

**COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
SAIPAN, TINIAN, ROTA and NORTHERN ISLANDS**



COMMONWEALTH REGISTER

**VOLUME 45
NUMBER 09
SEPTEMBER 28, 2023**

COMMONWEALTH REGISTER

VOLUME 45

NUMBER 09

September 28, 2023

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Airport Rules and Regulations of the
Commonwealth Ports Authority 050317

ADOPTED

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Of New Fees for Various Services
Commonwealth Healthcare Corporation 050322

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Of New Fees for Various Services
Commonwealth Healthcare Corporation 050325

Public Notice of Certification and Adoption
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Civil Service Commission
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Public Notice of Certification and Adoption
Of Amendments to the CDBG-DR Infrastructure
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Of Amendments to the CDBG-DR Homebuyer
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PROPOSED

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Bureau of Environmental and Coastal Quality
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ORDERS

PUA Case No. 23-0229	
Subject: Administrative Order Granting Parties' Request for Dismissal	
In the Matter of: Kyu Jin Hong v. CNMI Dept. of Labor, Div. of Empl. Svcs-PUA.	
Department of Labor	050507
PUA Case No. 23-0233	
Subject: Administrative Order Granting Parties' Joint Motion to Dismiss	
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PUA Case No. 23-0239	
Subject: Administrative Order Granting Parties' Joint Motion to Dismiss	
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Department of Labor	050509
Labor Case No. 23-015	
Subject: Dismissal	
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Department of Labor	050510
Labor Case No. 23-016	
Subject: Dismissal	
In the Matter of: Zaji O. Zajradhara v. JK Invest. & Dev. LLC	
Department of Labor	050512
Labor Case No. 23-017	
Subject: Dismissal	
In the Matter of: Zaji O. Zajradhara v. Manbin Corp.	
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Labor Case No.	23-018	
Subject:	Dismissal	
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Subject:	Dismissal	
In the Matter of:	Zaji O. Zajradhara v. Costa World Corp.	
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Labor Case No.	23-021	
Subject:	Dismissal Order	
In the Matter of:	Xiuyuan Liang v. Apollo Corp.	
Department of Labor		050520
Enf. Inv. Case No.	23-002-05	
Compl.Agency No.	23-002	
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In the Matter of:	Dept. of Labor, Enf. & Compl. V. B & R Corp. dba B & R Auto Shop	
Department of Labor		050525
Consolidated Labor		
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Subject:	Order of Dismissal	
In the Matter of:	Johnalynn Y. Salinas v. Women of Destiny, Second Wind	
Department of Labor		050529
Consolidated Labor		
Case No.	23-004 & 23-006	
Subject:	Order of Dismissal	
In the Matter of:	Froilan M. Camacho v. Women of Destiny Second Wind	
Department of Labor		050531



Commonwealth Ports Authority

Francisco C. Ada/Saipan International Airport
PO BOX 501055 • SAIPAN • MP • 96950
Phone: (670) 237-6500/01 Fax: (670) 234-5962
E-Mail Address: cpa.admin@pticom.com Website: <https://cnmiports.com>



PUBLIC NOTICE

Adoption of Emergency Regulations to the Airport Rules and Regulations of the Commonwealth Ports Authority

ADOPTION OF EMERGENCY REGULATIONS FOR 120 DAYS: Pursuant to 1 CMC § 9104(b), the Commonwealth Ports Authority (“CPA”) has adopted as Emergency Regulations the attached amendments to the Airport Rules and Regulations. CPA has followed the procedures of 1 CMC § 9104(b) to adopt these Airport Rules and Regulations on an emergency basis, and these emergency regulations shall be valid for a period of 120 days.

AUTHORITY: The authority for the promulgation of regulations for CPA is set forth in 2 CMC § 2122. 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 CMC § 9104(b).

AGENCY FINDINGS AND BRIEF STATEMENT: In 1998, CPA and the Bank of Guam, as the Bond Trustee, signed the Bond Indenture Agreement, committing CPA’s revenue to service bond principal and interest in return for airport construction and renovation financing. The Bond Indenture Agreement requires CPA to have sufficient revenue to service the debt. Specifically, Section 6.11 of the Bond Indenture Agreement requires CPA to maintain a debt service ratio of 1.25 at all times.

The CPA Board of Directors has found that if CPA were to not meet its debt service ratio requirements, then the health, safety, and welfare of CNMI citizens would be placed in imminent peril due to an acceleration of the balance and/or a takeover in management of the airport. *See also* 30 Com. Reg. 28519–26 (June 27, 2008) (promulgation of emergency regulations to CPA’s Airport Rules and Regulations to increase rates to meet the debt service ratio requirement). CPA notes that it has taken other measures to avoid these rate increases, such as submitting multiple requests to the United States Department of Transportation and the Federal Aviation Administration for supplemental funding under the American Rescue Plan Act of 2021 and the Coronavirus Aid, Relief, and Economic Security Act.

On August 29, 2023, CPA held a Financial Affairs Committee Meeting to discuss the FY 2024 Budget. At that meeting, Ricondo & Associates, who is CPA’s airport consultant, informed the CPA Financial Affairs Committee that, even with the implementation of austerity measures, the debt service ratio requirement would not be met unless additional revenues were generated or expenses were further cut. It was discussed that cutting expenses further would also decrease revenue, leading CPA to determine that it should find alternative sources of revenue to meet its debt service ratio requirement. In discussing alternative sources of revenue, Ricondo & Associates stated that revenue from CPA’s parking fees is lower than what would typically be expected at

similarly-situated airports. The CPA Financial Affairs Committee then requested that Ricondo & Associates forecast multiple scenarios regarding, among other things, adjustments to the public parking fees in order to ensure that CPA meets its debt service ratio requirement.

On August 31, 2023, CPA held a Special Board Meeting to further discuss the FY 2024 Budget and to evaluate the requested scenarios. After considering multiple scenarios, the CPA Board of Directors determined that, in order to protect the welfare of the public, it's in CPA's best interest to increase the Public Parking Fees provided in NMIAC § 40-10.1-1275.

The change in rates to the public parking fees must be effective at the start of Fiscal Year 2024, which begins on October 1, 2023, for CPA to satisfy the debt service ratio requirement. If CPA were to adopt these regulations solely pursuant to 1 CMC § 9104(a), it is likely that the amendments would not become effective until after that date.

Thus, the purpose of this emergency regulation is to ensure that CPA meets its debt service ratio requirement under the Bond Indenture Agreement by increasing public parking fees through the amendment of NMIAC § 40-10.2-1275 and by ensuring that such amendments become effective on October 1, 2023.

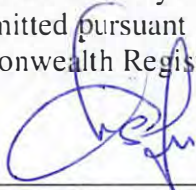
TERMS, SUBSTANCE, AND DESCRIPTION OF THE SUBJECTS AND ISSUES INVOLVED: These emergency regulations amend NMIAC § 40-10.1-1275 by increasing public parking fees.

EFFECTIVE DATE: These emergency regulations shall become effective on October 1, 2023.

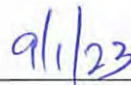
DIRECTIONS FOR FILING AND PUBLICATION: These Emergency Regulations shall be published in the Commonwealth Register in the section on Proposed and Newly Adopted Regulations, 1 CMC § 9102(a)(1), and posted in convenient places in the civic center and in local governments in each senatorial district, both in English and in the principal vernacular. 1 CMC § 9104(a)(1).

TO PROVIDE COMMENTS: These emergency regulations are identical to those attached to the public notice of the "Proposed Amendments to the Airport Rules and Regulations of the Commonwealth Ports Authority," which was submitted to the Commonwealth Registrar contemporaneously with this document. Any comments regarding the substance of these emergency regulations can be submitted pursuant to that notice, which should be included in this Volume and Number of the Commonwealth Register.

Submitted by:



CHRISTOPHER S. TENORIO
Executive Director, CPA



Date

Received by:


OSCAR M. BABAUTA
Special Assistant for Administration

Date

9/8/23

Concurred by:


ARNOLD PALACIOS
Governor

Date

9/13/23

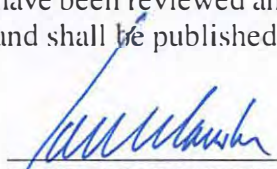
Filed and Recorded by:


ESTHER R.M. SAN NICOLAS
Commonwealth Registrar

Date

09.21.2023

Pursuant to 1 CMC § 2153(e) and 1 CMC § 9104(a)(3), the emergency 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).


EDWARD MANIBUSAN
Attorney General

Date

9/14/2023

§ 40-10.1-1275 Public Parking Fee

(a) All vehicles owned by members of the general public shall park their vehicles in designated public parking areas, and shall pay a public parking fee, as follows:

Parking Category	Fee
0 minutes to 30 minutes	\$3
30 to 60 minutes	\$5
Each additional hour (or fraction of an hour)	\$2
Daily rate (maximum 24 hours)	\$20
Annual rate per vehicle for employees of airport tenants	\$75
Rate per vehicle for frequent flyers – annual	\$400
Rate per vehicle for frequent flyers – semi annual	\$250
Annual rate per vehicle for service and delivery vehicles	\$200

(b) No fee is imposed for CPA vehicles, for vehicles owned by CPA employees and officials, for cars rented from companies with whom CPA has an operating agreement, and for U.S. government and CNMI government vehicles.

Modified, 1 CMC § 3806(f), (g).

History: Amdts Adopted 39 Com. Reg. 39592 (Apr. 28, 2017); Amdts Proposed 38 Com. Reg. 39040 (Dec. 28, 2016); Amdts Adopted 23 Com. Reg. 17842 (Apr. 23, 2001); Amdts Proposed 23 Com. Reg. 17614 (Jan. 19, 2001); Amdts Adopted 21 Com. Reg. 16855 (July 23, 1999); Amdts Proposed 21 Com. Reg. 16779 (May 19, 1999).

Commission Comment: In June 2008, CPA made emergency amendments to this part addressing fees and charges for incineration and aircraft waste handling services. See 30 Com. Reg. 28519 (June 27, 2008). These amendments were effective for only 120 days from June 3, 2008. The notice referred to the permanent adoption of the amendments pursuant to an attached notice of proposed regulations. However, no such notice was attached and Chamorro and Carolinian translations were not published. The regulations were re-proposed in March of 2012. 34 Com. Reg. 32372 (Mar. 29, 2012). If adopted, these sections will be codified as § 40-10.1-1280 and § 40-10.1-1285.

The original paragraphs were not designated. The Commission designated subsections (a) and (b).

The 2001 amendments amended subsections (a) and (b) and deleted former subsection (c).



Commonwealth Healthcare Corporation

Commonwealth of the Northern Mariana Islands

1178 Hinemlu' St. Garapan, Saipan, MP 96950



PUBLIC NOTICE OF CERTIFICATION AND ADOPTION OF NEW FEES FOR VARIOUS SERVICES OF THE COMMONWEALTH HEALTHCARE CORPORATION

PRIOR PUBLICATION IN THE COMMONWEALTH REGISTER
AS PROPOSED RULES AND REGULATIONS
Volume 45, Number 07, pp. 050032-050038, of July 28, 2023

NEW TO THE CHCC CHARGEMASTER

ACTION TO ADOPT PROPOSED REGULATIONS: The Commonwealth of the Northern Mariana Islands, COMMONWEALTH HEALTHCARE CORPORATION ("CHCC"), HEREBY ADOPTS AS PERMANENT regulations the Proposed Regulations which were published in the Commonwealth Register at the above-referenced pages, pursuant to the procedures of the Administrative Procedure Act, 1 CMC § 9104(a). The CHCC announced that it intended to adopt them as permanent, and now does so. (Id.) A true copy is attached. I also certify by signature below that:

as published, such adopted regulations are a true, complete and correct copy of the referenced Proposed Regulations,

and that they are being adopted as published.

PRIOR PUBLICATION: The prior publication was as stated above.

MODIFICATIONS FROM PROPOSED REGULATIONS: Adoption as New Fees to the Chargemaster for Various Services.

AUTHORITY: The Corporation is empowered by the Legislature to adopt these rules and regulations pursuant to 3 CMC Section 2826(c).

EFFECTIVE DATE: Pursuant to the APA, 1 CMC sec. 9105(b), these adopted regulations are effective 10 days after compliance with the APA, 1 CMC §§ 9102 and 9104(a) or (b), which, in this instance, is 10 days after this publication in the Commonwealth Register.

COMMENTS AND AGENCY CONCISE STATEMENT: Pursuant to the APA, 1 CMC sec. 9104(a)(2), the Corporation has considered fully all written and oral submissions respecting the proposed regulations. Upon this adoption of the regulations, the Corporation, if requested to do so by an interested person, either prior to adoption or within 30 days thereafter, will issue a concise statement of the principal reasons for and against its adoption, incorporating therein its reasons for overruling the considerations urged against its adoption.

P.O. Box 500409 CK, Saipan, MP 96950
Telephone: (670) 236-8201/2 FAX: (670) 233-8756

The adopted regulations were approved for promulgation by the Attorney General in the above-cited pages of the Commonwealth Register, pursuant to 1 CMC sec. 2153(e)

I DECLARE under penalty of perjury that the foregoing is true and correct and that this declaration was executed on the 15th of September, 2023 at Saipan, Commonwealth of the Northern Mariana Islands.

Certified and ordered by:



ESTHER L. MUNA
Chief Executive Officer, CHCC



POLLY DLG. MASGA
Chairperson, CHCC Board of Trustees

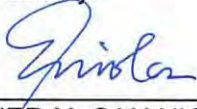
Pursuant to 1 CMC § 2153(e) (AG approval of regulations to be promulgated as to form) and 1 CMC § 9104(a)(3) (obtain AG approval) the certified final regulations, modified as indicated above from the cited proposed regulations, have been reviewed and approved as to form and legal sufficiency by the CNMI Attorney General, and shall be published (1 CMC § 2153(f) (publication of rules and regulations)).

Dated the 15 day of September, 2023.



EDWARD MANIBUSAN
Attorney General

Filed and
Recorded by:



ESTHER M. SAN NICOLAS
Commonwealth Registrar

9.28.23

Date

COMMONWEALTH HEALTHCARE CORPORATION
Fee Edits - as of 02/2023

REV CODE	CHARGE CODE	CPT	MOD	Description	COVID Related?	Reason for change	Previous Price	New Price
	425000583025	97168		OCCUPATIONAL THER RE-EVAL EST PLAN CARE 30 MIN	N	NEW	N/A	\$228.06
	425000583026	97167		OCCUPATIONAL THERAPY EVAL HIGH COMPLEX 60 MINS	N	NEW	N/A	\$328.95
	425000583027	97166		OCCUPATIONAL THERAPY EVAL HIGH COMPLEX 45 MINS	N	NEW	N/A	\$328.95
	425000583028	97165		OCCUPATIONAL THERAPY EVAL LOW COMPLEX 30 MIN	N	NEW	N/A	\$328.95
	965002583234	32608	26	THORASCOPY W/ DIAGNOSTIC BX OF LUNG NODULE(S) OR MASS(ES) (	N	NEW	N/A	\$1,143.54
	775000480555	M0222		BEBTELOVIMAB INJECTION	Y	NEW	N/A	\$1,051.50
	775000480566	0094A		IMM ADMN SARSCOV2 50 MCG/0.5 ML BOOSTER DOSE	Y	NEW	N/A	\$85.17
	315000180960	86037		ANTINEUTROPHIL CYTOPLASMIC ANTB TITER EA ANTB	N	NEW	N/A	\$36.15
	775000480566	0124A		ADM SARSCV2 BVL 30MCG/.3ML B	Y	NEW	N/A	\$85.17
	965002583235	00529	26	ANES MEDIASTINOSCOPY&THORACOSCOPY W/1 LUNG VNT	N	NEW	N/A	496.54
	965001185000	49407	26	IMAGE FLUID COLLXN DRAINAG CATH TRANSREC/VAGINAL	N	NEW	N/A	\$632.19
	365000289403	49407	TC	IMAGE FLUID COLLXN DRAINAG CATH TRANSREC/VAGINAL	N	NEW	N/A	\$4,310.97
	999003701123	1123F	26	ADV CARE PLN TLKD & ALT DCSN MARKER DOCD	N	NEW	N/A	\$0.00
	999003701124	1124F	26	ADV CARE PLN/NO ALT DCSN MKR DOCD OR REFUSAL	N	NEW	N/A	\$0.00
	315000180961	87483		CNS DNA/RNA AMP PROBE MULTIPLE SUBTYPES 12-25	N	NEW	N/A	\$1,250.34
	315000180962	86364		TISSUE TRANSGLUTAMINASE EA IMMUNOGLOBULIN CLASS	N	NEW	N/A	\$34.59
	365000289406	92524	TC	BEHAVIORAL & QUALIT ANALYSIS VOICE AND RESONANCE	N	NEW	N/A	\$ 349.26
	365000289407	92610	TC	EVAL ORAL&PHARYNGEAL SWLNG FUNCJ	N	NEW	N/A	\$ 273.72
	365000289408	92521	TC	EVALUATION OF SPEECH FLUENCY (STUTTER CLUTTER)	N	NEW	N/A	\$ 425.58
	365000289409	92522	TC	EVALUATION OF SPEECH SOUND PRODUCTION ARTICULATE	N	NEW	N/A	\$ 353.97
	365000289410	92523	TC	EVAL SPEECH SOUND PRODUCT LANGUAGE COMPREHENSION	N	NEW	N/A	\$ 729.87
	365000289411	92616	TC	FLEXIBLE NDSC EVAL SWLNG&LARYN SENS C/V REC	N	NEW	N/A	\$ 747.87
	965002583236	92617	26	FLEXIBLE NDSC EVAL SWLNG&LARYN SENS C/V I&R	N	NEW	N/A	\$ 126.18
	365000289412	92612	TC	FLEXIBLE ENDOSCOPIC EVAL SWALLOW C/V REC	N	NEW	N/A	\$ 663.36
	965002583237	92613	26	FLEXIBLE ENDOSCOPIC EVAL SWLLOW C/V REC I&R	N	NEW	N/A	\$ 114.51
	365000289413	92614	TC	FLEXIBLE ENDOSCOPIC EVAL LARYN SENSORY C/V REC	N	NEW	N/A	\$ 489.24
	965002583238	92615	26	FLEXIBLE ENDOSCOPIC EVAL LARYN SENS C/V REC I&R	N	NEW	N/A	\$ 101.70
	365000289414	92511	TC	NASOPHARYNGOSCOPY W/ENDOSCOPE SPX	N	NEW	N/A	\$ 536.25
	965002583239	92511	26	NASOPHARYNGOSCOPY W/ENDOSCOPE SPX	N	NEW	N/A	\$ 119.46
	365000289415	92526	TC	TX SWALLOWING DYSFUNCTION&/ORAL FUNCJ FEEDING	N	NEW	N/A	\$ 273.12
	365000289404	92633	TC	AUDITORY REHABILITATION POSTLINGUAL HEARING LOSS	N	NEW	N/A	\$118.80
	365000289405	92630	TC	AUDITORY REHABILITATION PRELINGUAL HARING LOSS	N	NEW	N/A	\$205.20



Commonwealth Healthcare Corporation

Commonwealth of the Northern Mariana Islands

1178 Hinemlu' St. Garapan, Saipan, MP 96950



PUBLIC NOTICE OF CERTIFICATION AND ADOPTION OF NEW FEES FOR VARIOUS SERVICES OF THE COMMONWEALTH HEALTHCARE CORPORATION

PRIOR PUBLICATION IN THE COMMONWEALTH REGISTER
AS PROPOSED RULES AND REGULATIONS
Volume 45, Number 07, pp. 050039-050045, of July 28, 2023

NEW TO THE CHCC CHARGEMASTER

ACTION TO ADOPT PROPOSED REGULATIONS: The Commonwealth of the Northern Mariana Islands, COMMONWEALTH HEALTHCARE CORPORATION ("CHCC"), HEREBY ADOPTS AS PERMANENT regulations the Proposed Regulations which were published in the Commonwealth Register at the above-referenced pages, pursuant to the procedures of the Administrative Procedure Act, 1 CMC § 9104(a). The CHCC announced that it intended to adopt them as permanent, and now does so. (Id.) A true copy is attached. I also certify by signature below that:

as published, such adopted regulations are a true, complete and correct copy of the referenced Proposed Regulations,

and that they are being adopted as published.

PRIOR PUBLICATION: The prior publication was as stated above.

MODIFICATIONS FROM PROPOSED REGULATIONS: Adoption as New Fees to the Chargemaster for Various Services.

AUTHORITY: The Corporation is empowered by the Legislature to adopt these rules and regulations pursuant to 3 CMC Section 2826(c).

EFFECTIVE DATE: Pursuant to the APA, 1 CMC sec. 9105(b), these adopted regulations are effective 10 days after compliance with the APA, 1 CMC §§ 9102 and 9104(a) or (b), which, in this instance, is 10 days after this publication in the Commonwealth Register.

COMMENTS AND AGENCY CONCISE STATEMENT: Pursuant to APA, 1 CMC § 9104(a)(2), no comments regarding the proposed regulations were submitted during the 30-day comment period. Upon this adoption of the regulations, the Corporation, if requested to do so by an interested person, either prior to adoption or within 30 days thereafter, will issue a concise statement of the principal reasons for and against its adoption, incorporating therein its reasons for overruling the considerations urged against its adoption.

P.O. Box 500409 CK, Saipan, MP 96950
Telephone: (670) 236-8201/2 FAX: (670) 233-8756

RECEIVED
OFFICE OF THE ATTORNEY GENERAL
SEP 28 2023

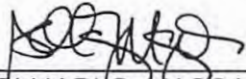
The adopted regulations were approved for promulgation by the Attorney General in the above-cited pages of the Commonwealth Register, pursuant to 1 CMC sec. 2153(e)

I DECLARE under penalty of perjury that the foregoing is true and correct and that this declaration was executed on the 15th of September, 2023 at Saipan, Commonwealth of the Northern Mariana Islands.

Certified and ordered by:



ESTHER L. MUNA
Chief Executive Officer, CHCC



POLLY DLG. MASGA
Chairperson, CHCC Board of Trustees

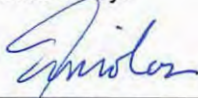
Pursuant to 1 CMC § 2153(e) (AG approval of regulations to be promulgated as to form) and 1 CMC § 9104(a)(3) (obtain AG approval) the certified final regulations, modified as indicated above from the cited proposed regulations, have been reviewed and approved as to form and legal sufficiency by the CNMI Attorney General, and shall be published (1 CMC § 2153(f) (publication of rules and regulations)).

Dated the 15 day of September, 2023.



EDWARD MANIBUSAN
Attorney General

Filed and
Recorded by:



ESTHER M. SAN NICOLAS
Commonwealth Registrar

9.28.23

Date

P.O. Box 500409 CK, Saipan, MP 96950
Telephone: (670) 236-8201/2 FAX: (670) 233-8756



RAYMOND M. MUNA
Chairperson, CSC

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
CIVIL SERVICE COMMISSION
OFFICE OF PERSONNEL MANAGEMENT

P.O. BOX 5153 CHRB, SAIPAN, MP 96950-5153
CSC TEL NO: (670) 233-1606 | FAX NO: (670) 233-4096
OPM TEL. NO: (670) 234-6925 / 6958 | FAX NO. (670) 234-1013
CSC website: <http://www.cnmisc.net> | OPM website: <http://www.cnmiopm.net>



FRANCES TORRES-SALAS
Director of Personnel

**PUBLIC NOTICE OF CERTIFICATION AND ADOPTION OF REGULATIONS OF THE
CIVIL SERVICE COMMISSION**

AMENDMENT TO PREMIUM PAY - TYPHOON EMERGENCY
NMIAC §10-20.2.350 (d)

ACTION TO ADOPT PROPOSED REGULATIONS: The Commonwealth of the Northern Mariana Islands, Civil Service Commission ("CSC"), HEREBY ADOPTS AS PERMANENT regulations the Proposed Regulations which were published in the Commonwealth Register at the pursuant to the procedures of the Administrative Procedure Act, 1 CMC § 9104(a). The CSC announced that it intended to adopt them as permanent, and now does so.

I certify by signature below that as published, such adopted regulations are true, complete, and correct copy of the referenced proposed regulations, and that they are adopted without modification.

PRIOR PUBLICATION: These regulations were published as proposed regulations in 2023 Volume 45, Number 07, Pages 050046 to 050052 of the Commonwealth Register dated July 28, 2023.

ATTORNEY GENERAL APPROVAL: The adopted regulations were approved for promulgation by the Attorney General in the above-cited pages of the Commonwealth Register pursuant to 1 CMC § 2153 (e).

MODIFICATIONS FROM PROPOSED REGULATIONS, IF ANY: None.

AUTHORITY: The Civil Service Commission has statutory authority to promulgate and effect personnel regulations pursuant to 1 CMC § 8117, as amended by Public Law No. 17-80.

EFFECTIVE DATE: Pursuant to the APA, 1 CMC sec. 9105(b), these adopted regulations are effective 10 days after compliance with the APA, 1 CMC §§ 9102 and 9104(a) or (b), which, in this instance, is 10 days after this publication in the Commonwealth Register.

COMMENTS AND AGENCY CONCISE STATEMENT: No written or oral comments regarding the proposed regulations were submitted during the 30-day comment period.

I DECLARE under penalty of perjury that the foregoing is true and correct, and that this declaration was executed on the 6th day of September 2023, at Saipan, Commonwealth of the Northern Mariana Islands.

Certified and ordered by:



RAYMOND M. MUNA,
Chairperson, Civil Service Commission

9.6.2023

Date

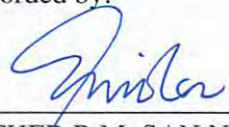
Pursuant to 1 CMC § 2153(e) (AG approval of regulations to be promulgated as to form) and 1 CMC § 9104(a)(3) (obtain AG approval) the certified final regulations, modified as indicated above from the cited proposed regulations, have been reviewed and approved as to form and legal sufficiency by the CNMI Attorney General, and shall be published (1 CMC § 2153(f) (publication of rules and regulations)).

Dated the 20th day of September, 2023.



EDWARD MANIBUSAN
Attorney General

Filed and
Recorded by:



ESTHER R.M. SAN NICOLAS
Commonwealth Registrar

9-28-23

Date

§ 10-20.2-350 Premium Pay

(d) Typhoon Emergency. Employees who are required by the government to work in a location and during a period of time in which a typhoon condition 2 ~~or tropical storm~~ emergency has been declared by the Governor shall be compensated as follows:

(1) For the employee's regularly scheduled work hours during which other government employees are released from work as a result of the emergency, the employee shall receive pay for administrative leave, and shall also receive pay for the actual hours worked; and

(2) For all other hours such employees are required to work while such declaration of emergency shall remain in force, compensation shall be at the rate of two and one-half times the base salary rate. Employees being paid typhoon emergency differential are not eligible to receive any other premium pay or overtime pay for the same time period.



NORTHERN MARIANAS HOUSING CORPORATION

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PUBLIC NOTICE OF CERTIFICATION AND ADOPTION OF AMENDMENTS OF

The Northern Marianas Housing Corporation

PRIOR PUBLICATION IN THE COMMONWEALTH REGISTER
AS PROPOSED REGULATIONS

Volume 45, Number 07, pp. 050053-050090 of July 28, 2023

Regulations, which are the policies and procedures for the Northern Marianas Housing Corporation, Community Development Block Grant – Disaster Recovery (CDBG-DR) Program's Infrastructure Program Policies and Procedures.

ACTION TO ADOPT PROPOSED REGULATIONS: The Northern Marianas Housing Corporation (NMHC) HEREBY ADOPTS AS PERMANENT the Proposed Regulations which were published in the Commonwealth Register at the above-referenced pages, pursuant to the procedures of the Administrative Procedure Act (APA), 1 CMC § 9104(a). The NMHC announced that they intended to adopt these regulations as permanent, and now do so.

I also certify by signature below that as published, Adopted Regulations are a true, complete, and correct copy of the referenced Proposed Amendments to the Northern Marianas Housing Corporation's Infrastructure Program Policies and Procedures under the Community Development Block Grant – Disaster Recovery (CDBG-DR), and they are being adopted without modification or amendment.

PRIOR PUBLICATION: The prior publication was as stated above.

MODIFICATIONS FROM PROPOSED REGULATIONS, IF ANY: None.

AUTHORITY: The Northern Marianas Housing Corporation is empowered by the Legislature with the authority to adopt and modify rules and regulations for the administration and enforcement of its housing programs. 2 CMC § 4433(i).

EFFECTIVE DATE: Pursuant to the APA, 1 CMC § 9105(b), these Adopted Regulations are effective 10 days after compliance with the APA, 1 CMC §§ 9102 and 9104(a) or (b), which, in this instance, is 10 days after this publication in the Commonwealth Register.



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COMMONWEALTH REGISTER VOLUME 45 NUMBER 09 SEPTEMBER 28, 2023 PAGE 050083

COMMENTS AND AGENCY CONCISE STATEMENT: Pursuant to the APA, 1 CMC § 9104(a)(2), the agency shall consider all written submissions respecting the Proposed Regulations. No written or oral comments regarding the proposed regulations were submitted to NMHC during the 30-day comment period.

ATTORNEY GENERAL APPROVAL: The Adopted Regulations were approved for promulgation by the Attorney General in the above-cited pages of the Commonwealth Register, pursuant to 1 CMC § 2153(e) (to review and approve, as to form and legal sufficiency, all rules and regulations to be promulgated by any department, agency or instrumentality of the Commonwealth government, including public corporations, except as otherwise provided by law).

I DECLARE under the penalty of perjury that the foregoing is true and correct and that this declaration was executed on ____ day of September, 2023, at Saipan, Commonwealth of the Northern Mariana Islands.

Certified and ordered by:


Merced "Marcie" M. Tomokane
Chairperson
NMHC Board of Directors

09/12/2023
Date

Filed and
Recorded by:


Esther R.M. San Nicolas
Commonwealth Registrar

9.28.23
Date



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NORTHERN MARIANAS HOUSING CORPORATION

INFRASTRUCTURE PROGRAM POLICIES

VERSION: 2.0

May 30, 2023

Prepared by:

Northern Marianas Housing Corporation – CDBG-DR Program Division



The policies stated in this manual are current as of May 30, 2023. This Manual represents the current version of the Northern Marianas Housing Corporation's (NMHC) policies which provide general guidance for the operation of the Infrastructure Programs. All manuals will be reviewed periodically and updated. Therefore, users are strongly encouraged to visit our website: www.cnmi-cdbgdr.com to access the latest version.

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1.0 CONTENT

1.1 Version Policy

Version history is tracked in Table 1, with notes regarding version changes. The dates of each publication are also tracked in this table. The first version of this document is 1.0.

Substantive changes within this document that reflect a policy change will result in the issuance of a new version 2.0, an increase in the primary version number. Future policy changes will result in additional revision and the issuance of a new primary version number.

Non-substantive changes such as minor wording and editing, or clarification of existing policy, that do not affect the interpretation or applicability of the policy will be included in minor version updates denoted by a sequential number increase behind the primary version number. Such changes would result in a version number such as 2.1, 2.2, etc.

Version	Date of Publication	Notes
Version 1.0	May 25, 2021	
Version 2.0	May 30, 2023	Added New Sections: 5.3.1 Reimbursements on Pre-Agreement Costs 5.3.2 Reimbursements on NMHC CDBG-DR Planning and Administrative Activities Renumbered 5.3.3 Ineligible Activities Added Additional Appendices: Appendix B: Intergovernmental Agency Agreement Appendix E: CDBG-DR Duplication of Benefits Certification Form Renumbered Appendix A: Project Application Form, Appendix C: HUD Rider, and Appendix D: Crosscutting Requirements and Process Overview Added “Eligible Reimbursements on Pre-Agreement Costs” on Table 5 Summary of Infrastructure Program Eligible Activities Added “Eligible Reimbursements on NMHC CDBG-DR Planning and Administrative Activities” to Table 5 Summary of Infrastructure Program Eligible Activities

1.2 Agencies and Acronyms

BCA	Benefit Cost Analysis
DOB	Duplication of Benefits
CUC	Commonwealth Utilities Corporation
DLNR	CNMI Department of Lands and Natural Resources
DPL	CNMI Department of Public Lands
DPW	CNMI Department of Public Works
FEMA	Federal Emergency Management Agency
GIS	Geographic Information System
HCDA	Housing and Community Development Act
HMGP	Hazard Mitigation Grant Program
HPO	Historic Preservation Office
HUD	U.S. Department of Housing and Urban Development
NAI	No Adverse Impacts
NMHC	Northern Marianas Housing Corporation
NTP	Notice to Proceed
PW	Project Worksheet
QPR	Quarterly Status Report
USACE	United States Army Corps of Engineers
USDOL	U.S. Department of Labor
HSEM	CNMI Homeland Security and Emergency Management

1.3 Definitions

Action Plan: A plan to guide the spending of a HUD CDBG-DR grant award to address housing economic, and infrastructure needs after a disaster.

Allocation: 1) Amount of a grant award that has been determined for a particular grantee. 2) Amount of funding attributed to a program.

Community Development Block Grant-Disaster Recovery: Flexible grant assistance from HUD to help the CNMI recover from presidentially declared disasters, especially in low-income areas, subject to availability of supplemental appropriations.

Cross-cutting regulations: Regulations outside CDBG-DR regulations that apply to CDBG-DR programs. These include regulations pertaining to financial management, procurement, environmental, labor, acquisition, relocation, fair housing, and non-discrimination.

Davis Bacon and Related Acts (DBRA): Federal law requiring payment of prevailing wages as determined by the U.S. Department of Labor on certain federally funded projects or most HUD-assisted construction projects. It applies to contractors and subcontractors performing work on federally funded or assisted contracts in excess of \$2,000 for the construction, alteration, or repair of public buildings or public works.

Duplication of Benefits (DOB): A duplication of benefit is the receipt of funding from multiple sources for the same purpose. 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 Disaster Recovery funding with respect to any part of the loss resulting from a major disaster as to which he/she has already received financial under any other program or from insurance or any other sources. It is an amount determined by the program that may result in the reduction of an award value.

Eligible Activity: Activities eligible to be assisted under the CDBG program. All CDBG-DR grantees must: (1) use CDBG funds only for activities that fall under an authorized category of basic eligibility; (2) properly classify the activity; and (3) provide adequate documentation as required by the category it selects for each such activity.

Emergency work: FEMA's Public Assistance program designation for disaster response tasks including debris removal (Category A) and emergency protective measures (Category B) that occur immediately after a disaster.

Emergency Review Record (ERR): The document resulting from required environmental review which includes a description of activities, evaluation of environmental impact, documentation of compliance with applicable environmental regulations, and an environmental determination.

FEMA Individual Assistance Program (FEMA IA): Provides financial help or direct services to those who have necessary expenses and serious needs if they are unable to meet these needs through other means. The forms of help available are housing assistance (temporary housing, repair, replacement) and other needs assistance (personal property, other items).

FEMA Public Assistance Program (FEMA PA): Provides grants to state, tribal, territorial, and local governments, and certain types of private non-profit organizations so that communities can quickly respond to and recover from major disasters or emergencies. Through the program,

FEMA provides supplemental federal disaster grant assistance for debris removal, life-saving emergency protective measures, and the repair, replacement, or restoration of disaster-damaged publicly-owned facilities, and the facilities of certain private non-profit organizations.

Grantee: HUD grantees receive funding from HUD to support HUD's mission to create strong, sustainable, inclusive communities and quality affordable homes for all. HUD grantees include state and local governments, non-profit and for-profit organizations, public housing authorities, and tribal entities.

Implementing Partner: CNMI agencies that are provided CDBG-DR funds by a grantee for their use in carrying out agreed-upon, eligible activities through an Intergovernmental Agreement with NMHC.

Low- and Moderate-Income (LMI): A household considered to be of low- and moderate-income if the household income (including income derived from assets) is at or below 80 percent of an area's median income. All income is based on the Area Median Income limits set annually by HUD.

National Objective: The authorizing statute of the CDBG program requires that each activity funded, except for program administration and planning activities, must meet one of three national objectives. The three national objectives are: 1) Benefit to low- and moderate (LMI) persons; 2) Aid in the prevention or elimination of slums and blight; and 3) Meet a need having a particular urgency (referred to as urgent need). An activity that does not meet a national objective is subject to recapture.

Permanent work: FEMA's Public Assistance program designation for "recovery work" which restores or rebuilds a damaged asset and is comprised of five categories: roads and bridges (Category C); water control facilities (Category D); building and equipment (Category E); utilities (Category F); and parks, recreation facilities, and other facilities (Category G).

Project Worksheet (PW): FEMA form used to document the scope of work and cost estimate for a FEMA Public Assistance project. This form supplies FEMA with the information necessary to approve the scope of work and itemized cost estimate prior to funding.

Request for Release of Funds (RROF): An environmental review term for a process used by Responsible Entities (CNMI) when requesting the release of funds and the authority to use such funds for HUD programs identified by statutes that provide for the assumption of the environmental review responsibility by units of general local government and states. The approval of the RROF is required before environmental clearance may be provided to a recipient of CDBG-DR funds.

Section 3: A provision of the Housing and Urban Development (HUD) Act of 1968 that requires the recipients of HUD financial assistance, to the greatest extent feasible, provide training, employment, and contracting opportunities for low- or very-low-income residents in connection with projects and activities in their neighborhoods.

Section 504: A provision of the Rehabilitation Act of 1973 which provides that no qualified individual with a disability should, only by reason of his or her disability, be excluded from the participation in, be denied benefits of, or be subjected to discrimination under any program or activity receiving financial assistance.

2.0 INTRODUCTION

2.1 Summary

As a result of the 2018 typhoons 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 are being administered by the Northern Marianas Housing Corporation (NMHC). The U.S. Department of Housing and Urban Development's (HUD) allocations for the CNMI's CDBG-DR program total \$243,946,000 to assist local entities with unmet recovery needs for housing, infrastructure, and economic development. This document represents the policies of implementation of the Infrastructure Programs, which include the Local Match for Federal Disaster Recovery Program, the Infrastructure Repair and Resilience Programs.

2.2 Background

In the wake of the storms, President Trump announced a Major Disaster Declaration for Typhoon Mangkhut (**DR-4396**) and another for Super Typhoon Yutu (**DR-4404**) to make federal disaster assistance available to the CNMI. Subsequently, the U.S. Congress approved Supplemental Appropriations for Disaster Relief Requirements (Public Laws 115-254 and 116-20, respectively, which made available \$243,946,000 for the purpose of addressing disaster recovery unmet needs following the onslaught of Typhoon Mangkhut and Super Typhoon Yutu. The CNMI will be strategic in optimizing the mix of the allocation towards infrastructure programs to ensure effective and efficient use of funds. The CNMI, through NMHC, requested for a *Tourism Waiver* by which HUD subsequently approved with certain conditions. See **Federal Register Notice No. 85 60821**

3.0 INFRASTRUCTURE PROGRAMS OVERVIEW

3.1 Summary

The Infrastructure Programs, designed to conform with NMHC's CDBG-DR Action Plan addresses multiple unmet needs for proper functioning of its infrastructure systems. Reliance on these systems which include but not limited to public utilities, educational institutes, and transportation infrastructure, was clearly evident when many failed and closed following the aftermath of Typhoon Mangkhut and Super Typhoon Yutu.

The CNMI has identified multiple infrastructure priorities that must be addressed, many of which directly support housing needs. Residents not only suffered from direct damage to their homes from the 2018 disasters, but also endured the loss of critical services such as power due to damaged public infrastructure. Without water and power, residents were forced to evacuate their homes and seek shelter and emergency assistance.

3.2 Objectives

The objectives of this Infrastructure Programs' policy and procedural manual in addressing the unmet needs of the CNMI through:

- (1) Comprehensive planning to identify resilience opportunities;
- (2) Adoption and enforcement of codes to bring critical infrastructure up to industry standards;
- (3) Holistic mitigation designs to meet future challenges and hazards; and
- (4) Covering a portion of the CNMI's local match obligations.

All CDBG-DR programs must meet one of three HUD National Objectives: benefit low- to moderate-income persons (LMI), elimination of slum and blight, or address an urgent need. For the Infrastructure Programs, it is expected that most projects will seek to meet the Low- to Moderate-Income Area (LMA) Benefit as the National Objective. This objective is met when at least 51% of residents in the service area are classified as LMA. Projects seeking funding under these programs will need to assess the service area and beneficiaries of the project's impact as a part of the overall benefit requirement.

4.0 METHOD OF DISTRIBUTION

4.1 Prioritization Criteria Definitions

A standard set of criteria was developed through the Action Plan to ensure funding is allocated to projects that will have the biggest benefit to recovery first. Infrastructure Programs are designed around the same set of criteria, which are used in the concept development and project design phases. These criteria are defined as follows:

- **LMI:** Project beneficiaries are documented to be at least 51% low- and moderate-income persons;
- **LMA:** Project service area has been determined to be at least 51% low/mod and is predominately residential;
- **Readiness:** Projects demonstrate they are ready to begin rehabilitation or construction. A project is considered "ready" if environmental review and engineering have already been completed, where required OR the project can demonstrate an accelerated timeline. For instance, external factors like gubernatorial executive orders or the approach of a new typhoon season may warrant a heightened priority.

- **Criticality:** Determined based on the extent to which the normal conduct of social, economic, or government processes is impeded without the project. Special consideration will be given to projects that have a strong tie to housing unmet needs or will contribute to long-term recovery and restoration of housing.
- **Resilience:** Project includes measures that prevent vulnerability in the future or provide innovative solutions to existing vulnerabilities.
- **Technical Feasibility:** The degree of specialized equipment or advanced technical capacity required.
- **Sustainability:** Degree to which modern sustainability standards or best practices are taken into consideration for the project.
- **Economic Benefit:** The project is evidenced to resolve an impediment to or create new opportunities for economic activities.

Documentation supporting the fulfillment of relevant criteria will be collected in coordination between Implementing Partners and NMHC during the Initial Scope and Budget Phase and the Detailed Scope and Budget Phase. Program staff will then determine the priority level of each project taking into account the criteria as well as the other project needs at the time and evaluation and selection will follow the methodology as prescribed in NMHC's Action Plan and in accordance to HUD requirements on the use of CDBG-DR funds.

Infrastructure activities will be based on a scoring criterion with concentrations on the islands of Saipan and Tinian as most impacted areas. It was also desired that infrastructure activities selected would benefit the Islands as a whole due to the fact that any block group and/or any combination of block groups qualifies as a low- and moderate-income benefit area and that over 90 percent of the population on any island are minority residents. These factors also ensure economic stability so residents can remain in homes and residences and retain their jobs because the infrastructure is improved. The actual size of the Islands also means that all persons will benefit from most of the infrastructure improvements.

The following scoring criteria will be utilized to select priority infrastructure projects and activities.

Scoring Criteria		Max Points
1	*All priority needs must support housing* Priority Need: Meets one of the priority needs identified in the CDBG DR Action Plan	25
Priority 1	Support the restoration/improvement of utilities, water, and sewer facilities (25 points)	
Priority 2	Support the restoration/improvement of roads and drainage systems (20 points)	
Priority 3	Support the restoration/improvement of critical facilities such as the schools, hospital, and others that improve services to the general public (15 points)	
Priority 4	Support the leverage of funding with other disaster	

		assistance (such as FEMA and USACE) to ensure resiliency in infrastructure (10 points)	
	Priority 5	Support the restoration of other public facilities such as community centers, gymnasiums, etc. (5 points)	
2	Storm Resilience: In addition to addressing housing unmet needs, program or project proposals need to show how they would improve resilience to future storm-related damage.		15
3	Overall LMI benefit (Percent LMI benefit of the activity): Higher LMI benefit of the activity will receive a higher score. For example, a project with 100 percent LMI benefit would be scored higher than a project with 65 percent LMI benefit.		25
4	Management Capacity: Subrecipient, program manager, and/or developer presents a depth of program or project, case, and compliance management capacity to deliver services on-time and on-budget.		15
5	Cost Reasonable Budget: Budgets reflect cost reasonableness and affirmative efforts to leverage CDBG-DR funds with additional funding to address unmet needs. The budget narrative reflects research, quotes and/or contracted pricing.		20
Total Maximum Points			100

4.2 Local Match for Federal Disaster Recovery Method

4.2.1 Program Administration

Administering Entities: NMHC and CNMI Public Assistance Office

Eligible Applicants: Governmental and quasi-governmental entities

Estimated Start and End Dates: November 24, 2020 to November 24, 2026.

Eligibility Criteria: The projects must be currently funded under a federal funding source that requires a local match and demonstrate a tie to the storm or have clear evidence of resiliency functions to prevent future damage. Infrastructure projects must exhaust other eligible funding sources, such as FEMA, prior to receipt of CDBG-DR. Applicants need not meet all prioritization criteria to be eligible.

Program Allocation: \$105,881,835

Maximum Award: There is no maximum award for an individual project. Awards will be based on project cost estimates and benefit analysis.

National Objectives: Low- and Moderate-Income Area

4.2.2 Program Description

Typically, federal disaster recovery programs require State or local governments to pay a share of the cost of a project, commonly referred to as “local match.” In the aftermath of a disaster, the local match requirements can be burdensome on grant recipients with limited resources that have been overwhelmed and depleted by emergency and relief work and further exacerbated by lost government revenues.

To address this financial burden, Congress allows CDBG-DR funds to be used to provide the local match. The CNMI, through NMHC, has developed the Local Match for Federal Disaster Relief Program (Match Program) to provide the cost share for CDBG-DR eligible projects. Priority will be given to infrastructure projects providing critical services directly related to housing needs. CDBG-DR funds for local match will be used as the funding of last resort and only after an eligibility determination has been made and a duplication of benefits analysis is completed.

The CNMI is receiving FEMA PA funds through two disasters: FEMA-4396-DR for Typhoon Mangkhut and FEMA-4404-DR for Super Typhoon Yutu. As of 12/01/2020, FEMA has written one-hundred and twenty-four (124) Project Worksheets (PWs) for a total of \$16.5 million.

CDBG-DR funds are limited in the Match Program for FEMA PA-eligible PWs and other federal funding sources requiring a local match, such as EDA funding. For these projects, the CDBG-DR funds may not be used to expand a project beyond the scope already approved by the federal agency. In addition, to be eligible for CDBG-DR assistance, the activity must be an eligible activity and meet a national objective, per CDBG-DR rules and regulations. Similarly, the project must fully comply with all applicable rules and regulations, to include Davis Bacon and Related Acts, Section 3, Section 504, procurement, environmental review and all other CDBG-DR, cross-cutting, local applicable statutes, rules and regulation.

All infrastructure under the FEMA PA program is being designed to consider mitigation components to protect against future damages. Proactive measures to promote risk-informed infrastructure development include diversification of power generation, relocation of critical facilities, and flood mitigated roads. All projects undertaken through the CDBG-DR program will be coordinated with the results of a planning process.

To align future CDBG-DR projects with existing CNMI capital improvement projects, Implementing Partners may be required to consult with the CNMI Department of Public Lands (DPL), CNMI Lands and Natural Resources (DLNR), CNMI Historic Preservation Office (HPO), and CNMI Department of Public Works (DPW). Given the historic and cultural significance of a multitude of buildings and areas, infrastructure projects should also address the historic preservation priorities of HPO. Much of the proposed power and water-related work through this Infrastructure Program are already aligned with the goals of capital projects

envisioned by the Commonwealth Utilities Corporation (CUC) and NMHC's HUD-approved Action Plan.

Roles and Responsibilities

NMHC

NMHC administers the grant funds for the Match Program through its CDBG-DR Division. Program staff are responsible for ensuring projects comply with all applicable federal and local regulations, including but not limited to, Pub. L. 115-254 and Pub. L. 116-20, NEPA, HCDA, and local procurement regulations where applicable, and aligned with the CDBG-DR Action Plan. Program staff provide technical assistance to Implementing Partners to meet these requirements as needed. NMHC may proactively identify priority PWs for match based on reporting on PW obligation and draw status provided the PAO.

- (1) Determine sufficient capacity and payment procedures are in place for Implementing Partners;
- (2) Determine project eligibility and mechanisms to comply with crosscutting requirements;
- (3) Disburse funds in accordance with NMHC financial policies;
- (4) Complete desk, onsite, and formal monitoring of the project; and
- (5) Prepare and maintain documentation of activities and compliance with requirements for monitoring and audits.

Implementing Partner

The Implementing Partner under the Match Program is the entity that serves as the project applicant under any federal program requiring local cost share for Mangkhut and Yutu. Implementing Partners coordinate between NMHC and PAO to ensure critical documentation of activities, such as invoices, timesheets, and records of construction are available for monitoring. Implementing Partners can request funds from the Match Program by submitting the Project Application form (*See Appendix B*).

- Meet the requirements of NMHC grant conditions
- Manage all aspects of design and construction
- Coordinate activities with the other federal and CNMI government agencies
- Report back to NMHC on a monthly basis
- Prepare and maintain documentation of activities and compliance with requirements for monitoring and auditing

PAO

PAO is the administering entity for federal cost share of FEMA projects. It is responsible for processing and approving drawdown requests under the FEMA programs requiring local cost shares. NMHC and PAO may be required to coordinate closely on the timing of draw requests, document sharing, and payment schedules to ensure eligible invoices are paid in a timely

manner. PAO is responsible for reporting on the status of PW obligations and drawdowns to NMHC to assist in identifying priority PWs.

4.2.3 Method of Match Implementation

Once a project has been identified as a priority for the Match Program, NMHC intends to use a “coordinated match” approach to consolidate requirements and reduce administrative burden. Using the 10% local match requirement for FEMA PA as an example, the following scenarios demonstrate the advantages of a coordinated match strategy over a traditional approach.

4.2.3.1 Traditional Match

A traditional approach to matching the local cost share is to provide 10% of individual PW line items. This carries heavy administrative burdens as for each FEMA PW requiring a match, every single activity will have to adhere to CDBG-DR and crosscutting requirements, requiring a tedious line-item review. These requirements go beyond the requirements of FEMA, so applying them across the entirety of the project is a heavy administrative requirement and may result in ineligible projects.

4.2.3.2 Coordinated Match

Coordinated match approaches the required cost shares as a holistic package, then isolates 10% of the total activities to focus only on those that are HUD-eligible costs. A project may use CDBG-DR for design, FEMA PA for construction, for example. This reduces administrative burden and avoids duplication of benefits.

4.3 Infrastructure Repair and Resilience Program

4.3.1 Program Administration

Administering Entity: NMHC

Estimated Start and End Dates: November 24, 2020 to November 24, 2026

Eligible Applicants: Governmental and quasi-governmental entities

Eligibility Criteria: Must be a project that meets the proposed goals stated below. Infrastructure projects must exhaust other eligible funding sources such as FEMA prior to receipt of CDBG-DR. Applicants need not meet all prioritization criteria to be eligible.

Program Allocation: \$105,881,835

Maximum Award: There is no maximum award for an individual project. Awards will be based on project cost estimates and cost benefit analysis.

National Objective: Low- and Moderate-Income Area benefit, Low- and Moderate-Income Limited Clientele.

4.3.2 Program Description

The goals of the Infrastructure Repair and Resilience Program (Repair and Resilience Program) are to:

- Repair and replace damaged infrastructure
- Harden infrastructure against extreme weather events; and
- Construct new infrastructure to improve the level and breadth of service to communities

The CNMI, through NMHC, shall ensure that there is no duplication of benefits and will follow the guidance for proper documentation and administration of the program. There will be a review process for project selection as contained in the Action Plan and based on the priorities identified and Intergovernmental Agreements as deemed necessary.

Program funds will be used to meet the three goals described below. Priority will be given to projects directly supporting housing needs and critical services. Roads and public and community facilities will be prioritized as they are sectors with the greatest unmet need.

- *Repair and Replacement:* The Repair and Resilience Program will pay for eligible costs to complete repairs and replacements for public infrastructure that have not yet been completed (e.g., repair of non-federal aid roads)
- *Hardening:* The Repair and Resilience Program will cover activities to harden infrastructure against severe weather conditions. This will include both structural and non-structural measures to harden facilities against high winds, heavy rainfall, flood exposure, storm water run-off, and their effects (e.g., erosion).
- *New Construction:* The Repair and Resilience Program will cover the cost of new construction to extend public services to populations that are not currently connected and/or to deliver services more effectively. This reduces the cost of each individual project, minimizes disturbances to traffic flow, and decreases the risk of damage to previously placed but unmarked utilities.

Roles and Responsibilities

NMHC

NMHC administers the grant funds for the Repair and Resilience Program through the CDBG-DR Division. Division staff are responsible for ensuring projects comply with all applicable federal and local regulations including but not limited to, Pub. L. 115-254 and Pub. L. 116-20, NEPA, HCDA, and local procurement regulations where applicable, and aligned with the CDBG-DR Action Plan. NMHC's responsibilities include:

- Determine sufficient capacity and payment procedures for Implementing Partners
- Determine project eligibility and mechanisms to comply with crosscutting requirements

- Disburse funds in accordance to NMHC’s financial policies
- Complete desk, onsite, and formal monitoring of projects
- Prepare and maintain documentation of activities and compliance with requirements for monitoring and audits

Implementing Partners

The Implementing Partner under the Repair and Resilience Program refers to the entity managing and executing the project activities. Implementing Partners can request funds from the Repair and Resilience Program by submitting a Project Application (Appendix B). The Implementing Partner’s responsibilities include:

- Meet the requirements of NMHC Capacity Assessment and grant conditions
- Manage all aspects of design and construction
- Responsibly manage project funds
- Coordinate activities with other federal and local agencies
- Implement crosscutting requirements
- Report back to NMHC on a monthly basis
- Prepare and maintain documentation of activities and compliance with requirements for monitoring and audits.

5.0 CDBG-DR PROGRAM REQUIREMENTS

The CNMI will ensure that each project that receives funding under the Infrastructure Programs corresponds to a CDBG-DR eligible activity, meets a national objective, and demonstrates a direct connection to the disaster and correlation to housing. Funds will be provided as payment to governmental agencies, eligible organizations, or other entities for eligible activities within approved scopes with relevant documentation from Implementing Partners.

5.1 Overall Program Administration

NMHC will oversee all activities and expenditures in connection with the CDBG-DR funds. Existing NMHC employees, additional personnel and contractors will be hired to aid in the administration of, and to carry out, the recovery programs. These partners will ensure that the Program meets all requirements, including but not limited to: the disaster threshold, eligibility, national objective, compliance, fair housing, labor standards, nondiscrimination, environmental regulations, Section 3, and procurement regulations.

NMHC has created a Compliance and Monitoring Manual in accordance with CDBG-DR requirements so that each activity funded will meet the disaster threshold and one of HUD’s three national objectives, which emphasis on eligible activities achieving the primary national objective of benefiting low- and moderate-income persons.

All projects must comply with any applicable federal laws and regulations and effectively meet their stated goals. In accordance with HUD requirements, NMHC will submit a Quarterly Performance Report (QPR) through DRGR no later than thirty days following the end of each calendar quarter. QPRs will be posted on a quarterly basis until all funds have been expended and all expenditures have been reported. QPRs will be informed by monthly reports submitted by Implementing Partners to NMHC.

5.2 Tie to the Disaster

All activities funded with CDBG-DR in the Infrastructure Program must in some way respond to a direct to indirect impact of one of the following federally-declared disasters:

- Typhoon Mangkhut (DR-4396)
- Super Typhoon Yutu (DR-4404)

Match Program

FEMA disaster recovery programs, along with the EPA disaster recovery programs, require clear documentation showing a direct storm-related impact as a prerequisite for entry into these programs and funding. Only after an impact threshold has been met will the lead federal agency consider making disaster funds available to the applicant. It is assumed that if the applicant received funding and support through one of the federal recovery programs, set out above, the applicant was impacted by one or more of the declared disasters. For example, the FEMA PA program, a tie to the storm is documented by FEMA's approval of the PW.

Repair and Resilience and Electrical Power System Program

For non-FEMA projects, the tie to the disaster will be determined by one of the following:

- For physical losses – Damage, rebuilding estimates, or insurance estimates
- For economic or other non-physical losses – Post disaster analyses or assessments (documenting relationship between loss and disaster)¹
- Funds may be used to address an unmet need that arose from a previous disaster, which was exacerbated by a disaster cited in the Appropriation.
- If an impact or need originating from a disaster identified in the Appropriation is subsequently exacerbated by a future disaster, funds may also be used to address the resulting exacerbated unmet need.

5.3 Eligible Activities

Table 5 below summarizes the total infrastructure CDBG-DR allocations in accordance with basic eligible activities per HCDA Section 105:

¹ <https://www.hudexchange.info/resources/documents/CDBG-DR-Eligible-Activities-Slides.pdf>

Table 5. Summary of Infrastructure Program Eligible Activities

Program	Sectors	HCDA Eligible Activities (Section 105(a))
Local Match for Federal Disaster Relief Programs	1. Educational Facilities 2. Energy 3. Government Facilities 4. Hospitals & Healthcare Facilities 5. Telecommunications 6. Transportation (including roads, ports, & airports) 7. Waste: Solid Waste/ Landfill 8. Debris 9. Water & Wastewater	• Payment of the Non-federal Share • Acquisition of Real Property • Public Facilities and Improvements • Clearance, Rehabilitation, Reconstruction, and Construction of Buildings • Public Services • Relocation • Assistance to Institutions of Higher Education (must be facility)
Infrastructure Repair and Resilience	Same as above	• Acquisition of Real Property • Public Facilities and Improvements • Clearance, Rehabilitation, Reconstruction, and Construction of Buildings • Public Services • Relocation • Assistance to Institutions of Higher Education (must be facility) • Eligible Reimbursements on Pre-Agreement Costs • Eligible Reimbursements on NMHC CDBG-DR Planning and Administrative Activities
Electrical Power Systems Enhancement and Improvements	Energy	• Acquisition of Real Property • Public Facilities and Improvements • Clearance, Rehabilitation, Reconstruction, and Construction of Buildings • Relocation • Payment of the Non-federal Share

Program	HCDA Ineligible Activities
Local Match for Federal Disaster Relief Programs	• Operations and Maintenance • Content Replacement (Except Firefighting Equipment) • Any improvement made necessary because of poor maintenance or operational practices • Any improvements which will result in operations that are not in compliance with applicable state, federal, and local laws and regulations • Debris Removal
Infrastructure Repair and Resilience	• Operations and Maintenance • Content Replacement (Except Firefighting Equipment) • Any improvement made necessary because of poor maintenance or operational practices • Any improvement which will result in operations that are not in compliance with applicable state, federal, and local laws and regulations
Electrical Power and Water Systems Enhancement and	• Maintenance of lines • Rehabilitation of lift stations and water reservoirs if no damage or failure to function took place • Any improvements made necessary because of poor maintenance or operational practices • Any improvements which will result in operations that are not in compliance with applicable state, federal, or local laws and regulations

For each activity, the CNMI will determine the appropriate service area based on factors including: the nature of the activity; the location of the activity; accessibility issues; the availability of comparable activities; and boundaries for facilities and public services. The CNMI will ensure that projects will be prioritized to provide services to LMI persons and support unmet housing needs.

5.3.1 Reimbursement on Pre-Agreement Costs

Pursuant to 24 CFR 570.489 (b), the CNMI, through NMHC, may permit, in accordance with procedures NMHC may establish, a unit of general local government (hereinafter referred to as “Implementing Partner,” interchangeably) to incur costs for CDBG activities before the establishment of a formal grant relationship between the Implementing Partner and to charge these pre-agreement costs to the grant, provided that the project activities are eligible and undertaken in accordance with the requirements of this part and 24 CFR Part 58. The CNMI may incur costs prior to entering into a grant agreement with HUD and charge those pre-agreement costs to the grant, provided that the activities are eligible and are undertaken in accordance with the requirements of this part, Part 58 of this title, and the citizen participation requirements of part 91 of this title.

(a) Minimum Reimbursement Requirements.

- (1) Formal claims letter to NMHC that delineates and describes incurred costs and justifying request for reimbursement as well as disclosing funding source(s) used to cover incurred costs;
- (2) Completion of a Duplication of Benefits Analysis;
- (3) NMHC determines that pre-agreement incurred costs are eligible CDBG activities.

5.3.2 Reimbursements of NMHC CDBG-DR Planning and Administrative Activities

(a) Planning

The eligible activity is planning, urban environmental design, and policy planning management capacity building activities as listed in 24 CFR 570.205 or 570.483(b)(5) and (c)(3).

The eligible activity is planning, urban environmental design, and policy planning management capacity building activities that include.

- (1) Planning activities which consist of all costs of data gathering, studies, analysis, and preparation of plans and the identification of actions that will implement such plans, including, but not limited to:
 - (i) Comprehensive plans;

- (ii) Community development plans;
- (iii) Functional plans, in areas such as: Housing, including the development of a consolidated plan; Energy use and conservation; Utilities;
- (iv) Other plans and studies such as:

Plans or studies to demonstrate HUD's "Must Impacted and Distressed" (MID) Areas for Saipan and Tinian and for selection of activities that are appropriate for MID areas. Small area and neighborhood plans;

Individual project plans (but excluding engineering and design costs related to a specific activity which are eligible as part of the cost of such activity under §§570.201 570.204);

The reasonable costs of general environmental, urban environmental design and historic preservation studies; and general environmental assessment and remediation oriented planning related to properties with known or suspected environmental contamination. However, costs necessary to comply with 24 CFR Part 58, including project specific environmental assessments and clearances for activities eligible for assistance under this part, are eligible as part of the cost of such activities under §§ 570.201 570.204. Costs for such specific assessments and clearances may also be incurred under this paragraph but would then be considered planning costs for the purposes of § 570.200(g);

Strategies and action programs to implement plans, including the development of codes, ordinances, and regulations; Assessment of Fair Housing.

- (2) 24 CFR 570.489(b): Reimbursement of pre-agreement costs. The State may permit, in accordance with such procedures as the State may establish, a unit of general local government to incur costs for CDBG activities before the establishment of a formal grant relationship between the State and the unit of general local government and to charge these pre-agreement costs to the grant, provided that the activities are eligible and undertaken in accordance with the requirements of this part and 24 CFR part 58. A State may incur costs prior to entering into a grant agreement with HUD and charge those pre-agreement costs to the grant, provided that the activities are eligible and are undertaken in accordance with the requirements of this part, part 58 of this title, and the citizen participation requirements of part 91 of this title.

[53 FR 34439, Sept. 6, 1988, as amended at 56 FR 56127, Oct. 31, 1991; 60 FR 1915, Jan. 5, 1995; 71 FR 30035, May 24, 2006; 80 FR 42366, July 16, 2015]

(b) Administration

The eligible activity is program administration as listed in 24 CFR 570.204 as defined by the Federal Register Vol. 85, No. 17 for the 6 yr. duration of the CDBG DR Program. The activity pays for administration costs such as compliance, monitoring, and audit related functions and supports the overall administration of the projects, programs, and activities funded with the CDBG DR dollars.

- (i) 24CFR 570.489(b): Reimbursement of pre-agreement costs. The State may permit, in accordance with such procedures as the State may establish, a unit of general local government to incur costs for CDBG activities before the establishment of a formal grant relationship between the State and the unit of general local government and to charge these pre-agreement costs to the grant, provided that the activities are eligible and undertaken in accordance with the requirements of this part and 24 CFR part 58. A State may incur costs prior to entering into a grant agreement with HUD and charge those pre-agreement costs to the grant, provided that the activities are eligible and are undertaken in accordance with the requirements of this part, part 58 of this title, and the citizen participation requirements of part 91 of this title.

5.3.3 Ineligible Activities

The CDBG-DR program regulations identify certain activities as categorically ineligible. They also identify certain other activities that are ineligible unless they are carried out under the authority of §570.204.

The general rule in the CDBG-DR program is that any activity that is not authorized under the provisions of §570.201-570.206 (or, where applicable, the statute) is ineligible to be assisted with CDBG-DR funds. However, the eligible activities are so broad that it is easy to forget that some activities that are ineligible and to provide guidance in determining the eligibility of other activities frequently associated with housing and community development.

Categorically Ineligible

The following activities may not be assisted with CDBG-DR funds under any circumstance:

- General government expenses. Except as otherwise specifically authorized in Subpart C of Part 570 or under OMB Circular A-87, expenses required to carry out the regular responsibilities of the unit of general local government are not eligible for assistance under their part. Reference: §570.207(a)(2).
- Political activities. CDBG-DR funds may not be used to finance the use of facilities or equipment for political purposes or to engage in other partisan political activities, such as candidate forums, voter transportation, or voter registration. However, a facility originally assisted with CDBG-DR funds may be used on an incidental basis to hold political meetings, candidate forums, or voter registration campaigns, provided that all parties and organizations have access to the facility on an equal basis, and are assessed equal rent or use charges, if any. Reference §570.207(a)(3).

Generally Ineligible

The following activities may not be assisted with CDBG-DR funds unless authorized as Special Economic Development Activities under §570.203 or §570.204.

- Furnishings and personal property. The purchase of equipment, fixtures, motor vehicles, furnishings, or other personal property not an integral structural fixture is generally

ineligible. CDBG-DR funds may be used, however, to purchase or to pay depreciation or use allowances (in accordance with PMB Circulars A-21, A-87, or A-122, as applicable) for such items when necessary for use by a recipient or its subrecipients in the administration of activities assisted with CDBG-DR funds, or when eligible as firefighting equipment, or when such items constitute all or part of a public service pursuant to §570.201(e)2. Also, these items are eligible when carried out by a for-profit business as part of CDBG-DR assistance under the authority of §570.203(b). Reference: §570.207(b)(1).

- Operating and maintenance expenses. The general rule is that any expense associated with repairing, operating, or maintaining public facilities, improvements, and services are ineligible.
 - However, specific exceptions to this general rule are operating and maintenance expenses associated with public service activities [see §570.201(e)], interim assistance [see §570.201(f)], and office space for program staff employed in carrying out the CDBG program (see §570.206).
 - For example, the use of CDBG-DR funds to pay the allowable costs of operating and maintaining a facility used in providing a public service (e.g., salaries, rent) would be eligible under §570.201 (e), even if no other costs of providing the service there are assisted with such funds. Examples of operating and maintenance expenses that are generally ineligible include:
- Maintenance and repair of publicly-owned streets, parks, playgrounds, water and sewer facilities, neighborhood facilities, senior center, centers for persons with disabilities, parking, and other public facilities and improvements. Examples of maintenance and repair activities for which CDBG-DR funds may not be used include the filling of pot holes in streets, repairing of cracks in sidewalks, the mowing of grass in city or county parks, and the replacements of street light bulbs.
- Payment of salaries for staff, utility costs, and similar expenses necessary for the operation of public works and facilities. Reference: §570.207(b)(2).

5.4 National Objectives

Per HUD CFR 570 Section 101(c), the primary objective of the Program is the development of viable communities by the provision of decent housing and a suitable living environment and expanding economic opportunities, principally for persons of low and moderate income. The statute further states that this is to be achieved in the CDBG program by ensuring that each funded activity meets one of three named national objectives. Those three objectives are identified as: benefiting low- and moderate-income persons; preventing or eliminating slums or blight; and meeting urgent needs. Federal Register FR-6109-N-01 states that each grantee must ensure that at least 70% of all CDBG-DR funds must be used for activities qualifying under the national objectives of Benefit to Low- and Moderate-Income Persons. The following national objectives are applicable to all Infrastructure Programs and all projects will be required to meet at least one of the national objectives below.

National Objective: Low- and Moderate-Income Area, Low- and Moderate-Income Limited Clientele, or Urgent Need, Slum and Blight.

5.4.1 Low- and Moderate-Income Area (LMA)

To be eligible as LMA, the project service area must be at least 51%LMI households and be predominantly residential. In instances where the infrastructure investment activity does not serve the entire island but a particular location, an LMA analysis will be conducted to determine the low- and moderate-income benefit.

5.4.2 Low- and Moderate-Income Limited Clientele (LMC)

In contrast to the area benefit category, it is not the LMI concentration of the service area of the activity that determines whether the activity will qualify or not, but rather the actual number of LMI persons that benefit from the activity. Activities in this category provide benefits to a specific group of persons rather than everyone in an area. It may benefit particular persons without regard to their residence, or it may be an activity that provides a benefit to only particular persons within a specific area.

5.4.3 Urgent Need

While at least 80% of the entire CDBG-DR grant will be used for activities that benefit LMI persons, for certain activities the Northern Mariana Islands will use the Urgent Need national objective. Activities carried out under the urgent need objective will not count towards the 80% LMI benefit.

5.4.4 Required Documentation

National Objective	Required Documentation
LMI Area Benefit	Boundaries of service area of activity; Census data including total persons and percentage LMI; Evidence area is primarily residential; and Survey documentation (if applicable).
LMI Limited Clientele	Documentation that the beneficiaries are or are presumed to be LMI (by category).
Urgent Need	Per 83-FR-5856, CDBG certification requirements for documentation of urgent need, located at 24 CFR 570.483(d), are waived and replace with: 1. Document how each program and/or activity funded under the urgent need national objective responds to a disaster-related impact. 2. For each activity that will meet an urgent need national objective, the grantee must reference in its action plan needs assessment the type, scale, and location of the disaster-related impacts that each program and/or activity is addressing over the course of the applicable deadline for the expenditure of obligated grant funds.

5.5 Duplication of Benefits

The Infrastructure Programs will include a duplication of benefits as part of the scope and budget review and award calculation process. The requirements of the Robert T. Stafford Act (Stafford Act), as amended, prohibit any person, business concern, or other entity from receiving federal funds for any part of such loss for which they have already received financial assistance under any other program, private insurance, charitable assistance, or any other source. This duplicative funding is called Duplication of Benefit (DOB). Any government entity that provides disaster recovery assistance must both prevent and correct any DOB by the establishment and implementation of policies to identify and adjust for such duplicative assistance payments.

DOB may apply in the following circumstances: when assistance for the same purpose has been received; when assistance for the same purpose will be received; or when assistance for the same purpose is reasonably available from another source, such as insurance or legal settlements due to the property owner.

All Implementing Partners will be reasonable for accurately reporting the availability or receipt of duplicative grants, loans, insurance payments, legal claims, gifts or other payments pertaining to the property being mitigated. Reporting should occur at any point that such information becomes available, including:

- During scoping process development, pre-award, and approval;
- During the grant period of performance;
- During closeout; and
- After grant closeout, if duplicative funds are received at a later date.

Implementing Partners are responsible for reporting DOB information to NMHC. NMHC is ultimately responsible for ensuring that project participants comply with federal laws and regulations. Any agency receiving duplicate benefits is legally responsible for the repayment of those benefits.

5.5.1 Preventing Duplication

All Implementing Partners and subrecipients must complete the DOB calculations as part of the Initial Scope of Work, as well as the Project Application Form, with assistance from Program staff. Both forms request information about all other sources of funding the agencies must be aware of that may impact the DOB. Agencies must provide documentation of these sources but NMHC will also verify these funding sources with other federal partners. This process will be supported by TA from Program staff. Also included in these forms is the standard calculation method used by Program staff to determine if a duplication is present. Project DOB information must be maintained by the agency and reported to NMHC throughout the life of the project. The agency reviews reported DOB and makes appropriate deductions. Additionally, CDBG-DR funds may not be used to supplant local resources use for infrastructure projects.

NMHC maintains records in accordance with Federal grants requirements and assures that the agency has accurately completed DOB reviews and made deductions as appropriate. FEMA must also take steps to assure that its disaster-related assistance funds do not duplicate other

assistance by providing information to NMHC and agency, as needed, to clarify DOB requirements.

FEMA's role may include coordination with other Federal agencies, insurance companies, or any other public or private entity to request and provide access to records to assure there is no DOB.

5.5.2 Recapture

An applicant may be required to repay all, or a portion of the funds received. The reasons for recapture include but are not limited to the following:

- An Implementing Partner or subrecipient is determined to have provided false or misleading information to the Program;
- An Implementing Partner or subrecipient withdraws from the Program prior to completion of the project;
- An Implementing Partner or subrecipient does not complete construction;
- An Implementing Partner or subrecipient fails to meet a national objective of the Program;
- An Implementing Partner or subrecipient is found to have used program funds for an ineligible activity; and/or
- An Implementing Partner or subrecipient does not report the receipt of additional insurance, SBA, FEMA, non-profit assistance and/or any other duplication of benefits received after award.

The Program will develop a detailed recapture policy for the overall CDBG-DR program. The policy, once developed, will be referenced in an update to this manual.

5.6 Elevation Requirements

The following elevation standards apply to new construction, repair of substantial damage, or substantial improvement of structures located in an area delineated as a flood hazard area or equivalent in FEMA's data source identified in 24 CFR 55.2(b)(1).

Mixed-use structures with no dwelling units and no residents below two feet above base flood elevation, must be elevated or flood proofed, in accordance with FEMA floodproofing standards at CFR 60.3(c)(3)(ii) or successor standard, up to at least two feet above base flood elevation. Implementing entities should review the UFAS accessibility checklist available at <https://www.hudexchange.info/resources/796/ufas-accessibility-checklist/> along with the HUD Deeming Notice, 79 FR 29671 (May 23, 2014) to ensure that these structures comply with accessibility requirements.

All Critical Actions, as defined as 24 CFR 55.2(b)(3) within the 500-year (or 0.2 percent annual chance) floodplain must be elevated or flood proofed (in accordance with the FEMA standards) to the higher of the 500-year flood plain elevation or three feet above the 100-year floodplain elevation. If the 500-year floodplain is unavailable, and the Critical Action is in the 100-year floodplain, then the structure must be elevated, or flood-proofed at least three feet above the 100-

year floodplain elevation. Critical Actions are defined as an “activity for which even a slight chance of flooding would be too great, because such flooding might result in loss of life, injury to persons or damage property.” Critical actions include hospitals, nursing homes, police stations, fire stations and principal utility lines.

5.7 Infrastructure Program/Specific Requirements

HUD established infrastructure planning and design requirements for Grantees of this and the Prior Notice. Grantees are required to address long-term recovery and hazard mitigation planning in their Action Plan or substantial amendment by describing how projects will:

- Promote sound sustainable long-term recovery planning informed by post-disaster hazard risks;
- Adhere to elevation requirements of Prior Notice;
- Coordinate with local and regional planning efforts, including how Grantee will promote community-level and/or regional post-disaster recovery and mitigation planning;
- For infrastructure allocations, Grantee must describe how mitigation measures will be integrated into rebuilding activities, how infrastructure activities will be informed by cost-benefits analysis, how Grantee will ensure infrastructure does not have adverse impact on vulnerable populations, how Grantee will align investments with other planning capital improvements and infrastructure efforts and work to foster and leverage funding from other sources, and how Grantee will employ adaptable and reliable technologies to guard against premature obsolescence of infrastructure. Subrecipients and Implementing Partners will also be held to the requirements.

5.7.1 Integration of Mitigation for Resilience

The CNMI is acutely concerned with the potential impacts of future storms and therefore will prioritize mitigation across all programs to build comprehensive resilience. Resilience is the state of a community in which the foundational systems are strong and capable of withstanding, or quickly bouncing back from, a disruption. Whether this is a natural or man-made hazard or an unanticipated economic downturn, the social cohesion, diverse economic opportunities, strong infrastructure, and emergency response capacities all contribute to such resilience.

All infrastructure under the FEMA PA is being designed to consider mitigation components and this will continue to be done under CDBG-DR. proactive measures to promote risk-informed infrastructure development may include diversification of power generation, micro-grid development, relocation of critical facilities, and flood-mitigated roads.

Recipients of funds may be required to provide a narrative in Project Application of how mitigation principles and practices will be incorporated before the signing of contract agreements to ensure mitigation is a key factor from the onset of project design. The specific mitigation measures and technologies included in the project or program will again be evaluated during a Detailed Scope and Budget phase. This may be done in collaboration with HMPG work to ensure coordination the CNMI’s other approaches to mitigation. Potential infrastructure or resilience

projects may also be evaluated based on guidance outline in FEMA's Hazard Mitigation Assistance Guidance including:

- Technical Feasibility
- Cost and cost-reasonableness
- Effects on the environment and cultural resources
- Community support
- Promotion of community resilience
- To what extent the project design reduces vulnerability
- To what extent the project includes measures to avoid or minimize adverse impacts to floodplains, wetlands, or other environmental and cultural resources
- Accessibility accommodations for individuals with disabilities and/or access and functional needs

5.7.2 Green Infrastructure

In addition to hardening infrastructure and following elevation requirements, the CNMI will seek to incorporate the “no adverse impacts” approach (NAI) set forth by the Association of State Floodplain Managers. This strategy relies on calculated mix of mitigation approaches to ensure infrastructure development does not increase flooding risks. A key consideration in NAI is green conveyance of water through communities. All proposed projects under the Infrastructure Programs will be required to provide a narrative summary of the green infrastructure components applicable to the project during the Initial Scope and Budget Phase and are encouraged to use the ASFPM's NAI How-to-Guide for Infrastructure to assist in effective project design.²

Green infrastructure and sustainable design may be incorporated in multiple stages of NMHC's process for the selection and design of projects. Implementing Partners must describe again in the Detailed Scope and Budget Phase, how after more in-depth design, the project will incorporate green infrastructure components.

5.7.3 Costs and Benefits

Infrastructure projects typically carry a high cost of labor and materials, relative to the continental U.S., due to the isolated geography and limited workforce in the CNMI. Each project will be informed by a consideration of cost and benefits, considering these unique circumstances, but whenever possible, should utilize local/regional talent and materials to reduce costs.

The CNMI's approach to assessing costs and benefits may be based on two existing frameworks. The first, HMPG's Guidance on cost effectiveness, relies on a Benefit Cost Analysis, where projects for which benefits exceed costs are generally considered cost effective. The project cost estimate includes a line-item breakdown of all anticipated costs, including, as applicable:

- Costs for anticipated environmental resource impact treatment or historic property treatment measures

² <https://www.floods.org/ace-images/ASFPMInfrastructureFinalJuly28.pdf>

- Costs for engineering designs/specifications, including hydrologic and hydraulic studies/analyses required as an integral part of designing the project
- Construction/demolition/relocation costs, such as survey, permitting, site preparation, and material/debris disposal costs
- All other costs required to implement the mitigation project, including any applicable project-type specific costs

Benefits in this methodology are often calculated using standard loss of function estimates provided by relevant federal agencies, which may also be utilized by the CNMI.

Given the CNMI's approach to mitigation and resilience as giving full consideration systemic, inter-related processes that promote resilience, the method produced through the National Disaster Resilience Competition (NDRC) may help to supplement some of the factors.

Under this method, to the greatest extent possible, a narrative description may be produced to identify evidence-based practices as the basis for the project proposal. This method includes the following steps:

- A full proposed cost, including Federal, Territorial, and private funding, as well as expected operations and maintenance costs and functionally related to geographically related work;
- A description of the current situation and the problem to be solved (including anticipated changes over the analysis period);
- A description of the proposed project or program including functionally or geographically related elements and estimated useful life;
- A description of the risks to the community if the proposal and any land use, zoning or building code changes are not implemented, including costs that might be avoided if a disaster similar to the qualifying disaster struck again, including costs avoided if as a result of the project remaining effective in a future disaster;
- A list of the benefits and costs of the proposal and the rationale for including each effect using the table provided according to the following categories:
 - Lifecycle Costs;
 - Resiliency Value;
 - Environmental Value;
 - Social Value; and,
 - Economic Revitalization.
- A description of risks to ongoing benefits from the proposed project or program; and
- An assessment of challenges faced with implementing the proposal.³

NMHC will determine applicability of these cost and benefit analyses at the time of the Detailed Scope and Budget development.

5.7.4 Opportunities and Impacts

³ <https://www.hudexchange.info/resources/documents/NDRC-Phase-2-NOFA-Appendix-H-Benefits-Cost-Analysis-Instructions.docx>

A key target population for this program will be low-income residents and businesses that qualify under Section 3. The Section 3 program requires that recipients of certain HUD financial assistance, to the greatest extent possible, provide training, employment, contracting and other economic opportunities to low- and very low-income persons, especially recipients of government assistance for housing, and to businesses that provide economic opportunities to low- and very low-income persons. Each agency receiving funds under the Infrastructure Programs will receive technical assistance from NMHC and direct hiring and training assistance from CNMI DOL to ensure their projects are compliant with Section 3 to the greatest extent feasible.

It is a guiding principle of this allocation to combat the effects of disproportionate impacts for vulnerable populations. Each project will be assessed during design and implementation to determine who benefits from the resulting infrastructure repairs and improvements. For all three Infrastructure Programs, geographic and demographic analysis will be used to determine how oft-neglected communities will be impacted by a project. In the CNMI, low- and moderate-income residents will be the priority beneficiaries for all infrastructure work.

These guiding principles should be incorporated into the projects under the Infrastructure Programs and include:

- Design of processes and materials to facilitate access and full participation by at-risk groups.
- Facilitating access to financial resources, technical assistance, and logistics support to ensure adequate preparation and full participation.
- Ensuring that at-risk groups can articulate and represent their interests.
- Ensuring that assessment protocols for policies, programs, strategies, and projects include measures for assessing the impact on at-risk groups.

5.7.5 Covered Projects

Requirements under 83 FR 40314 state that projects surpassing a total investment of \$200 million threshold or that are complex enough in the opinion of the Federal Permitting Improvement Steering Council will require enhanced oversight including additional environment reviews. While the CNMI has not identified any infrastructure projects that currently reach this threshold, should any projects meet this criteria, the CNMI may choose to complete these additional requirements under Fixing America's Surface Transportation, Title 41 (FAST-41), which established federally accepted procedure to improve early consultation and coordination among government agencies; increase transparency through the publication of project-specific timetables with completion dates for all federal authorizations and environmental reviews; and increase accountability through consultation and reporting on projects.⁴ per the Federal Register Notice, CDBG-DR grantees may choose to participate in reporting on their environmental review and permitting of covered projects under FAST-41.

⁴ <https://www.energy.gov/oe/mission/transmission-permitting-and-technical-assistance-division/fast-41>

NMHC may be administering projects which meet this threshold through any of the two Infrastructure Programs. NMHC will be actively reporting environmental reviews and permitting for projects of all sizes to HUD and relevant Territorial agencies but does not currently plan to participate in FAST-41.

6.0 APPENDICES

- 1. Appendix A: Project Application Form**
- 2. Appendix B: Intergovernmental Agency Agreement**
- 3. Appendix C: HUD Rider**
- 4. Appendix D: Crosscutting Requirements and Process Overview**
- 5. Appendix E: CDBG-DR Duplication of Benefits Certification Form**



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PUBLIC NOTICE OF CERTIFICATION AND ADOPTION OF AMENDMENTS OF The Northern Marianas Housing Corporation

PRIOR PUBLICATION IN THE COMMONWEALTH REGISTER
AS PROPOSED REGULATIONS

Volume 45, Number 07, pp. 050091-050208 of July 28, 2023

Regulations, which are the policies and procedures for the Northern Marianas Housing Corporation, Community Development Block Grant – Disaster Recovery (CDBG-DR) Program's Homebuyer Activities Program's & Homeowner Rehabilitation and Reconstruction Program's Policies and Procedures

ACTION TO ADOPT PROPOSED REGULATIONS: The Northern Marianas Housing Corporation (NMHC) HEREBY ADOPTS AS PERMANENT the Proposed Regulations which were published in the Commonwealth Register at the above-referenced pages, pursuant to the procedures of the Administrative Procedure Act (APA), 1 CMC § 9104(a). The NMHC announced that they intended to adopt these regulations as permanent, and now do so.

I also certify by signature below that as published, such Adopted Regulations are a true, complete, and correct copy of the referenced Proposed Amendments to the Northern Marianas Housing Corporation's Homebuyer Activities Program's & Homeowner Rehabilitation and Reconstruction Program's Policies and Procedures under the Community Development Block Grant – Disaster Recovery (CDBG-DR), and they are being adopted without modification or amendment.

PRIOR PUBLICATION: The prior publication was as stated above.

MODIFICATIONS FROM PROPOSED REGULATIONS, IF ANY: None.

AUTHORITY: The Northern Marianas Housing Corporation is empowered by the Legislature with the authority to adopt and modify rules and regulations for the administration and enforcement of its housing programs. 2 CMC § 4433(i).



Tinian Field Office

Tel: (670)433-9213

Fax: (670)433-3680

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

CDBG-DR Office

Tel: (670)233-9447/9448/9449

Rota Field Office

Tel: (670)532-9410

Fax: (670)532-9441

EFFECTIVE DATE: Pursuant to the APA, 1 CMC § 9105(b), these Adopted Regulations are effective 10 days after compliance with the APA, 1 CMC §§ 9102 and 9104(a) or (b), which, in this instance, is 10 days after this publication in the Commonwealth Register.

COMMENTS AND AGENCY CONCISE STATEMENT: Pursuant to the APA, 1 CMC § 9104(a)(2), the agency shall consider all written submissions respecting the Proposed Regulations. No written or oral comments regarding the proposed regulations were submitted to NMHC during the 30-day comment period.

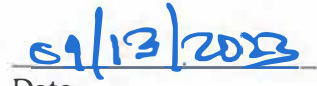
ATTORNEY GENERAL APPROVAL: The adopted regulations were approved for promulgation by the Attorney General in the above-cited pages of the Commonwealth Register, pursuant to 1 CMC § 2153(e) (to review and approve, as to form and legal sufficiency, all rules and regulations to be promulgated by any department, agency or instrumentality of the Commonwealth government, including public corporations, except as otherwise provided by law). As such, no further approval is not required.

I DECLARE under the penalty of perjury that the foregoing is true and correct and that this declaration was executed on ____ day of September 2023, at Saipan, Commonwealth of the Northern Mariana Islands.

Certified and ordered by:



Merced "Marcie" M. Tomokane
Chairperson
NMHC Board of Directors

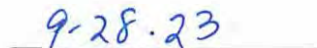


Date

Filed and
Recorded by:



Esther R.M. San Nicolas
Commonwealth Registrar



Date



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TITLE 100: NORTHERN MARIANAS HOUSING CORPORATION

SUBCHAPTER 100-100.3 CDBG-DR POLICIES AND PROCEDURES FOR HOMEBUYER ACTIVITIES

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APPENDIX A.1: Crosscutting Requirements

1.1 Crosscutting Requirements
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1.5 Limited English Proficiency
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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

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;

(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:

- (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.

- (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:

	<u>Minimum Length of the Affordability Period</u>
<u>Rehabilitation</u>	<u>5 years</u>
<u>New Construction</u>	<u>15 years</u>

- (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.

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

\$3,914.00 Total

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. ($\$60,000 / 15 \text{ years affordability period} \times 2 \text{ years remaining} = \$8,000 \text{ recapture.}$)
 - (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.

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:

- (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

The minimum grant amount shall not be less than \$1,000.00.

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.

§ 100-100.3-735 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 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 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 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 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.
- (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.
- (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.

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- (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
- (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

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;

- 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@nmhc.gov.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)/(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 applicant 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



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

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

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

Part 001	General Provisions	§ 100-100.4-340	Rehabilitation or Reconstruction Grant Application
§ 100-100.4-001	Introduction		
§ 100-100.4-002	Public Announcement	§ 100-100.4-345	Application Intake and Processing
Part 100	Purpose and Requirements	§ 100-100.4-350	Verification of Income
§ 100-100.4-101	Purpose of the Program	§ 100-100.4-355	Administration, Approval, Appeals Process
§ 100-100.4-102	Ineligible Activities	§ 100-100.4-360	Homeowner Counseling Session
§ 100-100.4-103	General Requirements	§ 100-100.4-365	Grant Agreement
Part 200	Grant Specifications	§ 100-100.4-370	Preliminary Title Report (PTR)
§ 100-100.4-201	Grant Amount	§ 100-100.4-374	Contractor Selection Process
§ 100-100.4-205	Target Group	§ 100-100.4-375	Pre-Construction Conference
§ 100-100.4-210	Income Eligibility	§ 100-100.4-380	Submission of Pre-Construction Documents
§ 100-100.4-215	Property Eligibility		
§ 100-100.4-235	Use of Grant Funds	Part 400	Rehabilitation
§ 100-100.4-240	Eligible Costs	§ 100-100.4-401	Performing Rehabilitation Work
Part 300	Grant Application Process	Part 500	
§ 100-100.4-301	Confidentiality	Part 600	Affordability
§ 100-100.4-305	Discrimination Prohibited	§ 100-100.4-601	Affordability Restrictions
§ 100-100.4-310	Pre-Qualification Interview	Part 700	Conveyance
§ 100-100.4-315	Eligibility Notification	§ 100-100.4-701	Sale, Conveyance, or Transfer or Property
§ 100-100.4-320	Ineligible Applicants		
§ 100-100.4-325	Initial Inspection of Residence	Part 800	Assumption
§ 100-100.4-330	Lead-Based Paint		
§ 100-100.4-335	Environmental Review Procedures for Entities Assuming HUD Environmental Responsibilities (24 C.F.R. Part 58)		

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§ 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

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

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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 between 81% and 120% 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 which (a) the combined household income is greater than 120% AMI of the national median, (b) whose property sustained damage in the typhoons and was located in a floodplain at the time of the disaster, **and** (c) 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 including applicants who are above the 80% but less than 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.

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- (4) Undergo duplication of benefits analysis.
- (5) 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 may authorize a greater amount.

§ 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:

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

- (a) 0% to 80% AMI- 1st priority:
- (b) 81 – 120% AMI- 2nd priority:

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§ 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 between 80% and 120% 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 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:

NORTHERN MARIANAS HOUSING CORPORATION

- (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, 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

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- 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;
 - (ii) Meeting applicable codes, standards, and ordinances;
 - (iii) Essential improvements;

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

*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 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

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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 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.

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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

- (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

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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/offoror'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, 3rd 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.

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 deficiencies¹ 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 work².
- (3) **Lead-based Paint.** NMHC's standards must conform with HUD's lead-based paint requirements at 24 CFR part 35³.
- (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 requirements⁴ 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.

¹ 24 CFR 92.251(b)(1)(i)

² 24 CFR 92.251(b)(1)(ii)

³ 24 CFR 92.251.(b)(1)(iii)

⁴ 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 Council⁵.
- (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 5.705⁶. 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.,

⁵ 24 CFR 92.251(b)(1)(vii)

⁶ 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 2nd 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:

Fixture:	Cold Water:	Hot Water:	Soil/Waste:	Vent:
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

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 1 3/4" 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 1 3/4" 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 1 1/2" 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 1/4" thick safety tempered glass with aluminum frame. 4 screws on each side.
- (b) Kitchen window min. size 3'x3' sliding glass window with a 1/4" thick safety tempered glass window with aluminum frame. 3 screws on each side.
- (c) Dining room window min. size 3'x4' Height with a 1/4" 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 1/4" 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 1/4" 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-- 1.5 gpm. [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

Inspectable Item	Observable Deficiency	Type and Degree of Deficiency That Must Be Addressed
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**

Inspectable Item	Observable Deficiency	Type and Degree of Deficiency That Must Be Addressed
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

Inspectable Item	Observable Deficiency	Type and Degree of Deficiency That Must Be Addressed
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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Ceiling	Bulging/Buckling	
	Holes/Missing Tiles/Panels/Cracks	
	Peeling/Needs Paint	
	Water Stains/Water Damage/Mold/Mildew	
Doors	Damaged Frames/Threshold/Lintels/Trim	
	Damaged Hardware/Locks	
	Damaged/Missing Screen/Storm/Security Door	
	Damaged Surface - Holes/Paint/Rusting/Glass	
	Deteriorated/Missing Seals (Entry Only)	
	Missing Door	
Electrical System	Blocked Access to Electrical Panel	
	Burnt Breakers	
	Evidence of Leaks/Corrosion	
	Frayed Wiring	
	GFI - Inoperable	
	Missing Breakers/Fuses	
	Missing Covers	
Floors	Bulging/Buckling	
	Floor Covering Damage	
	Missing Flooring Tiles	
	Peeling/Needs Paint	
	Rot/Deteriorated Subfloor	
	Water Stains/Water Damage/Mold/Mildew	
Health and Safety	Air Quality - Mold and/or Mildew Observed	
	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

Inspectable Item	Observable Deficiency	Type and Degree of Deficiency That Must Be Addressed
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

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:

Environmental Determination	Estimated Timeline for Preparation
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.

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 Exclusions 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.



Eli D. Cabrera
Administrator

Commonwealth of the Northern Mariana Islands
OFFICE OF THE GOVERNOR
Bureau of Environmental and Coastal Quality
Division of Coastal Resources Management
P.O. Box 501304, Saipan, MP 96950
Tel: (670) 664-8300; Fax: (670) 664-8315
www.dcrm.gov.mp



Richard V. Salas
Director, DCRM

**PUBLIC NOTICE OF PROPOSED AMENDMENTS TO NMIAC CHAPTER 15-10
TO REVISE THE PERMIT APPLICATION AND AMENDMENT PROCEDURES**

NOTICE OF INTENDED ACTION: The Commonwealth of the Northern Mariana Islands, Office of the Governor, Coastal Resources Management (CRM) Regulatory Agencies intend to amend NMIAC Chapter 15-10 to revise the Division of Coastal Resources Management (DCRM) permit application and amendment procedures.

AUTHORITY: These amendments are promulgated under the authority of the CRM Regulatory Agencies to adopt new regulations under 1 CMC § 1531(d) and as required by Public Law No. 22-05. These proposed regulations were approved by the CRM Regulatory Agencies in a public meeting on April 05, 2022, and the Division of Coastal Resources Management (DCRM) Director was authorized to promulgate these regulations on behalf of the CRM Regulatory Agencies.

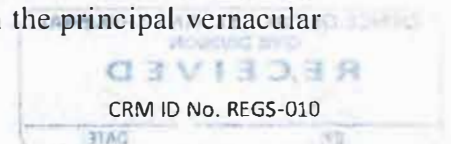
TERMS AND SUBSTANCE: These proposed amendments seek to revise DCRM's regulations to:

- Provide for permitting decisions to be made by a majority of CRM Agency Officials;
- Reduce the number of CRM Agency Officials required for a quorum;
- Clarify procedures for requesting and granting extensions of the time to construct;
- Increase the monetary threshold for significant alterations and substantial expansions;
- Include a presumption that changes occurring more than 10 years after permit issuance are a substantially new project;
- Clarify procedures for permit amendment;
- Clarify authority for determinations of violation; and
- Provide for partial revocation of permit conditions, including conditions permitting physical development of a project site.

CITATION OF RELATED AND/OR AFFECTED STATUTES, RULES, AND REGULATIONS: The proposed amendments affect NMIAC Chapter 15-10 by amending the following provisions:

- §15-10-215 Review of Application
- §15-10-230 Decision on CRM Application
- §15-10-610 Mandatory Conditions
- §15-10-701 CRM Permit Amendment
- §15-10-830 Remedies

DIRECTIONS FOR FILING AND PUBLICATION: The proposed amendments shall be published in the Commonwealth Register in the section on proposed and newly adopted regulations (1 CMC § 9201(a)(1)) and posted in convenient places in the civic center and in local governmental offices in each senatorial district, 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 Sam Sablan, DCRM Permit Manager, to the following address, fax, or email address, with the subject line "Proposed Revisions to Permit Application and Amendment Procedures."

BUREAU OF ENVIRONMENTAL AND COASTAL QUALITY
DIVISION OF COASTAL RESOURCES MANAGEMENT

PO Box 501304
Saipan, MP 96950
Fax: (670) 664-8540
Email: ssablan@dcrm.gov.mp

Comments are due within thirty (30) calendar days from the date of publication of this notice.
1 CMC § 9104(a)(2).

Submitted by:



Richard V. Salas
Director, Division of Coastal Resources Management

9/11/23

Date

Received by:



Mr. Oscar M. Babauta
Special Assistant for Administration

9/13/23

Date

Filed and Recorded by:



Ms. Esther R.M. San Nicolas
Commonwealth Registrar

9.28.23

Date

I certify, pursuant to 1 CMC § 2153(e) and 1 CMC § 9104(a)(3), that I have reviewed and approved these regulations as to form and legal sufficiency.



Mr. Edward Manibusan
Attorney General

9/14/2023

Date

§ 15-10-215 Review of Application

- (a) APC Permits. See §15-10-105 for provisions related to review of application APC permits.
- (b) Major Siting Permits

(1) The DCRM Director and the CRM Agency Officials shall have 60 days from the date of the certification of completion of application to grant or deny a major siting permit. For the purposes of 2 CMC § 1532(a), the term “receipt of any request for review” shall mean CRM certification of completion of a permit application.

(2) The CRM Office shall review the application, publish notice of its contents, schedule a permit hearing, and transmit the application to the CRM Agency Officials for review. The DCRM Office shall provide technical findings on the impacts of proposed projects to assist CRM Agency Officials in reaching a ~~unanimous~~ decision on CRM permit applications and shall ensure compliance of CRM permit decisions with this Chapter and 2 CMC § 1532(d). Where ~~unanimous~~ decision pursuant to § 15-10-230(d) cannot be reached, the matter shall be submitted to the Governor for his determination pursuant to 2 CMC § 1532(d). If the Governor subsequently approves the project proposal, a permit with appropriate conditions shall be issued by the DCRM Office and signed by the Governor.

§ 15-10-230 Decision on CRM Application

The CRM Agency Officials shall review the CRM permit application, hearing transcripts, if any, DCRM technical findings, supporting documentation and relevant laws, rules and regulations, and issue a ~~unanimous~~ written decision to grant, deny, or grant with conditions, a CRM permit in accordance with the policies of 2 CMC §§ 1501, et seq. and applicable rules and regulations. In reviewing a CRM permit application, the following procedures shall apply:

- (a) Voluntary Disqualification. CRM Agency Officials participating in decisions regarding CRM permits shall do so in an impartial manner. They shall not contribute to decisions on CRM permits where there exists an appearance of bias, or where actual bias may prevent them from exercising independent judgment. Should a CRM Agency Official determine, after considering the subject matter of a CRM permit application, that bias, or the appearance of bias, might appear to prevent him from exercising independent judgment, he or she shall excuse themselves from that decision and appoint an alternate with comparable qualifications to act in his or her stead.
- (b) Disqualification by Challenge. If a CRM Agency Official refuses to disqualify himself or herself under subsection (a), an applicant or affected person may petition the DCRM Director at any time prior to the issuance of a permit decision for disqualification of a CRM Agency Official because of bias or the appearance of bias. A petition for disqualification shall be accompanied by a declaration under the penalty of perjury containing facts supporting the assertion of bias. The Director shall review the petition and determine whether the facts give rise to a significant inference of bias, and if so, he or she shall inform the challenged CRM Agency Official that he/she is disqualified. If a CRM Agency Official is disqualified the DCRM Director shall appoint a qualified alternate from the same department to act in the disqualified CRM Official’s stead. Alternates are also subject to disqualification by challenge of a party or affected person.
- (c) Quorum for Decision. At least ~~three~~four CRM Agency Officials qualified to vote on the permit application at hand are required for a quorum to grant or deny that permit application.
- (d) ~~Majority Unanimous~~ Decision Required. Decisions regarding issuance or denial of CRM permits by the CRM Officials shall be by ~~majority unanimous~~ vote. Attendance for all CRM officials at the meeting to vote on the permit is not required, but the decision shall be by ~~majority unanimous~~ vote of the attending Officials. Disagreements among the CRM Agency Officials shall be mediated by the DCRM Director, and he or she shall assist in the preparation of a joint decision in order to achieve ~~majority unanimous~~ consent.

(1) The fact that an agency declines to vote for or against the issuance of a permit shall not affect whether a ~~majority~~~~unanimous~~ decision has been made, but a decision regarding the issuance of a permit must be made by at least ~~three~~~~four~~ voting CRM Officials, and the vote must be a ~~majority~~~~decision~~~~unanimous~~ amongst all voting CRM Agency Officials.

(2) The determination on whether a ~~majority~~ of CRM Agency Officials have ~~unanimously~~ agreed to the issuance of a CRM permit is based on the vote by CRM Officials in attendance at the meeting to vote on whether to issue the permit. If there was a ~~majority~~~~unanimous~~ decision to award or not award a permit, that decision is deemed as a ~~majority~~~~unanimous~~ vote by all CRM Regulatory Agencies.

(3) If, after the vote and while a permit is being sent to CRM Agency Officials to be signed, a CRM Agency Official that had voted to issue a permit refuses to sign, that will be considered a vote against the measure, and there ~~may~~~~will~~ no longer be a ~~majority~~~~unanimous~~ decision regarding the issuance of a permit. In that case, the Director shall forward the application to the Governor to resolve the deadlock, as per subsection (f).

(4) The permit does not need to be signed by a non-voting CRM Agency Official in order to be valid.

(e) Compliance with Coastal Resource Management Act. The Director shall certify that each CRM permit decision complies with 2 CMC §§ 1501, et seq. and applicable rules and regulations.

(f) Deadlock Resolution by Governor. In the event that the ~~majority~~~~unanimity~~ required by subsection (d) is not obtained, and/or the DCRM Director is unable to certify that a ~~majority~~~~unanimous~~ decision of CRM Agency Officials complies with 2 CMC § 1501, et seq. and/or applicable rules and regulations, the Director shall forward the CRM permit application to the Governor for resolution of the deadlock.

(1) Referral. Determination that a deadlock exists regarding a decision over a CRM permit application shall be made by the Director within the 60 day period of review by CRM Agency Officials specified by § 15-10-215. A deadlocked CRM permit application shall be referred to the Governor for resolution within 10 days following this determination.

(2) Supporting Documentation. In addition to the deadlocked CRM permit application, the Director shall forward all supporting documentation, including additional briefs, if any, filed by the applicant, and statements of support or opposition by CRM Agency Officials. If a deadlock results solely from the Director denial of certification of compliance with CRM laws, then he or she shall supply a statement of his or her objections. If a deadlock results from dispute among CRM Agency Officials, then statements reflecting the divergent views on the CRM permit application shall be obtained from the CRM Agency Officials and forwarded with CRM permit application to the Governor for his or her review.

(3) Decision. After receipt of the deadlocked CRM permit application and accompanying documents, briefs and statements referred to above, the Governor shall have 30 days to render his or her decision. He or she may grant, deny, or conditionally grant a CRM permit. He or she must issue written findings of facts and conclusions of law for his or her decision.

(4) Review. The decision of the Governor in a deadlock resolution under this section shall be conclusive for purposes of permit issuance or denial. Parties objecting to the Governor's decision may, if they seek review of the Governor's decision, appeal directly to the Appeals Board.

(g) Written Findings and Conclusions. Decisions rendered by the CRM Agency Officials on granting, denying, or conditionally granting CRM permits shall be accompanied by written findings of facts and conclusions of law. The DCRM Office shall assist the Agency Officials in preparing a consensus draft of findings of fact and conclusions of law for signature by CRM Agency Officials and the Director.

(h) Issuance of CRM Permit. If a ~~majority~~ of the CRM Agency Officials ~~unanimously~~ agree on the issuance or conditioned issuance of a CRM permit and the DCRM Director certifies that the CRM permit complies with 2 CMC §§ 1501, et seq. and applicable rules and regulations, the

CRM permit shall be issued. The DCRM Office shall prepare a written CRM permit stating the terms and conditions of issuance and obtain the signatures of the following on the CRM permit:

- (1) All CRM Agency Officials that voted for the issuance of the permit; and
 - (2) The Director.
- (i) Issuance of CRM Permit in case of Deadlock. In the case of a deadlocked decision on a CRM permit application, if the Governor finds that it is proper to grant or conditionally grant a CRM permit, then the DCRM Office shall prepare a written CRM permit stating the terms and conditions of issuance and obtain the signature of the Governor.
- (j) He/She Who Decides Must Hear. In those cases where a public hearing is held on a CRM permit application, the CRM Agency Officials shall review and consider the matters discussed or presented at the hearing. To this end, CRM Agency Officials shall, whenever practicable, attend CRM permit hearings, and if unable to attend a hearing, they shall listen to the audio recording of the hearing, or obtain and read a stenographic transcript prior to rendering any decision on the affected CRM permit application.
- (k) Notice. Within 14 days of the issuance of a CRM permit decision, CRM shall publish notice of such issuance in a newspaper of general circulation in the Commonwealth.

§ 15-10-610 Mandatory Conditions

All CRM permits shall contain at least the following conditions:

- (a) Inspection. The DCRM Director or his designee shall have the right to make reasonable inspections of the out-of-doors portions of a permitted project site at any reasonable time in order to assess compliance with the CRM permit and its conditions.
- (b) (1) Timing and Duration. Permitted physical development of the project site subject to a CRM permit shall begin within the time frame specified for project commencement on the permit. The maximum time allowed for project commencement shall be one year. The construction of the project shall be completed within the time frame specified on the permit for project completion. The maximum time allowed for construction shall be three years unless it can be demonstrated that the construction requires additional time. Upon project completion, the permittee shall deliver a completion certificate to the DCRM Office that issued the permit. If the construction is not completed within the time frame specified in the permit, the permittee may submit a request for extension of the permit condition specifying expiration. The request will be reviewed by the DCRM Director who may (A) extend or amend the time to construct permit condition for good cause by issuing a letter of extension or (B) refer the request to the CRM Agency Board if in the DCRM Director's discretion amendment of other permit conditions or inclusion of new permit conditions is also required as a result of the extension. Requests for extension must be submitted to the DCRM Office prior to expiration of the time allowed for construction. Once the time for construct has expired, no further extensions may be granted and submission of a new permit application will be required.
- (2) All conditions attached to the permit shall be of perpetual validity unless action is taken to amend, suspend, revoke or otherwise modify the CRM permit.
- (c) Duty to Inform. The CRM permit holder, whether it be the applicant or a successor in interest, shall be required to notify the DCRM Director in writing if he/she has knowledge that any information in the CRM permit application was untrue at the time of its submission or if he/she has knowledge of any unforeseen adverse environmental impacts of the permitted project. A CRM permit holder shall further have the duty to inform any successor in interest of the permit granted and the conditions attached thereto, if any; and the successor in interest shall, within five days thereafter, advise the DCRM Office of his/her interest in writing.
- (d) Compliance with Other Law(s). The CRM permit is valid only if the permitted project is otherwise lawful and in compliance with other necessary governmental permits.

(e) The following conditions will be included in every permit involving construction of any kind:

(1) The permittee shall be responsible for preventing discharge of construction site chemicals through the proper use of best management practices as described in the document Construction Site Chemical and Material Control Handbook for the following activities: material delivery and storage; material use, spill prevention and control; hazardous waste management; concrete waste management; vehicle and equipment cleaning, maintenance and fueling; and

(2) Where appropriate, the project shall preserve, enhance, or establish buffers along surface water bodies and their tributaries.

§ 15-10-701 CRM Permit Amendment

(a) Amendment of permit for change in scope or nature of project. An amended DCRM permit shall be required of all permitted projects before they are significantly altered or substantially expanded. Such an amendment shall require submittal of a revised DCRM permit application to the DCRM Office. Significant alterations and substantial expansions requiring amended DCRM permits include, but are not limited to, project changes which exceed ~~\$100,000~~~~\$50,000~~ of the monetary value of the permitted project as described in the original DCRM permit application. Fees for the amended permit fees will be based on the fee structure described in § 15-10-205(h)(5), with a minimum \$200 administrative fee assessed for all major siting permit amendments. Where multiple proposals indicate a “piecemeal” development approach, the DCRM permitting section may recommend that the DCRM Director table all applications until they can be considered as a full project proposal, and a new major siting application fee may be assessed. Where a substantially new project is proposed, a new and different permit must be obtained, ~~following the CRM application protocols for major siting proposals as outlined in § 15-10-200.~~ For purposes of this regulation, CRM shall presume that project changes occurring more than 10 years after permit issuance are a substantially new project.

(b) At the recommendation of the DCRM Director or at the request of a CRM Agency Board member, other project amendments may require an application for an amendment. ~~In these cases, permit amendment proposals shall be publically noticed as specified in § 15-10-220. Following the CRM permit hearing, at the discretion of the DCRM Director or request of the CRM Agency Board, the CRM Agency Board may convene to issue permit amendment or the DCRM Office may issue the amended permit for the Agency Board to review.~~

(c) Amendment of permit on request of CRM Agency Official. A CRM Agency Official may request the inclusion of a condition to a permit at any time, including after the decision to award the permit but prior to actual issuance of permit to permittee, ~~or and~~ at any time after the issuance of the permit. ~~The permit shall be amended by the inclusion of the proposed condition if the CRM agency officials decide to include the condition through the same process as the original permit, as set forth in § 15-10-235.~~

(d) New Environmental Impact. If the permitted project has a newly discovered adverse environmental impact, corrective action(s) and/or permit amendment or modification may be required.

(e) Process for amendment. All permit amendments shall follow CRM’s procedures in §15-10 Part 200 to the extent that such procedures would apply to a new application, including procedures for adjacent property owner notification, public notice, and public hearing.

§ 15-10-830 Remedies

Upon a determination by the DCRM Director ~~and/or CRM Agency Officials~~ that a violation did occur, the DCRM Director may order any or all of the following remedies:

- (a) Revocation. The CRM permit may be revoked in its entirety or may be revoked in part, including but not limited to revocation of the permit condition or conditions permitting physical development of the project site.
- (b) Suspension. The CRM permit may be temporarily suspended for a given period, or until the occurrence of a given event or satisfaction of a specific condition.
- (c) Corrective Measures. Measures may be ordered of the CRM permit holder so that the project conforms to the CRM permit terms and conditions.
- (d) Civil Fines. The DCRM Director may impose a civil fine in an amount not to exceed \$10,000 per day for each day the violation of the CRM permit occurred pursuant to 2 CMC § 1543(a). For purposes of computing a fine, any day that the DCRM Director finds that a violation of the CRM permit occurred may be counted. The DCRM Director shall, in his or her discretion, set fines in an amount calculated to compel compliance with DCRM permit conditions, applicable law, and any order issued by the Director, taking into consideration the value of the existing and potential damage to the environment caused by the violation, efforts at compliance, and/or any other factors that the Director finds relevant to the calculation.
- (e) Supplemental environmental projects. The DCRM Director may allow supplemental environmental projects to address environmental impacts of a violation in lieu of penalties or portions of penalties assessed. These measures may be proposed by the alleged violator to mitigate damages that may otherwise be assessed. If a supplemental environmental project or projects is proposed by the alleged violator and approved by the DCRM Director, outcomes for the project or projects will be detailed in the final settlement agreement and the project proponent will bear any and all project implementation costs unless otherwise agreed. Any actions or duties required by law shall not form the basis of a supplemental environmental project.



Eli D. Cabrera
Administrator

Commonwealth of the Northern Mariana Islands
OFFICE OF THE GOVERNOR
Bureau of Environmental and Coastal Quality
Division of Coastal Resources Management
P.O. Box 501304, Saipan, MP 96950
Tel: (670) 664-8300; Fax: (670) 664-8315
www.dcrm.gov.mp



Richard V. Salas
Director, DCRM

**ARONGORONGOL TOULAP REEL AMMWEL KKA EBWE AYOORA NGÁLI
NMIAC CHAPTER 15-10 REEL EBWE SIIWELINGARE AWELA PERMIT
APPLICATION ME AMMWELIL SIIWEL.**

ARONGORONGOL POMMWOL MWÓGHUTUGHUT: The Commonwealth of the Northern Mariana Islands, Office of the Governor, Coastal Resource Management (CRM) Regulatory Agencies re mwuschel siiweli NMIAC CHAPTER 15-10 bwe ebwe siiweli ngare awela Division of Coastal Resources Management (DCRM) permit application me ammwelil siiwel

BWINGIL NGERE MAMAWAL BWULASIYO: Siwel kkaal nge e mweitingeliir Regulatory Agencies faal 1 CMC §1531(d). Reghal aweewe meeta aweewe kka rebwe ayoora ngere siweliló nge toulap raa toolong rebwe asseling bwe re bwal ghulei meeta mengemengiir.

KKAPASAL ME AWEEWE: Pommwol siiwel kkaal nge ebwe:

- Ayoora ammwelil permit iye re ayoora sáangi lapal schulapáar schóol CRM;
- Aghitighitáátiw lapal schulapáar schóol CRM iye e fil reel rebwe schu;
- Ebwe amatafaaló ammwelil reel tingórol me ngalleeyal rállil extensions reel ebwe atomwoghaaló igha rebwe fféer meta iye;
- Ebwe atomwoghaatá lapal abwós reel llapal siiwel;
- Rebwe mangiiy bwe siiwel kka aa ghula seigh ráagh sáangi igha re isáliiwow permit nge aa ffé;
- Amatafaaló ammwelil siiwelil permit;
- Amatafaaló lemelemil ebwe awelaaló milikka ese wel; me
- Ayoora peighil ebwe asefáali ghatchúl permit, me bwal ammwelil ebwe atomwoghaaló igha rebwe fféer meta iye.

TIPETCHOWUL MWÓGHUTUGHUT: Pommwol siiwel kkaal nge sáangi NMIAC Chapter 15-10 igha ebwe siweli:

- §15-10-215 Amweri sefáli Tingór
- §15-10-230 Lemelemil CRM application
- §15-10-610 E fil ammwelil
- §15-10-701 Siiwelil CRM permit
- §15-10-830_Awela

AFAL REEL AMMWELIL ME AKKATÉEWOWUL: Pommwol liiwel kkal nge ebwe akkatéewow loll Commonwealth Register 1161 tállil pommwol me ffél mwóghutughút kka ra adóptáali (1 CMC § 9102(a)(1)) me ebwe apaschetá loll civic center me loll gobetnamento loll senatorial district, fengál reel kkasal English me mwáliyaasch (1 CMC § 9104(a)(1)).

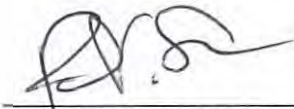
REEL ISIISILONGOL KKAPAS: Afanga ngäre bwughiiló yóómw ischil kkapas reel pommwol mwóghutughut kkaal ngáli Sam Sablan, DCRM Permit Branch Manager reel address, fax ngäre email address reel "Proposed Revision to DCRM Permitting Fee Regulations":

**BUREAU OF ENVIRONMENTAL AND COASTAL QUALITY
DIVISION OF COASTAL RESOURCES MANAGEMENT**

PO Box 501304
Saipan, MP 96950
Fax: (670) 664-8540
Email: ssablan@dcrm.gov.mp

Isiisilongol mángemáng ebwe toolong lóll eligh (30) ráál mwiril aal akkatééwow arongorong yeel I CMC § 9104(a)(2).

Isáliyalong:



Mr. Richard V. Salas
Director, Division of Coastal Resources Management

9/11/23

Date

Bwughiyal:



Mr. Oscar Babauta
Special Assistant ngáli Administration

9/13/23

Date

Ammwelil:



Ms. Esther R.M. San Nicolas
Commonwealth Registrar

9-28-23

Date

I apilúghúlúghúw reel I CMC § 2153(e) me I CMC § 9104 (a)(3), bwe yaa takkal amweri fischiy me aa lléghéló reel ffééril me aal legal sufficiency.



Mr. Edward Manibusan
Soulemelemil Allégh Lapalap

9/15/2023

Date



Eli D. Cabrera
Administrator

Richard V. Salas
Director, DCRM

NUTISIAN PUBLIKO NI MANMAPROPONI SIHA NA AMENDASION KONTRA I NMIAC CHAPTER 15-10, POT PARA UMATULAIKA TAMANU I PROSEDIMENTO GI BANDAN MAN'APPLIKA YAN I MA'AMENDA I PITMASION

NUTISIAN INTENSION POT I AKSION SIHA: I Gobietnamenton i Sankattan na Islan Marianas, i Ofisinin i Maga'lahi, todos Ofisialis i Kuetpon CRM, siempre ma'amenda i NMIAC Chapter 15-10 pot para umatulaika i regulasion i Dibusion i Minanehan Fenkas Kanton Tasi (DCRM) na tumamano i prosedimento yanggen man'aplika pat ma'amenda i pitmasion.

ATTURIDAT: Esti siha na'amendasion, esta manmadeklara sigun i atturidat niha i Ofisialis i Kuetpon CRM na para ma'adopta i neubo na regulasion siha sigun i CMC § 1531(d). Esti siha ni mapropo ni na regulasion, manma apreba esta nui CRM Regulatory Agencies gi halom i mitting i publiko gi Abrit Dia Sinko, Dos Mit Benti Dos.

ALIMENTO YAN I SUSTANSIAN I AREKGLAMENTO: Esti siha ni mapropo ni na amendasion, para umarebisa i regulasion i Dibusion i Minanehan Fenkas Kanton Tasi na:

- Todo disision pot asuntun petmisu lisensia, debidi i disision mayurian i Ofisialis i Kuetpon CRM;
- Umâribaha i kuantu na numeron ofisiat para ufan pattisipao gi papa i ofisinin CRM Agency ni manesita para hubali yan metgut i botun disision ni ginaga'gao;
- Para umanaklaru i prosedimento ni ginaga'gao mas tiempo pot para umanafunayan i esta ma'pitma na cho'chu;
- Yangin guaha tinalaika gi bandan cho'chu ni makeke cho'gui dispues di matugeña i pitmasion ya para tinaka mas ki dias años na tiempo, siempre muñuebu i dangkulu na cho'chu.
- Para umahaksa kuantu i ginaga'gao na kantidan salape komo guaha sufisienti natinalaika hosono kumo manake'dankulo mas i extendin i estruktura
- Para manaklaru mas i prosedimento yanggin para ma'amenda i pitmasion.
- Kada madittimina hafa i linachi, debi umanaklaruyi i atturidat; yan,
- Para umanaguaha probision na siña ha'machuleguan patti gi kondasion ni mapitma, kon todos i kondision ni esta manmapitma siha na cho'chu gi halom i lugat ni gaigi i mapitma na cho'chu.

SITTASION I ASOSIAT YAN/PAT I MAN NINAFEKTA SIHA NA LAI, AREKGLAMENTO YAN I REGULASION: I amendasion siha ni mapropo ni, siempre inafekta i NMIAC Chapter 15-10 ni inamenmenda i mantinattiyi siha na probision:

- §15-10-215 I ma'analisan aplikasion
- § 15-10-230 I finitinas i disision kontra i aplikasion i CRM
- § 15-10-610 I man'obligao siha na kondision

- § 15-10-701 I ma'amenda na pitmasion i CRM
- § 15-10-830 I remedios siha

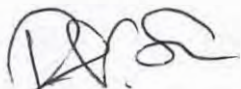
DIREKSION NI PARA MUNA'HA'LOM YAN PUPBLIKASION: Esti siha na amendasion ni manmaproposi debidi humapublika gi "Commonwealth Register" gi seksionña pot manmaproponi yan nuebu namanma adopta siha na regulasion (I CMC § 9201(a)(1)) yan hufanma pega gi todo i lugât gi halom i civic center yan i ofisinan i kuetpon gobietnamento siha gi kada distriton senadot, parehu Englis yan prinsipat na lingguâhin natibu (I CMC § 9104(a)(1)).

I FINOHU SIHA: I hayu malagu munaha'lom katta pot esti i manmaproponi siha natinalaika, de'bide unahâlom i katta guato gi as Señora Sam Sablan, DCRM Permit Manager, gi esti na Address, pat i fax, hosono i email, ya umatugi gi hilo'ña - "MANMAPROPONI Hafa Siha Makeke Rebisa gi Aplikasion i Pitmasion Yan i Ma'amenda siha na Prosedimento":

BUREAU OF ENVIRONMENTAL AND COASTAL QUALITY
DIVISION OF COASTAL RESOURCES MANAGEMNET
P.O. BOX 501304, Saipan, MP 96950
Fax: (670) 664-8540, Email: ssablan@dcrm.gov.mp

Todu i fino'mu siha, humanafanhâlom gi hâlom trenta (30) dias gi calendario ginen i fecha ni mapublika esti na nutisia (I CMC § 9104(a)(2)).

Ninahâlom as Siñot:



Richard V. Salas
Direktot i Dibusion i Minanehan Fenkas Konton Tasi

9/11/23

Fetcha

Rinisibe as Señot:



Oscar M. Babauta
Espisiât na Ayudânti para i Administradot

9/13/23

Fetcha

Pine'lu yan Ninota as Señora:



Esther ~~S.N.~~ Nesbitt *R.M. SANNICOLAS*
Rehistran Commonwealth

9.28.23

Fetch

Guaho, i Abugádo Henerát, hu'fotma na hu'taitai yan hu'aprueba esti siha na regulasion na sufisienti yan dinanchi sigun i 1 CMC § 2153(e) and 1 CMC § 9104(a)(3).



As Señor Edward Manibusan
Abugádo Henerát para i Sankattan na Islan Marianas

9/15/2023

Fetcha



Commonwealth of the Northern Mariana Islands
HEALTH CARE PROFESSIONS LICENSING BOARD
P.O. Box 502078, Bldg. No. 1242 Pohnpei Court
Capitol Hill, Saipan, MP 96950
Tel No: (670) 664-4808/09 Fax: (670) 664-4814
Email: info@cnmilicensing.gov.mp
Website: www.cnmilicensing.gov.mp



NOTICE OF PROPOSED AMENDMENTS TO THE HEALTH CARE PROFESSIONS LICENSING BOARD FOR SPEECH-LANGUAGE PATHOLOGISTS AND AUDIOLOGISTS

INTENDED ACTION TO ADOPT THIS PROPOSED REGULATION: The Health Care Professions Licensing Board (HCPLB) intends to adopt as permanent regulation the attached Proposed Regulations, pursuant to the procedures of the Administrative Procedure Act, 1 CMC § 9104(a). The regulation would become effective 10 days after compliance with 1 CMC §§ 9102 and 9104(a) or (b) (1 CMC § 9105(b)).

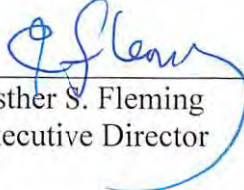
AUTHORITY: The Health Care Professions Licensing Board has statutory power to promulgate and effect regulations pursuant to 3 CMC § 2206(b), as amended.

THE TERMS AND SUBSTANCE: Regulation History: Public Law No. 15-105 was signed into law by Governor Benigno R. Fitial and became effective on November 7, 2007, and became the “Health Care Professions Act of 2007,” 3 CMC §§2201-36. The Act created a Health Care Professions Licensing Board, as an independent regulatory agency, without placing it in a department. The Board is authorized to license health care professionals in the Commonwealth, establish standards for educational programs, administer exams, and discipline licensees for violations of the Act. Public Law No. 15-105 3 CMC § 2206(b), empowers the Board to adopt rules and regulations consistent with the Act and necessary to carry out the Act’s provisions, including defining and describing the regulated professions and their practice. The regulations for **Speech-Language Pathologists and Audiologists** are to be included in the Health Care Professions Licensing Board, under the power, jurisdiction, and authority of the HCPLB §2212 of Public Law No. 15-105. (This is a new regulation and is included in §2212)

THE SUBJECTS AND ISSUES INVOLVED: These are new proposed rules and regulations for the practice of **Speech-Language Pathologist and Audiologist**. **Note:** The attached regulation was originally on the Commonwealth Register Vol 45, No. 07, dated July 28, 2023, for public comments. Two comments were received and reviewed by the HCPLB Board and because of its’ significant input, the Board decided to re-announce for 30 days public comments.

DIRECTIONS FOR FILING AND PUBLICATION: The Board is soliciting comments regarding this proposed amendment which must be received by the Board within thirty (30) days of first publication of this notice in the Commonwealth Register. Interested persons may request copies of the proposed amendment by contacting us at 664-4808/09 or by email at info@cnmilicensing.gov.mp or by our office located at Bldg. No.1242, Pohnpei Ct., Capitol Hill, Saipan. Written comments on these amendments should be dropped off at our office or sent to the BPL, P.O. Box 502078, Saipan, MP, 96950.

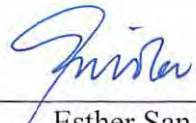
185-10 HEALTH CARE PROFESSIONS LICENSING BOARD

Submitted By: 
Esther S. Fleming
Executive Director

09/28/23
Date

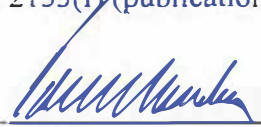
Received By: 
Oscar M. Babauta
Special Assistant for Administration

9/28/23
Date

Filed and Recorded By: 
Esther San Nicolas
Commonwealth Registrar

9.28.23
Date

Pursuant to 1 CMC § 2153(e) (AG approval of regulations to be promulgated as to form) and 1 CMC § 9104(a) (3) (obtain AG approval) 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, 1 CMC § 2153(f) (publication of rules and regulations).


EDWARD MANIBUSAN
Attorney General

9/29/2023
Date



Commonwealth gi Sankattan na Islas Mariānas
HEALTH CARE PROFESSIONS LICENSING BOARD
P.O. Box 502078, Bldg., 1242 Pohnpei Court
Capitol Hill, Saipan, MP 96950
Tel No: (670) 664-4809 Fax: (670) 664-4814
Email: info@cnmilicensing.gov.mp
Website: www.cnmilicensing.gov.mp



NUTISIA PUT I MANMAPROPONI NA REGULASIÓ GI HEALTH CARE PROFESSIONS LICENSING BOARD PARA SPEECH-LANGUAGE PATHOLOGISTS YAN AUDIOLOGISTS

I AKSION NI MA'INTENSIONA PARA U MA'ADÁPTA ESTI I MANMAPROPONI NA REGULASION SIHA: I Health Care Professions Licensing Board (HCPLB) ha intensiona para u adápta komu petmanienti na regulasion i mañechettun na Manmaproponi na Tinilaika, sigun gi manera nu i Ákton Administrative Procedure, 1 CMC § 9104(a). I regulasion siempri umifektibu gi dies (10) dihas dispues di “compliance” yan I CMC §§ 9102 yan 9104(a) pat (b) (1 CMC § 9105(b)).

ATURIDÁT: I Health Care Professions Licensing Board gai istatua na aturidát para u cho'gui yan na'ifektibu i regulasion siha sigun gi 3 CMC § 2206(b), komu ma'amenda.

I TEMA YAN SUSTANSIAN I PALÁBRA SIHA: I Historia Regulason: Lain Pupbliku No. 15-105 mafitma hálum gi lai as Maga'láhi Benigno R. Fitial yan umifektibu gi Nubembri 7, 2007, yan mafa'na'an “Ákton Health Care Professions nu 2007,” 3 CMC §§2201-36. I Áktu fuma'tinas i Kuetpun Health Care Professions Licensing, komu independienti na regulatori na ahensia, sin mapega gui' gi halum i dipátamentu. I Kuetpu ma'aturisa para u lisenziayi i health care professionals gi halum iya Commonwealth, establese chin mididasió para prugrāman edukasion siha, manná'i exams, yan para u disiplinā manlisenzia siha para kontradiksió nu i Áktu. I Lain Pupbliku No. 15-105 3 CMC § 2206(b), ma'infuetsa i Kuetpu para u adápta areklamentu yan regulasion siha kunsisti yan i Áktu yan nisissáriu para u makátga huyung i provisions i Áktu, kuntodu sustansian i palábra yan diskribi i “regulated professions” yan i prinaktikan-ñiha. I regulasion para **Speech-Language Pathologists yan Audiologists** mana'fanhálum gi Kuetpun Health Care Professions Licensing, gi pápa' i fuetsa, lugát, yan aturidát nu i HCPLB §2212 gi Lain Pupbliku No. 15-105. (Nuebu esti na regulasion yan humálum gi halum §2212)

SUHETU YAN ASUNTU NI TINEKKA: Nuebu esti na manmaproponi na areklamentu yan regulasió siha para i prinaktikan nu **Speech-Language Pathologists yan Audiologist**.

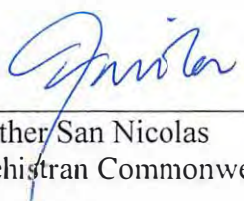
DIREKSIÓN PARA U MAPEGA YAN PUBLIKASIÓN: I Kuetpu mamamaisin upiñon siha put esti i manmaproponi na tinilaika ni debi di u marisibi ni i Kuetpu gi hálum i trenta (30) dihas gi primet na publikasion esti na nutisia gi hálum i Rehistran Commonwealth. I intirisáo na petsona siha siña manrikuesta kopian i manmaproponi na tinilaika komu ma'āgang hami gi 664-4808/09 pat email gi info@cnmilicensing.gov.mp pat bisita i ufisinan-māmi ni gaigi gi Bldg. 1242, Pohnpei Ct., Capito Hill, Saipan. I tinigi' upiñon siha put esti na tinilaika siha debi na u machuli' guatu gi ufisinan-māmi pat na'hânáo para i BPL, P. O. Box 502078, Saipan, MP 96950.

Nina'hålum as: 
Esther S. Fleming
Eksakatibun Direktot

09/28/23
Fetcha

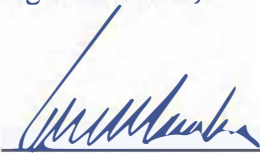
Rinisibi as: 
Oscar M. Babauta
Ispisiât na Ayudânti para i Atministrasiôn

9/28/23
Fetcha

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

9-28-23
Fetcha

Sigun i 1 CMC § 2153(e) (I Abugâdu Henerât ha aprueba i regulasion siha na para u macho'gui kumu fotma) yan I CMC § 9104(a) (3) (hentan inaprueban Abugâdu Henerât) i manmaproponi na Regulasion siha ni mañechettun guini ni manmaribisa yan manma'aprueba kumu fotma yan sufisienti ligât ginin i CNMI Abugâdu Henerât yan debi na u mapublika, I CMC § 2153(f) (publikasion i areklamentu yan regulasion siha).


EDWARD MANIBUSAN
Abugâdu Hinirât

9/24/2023
Fetcha



Commonwealth Téel Falúw kka Efang Ilól Marianas
HEALTH CARE PROFESSIONS LICENSING BOARD

P.O. Box 502078, Bldg. No. 1242 Pohnpei Court

Capitol Hill, Saipan, MP 96950

Tel No: (670) 664-4808/09 Fax: (670) 664-4814

Email: info@cnmilicensing.gov.mp

Website: www.cnmilicensing.gov.mp



**ARONGORONGOL TOULAP REEL PPWOMMWOL LIIWEL NGÁLI
HEALTH CARE PROFESSIONS LICENSING BOARD NGÁLI
SPEECH-LANGUAGE PATHOLOGISTS ME AUDIOLOGISTS**

MÁNGEMÁNGIL MWÓGHUT REEL REBWE ADÓPTÁÁLI PPWOMMWOL MWÓGHUTUGHUT KKAAL: Health Care Professions Licensing Board (HCPLB) re mángemángil rebwe adóptááli PPwommwol Liiwel ikka e appasch bwe ebwe lléghló, sáangi mwóghutughutúl Administrative Procedure Act, 1 CMC § 9104(a). Ebwe bwunguló mwóghutughut seigh ráál (10) mwiril aal angúungú fengál me 1 CMC §§ 9102 me 9104(a) ngáre (b) (1 CMC § 9105(b)).

BWÁNGIL: Eyoor bwángil Health Care Professions Licensing Board rebwe aronga me isiisiwow mwóghut sáangi 3 CMC § 2206(b), igha e liiwel.

KKAPAS ME WEEWEE: Uruwowul Mwóghutughut: Alléghúl Toulap No. 15-105 iye e ghikkillong llól allégh sáangi Soulemelem Benigno R. Fitial me ebwe bwunguló wóól Aremwoy 7, 2007, me e toowow bwe “Health Care Professions Act of 2007,” 3 CMC §§2201-36. Act e ayoora eew Health Care Professions Licensing Board, bwe eew “independent regulatory agency”, nge rese isáli llól eew bwulasiyo. Eyoor bwángil Board reel rebwe ayoora “license health care professionals” me llól Commonwealth, ebwe ghikkill “standards” ngáre progróomal rághefisch, isiisiwow “exams”, me ayoorai ammwelil “licensees” ngáli “violation of the Act”. Alléghúl Toulap No. 15-105 3 CMC § 2206(b), e ayoorai bwángil Board rebwe adóptááli allégh me mwóghutughut ikka e weewee ngáli “Act” me e ffil ebwe ayoorai mwóghutughutúl “Act’s provisions”, ebwal schuulong weewel me kkapasal “regulated professions” llól aar angaang. Mwóghutughut ngáli **Speech-Language Pathologists and Audiologists** ebwe schuulong llól Health Care Professions Licensing Board, faal maamaawal, lemelemil, me bwángil HCPLB §2212 reel Alléghúl Toulap No. 15-105. (E ffé mwóghutughut me e schuulong llól §2212)

KKAPASAL ME AUTOL: E ffé ppwommwol allégh me mwóghutughut ngáli yááyáál **Speech-Language Pathologist me Audiologist**.

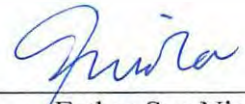
AFAL REEL AMMWELIL ME AKKATÉÉWOWUL: Board re tingór kkapas ikka e ssúlngáli ppwommwol liiwel iye Board rebwe bwughi llól eliigh (30) ráál mwiril aal ghommwal akkatééwow me llól Commonwealth Register. Schóó kka re tipáli pappidil ppwommwol liiwel rebwe faingi ghámem me 664-4808/09 ngáre email li info@cnmilicensing.gov.mp ngáre mweteló bwulasiyo imwu e lo Bldg. No. 1242, Pohnpei Ct, Asúngúl, Seipél. Ischill kkapas wóól liiwel kkaal ebwe mwetelól bwulasiyo ngáre afàngaló BPL, P.O. Box 502078, Saipan, MP, 96950.

Isáliyalong: 
Esther S. Fleming
Executive Director

09/28/23
Ráál

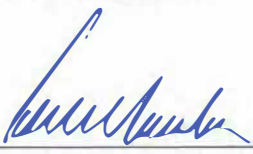
Bwughiyal: 
Oscar M. Babauta
Special Assistant ngáli Administration

9/28/23
Ráál

Ammwelil: 
Esther San Nicolas
Commonwealth Registrar

9-28-23
Ráál

Sáangi 1 CMC § 2153(e) (sáangi átirowal AG reel mwóghutughut bwe aa ffil reel fféerül me ebwe arongowow) me 1 CMC § 9104(a) (3) (sáangi átirowal AG) reel ppwommwol mwóghutughut ikka e appasch bwe ra takkal amwuri fischiiy me átirowa bwe aa lléghló reel fféerül me legal sufficiency sáangi Soulemelemil Allégh Lapalap me ebwe akkatééwow, 1 CMC § 2153(f) (akkatééwowul allégh me mwóghutughutúl).


EDWARD MANIBUSAN
Soulemelemil Allégh Lapalap

9/29/2023
Ráál

SUBCHAPTER 185-10
COMMONWEALTH HEALTH CARE PROFESSIONS
LICENSING BOARD REGULATIONS

Part 5000

Speech-Language Pathologists and Audiologists

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§ 185-10-5005	Practice as Speech-language Pathologist or Audiologist - Title or Description of Services
§ 185-10-5010	Exemptions
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§ 185-10-5000 Speech-Language Pathologists and Audiologists

§ 185-10-5001 Definitions.

- (a) **“ABA”** means the American Board of Audiology.
- (b) **“ASHA”** is the American Speech-Language-Hearing Association.
- (c) **“Audiology assistant”** means a person who meets the academic and supervised training requirements set forth by the Board and who is approved by the Board to assist in the provision of audiology under the supervision of a CNMI-licensed audiologist who retains full professional and legal responsibility for the performance of the assistant and the care and treatment of the patient.
- (d) **“Audiologist”** means a person who has been duly licensed to practice audiology in the CNMI, as hereafter defined.
- (e) **“Certificate of Clinical Competence (CCC)”** means a current certificate issued by the American Speech-Language-Hearing Association’s Council for Clinical Certification to an individual who:
 - (1) Completes a degree in audiology or speech-language pathology from an educational institution approved by the Board that includes a clinical practicum;
 - (2) Passes the ETSNESPA; and
 - (3) Completes a clinical fellowship.
- (f) **“Clinical practicum”** means the experience acquired by an individual who is completing course work in audiology or speech-language pathology, while supervised by a licensed audiologist, a licensed speech-language pathologist, or an individual holding a CCC, by assessing, diagnosing, evaluating, screening, treating, and counseling individuals exhibiting speech, language, hearing, or communication disorders.
- (g) **“Educational institution approved by the Board”** means:
 - (1) An educational institution that is accredited by a regional or national accrediting body recognized by the U.S. Department of Education or from an institution that is a member in good standing with the Association of Universities and Colleges of Canada; or
 - (2) Has program accreditation in the area for which licensure is sought by an accrediting body recognized by the U.S. Department of Education or the Council on Higher Education Accreditation (CHEA) or its predecessor, the Council on Postsecondary Accreditation (COPA), or a comparable accrediting body recognized by the Board; or
 - (3) A graduate speech-language or audiology program shall be accredited or shall be designated as a program in candidacy by the accrediting body authorized by the American Speech-Language-Hearing Association at the time of the applicant’s graduation; or
 - (4) A post-baccalaureate audiology doctoral program shall be accredited or shall be designated as a program in candidacy by the accrediting body by the American Speech-Language-Hearing Association or shall be accredited or shall be designated in candidacy by another accrediting body.
- (h) **“ETSNESPA”** means Educational Testing Service National Examination in Speech-Language Pathology and Audiology, the specialty area test of the Praxis Series given by the Education Testing Service, Princeton, N.J.

- (i) **“Examination approved by the Board,”** means the National Examination in Speech Pathology or the National Examination in Audiology administered by the Educational Testing Service of Princeton, New Jersey.
- (j) **“Practice of Audiology”** means the application of principles, methods, and procedures for the prevention, identification, evaluation, consultation, habilitation, rehabilitation, instruction, treatment, and research, relative to hearing and the disorders of hearing, and related language and speech disorders. “Disorders” are defined to include all conditions, whether of organic or nonorganic origin, peripheral or central, that impede the normal process of human communication, including, but not limited to, disorders of auditory sensitivity, acuity, function, or processing, or damage to the integrity of the physiological system.
- (k) **“Practice of Speech-language pathology”** means the application of principles, methods, and procedures for the prevention, identification, evaluation, treatment, consultation, habilitation, rehabilitation, instruction, and research, relative to the development and disorders of human communication; to related oral and pharyngeal competencies; and to behavior related to disorders of human communication,
- (l) **“Speech-language pathologist (SLP)”** means a person who has been duly licensed to practice speech-language pathology in the CNMI, as hereafter defined.
- (m) **“Speech-language pathology assistant”** means a person who meets the academic and supervised training requirements set forth by the Board and who is approved by the Board to assist in the provision of speech-language pathology under the supervision of a CNMI licensed speech-language pathologist who retains full professional and legal responsibility for the performance of the assistant and the care and treatment of the patient.
- (n) **“Supervision”** means a licensed speech-language pathologist or a licensed audiologist will direct and exercise supervision for the services rendered by an assistant and recognizes that he/she retains full professional and legal responsibility for the performance of the assistant and the care and treatment of the patient.

§ 185-10-5005 Practice as Speech-language Pathologist or Audiologist; title or description of services.

- (a) A person represents himself or herself to be a speech-language pathologist when he or she holds himself or herself by any title or description of services incorporating the words “speech pathologist,” “speech pathology,” “speech therapy,” “language pathologist,” “language pathology,” “logopedics,” “logopedist,” “cummmunicology,” “communicologist,” “aphasiologist,” “voice therapy,” “voice therapist,” “voice pathology,” “voice pathologist,” “language therapist,” “phoniatriest,” or any similar titles; or when he or she purports to treat stuttering, stammering, or other disorders of speech.
- (b) A person represents himself or herself to be an audiologist when he or she holds himself or herself out to the public by any title or description of services incorporating the terms “audiology,” “audiologist,” “audiological,” “hearing clinic,” or any similar titles.

§ 185-10-5010 Exemptions.

- (a) Nothing in these regulations shall be construed as preventing or restricting:
 - (1) Hearing testing conducted by licensed physicians and surgeons or by persons conducting hearing tests under the supervision of a physician and surgeon;
 - (2) A licensed hearing aid dispenser or dealer from engaging in testing of hearing and other practices and procedures used solely for the fitting and testing of hearing aids over the age of 16;
 - (3) The services or activities of a student or a speech-language pathology or audiology intern pursuing a course of study leading to a degree in speech-language pathology or audiology, provided that these services and activities constitute a part of his/her supervised course study, and they are under the supervision of a licensed speech-language pathologist or a licensed audiologist;

- (4) The activities and services of a person fulfilling the clinical experience requirements or the clinical fellowship year leading to the ASHA certificate of clinical competence; or
 - (5) The performance of speech pathology or audiology services in the CNMI by a person, not a resident of the CNMI who is not licensed, if such services are performed for not more than five working days in any calendar year and in cooperation with a CNMI licensed speech pathologist or audiologist, and if such person meets the licensure requirements under Section 185-10-5015 of these regulations.
- (b) Persons employed as speech-language pathologists or audiologists by a federal agency are exempted from these regulations.

§ 185-10-5015 Requirements for Licensure.

- (a) An applicant to practice as a Speech-language pathologist or an audiologist must be at least twenty-one (21) years of age, is a U.S. citizen or a foreign national lawfully entitled to remain and work in the Commonwealth, and meets the following requirements:
- (1) **Speech-Language Pathologist**
 - (i) Possess at least a master's degree in speech-language pathology from an educational institution approved by the Board or qualifications deemed equivalent by the Board; and
 - (ii) Took and passed the examination approved by the Board; or
 - (iii) Possess a current and valid Certificate of Clinical Competence in speech-language pathology issued by ASHA's Council for Clinical Certification.
 - (2) **Speech-Language Pathologist without ASHA CCC or U.S. SLP License**
 - (i) Possess a master's degree or completion of the academic requirements of a doctoral program, with a major emphasis in speech-language pathology;
 - (ii) Applicants enrolled in an educational institution or program approved by the Board prior to January 5, 2005, must complete a minimum of sixty (60) semester hours, at least thirty-six (36) hours must be earned in graduate level courses;
 - (iii) Applicants enrolled in an educational institution or program approved by the Board after January 5, 2005, must complete a minimum of seventy-five (75) semester hours, at least thirty-six (36) hours must be earned in graduate-level courses;
 - (iv) Completed 300 clock hours of supervised experience with at least 200 hours in speech-language pathology;
 - (v) Completed at least nine (9) months of professional employment experience;
 - (vi) Has taken and passed the Praxis Series Examination administered by the Educational Testing Services; and
 - (vii) Completed one hour of HIV/AIDS and two hours in the Prevention of Medical Errors workshop or seminar.
 - (3) **Speech-Language Pathology Assistant**

- (i) Possess a bachelor's degree from an educational institution approved by the Board, which includes at least 24 semester hours of coursework in Speech and Language;
 - (ii) Completed one hour of HIV/AIDS and two hours in the Prevention of Medical Errors workshop or seminar;
 - (iii) Submits to the Board a Supervisory/Activity Plan signed by both the SLP supervisor and him/herself.
- (4) Audiologist
- (i) Possess a Doctor of Audiology degree (Au.D.) or a Ph.D. in audiology from an educational institution approved by the Board; or
 - (ii) Possess at least a master's degree in audiology from an educational institution approved by the Board or qualifications deemed equivalent by the Board; and
 - (iii) Took and passed the examination approved by the Board; or
 - (iv) Possess a current and valid Certificate of Clinical Competence in audiology issued by ASHA's Council for Clinical Certification or hold Board Certification in Audiology from the American Board of Audiology;
- (5) Audiologist without ASHA CCC or Board Certification in Audiology U.S. Audiologist License
- (i) Possess a doctoral degree in audiology;
 - (ii) Applicants who earned a doctoral degree from an educational institution or program approved by the Board conferred before January 1, 2008, must complete a minimum of sixty (60) semester hours, at least twenty-four (24) hours must be in audiology;
 - (iii) Applicants who earned a doctoral degree from an educational institution or program approved by the Board conferred after January 1, 2008, must complete a minimum of seventy-five (75) semester hours, at least twenty-four (24) hours must be in audiology;
 - (iv) Completed 300 clock hours of supervised experience with at least 200 hours in audiology;
 - (v) Completed at least eleven (11) months of professional employment experience;
 - (vi) Applicant who possesses a master's degree conferred before January 1, 2008, shall submit the document to show proof that applicant has completed one (1) year of clinical work experience prior to licensure;
 - (vii) Has taken and passed the Praxis Series Examination administered by the Educational Testing Services; and
 - (viii) Completed one hour of HIV/AIDS and two hours in the Prevention of Medical Errors workshop or seminar.
- (6) Audiology Assistant
- (i) Completed a high school education or its equivalent;

- (ii) Completed one-hour HIV/ workshop or seminar;
 - (iii) Submits to the Board a Supervisory/Activity Plan signed by both the audiology supervisor and him/herself.
- (b) “Qualifications deemed equivalent by the Board” in this section means in lieu of a master’s degree an applicant may present evidence of completion of at least 30 semester units acceptable towards a master’s degree while registered as a graduate student in a degree program in speech-language pathology and/or audiology. At least 24 of the required semester units shall be completed at a single educational institution and shall be in speech-language pathology or audiology.

§ 185-10-5020 Licensure by Endorsement.

- (a) The Board may grant a license to a person to practice as a speech-language pathologist or audiologist by endorsement if:
- (1) The person holds a full, unrestricted, active license to practice as a speech-language pathologist or audiologist in another U.S. state or territory, or Canada and has completed no less than one year of full-time continuous employment as a speech-language pathologist or audiologist within the past three years; and
 - (2) The person substantially complies with the requirements for licensure in Section 185-10-5015.
- (b) The Board may deny a license by endorsement to a person to practice as a speech-language pathologist or audiologist if the person has been the subject of an adverse action in which his/her license was suspended, revoked, placed on probation, conditioned, or renewal denied.

§ 185-10-5025 Applications.

An application for a license to practice as a speech-language pathologist, speech-language pathology assistant, audiologist, or audiology assistant shall be made under oath on a form to be provided by the Board and shall be signed and sworn to under penalty of perjury by the applicant accompanied with the following information and documentation as is necessary to establish that the applicant possesses the qualifications as required in these regulations:

- (a) The applicant’s full name and all aliases or other names ever used, current address, date and place of birth and social security number;
- (b) Applicant’s 2x2 photograph taken within six (6) months with your signature on the bottom front;
- (c) Applicant must pay the appropriate fees, including the application fee, which shall not be refunded;
- (d) Applicant to provide originals of all documents and credentials, or notarized or certified copies acceptable to the Board of such documents and credentials, including but not limited to:
 - (1) Diploma or certificate showing the appropriate degree from an educational institution approved by the Board or qualifications deemed equivalent by the Board;
 - (2) Documents showing satisfactory proof that the applicant has taken and passed the required examination by the National Examination in Speech Pathology or the National Examination in Audiology administered by the Educational Testing Service of Princeton, New Jersey; or

- (2) Documents showing proof that the applicant has a current and valid Certificate of Clinical Competence in speech-language pathology or audiology issued by ASHA's Council for Clinical Certification; or
- (3) Documents showing proof that the applicant is licensed to practice as a speech-language pathologist, speech-language pathology assistant, audiologist, or audiology assistant in another jurisdiction;
- (4) A current report from the U.S. Department of Health and Human Services National Practitioner Data Bank
- (e) Applicant to provide a list of all jurisdictions, U.S. or foreign, in which the applicant is licensed or has applied for a license to practice as a speech-language pathologist, speech-language pathology assistant, audiologist or audiology assistant; and
- (f) Applicant to provide a detailed educational history, including places, institutions, dates, and program descriptions of all his or her education beginning with secondary schooling and including all college and/or training programs; and
- (g) Applicant to provide a list of all jurisdictions, U.S. or foreign, in which the applicant has been denied licensure or voluntarily surrendered a license to practice as a speech-language pathologist, speech-language pathology assistant, audiologist or audiology assistant; and
- (h) Applicant to provide a list of all jurisdictions, U.S. or foreign, of all sanctions, judgments, awards, settlements, or convictions against the applicant that would constitute grounds for disciplinary action under the Act or these regulations.

§ 185-10-5030 Schedule of Fees.

PROFESSION	APPLICATION FEE	INITIAL LICENSE	RENEWAL LICENSE	*LATE FEE/LICENSE VERIFICATION
Speech-Language Pathologist	\$100	\$100	\$200	\$25
Speech-Language Pathologist Assistant	\$100	\$100	\$200	\$25
Audiologist	\$100	\$100	\$200	\$25
Audiologist Assistant	\$100	\$100	\$200	\$25

Note: A delinquent fee of \$25 will be charged every 1st of the month after the expiration date.

§ 185-10-5035 Continuing Education (CE).

- (a) A speech-language pathologist and audiologist licensed to practice in the CNMI is required to complete thirty (30) CE hours during the 24 months prior to the expiration of their license as a prerequisite to the renewal of their biennial license.
- (b) A speech-language pathologist or audiologist assistant licensed to practice in the CNMI is required to complete twenty (20) CE hours during the 24 months prior to the expiration of their license as a prerequisite to the renewal of their biennial license.
- (c) One CE unit or credit equals one contact hour.
- (d) Approved continuing education activities include but are not limited to the following:

- (1) ASHA's approved CE providers, ASHA's CEUs online (ASHA eLearning), American Academy of Audiology, or other programs approved by the Board;
 - (2) Shall complete an online course or attend a workshop or seminar offered in the CNMI on domestic violence.
- (e) If a licensee fails to meet the CE requirements for renewal of license because of illness, military service, medical or religious activity, residence in a foreign country, or other extenuating circumstances, the Board upon appropriate written request from the applicant may grant an extension of time to complete same, on an individual basis.
 - (f) It shall be the responsibility of the licensee to obtain documentation, satisfactory to the Board, from the organization or institution of his or her participation in the continuing education, and the number of course/credit hours.
 - (g) Licensure renewal shall be denied to any licensee who fails to provide satisfactory evidence of completion of CE requirements, or who falsely certifies attendance at and/or completion of the CE as required herein.
 - (h) A licensee is not permitted to carry forward CE credit hours from a previous renewal period.

§ 185-10-5040 Scope of Practice for Speech-Language Pathologists and Audiologists

- (a) The scope of practice of speech-language pathologists includes but is not limited to:
 - (1) Providing screening, identification, evaluation, assessment, recommendations, intervention (i.e., prevention, restoration, and amelioration), and follow-up services for disorders of:
 - (i) Speech (e.g., disorders of respiration, phonation, articulation, resonance, and fluency);
 - (ii) Language (including disorders or symbolic communication in oral, written, manual, graphic, and other modalities;
 - (iii) Oral pharyngeal and related functions (e.g., dysphagia, orofacial myofunctional disorders);
 - (iv) Cognitive communication (including communication and other functional disabilities associated with cognitive rehabilitation);
 - (v) Social communication (e.g., challenging behavior, ineffective social skills, and language).
 - (2) Providing consultation and counseling and making referrals when appropriate;
 - (3) Selecting, dispensing, developing, and establishing the effective use of augmentative and alternative communication techniques, technologies, and strategies;
 - (4) Selecting, fitting, and establishing the effective use of prosthetic/adaptive devices for speaking and swallowing (e.g., tracheoesophageal valves, electrolarynxes, speaking valves);
 - (5) Using instrumental technology to diagnose and treat disorders of communication and swallowing (e.g., videofluoroscopic, naso endoscopy, ultrasonography);
 - (6) Providing aural rehabilitation and related counseling to individuals with hearing loss and their families;
 - (7) Screening hearing for the purpose of speech-language evaluation and/or the initial identification or individuals with other communication disorders;

- (8)** Enhancing speech-language proficiency and communication effectiveness (e.g., accent reduction, collaboration with teachers of English as a Second Language);
 - (9)** Supervising personnel and developing and managing programs in communication sciences and related disorders;
 - (10)** Conducting, disseminating, and applying research in communication sciences and related disorders;
 - (11)** Conducting a continuous evaluation of the effectiveness of practices and programs to improve and maintain the quality of services.
- (b)** The scope of practice of audiologists includes but is not limited to:
- (1)** Activities that identify, assess, diagnose, manage, and interpret test results related to disorders of human hearing, balance, and other neural systems;
 - (2)** Otoscopic examination and external ear canal management for removal of cerumen in order to evaluate hearing or balance, make ear impressions, fit hearing protection or prosthetic devices, and monitor the continuous use of hearing aids;
 - (3)** The conduct and interpretation of behavioral, electroacoustic, or electrophysiologic methods used to assess hearing, balance, and neural system function;
 - (4)** Evaluation and management of children and adults with central auditory processing disorders;
 - (5)** Supervision and conduct of newborn hearing screening programs;
 - (6)** Measurement and interpretation of sensory and motor evoked potentials, electromyography, and other electrodiagnostic tests for purposes of neurophysiologic intraoperative monitoring and cranial nerve assessment;
 - (7)** Provision of hearing care by selecting, evaluating, fitting, facilitating adjustment to, and dispensing prosthetic devices for auditory disorders, including hearing aids, sensory aids, hearing assistive devices, alerting and telecommunication systems, and captioning devices;
 - (8)** Assessment of candidacy of persons with auditory disorders for cochlear implants and provision of fitting, programming, and audiological rehabilitation to optimize device use;
 - (9)** Provision of audiological rehabilitation including speechreading, communication management, language development, auditory skill development, and counseling for psychosocial adjustment to hearing loss for persons with hearing loss and their families/caregivers;
 - (10)** Consultation to educators as members of interdisciplinary teams about communication management, educational implications of hearing loss, educational programming, classroom acoustics, and large-area amplification systems for children with hearing loss;
 - (11)** Prevention of hearing loss and conservation of hearing function by designing, implementing, and coordinating occupational, school, and community hearing conservation and identification program;
 - (12)** Consultation and provision of rehabilitation to persons with balance disorders using habituation, exercise therapy, and balance retraining;

- (13) Design and conduct of basic and applied audiologic research to increase the knowledge base, to develop new methods and programs, and determine the efficacy of assessment and treatment paradigms, dissemination of research findings to other professionals and to the public;
- (14) Education and administration in audiology graduate and professional education programs;
- (15) Measurement of functional outcomes, consumer satisfaction, effectiveness, efficiency, and cost-benefit of practices and programs to maintain and improve the quality of audiological services;
- (16) Administration and supervision of professional and technical personnel who provide support functions to the practice of audiology;
- (17) Screening of speech-language, use of sign language (e.g., American Sign Language and cued speech), and other factors affecting communication function for the purposes of an audiologic evaluation and/or initial identification of individuals with other communication disorders;
- (18) Consultation about accessibility for persons with hearing loss in public and private buildings, programs, and services;
- (19) Assessment and nonmedical management of tinnitus using biofeedback, masking, hearing aids, education, and counseling;
- (20) Consultation to individuals, public and private agencies, and governmental bodies, or as an expert witness regarding legal interpretations of audiology findings, effects of hearing loss and balance system disorders, and relevant noise-related considerations;
- (21) Case management and service as a liaison for the consumer, family, and agencies in order to monitor audiological status and management and to make recommendations about educational and vocational programming;
- (22) Consultation to industry on the development of products and instrumentation related to the measurement and management of auditory or balance functions; and
- (23) Participation in the development of professional and technical standards.

§ 185-10-5045 Scope of Practice for Speech-language Pathology Assistant.

- (a) The scope of practice of speech-language pathology assistant includes but is not limited to:
 - (1) Conducting speech-language screening, without interpretation, and using screening protocols developed by the supervising speech-language pathologist;
 - (2) Providing direct treatment to patients or clients under the supervision of the speech-language pathologist;
 - (3) Following and implementing documented treatment plans or protocols developed by the supervising speech-language pathologist;
 - (4) Documenting patient or client progress toward meeting established objectives and reporting the information to the supervising speech-language pathologist;
 - (5) Assisting a speech-language pathologist during assessments, including but not limited to, assisting with formal documentation, preparing materials, and performing clerical duties for the supervising speech-language pathologist;

- (6) When competent to do so, as determined by the supervising speech-language pathologist, acting as an interpreter for non-English speaking patients or clients and their family members;
 - (7) Scheduling activities and preparing charts, records, graphs, and data;
 - (8) Performing checks and maintenance of equipment, including but not limited to, augmentative communication devices; and
 - (9) Assisting with speech-language pathology research projects, in-service training, and family or community education.
- (b) Speech-language pathology assistants are not authorized to conduct evaluations, interpret, data, alter treatment plans, or perform any task without the express knowledge and approval of the supervising speech-language pathologist.

§ 185-10-5050 Scope of Practice for Audiology Assistant.

Provided that the training, supervision, and planning are appropriate, the following three overarching duty areas may be delegated to an audiology assistant:

(a) Participate in patient care/services and in educational settings

- (1) Assist with providing services (testing), fitting of hearing devices and accessories
- (2) Perform nondiagnostic otoscopy and conduct audiologic testing without clinical interpretation (e.g., hearing screening, pure-tone air conduction thresholds, newborn hearing screening, immittance screening, otoacoustic emission screening)
- (3) Assist with intervention programs (auditory rehabilitation, hearing loss prevention)
- (4) Document and report all patient/client/student encounters—including interaction, services, and outcomes
- (5) Assist with educating patients/clients/students, families, and caregivers about the use and care of hearing devices, assistive listening devices, and alerting devices

(b) Perform hearing device maintenance and maintain audiology testing space

- (1) Perform electroacoustic analysis of hearing devices, perform listening checks, and visual inspection of hearing devices and accessories;
- (2) Perform troubleshooting and minor repairs of hearing devices, earmolds, and accessories; clean hearing devices, earmolds, and accessories, assist the audiologist in sending hearing devices and accessories for repair;
- (3) Assist with clerical duties (e.g., stocking of materials, recordkeeping, scheduling activities), and maintain inventory of supplies;
- (4) Perform infection control.

(c) Engage in professional activities and advocacy

- (1) Participate in professional organizations, advocate for relevant public policies and resources at the local, state, and national levels;

(2) Assist with activities such as research projects, in-service training, public relations programs, and marketing programs;

(3) Participate in community awareness, health literacy, education, and training programs;

§ 185-10-5055 Supervisor's Responsibilities.

- (a) A supervisor of a speech-language pathology assistant or audiology assistant shall:
- (1) Have legal responsibility for the health, safety, and welfare of the patients; and
 - (2) Have legal responsibility for the acts and services provided by the speech-language pathology assistant or audiology assistant, including compliance with the provisions of the statute and these regulations.
- (b) The speech-language pathology or audiology supervisor is responsible for ensuring that the speech-language pathology assistant or audiology assistant is adequately trained for the tasks the assistant will perform. The amount and type of training required must be based on the following:
- (1) The skills and experience of the speech-language pathology or audiology assistant;
 - (2) The needs of the patients/clients served;
 - (3) The service setting;
 - (4) The tasks assigned; and
 - (5) Any other factors as determined by the supervising speech-language pathologist or audiologist.
- (c) A supervising speech-language pathology or audiology supervisor is allowed to supervise no more than three (3) speech-language pathology assistants or audiology assistants.

§ 185-10-5060 Advertising.

- (a) A licensed speech-language pathologist or audiologist may advertise the provision of any services authorized by the law so long as such advertising does not promote the excessive or unnecessary use of such services.
- (b) A licensed speech-language pathologist or audiologist may advertise any academic degree that has been earned and awarded provided that the advertisement of that degree is not false, deceptive, misleading, or in the exercise of reasonable care should be known to be false, deceptive, or misleading.
- (c) If these degrees are generic, such as Ph.D., Ed.D. M.S., M.A., or M.Ed., the holder may represent them but shall specify the discipline in which each degree was earned.

§ 185-10-5065 Code of Ethics.

The Board recognizes the ASHA's Code of Ethics as its professional standards model. The preservation of the highest standards of integrity and ethical principles is vital to the responsible discharge of obligations by speech-language pathologists and audiologists. This Code of Ethics sets forth the fundamental principles and rules considered essential to this purpose. All CNMI-licensed speech-language pathologists, audiologists, speech-language pathology assistants, and audiology assistants shall abide by this Code of Ethics.

§ 185-10-5070 Disciplinary Action.

- (a)** The Board shall have the power to impose administrative penalties and/or reprimands; revoke or suspend; refuse to issue, restore, or renew, the license of any person who is found to have violated one or more of the provisions enumerated in § 2224 of P.L. 15-105 and §§ 185-10-901 through 185-10-1301 of the regulations, including but not limited to the following:
- (1)** Misrepresenting the professional services available in the fitting, sale, adjustment, service, or repair of a hearing aid, or using any other term or title which might connote the availability of professional services when such use is not accurate;
 - (2)** Representing, advertising, or implying that a hearing aid or its repair is guaranteed without providing full disclosure of the identity of the guarantor; the nature, extent, and duration of the guarantee; and the existence of conditions or limitations imposed upon the guarantee;
 - (3)** Representing, directly or by implication, that a hearing aid utilizing bone conduction has certain specified features, such as the absence of anything in the ear or leading to the ear, or the like, without disclosing clearly and conspicuously that the hearing instrument operates on the bone conduction principle and that in many cases of hearing loss this type of instrument may not be suitable;
 - (4)** Stating or implying that the use of any hearing aid will improve or preserve hearing or prevent or retard the progression of a hearing impairment or that it will have any similar or opposite effect;
 - (5)** Making any statement regarding the cure of the cause of a hearing impairment using a hearing aid; and
 - (6)** Representing or implying that a hearing aid is or will be “custom made,” “made to order,” or “prescription-made,” or in any other sense specially fabricated for an individual when such is not the case.



COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
DEPARTMENT OF LABOR
ADMINISTRATIVE HEARING OFFICE

In Re Matter of:) PUA Case No. 23-0229
)
Kyu Jin Hong,)
)
Appellant,) ADMINISTRATIVE ORDER GRANTING
) PARTIES' REQUEST FOR DISMISSAL
v.)
)
CNMI Department of Labor,)
Division of Employment Services-PUA,)
Appellee.)

Pursuant to Appellant's request to appeal, this matter was set for an Administrative Hearing for June 20, 2023 at 9:00 a.m. On May 18, 2023, Appellant filed a written request to withdraw his appeal. On June 1, 2023, Appellee filed a motion to dismiss stating the issues in this case have been resolved and no overpayment occurred.

In consideration of above, the undersigned finds dismissal is appropriate. Accordingly, this appeal is hereby **DISMISSED** and the Administrative Hearing scheduled for June 20, 2023 at 9:00 a.m. is **VACATED**. The Department's Determination, dated January 11, 2023, is **FINAL**. In the event the Appellant disagrees with a subsequent determination or notice, Appellant may file a new appeal.

So ordered this **1st** day of June, 2023.

/s/

Catherine J. Cachero
Administrative Hearing Officer



CNMI DEPARTMENT OF LABOR

ADMINISTRATIVE
HEARING OFFICE

In Re Matter of:) PUA Case No. 23-0233
)
Alberto Magcalas,)
)
Appellant,) ADMINISTRATIVE ORDER
) GRANTING PARTIES' JOINT MOTION
) TO DISMISS
v.)
)
CNMI Department of Labor,)
Department of Employment Services - PUA)
Appellee.)

On September 8, 2023, the parties' filed a Stipulated Motion to Dismiss stating that Appellant received payment and all issues have been resolved. Based on the parties' Stipulated Motion to Dismiss, the undersigned finds that dismissal is appropriate. 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 12th day of September, 2023.

/s/

JACQUELINE A. NICOLAS
Chief Administrative Hearing Officer



CNMI DEPARTMENT OF LABOR

ADMINISTRATIVE
HEARING OFFICE

In Re Matter of:) PUA Case No. 23-0239
Mika Shirai Blakeley)
Appellant,) ADMINISTRATIVE ORDER
v.) GRANTING PARTIES' JOINT MOTION
CNMI Department of Labor,) TO DISMISS
Department of Employment Services - PUA)
Appellee.)

On September 6, 2023, the parties' filed a Stipulated Motion to Dismiss stating that Appellant received payment and all issues have been resolved. Based on the parties' Stipulated Motion to Dismiss, the undersigned finds that dismissal is appropriate. 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 6th day of September, 2023.

/s/

JACQUELINE A. NICOLAS
Chief Administrative Hearing Officer



COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
DEPARTMENT OF LABOR
ADMINISTRATIVE HEARING OFFICE

In Re Matter of:) Labor Case No. 23-015
)
Zaji O. Zajradhara,)
)
Complainant,) DISMISSAL
)
v.)
)
Guam Advance Enterprises, Inc.,)
)
Respondent.)

Pursuant to 3 CMC § 4947(a), “the hearing office may, after notice and an opportunity to be heard is provided to the parties, dismiss *sua sponte* a complaint that the hearing officer finds to be without merit.” Pursuant to NMIAC § 80-20.2-130(c), dismissal is warranted on the following grounds: (1) lack of jurisdiction over the subject matter; (2) lack of jurisdiction over the person; (3) insufficiency of process; (4) insufficiency of service of process; and (5) failure to state a claim upon which relief can be granted. *See* also NMIAC § 80-20.1-485(b).

Generally, US citizens and permanent residents shall be given preference for employment in the Commonwealth. 3 CMC § 4521.¹ Any citizen, CNMI permanent resident, or U.S. permanent resident who is qualified for a job, as described in a job vacancy announcement, may file a complaint making a claim for damages if an employer rejects an application for the job without just cause² and the employer employs a person who is not a citizen, CNMI permanent resident, or U.S. permanent resident for the job. NMIAC § 80-20.1-455. In order to demonstrate a violation of retaliation, a complainant has the burden to prove that the employer took an adverse

¹ “A citizen or CNMI permanent resident or U.S. permanent resident who is qualified for a job may make a claim for damages if an employer has not met the requirements of 3 CMC § 4525, the employer rejects an application for the job without just cause, and the employer employs a person who is not a citizen or CNMI permanent resident or U.S. permanent resident for the job.” 3 CMC § 4528(a). “No employer may hire a foreign national worker, transitional worker, or other nonimmigrant alien if a qualified citizen, CNMI permanent resident, or U.S. permanent resident applies for the job in a timely fashion.” NMIAC § 80-20.1-220(a).

² NMIAC § 80-20.1-455(f)(1).

1 action against the employee because the employee filed a labor complaint. *See* NMIAC § 80-
2 20.1-455(1).

3 Upon review of the pleadings, Complainant failed to state a claim upon which relief can
4 be granted. On August 4, 2023, Complainant initiated a labor case against Respondent for
5 violation of employment preference law and retaliation. Complainant did not include any specific
6 allegations to support his claims. Instead, Complainant attached a copy of a letter raising issues
7 with foreign workers and his recommended legislative action. Based on the letter, it appears that
8 Complainant applied for a job and was not hired. For that reason, Complainant is requesting back
9 wages from the date of application. These allegations do not rise to the level of an employment
10 preference violation unless Complainant can demonstrate: (1) he timely applied for the position;
11 (2) he was qualified for the position; (3) he was rejected without just cause; and (4) the employer
12 ultimately hired someone who is not a citizen or permanent resident for that position. There is
also no showing how Complainant was retaliated against for filing this labor complaint.

13 On August 18, 2023, the undersigned issued an Order to Show Cause giving notice of the
14 applicable law and missing information. Therein, Complainant was ordered to provide the
15 additional allegations or show cause why the case should not be dismissed. The deadline in the
16 Order to Show Cause has passed and Complainant failed to provide the necessary allegations or
17 otherwise show cause. Accordingly, pursuant to 3 CMC § 4947(a), this matter is hereby
DISMISSED.

18 Any person or party aggrieved by this Order may appeal by filing the Notice of Appeal
19 form and filing fee with the Administrative Hearing Office within fifteen (15) days from the date
20 of this Order.

21 So ordered this 28th day of August, 2023

22
23 /s/

24 **JACQUELINE A. NICOLAS**
Chief Administrative Hearing Officer



COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
DEPARTMENT OF LABOR
ADMINISTRATIVE HEARING OFFICE

In Re Matter of:) Labor Case No. 23-016
)
Zaji O. Zajradhara,)
)
Complainant,) DISMISSAL
)
v.)
)
JK Investment and Development, LLC,)
)
Respondent.)

Pursuant to 3 CMC § 4947(a), “the hearing office may, after notice and an opportunity to be heard is provided to the parties, dismiss *sua sponte* a complaint that the hearing officer finds to be without merit.” Pursuant to NMIAC § 80-20.2-130(c), dismissal is warranted on the following grounds: (1) lack of jurisdiction over the subject matter; (2) lack of jurisdiction over the person; (3) insufficiency of process; (4) insufficiency of service of process; and (5) failure to state a claim upon which relief can be granted. *See also* NMIAC § 80-20.1-485(b).

Generally, US citizens and permanent residents shall be given preference for employment in the Commonwealth. 3 CMC § 4521.¹ Any citizen, CNMI permanent resident, or U.S. permanent resident who is qualified for a job, as described in a job vacancy announcement, may file a complaint making a claim for damages if an employer rejects an application for the job without just cause² and the employer employs a person who is not a citizen, CNMI permanent resident, or U.S. permanent resident for the job. NMIAC § 80-20.1-455. In order to demonstrate a violation of retaliation, a complainant has the burden to prove that the employer took an adverse action against the employee because the employee filed a labor complaint. *See* NMIAC § 80-20.1-455(l).

¹ “A citizen or CNMI permanent resident or U.S. permanent resident who is qualified for a job may make a claim for damages if an employer has not met the requirements of 3 CMC § 4525, the employer rejects an application for the job without just cause, and the employer employs a person who is not a citizen or CNMI permanent resident or U.S. permanent resident for the job.” 3 CMC § 4528(a). “No employer may hire a foreign national worker, transitional worker, or other nonimmigrant alien if a qualified citizen, CNMI permanent resident, or U.S. permanent resident applies for the job in a timely fashion.” NMIAC § 80-20.1-220(a).

² NMIAC § 80-20.1-455(f)(1).

1 Upon review of the pleadings, Complainant failed to state a claim upon which relief can
2 be granted. On August 4, 2023, Complainant initiated a labor case against Respondent for
3 violation of employment preference law and retaliation. Complainant did not include any specific
4 allegations to support his claims. Instead, Complainant attached a copy of a letter raising issues
5 with foreign workers and his recommended legislative action. Based on the letter, it appears that
6 Complainant applied for a job and was not hired. For that reason, Complainant is requesting back
7 wages from the date of application. These allegations do not rise to the level of an employment
8 preference violation unless Complainant can demonstrate: (1) he timely applied for the position;
9 (2) he was qualified for the position; (3) he was rejected without just cause; and (4) the employer
10 ultimately hired someone who is not a citizen or permanent resident for that position. There is
also no showing how Complainant was retaliated against for filing this labor complaint.

11 On August 18, 2023, the undersigned issued an Order to Show Cause giving notice of the
12 applicable law and missing information. Therein, Complainant was ordered to provide the
13 additional allegations or show cause why the case should not be dismissed. On August 23, 2023,
14 Respondent filed an untimely answer denying the allegations of the complaint and explained that
15 the relevant JVA was canceled. Seemingly no one was hired for the contested position and, among
16 other things, Complainant failed to show otherwise. The deadline in the Order to Show Cause has
17 passed and Complainant failed to provide the necessary allegations or otherwise show cause.
Accordingly, pursuant to 3 CMC § 4947(a), this matter is hereby **DISMISSED**.

18 Any person or party aggrieved by this Order may appeal by filing the Notice of Appeal
19 form and filing fee with the Administrative Hearing Office within fifteen (15) days from the date
20 of this Order.

21 So ordered this 28th day of August, 2023

22
23 /s/

24 **JACQUELINE A. NICOLAS**

25 Chief Administrative Hearing Officer
26
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COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
DEPARTMENT OF LABOR
ADMINISTRATIVE HEARING OFFICE

In Re Matter of:) Labor Case No. 23-017
)
Zaji O. Zajradhara,)
)
Complainant,) DISMISSAL
)
v.)
)
Manbin Corporation,)
)
Respondent.)

Pursuant to 3 CMC § 4947(a), “the hearing office may, after notice and an opportunity to be heard is provided to the parties, dismiss *sua sponte* a complaint that the hearing officer finds to be without merit.” Pursuant to NMIAC § 80-20.2-130(c), dismissal is warranted on the following grounds: (1) lack of jurisdiction over the subject matter; (2) lack of jurisdiction over the person; (3) insufficiency of process; (4) insufficiency of service of process; and (5) failure to state a claim upon which relief can be granted. *See* also NMIAC § 80-20.1-485(b).

Generally, US citizens and permanent residents shall be given preference for employment in the Commonwealth. 3 CMC § 4521.¹ Any citizen, CNMI permanent resident, or U.S. permanent resident who is qualified for a job, as described in a job vacancy announcement, may file a complaint making a claim for damages if an employer rejects an application for the job without just cause² and the employer employs a person who is not a citizen, CNMI permanent resident, or U.S. permanent resident for the job. NMIAC § 80-20.1-455. In order to demonstrate a violation of retaliation, a complainant has the burden to prove that the employer took an adverse

¹ “A citizen or CNMI permanent resident or U.S. permanent resident who is qualified for a job may make a claim for damages if an employer has not met the requirements of 3 CMC § 4525, the employer rejects an application for the job without just cause, and the employer employs a person who is not a citizen or CNMI permanent resident or U.S. permanent resident for the job.” 3 CMC § 4528(a). “No employer may hire a foreign national worker, transitional worker, or other nonimmigrant alien if a qualified citizen, CNMI permanent resident, or U.S. permanent resident applies for the job in a timely fashion.” NMIAC § 80-20.1-220(a).

² NMIAC § 80-20.1-455(f)(1).

1 action against the employee because the employee filed a labor complaint. *See* NMIAC § 80-
2 20.1-455(l).

3 Upon review of the pleadings, Complainant failed to state a claim upon which relief can
4 be granted. On August 4, 2023, Complainant initiated a labor case against Respondent for
5 violation of employment preference law and retaliation. Complainant did not include any specific
6 allegations to support his claims. Instead, Complainant attached a copy of a letter raising issues
7 with foreign workers and his recommended legislative action. Based on the letter, it appears that
8 Complainant applied for a job and was not hired. For that reason, Complainant is requesting back
9 wages from the date of application. On August 14, 2023, Respondent filed an answer stating they
10 did not receive any applications and the JVA was closed. Seemingly, no one was hired for the
11 position.

12 Upon review, the undersigned found that the allegations in the Complaint did not rise to
13 the level of an employment preference violation unless Complainant can demonstrate: (1) he
14 timely applied for the position; (2) he was qualified for the position; (3) he was rejected without
15 just cause; and (4) the employer ultimately hired someone who is not a citizen or permanent
16 resident for that position. Additionally, the undersigned found that there is also no showing how
17 Complainant was retaliated against for filing this labor complaint. On August 18, 2023, the
18 undersigned issued an Order to Show Cause giving notice of the applicable law and missing
19 information. Therein, Complainant was ordered to provide the additional allegations or show
20 cause why the case should not be dismissed.

21 The deadline in the Order to Show Cause has passed and Complainant failed to provide
22 the necessary allegations or otherwise show cause. Accordingly, pursuant to 3 CMC § 4947(a),
23 this matter is hereby **DISMISSED**.

24 Any person or party aggrieved by this Order may appeal by filing the Notice of Appeal
25 form and filing fee with the Administrative Hearing Office within fifteen (15) days from the date
26 of this Order.

27 So ordered this 28th day of August, 2023

28 /s/

JACQUELINE A. NICOLAS
Chief Administrative Hearing Officer



COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
DEPARTMENT OF LABOR
ADMINISTRATIVE HEARING OFFICE

In Re Matter of:) **Labor Case No. 23-018**
)
Zaji O. Zajradhara,)
)
Complainant,) **DISMISSAL**
)
v.)
)
Jinjoo Corporation,)
)
Respondent.)

Pursuant to 3 CMC § 4947(a), “the hearing office may, after notice and an opportunity to be heard is provided to the parties, dismiss *sua sponte* a complaint that the hearing officer finds to be without merit.” Pursuant to NMIAC § 80-20.2-130(c), dismissal is warranted on the following grounds: (1) lack of jurisdiction over the subject matter; (2) lack of jurisdiction over the person; (3) insufficiency of process; (4) insufficiency of service of process; and (5) failure to state a claim upon which relief can be granted. *See* also NMIAC § 80-20.1-485(b).

Generally, US citizens and permanent residents shall be given preference for employment in the Commonwealth. 3 CMC § 4521.¹ Any citizen, CNMI permanent resident, or U.S. permanent resident who is qualified for a job, as described in a job vacancy announcement, may file a complaint making a claim for damages if an employer rejects an application for the job without just cause² and the employer employs a person who is not a citizen, CNMI permanent resident, or U.S. permanent resident for the job. NMIAC § 80-20.1-455. In order to demonstrate a violation of retaliation, a complainant has the burden to prove that the employer took an adverse

¹ “A citizen or CNMI permanent resident or U.S. permanent resident who is qualified for a job may make a claim for damages if an employer has not met the requirements of 3 CMC § 4525, the employer rejects an application for the job without just cause, and the employer employs a person who is not a citizen or CNMI permanent resident or U.S. permanent resident for the job.” 3 CMC § 4528(a). “No employer may hire a foreign national worker, transitional worker, or other nonimmigrant alien if a qualified citizen, CNMI permanent resident, or U.S. permanent resident applies for the job in a timely fashion.” NMIAC § 80-20.1-220(a).

² NMIAC § 80-20.1-455(f)(1).

1 action against the employee because the employee filed a labor complaint. *See* NMIAC § 80-
2 20.1-455(l).

3 Upon review of the pleadings, Complainant failed to state a claim upon which relief can
4 be granted. On August 4, 2023, Complainant initiated a labor case against Respondent for
5 violation of employment preference law and retaliation. Complainant did not include any specific
6 allegations to support his claims. Instead, Complainant attached a copy of a letter raising issues
7 with foreign workers and his recommended legislative action. Based on the letter, it appears that
8 Complainant applied for a job and was not hired. For that reason, Complainant is requesting back
9 wages from the date of application. These allegations do not rise to the level of an employment
10 preference violation unless Complainant can demonstrate: (1) he timely applied for the position;
11 (2) he was qualified for the position; (3) he was rejected without just cause; and (4) the employer
12 ultimately hired someone who is not a citizen or permanent resident for that position. There is
13 also no showing how Complainant was retaliated against for filing this labor complaint. On
14 August 14, 2023, Respondent filed a response or answer stating that the applicants interviewed
15 for one JVA were deemed unqualified, and they did not receive any applicants for the second
16 JVA. Both listed JVA's were then closed. Seemingly, no one was hired for the positions.

17 On August 18, 2023, the undersigned issued an Order to Show Cause giving notice of the
18 applicable law and missing information. Therein, Complainant was ordered to provide the
19 additional allegations or show cause why the case should not be dismissed. The deadline in the
20 Order to Show Cause has passed and Complainant failed to provide the necessary allegations or
21 show cause. Accordingly, pursuant to 3 CMC § 4947(a), this matter is hereby **DISMISSED**.

22 Any person or party aggrieved by this Order may appeal by filing the Notice of Appeal
23 form and filing fee with the Administrative Hearing Office within fifteen (15) days from the date
24 of this Order.

25 So ordered this **28th** day of August, 2023

26 /s/

27 **JACQUELINE A. NICOLAS**
28 Chief Administrative Hearing Officer



COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
DEPARTMENT OF LABOR
ADMINISTRATIVE HEARING OFFICE

In Re Matter of:) Labor Case No. 23-019
)
Zaji O. Zajradhara,)
)
Complainant,) DISMISSAL
)
v.)
)
Costa World Corporation,)
)
Respondent.)

Pursuant to 3 CMC § 4947(a), “the hearing office may, after notice and an opportunity to be heard is provided to the parties, dismiss *sua sponte* a complaint that the hearing officer finds to be without merit.” Pursuant to NMIAC § 80-20.2-130(c), dismissal is warranted on the following grounds: (1) lack of jurisdiction over the subject matter; (2) lack of jurisdiction over the person; (3) insufficiency of process; (4) insufficiency of service of process; and (5) failure to state a claim upon which relief can be granted. *See* also NMIAC § 80-20.1-485(b).

Generally, US citizens and permanent residents shall be given preference for employment in the Commonwealth. 3 CMC § 4521.¹ Any citizen, CNMI permanent resident, or U.S. permanent resident who is qualified for a job, as described in a job vacancy announcement, may file a complaint making a claim for damages if an employer rejects an application for the job without just cause² and the employer employs a person who is not a citizen, CNMI permanent resident, or U.S. permanent resident for the job. NMIAC § 80-20.1-455. In order to demonstrate a violation of retaliation, a complainant has the burden to prove that the employer took an adverse

¹ “A citizen or CNMI permanent resident or U.S. permanent resident who is qualified for a job may make a claim for damages if an employer has not met the requirements of 3 CMC § 4525, the employer rejects an application for the job without just cause, and the employer employs a person who is not a citizen or CNMI permanent resident or U.S. permanent resident for the job.” 3 CMC § 4528(a). “No employer may hire a foreign national worker, transitional worker, or other nonimmigrant alien if a qualified citizen, CNMI permanent resident, or U.S. permanent resident applies for the job in a timely fashion.” NMIAC § 80-20.1-220(a).

² NMIAC § 80-20.1-455(f)(1).

1 action against the employee because the employee filed a labor complaint. *See* NMIAC § 80-
2 20.1-455(l).

3 Upon review of the pleadings, Complainant failed to state a claim upon which relief can
4 be granted. On August 4, 2023, Complainant initiated a labor case against Respondent for
5 violation of employment preference law and retaliation. Complainant did not include any specific
6 allegations to support his claims. Instead, Complainant attached a copy of a letter raising issues
7 with foreign workers and his recommended legislative action. Based on the letter, it appears that
8 Complainant applied for a job and was not hired. For that reason, Complainant is requesting back
9 wages from the date of application. These allegations do not rise to the level of an employment
10 preference violation unless Complainant can demonstrate: (1) he timely applied for the position;
11 (2) he was qualified for the position; (3) he was rejected without just cause; and (4) the employer
12 ultimately hired someone who is not a citizen or permanent resident for that position. There is
13 also no showing how Complainant was retaliated against for filing this labor complaint. On
14 August 14, 2023, Respondent filed an answer stating that no one was hired for the position.

15 On August 18, 2023, the undersigned issued an Order to Show Cause giving notice of the
16 applicable law and missing information. Therein, Complainant was ordered to provide the
17 additional allegations or show cause why the case should not be dismissed. The deadline in the
18 Order to Show Cause has passed and Complainant failed to provide the necessary allegations or
19 show cause. Accordingly, pursuant to 3 CMC § 4947(a), this matter is hereby **DISMISSED**.

20 Any person or party aggrieved by this Order may appeal by filing the Notice of Appeal
21 form and filing fee with the Administrative Hearing Office within fifteen (15) days from the date
22 of this Order.

23 So ordered this 28th day of August, 2023

24 /s/

25 **JACQUELINE A. NICOLAS**
26 Chief Administrative Hearing Officer
27
28



CNMI DEPARTMENT OF LABOR

ADMINISTRATIVE HEARING OFFICE

In Re Matter of:) **Labor Case No. 23-021**
Xiuyuan Liang,)
Complainant,) **DISMISSAL ORDER**
v.)
Apollo Corporation,)
Respondent.)

Pursuant to 3 CMC § 4947(a), “the hearing office may, after notice and an opportunity to be heard is provided to the parties, dismiss *sua sponte* a complaint that the hearing officer finds to be without merit.” Pursuant to NMIAC § 80-20.2-130(c), dismissal is warranted on the following grounds: (1) lack of jurisdiction over the subject matter; (2) lack of jurisdiction over the person; (3) insufficiency of process; (4) insufficiency of service of process; and (5) failure to state a claim upon which relief can be granted. *See also* NMIAC § 80-20.1-485(b).

On August 18, 2023, Complainant initiated a labor case against Respondent for unpaid wages and violation of employment preference law. Therein, Complainant alleged that she is owed back wages from work performed from January 2022 to August 2022. Complainant fails to provide any allegations with respect to the employment preference violation. However, Complainant’s EAD Card demonstrates she is a foreign national with employment authorization under Category C37. Upon review of the legal deficiencies in the Complaint, Complainant was ordered to show cause why complaint should not be dismissed for failure to state a claim within the six-month statute of limitations and failure to state a claim for employment preference. On September 11, 2023, Complainant filed a written statement explaining that: (1) she was aware that wages were owed to her; (2) Respondent made incremental payments for the back wages from July 2022 to August 2023; and (3) she filed the claim late when Respondent delayed making payments. Additionally, Complainant made other claims about loaning the employer money –

1 which is irrelevant to the wage claim. Complainant did not include any factual allegations to
2 support the employment preference violation.

3 Based on the pleadings and applicable law, the undersigned finds:

4 **1. Complainant fails to state a claim within the six-month statute of limitations.**

5 Pursuant to 3 CMC § 4962, “[n]o labor complaint may be filed more than six months after
6 the date of the last-occurring event that is the subject of the complaint, except in cases where the
7 actionable conduct was not discoverable upon the last-occurring event.” *See also* 4 CMC § 9246.
8 “If a complaint is not timely filed, the hearing office *shall* dismiss the complaint with prejudice.”
NMIAC § 80-20.1-465(e). Emphasis added.

9 As stated above, Complainant alleges that she worked and was owed wages from January
10 2022 to August 2022. Complainant’s last day of employment was August 31, 2022. Based on the
11 allegations, Complainant knew she was owed wages since 2022. However, Complainant chose
12 not to file her complaint and instead, receive partial and delayed payments. Complainant filed this
13 complaint on August 18, 2023 – approximately two years after she accrued the wages and quit
14 her job. Based on above, Complainant failed to act. Since the alleged claims accrued outside the
six-month statute of limitations, they are time-barred.

15 **2. Complainant fails to state a claim to demonstrate a violation of the employment**
16 **preference requirement.**

17 Upon review of the complaint and supplemental filing, Complainant failed to allege any
18 facts to demonstrate a violation of the employment preference law.¹ Specifically, there is no
19 showing that Complainant: (1) was entitled to preference; (2) applied for a job; (3) was denied
20 employment without cause; and (4) the employer hired a foreign worker instead of her. Instead,
21 Complainant simply checked a box on the standardized complaint form without any explanation.
22 Accordingly, the undersigned finds this claim to be frivolous and without merit.

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25 ¹ A citizen or CNMI permanent resident or U.S. permanent resident who is qualified for a job may make a claim for
26 damages if an employer has not met the requirements of 3 CMC § 4525, the employer rejects an application for the
27 job without just cause, and the employer employs a person who is not a citizen or CNMI permanent resident or U.S.
28 permanent resident for the job. 3 CMC § 4528. “In the full-time workforce of any employer, the percentage of citizens,
U.S. permanent residents, and CNMI permanent residents and their immediate relatives employed shall equal or
exceed the percentage of citizens, U.S. permanent residents, and CNMI permanent residents and their immediate
relatives in the available private sector workforce unless attainment of this goal is not feasible within the current
calendar year after all reasonable efforts have been made by the employer.” 3 CMC § 4525

Based on the foregoing, dismissal is appropriate. Accordingly, the complaint is hereby **DISMISSED**, with prejudice.

Any person or party aggrieved by this Order may appeal by filing the Notice of Appeal form and filing fee with the Administrative Hearing Office within fifteen (15) days from the date of this Order.

So ordered this 14th day of September, 2023.

/s/

JACQUELINE A. NICOLAS
Chief Administrative Hearing Officer



COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
DEPARTMENT OF LABOR
ADMINISTRATIVE HEARING OFFICE

In Re the Matter of:) **Enforcement Investigation No. 23-002-05**
) **Compliance Agency Case No. 23-002**
Department of Labor, Enforcement and)
Compliance,)
)
Complainant,) **JUDGMENT AND ORDER AWARDING**
) **SANCTIONS**
v.)
)
Capital Saipan Corporation dba Koblerville)
Market,)
)
Respondent.)

I. INTRODUCTION

This matter came for an Administrative Hearing on July 20, 2023 at 9:00 a.m. at the Administrative Hearing Office in Saipan. Complainant CNMI Department of Labor, Enforcement, Monitoring, and Compliance Section ("Enforcement") was present and represented by Labor Law Enforcement Specialist III Arlene Rafanan. Respondent Capital Saipan Corporation dba Koblerville Market ("Respondent") failed to appear. Counsel for Respondent also failed to appear.

II. BACKGROUND AND DISCUSSION

On June 7, 2023, Enforcement filed a determination alleging three violations for failing to submit a Total Workforce Listing, Workforce Plan, and Business License. Notice of the hearing was issued on July 6, 2023 and served the same day to the parties' designated contact information pursuant to NMIAC § 80-20.1-475(d)(4). Additionally, there was no request to continue the scheduled hearing or notice as to why Respondent and Counsel could not appear, as scheduled. Pursuant to NMIAC § 80-20.1-45, the undersigned finds that Respondent's failure to appear shall constitute a waiver of any right to contest the Department's determination.

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III. CONCLUSION

Accordingly, **JUDGMENT** is hereby entered against Respondent.

1. Respondent failed to maintain and timely submit a 2022 Total Workforce Listing pursuant to NMIAC § 80-20.1-505;
2. Respondent failed to maintain and timely submit a 2022 Workforce Plan pursuant to NMIAC § 80-20.1-510; and
3. Respondent failed to maintain and timely submit a Business License pursuant to NMIAC § 80-20.1-455.

Respondent is ordered to cure the violations by submitting the required records to Enforcement on or before August 4, 2023. Additionally, pursuant to NMIAC § 80-20.1-480(e), Respondent is sanctioned \$2,000 per violation, a total of \$6,000. Payment is due on or before August 21, 2023. Respondent can make the payment by obtaining a voucher from the Administrative Hearing Office and transmitting it, together with payment, to the CNMI Treasury. A copy of receipt or other proof of payment must be returned to the Administrative Hearing Office. Until Respondent cures the violations and remits payment, the Department shall withhold any certificates of good standing and Enforcement shall continue monitoring Respondent for compliance with all applicable labor laws and regulations.

Any person or party aggrieved by this Order may appeal by submitting the Notice of Appeal form and filing fee with the Administrative Hearing Office within fifteen (15) days from the date of this Order.¹

So ordered this **20th** day of July, 2023.

/s/

JACQUELINE A. NICOLAS
Chief Administrative Hearing Officer

¹ The Notice of Appeal Form is available online at www.marianaslabor.net or hard copies are available at the Administrative Hearing Office. The aggrieved person or party must file the completed form at the Administrative Hearing Office, with the applicable filing fee.



CNMI DEPARTMENT OF LABOR

ADMINISTRATIVE HEARING OFFICE

In Re Matter of:) **Enforcement Investigation No. 23-011-08**
) **Compliance Agency Case No. 23-006**
Department of Labor, Enforcement and)
Compliance,)
Complainant,) **ORDER DISMISSING AGENCY CASE**
v.)
B & R Corporation dba B & R Auto)
Shop,)
Respondent.)

I. INTRODUCTION

This matter came for an Order to Show Cause hearing on September 19, 2023 at 9:00 a.m. at the Administrative Hearing Office in Saipan. Complainant CNMI Department of Labor, Enforcement, Monitoring, and Compliance Section ("Enforcement") was present and represented by Acting Director Jeffrey Camacho and Labor Law Enforcement Specialist III Norman Rasiang. Respondent B & R Corporation dba B & R Auto Shop ("Respondent") was present and represented by Company President Sung Keun Yu.¹

II. BACKGROUND

On August 14, 2023, Enforcement filed a Determination and Notice of Violation against Respondent for failure to submit required records. Therein, Enforcement alleged that Respondent failed to submit the following required records: (1) the Respondent's Total Workforce Listing from 2022 to present; (2) the Respondent's Workforce Plan from 2022 to present; (3) Respondent's 2023 Business License; and (4) Respondent's Manpower Service Agreement and List of Employees. Respondent did not file a response to the Determination. On August 17, 2023, a Notice of Hearing was issued and served to the parties.

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¹ Mr. Yu is accompanied by Mio Kim who acted as the interpreter for the proceedings. Ms. Kim was questioned and sworn in to act as a neutral interpreter. The Department did not have objections.

III. APPLICABLE LAW

The Department's Enforcement, Compliance, and Monitoring Section ("Enforcement") has authority to conduct investigations and inspect worksites to enforce the applicable labor laws, ensure lawful working conditions, employer-supplied benefits, and the health and safety of foreign national workers. 3 CMC §§ 4939-4940. When appropriate, "the [Enforcement] may commence an action against an employer or a foreign national worker for an alleged violation of the labor or wage laws of the Commonwealth. 3 CMC § 4941(b). The Department's Enforcement, Compliance, and Monitoring Section's authority to initiate agency cases² are found under NMIAC§ 80-20.1-435. The regulation provides:

If upon inspection a violation is found of any provision of the Commonwealth Employment Act of 2007, as amended, the Minimum Wage and Hour Act, as amended, or the Department regulations promulgated pursuant to Commonwealth law, the investigator may, *within thirty days*:

(a) Warning.

Issue a warning to the responsible party to correct the violation. If the responsible party does not comply within ten days and correct the violation, the Chief of the Enforcement Section may issue a notice of violation.

(b) Notice of violation.

Issue a notice of violation to the responsible party. Upon issuance of a notice of violation, an action is opened in the Administrative Hearing Office with the Chief of the Enforcement Section as the complainant. If the notice of violation is issued in circumstances where the complaint has been filed with the Administrative Hearing Office by an individual complainant, the caption on the case may be amended to reflect the Chief of the Enforcement Section as the complainant.

NMIAC § 80-20.1-435 (emphasis added).³

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² Labor cases and agency cases are distinct. Under a labor case, the dispute is between an employee and an employer and subject to a six-month statute of limitations. 3 CMC § 4962; *see also* 4 CMC § 9246. Under an agency, the dispute is between the Department's Enforcement section and an employer. Further, instead of a complaint, Enforcement files a Notice of Violation.

³ *Compra* NMIAC § 80-20.2-110 ("Within ten days of the initiation of an investigation the Chief of Labor or his designee shall either: (a) issue a warning and request to correct the violation . . . or (b) issue a notice of violation and conduct a hearing pursuant to 1 CMC § 9109.")

IV. ANALYSIS

Generally, employers are required to maintain and submit a number of employment-related records. Specifically, “[a]n employer for any foreign national worker shall keep, and present immediately . . . (a) personnel records for each foreign national worker... (b) payroll records for each foreign national worker . . . (c) documentation for each foreign national worker . . . and (d) business license and any other information or documentation required by regulation. 3 CMC § 4967. Similarly, the regulations require that “[a]n employer of a foreign national worker shall keep for at least two years, and present immediately upon written request . . . (a) personnel records for each foreign national worker . . . (b) payroll records for each foreign national worker . . . (c) receipts for cash payments, cancelled checks or deposit records of payment of wages and overtime . . . (d) documentation for each foreign national worker . . . (e) the employer’s business license . . . and (f) the number and type of employment related accidents or illnesses” NMIAC § 80-20.1-501. Additionally, applicable employers must submit a Total Workforce Listing pursuant to NMIAC § 80-20.1-505 and a Workforce Plan pursuant to NMIAC § 80-20.1-510. “Every employer shall maintain sufficient documentation to demonstrate compliance with federal and Commonwealth employment requirements as provided in law and applicable regulations.” NMIAC § 80-20.1-425.

Enforcement’s investigation regarding Respondent’s records began when Enforcement received a list of companies who did not submit required records.⁴ Based on the list, Enforcement visited Respondent’s worksite on Beach Road, in Chalan Lau Lau, Saipan on April 4, 2023. The worksite appeared to be open for business given the number of workers present and machinery in use. Based on Enforcement’s line of questioning with an office clerk, Enforcement requested a manpower service agreement and list of employees – in addition to the already missing records. The requested records were due on April 14, 2023. Respondent did not submit any records by the established deadline. On May 2, 2023, Enforcement followed up with Respondent, who explained that they could not submit records because they did not have an accountant. Enforcement did not find the excuse to be valid and informed Respondent that a Notice of Violation would be filed. During the hearing, Enforcement testified that they wanted to forego issuing a notice of warning

⁴ Aside from the fact the list was created and transmitted by the Department’s Division of Employment Services, Enforcement did not know exactly who compiled the list. Enforcement did not know when they received the list. Enforcement did not recall when they were assigned to investigate the companies on the list.

1 because they knew a violation occurred when Respondent failed to timely submit the requested
2 records.

3 Despite knowing a violation occurred on April 14, 2023 and informing Respondent that they
4 would file a Notice of Violation on May 2, 2023 – Enforcement did not file a Notice of Violation
5 until August 14, 2023. When asked why the case should not be dismissed for failure to file within
6 30 days, Enforcement explained: (1) they were short staffed when two officers were reassigned
7 to a different department; (2) they were busy with other cases; (3) the language in the regulation
8 is discretionary; and (4) they were unsure of when the 30-day timeline began.

9 Enforcement's explanation is not sufficient. First, being short staffed and busy is not cause
10 for failure to act. Second, while the regulation arguably includes discretionary language as to a
11 course of action, the regulation clearly provides a thirty-day deadline to act. The regulations do
12 not include any authority to issue a Notice of Violation beyond of thirty days of discovering a
13 violation. Enforcement's arguments are not supported by law and the undersigned refuses to
14 interpret the regulation's silence as Enforcement's unbridled discretion to initiate cases based on
15 their convenience. Lastly, it is Enforcement's duty to know and uphold the regulations. Any legal
16 questions or uncertainty should have been directed to legal counsel prior to the hearing. The
17 hearing is not a forum to ask legal questions, rather the parties' opportunity to prove their claim.
18 Considering that Enforcement failed to file their claim within thirty days of finding a violation,
19 dismissal is appropriate.

20 V. CONCLUSION

21 Based on the foregoing, this case is hereby **DISMISSED** pursuant to 3 CMC § 4947(a). Any
22 person or party aggrieved by this Order may appeal by filing the Notice of Appeal form and filing
23 fee with the Administrative Hearing Office within fifteen (15) days from the date of this Order.

24 So ordered this 20th day of September, 2023.

25 /s/

26 **JACQUELINE A. NICOLAS**
27 Chief Administrative Hearing Officer
28



CNMI DEPARTMENT OF LABOR

ADMINISTRATIVE HEARING OFFICE

In Re Matter of:) **Consolidated Labor Case No.**
) **23-005 and 23-007**
Johnalynn Y. Salinas,)
)
Complainant,)
) **ORDER OF DISMISSAL**
v.)
)
Women of Destiny,)
Second Wind,)
Respondent.)

I. INTRODUCTION

This matter came for an Order to Show Cause hearing on September 7, 2023 at 10:00 a.m. at the Administrative Hearing Office in Saipan. Complainant Johnalynn Y. Salinas ("Complainant") was not present. Respondent's Women of Destiny and Second Wind (collectively, "Respondent") was present and represented by authorized representative Myrna Aquino. CNMI Department of Labor, Enforcement, Monitoring, and Compliance Section ("Enforcement") was present and represented by Acting Director Jeffrey Camacho.

II. BACKGROUND

As a preliminary matter, "[e]xcept for good cause shown, failure of a party to appear at a hearing after timely being served notice to appear shall be deemed to constitute a waiver of any right to pursue or contest the allegation in the complaint." NMIAC § 80-20.1-480(l). Pursuant to 3 CMC § 4947(a), "the hearing officer may, after notice and an opportunity to be heard is provided to the parties, dismiss ... a complaint that the hearing officer finds to be without merit." Pursuant to NMIAC § 80-20.2-130(c), dismissal is warranted on the following grounds: (1) lack of jurisdiction over the subject matter; (2) lack of jurisdiction over the person; (3) insufficiency of process; (4) insufficiency of service of process; and (5) failure to state a claim upon which relief can be granted. See also NMIAC § 80-20.1-485(b).

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III. DISCUSSION

On April 4, 2023, Complainant filed a complaint against Respondent's for unpaid wages in the amount of \$1,740.00. Upon review of the pleadings, the matter was referred to Enforcement for further investigation. On August 7, 2023, Enforcement filed a Determination reporting: (1) Complainant was a volunteer for both companies, and (2) Complainant stated she did not have any claim against Women of Destiny. Additionally, Enforcement found Complainant had no records or evidence to demonstrate that an employment relationship between the parties existed. On August 8, 2023, an Order to Show Cause was issued to both parties and served to the designated contact information pursuant to NMIAC § 80-20.1-475(d)(4). Complainant failed to appear at the scheduled hearing.

Here, there was no notice or explanation regarding Complainant's inability or failure to show. Accordingly, the undersigned finds that Complainant has waived her right to pursue this claim. Further, upon review of the pleadings and determination, the undersigned finds that Complainant failed to state a claim for unpaid wages because there was no showing that: (1) an employment relationship between the parties existed; and (2) wages were owed. Based on the applicable law, the undersigned finds that dismissal of the consolidated labor case is appropriate.

IV. CONCLUSION

Accordingly, this matter is hereby **DISMISSED**. Any person or party aggrieved by this Order may appeal by filing the Notice of Appeal form and filing fee with the Administrative Hearing Office within fifteen (15) days from the date of this order.

So ordered this 11th day of September, 2023.

/s/

JACQUELINE A. NICOLAS

Chief Administrative Hearing Officer



CNMI DEPARTMENT OF LABOR

ADMINISTRATIVE HEARING OFFICE

In Re Matter of:) **Consolidated Labor Case No.**
Froilan M. Camacho,) **23-004 and 23-006**
Complainant,)
v.) **ORDER OF DISMISSAL**
Women of Destiny,)
Second Wind,)
Respondent.)

I. INTRODUCTION

This matter came for an Order to Show Cause hearing on September 7, 2023 at 9:00 a.m. at the Administrative Hearing Office in Saipan. Complainant Froilan M. Camacho ("Complainant") failed to appear. Respondent's Women of Destiny and Second Wind (collectively, "Respondents") also failed to appear. CNMI Department of Labor, Enforcement, Monitoring, and Compliance Section ("Enforcement") was present and represented by Acting Director Jeffrey Camacho.

II. BACKGROUND

As a preliminary matter, "[e]xcept for good cause shown, failure of a party to appear at a hearing after timely being served notice to appear shall be deemed to constitute a waiver of any right to pursue or contest the allegation in the complaint." NMIAC § 80-20.1-480(I). Pursuant to 3 CMC § 4947(a), "the hearing officer may, after notice and an opportunity to be heard is provided to the parties, dismiss ... a complaint that the hearing officer finds to be without merit." Pursuant to NMIAC § 80-20.2-130(c), dismissal is warranted on the following grounds: (1) lack of jurisdiction over the subject matter; (2) lack of jurisdiction over the person; (3) insufficiency of process; (4) insufficiency of service of process; and (5) failure to state a claim upon which relief can be granted. *See also* NMIAC § 80-20.1-485(b).

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III. DISCUSSION

On April 4, 2023, Complainant filed a complaint against Respondent's for unpaid wages in the amount of \$3,480.00 accruing from December 21, 2022 through March 17, 2023. Upon review of the pleadings, the matter was referred to Enforcement for further investigation. On August 7, 2023, Enforcement filed a Determination reporting: (1) Complainant was a volunteer for both companies, and (2) Complainant stated he did not have any claim against Women of Destiny. Additionally, Enforcement found Complainant had no records or evidence to demonstrate that an employment relationship between the parties existed. Enforcement recommended the case be dismissed for failure to state a claim. On August 8, 2023, an Order to Show Cause was issued to both parties and served to the designated contact information pursuant to NMIAC § 80-20.1-475(d)(4). Both parties failed to appear at the scheduled hearing.

Here, there was no notice or explanation regarding Complainant's inability or failure to show. Accordingly, the undersigned finds that Complainant has waived his right to pursue this claim. Further, upon review of the pleadings and determination, the undersigned finds that Complainant failed to state a claim for unpaid wages because there was no showing that: (1) an employment relationship between the parties existed; and (2) wages were owed. Based on the applicable law, the undersigned finds that dismissal of the consolidated labor case is appropriate.

IV. CONCLUSION

17 Accordingly, this matter is hereby **DISMISSED**. Any person or party aggrieved by this
18 Order may appeal by filing the Notice of Appeal form and filing fee with the Administrative
19 Hearing Office within fifteen (15) days from the date of this order.

20 So ordered this 11th day of September, 2023.

21
22 /s/

23 **JACQUELINE A. NICOLAS**
24 Chief Administrative Hearing Officer
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