23010 (Aug. 26, 2004); Amdts Adopted 25 Com. Reg. 21471 (Nov. 17, 2003); Amdts Proposed 25 Com. Reg. 20833 (Aug. 22, 2003); Amdts Adopted 23 Com. Reg. 17835 (Apr. 23, 2001); Amdts Emergency and Proposed 23 Com. Reg. 17621 (Jan. 19, 2001) (effective for 120 days from Jan. 16, 2001); Amdts Adopted 20 Com. Reg. 16262 (Oct. 15, 1998); Amdts Proposed 20 Com. Reg. 15885 (Apr. 15, 1997); Amdts Adopted 19 Com. Reg. 15562 (Aug. 15, 1997); Amdts Proposed 19 Com. Reg. 15394 (June 15, 1997); Amdts Proposed 19 Com. Reg. 15357 (May 15, 1997); Adopted 19 Com. Reg. 15155 (Feb. 15, 1997) (superseding all rules and regulations prior to adoption); Proposed 18 Com. Reg. 14745 (Dec. 15, 1996); Amdts Proposed 17 Com. Reg. 13562 (July 15, 1995);\* Adopted 17 Com. Reg. 13538 (June 15, 1995) (superseding all rules and regulations prior to adoption); Proposed 17 Com. Reg. 13456 (May 15, 1995).

\*A notice of adoption for the July 1995 proposed amendments was never published.

Commission Comment: With the exception of § 1302.33(e)(1) of the 1992 Customs Service Regulations No. 1300, the 1997 “Customs Service Regulations No. 4300,” superseded all rules and regulations issued by the Department of Finance and the Customs Service Division published prior to adoption of the 1997 regulations. See Customs Service Regulations No. 4300 § 4300.3, 18 Com. Reg. at 14753 (Dec. 15, 1996), codified at § 70-10.1-010. The 1997 regulations, as amended, are codified in this subchapter. The previous history of each section back to the 1995 Customs Service Regulations No. 3300 is provided in the section comments where applicable. The history of the Customs Service Regulations prior to 1995 is discussed in this comment.

### Department of Finance Customs Authority:

1 CMC § 2551 creates the Department of Finance within the Commonwealth government. 1 CMC § 2553(i) authorizes the Department to be responsible for customs and baggage inspection and other related matters. The Department is authorized to adopt rules and regulations regarding those matters within its jurisdiction. See 1 CMC § 2557.

Title 4, division 1 of the Commonwealth Code, 4 CMC §§ 1101-1991, as amended by PL 14-35 (effective Oct. 12, 2004), contains the revenue and taxation laws applicable in the Commonwealth. 4 CMC §§ 1401-1427 specifically address the excise tax and user fee imposed on certain goods imported to and exported from the Commonwealth. Pursuant to 4 CMC §§ 1402(e) and 1425, the Secretary of Finance is authorized to promulgate regulations to implement the provisions of these tax laws.

PL 14-35 (effective Oct. 12, 2004) repealed and reenacted 4 CMC §§ 1103-1106, 4 CMC division 1, chapter 8 and 4 CMC division 1, chapter 9. PL 14-35 § 4 (§ 2001), to be codified at 4 CMC § 1901, grants the Secretary of Finance broad authority to prescribe necessary rules and regulations to implement the CNMI tax laws.

### History of the Customs Service Regulations:

The Department of Finance, Division of Revenue and Taxation first promulgated Customs Regulations No. 7901 in 1979. The history of these regulations is as follows:

Amdts Proposed 2 Com. Reg. 931 (Nov. 17, 1980);\* Amdts Emergency 2 Com. Reg. 894 (Nov. 17, 1980) (effective for 120 days from Oct. 1, 1980);\* Adopted 1 Com. Reg. 389 (July 16, 1979) (retroactive to January 12, 1979); Proposed 1 Com. Reg. 248 (June 16, 1979).

\*The text of the November 1980 emergency amendments was not published with the notice of amendments. A notice of adoption for the November 1980 proposed amendments was never published.

In March 1983, the Department of Finance Division of Revenue and Taxation promulgated Revenue and Taxation Regulations No. 8301, which superseded all rules and regulations prior to January 31, 1983, including Custom Regulations No. 7901. See 5 Com. Reg. at 1809-10 (Feb. 28, 1983). Revenue and Taxation

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Regulations No. 8301 remained in effect, as amended, until February 1992. The history of Revenue and Taxation Regulations No. 8301 is as follows:

Emergency 13 Com. Reg. 8277 (Nov. 15, 1991) (effective for 120 days from Oct. 22, 1991) (adopting Mar. 31, 1983 Revenue and Taxation Regulations and all subsequent amendments as emergency regulations); Amdts Adopted 13 Com. Reg. 7642 (Feb. 15, 1991); Amdts Proposed 13 Com. Reg. 7566 (Jan. 15, 1991); Amdts Emergency and Proposed 12 Com. Reg. 7514 (Dec. 15, 1990) (effective for 120 days from Nov. 30, 1990);\*\* Amdts Adopted 12 Com. Reg. 6890 (Apr. 15, 1990); Amdts Proposed 12 Com. Reg. 6838 (Mar. 15, 1990); Amdts Adopted 12 Com. Reg. 6898 (Apr. 15, 1990); Amdts Proposed 12 Com. Reg. 6857 (Mar. 15, 1990); Amdts Emergency 12 Com. Reg. 6790 (Jan. 15, 1990) (effective for 120 days from Dec. 29, 1989); Amdts Emergency 12 Com. Reg. 6785 (Jan. 15, 1990) (effective for 120 days from Dec. 22, 1989); Amdts Adopted 11 Com. Reg. 6270 (June 15, 1989); Amdts Proposed 11 Com. Reg. 6189 (May 15, 1989); Amdts Emergency 11 Com. Reg. 6169 (May 15, 1989) (effective for 120 days from May 15, 1989); Amdts Adopted 10 Com. Reg. 5714 (Oct. 15, 1988); Amdts Proposed 10 Com. Reg. 5700 (Sept. 15, 1988); Amdts Adopted 9 Com. Reg. 5292 (Dec. 15, 1987); Amdts Proposed 9 Com. Reg. 5285 (Nov. 15, 1987); Amdts Adopted 9 Com. Reg. 5250 (Oct. 15, 1987); Amdts Proposed 9 Com. Reg. 5239 (Sept. 15, 1987); Amdts Proposed 8 Com. Reg. 4701 (Oct. 22, 1986);\*\* Amdts Adopted 8 Com. Reg. 4346 (June 3, 1986); Amdts Emergency 8 Com. Reg. 4335 (Apr. 18, 1986) (effective for 120 days from Apr. 7, 1986); Amdts Proposed 8 Com. Reg. 4225 (Apr. 18, 1986); Amdts Adopted 8 Com. Reg. 4344 (June 3, 1986); Amdts Emergency 8 Com. Reg. 4333 (Apr. 18, 1986) (effective for 120 days from Apr. 4, 1986); Amdts Proposed 8 Com. Reg. 4222 (Apr. 18, 1986); Amdts Adopted 8 Com. Reg. 4205 (Feb. 17, 1986); Amdts Emergency and Proposed 8 Com. Reg. 4198 (Jan. 17, 1986) (effective for 120 days from Jan. 2, 1986); Amdts Adopted 7 Com. Reg. 3610 (May 21, 1985) (retroactive to January 1, 1985); Amdts Proposed 7 Com. Reg. 3548 (Apr. 16, 1985); Amdts Proposed 7 Com. Reg. 3445 (Feb. 15, 1985);\* Correction Adopted 8 Com. Reg. 4203 (Jan. 17, 1986); Amdts Adopted 6 Com. Reg. 2989 (July 16, 1984); Amdts Proposed 6 Com. Reg. 2867 (June 15, 1984); Amdts Adopted 6 Com. Reg. 2865 (June 15, 1984); Amdts Proposed 6 Com. Reg. 2793 (May 15, 1984); Public Notice 6 Com. Reg. 3354 (Nov. 15, 1984) (notification that March 1984 amendments will not be adopted); Amdts Proposed 6 Com. Reg. 2626 (Mar. 15, 1984); Amdts Adopted 6 Com. Reg. 2622 (Mar. 15, 1984); Amdts Emergency and Proposed 6 Com. Reg. 2579 (Feb. 15, 1984) (effective for 120 days from Feb. 15, 1984); Adopted 5 Com. Reg. 1959 (Mar. 31, 1983) (superseding all rules and regulations prior to Jan. 31, 1983); Emergency and Proposed 5 Com. Reg. 1794 (Feb. 28, 1983) (effective for 120 days from Feb. 4, 1983); Emergency 4 Com. Reg. 1617 (Oct. 15, 1982) (effective for 120 days from Sept. 30, 1982) (superseding all rules and regulations prior to June 1, 1982).

\*The February 1985 proposed amendments were repealed without adoption. See 7 Com. Reg. at 3611 (May 21, 1985).

\*\*Notices of adoption for the October 1986 and December 1990 amendments were never published.

The Division proposed completely revised Customs Service Regulations No. 1300, separate from the Revenue and Taxation Regulations in February 1992 and adopted the revised regulations on April 15, 1992. Customs Service Regulations No. 1300 superseded all rules and regulations published prior to January 31, 1983, including Revenue and Taxation Regulations No. 8301 and all amendments thereto to the extent made applicable to the Customs Service Division. See 14 Com. Reg. at 8867 (Feb. 15, 1992). The history of the 1992 Customs Service Regulations No. 1300 is as follows:

Amdts Proposed 17 Com. Reg. 13562 (July 15, 1995);\* Amdts Certified 15 Com. Reg. 10507 (Apr. 15, 1993); Amdts Adopted 15 Com. Reg. 10501 (Mar. 15, 1993); Amdts Proposed 15 Com. Reg. 10381 (Jan. 15, 1993); Amdts Emergency 14 Com. Reg. 9777 (Oct. 15, 1992) (effective for 120 days from Oct. 7, 1992); Adopted 14 Com. Reg. 9199 (Apr. 15, 1992) (superseding all rules and regulations published prior to Jan. 31, 1983); Emergency 14 Com. Reg. 9007 (Mar. 15, 1992) (effective for 120 days from Feb. 18, 1992); Proposed 14 Com. Reg. 8860 (Feb. 15, 1992).

\*A notice of adoption for the July 1995 proposed amendments was never published.

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The notice of adoption for the April 1992 regulations stated: "The Director of Finance withdraws the Emergency Customs Service Regulations No. 9101 (effective February 18, 1992) at the time that Division of Customs Service Regulations No. 1300 becomes effective."

Customs Service Regulations No. 1300 remained in effect until June 1995, when the Division promulgated completely revised Customs Service Regulations No. 3300. The history after 1995 is provided in the history sections of this subchapter.

On April 15, 1995, the Department of Finance, Division of Customs Service published Announcement No. CS95-01 regarding the implementation of certain provisions of PL 9-22 chapter 4. See 17 Com. Reg. 13084 (Apr. 15, 1995).

On September 15, 1986, the Department of Finance proposed "Regulations Establishing a Voluntary Restraint System for the Commonwealth Garment Industry." See 8 Com. Reg. 4558 (Sept. 15, 1986). A notice of adoption was never published.

### ~~Part 1000 - Custom Bonded Warehouses~~

#### ~~Subpart A - Introduction~~

##### ~~§ 70-10.1-1001 Authority~~

~~The authority for the promulgation and issuance of this part is derived from the Commonwealth Code, including, but not limited to, the following sections: 1 CMC § 2553; 1 CMC § 2557; 4 CMC § 1104; 4 CMC § 1402(b); 4 CMC § 1818; 6 CMC § 2304; and 6 CMC § 2305.~~

~~History: Amdts Adopted 39 Com. Reg. 40374 (Nov. 28, 2017); Amdts Proposed 39 Com. Reg. 39962 (Sept. 28, 2017); Amdts Adopted 26 Com. Reg. 23009 (Oct. 26, 2004); Amdts Proposed 26 Com. Reg. 23010 (Aug. 26, 2004).~~

##### ~~§ 70-10.1-1002 Purpose~~

~~(a) To defer the payment of excise tax on goods prior to their formal entry into the local stream of commerce, thus reducing administrative costs in processing excise tax refunds, and increasing business cash flow.~~

~~(b) To exempt from excise tax imported goods that will eventually be either exported in the same condition or used, consumed, or expended in the processing of other goods for export.~~

~~(c) To regulate the authorized removal of suspicious cargo from official points of entry to other locations prior to inspection and clearance, thus providing more thorough and complete customs inspection of incoming freight and enhancing homeland security.~~

~~History: Amdts Adopted 39 Com. Reg. 40374 (Nov. 28, 2017); Amdts Proposed 39 Com. Reg. 39962 (Sept. 28, 2017); Amdts Adopted 26 Com. Reg. 23009 (Oct. 26, 2004); Amdts Proposed 26 Com. Reg. 23010 (Aug. 26, 2004).~~

## TITLE 70: DEPARTMENT OF FINANCE

### ~~§ 70-10.1-1004~~      **Definitions**

- (a)    ~~“Applicant” means a person or corporation with a business license who applies to operate as a licensed customs bonded warehouse.~~
- (b)    ~~“Customs bonded warehouse” or “bonded warehouse” is a building or other secured area, licensed as a bonded warehouse by the Director of Customs, or Secretary of Finance, in which dutiable goods may be stored, manipulated, or undergo manufacturing operations without payment of excise tax prior to such time as the goods are withdrawn from the warehouse for local consumption. Any such area will be considered an extension of the points of entry for purposes of customs jurisdiction.~~
- (c)    ~~“CNMI” means the government of the Commonwealth of the Northern Marianas Islands with jurisdiction over its own customs territory.~~
- (d)    ~~“Director” means the director of the Division of Customs in the CNMI Department of Finance.~~
- (e)    ~~“Department” means the CNMI Department of Finance.~~
- (f)    ~~“Secretary” means the Secretary of Finance.~~
- (g)    ~~“Permit” means a permit to operate a place as a bonded warehouse.~~
- (h)    ~~“Permittee” means a person, or corporation, who is the operator of a bonded warehouse.~~

History: Amdts Adopted 39 Com. Reg. 40374 (Nov. 28, 2017); Amdts Proposed 39 Com. Reg. 39962 (Sept. 28, 2017); Amdts Adopted 26 Com. Reg. 23009 (Oct. 26, 2004); Amdts Proposed 26 Com. Reg. 23010 (Aug. 26, 2004).

### ~~Subpart B — Bonded Warehouses; Designation; Bonding Requirements; Supervision; Preconditions~~

### ~~§ 70-10.1-1006~~      **Establishment of Bonded Warehouse**

~~Buildings or parts of buildings and other enclosures may be designated by the Director as a bonded warehouse, upon submission of an application and granting of a license. Any such area will be considered an extension of the points of entry for purposes of customs’ jurisdiction.~~

History: Amdts Adopted 39 Com. Reg. 40374 (Nov. 28, 2017); Amdts Proposed 39 Com. Reg. 39962 (Sept. 28, 2017); Amdts Adopted 26 Com. Reg. 23009 (Oct. 26, 2004); Amdts Proposed 26 Com. Reg. 23010 (Aug. 26, 2004).

### ~~§ 70-10.1-1008~~      **Classes of Bonded Warehouses**

The following classes of bonded warehouses are hereby created:

- (a)    ~~Class A. A “class A” bonded warehouse is a private bonded warehouse used by an importer for the storage of merchandise exclusively belonging or consigned to the~~

proprietor thereof.

~~(b) Class B. A “class B” bonded warehouse is a public bonded warehouse used exclusively for the inspection and storage of merchandise from different importers, or for inspection and storage by the Department of incompletely cleared merchandise, or suspicious merchandise as authorized by 6 CMC § 2304.~~

~~(c) Class C. A “class C” bonded warehouse is an in-bond manufacturing warehouse used solely for production of articles made in whole or in part of imported materials. Class C warehouses may not be used to manufacture or assemble garments. The Director shall issue CNMI country of origin certificates when necessary and proper.~~

~~(d) Class D. A “class D” bonded warehouse is a bonded warehouse established for the cleaning, sorting, re-packing, or otherwise changing the condition of, but not the manufacturing of, imported merchandise, under Customs supervision, and at the expense of the proprietor. Such class D designation may be in conjunction with any of the above designations.~~

History: Amdts Adopted 39 Com. Reg. 40374 (Nov. 28, 2017); Amdts Proposed 39 Com. Reg. 39962 (Sept. 28, 2017); Amdts Adopted 26 Com. Reg. 23009 (Oct. 26, 2004); Amdts Proposed 26 Com. Reg. 23010 (Aug. 26, 2004).

**~~§ 70-10.1-1010~~      Bonding Requirement**

~~Before any imported merchandise, not finally released from the Department’s custody, shall be stored in any such bonded warehouse the owner or permittee thereof shall give a bond in such sum and with such sureties as may be approved by the Director of Customs to secure the government against any loss of excise tax or expense connected with or arising from the deposit, storage, or manipulation of merchandise in such warehouse. Such bond shall conform to the requirements of subpart D.~~

History: Amdts Adopted 39 Com. Reg. 40374 (Nov. 28, 2017); Amdts Proposed 39 Com. Reg. 39962 (Sept. 28, 2017); Amdts Adopted 26 Com. Reg. 23009 (Oct. 26, 2004); Amdts Proposed 26 Com. Reg. 23010 (Aug. 26, 2004).

**~~§ 70-10.1-1012~~      Staffing Requirement**

~~(a) CNMI Customs Officer. Except as otherwise provided in the regulations in this part, bonded warehouses shall be used solely for the storage of imported merchandise and shall be placed in the charge of a CNMI customs officer, who, together with the proprietor thereof, shall have joint custody of all merchandise stored in the warehouse. The customs officer assigned to a bonded warehouse shall have total access to, without limitation, such licensee’s books, records and receipts relating to the entry and withdrawal of merchandise from such customs bonded warehouse. The compensation of such customs officer and other customs employees appointed to supervise the receipt of merchandise into any such warehouse and deliveries therefrom shall be reimbursed to the government by the proprietor of such warehouse. Each bonded warehouse shall be assigned a customs officer by the Director.~~

~~(b) Private Staff. A licensed bonded warehouse shall provide all labor and management~~

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on the merchandise so stored by hiring private staff. Such licensee shall also maintain all records necessary for the customs officer assigned to that customs bonded warehouse to assess inventory levels and whether merchandise is withdrawn and excise taxes payable thereon. The customs officer assigned to that bonded warehouse may enter the premises at any time to inspect operations and records.

~~(c) Compensation of Private Staff. Permittees of a class A and B customs bonded warehouse shall pay their employees, agents, and contractors a wage at least equal to the federal minimum wage currently prevailing in the United States.~~

History: Amdts Adopted 39 Com. Reg. 40374 (Nov. 28, 2017); Amdts Proposed 39 Com. Reg. 39962 (Sept. 28, 2017); Amdts Adopted 26 Com. Reg. 23009 (Oct. 26, 2004); Amdts Proposed 26 Com. Reg. 23010 (Aug. 26, 2004).

Commission Comment: In subsection (c), the Commission corrected the spelling of "permittees."

~~§ 70-10.1-1014 Accounting Forms~~

~~The Director of Customs shall from time to time prescribe such forms as may be necessary to account for the deposit and withdrawal of merchandise in bonded warehouses.~~

History: Amdts Adopted 39 Com. Reg. 40374 (Nov. 28, 2017); Amdts Proposed 39 Com. Reg. 39962 (Sept. 28, 2017); Amdts Adopted 26 Com. Reg. 23009 (Oct. 26, 2004); Amdts Proposed 26 Com. Reg. 23010 (Aug. 26, 2004).

~~§ 70-10.1-1016 Permitting of Bonded Warehouse~~

~~The Director of Customs, or Secretary may issue a permit to an applicant who:~~

- ~~(a) Completes an application in accordance with subpart C;~~
- ~~(b) Provides such security or bond as may be required under § 70-10.1-1010 and in accordance with subpart D; and~~
- ~~(c) Pays any fee required to be paid under subpart E.~~

History: Amdts Adopted 39 Com. Reg. 40374 (Nov. 28, 2017); Amdts Proposed 39 Com. Reg. 39962 (Sept. 28, 2017); Amdts Adopted 26 Com. Reg. 23009 (Oct. 26, 2004); Amdts Proposed 26 Com. Reg. 23010 (Aug. 26, 2004).

~~§ 70-10.1-1018 Cap on Authorized Permits~~

~~The following number of bonded warehouse permits are hereby authorized:~~

	SENATORIAL DISTRICT		
	#1	#2	#3
<u>CLASS A</u>	4	4	12
<u>CLASS B</u>	4	4	12
<u>CLASS C</u>	5	5	15
<u>CLASS D</u>	5	5	15

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History: Amdts Adopted 39 Com. Reg. 40374 (Nov. 28, 2017); Amdts Proposed 39 Com. Reg. 39962 (Sept. 28, 2017); Amdts Adopted 26 Com. Reg. 23009 (Oct. 26, 2004); Amdts Proposed 26 Com. Reg. 23010 (Aug. 26, 2004).

### ~~§ 70-10.1-1020~~ ~~Prohibition on Owning Cartage Company~~

~~No license shall be issued to any applicant involved directly or indirectly, or through third parties in cartage, common carrier, inland trucking, unloading, or transportation of the merchandise from importation point.~~

History: Amdts Adopted 39 Com. Reg. 40374 (Nov. 28, 2017); Amdts Proposed 39 Com. Reg. 39962 (Sept. 28, 2017); Amdts Adopted 26 Com. Reg. 23009 (Oct. 26, 2004); Amdts Proposed 26 Com. Reg. 23010 (Aug. 26, 2004).

### ~~Subpart C~~ ~~Application to Conduct Business as a Bonded Warehouse~~

#### ~~§ 70-10.1-1022~~ ~~Application Requirements~~

~~Any applicant who wishes to apply for a license to operate a bonded warehouse shall submit a completed application on a form to be prescribed by the Director, together with a detailed plan of the proposed bonded warehouse, to the Director.~~

- ~~(a) Such plan shall detail the following information:~~
- ~~(1) Whether the place proposed to be operated as a bonded warehouse exists or is to be constructed;~~
  - ~~(2) The type of construction of the facility regardless of whether or not it already exists;~~
  - ~~(3) The area, within the facility, that is to be used for the storage of goods;~~
  - ~~(4) The amount and policy holder of fire and general liability insurance covering the value of the merchandise to be stored;~~
  - ~~(5) Whether or not the applicant intends to store any hazardous materials, and what type;~~
  - ~~(6) Affidavit that applicant has no ownership, directly, indirectly or through related third parties of cartage per § 70-10.1-1020.~~
- ~~(b) The Director shall not issue a license to an applicant unless:~~
- ~~(1) The applicant is of good character and has not been convicted, found guilty or pled guilty to any criminal act;~~
  - ~~(2) The site of the proposed bonded warehouse is within an area served by a customs office;~~
  - ~~(3) The applicant has sufficient financial resources to lease or purchase the facility;~~
  - ~~(4) The applicant will provide conditions suitable for the safekeeping of goods, including any hazardous materials;~~
  - ~~(5) The Department is able to provide customs services with respect to the proposed bonded warehouse;~~
  - ~~(6) The terms and conditions under which a license may be issued are included, such as the extent and circumstances to which, in accordance with § 70-10.1-1070 goods may be manipulated, unpacked, packed, altered, or combined with other goods while in bonded warehouse; and~~
  - ~~(7) The applicant certifies that he or she shall comply with the federal minimum wage~~

law requirements of § 70-10.1-1012 for class A and B customs bonded warehouses.

~~(c) All bonded warehouse facilities operating for the storage, treatment or handling of hazardous waste shall also attach a copy of their permit to operate such a facility as required by the laws and regulations of CNMI environmental agencies.~~

~~Modified, 1 CMC § 3806(g).~~

History: Amdts Adopted 41 Com. Reg. 41616 (Apr. 28, 2019); Amdts Proposed 41 Com. Reg. 41490 (Mar. 28, 2019); Amdts Adopted 39 Com. Reg. 40374 (Nov. 28, 2017); Amdts Proposed 39 Com. Reg. 39962 (Sept. 28, 2017); Amdts Adopted 26 Com. Reg. 23009 (Oct. 26, 2004); Amdts Proposed 26 Com. Reg. 23010 (Aug. 26, 2004).

**~~Subpart D~~ Bonds and Other Security**

**~~§ 70-10.1-1024~~ Requirement of Bond**

~~The Director may require such bonds or other security as s/he, or the Secretary, may deem necessary for the protection of the revenue or to assure compliance with any provision of law, regulation, or instruction which the Secretary or the Department may be authorized to enforce.~~

History: Amdts Adopted 39 Com. Reg. 40374 (Nov. 28, 2017); Amdts Proposed 39 Com. Reg. 39962 (Sept. 28, 2017); Amdts Adopted 26 Com. Reg. 23009 (Oct. 26, 2004); Amdts Proposed 26 Com. Reg. 23010 (Aug. 26, 2004).

**~~§ 70-10.1-1026~~ Conditions and Form of Bond**

~~Whenever a bond is required under the regulations in this part, the Secretary may require:~~

~~(a) Cash or cash equivalent in lieu of bond. The Secretary is authorized to permit the deposit of money or obligation of the United States, in such amount and upon such conditions as he may prescribe, in lieu of sureties on any bond required or authorized by regulation or instruction which the Director of Customs is authorized to enforce;~~

~~(b) Letter of credit issued yearly, or otherwise, by an acceptable banking institution;~~

~~(c) Personal guarantees in a form acceptable to the Director;~~

~~(d) A bond issued by a company that is licensed or otherwise authorized under the laws of the CNMI or United States to carry on the fidelity or surety class of insurance business and that the Director and the Secretary recommended in writing as acceptable as an institution whose bonds may be accepted by the CNMI;~~

~~(e) Except as otherwise specifically provided by law, prescribe the conditions and form of such bond and the manner in which the bond may be filed, and fix the amount of penalty thereof, whether for the payment of liquidated damages or of a penal sum;~~

~~(f) The approval of the sureties on such bond, without regard to any general provision of law;~~

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(g) ~~Authorization, to the extent that s/he may deem necessary, for the taking of a consolidated bond (single entry or term), in lieu of separate bonds to assure compliance.~~

History: Amdts Adopted 39 Com. Reg. 40374 (Nov. 28, 2017); Amdts Proposed 39 Com. Reg. 39962 (Sept. 28, 2017); Amdts Adopted 26 Com. Reg. 23009 (Oct. 26, 2004); Amdts Proposed 26 Com. Reg. 23010 (Aug. 26, 2004).

**§ 70-10.1-1028 Cancellation of Bond**

~~The Secretary may authorize the cancellation of any bond provided for in this subpart, or any charge that may have been made against such bond, in the event of a breach of any condition of the bond, upon the payment of such lesser amount of penalty or upon such other terms and conditions as he may deem sufficient. In order to assure uniform, reasonable, and equitable decisions, the Secretary shall publish guidelines establishing standards for setting the terms and conditions for cancellation of bonds or charges thereunder.~~

History: Amdts Adopted 39 Com. Reg. 40374 (Nov. 28, 2017); Amdts Proposed 39 Com. Reg. 39962 (Sept. 28, 2017); Amdts Adopted 26 Com. Reg. 23009 (Oct. 26, 2004); Amdts Proposed 26 Com. Reg. 23010 (Aug. 26, 2004).

**Subpart E - License and Fees**

**§ 70-10.1-1030 License Requirement**

~~All bonded warehouses shall be licensed by the Department prior to engaging in such business.~~

History: Amdts Adopted 39 Com. Reg. 40374 (Nov. 28, 2017); Amdts Proposed 39 Com. Reg. 39962 (Sept. 28, 2017); Amdts Adopted 26 Com. Reg. 23009 (Oct. 26, 2004); Amdts Proposed 26 Com. Reg. 23010 (Aug. 26, 2004).

**§ 70-10.1-1032 License Fee**

(a) ~~Every licensee shall pay to the Department an annual fee for the license, for the period beginning on the day on which the license is issued and ending on September 30th. Annual fees will be prorated on the portions of the year remaining after the license is issued. The annual fee will be determined on the basis of the amount of security deposit under subpart D, in accordance with the table to this section.~~

TABLE

<u>Amount of Security Deposited</u>	<u>Amount of Fee Payable Per Fiscal Year</u>
Up to \$10,000.	\$1,000.
\$10,001 to \$50,000.	\$1,500.
\$50,001 to \$200,000.	\$2,000.
\$200,001 to \$500,000.	\$3,000.
More than \$500,000.	\$5,000.

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(b) ~~The fee for each subsequent year will be paid by October 1 and no license will be issued without the fee being paid.~~

History: Amdts Adopted 39 Com. Reg. 40374 (Nov. 28, 2017); Amdts Proposed 39 Com. Reg. 39962 (Sept. 28, 2017); Amdts Adopted 26 Com. Reg. 23009 (Oct. 26, 2004); Amdts Proposed 26 Com. Reg. 23010 (Aug. 26, 2004).

### ~~§ 70-10.1-1034~~      Amendment of License

~~The Director may amend a license only where the name of the licensee has changed legally, or change of ownership requiring new owner to meet the terms and conditions of subpart D.~~

History: Amdts Adopted 39 Com. Reg. 40374 (Nov. 28, 2017); Amdts Proposed 39 Com. Reg. 39962 (Sept. 28, 2017); Amdts Adopted 26 Com. Reg. 23009 (Oct. 26, 2004); Amdts Proposed 26 Com. Reg. 23010 (Aug. 26, 2004).

### ~~§ 70-10.1-1036~~      Cancellation or Suspension of Licenses

(a) ~~The Director may cancel a license where the licensee:~~

- ~~(1) No longer owns or leases the place that is licensed as a bonded warehouse;~~
- ~~(2) Requests the Director in writing to cancel the license; or~~
- ~~(3) Declares bankruptcy.~~

(b) ~~Subject to § 70-10.1-1038 the Director may suspend or cancel a license where the licensee:~~

- ~~(1) Is the subject of a receivership in respect of the licensee's debts;~~
- ~~(2) Fails to comply with any laws enacted by the CNMI to prohibit, control, or regulate the importation or exportation of goods;~~
- ~~(3) Has, in the course of operating the bonded warehouse, acted dishonestly in business dealings with customs brokers, importers, carriers, and other appointed officials;~~
- ~~(4) Has been incompetent in the operation of the bonded warehouse;~~
- ~~(5) The volume of goods being received in the bonded warehouse is no longer sufficient to warrant the continued operation of the bonded warehouse;~~
- ~~(6) There is no longer a need for a bonded warehouse in the area in which the bonded warehouse is located;~~
- ~~(7) The Department is no longer able to provide customs services with respect to the bonded warehouse;~~
- ~~(8) The licensee manipulates, unpacks, packs, alters, or combines the goods with other goods while in the bonded warehouse other than in accordance with the terms and conditions set out in the license.~~

(c) ~~Following the suspension or cancellation of a license:~~

- ~~(1) An officer may lock and seal the bonded warehouse and keep it locked and sealed during the period of suspension.~~
- ~~(2) The Director shall immediately after suspending a license, give to the licensee a notice confirming the suspension and providing all relevant information concerning the grounds on which the Director has suspended the license.~~
- ~~(3) The licensee may, within ninety days after the day on which the license is~~

suspended, make representation to the Director regarding why the license should be reinstated.

~~(4) Director shall, before canceling a license under this section, give the licensee ninety days notice of the proposed cancellation and provide the licensee with all relevant information concerning the grounds on which the Director proposes to cancel the license.~~

~~(5) The licensee may, within 90 days after the day on which the notice referred to in subsection (c)(4) is given, make representation to the Director regarding why the license should not be cancelled.~~

~~(6) A decision to cancel or suspend a license by the Director shall be subject to review pursuant to the Administrative Procedure Act, 1 CMC §§ 9101, et seq.~~

~~(7) Upon a final determination by the Director to cancel a license, all excise tax on taxable merchandise stored in a bonded warehouse shall become immediately payable.~~

History: Amdts Adopted 39 Com. Reg. 40374 (Nov. 28, 2017); Amdts Proposed 39 Com. Reg. 39962 (Sept. 28, 2017); Amdts Adopted 26 Com. Reg. 23009 (Oct. 26, 2004); Amdts Proposed 26 Com. Reg. 23010 (Aug. 26, 2004).

**~~§ 70-10.1-1038 Reinstatement of Suspended Licenses~~**

~~The Director may reinstate a suspended license where the cause for the suspension no longer exists. In no event shall a license be suspended for longer than ninety days from the date of final determination to suspend by the Director.~~

History: Amdts Adopted 39 Com. Reg. 40374 (Nov. 28, 2017); Amdts Proposed 39 Com. Reg. 39962 (Sept. 28, 2017); Amdts Adopted 26 Com. Reg. 23009 (Oct. 26, 2004); Amdts Proposed 26 Com. Reg. 23010 (Aug. 26, 2004).

**~~Subpart F- Bonded Warehouse Operations and Facilities~~**

**~~§ 70-10.1-1040 Security~~**

~~Every licensee shall provide at the bonded warehouse such facilities, equipment, and personnel as are sufficient to control access to the bonded warehouse premises and provide secure storage of the goods in it including:~~

- ~~(a) Doors and other building components of sturdy construction;~~
- ~~(b) Secure locks on doors and windows;~~
- ~~(c) Signs that indicate the security requirements applicable to the premises; and~~
- ~~(d) Where the bonded warehouse will be used for the storage of designated goods, such additional facilities and equipment as may be required by the Director to ensure the secure storage of those goods.~~

Modified, 1 CMC § 3806(g).  
History: Amdts Adopted 39 Com. Reg. 40374 (Nov. 28, 2017); Amdts Proposed 39 Com. Reg. 39962 (Sept. 28, 2017); Amdts Adopted 26 Com. Reg. 23009 (Oct. 26, 2004); Amdts Proposed 26 Com. Reg. 23010 (Aug. 26, 2004).

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### ~~§ 70-10.1-1042~~      ~~Facilities~~

~~Every licensee shall provide at the bonded warehouse such facilities to provide:~~

- ~~(a) Adequate space for the examination of goods by officers; and~~
- ~~(b) Where a bonded warehouse forms only part of a building, the licensee shall, if so requested by the Director, keep the bonded warehouse separate from the remainder of the building by a partition or other structure.~~

History: Amdts Adopted 39 Com. Reg. 40374 (Nov. 28, 2017); Amdts Proposed 39 Com. Reg. 39962 (Sept. 28, 2017); Amdts Adopted 26 Com. Reg. 23009 (Oct. 26, 2004); Amdts Proposed 26 Com. Reg. 23010 (Aug. 26, 2004).

### ~~§ 70-10.1-1044~~      ~~Personnel and Equipment~~

~~Every licensee shall provide at the bonded warehouse:~~

- ~~(a) The personnel and equipment necessary to ensure that the goods to be examined by a customs officer are made available to the customs officer for examination; and~~
- ~~(b) The personnel necessary to furnish information, for audit purposes, to a customs officer with respect to the bonded warehouse operations and inventory system.~~

History: Amdts Adopted 39 Com. Reg. 40374 (Nov. 28, 2017); Amdts Proposed 39 Com. Reg. 39962 (Sept. 28, 2017); Amdts Adopted 26 Com. Reg. 23009 (Oct. 26, 2004); Amdts Proposed 26 Com. Reg. 23010 (Aug. 26, 2004).

### ~~§ 70-10.1-1046~~      ~~Operation and Maintenance Standards~~

- ~~(a) Every licensee shall ensure that the goods received in the bonded warehouse are:
  - ~~(1) Stored safely and securely in the area designated for that purpose in the plan referred to in § 70-10.1-1022; and~~
  - ~~(2) Identified in such a manner so as to enable a customs officer to locate the goods and check them against the appropriate documentation.~~~~
- ~~(b) No person, other than the licensee, an employee of the licensee, or an employee of a carrier engaged in the delivery of goods to, or the removal of goods from, the bonded warehouse shall enter any place in it where goods are stored, without the written authorization or the attendance of a customs officer.~~
- ~~(c) Every licensee of a bonded warehouse shall have in place:
  - ~~(1) Procedures to maintain the security of, and restriction of access to, the bonded warehouse; and~~
  - ~~(2) Procedures to ensure that personnel working in the bonded warehouse are aware of and follow the procedures referred to in this section.~~~~

Modified, 1 CMC § 3806(g).

History: Amdts Adopted 39 Com. Reg. 40374 (Nov. 28, 2017); Amdts Proposed 39 Com. Reg. 39962 (Sept.

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28, 2017); Amdts Adopted 26 Com. Reg. 23009 (Oct. 26, 2004); Amdts Proposed 26 Com. Reg. 23010 (Aug. 26, 2004).

### ~~§ 70-10.1-1048~~ ~~Penalty for Non-compliance with this Subpart~~

~~A bonded warehouse may be locked and sealed by a customs officer where the Director requested that the bonded warehouse be locked and sealed, for the purpose of verifying that the licensee is in compliance with this subpart.~~

History: Amdts Adopted 39 Com. Reg. 40374 (Nov. 28, 2017); Amdts Proposed 39 Com. Reg. 39962 (Sept. 28, 2017); Amdts Adopted 26 Com. Reg. 23009 (Oct. 26, 2004); Amdts Proposed 26 Com. Reg. 23010 (Aug. 26, 2004).

### ~~Subpart G - Entry and Withdrawal of Merchandise~~

#### ~~§ 70-10.1-1050~~ ~~Receipt of Goods~~

~~All containers shall remain under seal until they arrive at the bonded warehouse. A customs officer shall be present to break the container seal. Every licensee shall acknowledge receipt of imported goods into the bonded warehouse in respect of which their license was issued by:~~

- ~~(a) Endorsing the transportation document(s) presented to the licensee by the carrier (including invoices and bills of lading);~~
- ~~(b) Recording on a form to be prescribed by the Director, the quantity, description, value, and estimated tax of the imported goods.~~

History: Amdts Adopted 39 Com. Reg. 40374 (Nov. 28, 2017); Amdts Proposed 39 Com. Reg. 39962 (Sept. 28, 2017); Amdts Adopted 26 Com. Reg. 23009 (Oct. 26, 2004); Amdts Proposed 26 Com. Reg. 23010 (Aug. 26, 2004).

#### ~~§ 70-10.1-1052~~ ~~Incomplete Entry~~

~~(a) Customs shall notify the bonded warehouse of unentered merchandise whenever the entry of any imported merchandise is not made within the time provided by law because:~~

- ~~(1) In the opinion of the Department, the entry of imported merchandise cannot be made for want of proper documents or other cause;~~
- ~~(2) Customs Service discovers or has probable cause to believe that contraband has entered the Commonwealth; or~~
- ~~(3) The Department believes that any merchandise is not correctly and legally invoiced.~~

~~(b) If the merchandise is not intended to be stored at any particular bonded warehouse, such unentered, suspicious, or contraband merchandise may be stored and inspected at a class B bonded warehouse.~~

~~(c) After notification under subsection (a), the bonded warehouse shall arrange for the transportation and storage of the merchandise at the risk and expense of the consignee. The merchandise shall remain in the bonded warehouse until entry is made or completed and~~

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the proper documents are produced, or disposed of in accordance with § 70-10.1-1062. Such merchandise shall accrue interest on excise taxes owed and storage fees.

Modified, 1 CMC § 3806(g).

History: Amdts Adopted 39 Com. Reg. 40374 (Nov. 28, 2017); Amdts Proposed 39 Com. Reg. 39962 (Sept. 28, 2017); Amdts Adopted 26 Com. Reg. 23009 (Oct. 26, 2004); Amdts Proposed 26 Com. Reg. 23010 (Aug. 26, 2004).

### **§ 70-10.1-1054      ~~Withdrawal of Merchandise; Time; Payment of Charges~~**

(a) ~~Any merchandise subject to excise tax (including international travel merchandise), with the exception of perishable articles and explosive substances, may be entered for warehousing and be deposited in a bonded warehouse at the expense and risk of the owner, purchaser, importer, or consignee. Such merchandise may be withdrawn, at any time within 5 years from the date of importation, for consumption upon payment of the excise tax and storage fees.~~

(b) ~~Any merchandise so deposited may be withdrawn from a bonded warehouse for exportation or for transportation and exportation to a foreign country, or the shipment or for transportation and shipment to the Virgin Islands, American Samoa, Wake Island, Midway Islands, Kingman Reef, Johnston Island, or the island of Guam, without the payment of excise tax thereon, or for transportation and re-warehousing at another port or elsewhere, or for transfer to another bonded warehouse at the same port; except that the total period of time for which such merchandise may remain in bonded warehouse shall not exceed 5 years from the date of importation.~~

(c) ~~Except as provided in subsection (b), payment of excise tax and storage fees are paid to the Department at the time the merchandise is withdrawn from the bonded warehouse. Duties shall be paid directly to the customs officer assigned to that bonded warehouse. The bonded warehouse shall contact the designated customs officer prior to withdrawal.~~

Modified, 1 CMC § 3806(g).

History: Amdts Adopted 39 Com. Reg. 40374 (Nov. 28, 2017); Amdts Proposed 39 Com. Reg. 39962 (Sept. 28, 2017); Amdts Adopted 26 Com. Reg. 23009 (Oct. 26, 2004); Amdts Proposed 26 Com. Reg. 23010 (Aug. 26, 2004).

### **§ 70-10.1-1056      ~~Destruction of Merchandise at Request of Consignee~~**

~~Merchandise entered under bond, under any provision of law, may, upon payment of all charges other than excise tax on the merchandise, be destroyed, at the request and at the expense of the consignee, within the bonded period under customs supervision, in lieu of exportation, and upon such destruction the entry of such merchandise shall be liquidated without payment of excise tax shall be refunded.\*~~

\*So in original.

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History: Amdts Adopted 39 Com. Reg. 40374 (Nov. 28, 2017); Amdts Proposed 39 Com. Reg. 39962 (Sept. 28, 2017); Amdts Adopted 26 Com. Reg. 23009 (Oct. 26, 2004); Amdts Proposed 26 Com. Reg. 23010 (Aug. 26, 2004).

### ~~§ 70-10.1-1058~~ **Transfer and Removal of Goods**

(a) ~~Where there is a transfer of ownership of goods stored in a bonded warehouse, the importer or owner of the goods shall submit a transfer document in the prescribed form to an officer at the customs office where the goods were entered.~~

(b) ~~Where the importer or owner of goods stored in a bonded warehouse wants the goods removed from the bonded warehouse in smaller units, the importer or owner shall submit to the Director:~~

(1) ~~Where the goods are to be released, an amended accounting in a form to be prescribed by the Director; or~~

(2) ~~Where the goods are not to be released, an amended description in the prescribed form.~~

Modified, 1 CMC § 3806(g).

History: Amdts Adopted 39 Com. Reg. 40374 (Nov. 28, 2017); Amdts Proposed 39 Com. Reg. 39962 (Sept. 28, 2017); Amdts Adopted 26 Com. Reg. 23009 (Oct. 26, 2004); Amdts Proposed 26 Com. Reg. 23010 (Aug. 26, 2004).

### ~~Subpart H -~~ **Warehouse Goods Deemed Abandoned or Unclaimed**

#### ~~§ 70-10.1-1060~~ **Abandoned Merchandise**

(a) ~~Merchandise upon which any excise tax or storage fees are unpaid, remaining in a bonded warehouse beyond five years from the date of importation, shall be regarded as abandoned. Title in abandoned merchandise shall automatically vest in the CNMI. The Director may sell or destroy such merchandise pursuant to law. If the Director elects to sell the merchandise, the proceeds of sale shall be paid according to § 70-10.1-1064.~~

(b) ~~Merchandise upon which all excise tax and charges have been paid remaining in a bonded warehouse beyond five years from the date of importation, shall be considered unclaimed and treated in accordance with § 70-10.1-1062.~~

Modified, 1 CMC § 3806(g).

History: Amdts Adopted 39 Com. Reg. 40374 (Nov. 28, 2017); Amdts Proposed 39 Com. Reg. 39962 (Sept. 28, 2017); Amdts Adopted 26 Com. Reg. 23009 (Oct. 26, 2004); Amdts Proposed 26 Com. Reg. 23010 (Aug. 26, 2004).

#### ~~§ 70-10.1-1062~~ **Unclaimed Merchandise**

(a) ~~Any unentered merchandise which shall remain in a bonded warehouse, pursuant to § 70-10.1-1052, for 6 months, but less than 5 years, from the date of importation thereof, without all estimated taxes, fees and interest thereon having been paid, shall be considered unclaimed and subject to divestiture of title to the CNMI, and subject to sale by the Director free and clear of any liens or encumbrances.~~

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~~(b) Once merchandise is deemed unclaimed, the Department shall provide 30 days notice to all known interested parties that the title to such merchandise is subject to divestiture, either by operation of law to the CNMI or by subsequent sale to a third party, on the 30th day after the date of the notice. If no interested party is known, such notice shall, at a minimum, include publication in one local newspaper of general circulation once per week for three consecutive weeks, the notice period running 30 days from the first date of publication. Notice shall contain the date, time, and location of any sale.~~

~~(c) Unclaimed merchandise may be reclaimed during the notice period provided that:~~

- ~~(1) Prior to the 30th day of the notice period the consignee or owner pays the Department a reclamation penalty equal to 5% of the fair market value for such merchandise as determined by the invoice value; and~~
- ~~(2) Immediate payment of any excise taxes, storage fees, and interest thereon. No unclaimed merchandise may be entered or exported or withdrawn by the owner or consignee until such payment is made.~~

~~(d) For purposes of this section, the computation of excise taxes, storage fees, and interest thereon shall be subject to rates applicable at the time the merchandise is reclaimed or sold.~~

History: Amdts Adopted 39 Com. Reg. 40374 (Nov. 28, 2017); Amdts Proposed 39 Com. Reg. 39962 (Sept. 28, 2017); Amdts Adopted 26 Com. Reg. 23009 (Oct. 26, 2004); Amdts Proposed 26 Com. Reg. 23010 (Aug. 26, 2004).

### ~~§ 70-10.1-1064~~      **Proceeds of Sale**

~~The surplus of the proceeds of sales under § 70-10.1-1062(a), if any, after the payment of excise tax, storage fees, and interest thereon, and the satisfaction of any lien or freight, charges, or contribution in general average, shall be deposited in the general fund of the CNMI, if claim therefore shall not be filed with the Director within ten days from the date of sale, and the sale of such merchandise shall exonerate the master of any vessel in which the merchandise was imported from all claims of the owner thereof, who shall, nevertheless, on due proof of his interest, be entitled to receive from the Department the amount of any surplus of the proceeds of sale.~~

History: Amdts Adopted 39 Com. Reg. 40374 (Nov. 28, 2017); Amdts Proposed 39 Com. Reg. 39962 (Sept. 28, 2017); Amdts Adopted 26 Com. Reg. 23009 (Oct. 26, 2004); Amdts Proposed 26 Com. Reg. 23010 (Aug. 26, 2004).

### ~~§ 70-10.1-1066~~      **Redemption**

~~Whenever any party having lost a substantial interest in merchandise by virtue of title vesting in the CNMI under § 70-10.1-1062(a), can establish such title or interest to the satisfaction of the Secretary within 30 days after the day on which title vests in the CNMI, or can establish to the satisfaction of the Secretary that the party did not receive notice of sale as provided herein, the Secretary may, upon receipt of a timely and proper petition and upon finding that the facts and circumstances warrant, pay such party out of the Department the amount the Secretary believes the party would have received under\* had the merchandise been properly noticed and sold. The decision of the Secretary shall be final and conclusive with respect to all parties.~~

\*So in original.

History: Amdts Adopted 39 Com. Reg. 40374 (Nov. 28, 2017); Amdts Proposed 39 Com. Reg. 39962 (Sept. 28, 2017); Amdts Adopted 26 Com. Reg. 23009 (Oct. 26, 2004); Amdts Proposed 26 Com. Reg. 23010 (Aug. 26, 2004).

**Subpart I- ~~Manipulation in Public or Private Warehouse~~**

**§ 70-10.1-1068 ~~Original Packaging Requirement~~**

~~Unless by special authority of the Director, no merchandise shall be withdrawn from a bonded warehouse in less quantity than an entire bale, cask, box, or other package. All merchandise so withdrawn shall be withdrawn in the original packages in which imported.~~

History: Amdts Adopted 39 Com. Reg. 40374 (Nov. 28, 2017); Amdts Proposed 39 Com. Reg. 39962 (Sept. 28, 2017); Amdts Adopted 26 Com. Reg. 23009 (Oct. 26, 2004); Amdts Proposed 26 Com. Reg. 23010 (Aug. 26, 2004).

**§ 70-10.1-1070 ~~Manipulation Allowed for Class D Bonded Warehouses~~**

~~Every licensee shall ensure that goods are not manipulated, altered, or combined with other goods while in a bonded warehouse, except for class D bonded warehouses for the purpose of, or in the course of:~~

- ~~(a) Disassembling or reassembling goods that have been assembled or disassembled for packing, handling, or transportation;~~
- ~~(b) Displaying;~~
- ~~(c) Inspecting;~~
- ~~(d) Marking, labeling, tagging, or ticketing;~~
- ~~(e) Packing, unpacking, packaging, or re-packing;~~
- ~~(f) Removing from the warehouse, for the sole purpose of soliciting order for goods or services, a small quantity, or a portion, a piece or an individual object, that represents the goods;~~
- ~~(g) Storing;~~
- ~~(h) Testing; or~~
- ~~(i) Any of the following that do not materially alter the characteristics of the goods:
  - ~~(1) Cleaning;~~
  - ~~(2) Diluting;~~
  - ~~(3) Normal maintenance and servicing;~~~~

- (4) Preserving;
- (5) Separating defective goods from prime quality goods,
- (6) Sorting or grading; and
- (7) ~~Trimming, filing, slitting, or cutting.~~

History: Amdts Adopted 39 Com. Reg. 40374 (Nov. 28, 2017); Amdts Proposed 39 Com. Reg. 39962 (Sept. 28, 2017); Amdts Adopted 26 Com. Reg. 23009 (Oct. 26, 2004); Amdts Proposed 26 Com. Reg. 23010 (Aug. 26, 2004).

**Subpart ~~L~~ Allowance for Loss; Liens; Hearings**

**~~§ 70-10.1-1072~~ Allowance for Loss, Abandonment**

~~In no case shall there be any abatement or allowance made in the excise tax for any injury, deterioration, loss, or damage sustained by any merchandise while remaining in Department custody, except that the Secretary is so authorized, upon production of proof satisfactory to him or her of the loss or theft of any merchandise while in the Department's custody. The decision of the Secretary as to the abatement or refund of duties on any such merchandise shall be final and conclusive upon all persons.~~

History: Amdts Adopted 39 Com. Reg. 40374 (Nov. 28, 2017); Amdts Proposed 39 Com. Reg. 39962 (Sept. 28, 2017); Amdts Adopted 26 Com. Reg. 23009 (Oct. 26, 2004); Amdts Proposed 26 Com. Reg. 23010 (Aug. 26, 2004).

**~~§ 70-10.1-1074~~ Liens**

~~Whenever a customs officer shall be notified in writing of the existence of a lien for freight, charges upon any imported merchandise sent to the bonded warehouse, or taken possession by the Department, he shall refuse to permit delivery thereof from the bonded warehouse until proof shall be produced that the said lien has been satisfied or discharged. The rights of the CNMI shall not be prejudiced nor affected by the filing of such lien, nor shall the Department or its officers be liable for losses or damages consequently upon such refusal to permit delivery.\* If merchandise, regarding which such notice of lien has been filed, shall be forfeited or abandoned and sold, the freight, charges, or contribution in general average due thereon shall be paid from the proceeds of such sale in the same manner as other lawful charges and expenses are paid therefrom.~~

\* So in original,

History: Amdts Adopted 39 Com. Reg. 40374 (Nov. 28, 2017); Amdts Proposed 39 Com. Reg. 39962 (Sept. 28, 2017); Amdts Adopted 26 Com. Reg. 23009 (Oct. 26, 2004); Amdts Proposed 26 Com. Reg. 23010 (Aug. 26, 2004).

**~~§ 70-10.1-1076~~ Procedures for Hearing**

~~Unless a provision of the regulations in this part specifies that the decision of the Director shall be final and conclusive, any person aggrieved under these regulations may request a hearing. Procedures for hearings shall be conducted in accordance with the Administrative Procedure Act (APA), 1 CMC §§ 9101, et seq., and shall be conducted in front of the~~

**TITLE 70: DEPARTMENT OF FINANCE**

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~~Director, unless such grievance concerns a decision by the Director, in which case the hearings shall be conducted in front of the Secretary.~~

History: Amdts Adopted 39 Com. Reg. 40374 (Nov. 28, 2017); Amdts Proposed 39 Com. Reg. 39962 (Sept. 28, 2017); Amdts Adopted 26 Com. Reg. 23009 (Oct. 26, 2004); Amdts Proposed 26 Com. Reg. 23010 (Aug. 26, 2004).

~~Subpart K - Cartage.~~

~~§ 70-10.1-1078 Licensed and Bonded Cartage~~

- ~~(a) The cartage of merchandise entered for warehouse shall be done by:~~
- ~~(1) Cartmen appointed and licensed by the Director; and~~
  - ~~(2) Carriers designated to carry bonded merchandise.~~

~~(b) Such cartmen and carriers shall give bond, in a penal sum to be fixed by the Department, for the protection of the CNMI against any loss of, or damage to, the merchandise while being so carted and necessary for the protection of the CNMI revenue or to assure compliance with any provision of law, regulation, or instruction which the Secretary or the Department may be authorized to enforce. Such cartmen and carriers shall also be in compliance with all applicable environmental laws and regulations concerning the transport of hazardous materials.~~

History: Amdts Adopted 39 Com. Reg. 40374 (Nov. 28, 2017); Amdts Proposed 39 Com. Reg. 39962 (Sept. 28, 2017); Amdts Adopted 26 Com. Reg. 23009 (Oct. 26, 2004); Amdts Proposed 26 Com. Reg. 23010 (Aug. 26, 2004).

~~§ 70-10.1-1080 Prohibition on Operating Bonded Warehouses~~

~~Persons engaged in the cartage, inland freight trucking, common carrier, unloading, or transportation of merchandise from importation are prohibited from being licensed bonded warehouse operators, either directly or indirectly.~~

History: Amdts Adopted 39 Com. Reg. 40374 (Nov. 28, 2017); Amdts Proposed 39 Com. Reg. 39962 (Sept. 28, 2017); Amdts Adopted 26 Com. Reg. 23009 (Oct. 26, 2004); Amdts Proposed 26 Com. Reg. 23010 (Aug. 26, 2004).



## CNMI DEPARTMENT OF LABOR

### ADMINISTRATIVE HEARING OFFICE

In Re Matter of:	)	PUA Case No. 21-0123
	)	
Milan Fargo,	)	
	)	
Appellant,	)	
	)	<b>ADMINISTRATIVE ORDER</b>
v.	)	
	)	
CNMI Department of Labor,	)	
Division of Employment Services-PUA,	)	
	)	
Appellee.	)	

#### I. INTRODUCTION

This matter came before the undersigned for an in-person Administrative Hearing on January 9, 2024 and January 10, 2024, both at approximately 9:00 a.m. at the Administrative Hearing Office, Saipan, CNMI. Appellant Milan Fargo (“Appellant”) was present and self-represented. Appellee CNMI Department of Labor Division of Employment Services – Pandemic Unemployment Assistance program (“Appellee” or “Department”) was present and represented by PUA Program Team Leader Rosalinda Ulloa and PUA Program Supervisor Joseph Pangelinan. A list of the documents that were admitted into evidence at the Administrative Hearing is appended to the end of this Order.

For the reasons stated below, the Department’s Determination dated May 20, 2021 is **AFFIRMED**. Appellant is not eligible for benefits for the period of February 2, 2020 to September 4, 2021.

#### II. JURISDICTION

On March 27, 2020, the Coronavirus Aid Relief and Economic Security (“CARES”) Act of 2020 was signed into law creating new temporary federal programs for unemployment benefits called Pandemic Unemployment Assistance (“PUA”)<sup>1</sup> and Federal Pandemic Unemployment

<sup>1</sup> See Section 2102 of the CARES Act of 2020, Public Law 116-136.

1 Compensation (“FPUC”).<sup>2</sup> On December 27, 2020, the Continued Assistance for Unemployed  
2 Workers Act of 2020 (“Continued Assistance Act”) amended and created new provisions of said  
3 federal unemployment insurance programs, which, among other things, extended the PUA and  
4 FPUC programs to March 13, 2021.<sup>3</sup> On March 11, 2021, the American Rescue Plan Act of 2021  
5 (“ARPA”) extended the programs to September 6, 2021. The Department is charged with the  
6 responsibility in administering the above-mentioned programs in the CNMI in accordance to  
7 applicable law.<sup>4</sup> The Department’s Administrative Hearing Office has been designated to preside  
8 over appeals of agency decisions.

9 Upon review of the records, the appeal is timely filed. Accordingly, jurisdiction is established.

### 10 III. PROCEDURAL BACKGROUND & ISSUES

11 Appellant filed a claim for unemployment benefits under the PUA and FPUC programs. Upon  
12 review of Appellant’s application and supporting documents, the Department issued a  
13 Disqualifying Determination dated May 20, 2021. On May 29, 2021, Appellant filed the present  
14 appeal via email to the Administrative Hearing Office. On June 1, 2021 Appellant’s appeal was  
15 received and the matter was scheduled for an Administrative Hearing. As stated in the Notice of  
16 Hearing, the issues on appeal are: (1) whether the appeal is timely filed; (2) whether Appellant is  
17 eligible for PUA; and (3) whether an overpayment occurred, and funds should be returned.

### 18 IV. FINDINGS OF FACT

19 In consideration of the evidence provided and credibility of witness testimony, the  
undersigned issues the following findings of fact:

- 20 1. During the COVID-19 pandemic, Appellant had an employment authorization document  
21 (“EAD”) under the category C08, valid from July 9, 2019 to July 8, 2021.<sup>5</sup>
- 22 2. On or around October 7, 2020, Appellant submitted an initial application<sup>6</sup> for  
23 unemployment assistance under the PUA and FPUC programs. In his initial application,<sup>7</sup>

24  
25 <sup>2</sup> See Section 2104 of the CARES Act of 2020, Public Law 116-136.

26 <sup>3</sup> See Consolidated Appropriations Act, 2021, Division N, Title II, Subtitled A (“Continued Assistance for  
Unemployed Workers Act of 2020” or “Continued Assistance Act”).

27 <sup>4</sup> Pursuant to Section 2102(h) of the CARES Act of 2020 (Pub. L. 116-136) and 20 CFR § 625.2(r)(1)(ii), the CNMI  
28 Governor issued Executive Order No. 2020-09 declaring Hawaii Employment Security Law as the applicable state  
law in the CNMI. Hawaii state law applies, to the extent it does not conflict with applicable federal law and guidance.

<sup>5</sup> Exhibit 8.

<sup>6</sup> Exhibit 1.

<sup>7</sup> *Id.*

1 Appellant self-certified under penalty of perjury that:

- 2 a. Appellant's employment was directly affected by COVID-19 when (i) he was  
3 unable to reach his place of employment because of a quarantine imposed as a  
4 direct result of the COVID-19 public health emergency, (ii) he was unable to reach  
5 his employment because he had been advised by a health care provider to self-  
6 quarantine due to concerns related to COVID-19, and (iii) his labor disputes with  
7 Northern Marianas College were not decided by the CNMI Labor Department  
8 Hearing Division;<sup>8</sup> and
- 9 b. Appellant's employment was affected since April 25, 2018.
- 10 3. Subsequently, on or around March 8, 2021, Appellant submitted an application for  
11 continued benefits.<sup>9</sup> In this subsequent application,<sup>10</sup> Appellant self-certified that:
- 12 a. His employment was still affected by COVID-19 because he was "unable to reach"  
13 his "would-be employment or self-employment" because (i) some state and federal  
14 agencies have not decided yet on his labor disputes, (ii) he has been advised by a  
15 health care provider to self-quarantine due to concerns related to COVID-19, and  
16 (iii) places of employment are mostly closed as a direct result of the COVID-19  
17 public health emergency; and
- 18 b. His employment was affected since April 25, 2018.
- 19 4. Appellant also submitted weekly certifications to claim continued benefits.<sup>11</sup> In these  
20 weekly certifications, Appellant self-certified to the same reasons for how his employment  
21 was still affected by COVID-19 pandemic, he is able and available to work during the  
22 claimed weeks, and he earned zero gross income during the claimed week.<sup>12</sup>
- 23 5. Prior to the COVID-19 pandemic and at all times relevant to Appellant's claim for benefits  
24 and to this appeal, Appellant was unemployed.
- 25 a. Appellant's last employment prior to the COVID-19 pandemic was on or around

25 <sup>8</sup> During the Administrative Hearing, Appellant attempted to raise these labor dispute claims with the undersigned *pro*  
26 *tem* administrative hearing officer. Appellant argued that these labor dispute claims should be heard within and as part  
27 of this matter's Administrative Hearing. The undersigned declined to hear these labor dispute claims because these  
28 claims are separate from the undersigned's authority, designation and jurisdiction to hear Appellant's appeal on the  
Department's Determination on whether Appellant is eligible for PUA and FPUC benefits. Appellant's argument that  
this is the COVID-19 related reason that qualifies him for benefits are discussed further herein.

<sup>9</sup> Exhibit 2.

<sup>10</sup> *Id.*

<sup>11</sup> Exhibits 5.

<sup>12</sup> *See id.*

1 April of 2018.<sup>13</sup> Appellant worked as an Environmental Tech Trainee for the  
2 Department of Community and Cultural Affairs (“DCCA”), Office of Aging under  
3 the Senior Community Service Employment Program (“SCSEP”).<sup>14</sup> On or around  
4 April of 2018, Appellant completed the 4-year employment training program and  
5 was not retained for further employment.<sup>15</sup>

6 b. Appellant had a business for “On-Timeliness Monetizers Company”, but  
7 Appellant testified that he never made any profit or income from the operation of  
8 his business, including even prior to the COVID-19 pandemic, so he was unable  
9 to provide himself with any salary or income.

10 c. There is no evidence to demonstrate that Appellant was ever scheduled to begin  
11 employment or unable to reach the place of employment because he was advised  
12 by a healthcare provider to self-quarantine or any other reasons related to the  
13 COVID-19 pandemic.

14 6. Appellant’s answers on his applications and weekly certifications, self-certifications, and  
15 other supporting documents were reviewed by the Department.<sup>16</sup> On May 20, 2021, the  
16 Department issued a determination<sup>17</sup> disqualifying Appellant from benefits from  
17 February 2, 2020 to September 4, 2021 because the Department found that Appellant’s  
18 unemployment reasons do not meet the criteria for COVID-19 qualifying reasons listed  
19 under Section 2102(a)(3)(A)(ii) of the CARES ACT.

20 7. On May 29, 2021, Appellant timely filed this appeal via email to the Administrative  
21 Hearing Office of his Request to Appeal Form and supporting documents.<sup>18</sup>

22 8. On June 1, 2021, the Administrative Hearing Office received Appellant’s Request to  
23 Appeal Form and supporting documents and his appeal was scheduled for an  
24 Administrative Hearing.

25 9. With respect to the overpayment issue, based on the testimonies and evidence presented,  
26 Appellant was not paid any PUA or FPUC benefits, no overpayment occurred, and  
27 Appellant is not required to repay any overpayment.

28 <sup>13</sup> See Exhibits 1-2 and 7.

<sup>14</sup> Exhibit 7.

<sup>15</sup> *Id.*

<sup>16</sup> See Exhibit 10.

<sup>17</sup> See Exhibit 6.

<sup>18</sup> Exhibit 11.

V. CONCLUSIONS OF LAW

In consideration of the above-stated findings and applicable law, the undersigned issues the following conclusions of law:

**1. Appellant’s unemployment was not a direct result of COVID-19 pandemic.**

In accordance with the CARES Act and Continued Assistance Act, payment of PUA and FPUC benefits are available to “covered individuals.” A “covered individual” is someone who: (1) is not eligible for regular compensation or extended benefits under State or Federal law or pandemic emergency unemployment compensation under Section 2107 of the CARES Act, including an individual who has exhausted all rights to regular unemployment or extended benefits under State or Federal law or Pandemic Emergency Unemployment Compensation under Section 2107;<sup>19</sup> (2) self-certifies<sup>20</sup> that the individual is unemployed, partially unemployed, or unable or unavailable to work<sup>21</sup> as a direct result<sup>22</sup> of a listed COVID-19 reason in Section 2102(a)(3)(A)(ii) of the CARES Act, and (3) provides required documentation of employment/self-employment within the applicable period.<sup>23</sup>

With respect to condition (2) listed above, Section 2102 (a)(3)(A)(ii)(I) of the CARES Act specifically identifies the COVID-19 qualifying reasons<sup>24</sup> as:

- (aa) The individual has been diagnosed with COVID-19 or is experiencing symptoms of COVID-19 and is seeking a medical diagnosis;
- (bb) A member of the individual’s household has been diagnosed with COVID-19;
- (cc) The individual is providing care for a family member or a member of the individual’s household who has been diagnosed with COVID-19;
- (dd) A child or other person in the household for which the individual has primary caregiving responsibility is unable to attend school or another facility that is closed as a direct result of the COVID-19

<sup>19</sup> This condition is generally not at issue with claimants in the CNMI because there are no other State or Federal unemployment insurance programs in the CNMI.

<sup>20</sup> The PUA program utilizes initial and weekly applications where claimants self-certify under penalty of perjury.

<sup>21</sup> A claimant must be able to work and be available for work, as defined by Hawaii state law, to be eligible for benefits. See HAR § 12-5-35.

<sup>22</sup> Pursuant to 20 CFR § 625.5, unemployment is considered a “direct result” of the pandemic where the employment is an immediate result of the COVID-19 public health emergency itself, and not the result of a longer chain of events precipitated or exacerbated by the pandemic.

<sup>23</sup> Section 241 of the Continued Assistance Act requires that an individual must provide documentation substantiating employment or self-employment, or the planned commencement of employment or self-employment, if he or she files a new application for PUA on or after January 31, 2021, or, if the individual applied for PUA before January 31, 2021 and receives PUA benefits on or after December 27, 2020. Failure to supply said documents, and any other relevant, requested documents is a justifiable basis to deny benefits under HAR § 12-5-81(j).

<sup>24</sup> These reasons are further defined or illustrated in UIPL 16-20, Change 4.

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- public health emergency and such school or facility care is required for the individual to work;
- (ee) The individual is unable to reach the place of employment because of a quarantine imposed as a direct result of the COVID-19 public health emergency;
  - (ff) The individual is unable to reach the place of employment because the individual has been advised by a health care provider to quarantine due to concerns related to COVID-19;
  - (gg) The individual was scheduled to commence employment and does not have a job or is unable to reach the job as a direct result of the COVID-19 public health emergency;
  - (hh) The individual has become the breadwinner or major support for a household because the head of the household has died as a direct result of COVID-19;
  - (ii) The individual has to quit his or her job as a direct result of COVID-19;
  - (jj) The individual's place of employment is closed as a direct result of the COVID-19 public health emergency; or
  - (kk) The individual meets any additional criteria established by the US Secretary of Labor for unemployment assistance under PUA.

Additional criteria established by the US Secretary of Labor under item (kk)<sup>25</sup>, above, includes:

- (1) The individual is an independent contractor who is unemployed (total or partial) or is unable or unavailable to work because of the COVID-19 public health emergency has severely limited his or her ability to continue performing the customary job;
- (2) The individual has been denied continued unemployment benefits because the individual refused to return to work or accept an offer of work at a worksite that, in either instance, is not in compliance with local, state, or national health and safety standards directly related to COVID-19. This includes, but is not limited to, those related to facial mask wearing, physical distancing measures, or the provision of personal protective equipment consistent with public health guidelines;
- (3) An individual provides services to an educational institution or educational service agency and the individual is unemployed or partially unemployed because of volatility in the work schedule that is directly caused by the COVID-19 public health emergency. This includes, but is not limited to, changes in schedules and partial closures; and
- (4) An individual is an employee and their hours have been reduced or the individual was laid off as a direct result of the COVID-19 public health emergency.

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<sup>25</sup> See Unemployment Insurance Program Letter 16-20 and 16-20, Change 5.

1 Here, Appellant does not satisfy the above-listed COVID-19 qualifying reasons. First,  
2 Appellant was unemployed since April 25, 2018, well before the COVID-19 public health  
3 emergency. Second, while Appellant claims to have a business, he also testified that he has not  
4 been able to generate any profits, he has not reported any income or business gross revenue, and  
5 he has not paid himself any income or salary since starting his business. Finally, there is no  
6 evidence to demonstrate that Appellant was ever scheduled to begin employment or was offered  
7 a job, and then unable to reach the place of employment because of quarantine requirements or  
8 the COVID-19 pandemic. Appellant argued that his continued unemployment was due to the  
9 COVID-19 pandemic because businesses were not hiring and/or there was a lack of job,  
10 employment, or business opportunity. The undersigned does not find Appellant's argument  
11 persuasive. Any potential job, employment, or business opportunity is purely speculative.  
12 Moreover, continued unemployment because businesses are not hiring and/or closed is not a  
13 COVID-19 qualifying reason (as listed above). Similarly, Appellant's argument that his continued  
14 unemployment is because his allegations or labor dispute claims have not been filed properly  
15 and/or heard is not a COVID-19 qualifying reason (as listed above). Therefore, based on the  
16 evidence and testimony provided, the undersigned finds that Appellant's unemployment was not  
17 a direct result of a COVID-19 qualifying reason. Accordingly, Appellant is not a "covered  
18 individual" and he is not eligible for PUA and FPUC benefits.

## 17 VI. DECISION

18 For the reasons stated above, it is ORDERED that:


- 19 1. The CNMI Department of Labor's Disqualifying Determination, dated May 20, 2021, is  
20 **AFFIRMED**; and
- 21 2. The Appellant is **NOT ELIGIBLE** to receive PUA and FPUC benefits from  
22 February 2, 2020 to September 4, 2021.

23 If a party is aggrieved by this Order and would like to contest the decision, he or she must  
24 submit a written request to reopen the decision pursuant to Hawaii Admin. Rule § 12-5-93. The  
25 written request should be supported by legal, factual, or evidentiary reasons to reopen the  
26 decision. The written request must be submitted to the Administrative Hearing Office, either in  
27 person at #1357 Mednilla Avenue, Capitol Hill Saipan MP 96950 or via email at  
28 hearing@dol.gov.mp.

In the event a request to reopen the decision is granted, the matter shall be scheduled for a  
subsequent hearing. In the event a request to reopen the decision is denied, or if the Appellant

1 still disagrees with a subsequent decision, the Appellant may seek judicial review with the CNMI  
2 Superior Court under the local Administrative Procedures Act. *See* 1 CMC § 9112. All forms,  
3 filings fees, and filing deadlines for judicial review will be as established by the applicable law  
4 and court rule.

5 So ordered this 28th day of February, 2024.

6 

7 **CATHERINE J. CACHERO**  
8 Pro Tem Administrative Hearing Officer

9 **Documents Admitted into Evidence**

- 10 1. Exhibit 1: Copy of Appellant's Application Snapshot, filed October 7, 2020 (new);  
11 2. Exhibit 2: Copy of Appellant's Application Snapshot, filed March 8, 2021 (reopen);  
12 3. Exhibit 3: Copy of Appellant's Application (manual version; undated);  
13 4. Exhibit 4: Copy of Appellant's Self-Certification Letter, dated October 21, 2020;  
14 5. Exhibit 5: Copies of Appellant's Weekly Certifications (online versions), for weeks  
15 February 2, 2020 to February 8, 2020 and August 29, 2021 to September 3, 2021 and  
16 6. copies of Appellant's Weekly Certifications (manual and online versions), for weeks of  
17 February 2, 2020 to February 8, 2020 and August 29, 2021 to September 3, 2021;  
18 7. Exhibit 6: Copy of Department's Disqualifying Determination, dated May 20, 2021 ;  
19 8. Exhibit 7: Copy of Email Communications from Employer Saipan Aging Center, Walter  
20 Manglona, dated April 14, 2018 re: separation from employment effective April 25, 2018;  
21 9. Exhibit 8: Copy of Employment Authorization Document ("EAD"), Category C08, valid  
22 from July 9, 2019 to July 8, 2021;  
23 10. Exhibit 9: Copy of Payment Register;  
24 11. Exhibit 10: Copies of Department's Case Notes, contact dates May 20 and 21, 2021; and  
25 12. Exhibit 11: Copy of Appellant's Request to File an Appeal, including copy of  
26 Department's Disqualifying Determination, dated May 20, 2021 and other supporting  
27 documents, filed via email on May 29, 2021, and received by the Administrative Hearing  
28 Office on June 1, 2021.



## CNMI DEPARTMENT OF LABOR

### ADMINISTRATIVE HEARING OFFICE

In Re Matter of:	)	<b>PUA Case No. 23-0234</b>
	)	
Rafaelito Alvarado,	)	
	)	
Appellant,	)	
	)	<b>ADMINISTRATIVE ORDER</b>
v.	)	
	)	
CNMI Department of Labor,	)	
Division of Employment Services-PUA,	)	
	)	
Appellee.	)	

#### I. INTRODUCTION

This matter came before the undersigned for an Administrative Hearing on November 9, 2023, December 6, 2023, and January 25, 2024, at approximately 9:00 a.m. at the Administrative Hearing Office, Saipan, CNMI. Appellant Rafaelito Alvarado (“Appellant”) was present and self-represented. Appellee CNMI Department of Labor Division of Employment Services – Pandemic Unemployment Assistance program (“Appellee” or “Department”) was present and represented by PUA Program Team Leader Emelda Camacho and PUA Program Supervisor Joseph Pangelinan. There were no other witnesses that provided testimony at the hearing. A list of the documents that were admitted into evidence at the Hearing is at the end of this Order.

For the reasons stated below, the Department’s Re-Determination, dated February 27, 2023, is **AFFIRMED**. Appellant is not eligible for benefits for the period of December 27, 2020 to September 4, 2021.

#### II. JURISDICTION

On March 27, 2020, the Coronavirus Aid Relief and Economic Security (“CARES”) Act of 2020 was signed into law creating new temporary federal programs for unemployment benefits

1 called Pandemic Unemployment Assistance (“PUA”)<sup>1</sup> and Federal Pandemic Unemployment  
2 Compensation (“FPUC”).<sup>2</sup> On December 27, 2020, the Continued Assistance for Unemployed  
3 Workers Act of 2020 (“Continued Assistance Act”) amended and created new provisions of said  
4 federal unemployment insurance programs, which, among other things, extended the PUA and  
5 FPUC programs to March 13, 2021.<sup>3</sup> On March 11, 2021, the American Rescue Plan Act of 2021  
6 (“ARPA”) extended the programs to September 6, 2021. The Department is charged with the  
7 responsibility in administering the above-mentioned programs in the CNMI in accordance to  
8 applicable law.<sup>4</sup> The Department’s Administrative Hearing Office has been designated to preside  
9 over appeals of agency decisions.

10 Upon review of the records, the appeal is timely filed. Accordingly, jurisdiction is established.

### 11 III. PROCEDURAL BACKGROUND & ISSUES

12 Appellant filed a claim for unemployment benefits under the PUA and FPUC programs. Upon  
13 review of Appellant’s application and supporting documents, the Department issued a  
14 Disqualifying Determination on November 10, 2021, effective December 27, 2020 to  
15 September 4, 2021. On January 19, 2023, Appellant filed a request for reconsideration. On  
16 February 27, 2023, the Department issued a Re-Determination disqualifying Appellant from  
17 benefits effective December 27, 2020 to September 4, 2021. On March 1, 2023, Appellant timely  
18 filed the present appeal and the matter was scheduled for a hearing. As stated in the Notice of  
19 Hearing, the issues on appeal are: (1) whether Appellant is eligible for PUA; and (2) whether an  
20 overpayment occurred and funds should be returned.

### 21 IV. FINDINGS OF FACT

22 In consideration of the evidence provided and credibility of witness testimony, the  
23 undersigned issues the following findings of fact:

- 24 1. Prior to the COVID-19 pandemic, Appellant was self-employed as a full-time scuba gear

25  
26 <sup>1</sup> See Section 2102 of the CARES Act of 2020, Public Law 116-136.

27 <sup>2</sup> See Section 2104 of the CARES Act of 2020, Public Law 116-136.

28 <sup>3</sup> See Consolidated Appropriations Act, 2021, Division N, Title II, Subtitled A (“Continued Assistance for Unemployed Workers Act of 2020” or “Continued Assistance Act”).

<sup>4</sup> Pursuant to Section 2102(h) of the CARES Act of 2020 (Pub. L. 116-136) and 20 CFR § 625.2(r)(1)(ii), the CNMI Governor issued Executive Order No. 2020-09 declaring Hawaii Employment Security Law as the applicable state law in the CNMI. Hawaii state law applies, to the extent it does not conflict with applicable federal law and guidance.

1 porter, carrying tourists' and other divers' gear down dive sites, such as the Grotto.<sup>5</sup> It is  
2 uncontroverted that due to the economic impact of the COVID-19 pandemic, Appellant's  
3 employment was impacted because tourists and other divers were no longer diving and/or  
4 requiring his services.

- 5 2. On or around February 16, 2021, Appellant submitted an initial application<sup>6</sup> for  
6 unemployment assistance under the PUA and FPUC programs administered by the  
7 Department. In the application,<sup>7</sup> Appellant self-certified under penalty of perjury that he  
8 is an Alien/Refugee Lawfully Admitted to U.S.<sup>8</sup>
- 9 3. Based on testimony and substantiating evidence, Appellant's immigration status and  
10 employment authorization are as follows:
- 11 a. Appellant was granted deferred action and employment authorization under C14  
12 category from December 15, 2016 to May 14, 2017.<sup>9</sup>
  - 13 b. Appellant applied for the CNMI long-term resident status (Form I-955) and  
14 corresponding EAD under C37 category (Form I-765), and his applications were  
15 approved by USCIS, valid from June 21, 2021 to June 20, 2026.<sup>10</sup>
  - 16 c. Appellant has no other documents or evidence to demonstrate that he is a qualified  
17 alien during the time that he is claiming for PUA and FPUC benefits.
- 18 4. On October 7, 2021, the Department entered Appellant's information into the Systematic  
19 Alien Verification for Entitlements ("SAVE") database maintained by USCIS,  
20 Verification Division.<sup>11</sup> This database is used to determine the immigration status of PUA  
21 applicants so only those entitled to benefits receive them. The SAVE results indicate that:  
22 (i) Appellant had EAD under C14 category from December 15, 2016 to May 14, 2017 and  
23 (ii) Appellant had EAD under C37 category from June 21, 2021 to June 20, 2026.<sup>12</sup>
- 24 5. On November 10, 2021, the Department issued a determination disqualifying Appellant  
25 from PUA and FPUC benefits from December 27, 2020 to September 4, 2021 because

25 <sup>5</sup> See Exhibits 1 and 9.

26 <sup>6</sup> Exhibit 1.

27 <sup>7</sup> *Id.*

28 <sup>8</sup> *Id.*

<sup>9</sup> Exhibit 10.

<sup>10</sup> See Exhibit 10.

<sup>11</sup> See Exhibit 5.

<sup>12</sup> *Id.*

Appellant is not included in the definition of a qualified alien.<sup>13</sup>

6. On February 27, 2023, upon Appellant's request for reconsideration submitted on January 19, 2023,<sup>14</sup> the Department issued a re-determination<sup>15</sup> affirming the disqualification of Appellant from PUA and FPUC benefits from December 27, 2020 to September 4, 2021. The Department found that Appellant's immigration status after his EAD under C14 category including his status as EAD under C37 effective June 21, 2021 is not included in the definition of qualified aliens.<sup>16</sup>
7. On March 1, 2023, Appellant timely filed the present appeal<sup>17</sup> and the matter was scheduled for an Administrative Hearing. Appellant is appealing the Re-Determination because he believes that he is qualified because his work was affected by COVID-19.<sup>18</sup>
8. On December 6, 2023, the Department re-entered Appellant's information into the SAVE database maintained by USCIS, Verification Division and the SAVE results reconfirmed that Appellant is currently a CNMI long-term resident with EAD C37 category, valid from June 21, 2021.<sup>19</sup>
9. While the appeal was pending, and through testimony and evidence presented during the Administrative Hearing, the Department confirmed that Appellant did not receive any payments of PUA or FPUC benefits and there was no overpayment issue in this case.<sup>20</sup>

#### V. CONCLUSIONS OF LAW

In consideration of the above-stated findings and applicable law, the undersigned issues the following conclusions of law:

##### 1. Appellant is not a qualified alien.

PUA and FPUC are federal public benefits as defined by 8 USC §1611(c). As a condition of eligibility for any federal public benefit, the claimant must be a "qualified alien" at the time relevant to the claim. 8 USC §1611(a). Pursuant to 8 USC §1641, the term "qualified alien" is:

1. An alien admitted for permanent residence under the Immigration and Nationality Act (INA);

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<sup>13</sup> Exhibit 2.

<sup>14</sup> Exhibit 3.

<sup>15</sup> Exhibit 4.

<sup>16</sup> *Id.*

<sup>17</sup> Exhibit 8.

<sup>18</sup> *Id.*

<sup>19</sup> Exhibit 6.

<sup>20</sup> See Exhibit 7.

- 1 2. An alien granted asylum under § 208 of the INA;
- 2 3. A refugee admitted to the US under § 207 of the INA;
- 3 4. An alien paroled into the US under § 212(d)(5) of the INA for at least one year;
- 4 5. An alien whose deportation is being withheld under § 243(h) of the INA ... or whose  
5 removal is being withheld under § 241 (b)(3) of the INA;
- 6 6. An alien granted conditional entry pursuant to § 203 (a)(7) of the INA;
- 7 7. An alien who is a Cuban or Haitian entrant as defined in § 501(e) of the Refugee  
8 Education Assistance Act of 1980; or
- 9 8. An alien who (or whose child or parent) has been battered or subject to extreme cruelty  
10 in the U.S. and otherwise satisfies the requirements of § 431(c) of the Act.

11 Further, Section 265 of the Continued Assistance Act provides that a Commonwealth Only  
12 Transitional Worker (CW-1) shall be considered a qualified alien for purposes of eligibility under  
13 the PUA and FPUC programs. As provided in UIPL 16-20, change 4, page I-16, "CW-1 workers  
14 may receive PUA and FPUC if they meet all PUA eligibility requirements beginning with claims  
15 filed after December 27, 2020 (*i.e.*, claim effective dates beginning on or after January 3, 2021)."

16 Here, the Department's Re-Determination disqualified Appellant from benefits from  
17 December 27, 2020 to September 4, 2021 because the Department found that Appellant's relevant  
18 immigration status was CNMI long-term resident and EAD under C37, valid from June 21, 2021  
19 to June 20, 2026, and this is not included in the definition of qualified aliens. Based on the  
20 evidence and testimony provided, the undersigned finds that the Department's Re-Determination  
21 is correct. As a CNMI long-term resident with an EAD category C37, Appellant is not a qualified  
22 alien under the definition (as listed above). Appellant had EAD under C14 category but this was  
23 prior to the COVID-19 pandemic, valid from December 15, 2016 to May 14, 2017, and Appellant  
24 presented no other documents or evidence to demonstrate that he had any other status or  
25 employment authorization that is a qualified alien during the relevant time that he is claiming for  
26 PUA and FPUC benefits. Further, when questioned with regards to each of the other provisions  
27 of the qualified alien definition (as listed above), Appellant answered in the negative. In  
28 conclusion, Appellant was not a qualified alien during the claimed weeks and he is not currently  
a qualified alien. Accordingly, Appellant does not qualify for PUA and FPUC benefits.

## VI. DECISION

For the reasons stated above, it is ORDERED that:


1. The CNMI Department of Labor's Disqualifying Re-Determination, dated February 27, 2023, is **AFFIRMED**; and
2. The Appellant is **NOT ELIGIBLE** to receive PUA benefits for the period of

1 December 27, 2020 to September 4, 2021.

2 If a party is aggrieved by this Order and would like to contest the decision, he or she must  
3 submit a written request to reopen the decision pursuant to Hawaii Admin. Rule § 12-5-93. The  
4 written request should be supported by legal, factual, or evidentiary reasons to reopen the  
5 decision. The written request must be submitted to the Administrative Hearing Office, either in  
6 person at Building #1357 Mednilla Avenue, Capitol Hill Saipan MP 96950 or via email at  
hearing@dol.gov.mp.

7 In the event a request to reopen the decision is granted, the matter shall be scheduled for a  
8 subsequent hearing. In the event a request to reopen the decision is denied, or if the Appellant  
9 still disagrees with a subsequent decision, the Appellant may seek judicial review with the CNMI  
10 Superior Court under the local Administrative Procedures Act. *See* 1 CMC § 9112. All forms,  
11 filings fees, and filing deadlines for judicial review will be as established by the applicable law  
and court rule.

12 So ordered this 29th day of February, 2024.

13   
14 CATHERINE J. CACHERO  
15 Pro Tem Administrative Hearing Officer

16 **Documents Admitted into Evidence**

- 17 1. Exhibit 1: Copy of the Appellant's Application Snapshot, filed on February 16, 2021;  
18 2. Exhibit 2: Copy of the Department's Disqualifying Determination, dated November 10,  
19 2021;  
20 3. Exhibit 3: Copy of Appellant's Request for Reconsideration, filed January 19, 2023;  
21 4. Exhibit 4: Copy of the Department's Disqualifying Determination, dated February 27,  
22 2023;  
23 5. Exhibit 5: Copy of the SAVE Verification Result, dated October 7, 2021;  
24 6. Exhibit 6: Copy of the SAVE Verification Result, dated December 6, 2023;  
25 7. Exhibit 7: Copy of Department's Benefit Payment Control Unit Email, dated October 24,  
26 2023;  
27 8. Exhibit 8: Copy of Appellant's Request to File an Appeal, filed March 1, 2023;  
28 9. Exhibit 9: Copy of Appellant's Self-Certification Letter, dated January 24, 2024; and  
10. Exhibit 10: Copies of Appellant's two EAD Cards, EAD C14 valid from December 15,  
2016 to May 14, 2017 and EAD C37 valid from June 21, 2021 to June 20, 2026.



CNMI DEPARTMENT OF LABOR

ADMINISTRATIVE HEARING OFFICE

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In Re Matter of:	)	PUA Case No. 23-0258
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Mingyue Pascual,	)	
	)	
Appellant,	)	ADMINISTRATIVE ORDER GRANTING
	)	PARTIES' MOTION TO DISMISS
v.	)	
	)	
CNMI Department of Labor,	)	
Division of Employment Services-PUA	)	
	)	
Appellee.	)	

On March 13, 2024, the parties' filed a Stipulated Motion to Dismiss. The Department has reversed the denial and issued a Requalifying Determination finding Appellant eligible for PUA benefits from March 22, 2020 to March 20, 2021 and ineligible from March 22, 2020 to April 25, 2020. Appellant was overpaid and has agreed to repay the overpayment. Based on the parties' Stipulated Motion to Dismiss, Appellant does not contest the Department's subsequent determinations and findings and all issues are moot.

Accordingly, this matter is hereby **DISMISSED**. In the event that the Appellant disagrees with a subsequent determination or notice, Appellant may file a new appeal.

So ordered this 14th day of March, 2024.

JACQUELINE A. NICOLAS  
Chief Administrative Hearing Officer