

# **Rise West Virginia Policies and Procedures: Housing Restoration Program and Rental Assistance Program**

March 5, 2018



## CHANGE CONTROL LOG

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**EQUAL HOUSING  
OPPORTUNITY**

All Rise West Virginia Programs operate in Accordance with the Federal Fair Housing Law  
(The Fair Housing Amendments Act of 1988)

Anyone who feels he or she has been discriminated against may file a complaint of housing discrimination:  
1-800-669-9777 (Toll Free) 1-800-927-9275 (TIY)

[www.hud.gov/fairhousing](http://www.hud.gov/fairhousing)

U.S. Department of Housing and Urban Development  
Assistant Secretary for Fair Housing and Equal Opportunity  
Washington, D.C. 20410

or

PITTSBURGH FHEO FIELD OFFICE  
William Moorhead Federal Building  
1000 Liberty Avenue, Suite 1000  
Pittsburgh, PA 15222-4004

# 1 Overview

In June 2016, the state of West Virginia suffered record breaking amounts of rainfall. Between 8 and 10 inches fell within a period of 12 hours, causing debilitating flooding across 17 counties. Disaster declared counties were Kanawha and Greenbrier. Small towns like White Sulphur Springs and Clendenin were damaged beyond recognition. The damage left by the flood was unprecedented. A state of emergency in 44 of the 55 West Virginia counties was declared by then-Governor, Earl Ray Tomblin. The flooding caused widespread damage to housing, business and infrastructure, left thousands of West Virginians homeless and caused the loss of 23 lives. Verified losses reported by FEMA totaled over \$45 million statewide.

West Virginia received long-term flood recovery funds through the Continuing Appropriations Act of 2017 (Pub. L. 114-223 and Pub. L. 114-254) (collectively, Appropriations Act) was enacted to appropriate federal funds for disaster relief to various states with Presidentially Declared Disasters in 2016. A total of \$2.3 billion in Community Development Block Grant - Disaster Recovery (CDBG-DR) funds was appropriated through two separate allocations, the requirements of which are set forth under Federal Register Notices, 81 FR 83254 and 82 FR 5591. From this funding, West Virginia received two allocations totaling \$104,280,000 to be spent in 12 disaster declared counties, specifically Clay, Greenbrier, Fayette, Jackson, Kanawha, Lincoln, Monroe, Nicholas, Pocahontas, Roane, Summers, and Webster. Of the total funding available, 80% must be spent in the following areas determined to be *most impacted*: Clay, Greenbrier, Kanawha, and Nicholas counties (2016 Flood Award).

The appropriating laws and implementing regulations require the funds to be used to satisfy a portion of unmet need that remains after other federal assistance such as Federal Emergency Management Agency (FEMA) grants, Small Business Administration (SBA) loans, or private insurance has been received. This manual addresses the policies and procedures for implementing West Virginia's CDBG-DR funded Rise West Virginia housing assistance programs in compliance with federal, state and local requirements.

## 1.1 Purpose and Objectives of Rise West Virginia Programs

The purpose of the CDBG-DR-funded Rise West Virginia Housing Program (the Program) is to aid those affected by the 2016 flood. Under the State's Disaster Recovery Action Plan, financial assistance will be provided for rehabilitation, replacement, and reconstruction of homes (including owner-occupied



homes and rental properties), private access bridges, and multi-family housing projects. Funding will also be available to match the Hazard Mitigation Grant Program (HMGP). This manual specifically addresses activities supporting the rehabilitation, replacement, and reconstruction of homes.

The Program will focus on unmet housing needs for applicants by providing safe, sanitary, and secure housing. The Programs will fulfill this goal by either bringing existing affected housing units into compliance with applicable health and safety codes, or replacing those structures that cannot be technically or economically repaired.

West Virginia will manage and complete the construction process for the rehabilitation or reconstruction of damaged homes on behalf of eligible applicants. The State will contract with a pool of qualified contractors and assign them to repair or reconstruct damaged properties. Homeowners will not select their own contractors and will not contract directly with the construction contractors. Homeowners are required to enter grant agreements with the State setting forth the terms and conditions of the program.

### **National Objectives**

All proposed activities within the Program meet one of three CDBG-DR National Program Objectives:

- Principally benefit Low-to-Moderate income (LMI) persons,
- Aid in the elimination of slum or blight, or
- Address an urgent need

### **Unmet Needs Assessment**

Based on the State's unmet needs assessment conducted as part of the State's Disaster Recovery Action plan and approved by HUD as a condition of grant funding, it was determined that a large amount of unmet need remains in the housing sector. In response to this, the State has created two core housing programs which will focus on housing repair and rehabilitation for LMI households.

- The West Virginia Housing Restoration Program which will provide grants for single-family owner-occupied homes that suffered damage as a result of the June 2016 floods.
- The West Virginia Rental Assistance Program (WV-RAP) which will provide grants to owners of rental properties that were damaged. Resilience measures will also be incorporated for homes that are destroyed or have substantial damage.

### **Resiliency Measures**

In conducting its impact and unmet needs assessment, the State also considered the additional costs associated with protecting housing and community investments from future disasters. The State's programs

will not only repair or replace lost housing but will also address mitigation measures to protect assisted homes from damage from future disasters. Specific resiliency solutions for housing units could include:

- Elevating the first floor of habitable area
- Breakaway ground floor walls
- Reinforced roofs
- Retention basins
- Landscaped floodwalls
- Mold and mildew resistant products building materials

### **Affirmatively Furthering Fair Housing**

The State's housing programs have been reviewed to ensure the activities will comply with HUD's Affirmatively Furthering Fair Housing (AFFH) rule. AFFH is a legal requirement for federal grantees to uphold and further the purposes of the Fair Housing Act by taking approaches to community planning that will overcome segregation, discrimination, and promote fair housing choices. The review included an assessment of area demographics, socioeconomic characteristics, housing configuration and needs, educational, transportation, and health care opportunities, environmental hazards or concerns, and all other factors material to the AFFH determination. Housing program applications should show and are reviewed to determine whether projects are likely to meet AFFH objectives. Any subrecipients and partner agencies will certify that they will affirmatively further fair housing in their agreements with the Program, and will receive fair housing training and technical assistance in carrying out all CDBG-DR activities to ensure fair housing obligations are met.

## 1.2 Compliance Requirements of Rise West Virginia Disaster Recovery Programs

Requirements for CDBG-DR generally follow the same requirements as CDBG. However, each allocation of CDBG-DR funds contains alternate requirements and applicable waivers which should be consulted for each separate allocation of CDBG-DR funds. The following guidance is applicable to West Virginia's CDBG-DR Program for 2016 Flooding:

- West Virginia CDBG-DR Action Plan for the response to 2016 Floods
- 24 CFR 570
- 24 CFR 91
- 2 CFR Part 200
- Public Law 114-223; 81 FR 83254
- Public Law 114-254; 82 FR 5591
- Cross-cutting HUD requirements including Section 3 of the Housing Act, conformance with the Civil Rights Act, compliance with the Uniform Relocation Act, and National Environmental Protection Agency requirements.

CDBG-DR HUD Action Plans are the approved implementation plan for operating the CDBG-DR program under a HUD appropriated disaster allocation. HUD approved the West Virginia CDBG-DR Action Plan in April 2017. The approved HUD Action Plan for 2016 Floods (Action Plan) the foundational program design is utilized when instructing and managing the program aspects. Additional amendments may occur as the program progresses, therefore, any amendments or changes to the Action Plan is published on the West Virginia disaster recovery website.<sup>1</sup>

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<sup>1</sup> [www.risewv.com](http://www.risewv.com)

## 1.3 West Virginia Housing Restoration Program

### Overview

The State of West Virginia has created this program to provide housing assistance to low-to-moderate income (LMI) households affected by the June 2016 floods. Applicants applying for assistance must have suffered documented damage to their housing units as a result of the June 2016 flood. The Program will conduct inspections to confirm the damage.

Assistance is provided for repair, rehabilitation, reconstruction, replacement, relocation and property elevation for eligible applicants, dependent upon the Program's determination of applicant eligibility, remaining unmet need and the most cost-effective road to recovery. Additional objectives are to return applicants to decent, safe, and sanitary housing in flood damaged areas as quickly as possible, with priority given towards those deemed to have the highest level of vulnerability first as indicated by the SoVI® index.

### National Objective

Benefit to LMI persons

### Eligibility Requirements

All applicants to the Program is held up to the following eligibility criteria:

- Applicants must own a single-family home or mobile home unit (MHU) located in one of the following disaster-declared counties eligible for FEMA IA assistance:

Clay	Monroe
Fayette	Nicholas
Greenbrier	Pocahontas
Jackson	Roane
Kanawha	Summers
Lincoln	Webster

**NOTE:** Manufactured Housing Units (MHUs or mobile homes) are eligible for rehabilitation and/or relocation at the discretion of the program. However, to be cost effective, the MHU must be no more than 5 years old at the time of assistance and the repair costs necessary to rehabilitate the MHU must not exceed \$5,000.

Any MHU that does not meet this criterion must be replaced with a new MHU. In order to qualify as eligible for relocation, the mobile home unit must have been located on the floodplain at the time of the 2016 floods and a new location must be secured for relocation of the mobile home outside of the floodplain. New MHUs must meet Housing Quality Standards (HQS) upon completion. The HQS checklist (Exhibit 3) is included in the exhibits.

- The property must have suffered documented damage as a result of the June 2016 floods.
- The property must have been the applicant's primary residence at the time of the disaster. (NOTE: Second homes as defined by IRS Publication 936 are not eligible for assistance. Additionally, seasonal, short-term and vacation rental properties are not eligible for assistance.)
- Applicants must meet HUD's low-to-moderate income (LMI) requirements. HUD defines low-to-moderate income as total household income not exceeding 80% of the calculated Area Median Income (AMI).
- One person on the application must have an ownership interest in-part or in-whole in the property and must be able to demonstrate U.S. Citizenship or Lawful Permanent Residence.
- The homeowner must agree to own the home and use the home as their primary residence for a period of 3 years after rehabilitation, replacement, or mitigation as secured by a forgivable promissory note lien.
- If located in a floodplain, the applicant must obtain flood insurance in perpetuity and comply with obligations to notify future owners of the flood-insurance requirement, secured via a flood covenant to be drafted and filed by the State or designee.
- Homes that have suffered substantial damage will also qualify for assistance to mitigate against future losses.
- Property taxes must have a "paid" or "current" status.
- Applicants must maintain hazard insurance for a period of 3 years after rehabilitation, replacement, or mitigation.

### **Ineligible Activities**

Ineligible Activities include:

- Forced mortgage payoffs
- SBA home/business loan payoffs
- Assistance for second homes, seasonal, short-term and vacation rental properties
- Assistance for those who previously received federal flood disaster assistance and did not maintain flood insurance (FEMA Non-Compliance)
- Compensation payments

### Grant Limits

The following types of assistance are available to eligible applicants based on rehabilitation needs:

- **Single-Family Homeowner Rehabilitation:** up to \$75,000 per applicant for homes with damages totaling up to or less than 50% of its pre-disaster value
- **Single-Family Homeowner Reconstruction:** up to \$100,000 per applicant to rebuild homes with damages totaling 50.01% or more of the pre-disaster value.
- **Mobile Home Replacement:** up to \$60,000 per applicant for mobile home replacement.
- **Elevation:** up to \$75,000 additional funds, as needed, to meet housing elevation requirements for eligible applicants with homes to be reconstructed or mobile home replacements located in a 100-year flood plain and having damages totaling more than 50% of its pre-disaster value (this includes elevating mobile homes as needed)
- **Temporary Relocation Assistance:** up to \$2,500 per applicant eligible for reconstruction and \$1,000 per applicant eligible for rehabilitation (when the rehabilitation work requires applicant to temporarily relocate) or mobile home replacement. This assistance is provided to households who are not able to re-enter their homes due to construction.

## 1.4 West Virginia Rental Assistance Program (WV-RAP)

### Overview

The State of West Virginia has created this program to help rebuild damaged rental properties, with primary benefit being to assist properties occupied by low-to-moderate income (LMI) tenants. The Rental Assistance Program will focus on rebuilding the affordable rental housing stock in impacted counties by aiding small rental property owners who serve a low-to-moderate income market. The State defines properties eligible for WV-RAP as single-family properties containing one to four residential units.

### National Objective

Benefit to low- and –moderate income persons

### Eligibility Requirements

Applicants to the Program are held up to the following eligibility criteria:

- Applicants must own a rental property located in one of the 12 eligible counties. Owners may include individuals, community development non-profits, Public Housing Authorities (PHA), Community Housing Development Organizations (CHDO) and/or private entities.
  - **NOTE:** Manufactured Housing Units (MHUs or mobile homes) are eligible for rehabilitation and/or relocation at the discretion of the program. However, to be cost effective, the MHU must be no more than 5 years old at the time of assistance and the repair costs necessary to rehabilitate the MHU must not exceed \$5,000. Any MHU that does not meet this criterion must be replaced with an MHU. In order to qualify as eligible for relocation, the mobile home unit must have been located on the floodplain at the time of the 2016 floods and a new location must be secured for relocation of the mobile home outside of the floodplain. New MHU must meet HQS upon completion.
- The property must have suffered documented damage as a result of the June 2016 flood, verified through program inspection.
- Property taxes must have a “paid” or “current” status.
- If located in a 100-year floodplain, the applicant must obtain flood insurance in perpetuity and comply with obligations to notify future owners of the flood-insurance requirement, secured via a flood covenant to be drafted and filed by the State or designee.
- Applicants must maintain hazard insurance for a period of 3 years after rehabilitation, replacement, or mitigation.

- Properties that have suffered substantial damage will also qualify for assistance to mitigate against future losses.
- Rental properties with existing tenants, at the time of application, may be eligible at the discretion of the Program if the existing tenant income level is LMI and the same tenant will remain after housing assistance is provided.
- For a period of three years after the date of completion of improvements on the Property, units must be rented to LMI tenant households and applicants must agree to rent the unit(s) according to the affordability requirements set forth below to LMI renters (renters earning less than or equal to 80% AMI).

### **Ineligible Activities**

Ineligible Activities Include:

- Forced mortgage payoffs with program funds
- SBA home/business loan payoffs with program funds
- Funding for second homes, seasonal, short-term and vacation rental properties
- Funding for those who previously received federal flood disaster assistance and did not maintain flood insurance (FEMA Non-Compliance)
- Compensation payments

### **Affordability Requirements**

Housing is considered “affordable” if the rent (including utilities) does not exceed HUD’s fair market rental rates. Note that these rates are updated annually and the most current rates at the time of assistance should apply, per the HUD publication effective dates.

### **Grant Limits**

The following types of assistance are available to eligible applicants based on rehabilitation needs:

- ***Single-Family Rehabilitation:*** up to \$75,000 per applicant for homes with damages totaling up to or less than 50% of its pre-disaster value
- ***Single-Family Reconstruction:*** up to \$100,000 per applicant to rebuild homes with damages totaling 50.01% or more of the pre-disaster value.
- ***Mobile Home Replacement:*** up to \$60,000 per applicant for mobile home replacement.
- ***Elevation:*** up to \$75,000 additional funds as needed to meet housing elevation requirements for eligible applicants with homes to be reconstructed or mobile home replacements located in a 100-year flood plain and having damages totaling more than 50% of its pre-disaster value (this includes elevating mobile homes as needed).



- ***Temporary Relocation Assistance:*** up to \$2,500 per applicant eligible for reconstruction and \$1,000 per applicant eligible for rehabilitation (when the rehabilitation work requires the tenant to temporarily relocate) or mobile home replacement. This assistance is provided to households who are not able to re-enter their homes due to construction.

## 1.5 Prioritization Methods

### Prioritization Methods

To assist the most vulnerable populations with the disaster recovery funding, West Virginia will prioritize and target outreach efforts and application processing in the most vulnerable areas utilizing the following criteria:

- Applicants must have met HUD's Low-to-Moderate Income requirements
- Applicants must have a HIGH, MEDIUM, or LOW Social Vulnerability Index SoVI® score.

The SoVI® is a tool developed by the University of South Carolina for assessing pre-existing vulnerabilities to environmental hazards. It synthesizes 29 socioeconomic variables, which can contribute to a reduction in the preparation and response to environmental hazards. The SoVI® created for the State of West Virginia's 12 counties incorporates six general components synthesizing the 29 socioeconomic variables:

VARIABLE	DESCRIPTION
QASIAN	Percent Asian
QBLACK	Percent Black
QHISP	Percent Hispanic
QNATAM	Percent Native American
QAGEDEPT†	Percent of Population Under 5 Years or 65 and Over
QFAM†	Percent of Children Living in Married Couple Families
MEDAGE	Median Age
QSSBEN	Percent of Households Receiving Social Security
QPOVTY	Percent Poverty
QRICH200K	Percent of Households Earning Greater Than \$200,000 Annually
PERCAP	Per Capita Income
QESLT†	Percent Speaking English as a Second Language with Limited English Proficiency
QFEMALE	Percent Female
QFHH	Percent Female Headed Households
QNRRES	Percent of Population Living in Nursing and Skilled-Nursing Facilities
HOSPPTC	Hospitals Per Capita (County Level ONLY)
QNOHLTH†	Percent of Population Without Health Insurance (County Level ONLY)
QED12LES	Percent with Less Than 12 <sup>th</sup> Grade Education
QCVLUN	Percent Civilian Unemployment
PPUNIT	People Per Unit
QRENTER	Percent Renters
MDHSEVAL†	Median House Value
MDGRENT†	Median Gross Rent
QMOHO	Percent Mobile Homes
QEXTRCT	Percent Employment in Extractive Industries
QSERV	Percent Employment in Service Industry
QFEMLBR	Percent Female Participation in Labor Force
QNOAUTO†	Percent of Housing Units with No Car
QUNOCCHU	Percent Unoccupied Housing Units

The Program is committed to serving the most vulnerable populations first, which fully supports the

State's mission in prioritizing applications in this way. The application process will require SoVI® scoring, age verification, household member confirmation, and supporting income documentation. Once provided, the Program will verify the supplied information using nationally recognized 3<sup>rd</sup>-party data, prioritize each verified application, and rank the prioritized applications against the verified applicant pool. Applicants with HIGH SoVI® scores only are prioritized for a period of 60 days from the start of the Program. Once the initial 60-day period is ended, applicants with HIGH and MEDIUM SoVi® scores are prioritized for an additional 30 days. After the 90-day priority period, all remaining applications are processed on a first come first serve basis.

## 2 Intake

West Virginia residents apply for the CDBG-DR funds through one of three methods by: submitting through the Rise West Virginia website at <http://wvfloodrecovery.com/>, downloading the smartphone app and completing a submission, or visiting a local intake center for assisted electronic submission. Funding awarded to eligible applicants is used to satisfy a portion of the unmet need for damage sustained to their housing units as a result of the presidentially declared flooding disaster of June 2016.

Intake for both the *West Virginia Housing Restoration Program* and the *West Virginia Rental Assistance Program* is conducted and processed by a single program management entity under the direction of the West Virginia Development Office. In the event that intake procedures are updated regularly as program implementation progresses, remaining nimble to applicant barriers. Applicant information is completed through a series of electronic screens and the scanning and upload of supporting documentation. The application process will require each applicant to sign a consent/release form in an electronic application that permits the Programs to obtain 3rd-party data required to support their eligibility. In addition, other documentation that requires each applicant's signature is the application, a subrogation agreement and a communication designee form, if applicable.

The Program will review completed applications and documentation submitted by affected property owners to determine if the applicant meets the eligibility criteria for assistance from the Program. The Program will attempt to schedule an intake meeting with applicants and determine eligibility of homeowners from whom applications were received. Applications are processed using the prioritization methods detailed in the Programs overview sections above.

### 2.1 Intake Center Environment

Our goal is to ensure every homeowner who walks through the door is treated promptly with care, courtesy, and respect. Team members must ensure that the facilities are kept clean and orderly and that all standards are upheld in an effort to provide excellent service to Program applicants. Visitors with special needs will be assisted as needed and guided to the nearest accessible seats. Accessible seating will be reserved for homeowners with disabilities to the extent possible. Greeters must ensure that all visitors are signed in upon arrival and photo identification is verified to confirm applicant identity.

#### **Safety and Security**

**Operating Hours and Entrance/Exit Security:**

Standard business hours are held for all intake centers. However, at the Program's discretion, business hours may be extended or weekend hours may be available at certain times. Any variations to core business hours will be posted at each facility. Standard business hours for both Services Centers are: Monday-Friday 8:30 a.m. to 5:30 p.m. and Saturdays by appointment only. Security signs will be displayed prominently at all intake centers. The following rules were created to provide a secure environment for the staff as well as the protection of all applicant personal information.

Program staff must adhere to the following at all times:

- Under no circumstances should anyone be in the facility alone. This is both to ensure the employees' personal safety as well as protect the integrity of the information stored and maintained in the facility
- Entrance for applicants should be made available 15 minutes prior to scheduled opening time and 15 minutes prior to closing time
- Entrance for applicants and the general public may be denied if there is not adequate staff on-site
- Where possible, a separate entry should be established for employees allowing them to gain entry to the facility prior to the admittance of applicants and the general public. This entrance should remain locked, and opened only to admit employees
- Homeowners and the general public must be escorted by a staff member at all times while in the intake center. Homeowners are not allowed access to restricted work areas inside the facilities
- All visitors to the facility are required to sign in upon arrival, and sign out upon departure
- All contractor and sub-contractor staff, including Eligibility Specialists, must have a photo identification badge with them at all times at intake centers and job sites

**After Hours Security:**

The following procedures are to be followed for all West Virginia Housing Programs Intake Centers prior to departure at the end of the work day:

- Team Lead and one other person must complete the closing checklist, if applicable
- Ensure everyone has exited the facility
- Secure all entrances and windows
- Ensure all case file documents are secured and nothing with personally identifiable information has been left on any desk, table or copy machines
- Secure and lock away all tablet computers, iPads and all other internet access portals
- Ensure all entrances are locked and properly closed after exit

Local police and the WVRO State Program Director should be provided with emergency contact

information for all permanent facilities. The contact list should include the production managers and all Team Leads. The Team Leads should immediately notify the Production Manager in the event of any site security issues.

**Meeting Safety and Security:**

The primary role of the Eligibility Specialist is to meet with program homeowners. Given the recovery situation the applicants are in, behaviors can include frustration, impatience, or anger. In addition to the safety risk, Eligibility Specialists are also handling large amounts of personal and private data and must ensure that all data is securely handled and protected.

To ensure safety of our staff the following rules MUST be adhered to:

- There will always be at least two staff members present for any closed-door meeting. This not only ensures the personal safety of the staff, but also ensures a 3rd-party witness in case of miscommunication or misunderstandings during the meeting.
- Home visits REQUIRE a minimum of two people in attendance (if available).
- Home visits REQUIRE a call to the Site Manager or designee upon arrival at the home, and again immediately after departure from the home.
- Home visits REQUIRE that a working cell phone be on and available during the meeting.
- If a customer becomes angry and is perceived to be out-of-control such that a staff member becomes concerned for their safety, they should immediately call 911.

Documentation provided by the applicants is considered personally identifiable information (PII) and must be safeguarded for the security of the homeowner. To ensure the security of this information the following rules MUST be adhered to:

- Print only the documents necessary to process the applications (this should be minimal due to the online nature of the mobile application).
- Ensure all printed documents are under cover at all times.
- Shred all printed documents that are no longer necessary.
- Properly file all hard copies of case files and/or documents in a secure area during non-productive time.
- Original documents used to support the homeowner application are scanned in the presence of the homeowner and returned.
- The password protection protocol on the iPads must be followed at all times.
- To protect the privacy of personally identifiable information, no recordings or photos of intake activities will be allowed.

The protection of personally identifiable information is an absolute and fundamental requirement of this program. Personally identifiable information must be protected from the view of third parties and may not be shared with any other person outside of this program.

### **Maintaining a Safe Work Space**

- All work locations must be kept clean and orderly.
- Ensure all spills, drips, and leaks are cleaned up immediately.
- Place trash in the proper receptacles.
- Report all injuries sustained in the workplace immediately to your manager.
- Report any unsafe condition or acts to your supervisor.

### **Emergency Contact Information**

Every employee must provide contact information to their Team Lead or designee. This information will only be used in the event of an emergency.

### **Limited English and Special Needs Applicants**

All sites must display Multilanguage signage in the applicant reception area (see "I Speak" language indicator card). This includes the HUD Fair Housing poster in both English and Spanish prominently displayed in the front lobby as well as the "I Speak" language chart depicting 16 different languages to serve as a tool for identifying the applicant's preferred language in the case of a communication barrier.

An applicant who identifies a language need other than Spanish on the "I Speak" card must be contacted in their native language using an interpreter service if forms are not available in their language.

If the Front desk receptionist or Eligibility Specialist identifies an applicant with a Limited English Proficiency (LEP) need, they will determine the preferred language for communication. If not Spanish, the Greeter or Eligibility Specialist will refer to the language tool chart to identify the applicant's preferred language. If necessary, the Eligibility Specialist will contact the interpreter service line to set up an appointment with a professional translator and work through the translator to set a follow-up meeting.

Intake meetings and personal consultations should be conducted in the applicant's preferred language and forms and the intake application should be reviewed and discussed with the aid of a translator. Where available, the applicant will sign translated documents as part of the application process.

## **2.2 Communication Standards**

All communication (in person and via telephone, text and emails) with applicants must be professional and pleasant. Any communication with elected officials, the media, and/or attorneys should be directed to a supervisor or a manager. Any substantive contact with these individuals will be handled by management, unless directed otherwise.

The Eligibility Specialist will log all communication with applicants into the Grant Management System (wvGMS) throughout the life of the project. All entries should include appropriate language, describe the nature of the communication, and describe the nature of transmitting documentation. No entries should be written in a negative tone.

If an applicant is rude, vulgar, or offensive on the telephone or in person, the Eligibility Specialist is not obligated to continue the conversation. If the applicant is present, the Eligibility Specialist should notify their Team Lead and/or security immediately to defuse the incident. If the applicant is on the telephone, the Eligibility Specialist should give the applicant their Team Lead's name and telephone number, as well as immediately notify their Team Lead of the applicant's name, telephone number and details concerning the incident. The Team Lead should call the applicant as soon as possible, but no later than 24 hours after the initial conversation.

All communication with or inquiry from elected officials, the media, or attorneys must be referred to and coordinated with the West Virginia Department of Commerce Communications Director and the Community Advancement and Development Office Director. No contractor or subcontractor's personnel may make public statements about the Program without first coordinating and clearing such communication with the West Virginia Department of Commerce Communications Director and the Community Advancement and Development Office Director.

### **Information Regarding Application Status**

West Virginia will ensure the requirements set forth under 81 FR 83254 and 82 FR 5591 are complied with by following the specific procedures outlined below. Two primary considerations are:

- ***Timely information on application status.*** West Virginia will maintain adequate procedures to inform applicants of the status of their applications for recovery assistance, at all phases of program activities. Given the various methods of communication allowed, the State will (i.e., Web site, telephone, Eligibility Specialists, letters, etc.) ensure the accessibility and privacy of individualized information for all applicants, indicate the frequency of applicant status updates, and identify which personnel or unit is responsible.
- ***Application status.*** West Virginia shall ensure that multiple methods of communications are provided for a program applicant to receive information regarding the status of their



application. Methods of communication, such as Web sites, toll-free numbers, or other means that provide applicants for recovery assistance with timely information on the status of their application shall be continuously provided for the duration of all CDBG-DR program activities.

### **Defining an Applicant**

An applicant can be defined as any citizen or entity which has applied for CDBG-DR or participation in a CDBG-DR Program. Applicants include but are not limited to homeowners, rental property owners, businesses, citizens, and local units of government.

### **Disaster Recovery Intake Centers**

Disaster Recovery Intake Centers, which provide a physical office location for applicant engagement and application processing, are established throughout the declared disaster area. These locations can be utilized by applicants to submit applications or provide supplemental information regarding program implementation.

### **Methods for Communication**

Upon submitting an application, should an applicant have questions, concerns, need to schedule consultation, or want to check the status of an application, the following methods of communication are available:

- **wvGMS Smartphone App:** Applicants are encouraged to download the smartphone app to submit their application and access real-time updates on their application. wvGMS functions as the portal that connects the applicant to their assigned Eligibility Specialist via the cell phone app and a website.
  - **NOTE:** Applicants can also sign up to receive text message and/or e-mail alerts on the status of their application once they've applied.
- **wvGMS Website:** If applicants do not have access to a smartphone they may visit the website version of the application at <http://wvfloodrecovery.com/>. The website functions as the web version of the smartphone app.
- **Eligibility Specialist:** All applicants are assigned an Eligibility Specialist once they submit their application to the program. The direct contact information of the Eligibility Specialist (office phone number and e-mail address) are shared with the applicant. This will ensure that applicants have a point of contact. The West Virginia Housing Program team will work together to move applications forward in the process therefore it may be necessary for team members, outside of the assigned Eligibility Specialist, to aid applicants and/or process their application.

- **Toll-free number:** If applicants do not have access to a smartphone or a computer they may dial the toll-free number (844) 882-1942 which will connect the caller to the service centers. The program call center are able to provide application status updates and answer general program questions. If an applicant has specific application questions the call center will transfer the call to the applicant's assigned Eligibility Specialist. If applicants need to contact the offices directly, the addresses and numbers are listed below:
  - **Charleston Office:** 4202A MacCorkle Ave SE, Charleston, WV 25304; 681-245-8790
  - **White Sulphur Springs Office:** 706 East Main Street, White Sulphur Springs, WV 24986; 681-245-8784
- **Email:** Applicants may send an email to DisasterRecovery@WV.gov to obtain the status of their application and submit general program questions. The email inbox is monitored by program staff daily. Questions specific to one application are forwarded to the assigned Eligibility Specialist.
- **Mail:** Applicants may submit written correspondence to request the status of their application and general program questions to:

West Virginia Development Office  
ATTN: Rise West Virginia  
1900 Kanawha Blvd., East Capitol Complex  
Building 3, Suite 600  
Charleston, WV 25305-0311

### **Accessibility of Information**

Information regarding the Disaster Recovery programs are accessible on the website (<http://wvfloodrecovery.com/>) and at all of the Disaster Recovery Intake Centers. Printed materials are available at the Disaster Recovery Intake Centers. (Note: Information will also be available via mail or email upon request as indicated above.)

Equal opportunity is given in each program or project outlined within the CDBG – DR Action Plan. The Program conducted a Four-Factor Analysis and determined the ensuing types of language assistance for LEP persons to be available on an as needed basis throughout the implementation of the CDBG-DR program.

Access will be provided, upon request, to any applicants who are unable to speak, read, or understand the English language sufficiently enough to allow effective interaction.

Language assistance consists of translation and/or interpretation. Translation is defined as the conversion of the written text from one language into another, whereas interpretation comprises of the transfer of the word orally from one language into another.

The Program will take necessary steps to aid LEP citizens upon deeming that language assistance is needed. Services supplied to LEP citizens will be free of cost. Because the portion of citizens within the Declared Counties unable to speak English fluently has been established to be miniscule, translation resources will be available as needed.

Document translation will be made available upon request for languages other than Spanish. Formal and legal documents essential for program participation such as mortgages may be translated as necessary for applicants to thoroughly understand their rights and obligations.

Interpretation services will be provided by the Program when deemed necessary for LEP citizens. Citizens will be encouraged to use family members, friends, service representatives or others as informal interpreters. The use of informal interpreters is acceptable; however, an LEP citizen possesses the right not to be required to rely on informal interpreters. The Program will also provide materials in accessible format in accordance with the Americans with Disabilities Act.

### **Protecting Applicant Privacy**

The State of West Virginia hereby guarantees the protection of applicant Personally Identifiable Information (PII). Employees will enact necessary measures to ensure PII of all applicants is safeguarded as to avoid release of private information. If a contractor or employee should experience any loss or potential loss of PII, the Program shall be notified within 24 hours of the breach or potential breach. Potential losses of PII may occur in forms such as:

- loss of a computer or electronic device containing PII,
- loss or compromise of paper containing PII, or
- loss of electronic communication containing PII

If the Program is notified of loss or potential loss of PII, immediate efforts will be undertaken on a case-by-case basis to ensure the recovery of said information.

The Director and employees will treat all information received confidentially. The Program requires all employees to sign a Confidentiality Agreement upon employment by the Agency and shall adhere to the agreement and all regulations set forth by the West Virginia Executive Branch Confidentiality Agreement and the West Virginia Ethics Act.

### **Privacy Protection of Information Recorded in Physical Copy (Mail or Letter Applications)**

Locks will be maintained at all intake centers and the centers shall be closed and locked in the evenings or when vacant. Keys to intake centers will only be given to authorized personnel and staff.

The Program will store all paper documents and applications containing sensitive information in locked drawers or file cabinets. Possession of keys to locked drawers and filing cabinets will only be given to authorized personnel.

### **Privacy Protection of Information Recorded in wvGMS Smartphone App, Website, and Electronically Received Information**

The Program utilizes encrypted passwords to restrict access to application software and data. Only duly authorized responsible personnel with data input responsibilities will be assigned passwords that allow access to the system.

Personnel responsible for handling applications are expected to keep their passwords secret and to change their passwords on a regular basis as determined by the West Virginia Office of Technology (WV OT) and wvOasis. Each password enables a user to gain access to only those software and data files necessary for each employee's required duties. Unnecessary access will be rescinded.

### **Frequency of Status Updates**

The Program will ensure that information related to the status of applications will be provided in a timely manner. Status of applications will be provided in real-time or a traditional schedule depending on the method of contact chosen by the applicant at the time of their application to the program.

- **Real-Time.** If an applicant has access to a mobile device or a computer, they may voluntarily choose to receive real-time text message and/or e-mail alerts from the mobile app regarding application status. These updates are automatically generated by the app and the frequency of the subscription service is dictated by the applicant.
- **Traditional.** If an applicant does not have access to a mobile device, they may prefer to submit questions via the toll-free number or regular U.S. mail. If questions are submitted via the toll-free number or mail, West Virginia will provide status updates within 24 hours of their receipt.

Both methods of communication regarding status updates listed above will be honored based on the choice and needs of the applicant.

### **Responsible Personnel**

The Program will employ a fully capable staff to handle all application related activities, including the following roles:

- Eligibility Specialists
- Program Managers

- Intake Center Staff
- Site Inspectors

Through the utilization of wvGMS West Virginia will be able to provide application status on-demand to applicants. Both the applicant and the Eligibility Specialist can access the application in real-time by logging into the system with their username and password. Application statuses include but are not limited to:

- Application Submitted
- Processing Eligibility
- Pending Site Visit
- Determining Assistance
- Restoring Property
- Awaiting Closeout

Once an application is created in wvGMS, applicants will be able to log in at their convenience to view their status, upload documents, and correspond with their Eligibility Specialist. If an applicant does not have access to a computer, the applicant may call the toll-free number. The call center will direct the call to the appropriate Eligibility Specialist assigned to the file. The Eligibility Specialist will utilize wvGMS to update application information over the phone. wvGMS will be used by the Eligibility Specialist to document phone calls, on-site visits, and email correspondence with the applicant.

## 2.3 Critical Information Requirements

Program staff will notify the Program within 24 hours if any of the following critical events occur:

- Achievement of contractual performance measure(s);
- Any injury associated with the Program resulting in immediate movement to a Hospital or Clinic for further treatment;
- Any vehicle accident associated with the Program resulting in or which may result in a Program delay;
- Viable evidence that a citizen has attempted or completed fraud against the Program;
- Any citizen fraud complaint lodged against the State, its contractors or sub-contractors associated with the Program;
- Any non-routine inspection conducted by any entity regarding the Program;
- Any complaint by any person regarding harassment or discriminatory conduct regarding any aspect of the Program or operations;
- Any allegation that the State's Implementation Contractor, its contractors, or sub-contractors have committed a crime while performing their work; and

- Any loss or potential loss of citizen Privately Protected Information (PII) in any form to include the loss of a computer containing PII, or the loss or compromise of a paper or electronic communication containing PII.

## 3 Conflicts of Interest

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

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

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

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

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

## 4 Record Keeping

The Grant Management System wvGMS is the program system of record and is maintained to document compliance with applicable regulations, by Program activities and defined operational processes. Files and records are maintained in electronic format and available at the Program's place of business or via secure access. Program staff ensure that all applicant files and supporting documentation are uploaded to wvGMS as work is completed, reviewed for quality, and audited on a regular basis. The Program utilizes a paperless record in wvGMS that guarantees all documents are readily available for review at any time in the future. Safeguards to protect records, files and transactions are in place. Stringent information, personnel, technology, and physical security controls protect all personal information contained in hard copy and electronic format. Personal information is also protected from sabotage, manipulation, theft, or breach of confidentiality from the point of receipt until final disposition.

All applications and other key housing documents are copied and scanned, and indexed to provide a permanent and easily accessible record of applicant information, regardless of whether assistance is provided. Applicant information residing in all systems used to manage and operate the Program is maintained and retained for the period specified by HUD.

The State of West Virginia is required to use the Disaster Recovery Grant Reporting system (DRGR) for all CDBG-DR reporting. Files maintained in wvGMS streamline these reporting requirements. Program records will be retained for 3 years following grant closeout.

## 5 Communication Designees

The Program understands there may be circumstances when an applicant may prefer another individual to assist with obtaining information, Program status, and acting as a secondary contact. Each applicant has the ability to designate a third party to communicate with the Program on their behalf by completing the Communication Designee section of the application. A Communication Designee is authorized to make inquiries with the Program regarding the status of an applicant's application. Communication Designees are not authorized to sign documents or affidavits, nor make decisions on behalf of the applicant unless he or she also has Power of Attorney. Communication designees must have the identification information necessary to prove their identity in their possession at all times.



## 6 Power of Attorney

Applicants may have circumstances that require an appointment of an individual (agent) as Power of Attorney, which gives another person the authority to act on their behalf in specified or all legal or financial matters. The person receiving the Power of Attorney (agent) is the "attorney in fact" for the person giving the power, called the Principal.

There are multiple types of Power of Attorney to include: General (which covers all activities); Medical (can be used only for medical decisions and is not applicable for Program use); Special (limited to specific powers only); and Durable (generally covers all activities and is not affected by subsequent disability or incapacity of the principal). A Power of Attorney generally is terminated when the Principal dies or becomes incompetent, but the Principal can revoke the Power of Attorney at any time.

Any applicant or their agent may submit a signed and notarized Power of Attorney (POA) which allows the agent the right to act in the same capacity as the applicant for all actions related to the application. In the event a Power of Attorney for an applicant is received, Program staff will do the following:

- Review the document to determine the type of power granted (durable, limited, medical, etc.) to the named agent, and that it has been signed and notarized.
- Obtain contact information for the agent with POA and a copy of valid identification for placement in the applicant file.
- Secure or make a physical or electronic copy of the Power of Attorney to be maintained with the applicant file.

## 7 Applicant and Tenant Identification

### 7.1 Proof of Identity

The Program will confirm the identity of all applicants using nationally recognized 3rd-party database services to validate Program eligibility. Any event of conflicting information will be reviewed by the Program on a case-by-case basis.

All applicants will be required to submit documentation to prove their identity. This documentation may include, but is not limited to, the following:

- Government Issued Photo Identification (Federal or State issued),
- Driver's License,
- Passport,
- Military ID Card, and
- Certificate of Naturalization or Permanent Resident Card.

**Note:** Applicants are required to submit proof of birth verification for all household members for identification purposes. Examples include: birth certificate, passport, driver's license, vaccination/medical records, school records, and tax forms.

## 7.2 Citizenship/Residency

U.S. Citizens or Lawful Permanent Residents are eligible to receive benefits under this Program. At least one person on the application with an ownership interest in-part or in-whole on the damaged property, must be able to demonstrate U.S. Citizenship or Lawful Permanent Residence to ensure Program eligibility. The documentation needed may include, but is not limited to, the following:

- United States Passport
- Voter Registration Card
- In the event a Passport is not available, applicants that have confirmed assistance using FEMA IA or SBA data for property assistance will be considered verified using this method since both FEMA and SBA validate legal residency as part of their application process.
- Resident Alien Card,
- Birth Certificate (verified against government issued photo ID),
- Valid West Virginia Driver's License,
- U.S. Certificate of Naturalization, or
- In the event the applicant is unable to provide any of the above documentation, a SAVE search may be conducted to determine citizenship or residency.

## 7.3 Tenant Information

All applicants to both Housing Programs must comply with URA requirements. Applicants to the WV-RAP are required to submit contact information for all tenants residing in their damaged properties at or since the time of the flood. At the time of application, homeowners applying for the West Virginia Housing Restoration Program are required to inform the program of any current renters as well as any renters they may have had in their home that have been displaced by the

storm. Tenant information is collected through questionnaire.

### **Uniform Relocation Act (URA)**

The Uniform Relocation Act (URA) was passed by Congress in 1970, as amended, to ensure homeowners whose real property was acquired for Federal and federally-assisted projects were treated fairly and consistently, and to ensure persons displaced because of such projects do not suffer disproportionate injuries. As such, relocation assistance is provided to displaced persons, including tenants who were living in a Property at the time of the Disaster, to lessen the financial impact of displacement and to ensure individuals/families are living in decent, safe, and sanitary housing.

Applicability of URA will be confirmed at the time the applicant completes his or her in-person, grant award meeting, which informs the applicant of their benefits to be received under the program. To determine whether URA is applicable, the applicant must complete the URA Tenant Survey as part of the intake process. The survey includes the following:

- The definition of a tenant;
- Boxes for the applicant to indicate whether they had a tenant as defined in their Property, at the time of the Disaster or post-Disaster;
- If the applicant answers yes, that he or she has/had a tenant as defined in their Property, then the applicant will be required to provide the name and contact information of the tenant(s).
- If the applicant answers, no, that he or she did not have a tenant as defined, then the applicant will move directly to the certification section of the survey.
- At the end of each survey, each applicant must certify the information provided is true and accurate, prior to electronically signing the survey.

Upon completion, the survey is automatically uploaded and maintained in the applicant's current file via wvHGMS.

If the applicant did/does have a tenant in the Property, an Eligibility Specialist will directly contact the tenant(s) and take the appropriate actions described in the following sections.

All tenants contacted will have a subfolder created in their name under the original applicant's application. This folder contains their contact and identifying information, a record of all communications with the tenant, and any documentation presented to receive assistance.

Without regard to race, color, religion, sex, age, handicap, familial status or national origin, and in accordance with 49 CFR 24, the State offers the following services and/or provide applicable reimbursements, where the tenant has already obtained one or more of the following:

- **General Information Notice.** As soon as feasible, the tenant must receive a written description of the relocation program and his or her rights. The notice must inform the tenant of the following:
  - He or she may be displaced for the project and generally describe the relocation payment(s) for which the tenant may be eligible, the basic conditions of eligibility, and the procedures for obtaining the payment(s);
  - He or she must be given reasonable relocation advisory services, including referrals to replacement properties, help in filing payment claims, and other necessary assistance to help the tenant successfully relocate;
  - He or she will not be required to move without at least 90 days advance written notice;
  - Any tenant cannot be required to move permanently unless at least one comparable replacement dwelling has been made available;
  - Any tenant who is an alien not lawfully present in the United States is ineligible for relocation advisory services and relocation payments, unless such ineligibility would result in exceptional and extremely unusual hardship to a qualifying spouse, parent, or child; and
  - Describes the tenant's right to appeal the State's determination as to a tenant's application for assistance for which a tenant may be eligible under this part.
- **Eligibility & 90-day Notice.** Eligibility for relocation assistance shall begin on the date of actual rehabilitation, as defined under the benefits agreement. After the Eligibility Specialist has contacted the identified tenant and confirmed the tenant's occupancy of the Property, the State shall then promptly notify the tenant in writing of their eligibility for applicable relocation assistance.
  - No lawful occupant shall be required to move unless he or she has received at least 90 days advance written notice of the earliest date by which he or she may be required to move.
  - The 90-day notice shall either state a specific date as the earliest date by which the occupant may be required to move, or state that the occupant will receive a further notice indicating, at least 30 days in advance, the specific date by which he or she must move. If the 90-day notice is issued before a comparable replacement dwelling is made available, the notice must state clearly that the occupant will not have to move earlier than 90 days after such a dwelling is made available.
  - In unusual circumstances, an occupant may be required to vacate the property on less than 90 days advance written notice if the State determines that a 90-day notice is impracticable, such as when the person's continued occupancy of the property would constitute a substantial danger to health or safety.

- **Advisory services.** A tenant must be advised of his or her rights under URA and the Federal Fair Housing Act, the general scope of the Program and provided with *comparable replacement dwelling*, in addition to financial forms of assistance listed below, where applicable.
  - No tenant to be displaced shall be required to move from his or her dwelling unless at least one comparable replacement dwelling has been made available to the person. When possible, the State will provide the tenant with at least three comparable options.
  - The comparable replacement dwelling is considered made available when:
    - The tenant is informed of its location;
    - The tenant has sufficient time to negotiate and enter a purchase agreement or lease for the property; and
    - Subject to reasonable safeguards, the tenant is assured of receiving the relocation assistance to which the tenant is entitled, in sufficient time to complete the purchase or lease of the property.
  - If the comparable replacement dwelling to be provided to a minority tenant is in an area of minority concentration, the minority tenant must also be given, if possible, referrals to comparable and suitable decent, safe, and sanitary replacement dwellings not located in such areas.
- **Forms of Assistance** – All claims for relocation payment must be filed with the State no later than 18 months after the date of displacement.<sup>2</sup>

All requests for reimbursements or relocation payments must be supported by reasonable documentation to support expenses, such as bills, certified prices, appraisals or other evidence of expenses. Each request will be reviewed expeditiously and the State will promptly inform the tenant of any additional documentation that is required. All records will be kept confidential and reports will be submitted related to its displacement activities as requested by the State and/or HUD.

### **Moving expenses**

The State shall provide payment for moving expenses as described in 81 FR 83267, which established a waiver from the standards described in 49 CFR part 24. As per the waiver, the State will use the URA Fixed Residential Moving Schedule, updated Effective Date – August 24, 2015 which considers the number of rooms in the displacement dwelling, whether the tenant owns and must move furniture etc.

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<sup>2</sup> 49 CFR 24.207(d)

### **Security deposits and credit checks**

The State shall provide payment for the reasonable and necessary cost of any security deposit required to rent the replacement dwelling unit, and for credit checks required to rent or purchase the replacement dwelling unit.

### **Interim living costs**

The State shall reimburse a tenant for actual reasonable out-of-pocket costs incurred in connection with a displacement, including moving expenses and increased housing costs, if:

- The tenant must relocate temporarily because continued occupancy of the Property constitutes a substantial danger to the health or safety of the person or the public; or
- The tenant is displaced from a “lower-income dwelling unit,” none of the comparable replacement dwelling units to which the person has been referred qualifies as a lower-income dwelling unit, and a suitable lower-income dwelling unit is scheduled to become available.

### **Replacement housing assistance**

A tenant displaced from a dwelling is entitled to a payment not to exceed \$5,250 for rental assistance or down payment assistance, if the tenant:

- Actually, and lawfully occupied the displacement dwelling at the time of the Disaster or at least 90 days immediately prior to the start of rehabilitation; and
- Rented and occupied a decent, safe, and sanitary replacement dwelling within 1 year after the date he or she moves from the displaced property.

### **Rental Assistance**

An eligible applicant who rents a replacement property is entitled to a payment not to exceed \$5,250. The payment shall be 42 times the amount obtained by subtracting the base monthly rental for the displacement dwelling from the lesser of:

- The monthly rent and estimated average monthly cost of utilities for a comparable replacement dwelling; or
- The monthly rent and estimated average monthly cost of utilities for the decent, safe, and sanitary replacement dwelling occupied by the tenant.
- The base monthly rental is the lesser of the average monthly cost for rent and utilities at the new Property or 30% of the tenant’s average monthly gross household income if you are low-income based on the HUD income limits.

- 81 FR 83267 established a waiver to use higher than 30 percent if the tenant was paying the rent without demonstrable hardship.
  - That total monthly need, if any, is multiplied by 42, to determine the total amount the tenant will receive. This amount will be paid directly to the tenant in monthly installments or periodic payments.
- All or a portion of this assistance may be offered through a certificate or voucher for rental assistance (if available) provided under Section 8. If a Section 8 certificate or voucher is provided to a tenant, the State must provide referrals to comparable replacement dwelling units where the owner is willing to participate in the Section 8 Tenant-Based Assistance Existing Housing Program. When provided, cash assistance will generally be in installments, in accordance with 42 U.S.C. 3537c; or
  - 81 FR 83267 established a waiver that will allow an owner who is willing to participate in the tenant-based rental assistance (TBRA) housing program subsidy (Section 8 rental voucher or certificate), to allow a displaced tenant who only meets a portion or all of the traditional requirements to participate in the TBRA program.

### **Down Payment Assistance**

If the tenant decides to purchase a replacement property, the tenant can receive assistance to make a down payment equal to the amount he or she would receive if they rented a comparable replacement home (i.e., 42 times the amount obtained by subtracting the "base monthly rent" for your present home from the monthly rent and estimated average monthly utility costs for a comparable replacement home), which can be no greater than \$5,250. Down payment assistance payment will be paid in a lump sum.

## **8 Housing Programs Eligibility**

Homeowners who owned and occupied a flood damaged structure located in one of the 12 disaster declared counties as their principal residence as of June 2016, may be eligible for one of these Programs. Applicants to Program are screened for eligibility and to ensure all criteria meets primary objectives of the Housing Programs. Applicants are required to provide complete and accurate information regarding their household composition, household income, and housing situation. Failure to disclose accurate and complete information may affect eligibility requirements and all such instances will be referred to the Program for further action. Applicants may be required to make full restitution to the State of West Virginia, including the forfeiture of a deferred forgivable lien position, if they are found to have submitted inaccurate or incomplete information to appear to meet eligibility requirements. Each application is reviewed for the

following eligibility and benefit determination criteria:

1. Property Location,
2. Property Structure/Type,
3. Identity and Citizenship,
4. Ownership,
5. Occupancy at the time of the storm,
6. Disaster damage,
7. Duplication of Benefits,
8. Property Tax,
9. Insurance Coverage,
10. Income

## 8.1 Property Location

Damaged properties must be in one of the 12 eligible counties to receive assistance.

Clay	Monroe
Greenbrier	Nicholas
Fayette	Pocahontas
Jackson	Roane
Kanawha	Summers
Lincoln	Webster

The Program first attempts to automatically determine the property's county using 3rd-party. If the 3rd-party data cannot confirm the county, satisfaction of this requirement will be determined using other recognized websites or datasets, or documentation provided by the applicant. Damaged properties in a floodway are not eligible for assistance for the Program but may be able to participate in the Hazard Mitigation Grant Program.

## 8.2 Property Structure Type

To be eligible for assistance for one of the Housing Programs, the damaged property must be a Stick-Built home, Modular home, or Mobile Home Unit (MHU). Structure type can be verified using Melissa Data, damage assessment and/or documentation provided to the Program by the applicant indicating structure type may also be used.

If the damaged property is anything other than the structure types listed above, the Program may approve an exception on a case-by-case basis, if the applicant can meet the following requirements and the structure type can be confirmed by a certified inspector:



- Structure must have been connected to active utilities as of June 2016, in the name of the Applicant,
- Structure is generally fixed in a permanent location (if structure is found to be mobile, the inspector will flag the file for further investigation), and
- Structure was not used for recreational purposes (recreational vehicles are ineligible for assistance).

Note: West Virginia allows for property conversion for homestead exemptions. The program will provide assistance for rehabilitation, reconstruction or replacement according to the original structure type. The final determination of structure type will be determined as part of the site inspection.

## 8.3 Ownership

All primary applicants must be able to demonstrate they had an ownership interest in the storm damaged property at the time of the disaster and they are the current owner of the damaged property for which they are requesting assistance to repair. In all cases, the Program will validate applicant ownership of the damaged property using nationally recognized 3rd-party database services, such as FEMA/SBA/NFIP Data, to expedite applicant processing. In the event the damaged property location is unable to be validated via 3rd-party data sources, damaged property addresses and locations will be verified manually using documentation provided by the applicant. Any event of conflicting information received or submitted will be reviewed by the Program on a case-by-case basis.

The damaged property for which assistance is being requested must be located within the 12 disaster declared counties. Applicants that own their damaged property and have confirmed assistance using FEMA IA or SBA data for property assistance, or other reputable data sources will be considered verified. FEMA IA data that designates applicants as "Owner" will be considered verified. If applicant ownership cannot be confirmed through third party data, applicants will be required to submit documentation to satisfy the ownership criteria. This documentation may include, but is not limited to, one the following, based on structure type:

### A. Stick Built Homes

Most Common Proof of Ownership:

- Deed or Official Record for the home valid for the date of the disaster;
- Mortgage Payment Book or other mortgage documents;
- Real Property Insurance Policy; or
- Property Tax Receipts or Tax Bill dated at the time of the disaster

Alternative Proof of Ownership that may be considered:

- Life Estate Deed-must show the applicant as grantee of the damaged property (if transferred upon the death of another - death certificate of prior owner required);
- Probated Will\Court Order\Judgment granting applicant an ownership interest in the damaged property;
- Divorce Decree - if ownership was obtained consequent to divorce the decree must specify that the damaged property was granted to the applicant;
- Contract for Sale/Deed (Rent to Own) – If the applicant purchased the property in a private owner sale via contract for deed/sale the contract must be satisfied. The original contract is required; and
- Other documentation will be reviewed and considered on a case-by-case basis.

**NOTE:** All documentation must prove that the applicant had an ownership interest in the home at the time of the flood event, June 22-Jun 29, 2016.

### **Manufactured Housing Unit (MHU)**

The Owner/Occupant must present evidence of ownership interest in the damaged MHU as of June 2016, and that the MHU was located on land within an eligible County. If an applicant owned a damaged structure, such as a Mobile Home Unit, as of the date of disaster but did not own the land where the structure is/was located, they may still be considered eligible. The Owner/Occupant must present evidence that they owned or had an ownership interest in the damaged structure in June 2016. In cases in which the applicant has an ownership interest in the damaged property, but not the land on which it sits, an MHU Land Ownership Authorization Form may be used to authorize any potential assistance taking place on the land. The Program Team will coordinate, through an automated process, with the West Virginia Department of Motor Vehicles to confirm existing titles and whether liens exist on the property. If the applicant's property is not currently titled according to state requirements, applicants will have an opportunity to title the property through coordination with the Department of Motor Vehicles.

Ownership documentation for MHUs may include, but are not limited to, one the following items:

If Applicant owns the land on which Mobile Home resides:

- Deed or official record for the property
- Property Tax receipts or Tax bill
- Mortgage payment book or other mortgage documents
- Title Report (from registered Title Insurance company)

Note: The MHU title will need to be provided in addition to the property ownership support.

If applicant does not own the land on which the Mobile Home resides:

- Property or Title or Mobile Home Certificate of Title
- Bill of Sale dated prior to the disaster showing applicant name as owner
- County property tax payment record for unit (record must specify the unit is taxed on real property)
- Mortgage payment book or other mortgage documents
- State issued Manufactured Certificate of Origin dated prior to the disaster showing the name of applicant as owner. If the applicant was under a Lease Purchase Agreement for the property and/or damaged MHU in June 2016, the contract must be satisfied and a warranty deed granting the property to the applicant must be recorded in the property records. The original contract dated prior to the disaster and subsequent Warranty deed are required; and
- Other forms of MHU ownership, which may be considered on a case-by-case basis.

Note: A Landlord Authorization form will be required for applicants who do not own the land.

## **B. In Cases of Owner of Record Death**

If the applicant is applying for a property of where the owner of record died after the June 2016 disaster, the applicant may be eligible for assistance if they can demonstrate they have an ownership interest in the damaged property AND show proof the damaged property was their primary residence (refer to Primary Residency Policy) at the time of the disaster. The applicant must submit one of the following items to prove an ownership interest in the property:

- A Probated Will for the deceased owner, which is legally enforceable, granting the property to the applicant in the estate administration; or
- An Heirship Affidavit that has been recorded in the property records that demonstrates the applicant is a direct heir to the property, accompanied by a copy of the deceased owner's death certificate (or a verified report from the Social Security Death Index), and the deceased owner's warranty deed or other proof to show the deceased's ownership of the property.
- In cases in which the death of the deceased owner cannot be proven by a death certificate, an official obituary or document from a funeral home that indicates the death of the owner will be accepted if coupled with a signed and attested to heirship affidavit.

### **C. 99-Year Lease**

An applicant may be considered to fulfill the ownership requirement if the owner/occupant is the lessor on a lease of the real property, which has a 99-year term or greater.

### **D. Ownership by Trust**

If any percentage of the damaged property was transferred to the applicant through a family trust by the prior owner of the property, a copy of the Trust document that has been recorded in the property records will satisfy the ownership requirement.

## **8.4 Primary Residency**

All applicants must provide evidence that they occupied the property for which they are seeking assistance as their principal residence at the time of the storm/flooding in June 2016 to satisfy the primary residency eligibility criteria. The Program will attempt to automatically validate the applicant's primary residence address using Nationally recognized 3rd-party database services, such as FEMA and SBA datasets or other valid data, in an effort to expedite applicant processing. Any event of conflicting information received or submitted will be reviewed by the Program on a case-by-case basis.

Applicants that have confirmed assistance using FEMA IA, or SBA data for property assistance will be considered verified. Other nationally recognized 3rd-party data will be used to confirm primary residence when FEMA IA or SBA data are unable to match the applicant and/or co-applicant information. Third party data that shows a match for the applicant's damaged structure for primary residence will be considered verified.

Additional documentation that may be considered as proof of primary residency includes, but is not limited to, the following:

- FEMA correspondence to applicant demonstrating the applicant applied for and received FEMA IA (Individual Assistance) for the damaged property address (Letters from FEMA).
- Federal or state income tax return with permanent home and damaged property address matching (2016 returns for applicant or co-applicant).
- Government-issued identification issued prior to date of the affected-storm, and expiring after date of the affected-storm.
- Property Tax Homestead Exemptions for damaged property address (confirmed with county appraisal districts) for the year 2016

- Insurance documentation indicating the insured property matching the damaged property address as the primary residence covering or renewed at the time of the flood
- Utility Bill that shows active usage for the home with the name of the applicant (major utilities, such as electricity, gas, or water with the service address matching the street address of the home) for service within 3 months prior to or after the June 2016 floods
- Vehicle registration or renewal for impacted year or Certificate of Title issued for vehicle in impacted year with the applicant's name and damaged property address listed.
- Receipt of government benefits received for at least one month between the three months before or after the qualifying storm showing applicant's name and damaged property address (Examples include: Social Security, Medicare, LIHEAP, Medicaid, WIC, and Unemployment).
- Voters Registration with damaged property address valid at the time of the disaster.
- Merchant's Statement addressed to the applicant at the damaged home address and dated during the disaster period (Examples include: merchant statements, credit card bills, delivery notices, or other first class mail).
- Employer's Statement addressed to the applicant at the damaged home address and dated during the disaster period (Examples include: pay stubs and similar documents).
- Current Driver's License or State-Issued Identification Card showing the damaged property address, issued prior to the date of the qualifying disaster and expiring afterwards.

### **Primary Residency Verification Procedures**

The Program will first attempt to verify primary residency automatically using 3rd-party data. If the 3rd-party data cannot be used to verify primary residency, applicants must supply proof of primary residency from the documentation listed above. All documents will be thoroughly reviewed to ensure that they include the applicant's name, the damaged property address, and are dated at the time of the disaster (if applicable) to reasonably substantiate that the damaged property was the applicant's primary residence at the time of the disaster.

### **Primary Residency Exceptions**

Exceptions to this Policy include the following:

- An Owner/Occupant that is/was in the United States military and was deployed outside of the United States may still qualify for an award if he or she was not renting the property to another person.
- An Owner/Occupant that was temporarily living in a nursing home, assisted living facility or other medical facility may still qualify.

- If the Owner/Occupant of the damaged property in June 2016 died after the disaster, the applicant (heir) must provide evidence that the damaged property was also the applicant's primary residence in June 2016.

## 8.5 Proof of Damage

The property an applicant is applying for must have been damaged by the June 2016 flooding and the applicant must still have an unmet need in repairing or rebuilding. The applicant must show confirmation of damage to the property and still have unfinished repairs or the need to rebuild due to the disaster. Disaster damage is defined as structural damage due to rain, wind, and/or flooding received as a direct result of the disaster to the damaged property in June 2016, plus subsequent damage related to the original disaster damage. Using a 2-Prong process, the Program will determine if a property received damage from the disaster.

**Prong 1:** Applicants will provide reasonable confirmation of damage to their property from the disaster at the application stage.

Automatic verification of a benefit paid to the applicant for damage to their property will be attempted using 3rd-Party data in an attempt to expedite the determination process. A data search for information will be conducted, but not limited to, the following items:

- FEMA (3rd-party data match will suffice to prove damage, no other documentation needed).
- SBA (3rd-party data match will suffice to prove damage, no other documentation needed).
- NFIP (3rd-party data match will suffice to prove damage, no other documentation needed).

If no match is identified through the displayed data searches, applicants may submit documentation that verifies their home received damage from the disaster. This documentation may include, but is not limited to, one of the following items:

- FEMA claim letter for housing repair demonstrating payment for structure damage,
- SBA Loan approval letter or documentation demonstrating payment for structure damage,
- NFIP award Letter or claim payment for structural damage,
- Private Insurance Claim paid for structural damage, (Note: having private insurance does not disqualify an applicant, but does place the home into a lower priority category.)
- Litigation payment resulting from a denied Insurance claim or potential payment due to pending litigation, and

- Photos submitted by the applicant, and attested to as disaster-damage, as part of the application.

The purpose of Prong 1 Damage Validation is to reasonably confirm applicant eligibility in advance of the On-Site Damage Inspection (Prong 2).

**Prong 2:** A qualified Program inspector will perform a damage assessment complete with photos and written assessment to confirm the presence of disaster related damage to the property, if existent. If disaster related damage to the property cannot be confirmed by the damage assessment and the applicant is unable to provide documentation to reasonably confirm damage, the property will be deemed ineligible for assistance.

**\*\*NOTE:** An exception to the Disaster Damage Policy may be made on a case-by-case basis in the event that an applicant's home received damage from the disaster and was subsequently demolished. The applicant must provide sufficient documentation from the listed items in Prong 1 OR supply alternate documentation, such as private, certified 3rd-party property inspection completed prior to the demolition of the structure.

## 8.6 Low to Moderate Income

All applicants to the West Virginia Housing Restoration Program must meet HUD's Low-to-Moderate Income requirement to be eligible for assistance. HUD defines Low-to-Moderate income as households whose total income does not exceed 80% of the local AMI.

All applicants to the WV-RAP Program must agree to rent to LMI households and must rent their repaired units at affordable rates to renters for a period of 3 years after the date of completion of improvements on the Property.

## 8.7 Property Tax

Property taxes must have a "paid" or "current" status in order to be eligible for the program. Supporting documentation must clearly denote that the property tax status is either "paid" or "current". Supporting documentation for this must be included in the applicant's file.

Examples of acceptable documentation required to verify the tax status are listed below:

- Current printout of the most recent property tax statement which includes the tax payment status or total levied tax with the balance remaining
- Current property tax receipt to include property tax status or total levied tax with the balance remaining.

If the applicant is delinquent on property tax payments, this will be updated in wvHGMS, the applicant will be notified, and supporting documentation will be added to the file. The applicant

must submit one of the documents listed above to be reviewed by Program staff in order to confirm program-acceptable tax status within 30 days of notification.

If the applicant does not submit the required documentation within 30 days of notification, Program may follow through with the Inactive process for the application.

Note: The Case Manager and Team Lead must confirm the following if statements or tax receipts provided include the total levied tax with the remaining balance:

- The remaining balance must not exceed half the total levied tax if the property tax eligibility review falls between October 1 of the current tax year and March 31 of the following tax year.
- The remaining balance of taxes levied must be zero if the property tax eligibility review falls between April 1 of the current tax year and September 30 of the following tax year.

## 8.8 Insurance Coverage

If located in a 100-year floodplain, the applicant must obtain flood insurance in perpetuity and comply with obligations to notify future owners of the flood-insurance requirement, secured via a flood covenant to be drafted and filed by the State or designee. A covenant will be required to be placed on the property requiring that flood insurance be maintained on that property in perpetuity. The State will pay the first-year flood insurance premiums for those applicants that are in a floodplain. Homeowners are required to maintain flood insurance after the first year. The state will enter into an agreement with a broker and make payments directly to the broker. In the event that this process is not available, the applicant may secure their own coverage and request reimbursement from the program.

Applicants must also maintain hazard insurance for a period of 3 years after rehabilitation, replacement, or mitigation.

## 8.9 FEMA Non-Compliance

Applicants found to be non-compliant with FEMA regulations or who failed to comply with the requirements of the National Flood Insurance Reform Act are not eligible for CDBG-DR assistance. An applicant is FEMA non-compliant if they failed to obtain and maintain flood insurance after receiving federal funding for a previous disaster. This is verified by reviewing FEMA IA eligibility codes in the federal dataset for the event. Any records with ineligible code "NCOMP - non-compliant with Flood Insurance Requirement" or "NPND - NFIRA - NonCompliance" are FEMA non-compliant applicants and therefore ineligible for program assistance. The entire FEMA IA dataset for 2016 Storms was reviewed for the applicable eligibility code to identify noncompliant households. The



FEMA registrant numbers for the non-compliant households are cross-checked against the FEMA registrant numbers for the CDBG-DR applicant universe to ensure that no ineligible applicants are served.

## 9 Income Eligibility Determination

It is the Program's intention to comply with the Low-to-Moderate Income National Objective for the Housing Programs. The Program will use the Internal Revenue Service (IRS) Form 1040 definition of income, as set forth in HUD regulations, for the purpose of determining all applicants' eligibility for this Rise West Virginia Program. The IRS Form 1040 method of calculating income is often referred to as the Adjusted Gross Income or AGI method.

To ensure Program compliance with HUD's National Objective applicant households must be low-to-moderate income with a total household annual gross income that does not exceed 80% of Area Median Income (AMI), adjusted for family size, as published annually by HUD. Applicants will be screened for income eligibility through submission of specific required income documentation or 3rd-party data sources.

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, two or more families living together, or any other group of related or unrelated persons who share living arrangements. Household members are all persons (minors and adults) who are living in the damaged home. For housing activities, the test of meeting the low-to-moderate income objective is based on the total adjusted gross income of all household members.

The Program will use the following rules to determine the income of household members to be included in the household income calculation:

- Minors - Earned income of minors, including foster children (under 18) is not counted. Unearned income attributable to a minor is included in the household income calculation (Examples include payments from trusts, stocks, bonds, etc. if the payments are taxable at the Federal level).
- The income of temporarily absent family members is counted in the annual income, regardless of the amount the absent member contributes to the household. Temporarily absent family members are also counted as a member of the household when determining the household size.
- In situations where family members are permanently absent such as when a spouse is in a nursing home, the head of household has the choice of excluding the individual in the household composition, as well as any taxable income they receive. However, if the absent

family member is included in the household composition, the taxable income must also be included in the total household income calculation.

- If one of the following special circumstances applies, the income of the referenced individuals will be excluded from the total household income calculation:
  - Persons who are temporarily living with the applicant,
  - Persons who are employed by the household as a live-in aide and/or are a child of that aide. Note: A live-in aide/caregiver that is related does not qualify for the exemption. In such cases, their income will be included in the total household income calculation and the live-in aide and any child of the aide will be included in the total household composition; and
  - If an applicant is married and their spouse is absent from the household, the income absent spouse will not be included in the total household income if documentation of a separate residence for the absent spouse is provided.

### **Determination of Household Income**

During the intake process, applicants will inform the Program of their household size and provide proof of identification for all adult (over age 18) household members. Any adult household member earning income must provide proof of income earned. If required to file taxes, household members must provide a copy of their previous year's filed tax return or tax return transcript, if available, for the AGI of the household to be calculated. The Program will allow use of the previous tax year's tax return in determining household AGI and no other documentation will be required. (For example, an applicant applying for disaster recovery assistance in June 2017 will use the 2016 tax year's return or tax return transcript from tax year 2016). Household members will also be given the option to sign a tax transcript request form allowing the Program to request their income from the Internal Revenue Service.

There may be situations where a household member may have had no income or no obligation to file a return, have not yet filed it, or filed an extension. Any household member earning no income will be noted as such in wvGMS. If any household member did not file a prior year income tax return, the household member is required to submit current documentation that reflects their current income. The following income documentation will be required for each household member only if the type of income is applicable and if a prior year income tax return is not available:

- Wages: 3 recent paystubs;
- Retirement/Social Security:
- 3 Monthly Bank Statements (for Social Security Benefits & Pension ONLY),
- Current Social Security Benefits letter (including benefits paid to minors),
- Current Pension/Retirement Benefit letter (if applicable), or prior year 1099, and
- Current Annuity Payment letter (if applicable), or prior year 1099;

- Self-Employment Income:
- Most recent tax return (1040 or 1040A), W-2 Forms, and/or
- Current year profit and loss statement;
- Rental Income: Current lease agreements
- Unemployment Benefits: Current benefit letter with gross benefit amount;
- Court Ordered Alimony/Spousal Maintenance: Copy of court order documentation;
- Taxable Interest and Dividends (including amounts received by, or on behalf of minors):  
Most recent statement or prior year 1099; and
- Documentation for other less common types of income which may be taxable at the federal level and will be assessed by the Program based on type of income reported.
- West Virginia Department of Health and Human Services Case Statement

NOTE: Applicants (or household members over age 18) who receive no income will be required to submit a No-Income Form as verification.

## 10 Duplication of Benefits

### 10.1 Duplication of Benefits Policy

CDBG-DR funding intends to address the unmet needs of a community. The funds are supplemental to primary forms of assistance, including private insurance and FEMA funds. To avoid duplicative assistance and potential de-obligation of funding, the State must utilize all possible funding sources before applying CDBG dollars to a project. CDBG-DR programs are typically implemented *after* temporary disaster assistance programs, such as FEMA Individual Assistance and are not intended to make someone whole.

The Stafford Act established the requirements for Duplication of Benefits (DOB) analysis and more recently, the Clarification of Duplication of Benefits Requirements Under the Stafford Act for Community Development Block Grant (CDBG) Disaster Recovery Grantees provided additional guidance on how Grantees should determine duplication of benefits. The Stafford Act prohibits entities, including households, from receiving disaster recovery funding for a loss which has previously received financial assistance from any source. DOB verification and analysis ensures that program funds compensate applicants for damages and needs that have not been addressed by an alternate source, either through funding or assistance.

The Program ensures that a DOB analysis is performed for each applicant to consider all possible disaster recovery funding sources when processing applications for assistance. Common disaster

assistance sources include but are not limited to:

- Federal Emergency Management Agency (FEMA)
- Small Business Administration (SBA)
- National Flood Insurance Program (NFIP)
- Increased Cost of Compliance (ICC)
- Private Insurance
- Private and nonprofit disaster assistance
- Coordinated Assistance Network (CAN) Search

Once sources are identified, the Program then determines an applicant's unmet need. Specifically, the Program compares the total assistance previously received to the total estimated need for each applicant. Per the Stafford Act, the Program confirms the intended purpose of assistance received. Funds of similar intent are considered duplicative unless the applicant still has an unmet need. The Program may verify eligible use of funds by collecting pertinent source documentation from third parties such as invoices from a contractor, receipts from a building supply store, or utilizing an inspection to determine repair expenses incurred by an applicant. If the documentation or inspection verifies that the applicant spent all previously received funds in accordance with the funding intent, then no duplication exists and the applicant may be eligible to receive assistance for any remaining unmet need under CDBG-DR. The amount of benefits the applicant used for program-eligible work will be reflected as an offset to benefits received.

If recovery funds received are greater than the offset, the applicant may have a DOB Gap. To account for a DOB Gap, the applicant may pay the difference between the award amount and the DOB Gap to receive the full eligible amount or either accept a reduction in their proposed benefit.

## 10.2 Duplication of Benefits Procedure

### Prevention of Duplication of Benefits

Under federal law, duplication of benefits (DOB) must be deducted from the assistance amount (the amount that will be offered for the purchase of the property or the repair of the structure). The following are sources of funding assistance provided for structural damage and loss that are considered DOB: FEMA Individual Assistance (IA); FEMA National Flood Insurance Program (NFIP); Private Insurance; Small Business Administration (SBA); and other sources. Any additional DOB received by the applicant after the CDBG-DR assistance is awarded must be applied to reduce the award amount. Funds received from any source, including flood insurance, FEMA, and hazard insurance, that were used to cover repair(s) to the property may reduce the amount of disaster assistance if the evidence of expenditures is verified. Documentation acceptable to the Program

can be provided demonstrating the cost and type of repair conducted.

### **Previous Benefits Verification**

The Program Team collects information from program applicants necessary to verify previous assistance payments for property damage from the June 2016 flooding. The Housing Program Team then utilizes the best available data from all sources of assistance prior to award. Specifically, the Program Team accesses the most recent data files which include previous payment benefits paid for real property repairs to determine if there was a previous benefit paid to the interested applicant(s) or any member of the household to repair structural deficiencies caused by the flooding. All sources of previous benefits paid are requested from the applicant(s) or any member of the household and must be disclosed on the application. The following duplication of benefits sources are verified:

- FEMA – Federal Emergency Management Agency (Individual Assistance)
- SBA – Small Business Administration Disaster Loans
- NFIP – National Flood Insurance Program (NFIP)
- ICC – Increased Cost of Compliance
- Private Insurance Claims
- Other federal, state or local funding
- Other nonprofit, private sector or charitable funding

For each of these sources, the Program Team will request payment data made for damages to the applicant's damaged property caused by the June 2016 floods.

#### **A. Federal Emergency Management Agency (FEMA)**

The Program will verify the FEMA IA amount provided by the FEMA database. If a FEMA match is found, the Rehab/Replacement amounts provided by FEMA will be considered a duplication of benefit. If an applicant receives funding for Temporary Living Expenses, it will not be counted as DOB unless the applicant has submitted eligible temporary living expenses. Then, the temporary living funds shall be applied first to offset eligible expenses. If additional expenses remain, the Rehab/Replacement amounts may be used to offset the balance. If no FEMA match is found, the duplication of benefit amount will be considered zero. Additionally, if a FEMA match is found, but the applicant did not comply with the flood insurance requirement for acceptance of the FEMA funds, the applicant will be deemed ineligible for assistance from the Program due to FEMA Non-Compliance.

#### **B. Small Business Administration (SBA)**

Duplication of benefits for SBA funds are verified by a database search. The dataset has been provided by SBA for the flood. The system will search by damaged residence address.

If an SBA match is found, the Real Estate amount provided by SBA will be considered a duplication of benefit unless the funds were spent for the intended purpose of the loan. CDBG-DR funds cannot be used to pay down an SBA loan. If no SBA match for Real Estate is found, the duplication of benefit amount will be considered zero.

If the applicant was offered an SBA award and declined that award, the program will document the amount of the declined award and the circumstances that caused the applicant to decline the award. SBA data and information provided by the applicant will be reviewed to determine the following:

- If allocating CDBG-DR resources to the applicant's home is necessary and reasonable, and
- If the CDBG-DR award should be offset by the amount of the declined SBA loan.

### **C. National Flood Insurance Program (NFIP)**

Duplication of Benefits for NFIP funds are verified by a search of the data provided by NFIP for the flood. The system will search by damaged residence address.

If an NFIP match is found, the Building payment amount provided by NFIP will be considered a duplication of benefit. NFIP payments for contents will not be counted as a DOB. If no NFIP match for a Building payment is found, the duplication of benefit amount will be considered zero.

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

ICC funds are included in the NFIP data. If a match for an ICC payment is found, the payment will be considered a duplication of benefit.

### **E. Private Insurance Claims**

If an applicant(s) states they had private insurance at the time of the event, the Eligibility Specialist will collect insurance documentation from the applicant(s). To verify private insurance, a verification request will be sent by the Program Team to the insurance company's designated contact. Verified amounts paid to the applicant(s) for physical dwelling damage will be considered a duplication of benefit. Amounts received for contents damage are not counted as DOB.

**Settlements:** If an applicant received payment from a civil action, or settlement, from the insurance company, the applicant must provide a copy of the settlement check breakdown. The

Settlement documentation will be reviewed to determine if “Structural” or “Dwelling” damage is mentioned in the settlement. If no settlement breakdown can be provided the full amount received will be counted as a DOB.

If the Agreement states that any of the settlement funds were paid for dwelling or structure damage/repair, the amount (Settlement amount less attorney’s fees and expenses) found on the settlement check breakdown will be considered a duplication of benefit. If there was an initial claim payment made prior to the settlement, this amount will be included in the duplication of benefit. If dwelling damage is NOT mentioned in the settlement, only the original claim payment is considered a duplication of benefit.

#### **E. Coordinated Assistance Network**

Each case will be reviewed to determine whether the applicant received repair assistance through the Coordinated Assistance Network. To verify CAN benefits, a verification request will be sent by the Program Team to the designated contact with the West Virginia Voluntary Organizations Active in Disaster. Benefits received by the applicant for physical dwelling damage will be considered a duplication of benefit. Assistance received for contents damage are not counted as DOB.

#### **F. Other Sources**

Applicants will provide documentation to their Eligibility Specialist showing funds and assistance received from other federal, state, and local sources other than those listed above, as well as non-profit charitable funding. These funds will be verified by the Program Team directly with the entities. Contact information for the entities will be provided by the applicants. Verified amounts for dwelling damage received by the source will be considered a duplication of benefit. Amounts received for contents damage are not counted as DOB.

## **10.3 Basic Framework for Calculating Program Awards**

In accordance with the *Clarification of Duplication of Benefits Requirements Under the Stafford Act for CDBG-DR Grantees (FR-5582-N-01)*, the WVDO uses the following methodology for calculating disaster recovery awards.

1	Identify Applicant's Total Need Prior to Any Assistance	\$100,000
2	Identify Program-Eligible Assistance Received	\$35,000
3	Deduct Assistance Determined to be Duplicative	\$30,000
4	Maximum Eligible Award (item 1 less than item 3)	\$70,000
5	Program Cap	\$75,000
6	Final Award (lesser of items 4 and 5)	\$70,000

## 10.4 Subrogation of Funds

Subrogation is the process by which duplicative assistance is paid to an applicant after receiving an award of CDBG-DR funds and is remitted to the program to correct a duplication of benefit. Applicants will be required to subrogate any additional funds received for damage caused by the flood to the State of West Virginia. CDBG-DR funding must be the funding of last resort, and if additional funds are paid to an applicant for the same purpose as the assistance they receive through CDBG-DR funding after the State has completed repair/rehabilitation of their home, those funds must be returned to the State of West Virginia.

All applicants to the program are required to sign a Subrogation Agreement which will include a provision substantially similar or identical to the following:

*"In consideration of applicant's receipt of funds or the commitment by Subrecipient to evaluate applicant's application for the receipt of funds under the CDBG Disaster Recovery Program (CDBG-DR) administered by Subrecipient, Applicant hereby assigns to Subrecipient all of Applicant's future rights to reimbursement and all payments received under any policy of casualty or property damage insurance or under any reimbursement or relief program related to or administered by the Federal Emergency Management Agency or the Small Business Administration ("SBA") for physical damage to the Structure."*

If it can be established that an applicant has additional need, the subsequent funds would not be considered a duplication of benefit (76 FR 221, 71062). However, if additional need is not demonstrated, disaster recovery funds must be recaptured to the extent they are more than the need and duplicate other assistance received by the applicant for the same purpose. If CDBG-DR funds were provided last and unknowingly create duplication, the method of recapturing those CDBG-DR funds will be consistent with HUD 2 CFR 200.

## 10.5 Permissible Expenses



Not all assistance received by an applicant may be considered as having been available to the applicant; therefore, there are types of assistance received by an applicant which will not constitute a duplication of benefits for housing rehabilitation or reconstruction. The Program will allow for reductions to assistance totals if the applicant can prove that the use, or control, of the funds meets certain criteria. Such permissible expense types may include, but are not limited to the following:

- Eligible Repairs
- Forced Mortgage Payoff
- Legal Fees
- Contractor Fraud
- Temporary Living Expenses

Since each eligible expense could potentially increase an applicant's grant amount, each expense type requires certain documentation prior to being considered in the award calculation.

#### **A. Eligible Repairs**

Funds spent to repair or reconstruct the damaged property may be eligible to reduce the calculated DOB. The applicant may be required to submit 3rd-party documentation such as invoices or receipts as well as proof of payment such as a bank statement. The repairs will be verified as part of the damage assessment process. The site inspector will prepare an estimate of repairs made with recovery benefits received. Once the expenses are verified and deemed eligible, the amount of eligible repair expense reduces the DOB calculation. Note that eligible repair offsets may include assistance received as included in the CAN Database.

#### **B. Forced Mortgage Payoffs**

Forced mortgage payoffs may be deducted from an applicant's calculated DOB if they provide a letter, on official letterhead from the mortgage company, stating the total amount of insurance funds used to pay off or reduce the lien. The letter must also include language that the payoff was required (forced) by the mortgage company. The letter must also note the address of the property so that we can verify that the lien was for the disaster address. Alternative support for forced mortgage payoffs will be reviewed and considered by the Program Team on a case-by-case basis. Voluntary payoffs do not qualify for a reduction to the calculated DOB. If sufficient documentation for forced mortgage payoff reduction has been provided the amount of the forced mortgage payoff reduces the DOB calculation.

#### **C. Legal Fees**

In the event of legal fees incurred due to insurance settlement or contractor fraud, a reduction for amounts paid to attorneys in obtaining settlement funds is allowable. Most amounts captured for settlements will be net of the attorney's fees already. It may be necessary to review the settlement payment breakdown to confirm whether the gross or net amounts were

included. If sufficient documentation for Legal Fees is provided the amount of the legal fees reduces the DOB calculation.

#### **D. Contractor Fraud**

To receive a DOB reduction for contractor fraud, applicants must have filed a complaint with a state or local agency with authority to act against, or otherwise penalize, the contractor. This can be the local District Attorney, State Attorney General, Department of Insurance, etc. This complaint must have been filed prior to initial contact for interest in applying for CDBG-DR funding, and include the contractor's name and a specific amount for which the applicant claims to have been defrauded. If sufficient documentation for Contractor Fraud is provided the amount of the contractor fraud reduces the DOB calculation.

#### **E. Temporary Living Expenses**

Funds spent by an applicant for temporary housing from the date of the storm, which can be established by the Program can be deducted from the DOB total.. If an applicant receives funding for Temporary Living Expenses, it will not be counted as DOB unless the applicant has submitted eligible temporary living expenses. Then, the temporary living funds shall be applied first to offset eligible expenses. Documents required for temporary housing deductions can include hotel receipts, apartment leases, rental agreements, rental receipts, and/or proof of payment for other temporary living arrangements. Food expenses are ineligible for a DOB reduction. If sufficient documentation for Temporary Living Expenses is provided the amount of the temporary living expenses reduces the DOB calculation.

In some cases, the applicant may have purchased temporary housing due to the extent of damage on their home. The Program will consider FEMA Temporary Housing Units (FTHU) and camping recreational vehicles as temporary housing for DOB offset purposes. Manufactured Housing Units are not considered temporary housing for DOB offset purposes unless the unit meets the local jurisdiction's standard criteria for being condemned. The required documents for the purchase of temporary housing can include receipts, proof of payment, and title (if applicable).

## **10.6 Duplication of Benefits Gap Funding**

In some cases, the applicant may have received financial assistance where the amount is greater than the total offsets. The difference between eligible financial assistance received and documented work completed is the duplication of benefits gap (DOB Gap).

In some cases, the construction scope of work can be reduced to offset the DOB Gap. The Program will attempt to reduce or eliminate the DOB gap by reducing the amount funded for eligible construction work. If the DOB gap is greater than zero after all work order reductions have been made, the applicant will be required to provide the DOB gap funds to be eligible for assistance. The

case manager will contact the applicant to review the DOB gap information verbally. After the case manager has reviewed the DOB gap information with the applicant, the case manager will mail the applicant a DOB gap letter. A cashier's check must be provided to the case manager within 30 days of notification. Upon receipt of the cashier's check, the case manager will also have the applicant review and sign the Escrow Agreement (Exhibit 1). If a cashier's check is not provided within 30 days, the application will become inactive. Applicants who fail to provide the DOB gap funding will be at risk of not being served by the program.

The West Virginia Development Office will deposit all payment into the escrow account created for the program. Applicant provided funds will be applied to the applicant's project costs and paid directly to the contractor once construction is complete. Following the post-construction Quality Control review, the state will issue the contractor payment for the construction work which will include the program-funded portion as well as the applicant provided portion.

## 10.7 Repayment/Recapture

Instances may arise where an applicant must return all or part of the awarded funding to the respective program. The Program is responsible for recapturing duplicative funds from applicants. This section articulates the policies that will guide West Virginia's CDBG-DR program in its efforts to recapture funds that have been overpaid to applicants. The Program will ensure CDBG-DR grant disbursements are compliant in accordance with West Virginia's Action Plan and any subsequent amendments, the grant agreement executed by and between West Virginia and HUD, and any state and federal regulations. Under the CDBG-DR program applicants are awarded funding pursuant to policies and procedures outlined by the specific program from which funding was sought.

CDBG regulations (24 CFR 570.502) governing grant administration and OMB cost principles (2 CFR 200.403 (a)) require that payment of CDBG-DR funds to beneficiaries be necessary and reasonable; and prohibit beneficiaries from retaining excess funds not used for eligible, approved costs. The provision of CDBG-DR funds more than what is needed for immediate use is also prohibited (2 CFR 200.305 (b) (1)). In addition, the Stafford Act and the CDBG-DR Notice indicate that funding may only be provided to the extent that it does not duplicate funding provided to a beneficiary for the same purpose.

### **DOB and Repayment/Recapture Examples**

CDBG-DR funding may only be provided to the extent that it does not duplicate funding provided to a beneficiary for the same purpose. Common examples of duplicative funding include, but are

not limited to:

- Payments under the National Flood Insurance Program (NFIP);
- Payments from private insurance;
- Funding from the Federal Emergency Management Agency (FEMA);
- Small Business Administration (SBA) loans; or
- Charitable donations or work performed by not-for-profits

Common circumstances that may result in a revision to an award, which then may require repayment from an Applicant:

- DOB (as noted above)
- Scope of work change
- Ineligibility
- Substantial program non-compliance
- Awards from multiple programs
- Voluntary withdrawals
- Fraud

#### **Recapture/Repayment Process**

All applicant files will be reviewed and reconciled for accuracy to ensure DOB did not occur. Once this process has been completed, if an applicant has been identified as receiving a potential overpayment, the Program will document the amount and basis for the repayment in a written letter to the applicant. In addition, the letter will contain the conditions for repaying funds and all appeal rights available to the applicant.

If an appeal is made to the Program's determination, the Program will review the written appeal and issue a final written determination of its decision. Appeals may be denied or granted in whole or in part. The Program will only review facts and information already included in an applicant's file, unless the applicant submits new documentation. The Program has the discretion to accept or reject new documentation based upon its relevance to the appeal. If the applicant fails to file an appeal with the Program within the time allotted, the inaction will be deemed as an acceptance of the determination and a waiver of any further right to contest or appeal the amount to be repaid. In addition, if the applicant's appeal is denied or there is failure on the part of the applicant to appeal within the allotted timeframe, the Program will proceed with collecting the repayment amount. If the appeal resulted in a revision to the award amount or eligibility the applicant will sign a new grant agreement and fulfill any requirements related to such changes, if needed and will work to repay the remaining overdue amount, if any.

Once it has been determined that the applicant must return funds to the CDBG-DR grant fund, the

applicant must repay their funds in a timely manner. All repayments shall be expected to be repaid in full as one lump sum amount. The Program will review any applicant claims of financial hardship, and may make limited accommodations in some cases. All funds recovered as a result of this policy will be tracked in DRGR and returned to the state's CDBG-DR account or U.S. Treasury in the event that the CDBG-DR grant has been closed out.

## 11 Flood Insurance Covenant

Federal law requires people who live in a floodplain and previously received Federal disaster funds to repair their homes as the result of a flood to carry flood insurance in perpetuity on that property. The Robert T. Stafford Disaster Relief and Emergency Assistance Act prohibits the receipt of disaster assistance because of lack of required flood insurance; accordingly, whether a property is subject to this requirement will be reviewed during the eligibility phase of the programs. If an applicant is eligible for program assistance and subject to this requirement, a covenant will be required to be placed on the property requiring that flood insurance be maintained on that property in perpetuity. The flood covenant will be drafted and filed by the State or designee. The state will enter an agreement with a broker and make payments directly to the broker. If this process is not available, the applicant may secure their own coverage and request reimbursement from the program.

Furthermore, any applicant to the Programs who previously received federal flood disaster assistance that was contingent upon the applicant obtaining flood insurance, and who failed to obtain said flood insurance, will not be eligible for further assistance under these Programs. The Program will verify non-compliance by reviewing FEMA IA eligibility codes in the federal dataset for the event. Any records with ineligible code "NCOMP - non-compliant with Flood Insurance Requirement" or "NPND - NFIRA - Non-Compliance" are FEMA non-compliant applicants and therefore ineligible for program assistance.

## 12 Damage Assessments

This section is designed to provide guidance to the assessment/inspection staff with regards to inspection protocol and preparation of a damage assessment, scope write up and verification of DOB (if applicable). The purpose of these procedures is to establish routineness and standardization when conducting assessments. The desired result of this process is to produce a complete Scope of Work as efficiently as possible with the highest degree of completeness and quality assurance for the Rise West Virginia Housing Programs.

To accomplish the desired result, the damage assessment, cost estimate, and environmental site questionnaire is consolidated into a single coordinated inspection (if applicable).

## 12.1 Procedures

A Right of Entry form is signed by applicants during the application/intake process. Applicants will be contacted to schedule their site visit with a 24-hour notice given prior to the site visit. Scheduling is made and tracked in WVGMS. A joint site visit is conducted at the physical address of the applicants damaged property. The Program Damage Assessor (DA and the applicant will be present during each site visit.

The purpose of the site visit is to do an initial damage assessment, environmental site questionnaire, and verify storm damage, as well as to observe, measure and quantify the repairs for rehabilitation, reconstruction or replacement of the applicant's structure in accordance with the Program policies. The inspector must ensure any repairs suggested are in-line with local code and Housing Quality Standards "HQS". Note that HQS define "standard housing" and establish the minimum criteria for the health and safety of program participants. The inspector uses Xactimate estimating software to produce the Scope of Work write up and determine any Allowable Activities eligible to offset DOB (if applicable). Each inspector's Xactimate software is uploaded with the most up to date construction prices by zip code or approved universal price list including sales taxes and Overhead and Profit to ensure that consistent and correct pricing is used throughout the project.

After a complete exterior and room-by-room assessment of the dwelling has been completed, the DA will record the quantities of eligible and damaged items throughout the structure. Once a Scope write-up and "DOB" (if applicable) are produced they are sent to the Quality Control team. The Quality Control team will review documents for overall accuracy and completeness. Documents are then uploaded to the online management system to be reviewed for verification and program eligibility determination.

The type of assistance the applicant is to receive (e.g. repair, replace or rebuild) is determined by the Program, dependent upon the type of structure, the amount of the Scope write up and the DOB relative to the value of the house and program guidelines regarding cost-effectiveness. After the Scope of Work has been completed approved, the Scope of Work will then be assigned to the appropriate GC for scheduling and completion.

## 12.2 Site Inspections & Initial Environmental Assessment

INSPECTORS ARE NOT TO PLACE THEMSELVES IN HARMS WAY DUE TO UNSAFE CONDITIONS OR

HAZARD (refer to example of Hazardous Conditions sub-section below). If unsafe or hazardous conditions exist, the inspector is to document the condition via photographs taken from a safe area, and in the Scope of Work coversheet narrative section state a narrative summary of the unsafe existing conditions. They must not continue with the inspection. However, in most cases a structure can be assessed from the exterior by getting a measurement of the exterior perimeter of the house which can be used to determine the estimated cost of repairs. This method is only allowed in cases where the structure is unsafe to enter.

Upon receipt of a work order for inspection, the Damage Assessor (DA) is to familiarize themselves with the route(s) required to allow for adequate travel time to arrive at the applicant's dwelling in a timely fashion.

### **Arriving On Site**

The DA greets the applicant, present their photo ID badges, explain the purpose of the visit, and provide a brief overview of the assessment process. The DA provides the applicant with a copy of the approved Program guidelines, fact sheet or pamphlet and answer any questions the applicant may have.

### **Conducting the Inspection**

The DA then documents the description of the structure, inclusive of roofing type, exterior building envelope type, electrical system size, electrical breaker type, electrical wiring type, plumbing system type, domestic water distribution piping type, water utility type (public service or well), gas utility type (public service or tank), sewer service (municipal service, septic tank or waste water treatment plant), and Heating/HVAC system.

The DA will observe each space within the home to identify storm damages and repair items needed to produce a scope of work write up and duplication of benefits report (if applicable).

### **Photographing Damages**

Photographs are taken in each space of the dwelling to adequately document the existing condition of each scope item that is determined.

Photographs should appear on the damage assessment in the following order:

- Reference photos from street,
- Exterior photos with address verification,
- Roof Photos (from best advantage point to identify damages/no damages), and
- Interior photos - Damaged and Undamaged Areas to include:
  - Living Area,
  - Kitchen Area,

- Dining Area,
- Bedroom(s),
- Closets,
- Bathrooms, and
- Laundry.

The DA measures and provide a sketch of the entire structure including each room or space in the house.

### **Inspection Completion and Next Steps**

The on-site damage assessment is complete once all damages are observed, measured and quantified. Once the on-site damage assessment is complete, the DA produces a Scope of Work and DOB report (if the homeowner has performed previous work), which is sent to QA/QC and then to the online Grant Management System to be verified for eligibility. Once eligibility is confirmed, Scopes of Work will be uploaded to the CarbonCM database (which communicates with wvGMS) and made available for assignment to the appropriate GC.

### **Access Limitations**

- Inspectors do not access the roof.
- Inspectors do not access crawl spaces (but may take photos from outside if there is availability of access).
- Inspectors normally do not enter the attic but in some cases "if needed" could access partially to view any damages that would be required for a full Scope of Work determination. The utmost safety should be taken while entering any attic.

### **Unsafe Entry**

If a dwelling is deemed unsafe for entry by verbal advice of the applicant or visual confirmation of the Damage Assessor (DA), photos of the exterior will be taken only. The DA is not to enter the property and take pictures. A short narrative describing the unsafe conditions should be included in the narrative of the Scope of Work. The structure can still be assessed from the exterior by getting a measurement of the exterior perimeter of the house, which can be used to determine the estimated cost of repairs.

### **Hazardous Conditions Sub-Section**

This chart contains examples of hazardous conditions. Inspectors are to be cognizant of any hazardous conditions observed.



Low headroom ceiling, damaged or failing framing	Fallen trees on the structure	Subflooring removed or open floor joists
Presence of extreme suspected mold or toxic substances	Debris	Electrical Hazards
Severely damaged or undermined Foundation	Aggressive Pets	Crumbling Foundation
Dead/live animals, vermin and/or insect infestation (termites, carpenter ants, carpenter bees) – interior (including attic), exterior, basement/crawl space	Aggressive Neighbors	Visibly observed weapons
Condemned signs affixed	Contaminated Soil	Poison Ivy or other toxic plants impeding assessment
Suspected asbestos (chipping, friable or converts to dust), heating pipes, siding (clapboards, shakes), floor tiles (usually 9 x 9), some sheet flooring (may be able to tell from the backing), fireplace flues, duct work, ceiling and wall tiles		

## Environmental Questionnaire

The questionnaire is completed by the site inspector based on their interview and site observations. The questionnaire provides compliance information as part of the initial environmental review.

## Lead Based Paint Inspection

A WVDO representative performs Lead Based Paint (LBP) encapsulation/remediation in accordance with Department of Housing and Urban Development (HUD), Environmental Protection Agency (EPA) and State Health Services environmental requirements.

# 13 Cost Reasonableness

## Cost Reasonableness

As found in 2 CFR Parts 200.400, 200.401, & 200.404, cost reasonableness and cost principles guidelines have been established for recipients of federal awards. These principles must be

followed when a non-Federal entity is responsible for the administration of a Federal award and assumes responsibility for administering Federal funds. As such, it is especially important that adherence to these principles be followed when a non-Federal entity is predominately federally funded.

A cost is considered reasonable if it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost.

When assessing cost reasonableness, the WVDO considers the following:

- Whether the cost is of a type generally recognized as ordinary and necessary for the operation of the non-Federal entity or the proper and efficient performance of the Federal award.
- The restraints or requirements imposed by such factors as: sound business practices; arm's-length bargaining; Federal, state, local, tribal, and other laws and regulations; and terms and conditions of the Federal award.
- Market prices for comparable goods or services for the geographic area.
- Whether the individuals concerned acted with prudence in the circumstances considering their responsibilities to the non-Federal entity, its employees, where applicable its students or membership, the public at large, and the Federal Government.
- Whether the non-Federal entity significantly deviates from its established practices and policies regarding the incurrence of costs, which may unjustifiably increase the Federal award's cost.<sup>3</sup>

In compliance with Federal Register FR-6012-N-01 dated January 11, 2017, the WVDO has created a cost effectiveness process to determine that each property assisted with CDBG-DR funding is cost beneficial. Options for assistance include rehabilitation or reconstruction of damaged residential buildings and potential infrastructure mitigation in areas of wide-spread damage.

West Virginia utilizes various sources of information to ensure that the most cost-effective solution for repairing, rehabilitating or replacing an applicant's damaged structure is chosen. As set forth above in the details regarding the maximum amount of assistance available to applicants under the Housing Programs, various thresholds have been established to determine whether one type of assistance is more cost effective than another. Under the Housing Programs guidelines, an average cost of rehabilitation and reconstruction is established and used as a threshold for cost effectiveness to determine whether alternative solutions should be considered in lieu of a rehabilitation or reconstruction. Specifically, if elevation measures are required for a repair/rehabilitation applicant, which would bring the total assistance available to an amount

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<sup>3</sup> 2 CFR 200.400, 200.401, 200.404

greater than the applicable cap for the specific type of assistance necessary, the applicant would be provided reconstruction assistance yielding a more cost-effective resolution.

WVDO will use a cost-benefit calculation (CBC) to determine the cost effectiveness of each property assisted with CDBG-DR funding.

a. Rehabilitation vs. Reconstruction

A damage assessment is conducted for each property to determine if the estimated cost of rehabilitation is most cost effective. If the property is more than 50% damaged, WVDO will recommend reconstruction or acquisitions of the property dependent on a CBC.

If a property is less than 50% damaged a cost estimate is completed to determine if the home can be rehabilitated for an amount less than the average reconstruction costs for a home similar in size.

- If the cost to rehabilitate the home is less than the amount to reconstruct the home, the applicant is required to select the rehabilitation option.
- If the cost to rehabilitate the home is more than the amount to reconstruct the home, the applicant has the option to reconstruct the home.

## 14 Temporary Relocation Assistance

Once a property has been deemed unsafe for applicants to be present during construction, additional criteria must be met in order for the applicant or an applicant's tenants to qualify for temporary relocation assistance. Eligible applicant homeowners who are participating in the Housing Restoration Program as well as tenants of properties under the Rental Assistance Program must have occupied the damaged property at the time of application in order to qualify for temporary relocation assistance. Determination of whether the property was occupied will be made as part of the damage assessment during the site visit. In addition, the property must be either a single-family stick-built home or a mobile home unit.

Tenants who have chosen to reside in properties that are participating in the Rental Assistance Program must also meet the following requirements to qualify for temporary relocation assistance:

- Tenant household must meet HUD's low-to-moderate income (LMI) requirements
- Tenant must enter into a long-term lease with the property owner

The maximum amount of temporary relocation assistance is \$2,500 and will be limited based

on construction project type:

- Property Rehabilitation Projects or MHU Replacement - \$1,000
- Property Reconstruction - \$2,500

Temporary Relocation Assistance expenses are strictly limited to:

- expenses resulting from temporary lodging;
- storage and/or transportation of personal property;
- transportation for Applicant and Applicant's Program approved household members; and
- any expenses reasonably related to the foregoing expenses as determined by the Program in its sole discretion.

The use of this assistance for any other expense shall constitute an inappropriate use of Program funds which may be subject to repayment by Applicant to the Program up to the full amount of the temporary relocation assistance received.

Once eligibility determination for the temporary assistance is completed, the eligible applicants and tenants must enter into a binding agreement with the state. The Temporary Assistance Award Acknowledgement formally certifies temporary assistance award, the applicant's eligibility, conditions for appropriate use, and remedies for inappropriate use of these funds.

## 15 Construction Management

The State of West Virginia provides Construction Management and Construction Oversight services for the rehabilitation of damaged properties. Construction Management services include contracting for rehabilitation and reconstruction; replacement of manufacturing housing units and modular homes, construction management, and quality management inspections. Construction oversight services include inspections for each rehabilitated structure and a representative subset of reconstructed properties. The State of West Virginia contracts directly with contractors for the rehabilitation or reconstruction of damaged homes on behalf of eligible applicants.

The Program also prepares a Construction Estimate for damaged properties. The Construction Estimate is a vital part of the Construction Management / Oversight process and includes the Initial Inspection, Contractor assignment, and Eligible Construction Activities. Once the initial

damage assessment is completed the process then continues with construction activities.

### **Threshold for Home and MHU Replacement**

Prior to conducting any rehabilitation on a disaster-damaged Home or MHU, a viability analysis is conducted to determine if the rehabilitation will be cost effective, support a long-term housing solution for the applicant, and improve the health and safety risk for the applicant's household. It is possible that, upon review of an application and the completion of a damage assessment and estimated scope of repair, the Home or MHU may be determined as not suitable for rehabilitation. If a damage assessment or scope of repair estimation determines that the rehabilitation of a structure will exceed 50.01% of the tax-assessed value of the home (including 20% of the tax assessed value for resiliency measures as necessary), then the structure shall be deemed "Not Suitable for Rehabilitation." In this case, a more cost-effective type of assistance is offered to the applicant such as, but not limited to, reconstruction. Additionally, if the structure is considered to be "blighted," it is assumed that such conditions could expose persons to risks, dangers or unsanitary conditions and, thus, unfit for habitation. In this case, the structure shall be deemed "Not Suitable for Rehabilitation." A blighted structure is any structure that contains deterioration which poses a threat to the health & safety of the inhabitants and/ or the surrounding community. For homes, this analysis will vary for each housing unit based on its pre-disaster value, site location and resilience needs. However, because of the difficulty of repairing damaged MHUs and their lower initial resilience, the Program has established specific threshold criteria to determine if replacement of an MHU is required. If an MHU is over 5 years old; or has total rehabilitation cost above \$5,000; or fails the DA's viability analysis for another reason allowed by HUD, the MHU will be classified as "Not Suitable for Rehabilitation" and will be replaced.

## **15.1 Construction Selection**

### **Rehabilitation of Houses**

- For each home needing rehabilitation, the Construction Manager assigns a contractor to repair or rehabilitate the damaged property
- The Damage Assessor identifies any other rehabilitation and/or remediation items necessary to complete the work and identifies the quantities and bid amount for each.
- The Construction Manager utilizes approved standardized pricing for all projects.
- The Construction Manager evaluates and determine the most cost effective and comprehensive scope to bring the home to HUD Housing Quality Standards (HQS) and be within the rehabilitation cap. The approved scope and pricing is maintained in wvGMS capturing the final approval.

- Once the scope of work and pricing have been agreed upon by all parties, the applicant will then enter a grant agreement with the State of West Virginia and the State of the West Virginia will then enter into the contract with the contractor directly.

### **Reconstruction of Homes**

The Construction Manager, Damage Assessor and/or GC review, approve, and upload all required documentation into wvGMS. The GC performs the following reconstruction activities, including but not limited to:

- Demolition of existing homes
- Building of new homes including modular construction (if applicable)
- Providing all related accessories to complete new construction
- Confirming septic and water access or provide the cost to provide such access
- Obtaining a Certificate of Occupancy, or equivalent by meeting all applicable codes.
- Reconstruction activities also include replacement of MHUs.

The Construction Manager, Damage Assessor and/or GC review, approve, and upload all required documentation into wvGMS.

### **Reconstruction**

The GC provides floor plans to include:

- Construction of new houses,
- All construction activities must comply with U.S. Department of Housing and Urban Development (HUD) requirements.
- Adherence to the current International Residential Code (IRC) and local building, and health and safety codes, and
- All utility hookups and other construction requirements necessary to obtain a Certificate of Occupancy or equivalent.
- Demolition of existing houses and slab, including disposal in accordance with Federal and State environmental regulations,
- Elevating houses for flood zone requirements, and
- Providing ramps and other required modifications for accessibility for occupants who have a verified disability.
- The Program will submit floor plans for each of the two housing sizes (2 or 3 bedroom).
- Each configuration will include a minimum of 900 sq.ft. of heated and cooled living space.
- The unit prices will reflect the various flood plans of each particular housing unit size
- Floor plans and specifications for reconstruction will be reviewed by the Construction Manager

## 15.2 Eligible Construction Activities

The following policy applies to eligible reconstruction, new construction, and relocation activities for stick-built structures, modular homes and MHUs.

The activities described below are considered eligible reconstruction and rehabilitation construction activities under the Program. The following priorities in ranked order serve as the basis for decisions regarding the eligibility of specific items within the allowable Program budgets:

- Mandatory work items resulting from damage caused by storm and necessary to bring the property into HUD HQS compliance with HUD's Housing Quality Standards, including room additions and improvements to address occupancy guidelines.
- Construction activities may also include the items below if they are deemed as necessary by the Construction Manager to ensure safe and sanitary conditions are met:
  - Adherence to the International Residential Code (IRC) applicable to the location, and applicable building/housing/municipal requirements of the applicable jurisdiction, including requirements for elevation, storm weatherization, and mitigation for future storm events, and
  - Other necessary items to mitigate environmental issues such as:
    - Noise abatement,
    - Cleanup of environmental contamination,
    - Abatement and disposal of lead-based paint (LBP),
    - Abatement and disposal of asbestos containing materials (ACM), and
    - Modifications to increase accessibility for occupants who have a verified disability.
  - Other items that are necessary to deal with conditions detrimental to the health or safety of residents such as upgrades to basic structural elements; mechanical, electrical, and plumbing systems, etc.

### Ineligible Activities

- Additions to an existing structure, unless it is necessary to meet housing and building codes or occupancy standards,
- Purchase of tools or equipment, or other similar items, and
- Purchase of washers, dryers, dishwashers or removable air conditioning/heating units not attached to the house structure.

### Procedures

- Upload, review, and approve inspection data into wvGMS
- Upload, review, and approve required documentation into wvGMS.

## 15.3 Contractor Responsibilities

The Program utilizes nationally recognized Xactimate estimating software to produce the Scope of Work and DOB verification, and the GC will be bound by the contract with the State of West Virginia for rehabilitation activities.

### Rehabilitation

The GC is responsible for, but not limited to, the following functions for all homes assigned to it:

- Performing asbestos containing material (ACM) inspections and remediation in accordance with EPA, National Emissions Standards for Hazardous Air Pollutants (NESHAP) and State Health Services environmental requirements;
- Demolition of the existing house and foundation;
- Disposal of all household hazardous waste in accordance with State and Federal environmental regulations;
- Demolition, General Carpentry, HVAC repair and/or replacement, Masonry repair or replacement, Electrical repair or replacement, plumbing repair or replacement;
- Scheduling and providing on-site temporary storage to current residences when deemed necessary by the WVDO's Construction Manager;
- Ensuring each scope of work is executed in accordance with any and all federal, state, and/or local standards, guidelines, codes, or requirements;
- Performing the entire scope of work identified by the WVDO for the cost identified by the standardized tool, or Xactimate as set for in Task Order One or any subsequent Task Orders;
- Securing a one-year warranty for all materials and workmanship in accordance with requirements following the completion of the work. The start date of the warranty will be the date of the final inspection; and
- Adherence to timeliness goals, days in construction:
  - \$0 - \$10,000: 4 days
  - \$10,001 – \$20,000: 7 days
  - \$20,001 – \$30,000: 10 days
  - \$30,001 – \$45,000: 14 days
  - \$45,001 - \$60,000: 18 days
  - \$60,001 - \$75,000: 21 days
- Tracking days in construction measured from Notice to proceed (NTP) to Final Inspection Complete.



## Reconstruction

The GC approves standardized pricing to complete new reconstruction projects, and the GC is bound by the contract with the State of West Virginia for reconstruction activities. Approved structural types for reconstruction include stick built structures as well as modular structures. These structures shall be 2 bedroom/2 bathrooms and 3 bedroom/2 bathrooms. Contractor must warranty all work for a period of one year. The structure floorplan of all WV-RAP properties requiring reconstruction will have 3 bedrooms and 2 baths.

For non-rental housing program applicants, the number of bedrooms in the reconstructed/replaced stick-built structure are determined based the number of current household members with consideration of the sex of the individual household members. The maximum size of a reconstructed/replaced stick-built home is 3 bedrooms and 2 baths. The number of household members as well as the following circumstances are considered when determining the number of bedrooms and bathrooms of the reconstructed/replaced structure:

- Two persons of the same sex can occupy a bedroom.
- Adults of the opposite sex, other than spouses, may not be required to share a room.
- Children of the opposite sex (if above the age of six) may not be required to share a bedroom.

The GC is responsible for:

- Performing all work in accordance with International Residential Code (IRC) and local building and health and safety codes;
- Obtaining all building permits throughout the construction process;
- Disposal of all construction debris at a licensed construction waste landfill;
- Disconnecting and reconnecting all utilities, demolition and disposal of existing structures, boundary surveys, pad/foundation preparation, construction/completion of the new structure, installation of all electrical, plumbing, and HVAC components and fixtures, purchase and installation of energy star rated kitchen appliance (refrigerator, dishwasher, and stove/oven);
- Scheduling and completion of all required inspections;
- Scheduling and providing temporary storage to current residences when deemed necessary by the WVDO's Construction Manager;
- Ensuring each scope of work is executed in accordance with all federal, state, and/or local standards, guidelines, codes, or requirements;
- Performing the entire scope of work identified by the WVDO for the cost identified by the standardized tool, or Xactimate as set for in Task Order One or any subsequent Task Orders;

- Securing a one-year warranty for all materials and workmanship in accordance with requirements following the completion of the work. The start date of the warranty will be the date of the final inspection;
- Performing all work in accordance with regulatory requirements for accessibility;
- If the property is in a floodplain, the base flood elevation will be above the currently published Advisory Base Flood Elevation (ABFE) or the local code requirements, whichever is more stringent; and
- Adherence to the timeliness goals, days in construction, below:
  - Standard Demolition and Reconstruction: 60 Days
  - Demolition and Reconstruction of structures requiring additional elevation: 90 Days
- Tracking days in construction measured from NTP to Certificate of Occupancy (COO)

### **Mobile Home Unit (MHU)**

The GC uses approved standardized pricing to complete new reconstruction projects, and the GC is bound by the contract with the State of West Virginia for reconstruction activities.

A detailed proposal for a 3 bedroom/1 bathroom MHU is required. The proposal should include detailed floor plans, exterior elevation drawings/renderings, option board/flipbook for the finished product and quarterly completion capacity. Contractor must warranty all work for a period of one year.

The GC is responsible for:

- Performing all work in accordance with International Residential Code (IRC) and local building and health and safety codes;
- Obtaining all permits throughout the construction process;
- Disposal of all construction debris at a licensed construction waste landfill;
- Scheduling the replacement activities with the applicant;
- Disconnecting and reconnecting all utilities, demolition and disposal of existing structures, boundary surveys, pad/foundation preparation, installation/completion of the new MHU, installation of all electrical, plumbing, and HVAC components and fixtures, purchase and installation of energy star rated kitchen appliance (refrigerator, dishwasher, and stove/oven);
- Replacement MHUs will be removed and disposed of following Federal and State requirements;
- Scheduling and completion of all required inspections;

- Scheduling and providing on-site temporary storage to current residences when deemed necessary by the WVDO's Construction Manager;
- Ensuring each scope of work is executed in accordance with all federal, state, and/or local standards, guidelines, codes, or requirements;
- Performing the entire scope of work identified by the WVDO for the cost identified by the standardized tool, or Xactimate as set for in Task Order One or any subsequent Task Orders;
- Securing a one-year warranty for all materials and workmanship in accordance with requirements following the completion of the work. The start date of the warranty will be the date of the final inspection;
- Performing all work in accordance with regulatory requirements for accessibility;
- If the property is in a floodplain, the Program will ensure the base flood elevation is above the currently published Advisory Base Flood Elevation (ABFE) or the local code requirements, whichever is more stringent;
- Obtaining a Certificate of Occupancy;
- Adherence to the timeliness, days in construction, goals below:
  - Standard: 21 Days
  - Replacement with additional elevation: 35 Days
- Tracking days in construction measured from NTP to Certificate of Occupancy (COO)
- Removing replacement MHUs and disposing of them following Federal and State requirements.

## 15.4 Performance Evaluation

The GC is subject to a Program Performance Evaluation by the Construction Manager on a re-occurring basis to assess their performance under the Program. This evaluation may include, but is not limited to, the following:

- Demonstrated professionalism,
- Adherence to construction schedules
- Quality of work performed to date,
- Demonstrated safety performance,
- Capacity (financial and construction) related to number of jobs in progress,
- Applicant/Owner satisfaction, and
- Other PM defined performance criteria.

These criteria are used by the Construction Manager as a consideration factor in awarding additional work orders. The associated quality score factors into the assignments' process.

## 15.5 Labor Standards

When construction work is funded in whole or in part with CDBG funds, adherence to certain Federal labor standard requirements applies. The General Contractor will be responsible for full compliance and adherence to these applicable requirements. The Program will be responsible for administration and enforcement of applicable requirements to ensure compliance.

### Labor Laws and Requirements

The following labor laws may apply to CDBG-funded construction work:

- **Davis-Bacon Act** – applicable when construction work exceeding \$2000 is funded in whole or in part using CDBG funds. It requires that workers do not receive wages less than those being paid for similar work in the same area. Davis-Bacon does not apply to the rehabilitation of residential structures containing less than eight units. See 40 USC, Chapter 3, Section 276A-276a-5 and CFR Parts 1, 3, 5, 6 and 7 for more information
- **Copeland Anti-Kickback Act** – requires that workers be paid weekly, that deductions from workers' pay be permissible and that contractors maintain and submit weekly payrolls. See 40 USC, Chapter 3, Section 276c; 18 USC, Part 1, Chapter 41, Section 874; and 29 CFR Part 3 for more information
- **Contract Work Hours and Safety Standards Act** – applicable to construction contracts over \$100,000 and requires that workers receive overtime compensation for hours worked over 40 hours in one week. See 40 USC, Chapter 5, Sections 326-332; 29 CFR Part 4, 5, 6, and 8; and 29 CFR Part 70-240 for more information
- **Section 3 of the Housing and Urban Development Act of 1968** – requires that HUD-financed projects provide opportunities for training and employment to lower-income residents of the project area as well as the awarding of contracts to businesses that provide economic opportunities for low and very low-income persons residing in the project area

The Program must include all applicable labor standards language and the appropriate wage decision in the construction bid and contract documents. During construction, the Program is responsible for enforcing any applicable requirements outlined above. Once construction is underway, the General Contractor should complete weekly payroll for its employees and sign the Statement of Compliance. The contractor is responsible for housing the records. Compliance is monitored and ensured by the Program continuously throughout the construction process, prior to any progress or final payments being made.

## 15.6 Construction Signing Event

Once the Scope of Work has been confirmed and approved, the applicant and Program Representative then conduct a construction contract and grant agreement signing event.

### **Attendance Policy**

- A signing event meeting is held prior to any construction work being performed,
- Applicants or agent(s) with POA for the applicant are required to attend the signing event,
- Representative of the State

### **Aspects of Construction to be Discussed**

- Applicant expectations,
- Accessibility options,
- Construction schedule,
- DOB inquiries to assess repairs that may have been completed by the applicant,
- Applicant move-out,
- Construction Contract,
- Grant Agreement, and
- All other Program required documents for signing event.

### **Procedures**

- A meeting or conference call is held between each applicant and Program representatives to ensure they fully understand the construction Scope of Work, Construction Contract, Grant Agreement, Pictures, Specifications and other Program required signing event documents,
- The Case Manager acts on behalf of both the Program and the State at the signing. All agreements are electronically pre-signed before the meetings by the Director of Community Advancement and Development,
- Applicants are given the opportunity to sign their Grant Agreement and other Program required documents digitally,
- General contractors sign the Construction Contract digitally and are not required to attend each construction signing event.
- Executed contracts, grant agreements, and corresponding signing event documents are standard templates and are housed in wvGMS, and
- Applicants and contractors will provide copies of all signed documents via email or printed copy when necessary.

Signing Event documents are available to be signed digitally and paper documentation may be available on a case-by-case basis. The needs of all applicants will be taken into consideration to provide a high level of customer service.

### **Special Needs Policy**

Applicants who are illiterate or otherwise unable to sign their name, may sign with an "X" if there is:

- Third party witness at the signing,
- Photo identification of the applicant in the file, and
- A proper notarized notation on all documents the applicant signs that address special circumstances.

Accommodations will be made when it is determined that an applicant is out-of-state and unable to attend their signing event appointment, or homebound due to disability or illness.

**NOTE:** Applicants do not contract directly with the GC. Applicants enter into a Grant Agreement with the Program, while contractors enter into a contract with the Program directly.

## **15.7 Permits and Codes**

The GC is responsible for documenting and obtaining all necessary permits for each job site.

The permits must be posted at each site in plain view. A permit box in the front yard, or posted in the front window of the home is acceptable. The GC must ensure work performed satisfies all International Residential Code (IRC), International Energy Conservation Code (IECC), and all other Federal, State; and local construction, health and safety code requirements upon project completion. The PM or designee oversees the work of the construction contractor for each rehabilitation and reconstruction project.

## **15.8 Quality Control Inspections**

Periodic inspections for quality control are performed on randomly selected sites by the Construction Manager to determine consistency within the Program and across contractors and inspectors.

### **Procedures**

- The Construction Management Team reviews and approves the inspection notes and photographs, and
- Inspections are recorded with photographs and log notes and uploaded into CarbonCM.

## **15.9 Construction Change Orders**

The GC conducts all due diligence activities prior to starting construction to discover any potential unforeseen circumstances. If in the event any unforeseen conditions are

discovered during construction, the contractor will then prepare a *Change Order*, with supporting documentation, and submit to the area Construction Manager for review and determination. If project costs including the change order do not exceed the allowable construction budget caps and the change order is consistent with Program rules, the change order will be approved.

**Project cost eligibility evaluation:**

- The construction manager reviews the proposed Change Order and makes a determination on whether the costs are program eligible,
- Additional scope item may be deemed necessary and assigned using Xactimate pricing for the city of Charleston, WV for the applicable month and year of SOW generation.
  - In addition to the line item cost allowances, for Replacements and Reconstructions, a 10% overhead and 10% profit is applied.
  - For Rehabilitations, a 15% overhead and 15% profit are applied.
- For eligible scope item(s) that are not found in Xactimate then WV Procurement and Program rules must be followed including the following:
  - For purchases from \$0 - \$25,000, three written bids will be required
  - For purchases more than \$25,000, must follow the formal bid process through the Purchasing Division
  - 0% overhead and 0% profit will be applied to non-Xactimate scope items.
- For Replacements and Reconstructions, the only eligible change order items are:
  - New Well installation
  - New Septic Tank installation
  - Extraordinary and critical change order items
  - All other construction items are to be considered as part of the turnkey solution and pricing regardless of amount of fill dirt, demolition size of old structure, property location, etc.

**Procedures**

**If eligible project costs do not exceed the award cap:**

- The Construction Manager will review and approve/deny the *Change Order* and supporting documentation, and
- Update wvGMS with versioned Estimated Cost of Repair ECR and adjustments to award.

**If eligible project costs do exceed the award cap:**

- The change order along with supporting documentation should be submitted for review. Adequate documentation includes:
  - Project description;
  - Justification of the need for the change;
  - Justification of the need for a time extension;
  - Revised plans, specifications, and contract documents; engineering computations and sketches, if necessary to justify the change; and
  - Contractor certification that the cost of the change order has been analyzed and found to be reasonable.
- The committee will review and approve/deny the Change Order request
- The committee will consist of either the Director or Deputy Director of West Virginia Community Development Office, a member of the Construction Management team and the Program Management team

## 15.10 Construction Close-Out

Once construction is completed the contractor and inspector complete closeout requirements of the construction project.

### Policy

Once all construction is completed in accordance with the Contract and all local permit inspections, construction close-out will then commence. The GC will notify the area construction manager once the construction, including punch list items, is complete.

### Procedures

The construction inspector will conduct a final inspection of the structure and document that all scope items are complete and compliant with program guidelines. The construction inspector will either pass or fail the inspection. If the final inspection fails, all parties will be notified of the deficiencies and a request for completion will be documented. Once any deficiencies are repaired and the structure has passed on re-inspection, all documentation will be submitted to the online management system. The contractor and inspector will agree that the construction is complete. The GC will obtain a Certificate of Occupancy or comparable documentation. Where a COO is not required or hindering the close out process, the Final Inspection can suffice for close out.

## 15.11 Disbursement



Funds are distributed to contractors when the contractors have submitted an invoice for each project or encompassing multiple projects. The Program will work with the State of West Virginia to submit required documentation.

#### **Policy**

- All rehabilitation projects will be eligible for payment after passing final inspection.
- MHU replacements will be paid as such: 25% upon assignment and 75% upon attainment of certificate of occupancy/signed final inspection
- Reconstruction will be paid as such: 25% upon assignment and 75% upon attainment of certificate of occupancy/signed final inspection

#### **Ineligible for Payment**

- A contractor is ineligible for a disbursement if the work is not done according to local or other applicable building code.
- A contractor is ineligible for a disbursement if the work fails the inspection conducted by the Program Manager.
- A contractor is ineligible for a disbursement if payment is requested for work not included in the original work order or subsequent change order.

#### **Procedures**

The Program will review and approve payment requests prior to requesting disbursement from the State of West Virginia, and funds will be disbursed as indicated by West Virginia.

## **15.12 Homeowners Remaining on Property During Construction**

The typical procedure and sequence of events when an applicant is provided a new home under the Program is for the homeowner to secure temporary housing away from the site of the damaged property, and then vacate the damaged property during the demolition and reconstruction phases of the project. In a limited number of cases, homeowners may be unable to secure suitable temporary housing while their new homes are being constructed.

#### **Policy**

In some limited circumstances and after exhausting all possible sources of temporary housing, homeowners may be allowed to remain on the property during the construction or rehabilitation phase, subject to the prior approval of the GC. Homeowners must execute documents demonstrating their agreement for waiver of liability, payment of additional utility connection fees, and, when applicable, the demolition of the damaged structure upon

completion of the new structure. The request to remain on the property during construction or rehabilitation must be initiated by the homeowner. Under no circumstances should contractors or other program personnel offer this option to the homeowner. A request to remain on the property during construction or rehabilitation should be made only after the homeowner has exhausted all possibilities for obtaining temporary housing from family, friends or community services agencies. The homeowner will attest to his or her inability to obtain temporary housing.

The homeowner must establish a dire need before a request to remain on the property during construction or rehabilitation may be granted. The definition of a dire need includes:

- The absence of any family or friends in the area who can house the homeowner during construction;
- The inability for the homeowner to obtain temporary housing assistance from a community services organization, faith-based organization, church, etc.; and
- In the case of handicapped or special needs individuals, the absence of a temporary alternative providing the required accommodations.

Granting the homeowner's request to remain on the property during construction or rehabilitation will be contingent on the following:

- There exists no municipal zoning or other prohibition to the homeowner remaining on the property during construction or rehabilitation.
- The building contractor agrees to allow the homeowner to remain on the property during construction or rehabilitation.
- In cases of new construction, the homeowner will be unable to remain in the demolished structure and will need to vacate the premises. As the Program will need to reconstruct the home on its original footprint, it will be necessary for the original home damaged by the storm to be completely demolished and cleared, making it uninhabitable. If the parcel of land has significant room for other dwellings not in the Program- the applicant can agree in writing to stay on the property within one of these type dwellings, and well away from the construction site.
- In the opinion of the contractor, the lot is of sufficient size to allow the construction of the new home at a safe distance from the original home, or, as applicable, the living area of the home is located at a safe distance from the rehabilitation work, such that the rehabilitation can proceed in a safe and expeditious manner.
- The homeowner signs a Waiver of Liability and Hold Harmless Agreement indemnifying the construction contractor(s), the Program and the State of West Virginia from any loss or injury sustained while inhabiting the property during construction or rehabilitation.

- The decision to allow a homeowner to remain on the property during construction or rehabilitation is vested solely in the Construction Manager or their designee.

### **Procedures**

- The homeowner makes a request to remain on the property during demolition and/or construction or rehabilitation,
- Staff refers homeowner to assigned contractor to obtain written agreement to remain on property,
- The homeowner agrees in writing to the demolition of the damaged property, when applicable, and executes Waiver of Liability and Hold Harmless Agreements, and
- The request is forwarded to the Construction Manager for final review and determination.

## **15.13 Green Building Standards**

The WVDO follows Green Building Standard requirements as stated in the Federal Register, 81 FR 83269 (2016), requiring all Program funded new construction and replacement of substantially damaged residential buildings to meet the Green Building Standard, by meeting an industry-recognized standard that has achieved certification under at least one of the following programs:

1. ENERGY STAR (Certified Homes or Multi-Family High-Rise)
2. Enterprise Green Communities
3. LEED (New Construction, Homes, Midrise, Existing Buildings Operations and Maintenance or Neighborhood Development)
4. ICC-700 National Green Building Standard
5. EPA Indoor AirPlus; or
6. Any other equivalent comprehensive green building program acceptable to HUD

For rehabilitation of non-substantially damaged residential structures, the guidelines specified in the HUD CPD Green Buildings Retrofit Checklist (Exhibit 2) are followed to the extent applicable to the rehabilitation work undertaken, including the use of mold resistant products when replacing surfaces such as drywall. When older or obsolete products are replaced, rehabilitation is required to use ENERGY STAR-labeled, WaterSense-labeled, or Federal Energy Management Program (FEMP)-designated products and appliances. Rehabilitated housing may also implement measures recommended in a Physical Condition Assessment (PCA) or Green Physical Needs Assessment (GPNA).

### **Exceptions**

For construction projects completed, under construction, or under contract prior to the date that assistance is approved for the project, applicable standards are encouraged to be applied to the extent feasible, however the Green Building Standard is not required. Additionally, for equipment

or materials for which an ENERGY STAR- or WaterSense-labeled or FEMP-designated product does not exist, the requirement to use such products does not apply.

## 15.14 Special Flood Hazard Areas

CDBG-DR funds will not be used for any activity in an area identified as flood prone for land use or hazard mitigation planning purposes by the State, local, or Tribal government or delineated as a Special Flood Hazard Area in FEMA's most current flood advisory maps, unless the action is designed or modified to minimize harm to or within the floodplain, in accordance with Executive Order 11988 and 24 CFR part 55. The relevant data source for this provision is the State, local and Tribal government land use regulations and hazard mitigation plan and the latest issued FEMA data or guidance, which includes advisory data (such as Advisory Base Flood Elevations) or preliminary and final Flood Insurance Rate Maps.

Property owners assisted through the Housing Restoration Program, West Virginia Rental Assistance Program, and the CDBG-DR / HMGP Coordinated Match Program will be required to acquire and maintain flood insurance if their properties are in a FEMA designated 100-year floodplain. This requirement is mandated to protect safety of residents and their property and the investment of federal dollars. Furthermore, property owners who have received federal funding for flood damage that was contingent upon obtaining flood insurance for the damaged property, and for which flood insurance was not subsequently obtained for the damaged property will not be eligible for additional federal funding under these Programs.

The State implements procedures and mechanisms to ensure that assisted property owners comply with all flood insurance requirements, including the purchase and notification requirements, prior to providing assistance.

### **Elevation Standards**

The elevation height of a house can significantly reduce the cost of flood insurance. Elevations will be included for Applicants that meet requirements determined by the program, including substantially damaged properties in the floodplain. Elevation is evaluated on a case by case basis. Elevations is conducted on properties outside of the floodplain, with the possible exception where elevation is required by local ordinance.

As stated in FR 81 83269, all structures, defined at 44 CFR 59.1, designed principally for residential use and located in the 1 percent annual (or 100-year) floodplain, that receive assistance for new

construction, repair of substantial damage, or substantial improvement, as defined at 24 CFR 55.2(b)(10), are elevated with the lowest floor, including the basement, at least two feet above the 1 percent annual floodplain elevation. Residential structures with no dwelling units and no residents below two feet above the 1 percent annual floodplain are elevated or flood-proofed in accordance with FEMA flood-proofing standards at 44 CFR 60.3(c)(3)(ii) or successor standard, up to at least two feet above the 1 percent annual floodplain.

## 16 Environmental Review Procedures

### 16.1 Introduction

Every project undertaken with federal funds, and all activities related to that project, is subject to the provisions of the National Environmental Policy Act of 1969 (NEPA), as well as to the HUD environmental review regulations at 24 CFR Part 58. The primary purpose of this Act is to protect and enhance the quality of our natural environment. The HUD environmental review process must be completed before any federal funds can be accessed for program-eligible activities.

In addition, no work may start on a proposed project before the environmental review process is completed, even if that work is being done using non-HUD funds. In other words, environmental clearance must be obtained for each project prior to the firm commitment of federal or non-federal funds. A violation of this requirement may jeopardize federal funding to this project, and disallow all costs that were incurred before the completion of the Environmental Review.

The primary objectives of the HUD environmental review are to identify specific environmental factors that may be encountered at potential project sites, and to develop procedures to ensure compliance with regulations pertaining to these factors. The HUD environmental review is designed to produce program-specific environmental review procedures in a program that can vary greatly in terms of scope of work. Laws and regulations which contain environmental provisions with which must be complied with include:

1. Historic Preservation (36 CFR 800)
2. Floodplain Management (24 CFR 55, Executive Order 11988)
3. Wetlands Protection (Executive Order 11990)
4. Coastal Zone Management Act (Sections 307 (c), (d))
5. Sole Source Aquifers (40 CFR 149)
6. Endangered Species Act (50 CFR 402)

7. Wild and Scenic Rivers Act (Sections 7 (b) (c))
8. Air Quality (Clean Air Act, Sections 176 (c) and (d) and 40 CFR 6, 51, 93)
9. Farmland Protection Policy Act (7 CFR 658)
10. Environmental Justice (Executive Order 12898)
11. Noise Abatement and Control (24 CFR 51 b)
12. Toxic/Hazardous Materials (24 CFR 58.5(i)(2))
13. HUD Environmental Standards (24 CFR 51 c)
14. Airport Clear Zones and Accident Potential Zones (24 CFR 51 d)

All federally funded projects and activities must have documentation that they are in compliance with NEPA and all other environmental requirements. The purpose of this Section is to provide guidance necessary to prepare the Environmental Review Record (ERR) as required by NEPA and related laws. The ERR serves as a tool to measure the environmental consequences of all federally funded CDBG-DR eligible-program activities for the West Virginia Community Advancement and Development (WVCAD).

Statutory & Governing Regulations:

- 40 CFR 1500-1508, Council on Environmental Quality's regulations implementing the National Environmental Policy Act (NEPA)
- 24 CFR Part 58 (Environmental Review Procedures for Entities Assuming HUD Environmental Responsibilities)
- Points to (NEPA) and other applicable regulations and sections of Federal laws and authorities (Section 58.5)
- 24 CFR Part 51 (Environmental Criteria and Standards)

HUD CDBG-DR Assisted Projects:

Part 58 applies

- On the date, the responsible entity (RE) receives a proposal or application for federal assistance
- As soon as the recipient determines the projected use of CDBG assistance

The value of the environmental review is to inform the proponent of a Federally assisted action: (1)

of the existence of negative impacts on a site, (2) of means to mitigate negative impacts, (3) alternatives to the project if needed, and (4) when all other options fall, that rejection of the proposed action may be the most prudent action to take. The environmental review is a means of providing decision makers with sufficient information on which to base wise choices.

## 16.2 Responsible Entity” (RE) & Certifying Officer

Under 24 CFR Part 58, the term “**responsible entity**” (RE) means the grantee receiving CDBG DR funds. The responsible entity must complete the environmental review process. The (RE) is responsible for ensuring compliance with NEPA and the Federal laws and authorities has been achieved, for issuing the public notification, for submitting the request for release of funds and certification and the Authority to Use Grant Funds, when required, and for ensuring the Environmental Review Record (ERR) is complete on filed in the System of Recorded.

To fulfill its obligations under 24 CFR Part 58, the (RE) will designate responsible a Certifying Officer. Once HUD CDBG-DR federal funds have been awarded, each RE must designate a Certifying Officer to serve specifically as the “responsible” official for carrying out the Responsible Entity’s environmental requirements.

**Certifying Officer:** The responsible entity must designate a Certifying Officer - the “Responsible Federal Official” -- to ensure compliance with the National Environmental Policy Act (NEPA) and the Federal laws and authorities cited at section 58.5 has been achieved.

The Director and Deputy Director of West Virginia Community Advancement and Development will serve this role as Certifying Officers.

The Certifying Officer has three primary responsibilities per 24 CFR 58.13:

- Represent the RE for environmental review matters and be subject to the jurisdiction of the Federal courts if the RE becomes involved in environmental litigation.
- Make sure all environmental procedural and record requirements are fully and properly satisfied.
- Ensure that all necessary coordination functions required for environmental reviews are performed. This includes consultation with all appropriate agencies directly concerned with environmental issues or having environmental responsibilities associated with the RE’s projects; and the public comment process.

## 16.3 Environmental Review Contractor Staff

The WVDO “Environmental Review Contractor Staff” responsibilities and duties include the following:

- Complete applicable training and maintain any required certification to remain knowledgeable regarding compliance with environmental requirements applicable to programs administered by WVDO
- Review and monitor CDBG-DR programs and projects activities administered by WVDO to assure compliance with all environmental requirements established under federal statutes, regulations, and executive orders.
- Draft and review the following documents submitted by WVDO to HUD seeking to use CDBG-DR federal funds under eligible programs or projects:
  - Complete the Statutory Checklist with all Required Attachments including State Historic Preservation Office Letter, Fish and Wildlife Letter; Air Quality Letter, and the Eight-Step Process for Floodplains (if Applicable) etc.;
  - Complete the Tier II Environmental Assessment Form Checklist with all Required Attachments;
  - Draft the Notice of Intent to Request Release of Funds for all WVDO activities requiring the Statutory Checklist;
  - Complete and track all Combined Public Notice and Affidavit of Publication for all WVDO activities requiring the Environmental Assessment Checklist;
  - Request for Release of Funds and Certification (RROF).
- Provide WVDO Certifying Officer with all items requiring legal signature indicating that environmental procedural and record requirements are being satisfied.

After review of the above noted documents by the “Environmental Review Contractor Staff”, the Certifying Officer will either sign and issue the Authority to Use Grant Funds (ATUGF) or forward the package to HUD for their review and release. Once the (ATUGF) has been issued, the WVDO may initiate the program activity for Single Family Repair and Reconstruction Tier I and II Reviews.

## 16.4 Environmental Review Procedures

### Purpose of Environmental Review Procedures

The purpose of these environmental procedures is to ensure that all projects funded with HUD CDBG-DR funds including follow all applicable federal laws and authorities identified in 24 CFR Part 58: Environmental Review Procedures for Entities Assuming HUD Environmental Responsibilities. Also, these procedures are intended to insure a suitable living environment, or more specifically, to



determine if any significant environmental impact may occur because of a proposed WVDO recovery project; to release funds to support eligible projects that neither harm nor are harmed by the environment; to safeguard, enhance, and restore the environment; and to foster public participation in the development decision-making process.

### **Purpose of the Environmental Review**

There are four objectives of the ERR process:

- To comply with all legal requirements;
- To assist in project planning;
- To determine if the proposed activity will have an impact on the environment, and
- To determine whether the environment will have an impact on the proposed WVDO Program activity.

The value of the environmental review is to identify:

- the existence of negative impacts on a site;
- means to mitigate negative impacts; and
- alternatives to the project, if needed.

The ERR process identifies areas where project design and planning can be improved to mitigate such things as high noise levels, inadequate public safety, flooding problems, or the time constraints of archaeological findings.

**NOTE:** The completion of the environmental review process is mandatory before taking a physical action on a site, or making a commitment or expenditure of HUD CDBG-DR or non-HUD funds.

Using any portion of Federal funds for acquisition, rehabilitation, conversion, leasing, repair or construction before completing the environmental review process requires the denial of any Federal funds for that project (24 CFR 58.22). Therefore, the environmental review process must be completed before committing or expending DR funds on a project (such as signing a construction contract, etc.)

### **Environmental Review Record**

The WVDO Environmental Certifying Officer is responsible for maintaining a written record of the environmental review process. The ERR for all WVDO Recovery Programs contains all the governmental review documents, public notices and written determinations or environmental findings required by 24 CFR Part 58 as evidence of review, decision making and actions pertaining

to a project of a recipient. As appropriate, the ERR:

- Describes the project and activities that WVDO has determined to be part of a project;
- Evaluates the effects of the project or the activities on the human environment;
- Documents compliance with applicable status and authorities, in particular those cited in Section 58.5 and 58.6; and
- Records the written determinations and other review findings required by this part (e.g., exempt and categorically excluded projects determinations, and findings of no significant impact).

The ERR contains, as appropriate, verifiable source documents and relevant base data used or cited in EAs, or other project review documents. These documents may be incorporated by reference into the ERR if each source document is identified and available for inspections by interested parties.

Tier I and Tier II environmental reviews have their own (ERR). The Tier I Broad Environmental Reviews is available for public review on site at WVDO. All Tier I Broad Environmental Review Records for the 12 declared Counties are overseen by the “Environmental Review Contractor Staff”. WVDO uses the program Grants Management System (wvGMS) as the Environmental Review Record (ERR) for all Tier I Broad Reviews and the Tier II Site-Specific Assessment Forms. The Certifying Officer and Environmental Review Contractor Staff use the current HUD recommended formats or will develop equivalent formats with HUD Region III Environmental Field Officer.

## 16.5 Environmental Review Glossary

**Activity:** An action that a grantee or recipient puts forth as part of an assisted project regardless of whether it’s to be borne directly by the HUD assistance or imparted by another funding source.

**Categorical Exclusion:** Activities which do not have a significant effect on the human environment and which been found to have no such effect in procedures adopted by a federal agency (40 CFR 1508.4). In such cases, neither an EA nor an EIS is required, however, these activities must comply with non-NEPA statutes and regulations as specified in §58.35.

**ERR:** Environmental Review Record, an instrument documenting compliance with the environmental review requirements of NEPA and/or 24 CFR 58.

**FONSI:** Finding of No Significant Impact, a statement forwarded to HUD finding that the proposed project (including mitigating measures) will not adversely affect or be affected by the environment.

**NEPA:** The National Environmental Policy Act of 1969.

**NOI:** Notice of Intent, as in Notice of Intent to Request Release of Funds (NOI/RROF)

**Project:** An activity, or group of integrally related activities, designed by WVDO Program directors to accomplish, in whole or in part, a specific objective.

**Responsible Entity (RE):** Is the grantee receiving CDBG DR funds. The responsible entity must complete the environmental review process. The (RE) is responsible for ensuring compliance with NEPA and the Federal laws and authorities has been achieved for every Federal dollar.

**(ATUGF):** Authorizing Use of Grant Funds. (Form HUD 7015.16) After objection period, HUD issues this form 7015.16

**wvHGMS:** Horne Grant Management System (wvHGMS) is used as the official rerecord keeping system for WVDO for all Tier II Environmental Reviews.

## 16.6 Environmental Classifications

### Classifying the Activity and Conducting the Appropriate Level of Environmental Review

To begin the environmental review process when a site is known and there is a clear project activity, the RE must first determine the environmental classification of the project. The term “project” can be defined as an activity or group of activities geographically, functionally, or integrally related, regardless of funding source, to be undertaken by the CDBG recipient, or a public or private entity in whole or in part to accomplish a specific objective.

If various project activities have different classifications, the RE must follow the review steps required for the most stringent classification.

The 3 environmental classifications are:

1. **Exempt Activities,**
2. **Categorically Excluded Activities, or**
3. **Activities Requiring an Environment Assessment.**

Regardless of the number of activities associated with a project, a single environmental review is required. Aggregating related activities ensures the recipient adequately addresses and analyzes the separate and combined impacts of a proposed project.

	<b>Exempt</b>	<b>Categorically Excluded, not subject to 58.5</b>	<b>Categorically Excluded, subject to 58.5</b>	<b>Environmental Assessment</b>	<b>Environmental Impact Statement</b>
<b>Regulatory Citations</b>	<b>24 CFR Part 58.34</b>	<b>24 CFR Part 58.35(b)</b>	<b>24 CFR Part 58.35(a)</b>	<b>24 CFR Part 58.36</b>	<b>24 CFR Part 58.37</b>
<b>Examples</b>	Administration, Project Planning, Environmental Studies, and Engineering Design	Supportive services, such as health care, housing services, etc., and assistance in accessing local, state and Federal government benefits  Economic development activities, including equipment purchase, operating expenses and similar costs not associated with construction or expansion of existing operations  Tenant-based rental assistance	Acquisition, repair, improvements, reconstruction or rehab; facilities have same use w/out changes in size or capacity > 20%  Rehab of residential buildings (<= 4 units), when density is not increased beyond four units, land use is not changed, and footprint of the building is not increased in floodplain or wetland  Projects to remove barriers restricting mobility & accessibility to elderly and handicapped persons	New construction, or land acquisition for housing or economic development  Converting a property to another use (e.g. commercial to residential, commercial to public facility, etc.)  Rehab that exceeds the thresholds for categorical exclusion	Projects having a regional and/or long-term impact, e.g., construction of a power plant or landfill  Will pose significant or potentially significant impacts on unique resources, e.g., endangered species, unique landforms, etc. Effects are highly uncertain or involve unique or unknown risks.  High controversial for scientific or engineering reasons

## 1. Exempt Activities

Certain activities are by their nature highly unlikely to have any direct impact on the environment. Accordingly, these activities are not subject to most of the procedural requirements of environmental review.

Listed below are examples which may be exempt from environmental review. For complete details refer to the environmental regulations.

- Environmental and other studies;
- Information and financial services;
- Administrative and management activities;
- Engineering and design costs;
- Interim assistance (emergency) activities if the assisted activities do not alter environmental conditions and are for temporary or permanent improvements limited to protection, repair or restoration actions necessary only to control or arrest the effects of disasters or imminent threats to public safety or those resulting from physical deterioration;
- Public service activities that will not have a physical impact or result in any physical changes;
- Inspections and testing of properties for hazards or defects;

- Purchase of tools or insurance;
- Technical assistance or training;
- Payment of principal and interest on loans made or guaranteed by HUD; and
- Any of the categorically excluded activities subject to Part 58.5 (as listed in 58.35(a)) provided there are no circumstances which require compliance with any other Federal laws and authorities listed at Part 58.5 of the regulations. Refer to the section below on categorically excluded activities subject to Part 58.5.

If a project is determined to be exempt the RE is required to document in writing that the project is exempt and meets the conditions for exemption as spelled out in § 58.34.

In addition to making a written determination of exemption, the RE must also determine whether any of the requirements of 24 CFR Part § 58.6 are applicable and address as appropriate, including the requirements at 24 CFR § 58.6 include the Flood Disaster Protection Act; the Coastal Barriers Resources Act; and HUD's requirement for disclosure of properties Located in airport runway clear zones.

## **2. Categorically Excluded Activities**

### **Categorically Excluded Activities not Subject to 58.5**

The following activities, listed at 24 CFR Part 58.35(b), have been determined to be categorically excluded from NEPA requirements and are not subject to Section 58.5 compliance determinations.

- Tenant based rental assistance;
- Supportive services including but not limited to health care, housing services, permanent housing placement, short term payments for rent/mortgage/utility costs, and assistance in gaining access to local State and Federal government services and services;
- Operating costs including maintenance, security, operation, utilities, furnishings, equipment, supplies, staff training, recruitment, and other incidental costs;
- Economic development activities including but not limited to equipment purchase, inventory financing, interest subsidy, operating expenses and similar costs not associated with construction or expansion of existing operations;
- Activities to assist homebuyers to purchase existing dwelling units or dwelling units under construction such as closing costs, down payment assistance, interest buy downs and similar activities that result in the transfer of title to a property;
- Affordable housing predevelopment costs with NO physical impact such as legal, consulting, developer and other costs related to obtaining site options, project financing, administrative costs and fees for loan commitments, zoning approvals, and other related activities which do not have a physical impact; and

- Approval of supplemental assistance to a project previously approved under this part. If the approval is made by the same RE that conducted the environmental review on the original project and re-evaluation of the environmental findings is not required.

To complete environmental requirements for Categorically Excluded projects not Subject to 24 CFR Part § 58.5, the responsible entity must take the following steps:

- Make a finding of Categorical Exclusion not Subject to § 58.5 and document this finding in the ERR.
  - The ERR must contain a written determination of the RE's finding that a given activity or program is categorically excluded and not subject to § 58.5. When these kinds of activities are undertaken, the RE does not have to issue a public notice or submit a request for release of funds (RROF) to HUD.
  - To document the finding of categorical exclusion not subject to § 58.5, the RE must cite the applicable subsection of § 58.35(b), identify and describe the specific activity or activities, and provide information about the estimated amount of CDBG or other funds to be used.
- Carry out any applicable requirements of 24 CFR Part § 58.6 and document the ERR as appropriate.

The RE must determine whether the activity triggers any of the other requirements at 24 CFR 58.6, which are:

- The Flood Disaster Protection Act; the Coastal Barriers Resources Act; and HUD's requirement for disclosure of properties located in airport runway clear zones.

#### **Categorically Excluded Activities Subject to 58.5**

The list of categorically excluded activities is found at 24 CFR Part 58.35. While the activities listed in 58.35(a) are categorically excluded from NEPA requirements, the grantee must nevertheless demonstrate compliance with the laws, authorities and Executive Orders listed in 58.5.

#### **The following are categorically excluded activities subject to 58.5:**

- Acquisition, repair, improvement, reconstruction, or rehabilitation of public facilities and improvements (other than buildings) when the facilities and improvements are in place and will be retained in the **same use without change in size, or capacity of more than 20 percent;**
- Special projects directed toward the removal of material and architectural barriers that restrict the mobility of and accessibility to elderly and disabled persons;

- Rehabilitation of buildings and improvements when the following conditions are met:
  - For residential properties with one to four units, the density is not increased beyond four units and the land use is not changed; and If the building is located in a floodplain or in a wetland, the footprint of the building is not increased.
  - For multi-family, residential buildings (with more than four units):
    - Unit density is not changed more than 20 percent;
    - The project does not involve changes in land use from residential to non-residential; and
    - the estimated cost of rehabilitation is less than 75 percent of the total estimated replacement cost after rehabilitation.
  - For non-residential structures including commercial, industrial and public buildings:
    - The facilities and improvements are in place and will not be changed in size or capacity by more than 20 percent; and
    - The activity does not involve a change in land use, e.g. from commercial to industrial, from non-residential to residential, or from one industrial use to another.
- An individual action on up to four-family dwelling where there is a maximum of four units on any one site. “*Individual action*” refers to new construction, development, demolition, acquisition, disposition or refinancing (does not include rehabilitation which is covered previously). The units can be four one-unit buildings or one four-unit building or any combination in between;
- An individual action on a project of five or more housing units developed on scattered sites when the sites are more than 2,000 feet apart and there are not more than four housing units on any one site;
- Acquisition (including leasing) or disposition of or equity loans on an existing structure, or acquisition (including leasing) of vacant land provided that the structure or land acquired, financed, or disposed of will be retained for the same use.
- Combinations of the above activities.

**The ERR must contain a written determination of the RE’s finding that a given activity or program is categorically excluded subject to § 58.5. This determination should:**

Include a description of the project (including all the related activities, even though HOME funds may not be used for all of them); Cited the applicable subsection of § 58.35(a);

Provide the total estimated project cost; and

Provide written documentation as to whether or not there were any circumstances which required compliance with any of the Federal laws and authorities cited in §58.5.

The RE will use the current HUD recommended Statutory Checklist, or an equivalent format, to document its environmental findings.

The RE's documentation must support its determinations related to compliance with the Federal laws and authorities cited in §58.5, including correspondence with the applicable agencies having jurisdiction over the various areas on the checklist.

Upon completion of the checklist, the RE will make one of three environmental findings:

1. The project converts to exempt [§ 58.34(a)(12)];
2. The project invokes compliance with one or more of the laws and/or authorities and, therefore, requires public notification and approval from HUD; or
3. The unusual circumstances of the project may result in a significant environmental impact and, therefore, compliance with NEPA is required.

If upon completing the Statutory Checklist, the RE determines compliance is required for one or more of the Federal laws and authorities listed in § 58.5, then the RE must publish or post a public notification known as the Notice of Intent to Request Release of Funds (NOI/RROF).

After the seven-day comment period has elapsed, the responsible entity must prepare the Request for Release of Funds (RROF) and Environmental Certification. The Environmental Certification certifies that the RE is in compliance with all the environmental review requirements. The RROF and Certification must be signed by the Certifying Officer and submitted to HUD. The RE must receive the release of funds from HUD before proceeding forward with the project.

### **3. Activities Requiring an Environmental Assessment**

Activities which are neither exempt nor categorically excluded (under either category) will require an environmental assessment (EA) documenting compliance with NEPA, HUD and with the environmental requirements of other applicable Federal laws.

The responsible entity must take the following steps to complete environmental requirements for projects requiring an environmental assessment:

The RE must ensure that reliable documentation sources are cited for every item on the HUD EA Form. WVCAD will work with HUD Environmental staff to provide any detailed guidance completing appropriate documentation for each area on the checklists.

Once the HUD EA Form has been completed, including consultation with applicable agencies and persons, the grantee must make a determination as to whether the project will or will



not have a significant impact on the environment. This can be done once the review has been completed and any comments have been addressed appropriately. The RE must select one of the following two findings/determinations:

- The project is not an action that significantly affects the quality of the human environment and, therefore, does not require the preparation of an environmental impact statement; or
- The project is an action that significantly affects the quality of the human environment and, therefore, requires the preparation of an environmental impact statement. Both the finding and the environmental assessment must be signed by the environmental Certifying Officer and included in the ERR.

In most instances, the environmental assessment will result in a finding that the project is not an action that significantly affects the quality of the environment and, therefore, does not require an environmental impact statement. If this is the case, the RE must complete the following:

- Publish and distribute a public notice called a Combined/Concurrent Notice of Finding of No Significant Impact (FONSI) and Notice of Intent to Request Release of Funds (NOI/RROF).
- The RROF and Environmental Certification must be submitted to HUD no sooner than 16 days after publishing the combined/concurrent notice. The Certification must be signed by the Certifying Officer of the jurisdiction.
- HUD must hold the Release of Funds for a 15-day period to allow for public comment. If no comments are received during this time, HUD will send back a signed Release of Funds and the project may proceed.

If the environmental assessment will result in a finding that the project will significantly affect the environment and, therefore, requires an environmental impact statement, the RE will contact its HUD Region III Environmental Officers for guidance.

## 16.7 Tiering Environmental Reviews

Tiered environmental reviews are a subject discussed in NEPA regulations (§ 1502.20) that can be applied to the WVCAD Single Family Rehabilitation and Reconstruction recovery program covered

under 24 CFR Part 50.

The RE should consider a tiered environmental review for their single-family housing program as a possible option to achieve both compliance and speed because it does not require upfront identification of assisted properties. In short, a tiered review focuses on a targeted geographic area (i.e., maximum size is a single census tract) to address and analyze environmental impacts related to the proposed activities that might occur on a 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 now completed, according to standards for approval previously established for the target area.

Tiered reviews can be used for either categorically excluded activities or those that require an environmental assessment.

- For categorically excluded activities, the tiered review must address compliance with the Federal laws and authorities listed at 24 CFR §§ 50.4 and 50.3(i), such as historic preservation, floodplains, endangered species, hazardous substances, etc.
- For activities requiring preparation of an environmental assessment, the tiered review must address compliance with the Federal laws and authorities listed at 24 CFR §§ 50.4 and 50.3(i) as well as compliance with NEPA.
- A tiered environmental review allows for a general assessment of the impacts of any activity (e.g. acquisition of foreclosed homes, demolition of blighted properties, or land banking) on the environment prior to identification of a specific site.

## **Tier 1: Broad Environmental Review**

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. This includes examining the applicable laws and authorities (e.g., floodplains, coastal zones, wetlands, aboveground storage tanks, etc.). For example, if the target area is not within a 100-year floodplain or a coastal zone management area, none of the project sites will be affected no matter where they are located in the target area. On the other hand, if a portion of the target area is within a 100-year floodplain, then the grantee must complete the required compliance process to decide whether to fund any future projects within the floodplain, including whether mitigation measures are feasible

For activities requiring an environmental assessment, the Tier 1 review must also assess 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 environmental compliance requirements satisfactorily resolved in this first level of review meaning there are findings of no impact or impacts requiring mitigation—are excluded from any additional examination or consideration once the Tier 1 review is completed.
- However, **the Tier 1 review also 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 the following: above ground storage tanks that present a safety hazard to building and occupants of buildings; new residential units located in close proximity to a freeway that generates high levels of noise; soils that are not suitable for multifamily structures; or asbestos removal that may be necessary. **The Tier 2 Site Specific Review will address such issues.**
- During the Tier 1 review process the grantee develops and describes written standards that will be used during the Tier 2 Site Specific Project Review. These written standards are used to identify potential environmental impacts, as well as help the grantee choose appropriate sites. In developing the standards, the grantee must anticipate any special conditions, such as mitigation measures that must be met and carried out as part of an approved project by HUD Region III Environmental Officers if a potential environmental impact is associated with the site. as part of an approved project by HUD if a potential environmental impact is associated with the site.
- Upon completion of the Tier 1 review, including the written standards to be used during the Tier 2 process, the grantee must mail it to HUD, along with all the supporting documentation (letter, reports, maps, surveys, studies, etc.) for approval assessment.) The grantee should retain a complete copy for itself for processing Tier 2 reviews. It is responsible for ensuring that mitigation measures are incorporated into contracts, as necessary, and for the completion of the project. Note: Whenever possible,

## Tier 2: Sited Specific Review

- The Tier 2 review focuses only on the environmental compliance requirements that could not be resolved in the Tier 1 Target Area Assessment.
- When the grantee identifies specific properties or sites within the target area for obligating funds (e.g. to buy a property, finance repairs, demolish a structure, etc.), the grantee uses the written standards (checklist and narrative) set forth in the Tier 1 review process to determine if there are any environmental issues associated with the site. The Site Specific Project Review documents in writing that compliance standards for the specific project are met, and the required mitigation measures, if any, will be incorporated into the project.
- HUD must review the grantee's compliance documentation for each site. And so, the grantee must submit all the documentation to HUD. A copy should be retained by the grantee. Once the grantee receives notification from HUD that the proposed specific project site and activity have successfully passed the environmental compliance review, project funds for the specific project site may be obligated and spent.

## **Content of Tiered Review – Tier 1 Broad Environmental Review**

The information and documentation of a Tier 1 review

- Target Area Review must include at least the following:
  1. A clear statement of project activities and the source(s) of project funds.
  2. Identification of the target area (including a map).
  3. Identification and evaluation of the environmental factors and effects that can be decided immediately (including mitigation).
  4. Specific written strategies for addressing the environmental effects that can only be determined when specific sites become known (i.e., Tier 2 - site acceptability criteria and standards, including any required mitigation measures).
  5. Source documents and other relevant information that support compliance decisions.

Subsequent site-specific reviews will not require notices or a Request for Release of Funds unless

the WVDO Certifying Officer or WVDO Environmental Reviewer Contractor Staff determines that there are unanticipated impacts or impacts not adequately addressed in the prior review. Prior to determining whether tiering is appropriate, the WVDO Environmental Reviewer Contractor Staff will first properly aggregate project activities for WVDO. For example, The RE WVDO plans to use a portion of its CDBG DR funds for an owner-occupied single family housing rehabilitation reconstruction program of scattered sites within one of the 12 declared counties from the 2015 Floods. Therefore, the best decision was to develop a tiered environmental review for this program because it was not known what the site-specific addresses would be for this program. The WVDO developed a Tier I broad Environmental review based on the county geographic level and a tiering plan for conducting site specific Tier II reviews when the individual housing sites became known.

### **WVDO Tiering Procedures**

The WVDO Environmental Reviewer Contractor Staff will follow the listed procedures are below.

A Tier I broad environmental review (the strategy) of the program must be completed. The Tier I broad review should identify and evaluate those issues ripe for decision and exclude those issues not relevant to the policy, program or project under consideration. The broader review will also establish the policy, standard or process to be followed in the site-specific review and include the following:

- a. A complete project description (including: contract number, total cost and HUD funds used, how funds will be used, target population, number receiving assistance, amount per individual, location, size, function, existing and future need, and an evaluation of the effects)
- b. Determine classification (level of review) for project (unspecified sites)
- c. Complete the applicable environmental review based on classification. Identify and evaluate issues ripe for decision
- d. Establish the policy, standard or process to be followed in the site-specific review and develop the site-specific checklist.
- e. Complete the Public Notice, Finding of No Significant Impact (FONSI) (summary of the assessment), and RROF procedures. The FONSI with respect to the broader assessment shall include a summary of the assessment and identify the significant issues to be considered in site-specific reviews.
- f. After objection period, HUD issues 7015.16—Authority to Use Grant Funds Environmental Review is now complete

After each location is determined the WVDO Environmental Review Contractor staff will complete the following:

- Describe the activity for that County.
- Summarize the issues addressed in the Tier I Broad Environmental Review.
- Complete the Tier II Site-Specific Environmental Assessment Form checklist and certify.
- File all the Tier I reviews and any supporting documentation in the Tier I Broad Environmental Review Record binders.
- The Tier II Site-Specific Environmental Assessment Form is completed and signed.
- The Tier II Form is uploaded and cleared in (wvHGMS).
- After the Tier II is cleared in wvHGMS the WVDO Environmental Review Contractor will list and document any mitigation that is required and will document at the end of construction that all mitigation measures were followed.
- The WVDO Environmental Review Contractor will oversee all State and Federal Agencies correspondence as it pertains to Tier I and II (ERR).
- Document and draft all Public Notices for both the Tier I and Tier II reviews.
- Create all maps using ArcMap that would be needed to complete the Tier II Site-Specific reviews
- After objection period, HUD issues 7015.16—Authority to Use Grant Funds Environmental Review is now complete

**A Tiered Environmental review consists of two distinct steps:**

The Tier I environmental review involves a broad analysis of relevant, general environmental conditions in a program target area. The Tier I review also provides structure for the Tier II review by establishing procedures for site-specific environmental compliance. The Tier II review focuses on site-specific environmental conditions that cannot be adequately evaluated at the Tier I level.

**Tier I Environmental Review**

The size of the target area will often determine the level of detail possible in a Tier II review. For example, it is appropriate and worthwhile to include floodplain maps for a neighborhood or city target area; whereas this type of information is not particularly useful in a county-wide analysis. If sufficient detail is not attainable in the Tier I review, simply describe a process for Tier II compliance. The description should include a summary of any applicable technical research, and a procedure for coordination with regulatory agencies.

**Tier II Environmental Review**

When specific sites are selected for participation in a program, WVDO Environmental Contractor staff must revisit the Tier II checklist(s) and conduct a focused evaluation of all compliance areas that were not adequately addressed during the Tier I review. For each site, use the “Tier II Site-Specific Environmental checklist,” and compile all associated correspondence and documentation into the site environmental review record.

### **The Release of Funds Process**

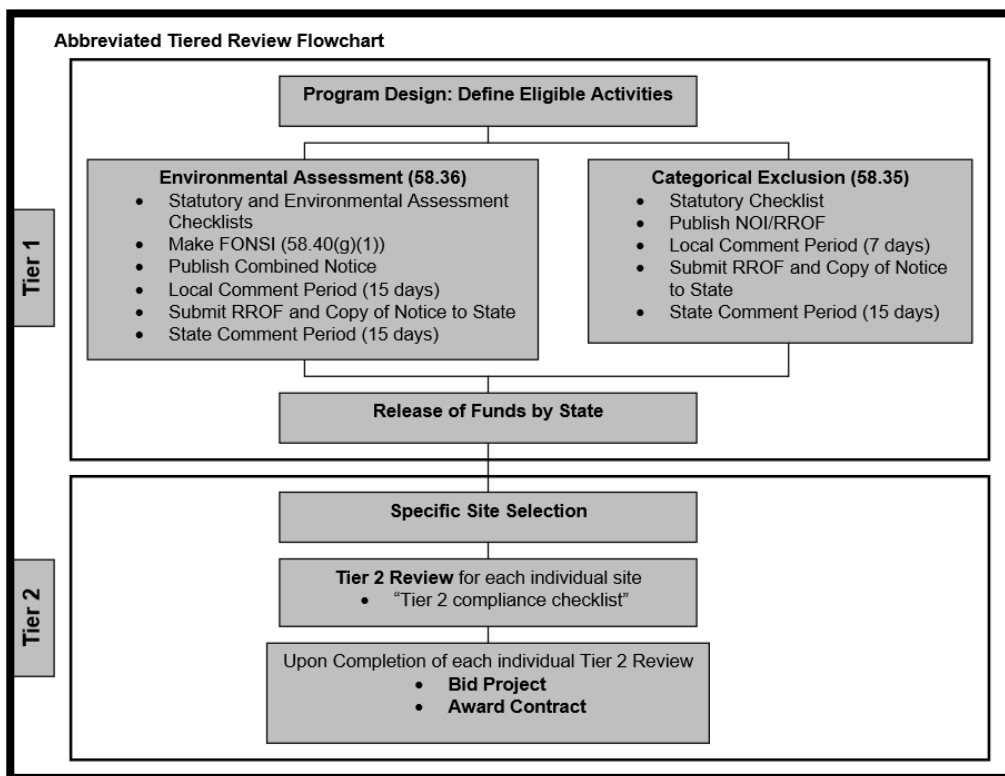
In a tiered environmental review, WVDO will publish a Finding of No Significant Impact (FONSI) and/or Notice of Intent to Request Release of Funds (NOI/RROF) following the completion of the Tier I review. WVDO do not republish these notices or submit additional Request for Release of Funds (RROF) documentation following site-specific Tier II reviews.

- After objection period, HUD issues Form 7015.16—Authority to Use Grant Funds Environmental

Tier I and Tier II documentation remains in the (WVCAD) environmental Review file, and is subject to monitoring by HUD headquarters Environmental staff.

### **Tiered Environmental Review Flowchart**

A tiered environmental review takes place in two or more stages. Tiered reviews must be based on a project description that includes properly aggregated project activities.



## 16.8 Adopting a FEMA Environmental Review

The provision in the DR Notice that allows a HUD grantee to adopt a review completed by FEMA (the review needs covers the same scope)

### Adoption of FEMA and Other Federal Environmental Reviews and Processing for Hurricane Sandy Supplemental Appropriation (H.R. 152) Activities

The Appropriation also allows the Secretary to immediately approve funds that are subject to this adoption provision or are Categorically Excluded under NEPA. This document provides the language covering these provisions, contains frequently asked questions to explain the use of the adoption provision, discusses the immediate approval provision, and features charts explaining the comment periods applicable to different types of assistance.

***b. Adoption of another agency's environmental review.*** In accordance with the Appropriations Act, recipients of Federal funds that use such funds to supplement Federal assistance provided under sections 402, 403, 404, 406, 407, or 502 of the Stafford Act may



*adopt, without review or public comment, any environmental review, approval, or permit performed by a Federal agency, and such adoption shall satisfy the responsibilities of the recipient with respect to such environmental review, approval, or permit that is required by the HCD Act. **The grantee must notify HUD in writing of its decision to adopt another agency's environmental review. The grantee must retain a copy of the review in the grantee's environmental records.***

### **(WVCAD) Procedures for Adoption of FEMA Environmental Reviews**

The Environmental Reviewer Contractor Staff will follow the listed procedures below:

For FEMA and HUD Responsible Entities EHP Reviews. As discussed in the Unified Federal Review Guidance for EHP Practitioners, the Template Environmental Checklist for FEMA/HUD is designed for use when multiple similar projects are anticipated between the Agencies with joint-funding requirements including cost share requirements.

The Environmental Reviewer Contractor Staff will consult with FEMA and HUD because they are experienced environmental and historic preservation (EHP) Practitioners familiar with the proposed projects should be involved in the modification of the template checklist.

Regular open communication between FEMA, HUD, and HUD's RE, WVCAD, will help in identifying joint-funding that may become available, a determination which could lead to using the Template Checklist. WVCAD Identified the Potential for Joint Funding Hazard Mitigation Grant Program and Community Development Block Grant Program. This Template Checklist will be used for **the West Virginia Hazard Mitigation Grant/ CDBG-DR Match Program**. Because the projects funded through this program are the same project types as those eligible for funding through FEMA's Hazard Mitigation Grant Program (HMGP).

Once Congress appropriates funds to HUD for the CDBG-DR program, conversations should begin at the regional and headquarters levels between FEMA, HUD, and, once identified, HUD's RE regarding the potential of joint funding for disaster recovery projects. HUD's environmental reviews are conducted by its RE, typically a state or local Agency, making early coordination with the state and it's RE all the more important. Ultimately, the logistics of project review will need to be discussed by all parties involved (FEMA, HUD, HUD's RE, Tribal, state, and local Applicants) but at this early stage, identification of potential joint funding is important. Depending on the situation, there are different options on how to approach project review be FEMA's HMGP and HUD's CDBG-DR require Tribal, state, or local decision making to prioritize where dollars will be spent. Projects under these programs are determined by the state and are often prioritized well in advance of when funds are available and dispersed. Under the HMGP and CDBG programs, it is often the state who determines when there will be joint Federal funding on a disaster recovery project. Timing is critical

in order for there to be smooth coordination between Agencies planning to share (or adopt) EHP project reviews. If a state chooses to use HUD CDBG-DR funding as the “cost-share,” required of HMGP projects, then coordination should begin immediately among the parties involved. The state will know how Agency funds will be applied and the timing of disbursement.

## **17 Housing Program Compliance**

### **17.1 WV-RAP Affordability Period**

The affordability period is the length of time during which the WV-RAP requirements apply to a WV-RAP-assisted rental property. The affordability period is 3 years after assistance is provided.

During the Affordability Period, the rental property owner must comply with the WV-RAP requirements, including rent limits, tenant income limits, use of the standard lease agreement and rental application, and property standards. After the affordability period ends, these WV-RAP requirements no longer apply.

Note: The 3-year limit for compliance does not apply to flood insurance restrictive covenants.

#### **Tenant Income**

Tenants that occupy WV-RAP assisted homes must meet specified income limits. The WV-RAP Program requires each unit must be rented to Low-income tenant households for a period of three years after assistance is provided.

During the affordability period, property owners must ensure that all tenants of WV-RAP-assisted rental properties meet the Low-to-Moderate Income (“LMI”) requirement. Tenants are determined to be LMI if the total household income is less than or equal to 80% of the area median household income (“AMI”), adjusted for household size, and determined annually by HUD. HUD updates and publishes AMI limits each year and property owners must verify a tenant household’s income-eligibility before renting a unit.

#### **Fair Market Rent**

During the affordability period, property owners must ensure that the rents they charge for their WV-RAP-assisted rental units do not exceed the HUD established Fair Market Rents for the respective county. HUD updates and publishes Fair Market Rents annually.

HUD's Fair Market Rents rent limits include utilities. This means if the tenant pays utilities, then the calculation of the tenant rent must include a utility allowance. The applicant must complete the utility allowance calculation using the forms provided by the Program which are also updated annually.

It is the applicant's responsibility to ensure that rental costs are at or below the most current Fair Market Rents, published annually by HUD with consideration for utility allowances. Individual county-specific Fair Market Rents can be accessed at the HUD User website. Utility allowances are also updated annually, and the applicant must ensure that the most current utility allowance forms are used when determining rental rates. Utility allowance forms can be accessed at the West Virginia Flood Recovery Office website.

### **Tenant Documentation**

Property Owners must use the program-approved Tenant Application (Exhibit 4) and Lease Agreement (Exhibit 6). Owners must also comply with applicable state and/or local tenant-landlord laws.

The income of the initial tenant must be verified by WV-RAP program staff. WV-RAP staff must verify the initial tenant's household income before the property owner allows a tenant to move into the property. The property owner is responsible for obtaining and providing WV-RAP staff with copies of the following documentation for the initial tenant:

- Rental Application (Exhibit 4)
- Documentation necessary to verify household income (see Section 8.6)
- Lease Agreement (Exhibit 6)

### **Compliance with Fair Housing Standards**

It is HUD's mission to promote non-discrimination and ensure fair and equal housing opportunities for all. In an ongoing effort to provide services and activities in a nondiscriminatory manner and to affirmatively further fair housing, HUD is charged by law to implement and enforce a wide array of civil rights laws, not only for members of the public in search of fair housing, but for HUD funded grant recipients as well. HUD is also charged with ensuring the successful operation of specific enforcement of housing programs. HUD-funded grant recipients are obligated under various laws not to discriminate in housing or services directly or indirectly on the basis of race, color, religion, sex, national origin, age, familial status, or disability. HUD rules further require that recipients of federal financial assistance comply with civil rights-related program requirements (CRRPRs) that affect nearly every aspect of each program. In order to satisfy these requirements, WVDO requires that WV-RAP landlords and / or their managers attend Fair Housing Act training. WVDO will monitor annual compliance with this requirement by requiring written evidence of a landlord's or

manager's completion of a Fair Housing Act training course provided either by a HUD office or another HUD approved resource.

### **Other Compliance Requirements**

Property owners must comply with the requirements of the West Virginia Landlord-Tenant laws and other applicable laws, rules and regulations and HUD Minimum Property Standards (Section 8 quality standards).

Federal law requires that before signing a lease for housing built before 1978, renters must receive the following from your landlord: An EPA-approved information pamphlet on identifying and controlling lead-based paint hazards, Protect Your Family From Lead In Your Home (PDF).

## **17.2 WV-RAP Annual Compliance Review**

Applications that have completed construction are subject to the Annual Compliance requirements.

The Annual Compliance Notification Letter and the respective Annual Compliance Questionnaire (Exhibit 7) are mailed to the Applicant via certified mail. Annual Compliance Notification Letter notifies the Applicant that they must answer the online questionnaire (or submit the paper questionnaire) within thirty days after the application's Compliance Anniversary date. The Annual Compliance Notification Letter automatically uploads into the wvGMS application under Annual Compliance Notification. The Analyst also uploads the certified mail receipt when it is received.

All applications in compliance are subject to the 5% review. If the application is selected for the 5% Review and the Applicant complies, the application is in compliance until the next anniversary date.

If the questionnaire is returned on time, but there is an incorrect answer, or if the questionnaire is not returned by the deadline date the application must go through the Cure Process. Applicants who do not respond to the annual compliance questionnaire (Exhibit 7) should be flagged as potentially default.

### **5% Review Process**

All applications in compliance are subject to the 5% Compliance Review. The review is conducted in two parts: The Desk Top Review and the Compliance Site Visit. Not all applications chosen for the 5% review will be subject to the Compliance Site Visit. Applicants who are in Potential Default due to failure to submit an annual compliance questionnaire (Exhibit 7) may be subject to a Compliance Site Visit.

After the end of each quarter, a Compliance Administrator generates the 5% sample of applications that were in compliance according to their annual compliance questionnaire (Exhibit 7). In addition to this sample, there are high-risk Applicants that should be considered and reviewed with strict scrutiny. These high-risk applications may be ADDED to the quarterly 5% review in the quarter of

their anniversary date based on the judgment of the program representative.

### **Cure Process**

If the completion of the questionnaire, the desk top review, a site visit, or other circumstances creates a compliance issue, the Analyst can first try to clear up any misunderstanding through communication with Applicant. If the Analyst is able to clear up the misunderstanding with proper documentation, the application is in compliance until the next anniversary date.

If the Analyst cannot clear up the issue through initial discussions, the Analyst should follow the below process:

- (1) Analyst mails the Cure Letter via certified mail to the Applicant
- (2) Upon receipt of the Cure Letter, the Applicant has 90 days to cure the non-compliance issue(s).
- (3) If the issues are cured within the 90 day period, the application is in compliance until the next anniversary date. If the 90 days expires before the Applicant takes action to cure the issue, the applicant is non-compliance and the applicant will be placed in potential default and the potential default steps should be followed.

## **17.3 Potential Default Process**

Applications can be placed into Potential Default after closing and before construction is completed. Applications can also be placed into Potential Default after construction has been completed if an issue arises that creates the potential for default after the application has gone through the cure process.

When an application has the potential to default due to Bankruptcy or Foreclosure, the application must be placed in Potential Default. The bank notification, written notification, or verbal notification from the Applicant is sufficient documentation to place on Potential Default.

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## **17.4 Default Process:**

Once a Potential Default application goes through high level reviews and the determination is made by WVDO, the legal team and Analyst that there are no curative measures to remedy the Potential Default, the application will be moved into a Default Status.

Based on information provided by the Legal Team, the Analyst updates the Application Status by updating the communication log to note "Default – Collections". The Analyst will send a default letter to the Applicant via regular and certified mail.

If there is no Applicant response from the Default Notice within sixty (60) days, the Analyst will send a Default Follow Up Letter via certified and regular mail.

During this time, the Legal Team will review county records by researching online or in person identifying whether or not WVDO is the first lien holder. In addition the Legal Team and Analyst will collect any other information that is pertinent for evaluation. A determination is made by WVDO, on a case-by-case basis, as to whether further attempts to collect repayment of the loan should be pursued.

If the Applicant has compliant applications in addition to the defaulted application(s), consideration is given to the possibility of the Applicant working off the amount due to be repaid by extension of the compliance period on one or more of the compliant applications. If this option is selected, a settlement agreement and modification of the deed of trust are submitted for execution by the Applicant. Based on this determination made by WVDO and the Legal Team, the Analyst will update the Status Detail of Default by adding a note to the communication log to state Default – Workout.

If the Applicant has no compliant applications, a determination is made by WVDO and the Legal Team as to whether the costs of collection would not be cost effective and/or there is limited likelihood of recovery of the funds. If so, then closing without collection would be recommended. The application should be carefully notated as to the reason(s) for closing without collection via a Closing Memorandum which is developed by a legal team member. Based on the determination and history of the application, the status will be updated by the Analyst via journal entry to “Closed”.

If the Applicant has no compliant applications and does not meet criteria for closing without collection, the collection is referred to outside counsel for litigation. At that time, the Analyst will update the Status Detail to Default-Litigation documenting a journal entry. The litigation commences with the filing of a lawsuit on behalf of WVDO against the Applicant in the proper jurisdiction. The Complaint will be served as directed by the Legal Team to the Applicant, or, if the Applicant cannot be located by usual means, the services of a private investigator may be required to accomplish service. The litigation can be simple, and thus less costly, if no answer is filed by the Applicant. If no answer is filed, a Judgment by Default can be obtained against the Applicant for the total amount owed. The Judgment is then enrolled in the count(ies) where the property is located (if the property has not been lost to foreclosure) and/or where the Applicant resides and owns property.

If the Applicant resides or is located outside West Virginia, the Judgment will have to be enrolled as a ‘Foreign Judgment’ in that state. There is an additional substantial cost to enroll and enforce a Foreign Judgment.

If the Applicant files an answer, the costs of litigation will increase proportionally to the amount of litigation required, i.e., written discovery, depositions, motions, hearings, etc. If additional parties are added to the litigation, such as third party defendants, and the case proceeds to trial, the legal costs could be substantial. Settlement options may be considered before trial, but legal costs will be increased in any event.

After a Judgment is entered and enrolled, the collecting attorney may proceed with collection. Typically, this includes a Judgment debtor examination in order to identify any assets of the Applicant, including real or personal property, which can be seized to enforce the Judgment. If the Applicant is located in another state, it will be necessary to hire an attorney licensed in that state in order to enforce a Foreign Judgment. These are added legal costs post-Judgment.

As evidenced by the above procedures, collection efforts should be undertaken only after a careful cost-benefit analysis to assure the costs of collection will not exceed the amount to be collected and the likelihood of success is weighed.

## **17.5 Fraud Protocol:**

In the course of the program, team members or applicants may become aware of suspected fraud incidents. Applicants of the program as well as individuals representing themselves as members of law enforcement, employees of governmental agencies, etc. may contact program team members and requesting confidential Applicant and or Client information. Due to the sensitive nature of suspected fraud, abuse, and waste, it is critical that all members of this team be aware of the protocols we have in place with respect to communication of the above as included in the West Virginia CDBG-DR FWA policy.

# **18 Quality Assurance and Control**

Throughout the course of the application and intake process, the Program conducts several QA/QC checks to ensure adherence to the policies and procedures set forth for the Program. Specifically, QA/QC checks are conducted at three points over the course of application processing:

1. First level QA/QC check is conducted post eligibility phase and prior to applicant signing. An independent secondary review of the applicant's eligibility will be conducted to ensure compliance with eligibility criteria for the Program prior to the applicant signing
2. Second level QA/QC check is conducted via independent review at the post construction phase and prior to payment being disbursed to the GC
3. Third level QA/QC is conducted just prior to application closeout in wvGMS

# **19 Mortgage Obligations**

The Program requires applicants to disclose circumstances that may affect their home ownership.

### **Required Documentation**

- 3rd-party ownership information (preferred)
- Current mortgage/lien holder statement with company contact information (if applicable)

The program will ensure the home is not in active foreclosure by verifying ownership status through 3rd, party data feeds (title/ ownership verification process). If clear ownership cannot be established, an applicant may supply mortgage statements showing status on payments for Program consideration.

## **20 Subrogation of Funds**

All applicants are required to sign a Subrogation Agreement as a part of participating in the Program. Applicants must subrogate any additional funds received for structural damage caused by the disaster back to the State. CDBG-DR funding must be funding of last resort, and if additional funds are paid to an applicant for the same purpose as the housing assistance they receive through State CDBG-DR funding after the State has completed repair/ rehabilitation of their home or replacement of their MHU, those funds must be returned to the State of West Virginia.

If it can be established that an applicant has additional need, the subsequent funds would not be considered a DOB (76 FR 221, 71062). However, if additional need is not demonstrated, disaster recovery funds must be recaptured to the extent they are more than the need and duplicate other assistance received by the applicant for the same purpose. If CDBG-DR funds were provided last and unknowingly create duplication, the method of recapturing those CDBG-DR funds will be consistent with HUD 2 CFR 200.

## **21 Due Diligence & Inactive Process**

Upon application to the Program, applicants will be contacted to schedule Personal Consultations as well as to schedule other meetings or to obtain documentation as necessary throughout the recovery process. Applicants are also expected to provide any required documentation in a timely manner to ensure that their application can be processed as quickly as possible. If at any point during the intake and eligibility process, the applicant becomes unresponsive to Program calls, messages or requests, the Program may place the applicant in Inactive status



### **Due Diligence Process**

- The Program will attempt to reach the applicant and record three unsuccessful contact attempts in wvGMS.
- If, within three days of the last date of contact, contact has not been made with the applicant, the applicant will be sent a letter notifying them of their Inactive status and the file will be placed into Inactive status in wvGMS by the Eligibility Specialist upon Team Lead approval.
- Requests to return to active from inactive status may be made by the homeowner and reviewed on a case-by-case basis by the Program.

### **Inactive Process**

An application may also result in an inactive status if any of the following conditions exist:

- Insufficient documentation has been submitted to verify all eligibility requirements;
- Due to lack of information, a program assistance award calculation cannot be completed; or
- Other reasons which may be determined over the course of the Program as needed

Any applicant being placed into Inactive status will be sent a letter outlining the reason for their placement into Inactive status and advise them that they can request a return to active status which will be considered by Program Management. If requested by an applicant, inactive files will be reviewed on a case-by-case basis to determine return to active status, if applicable, and will be subject to the discretion of the Program.

## **22 Missing Documentation**

Applicants must submit all required documentation for their application to be complete. Only after all documentation has been received, can an application be processed to completion and a final eligibility determination be made. Applicants will be encouraged to submit all requested documentation before the Intake process is complete. As stated above, failure to submit required documentation may result in Inactive Status for the application and potential disqualification from the Program.

## **23 Voluntary Withdrawal**

An applicant may request to withdraw from the Program at any time before construction begins. The voluntary withdrawal process will be followed in the event an applicant requests to withdraw from the Program.

### **Voluntary Withdrawal Process**

- The applicant will notify their Eligibility Specialist of their desire to withdraw from the Program and the request to withdraw will be recorded in wvGMS
- The Eligibility Specialist will send a voluntary withdrawal letter to the applicant or applicants may withdraw using an electronic method
- Upon completion of the withdrawal request and receipt of applicant signature on any required forms, a withdrawal confirmation letter will be sent to the applicant and the application status will be updated to "Withdrawn."

## **24 Eligibility Determinations and Appeals**

During the program's operations, decisions will be made on housing assistance applications and/or housing unit projects to be delivered. These decisions are made based on applicable statutes, codes of federal regulation, state and local codes and ordinances, local guidelines, and program operational procedures, as each is interpreted by the State of West Virginia.

### **Ineligible Decisions**

All applications are thoroughly reviewed during the intake and eligibility process to ensure applicants are eligible for the Program prior to construction. If at any point during this process, it is determined that the applicant is ineligible for the Program, they are notified via Program Ineligible Letter. This letter outlines the eligibility determination made and outline next steps, if applicable. Applicants have sixty days from the receipt of an Ineligible Letter to file an Appeal if they believe the Program's eligibility determination to be inaccurate.

### **Appeals**

If an applicant wishes to appeal their Ineligible Letter, the following steps should be followed:

- Applicant notifies their Eligibility Specialist of their desire to appeal the Program's eligibility determination
- The Eligibility Specialist records the applicant's request for Appeal in wvGMS and creates an Appeals form to be signed by the applicant, either manually or electronically
- Once the signed Appeals form is received the file is then sent to the West Virginia DR Compliance office where it is routed to an Independent Hearing Officer for review.

- The Independent Hearing officer provides a recommendation based on their review of the file. This recommendation is submitted to the Director of Constituent Services, who makes the ultimate decision to overrule or uphold the eligibility determination
- Applicants will be notified of the result of their Appeal via Appeal Determination Letter
  - Applications with a positive result of their Appeal return to active Program status and continue with the process as normal.
  - Applications whose ineligibility determination was upheld on Appeal, remain ineligible for the Program.

## 25 Monitoring

As per CDBG regulation, 24 CFR 570.501(b), grantees of CDBG-DR funds are responsible for carrying out their programs to meet compliance with CDBG Program, statutory and regulatory requirements, including monitoring their project administrators, contractors and subcontractors. As such, throughout the application, eligibility, and construction phase of the program, the WVDO will conduct internal monitoring of processes, procedures, applications and construction phases. Monitoring is designed to make sure that program funds are operating efficiently and effectively and that Disaster Recovery CDBG funds are being used appropriately. Effective internal monitoring evaluates a program's compliance against the program requirements and procedures; and, it also identifies areas of strong performance and areas that need improvement.

WVDO utilizes a Monitoring Plan that details the reasons monitoring reviews occur, timelines, specific approach to monitoring, documentation requirements and corrective actions necessary to resolve issues or concerns discovered through a review. This plan details monitoring procedures, scheduling, and standards, to provide HUD-funded activity compliance and performance reviews for all funding recipients, including internal WVDO program operations. WVDO performs monitoring and compliance reviews based on risk assessments and predetermined scheduling, as well as monitoring related to an acute or chronic matter uncovered by an external audit or necessitated by the possibility of fraud, waste, or mismanagement. The monitoring process reviews consist of entrance meetings, analysis of documentation, interviews, exit meetings, development and issuance of compliance review reports, corrective action plans, and if necessary, follow up reviews and letters.

The monitoring process has three primary objectives:

- Gauge the overall program progress and effectiveness of the contractors, State Grantees, Local Grantees and/or Subrecipients, as applicable, in meeting the program objectives, goals and requirements set forth under the Binding Agreement(s)
- Serve as a management tool to identify issues that may compromise program integrity, funding, and service delivery for corrective action and resolution
- Serve as a technical assistance tool to identify areas in which to strengthen program capacity and quality of service delivery

### **Monitoring Priority and Frequency**

All applications are thoroughly reviewed by Program staff during the intake and verification of benefit processing levels to ensure consistency with program documentation and data requirements. Additional monitoring is then completed at regular scheduled intervals using sample populations. WVDO's monitoring strategy includes the use of desk reviews by the WVDO program staff and onsite monitoring by the WVDO compliance staff. Identification of the entities to be monitored are done quarterly, based on the results of the risk assessments and the threshold established (i.e., percentage of funds expended, total allocation, number of projects). The monitoring reviews are prioritized so that high-risk entities are monitored first.

To initiate monitoring, the WVDO initially limits the population to those projects where 50% or more funds have been expended. Program Managers select a sample of projects to be reviewed based on number of projects and project type.

The complete West Virginia Monitoring Plan / Policies and Procedures (Monitoring Plan) were included in the Certification Documentation submitted to HUD. As demonstrated herein, WVDO already possesses the necessary policies, systems and procedures which formally establish the critical monitoring strategies for all cross-cutting regulatory requirements. These well-established systems include HUD program rules and regulations, civil rights, environmental, labor standards, fair housing, Section 3, citizen participation, reporting and recordkeeping requirements. Not only do the systems exist, but they have proven to be successful approaches in the oversight of projects supported with CDBG and previously allocated CDBG-DR funds. The current CDBG-DR award leverages these existing resources and adapt them to the requirements of Public Law 114-223/254 and any subsequent related guidance. Monitoring functions ensure funding recipients, developers, contract service providers, and all contracted agencies adhere to state and federal regulations and requirements when operating, facilitating, or developing WVDO administered programs and activities.

## **26 Key Terms**

**AFN:** AFN refers to applicants with household member(s) that identify as needing assistance for functional needs.

**IA:** IA stands for FEMA Individual Assistance. In West Virginia, 12 counties are eligible for Individual Assistance.

**LMI – Low Income:** The Low-Income category describes applicants with household income levels between 51% and 80% of the Area Median Income level.

**LMI – Very Low Income:** The Very Low-Income category describes applicants with household income levels between 31% and 50% of the Area Median Income level.

**LMI – Extremely Low Income:** The Extremely Low-Income category describes applicants with household income levels between 0% and 30% of the Area Median Income level.

**MHU:** MHU stands for Manufactured Home Unit, or commonly referred to as a Mobile Home.

**PA:** PA stands for FEMA Public Assistance. In West Virginia, 17 counties are eligible for Public Assistance.

**Recipients:** As defined in 24 CFR 8.3(c) “Any State or its political subdivision, any instrumentality of a State or its political subdivision, any public or private agency, institution, organization, or other entity, or any person to which Federal financial assistance is extended for any program or activity directly or through another recipient, including any successor, assignee, or transferee of a recipient, but excluding the ultimate beneficiary of the assistance. An entity or person receiving housing assistance payments from a recipient on behalf of eligible families under a housing assistance payments program or a voucher program is not a recipient or sub-recipient merely by virtue of receipt of such payments.” (24 CFR 8.3(c) under Qualified individual with handicaps)

**WVDO:** WVDO represents the “West Virginia Development Office” and is the State office in charge of the Disaster Recovery Program.

**WV VOAD:** WV VOAD represents the “West Virginia Volunteer Organizations Active in Disaster”

**U.S. Citizenship or Lawful Permanent residence:** Refers to CBDG-DR Fund eligible individuals. In determining eligibility for benefits, WV will comply with the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (“PRWORA”); Attorney General Order No. 2353-2001, F.R. Doc. No.: 01-1158; and the guidance provided in the August 5, 2016 joint letter from US Attorney

General Lynch, HHS Secretary Burwell, and HUD Secretary Castro. PRWORA provides that with certain exceptions, only US citizens and eligible noncitizens are eligible for federal, state, and local benefits. Those eligible for benefits is similar to those in Section 214, with some slight exceptions: They include US Citizens or Nationals, Lawful Permanent Residents (“Green Card” holders), Refugees and Asylees, an alien paroled into US for a period of more than one year, all aliens with deferred deportation, Cuban/ Haitian Entrants, and Battered immigrants where battery causes the need for the benefit. Note: If a potential Program disaster relief recipient is not a citizen or eligible non-citizen, the Program will refer that person to the VOADs for possible assistance.

# Exhibit 1

## ESCROW AGREEMENT

THIS **ESCROW AGREEMENT** ("Agreement"), Made this \_\_\_\_ day of \_\_\_\_\_, 2018, by and between, {Applicant First Name} {Applicant Last Name}{CoApplicant Exists?}{CoApplicant First Name} {CoApplicant Last Name}, hereinafter referred to as the "Homeowner," whether singular or plural, and **WEST VIRGINIA DEVELOPMENT OFFICE**, a West Virginia public body and state agency, hereinafter referred to as "WVDO".

### RECITALS

**WHEREAS**, the State of West Virginia has established the Rise West Virginia Disaster Recovery Housing Program ("Program") through a U.S. Department of Housing and Urban Development ("HUD") Community Development Block Grant – Disaster Recovery ("CDBG-DR"), administered by the WVDO through its Community Advancement and Development Division, to assist with housing repair and replacement activities for owner-occupied low-to-moderate income housing units that were damaged by the June 2016 rain and flood event in West Virginia.

**WHEREAS**, the housing repair and replacement activities undertaken through the Program meet HUD national objectives as set forth under the state's HUD-approved Action Plan by benefiting low-to-moderate income persons as well as eliminating slum and blight. The intent of the policies and procedures supporting these activities is to achieve the national objectives by providing non-discriminatory race-neutral relief, while causing no disparate impact to the beneficiaries of the program, as the intent and impact will be to revitalize the low-to-moderate income housing stock in impacted and distressed areas.

**WHEREAS**, WVDO, in accordance with the Stafford Act for CDBG-DR Grantees, calculates any potential Duplication of Benefits received by Program applicants. The difference between

eligible financial assistance received by an applicant of the Program and the documented work completed on behalf of that applicant is the duplication of benefits gap (the "DOB Gap Amount").

**WHEREAS**, Homeowner qualifies under the Program for housing assistance for the Property commonly known as {Property Street Address}, {Property City}, {Property State} {Property Zip} (the "Property"). Homeowner's DOB Gap Amount is {Unfunded Gap Amount}.

**WHEREAS**, to remain eligible for the Program, Homeowner is required to place the DOB Gap Amount into a non-interest bearing escrow which is to be controlled by the WVDO pursuant to the Program (the "Escrow Funds").

**WHEREAS**, WVDO may release Escrow Funds to the contractor performing work on the Property pursuant to the Program. In doing so, the WVDO will ensure that the contractor's payment pursuant to the Program does not duplicate the DOB Gap Amount.

**WHEREAS**, the Homeowner is now placing the sum of {Unfunded Gap Amount} in escrow pending completion of the work to be performed pursuant to the Program.

**NOW, THEREFORE**, in consideration of the premises and other good and valuable consideration, the parties hereto covenant and agree as follows:

1. **Escrow Account.** The sum of {Unfunded Gap Amount} will be deposited with Travis H. Eckley, ("Escrow Agent"), of Spilman Thomas & Battle, PLLC, in a non-interest bearing trust fund account of Spilman Thomas & Battle, the Escrow Agent being a signatory on the account (the "Escrow Account").

2. **Duration of Escrow Account.** This Escrow Funds will remain in escrow until all of the work to be completed pursuant to the Program is completed and the WVDO has completed inspections and testings of the Property and has provided a written report approving the work at the Property. Upon receipt of the written report from the WVDO, the Escrow Funds may be used to pay for work performed pursuant to the Program and any additional work required



by the WVDO or otherwise, to complete the Program. Any balance remaining shall be delivered to the Homeowner. All work is to be completed within the time periods set forth by the Program. If additional Escrow Funds are needed, Homeowner shall be responsible for payment of the same.

3. **Indemnification.** The parties hereto agree to indemnify and save Escrow Agent harmless from any and all claims, action, causes, expenses or damages, incurred or in any way related to this Agreement or the release of all or a portion of the Escrow Funds by the Escrow Agent or termination of the Escrow Account pursuant to the terms and conditions of this Agreement.

4. **Liability of Escrow Agent.** It is agreed that the Escrow Agent is not a party to and should not be bound by any agreements between the Homeowner and WVDO. Escrow Agent shall be liable only for his own willful misconduct or gross negligence.

5. **Entire Agreement.** This Agreement shall constitute the entire agreement between the parties with respect to the subject matter herein. Any prior understanding or presentation of any kind preceding the date of this Agreement shall not be binding upon either party except to the extent incorporated by this Agreement.

6. **Modification of Agreement.** Any modification of this Agreement or additional obligation assumed by either party in connection with this Agreement shall be binding only if evidenced in a writing signed by each party or an authorized representative of each party.

7. **Time.** It is specifically declared and agreed that time is of the essence in this Agreement.

8. **Governing Law.** It is agreed that this Agreement shall be governed by, construed and enforced in accordance with the laws of the State of West Virginia.

9. **Headings.** The titles to the paragraphs of this Agreement are solely for the convenience of the parties and shall not be used to explain, modify, simplify or aid in the

interpretation of the provisions of this Agreement.

10. **Binding.** This Agreement shall bind and inure to the benefit of the respective heirs, personal representatives, successor and assigns of the parties.

WITNESS the following signatures:

HOMEOWNER:

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Name:

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Name:

WEST VIRGINIA DEVELOPMENT OFFICE

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Name:

## Exhibit 2

### 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.

#### 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)**  
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.
- ☐ **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.

## Inspection Checklist

Housing Choice Voucher Program

U.S. Department of Housing  
and Urban Development  
Office of Public and Indian Housing

OMB Approval No. 2577-0169  
(Exp. 9/30/2012)

Public reporting burden for this collection of information is estimated to average 0.50 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless that collection displays a valid OMB control number. Assurances of confidentiality are not provided under this collection.

This collection of information is authorized under Section 8 of the U.S. Housing Act of 1937 (42 U.S.C. 1437f). The information is used to determine if a unit meets the housing quality standards of the section 8 rental assistance program.

**Privacy Act Statement.** The Department of Housing and Urban Development (HUD) is authorized to collect the information required on this form by Section 8 of the U.S. Housing Act of 1937 (42 U.S.C. 1437f). Collection of the name and address of both family and the owner is mandatory. The information is used to determine if a unit meets the housing quality standards of the Section 8 rental assistance program. HUD may disclose this information to Federal, State and local agencies when relevant to civil, criminal, or regulatory investigations and prosecutions. It will not be otherwise disclosed or released outside of HUD, except as permitted or required by law. Failure to provide any of the information may result in delay or rejection of family participation.

Name of Family		Tenant ID Number		Date of Request (mm/dd/yyyy)		
Inspector		Neighborhood/Census Tract		Date of Inspection (mm/dd/yyyy)		
Type of Inspection <input type="checkbox"/> Initial <input type="checkbox"/> Special <input type="checkbox"/> Reinspection		Date of Last Inspection (mm/dd/yyyy)		PHA		
<b>A. General Information</b>						
Inspected Unit		Year Constructed (yyyy)		Housing Type (check as appropriate)		
Full Address (including Street, City, County, State, Zip)				<input type="checkbox"/> Single Family Detached <input type="checkbox"/> Duplex or Two Family <input type="checkbox"/> Row House or Town House <input type="checkbox"/> Low Rise: 3, 4 Stories, Including Garden Apartment <input type="checkbox"/> High Rise: 5 or More Stories <input type="checkbox"/> Manufactured Home <input type="checkbox"/> Congregate <input type="checkbox"/> Cooperative <input type="checkbox"/> Independent Group Residence <input type="checkbox"/> Single Room Occupancy <input type="checkbox"/> Shared Housing <input type="checkbox"/> Other		
Number of Children in Family Under 6						
Owner						
Name of Owner or Agent Authorized to Lease Unit Inspected		Phone Number				
Address of Owner or Agent						
<b>B. Summary Decision On Unit</b> (To be completed after form has been filled out)						
<input type="checkbox"/> Pass <input type="checkbox"/> Fail <input type="checkbox"/> Inconclusive		Number of Bedrooms for Purposes of the FMR or Payment Standard		Number of Sleeping Rooms		
<b>Inspection Checklist</b>						
Item No.	1. Living Room	Yes Pass	No Fail	In - Conc	Comment	Final Approval Date (mm/dd/yyyy)
1.1	Living Room Present					
1.2	Electricity					
1.3	Electrical Hazards					
1.4	Security					
1.5	Window Condition					
1.6	Ceiling Condition					
1.7	Wall Condition					
1.8	Floor Condition					

Previous editions are obsolete

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## Exhibit 2

\* Room Codes: 1 - Bedroom or Any Other Room Used for Sleeping (regardless of type of room); 2 - Dining Room or Dining Area;  
3 - Second Living Room, Family Room, Den, Playroom, TV Room; 4 - Entrance Halls, Corridors, Halls, Staircases; 5 - Additional Bathroom; 6 - Other

Item No.	1. Living Room (Continued)	Yes Pass	No Fail	In-Cons.	Comment	Final Approval Date (mm/dd/yyyy)
1.9	Lead-Based Paint Are all painted surfaces free of deteriorated paint? If not, do deteriorated surfaces exceed two square feet per room and/or is more than 10% of a component?				<input type="checkbox"/> Not Applicable	
	2. Kitchen					
2.1	Kitchen Area Present					
2.2	Electricity					
2.3	Electrical Hazards					
2.4	Security					
2.5	Window Condition					
2.6	Ceiling Condition					
2.7	Wall Condition					
2.8	Floor Condition					
2.9	Lead-Based Paint Are all painted surfaces free of deteriorated paint? If not, do deteriorated surfaces exceed two square feet per room and/or is more than 10% of a component?				<input type="checkbox"/> Not Applicable	
2.10	Stove or Range with Oven					
2.11	Refrigerator					
2.12	Sink					
2.13	Space for Storage, Preparation, and Serving of Food					
	3. Bathroom					
3.1	Bathroom Present					
3.2	Electricity					
3.3	Electrical Hazards					
3.4	Security					
3.5	Window Condition					
3.6	Ceiling Condition					
3.7	Wall Condition					
3.8	Floor Condition					
3.9	Lead-Based Paint Are all painted surfaces free of deteriorated paint? If not, do deteriorated surfaces exceed two square feet per room and/or is more than 10% of a component?				<input type="checkbox"/> Not Applicable	
3.10	Flush Toilet in Enclosed Room in Unit					
3.11	Fixed Wash Basin or Lavatory in Unit					
3.12	Tub or Shower in Unit					
3.13	Ventilation					

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Item No.	4. Other Rooms Used For Living and Halls	Yes Pass	No Fail	In- Cono.	Comment	Final Approval Date (mm/dd/yyyy)
4.1	Room Code* and Room Location <input type="checkbox"/>	(Circle One) Right/Center/Left			(Circle One) Front/Center/Rear      Floor Level	
4.2	Electricity/Illumination					
4.3	Electrical Hazards					
4.4	Security					
4.5	Window Condition					
4.6	Ceiling Condition					
4.7	Wall Condition					
4.8	Floor Condition					
4.9	Lead-Based Paint Are all painted surfaces free of deteriorated paint? If not, do deteriorated surfaces exceed two square feet per room and/or is more than 10% of a component?			<input type="checkbox"/> Not Applicable		
4.10	Smoke Detectors					
4.1	Room Code* and Room Location <input type="checkbox"/>	(Circle One) Right/Center/Left			(Circle One) Front/Center/Rear      Floor Level	
4.2	Electricity/Illumination					
4.3	Electrical Hazards					
4.4	Security					
4.5	Window Condition					
4.6	Ceiling Condition					
4.7	Wall Condition					
4.8	Floor Condition					
4.9	Lead-Based Paint Are all painted surfaces free of deteriorated paint? If not, do deteriorated surfaces exceed two square feet per room and/or is more than 10% of a component?			<input type="checkbox"/> Not Applicable		
4.10	Smoke Detectors					
4.1	Room Code* and Room Location <input type="checkbox"/>	(Circle One) Right/Center/Left			(Circle One) Front/Center/Rear      Floor Level	
4.2	Electricity/Illumination					
4.3	Electrical Hazards					
4.4	Security					
4.5	Window Condition					
4.6	Ceiling Condition					
4.7	Wall Condition					
4.8	Floor Condition					
4.9	Lead-Based Paint Are all painted surfaces free of deteriorated paint? If not, do deteriorated surfaces exceed two square feet per room and/or is more than 10% of a component?			<input type="checkbox"/> Not Applicable		
4.10	Smoke Detectors					

Previous editions are obsolete

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Item No.	4. Other Rooms Used For Living and Halls	Yes Pass	No Fail	In- Cono.	Comment	Final Approval Date (mm/dd/yyyy)
4.1	Room Code* and Room Location <input type="checkbox"/>				(Circle One) Right/Center/Left (Circle One) Front/Center/Rear ____ Floor Level	
4.2	Electricity/Illumination					
4.3	Electrical Hazards					
4.4	Security					
4.5	Window Condition					
4.6	Ceiling Condition					
4.7	Wall Condition					
4.8	Floor Condition					
4.9	Lead-Based Paint Are all painted surfaces free of deteriorated paint? If not, do deteriorated surfaces exceed two square feet per room and/or is more than 10% of a component?				<input type="checkbox"/> Not Applicable	
4.10	Smoke Detectors					
4.1	Room Code* and Room Location <input type="checkbox"/>				(Circle One) Right/Center/Left (Circle One) Front/Center/Rear ____ Floor Level	
4.2	Electricity/Illumination					
4.3	Electrical Hazards					
4.4	Security					
4.5	Window Condition					
4.6	Ceiling Condition					
4.7	Wall Condition					
4.8	Floor Condition					
4.9	Lead-Based Paint Are all painted surfaces free of deteriorated paint? If not, do deteriorated surfaces exceed two square feet per room and/or is more than 10% of a component?				<input type="checkbox"/> Not Applicable	
4.10	Smoke Detectors					
<b>5. All Secondary Rooms (Rooms not used for living)</b>						
5.1	None Go to Part 6					
5.2	Security					
5.3	Electrical Hazards					
5.4	Other Potentially Hazardous Features in these Rooms					

Item No.	6. Building Exterior	Yes Pass	No Fail	In - Cono.	Comment	Final Approval Date (mm/dd/yyyy)
6.1	Condition of Foundation					
6.2	Condition of Stairs, Rails, and Porches					
6.3	Condition of Roof/Gutters					
6.4	Condition of Exterior Surfaces					
6.5	Condition of Chimney					
6.6	Lead Paint: Exterior Surfaces Are all painted surfaces free of deteriorated paint? If not, do deteriorated surfaces exceed 20 square feet of total exterior surface area?				<input type="checkbox"/> Not Applicable	
6.7	Manufactured Home: Tie Downs					
<b>7. Heating and Plumbing</b>						
7.1	Adequacy of Heating Equipment					
7.2	Safety of Heating Equipment					
7.3	Ventilation/Cooling					
7.4	Water Heater					
7.5	Approvable Water Supply					
7.6	Plumbing					
7.7	Sewer Connection					
<b>8. General Health and Safety</b>						
8.1	Access to Unit					
8.2	Fire Exits					
8.3	Evidence of Infestation					
8.4	Garbage and Debris					
8.5	Refuse Disposal					
8.6	Interior Stairs and Common Halls					
8.7	Other Interior Hazards					
8.8	Elevators					
8.9	Interior Air Quality					
8.10	Site and Neighborhood Conditions					
8.11	Lead-Based Paint: Owner's Certification				<input type="checkbox"/> Not Applicable	

If the owner is required to correct any lead-based paint hazards at the property including deteriorated paint or other hazards identified by a visual assessor, a certified lead-based paint risk assessor, or certified lead-based paint inspector, the PHA must obtain certification that the work has been done in accordance with all applicable requirements of 24 CFR Part 35. The Lead-Based Paint Owner Certification must be received by the PHA before the execution of the HAP contract or within the time period stated by the PHA in the owner HQS violation notice. Receipt of the completed and signed Lead-Based Paint Owner Certification signifies that all HQS lead-based paint requirements have been met and no re-inspection by the HQS inspector is required.

**C. Special Amenities (Optional)**

This Section is for optional use of the HA. It is designed to collect additional information about other positive features of the unit that may be present. Although the features listed below are not included in the Housing Quality Standards, the tenant and HA may wish to take them into consideration in decisions about renting the unit and the reasonableness of the rent. Check/list any positive features found in relation to the unit.

**1. Living Room**

- ☐ High quality floors or wall coverings
- ☐ Working fireplace or stove Balcony, patio, deck, porch Special windows or doors
- ☐ Exceptional size relative to needs of family
- ☐ Other: (Specify)

**2. Kitchen**

- ☐ Dishwasher
- ☐ Separate freezer
- ☐ Garbage disposal
- ☐ Eating counter/breakfast nook
- ☐ Pantry or abundant shelving or cabinets
- ☐ Double oven/self cleaning oven, microwave
- ☐ Double sink
- ☐ High quality cabinets
- ☐ Abundant counter-top space
- ☐ Modern appliance(s)
- ☐ Exceptional size relative to needs of family
- ☐ Other: (Specify)

**3. Other Rooms Used for Living**

- ☐ High quality floors or wall coverings
- ☐ Working fireplace or stove Balcony, patio, deck, porch Special windows or doors
- ☐ Exceptional size relative to needs of family
- ☐ Other: (Specify)

**4. Bath**

- ☐ Special feature shower head
- ☐ Built-in heat lamp
- ☐ Large mirrors
- ☐ Glass door on shower/tub
- ☐ Separate dressing room
- ☐ Double sink or special lavatory
- ☐ Exceptional size relative to needs of family
- ☐ Other: (Specify)

**5. Overall Characteristics**

- ☐ Storm windows and doors
- ☐ Other forms of weatherization (e.g., insulation, weather stripping) Screen doors or windows
- ☐ Good upkeep of grounds (i.e., site cleanliness, landscaping, condition of lawn)
- ☐ Garage or parking facilities
- ☐ Driveway
- ☐ Large yard
- ☐ Good maintenance of building exterior
- ☐ Other: (Specify)

**6. Disabled Accessibility**

Unit is accessible to a particular disability. ☐ Yes ☐ No  
Disability \_\_\_\_\_

**D. Questions to ask the Tenant (Optional)**

1. Does the owner make repairs when asked? Yes ☐ No ☐
2. How many people live there? \_\_\_\_\_
3. How much money do you pay to the owner/agent for rent? \$ \_\_\_\_\_
4. Do you pay for anything else? (specify) \_\_\_\_\_
5. Who owns the range and refrigerator? (insert O = Owner or T = Tenant) Range \_\_\_\_\_ Refrigerator \_\_\_\_\_ Microwave \_\_\_\_\_
6. Is there anything else you want to tell us? (specify) Yes ☐ No ☐

<b>E. Inspection Summary/Comments (Optional)</b>			
Provide a summary description of each item which resulted in a rating of "Fail" or "Pass with Comments."			
Tenant ID Number	Inspector	Date of Inspection (mm/dd/yyyy)	Address of Inspected Unit
Type of Inspection	Initial <input type="checkbox"/>	Special <input type="checkbox"/>	Reinspection <input type="checkbox"/>
Item Number	Reason for "Fail" or "Pass with Comments" Rating		

Continued on additional page ☐ Yes ☐ No  
Previous editions are obsolete

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## Exhibit 4

WV-RAP Rental Application for Residents and Occupants - Please fill this page out, one per household member			
Date: _____			
<input type="checkbox"/> Head of Household	<input type="checkbox"/> Co-Head of Household	<input type="checkbox"/> Occupant Over age 18	<input type="checkbox"/> Occupant under age 18

Name:				
Current Address:				
City		State		Zip
Driver's License or Identification Card No.				State of Issue:
U.S. Citizen?	Yes	No		
Social Security #:				
Date of Birth:				
Race/Ethnicity: (check one)				
<input type="radio"/> American Indian/Alaskan Native and Black/African American <input type="radio"/> American Indian/Alaskan Native <input type="radio"/> American Indian/Alaskan Native and White <input type="radio"/> Asian <input type="radio"/> Asian and White		<input type="radio"/> Black/African American <input type="radio"/> Black/African American and White <input type="radio"/> Native Hawaiian/Other Pacific Islander <input type="radio"/> Other multi-racial <input type="radio"/> Unknown <input type="radio"/> White		
Ethnicity (Circle one):	Not Hispanic or Latino		Hispanic or Latino	
Marital Status: (circle one)	Single	Married	Divorced	Separated
Contact Phone Number:				
Contact Phone Number:		Alternate No:		
<b>If you are under the age of 18, please stop here.</b>				

Employment History ( <i>occupants age 18 and older</i> )			
Current Employer Name:			
Current Employer Address:			
City		State	Zip
Phone Number:		Fax Number:	
Salary:	Hourly Wage:	Hours worked:	
Overtime rate:		Overtime Hours	
Bonuses:	Commissions:	Tips:	
Full Time Student?			
Yes		No	

<b>Emergency Contact Person (over 18 years of age and who will not be living with you)</b>		
Name:	Relationship:	
Address:		
City	State	Zip
Phone Number:		

<b>Vehicles</b>			
List all vehicles owned or operated by you, your spouse, or any occupants (including cars, trucks, motorcycles, trailers, etc.) Continue on a separate page if more than three.			
Make and Color of vehicle:			
Year:	License #:	State:	
Make and Color of vehicle:			
Year:	License #:	State:	
Make and Color of vehicle:			
Year:	License #:	State:	

<b>Authorization</b>
I/We authorize (homeowner name)_____ to (1) obtain reports from consumer reporting agencies before, during, and after tenancy on matters relating to a lease by the above owner to me (2) to verify, by all available means, the information in this application, including income history and other information reported by employer(s) to any state employment security agency, and (3) to disclose all such information to the United States Department of Housing and Urban Development ("HUD"), the State of West Virginia, and their respective employees, agents, contractors, and representatives in connection with the West Virginia Rental Assistance Program(WV-RAP). I/We also authorize HUD, WV-RAP, and their respective employees, agents, contractors, and Representatives to verify said information by all available means and to disclose said information to third parties as necessary to the operation and administration of the program. Work history information may be used only for this Rental Application. Authority to obtain work history information expires 365 days after the date of this application.

<b>Acknowledgement</b>
<p>You declare that all your statements on this application are true and complete. You authorize us to verify this information through any means. If you fail to answer any questions or give false information, we may reject the application, retain all application fees and deposits as liquidated damages for our time and expense, and terminate your right of occupancy. Giving false information is a serious criminal offense. In lawsuits relating to the application or Lease Contract, the prevailing party may recover all attorney's fees and litigation costs from the losing party. We may at any time furnish information to consumers about your compliance with the Lease Contract, the rules, and financial obligations.</p> <p>This Rental Application and the Lease Contract are binding documents when signed. Please read them carefully. Before submitting a Rental Application or signing a Lease Contract, you may take a copy of these documents to review and/or consult an attorney. Additional provisions or changes may be made in the Lease Contract if agreed to in writing by all parties. You are entitled to an original of the Lease Contract after it is fully signed.</p>

<b>Applicant's Signatures</b>			
Head of Household Print Name		Signature:	Date:
Co-Head of Household Print Name		Signature:	Date:
Household member* Print Name		Signature:	Date:
*Occupant over 18 years of age and not a dependent of the Head of Household			
Owner or Owner's Representative Print Name		Signature:	Date:

## **Exhibit 5**

### **WV-RAP Tenant Release and Consent Form**

I, \_\_\_\_\_, the undersigned hereby authorize \_\_\_\_\_ to release without liability information regarding my employment, income, and/or assets to \_\_\_\_\_ for purposes of verifying information provided as part of my rental application.

#### **INFORMATION COVERED**

I understand that previous or current information may be needed. Verifications and inquiries that may be requested include, but are not limited to personal identity; employment, income, and assets; medical or childcare allowances. I understand that this authorization cannot be used to obtain any information that is not pertinent to my eligibility for and continued participation as a Qualified Tenant.

#### **GROUPS OR INDIVIDUALS THAT MAY BE ASKED**

The group or individuals that may be asked to release the above information includes, but are not limited to:

- Past and Present Employers
- Welfare Agencies
- Veterans Administration
- Previous Landlords
- State Unemployment Agency
- Retirement Systems
- Public Housing Agencies
- Social Security Administration
- Banks and Others
- Support and Alimony Providers
- Medical & Childcare Providers
- Financial Institutions



## CONDITIONS

I agree that a photocopy of this authorization may be used for the purposes stated above. The original of this authorization is on file and will stay on file for one year and one month from the date signed. I understand I have a right to review this file and correct any information that is incorrect.

## SIGNATURES:

---

Tenant #1

---

Date

---

Tenant #2

---

Date

NOTE: THIS GENERAL CONSENT MAY NOT BE USED TO REQUEST A COPY OF A TAX RETURN. IF A COPY OF A TAX RETURN IS NEEDED, IRS FORM 4506, "REQUEST FOR COPY OF TAX FORM" MUST BE PREPARED AND SIGNED SEPARATELY.

# Exhibit 6

## LEASE AGREEMENT

### 1. PARTIES TO THE LEASE

This Lease Contract ("Lease") dated \_\_\_\_\_ ("Effective Date") is between you(the "Lessee(s)"; also sometimes hereinafter referred to as "You", "Your" and "Yourself") [List all people signing this Lease.]

Name	SSN	DOB
NAME	SSN	DOB

and \_\_\_\_\_ (hereinafter called the "Landlord"; also sometimes hereinafter referred to as "Our", "We" and "Us"). You have agreed to rent the Leased property located at \_\_\_\_\_ in \_\_\_\_\_, West Virginia, and all improvements thereon and appurtenances thereunto belonging, including any steps, porch, lawn and yard surrounding the Property (hereinafter called the "Leased Premises/Property") for the exclusive use and occupancy by You and Your Household Member (defined below), solely as a private residence.

### 2. HOUSEHOLD MEMBERS

The Leased Premises/Property will be occupied only by You and the following (list all Household Members not signing the Lease; hereinafter referred to individually as a "Household Member" and collectively as "Household Members"):

NAME of Household Member	SSN	DOB
1.		
2.		
3.		
4.		
5.		
6.		
7.		
8.		
9.		
10.		

Only Lessee(s) and Household Members may occupy the Leased

Premises/Property. You must promptly inform us of the birth, adoption or court awarded custody of a child, which child will then automatically become a Household Member under this Lease. No additions of other Household Members may be made without our written consent. Your right to use and occupancy includes reasonable accommodation of guests; provided, however, that any person not defined above as a Lessee or Household Member shall require Our prior written consent before such person may stay in the Leased Premises/Property for more than three (3) consecutive days, or for more than fourteen (14) days in any year. Any failure by Lessee(s) or House Members to strictly comply with the provisions of this Paragraph 2 is a serious violation of this Lease and will constitute "good cause" for termination of this Lease by Us.

### 3. **CONTRACT TERM**

The initial one year term (the "Term") of this Lease Contract begins on \_\_\_ and shall automatically terminate at 11:59 PM on

\_\_\_ (the "Termination Date"). Upon the Termination Date, Lessee(s) shall be required to vacate the Leased Premises/Property pursuant to Paragraph 24 of this Lease unless Landlord and Lessee(s) formally extend and renew this Lease Agreement annually by creating and executing a new, written and signed Lease Agreement.

### 4 . **RENT / PAYMENT**

- A. If the Term commences after the first day of the month, Your rent payment is \$\_\_\_\_\_ to cover the partial month ending on \_\_\_\_\_.
- B. Thereafter, You will pay \$\_\_\_\_\_ rent per month (the "Rent"), payable on or before the first day of each calendar month without prior demand, at the Landlord's office, \_\_\_ beginning \_\_\_\_\_, unless the Rent is adjusted as described in Paragraph 5 of this Lease. If the 1<sup>st</sup> day of the month is Saturday, Sunday or other day on which the Landlord's office is closed, then Rent is payable on the next day on which the Landlord's office is open. A late payment penalty of \$15.00 will be due and owing if the Rent is not paid by You on or before the fifth (5<sup>th</sup>) day of the month, regardless of whether the fifth (5<sup>th</sup>) day of the month is on a weekend, holiday or other day when the Landlord's office is closed. Your Rent will be considered paid the fifth (5<sup>th</sup>) day if it is deposited in the drop box for Your Landlord's office and received by Us before 8:00 am on the next working day. Failure to pay Rent by the fifth (5<sup>th</sup>) day of the month for two consecutive months or any three or more months during any consecutive twelve-month period will be grounds for termination of this Lease by the Landlord. Our acceptance of Rent after the fifth (5<sup>th</sup>) day of the month in any one month, or Our decision to charge and accept a late-payment penalty for payments made after the fifth (5<sup>th</sup>) day

of the month, is not a waiver of Our rights under this Lease and does not create an obligation on Our part to accept Your payment or Your offer to pay rent (with or without payment of the penalty) in future months if You fail to pay rent the fifth (5<sup>th</sup>) of the month for two consecutive months or for three or more times during a consecutive twelve-month period. Our acceptance of Rent on or after the sixth day of the month in any one month with your payment of the late-payment penalty amount for the that month: a) will never be construed or considered as a waiver of our right to terminate Your Lease for any cause other than Your failure to pay rent on time for that one particular month; b) does not create a right on Your part to pay Rent with the late penalty in future months; and c) shall not impair Our right to terminate Your lease after that one month as a result of Your failure to pay Your rent by the fifth (5<sup>th</sup>) day of the month for two consecutive months or for any three months during any consecutive twelve-month period, which may include that one particular month.

- C. Payment by You of Rent or of any other amounts due under this Lease must be in the form of check or money order. Cash will not be accepted. If You pay Rent or other charges with a check which is returned to Us unpaid by your bank, You will be required to pay by money order or cashier's check in the future and may be required to pay a late-payment penalty as described above and to pay a returned check charge, as described in Paragraph 17.
- D. Termination of your possession rights or subsequent re-letting of the Leased Premises/Property by Us does not release you from liability for past-due Rent or other unpaid charges.
- E. We have no obligation to send out bills or statements for Rent due.
- F. At Our option, We may apply any payment by You first to any of Your unpaid obligations due to Us, and then to unpaid Rent, if any, regardless of any notations of the checks or money orders You give Us.

## **5. CHANGES IN RENT**

- A. You are aware and understand that at least some portion of the cost of construction, maintenance or operation of Your Lease Premises/Property by the Landlord is subsidized by the United States Department of Housing and Urban Development ("HUD") and that the Rent to be paid by You under this Lease is determined by Us according to HUD guidelines and regulations. As a result, the amount of Your Rent may be changed during the term of this Lease as a result of Redetermination under Paragraph 22 of this Lease, or if:
  - 1) HUD or the Landlord determines, in accordance with HUD procedures, that an increase in Rent is needed;
  - 2) HUD or the Landlord changes any allowance for utilities or services

considered in computing Your Rent;

3) Your household income from any source, the number of persons in Your household or other factors considered in calculating Your Rent change and HUD procedures provide that Your Rent be adjusted to reflect the change;

4) HUD's procedures for computing Your Rent change;

5) It is determined that Your Rent was based on false or incomplete information You supplied (see Paragraph 19);

6) It is found that an error was made in calculation of Your Rent at the time of Your admission or later re-examination. (You will not be charged retroactively for an error, which We made and is not due to incomplete or false information you provided to Us.)

B. Except as provided in Paragraph 22 of this Lease, changes in Rent shall be effective on the first day of the month following the month in which the Rent change determination is made by Us. We will notify You of the new amount of Your Rent. The notice will state the effective date of the Rent adjustment, and will also state that You may ask for an explanation of how Your Rent was re-computed.

C. You agree to accept a "Rent Adjustment Letter," reflecting a change in Your Rent as a result of one or more of these reasons, as an amendment to this Lease.  
(Your initials: \_\_\_\_\_)

## **6. LESSEE RULES AND REGULATIONS**

You agree to obey the Lessee rules and regulations set forth in this Lease. You further agree to obey all additional rules and regulations or amended rules and regulations adopted by the Landlord after the Effective Date of this Lease if: (1) the rules are reasonably related to the safety, care, comfort, convenience and cleanliness of the Leased Premises/Property; and (2) We send written notice of the proposed rule and regulations or rule and regulations amendments at least 30 days before the rule and regulation or amended rule and regulation is enforced. You further acknowledge and agree that it is Your responsibility to ensure that any and all Household Members and guests strictly comply with all of the terms, rules and regulation of this Lease.

## **7. CONDITION OF DWELLING UNIT**

By signing this Lease, you accept the Leased Premises/Property in its "as is" condition on the Effective Date of this Lease and further acknowledge that the Leased Premises/Property are safe, clean and in good condition. You agree that all appliances and equipment in the Leased Premises/Property are in good working order. You further acknowledge that We have made no promise to You to decorate, alter, repair or improve the Leased Premises/Property except as required to repair those items which materially affect the physical health or safety of an ordinary resident. You agree to accept Our obligations under this

Lease in lieu of and in substitution for any and all implied warranties under the law.

## 8. DAMAGES AND REPAIRS

- A. DAMAGE AND REPAIRS. YOU AGREE TO IMMEDIATELY NOTIFY US IN WRITING OF ANY DAMAGES, DEFECTS OR MALFUNCTIONS ON YOUR PROPERTY. WE ARE RESPONSIBLE FOR THE REPAIR OF DAMAGES TO OR DEFECTS ON THE PROPERTY WITHIN A REASONABLE TIME AFTER NOTICE OF THE DAMAGE OR DEFECT IS RECEIVED FROM YOU, PROVIDED THAT IF THE DAMAGES WERE CAUSED BY YOU, YOUR HOUSEHOLD MEMBERS OR GUESTS, THE REASONABLE COST OF THE REPAIRS SHALL BE CHARGED TO YOU, PAYABLE ON OR BEFORE THE FIFTEENTH (15<sup>TH</sup>) DAY AFTER WE GIVE YOU WRITTEN NOTICE OF THE CHARGES. IF YOU ARE FOUND TO HAVE CAUSED ANY FIRES, YOU WILL BE CHARGED THE LESSER OF THE DEDUCTIBLE APPLICABLE TO OUR INSURANCE POLICY OR THE ACTUAL COST TO REPAIR THE DAMAGE.

You understand and agree that there is a possibility that lead-based paint exists in the Leased Premises/Property and that the presence of lead-based paint is not a defect under this Paragraph 8.

- B. Smoke Detectors. We will furnish and test smoke detectors as required by statute and provide working batteries when You first take possession of the Leased Premises/Property. Thereafter, You must pay for and replace batteries as needed. We may replace dead or missing batteries and charge You for the cost, without prior notice to You. You must immediately report smoke-detector malfunctions to Us. We will inspect or repair the smoke detectors, but only if You give us notice of a malfunction or request that they are inspected or repaired. You must not disconnect or intentionally damage a smoke detector or remove the battery without immediately replacing it with a working battery. If You do so, You may be subject to damages, civil penalties and attorney's fees. If You, Your Household Members or guests damage or disconnect the smoke detector(s) or remove a battery without replacing it with a working battery, causing it to malfunction, You may also be liable to Us and others for any resulting loss or damage from fire, smoke or water. Your failure to maintain a functional smoke detector(s) in Your Leased Premises/Property shall constitute a material violation of this Lease.
- C. YOU WILL ALSO BE CHARGED WITH THE ACTUAL COST TO US FOR REPAIRS AND/OR DAMAGE TO THE LEASED PREMISES/PROPERTY AREA CAUSED BY YOU, YOUR HOUSEHOLD MEMBERS, GUESTS OR ANY PERSON UNDER YOUR CONTROL. THESE CHARGES WILL BE PAYABLE AS PROVIDED IN PARAGRAPH 16 OF THIS LEASE.

## **9. JOINT LIABILITY AND RESPONSIBILITY**

You agree that each Lessee (named in Paragraph 1 of this Lease) and Household Member (named in 2 of this Lease) are jointly and severally liable and responsible with any and all other Lessee(s) or Household Members for the performance of all duties and obligations of Lessee(s) and Household Members under this Lease. This Lease may be terminated as to all Lessee(s) and Household Members named in Paragraphs 1 and 2 of this Lease as a result of a violation of this Lease by one or more of such Lessee(s), House Member(s) or any of their guests.

## **10. ENTRY OF DWELLING DURING RESIDENCY**

You agree that Our authorized agent, employee, representative or contractor will be permitted to enter the Leased Premises/Property for the purpose of performing routine inspections, maintenance, improvements, and repairs, or to show the Leased Premises/Property for re-leasing, or for determining occupancy of the Leased Premises/Property when reasonable doubt exists as to Your occupancy therein. Such entry may be made only during reasonable hours after You have been provided at least 48 hours advance notice by Our written statement specifying the purpose of the proposed entry, delivered to Your Leased Premises/Property. However, We have the right to enter Your Leased Premises/Property without advance notice if We have reasonable cause to believe that an emergency exists which requires such entry: an “emergency” includes the presence of a law enforcement officer with a warrant to search the Leased Premises/Property or any part of the Leased Premises/Property. If You are absent from the Leased Premises/Property when We come to perform maintenance or repairs requested by You, Your request for maintenance or repairs shall constitute permission for entry in Your absence. We will leave, in the Leased Premises/Property, a written statement specifying the date, time and purpose of entry prior to leaving the Leased Premises/Property whenever entry is made when You and all Household Members are absent. Entry under the conditions stated in this Paragraph shall not be considered an invasion of privacy or a breach of any warranty of quiet enjoyment. Any evidence of criminal activity, including drug-related criminal activity, discovered by Our authorized agents, employees, representative or contractors in the course of such entry may be reported by Us to the proper law enforcement agencies and shall constitute grounds for immediate termination of the Lease by Us.

## **11. KEYS**

You will be provided two (2) Property keys. You may not duplicate or allow others to duplicate such keys. Your spouse or any Household Member who has moved out according to a remaining Lessee(s)’s written affidavit is no longer entitled to keys. You agree not to install additional or different locks or gates on any doors or windows of the Leased Premises/Property.

## **12. LIVE-IN AIDES**

Live-in aides are allowed when an elderly or disabled resident cannot live independently and such dependence on another person for daily living needs has been verified in writing by a physician and approved by the Landlord. Such aides will be required to undergo a background investigation before they are allowed to live in the Leased Premises/Property. The aide can no longer reside in the Leased Premises/Property, after the elderly or disabled resident has vacated. Aides will be required to vacate the Leased Premises/Property for non-compliance with Landlord's policies or those provisions of the Lessee's Lease which pertain to the appropriate maintenance, use and occupancy of the Leased Premises/Property or damage to the Leased Premises/Property.

### **13. MODIFICATIONS TO LEASE**

- A. We may modify this Lease and all policies, rules and charges which are a part of this Lease by attachment or by reference, provided we give You at least a thirty (30) day written notice setting forth the proposed modification and providing You the opportunity to present written comments which shall be taken into consideration by Us prior to the proposed modification becoming effective. A copy of such notice shall be either delivered directly or sent prepaid first class mail to your Leased Premises/Property.
- B. This Lease and any future adjustments of Rent and any changes indicated above, evidence the entire agreement between Us and You. No other changes shall be made except by a written rider, signed and dated by all parties to this Lease. However, nothing shall preclude Us from also modifying this Lease to take into account revised provisions of law or government action.

### **14. NOTICE PROCEDURES**

Any notice required hereunder from the Landlord to You (excluding a Notice of Lease Termination) will be in writing and delivered to You or to an adult member of Your household residing in the Leased Premises/Property, or sent by prepaid first class mail properly addressed to You at the Property address shown in Paragraph 1 of this Lease. Any notice from You to the Landlord must be in writing and either delivered to the office of the Landlord at \_\_\_\_\_, or sent to the Landlord by prepaid first class mail to \_\_\_\_\_. Unopened, canceled, first class mail returned by the U.S Postal Service shall be sufficient evidence that notice was given, whether receipts have been signed by the addressee or not.

### **15. OTHER OBLIGATIONS AND RIGHTS - LANDLORD**

We agree to:



- A. Comply with requirements of applicable building codes, housing codes, state laws and HUD regulations materially affecting health and safety.
- B. Make necessary repairs to the Leased Premises/Property, within a reasonable time period, upon receiving appropriate notice from you.
- C. Maintain in good and safe working order and condition electrical, plumbing, sanitary, heating, ventilating and other facilities and appliances (including elevators) supplied or required to be supplied by the Landlord.
- D. Submit a billing to You for maintenance and repair work (beyond normal wear and tear) caused by You, Your Household Members or guests.
- E. We may exclude from your Leased Premises/Property any of your relatives, guests or other persons who, in our sole judgment and discretion, have been violating the law, violating this Lease, or any Property rules or regulations, or disturbing other residents, neighbors or visitors. We may also exclude from the Property a person who refuses to submit upon request, a photo identification or refuses to identify himself or herself as a Lessee, Household Member or guest.

In addition to the foregoing:

- F. We will notify you in writing of the specific grounds for any proposed adverse action (including, but not limited to, proposed Lease termination, Rent increase and charges for maintenance or repair).
  - 1) In the case of Lease termination, a Notice of Lease Termination given in accordance with Paragraph 24 of this Lease shall constitute adequate notice of proposed adverse action.
  - 2) In the case of a proposed adverse action other than a proposed Lease termination, We shall not take the proposed action until the time period provided for You to cure or correct the specific grounds for any proposed adverse action has expired.

## **16. OTHER OBLIGATIONS – RESIDENT**

In addition to Your other obligations in this Lease You agree and shall cause all Household Members and guests to comply with the following:

- A. Neither You nor Household Members to (i) assign the Lease, (ii) sub-lease any part of the Leased Premises/Property, (iii) transfer possession of any part of the Leased Premises/Property to anyone, or (iv) allow anyone other than those Household Members listed in Paragraph 2 of this Lease to represent in any way to another governmental agency or public body (for

example, school district, Department of Public Safety, U.S Postal Service, or police department) that they reside at the Leased Premises. This prohibition includes not allowing others to receive mail at the Leased Premises.

- B. Not to provide accommodation to any boarders or lodgers or other persons not listed on the Lease for more than three (3) consecutive days, or for more than fourteen (14) days in any year, except that You may, with written approval, give accommodations to a live-in-aide as defined and provided in Paragraph 12 of this Lease.
- C. To use the Leased Premises/Property solely as a private residence for You and Your Household Members as identified in this Lease and not to use or permit its use for any other purpose (such as a profit-making activity) without our express consent in writing.
- D. To abide by and assure that Your Household Members and guests abide by such necessary or reasonable rules and regulations as may be set forth by Us from time to time for the benefit and well-being of You and Your Household Members and which are incorporated in the Lease by this reference. This includes abiding by the Quiet Time provisions of Paragraph 21 of this Lease.
- E. To comply with all obligations imposed upon You by applicable provisions of City, State and Federal building and housing codes materially affecting health and safety.
- F. To keep the Leased Premises/Property and such other areas (including exterior areas) of the Leased Premises/Property as may be assigned for Your exclusive use, in a clean and safe condition. Lessee(s) must provide lawn-care for the Leased Premises/Property and to properly dispose of any trash, garbage, rubbish, debris, and other waste regardless of its source of origin, found or located on the Leased Premises/Property.
- G. To dispose of all ashes, trash, garbage, rubbish and other waste from the Leased Premises/Property in a sanitary and safe manner and to refrain from and cause Household Members and guests to refrain from littering or leaving trash on the Leased Premises/Property.
- H. To use only in a reasonable manner all electrical, plumbing, sanitary, heating, ventilating, air-conditioning and other facilities and appurtenances, including elevators and to refrain from the use of electrical appliances if We determine that such use would result in a hazardous condition.
- I. TO PAY, ON OR BEFORE THE FIFTEENTH (15<sup>TH</sup>) DAY AFTER WRITTEN NOTIFICATION BY US, REASONABLE CHARGES (OTHER THAN FOR NORMAL

WEAR AND TEAR) FOR THE REPAIR OF DAMAGES TO THE LEASED PREMISES/PROPERTY CAUSED BY YOU, YOUR HOUSEHOLD MEMBERS OR A GUEST. FAILURE TO PAY SUCH CHARGES BY THE DUE DATE WILL BE CONSIDERED A SERIOUS VIOLATION OF THIS LEASE AND GROUNDS FOR TERMINATION OF THIS LEASE.

- J. To act and cause Your Household Members, guests or other persons under Your control to act in a manner which will not disturb other neighbor's peaceful enjoyment of their properties.
- K. To live peacefully with neighbors in which the Leased Premises/Property are located, to maintain peace within Your household and not to make or create a nuisance.
- L. To assure that You, any Household Member, a guest, or another person under your control, shall not engage in:
  - 1) Any criminal or other activity (to include lewd behavior) that threatens the health, safety, or right to peaceful enjoyment of the neighbors. "Criminal Activity" means any conduct prohibited by the West Virginia Code or by any other statute of the State of West Virginia or of the United States for which a term of confinement in jail or prison is a potential punishment, and includes "violent criminal activity" which means any criminal activity that has, one of its elements, the use, attempted use, or threatened use of physical force substantial enough to cause, or be reasonably like to cause, bodily injury or property damage or
  - 2) Any drug-related criminal activity on or off of the Leased Premises/Property. The term "criminal activity" means the illegal possession, manufacture, sale and distribution, use, or possession with the intent to manufacture, sell, distribute, or use, of a controlled substance, controlled substance analogue, chemical precursor, or drug paraphernalia. For purpose of this Paragraph 16 (L)(2), the terms "controlled substance," "controlled substance analogue," "chemical precursor," and "drug paraphernalia" shall have the same meaning as in the West Virginia Code. Nothing in this Lease shall be construed to require Us to prove any specific criminal intent in our efforts to enforce this Paragraph 16 (L)(2) or
  - 3) An abuse or pattern of abuse of alcohol that the Landlord determines affects with the health, safety or right to peaceful enjoyment of any Neighbors.

[Any activity listed in Paragraph 16 (L) above shall be treated as a serious violation of the material terms of the Lease and shall be cause for immediate termination of tenancy and eviction from the Leased Premises/Property. Arrest and conviction are not necessary to trigger

termination of tenancy and eviction.].

- M. To ensure that You or Your Household Members do not allow or invite any person who has been excluded from Your Leased Premises/Property under the provisions of this Lease onto or into your Property or other parts of the Leased Premises/Property.
- N. To refrain from, and cause your Household Members or guests to refrain from, destroying, defacing, damaging, or removing any part of the Leased Premises/Property and to refrain from and cause your Household Members or guests to refrain from illegal or other activity which impairs the physical or social environment of the neighborhood.
- O. Upon vacating the Leased Premises/Property, to leave the Leased Premises/Property in a clean condition, reasonable wear and tear excepted, and to return the keys to the Landlord on the first business day after You vacate the Leased Premises/Property or pay the cost of the replacement if they are not returned.
- P. To refrain from, and cause Household Members to refrain from, keeping, maintaining, harboring, or boarding any dog, cat, livestock, or animal of any nature on the Leased Premises/Property, even temporarily, unless authorized in accordance with Paragraph 20 of this Lease.
- Q. To assure that You, Your Household Members, and Your guests do not: discharge a firearm, BB gun, or pellet gun within 500 feet of the Leased Premises/Property; or brandish, display or possess a gun, knife, or other weapon in a way that may alarm others.
- R. To abide by and cooperate with policies adopted by Us or reasonable request made by Us concerning the safety and cleanliness of the Leased Premises/Property under the provisions of HUD's Public Housing Assessment System.
- S. To use customary diligence in maintaining the Leased Premises/Property. Unless authorized by statute or by Us in writing, You agree that You and Your Household Members will not, and will not allow other persons, to: (1) perform any repairs, paint, wallpaper, carpet, make electrical changes, or alterations of our property; (2) place or attach signs or fences on the Leased Premises/Property; (3) install fans, heaters, air conditioners, antennas, satellite dishes, or additional phone or TV cable outlets; (4) change, add, or re-key locks; (5) deface, damage, or remove Our property, including alarm systems, smoke detectors, furniture, telephone and cable TV wiring, screens, locks, and security devices; (6) keep water furniture in your Leased Premises/Property. No holes, stickers or contact paper are allowed inside or outside the Leased Premises/Property, but a reasonable number of small

nail holes for hanging pictures on sheetrock walls are permitted. When you move in, we will supply light bulbs for fixtures we furnish, including exterior fixtures operated from inside the Leased Premises/Property; after move-in, You must replace them at Your expense with bulbs of the same type and wattage.

- T. To notify Us in advance and in writing if You and Your Household Members plan to be away from the Leased Premises/Property for more than seven (7) consecutive days.
- U. To act in a cooperative manner with neighbors and the Landlord staff, and to refrain from and cause Your Household Members and guests to refrain from acting or speaking in an abusive or threatening manner toward neighbors or the Landlord's staff.
- V. To take reasonable precautions to prevent fires; to refrain from storing or keeping flammable materials upon the Leased Premises/Property or storing anything in closets having gas appliances; to refrain from tampering with utilities, bringing hazardous materials into the Leased Premises/Property, or using candles or kerosene lamps.
- W. TO PAY CHARGES FOR DAMAGES CAUSED BY FIRE OR SMOKE THAT ARE A DIRECT RESULT OF NEGLIGENCE ON THE PART OF YOU, ANY HOUSEHOLD MEMBER, OR GUEST, AS DETERMINED BY THE FIRE DEPARTMENT. SUCH FIRE AND SMOKE DAMAGE CHARGES SHALL BE THE AMOUNT OF THE REPAIR/REPLACEMENT ACTUAL COSTS, OR THE DEDUCTIBLE AMOUNT ON THE LANDLORD'S FIRE INSURANCE POLICY, WHICHEVER IS LESS.
- X. To avoid obstructing sidewalks, walkways, corridors, areaways, galleries, passages, elevators, or stairs and to avoid using these for purposes other than going in and out of the Leased Premises/Property.
- Y. To use reasonable care to keep the Leased Premises/Property in such a condition as to ensure proper health and sanitation for You, Your Household Members, and neighbors; to notify Us immediately of any conditions in or about the Leased Premises/Property that are hazardous to the health and safety of You, Your Household Members or other residents or that are in need of repair. Your failure to promptly report the need for repairs in a timely manner shall be considered a contributing cause to any further damages that occur, for which You may be charged.
- Z. To remove from the Leased Premises/Property any vehicle without valid or current registration and inspection stickers; to refrain from parking any vehicles in any right-of-way or fire lane; and to refrain from automobile maintenance and repairs on Leased Premises/Property.

- AA. To use the Leased Premises/Property as Your sole and only residence and to not receive assistance for the occupancy of any other housing assistance under any Federal housing assistance program; and
- BB. To refrain from and to assure that Your Household Members, guests, or other persons under Your control refrain from soliciting business or contributions anywhere on the property, without prior written approval from Us.

## **17. OTHER CHARGES**

- A. DAMAGES OR PURCHASE OF CONSUMABLE PRODUCTS. CHARGES WILL BE ASSESSED AGAINST YOU ACCORDING TO THE APPROVED SUMMARY OF LESSEE CHARGES POSTED IN THE LEASED PREMISES/PROPERTY OFFICE AND INCORPORATED HEREIN BY REFERENCE, FOR MAINTENANCE, SERVICE, AND REPAIRS BEYOND NORMAL WEAR AND TEAR PERFORMED BY US. "NORMAL WEAR AND TEAR" MEANS DETERIORATION THAT RESULTS FROM THE INTENDED USE OF A DWELLING, INCLUDING BREAKAGE OR MALFUNCTION DUE TO AGE OR DETERIORATED CONDITION, THE TERM DOES NOT INCLUDE DETERIORATION THAT RESULTS FROM NEGLIGENCE, CARELESSNESS, ACCIDENT, OR ABUSE OF THE LEASED PREMISES/PROPERTY, EQUIPMENT, OR OTHER PROPERTY BY THE LESSEE, BY A MEMBER OF LESSEE'S HOUSEHOLD, OR BY A GUEST OF THE LESSEE. YOU WILL ALSO BE CHARGED FOR SERVICES OR REPAIRS (BASED ON THE ACTUAL COST TO US FOR THE LABOR AND/OR MATERIALS REQUIRED DUE TO THE INTENTIONAL OR INTENTIONAL OR NEGLIGENT DAMAGE TO THE PROPERTY CAUSED BY YOU, A MEMBER OF YOUR HOUSEHOLD, YOUR GUESTS, OR OTHER PERSONS UNDER YOUR CONTROL
- B. LATE CHARGES. If You do not pay the Rent that is due and payable on the first day of the month by the 5<sup>th</sup> day of the month (regardless of whether the 5<sup>th</sup> day is a weekend or holiday), we may accept your payment of Rent, but You will be charged a late-payment penalty of \$15.00, as provided in Paragraph 4(B) of this Lease.
- C. RETURN CHECK FEE. You will pay a return check fee of \$25.00 if Your check, given to Us on or before the 5<sup>th</sup> day of the month, is not honored for payment and is returned to Us unpaid. In addition, if the unpaid check is not replaced by cash, cashier's check, or money order by the 5<sup>th</sup> day of the month, We will require You to pay the late-payment penalty described in Paragraph 4(B) if we choose to accept the replacement payment.
- D. SECURITY DEPOSIT. See Paragraph 23 of this Lease.
- E. YARD CLEANUP REIMBURSEMENT. You hereby agree to keep the lawn,

yard, steps, and porches outside of or surrounding the Leased Premises/Property clean and clear of all clutter, trash, garbage, rubbish, debris, and other waste. In the cleaning or clearing by You under this Lease, We will give You at least twelve (12) hours' notice to do so. In the event You fail to do so within that period, the Landlord will clean and clear such areas, and in that event, You will be assessed a "Yard Cleanup Reimbursement Charge" for each such occurrence in the amount provided by the Landlord in a form of a professional services receipt, which receipt is incorporated herein by reference. (Your initials: \_\_\_\_\_)

- F. DUE DATE FOR CHARGES. All charges listed in this Paragraph 17 shall be due and payable on or before the fifteenth (15<sup>th</sup>) day after We give You written notice of the charges. Failure to pay any of such charges by the due date shall be grounds for termination of this Lease. If the fifteenth (15<sup>th</sup>) day of the month is on a weekend, holiday, or other day when the Landlord's office is closed, the charge will be considered paid on the fifteenth (15<sup>th</sup>) day if it is deposited in the drop box of your Landlord(s) and received by Us before 8:00 am on the next working day.
- G. LANDLORD REPRESENTATION BY AN AGENT IN JUSTICE COURT. You agree that all of the charges described in this Paragraph 17 may be considered Rent, and that to the extent permitted by law the Landlord may be represented in any court of competent jurisdiction, including Magistrate Court, by a non-attorney representative of the Landlord in any suit seeking, in whole or in part, payment of such charges, a judgment against You for such charges, or Your eviction as a result of Your failure to pay such charges within the required time period.

## **18 . PARKING**

The Landlord may regulate the time, manner and place of parking cars, trucks, motorcycles, bicycles, boats, trailers and recreational vehicles. The Landlord may have improperly parked vehicles removed from the Leased Premises/Property and may be removed by the Landlord at the expense of the Lessee or other owner if such vehicle:

- A. Lacks current registration or inspection stickers, has a flat tire, is on blocks or jacks, has tires or wheels missing, is leaking fluids, disabled, damaged or otherwise inoperable;
- B. Is parked in any portion of a yard area, or on the grass, sidewalk, patio or other area not intended for parking;
- C. Occupies the area between the property line and the street curb;
- D. Belongs to a Lessee or Lessee Household Member who has surrendered, abandoned, or otherwise vacated the Lessee's Leased Premises/Property, or who has been excluded from the Leased Premises/Property;



E. Is an over-sized vehicle such as a semi-tractor, trailer, camper, or industrial vehicle.

## **19. PENALTIES FOR SUBMITTING FALSE INFORMATION**

Knowingly giving Us false information regarding income or other factors considered in determining Your eligibility Rent constitutes material noncompliance with the Lease and may result in termination of your tenancy.

## **20. PETS**

Common household pets are only allowed in accordance with the Landlord's "Pet Policy". The provisions of this Lease apply to support animals and all mammals, reptiles, birds, fish, rodents and insects – regardless of whether You consider the animal a "pet." You must not feed stray or wild animals. If a pet is allowed under the Pet Policy, Lessee must sign a separate pet agreement and agree to comply with the provision of the Pet Policy. Certain allowances to the Pet Policy apply to support animals for visually handicapped persons. Violations of the Pet Policy by you, any Household Member, your guest, or any other occupant of the Leased Premises/Property (with or without your knowledge) may be grounds for removal of the pet or termination of your tenancy (or both), in accordance with Federal, State or local law.

If an animal has been in your Leased Premises/Property at any time during your Term (with or without our consent) we will charge You for defleaing, deodorizing and shampooing. We may remove an unauthorized pet by leaving a 24 hours' prior written notice of intent to remove the pet. We may keep or kennel the pet or turn it over to a humane society or local authority. When keeping or kenneling an animal, We will not be liable for loss, harm, sickness or death of the animal, unless due to Our negligence. We will return the animal to You upon request if it has not already been turned over to a humane society or local authority. You must pay for the animal's reasonable care and kenneling charges while the animal was in our possession.

## **21. QUIET TIME**

A 10:00 pm quiet time is to be observed by You, Household Members and guest(s). No loitering or gathering is allowed on porches, driveways or outdoors or in any other place on the Leased Premises/Property after this time. In consideration of persons who work, noise from radios, television, etc. must be kept to a minimum after 10:00 pm.

## **22. REDETERMINATION OF RENT, FAMILY COMPOSITION, DWELLING SIZE AND ELIGIBILITY**



- A. Annual. Every year on or about \_\_\_\_\_, We will request that you provide information regarding the income and composition of your household and supply any other information and certifications required by Us or by HUD for the purpose of determining Your eligibility and Rent. You agree to provide accurate statements of this information and to comply with the Landlord's requests to sign releases so that the Landlord may obtain information from third-party sources, and to do so by the date specified in Our request. We will verify the information supplied by You and use it for the purpose of determining Your Rent and eligibility. Failure to provide the required re-determination information by the date specified in Our request or any misrepresentation in the information submitted to Us shall constitute a serious violation of this Lease and shall be grounds for termination of the Lease by Us.
- B. Interim. (Changes between regularly-scheduled redeterminations). You agree to advise Us immediately if any of the following changes occur: (1) the number of Your household members' changes; (2) Your household income changes; (3) any other factors used in calculating Your Rent change. Your Rent may be changed as a result.
- C. Repayment Obligation. If you submit false information on any application, certification, or request for interim adjustment or fail to report interim changes in family income, composition, or other factors as required above, and as a result, are charged a Rent less than the amount required by HUD's rent formulas, You agree to immediately reimburse the Landlord for the difference between the Rent you should have paid and the Rent You were actually charged.

## **23 . SECURITY**

### **DEPOSIT/SURRENDER/ABANDONMENT/DISPOSITION OF ABANDONED PROPERTY**

- A. Security Deposit. At the time of your signature on this Lease, a security deposit of 1 (One) months lease fee \$\_\_\_\_\_ must be deposited by You with the Landlord (the "Security Deposit"). The Security Deposit is for possible use by Us after You vacate the Leased Premises/Property (for any reason) to cover the costs of necessary cleaning or repairs to the Leased Premises/Property beyond reasonable wear and tear, if caused by You, a Household Member or your guest(s). The Security Deposit may not be used to pay rent or other charges while You are in occupancy. We will hold this Security Deposit for the period that You occupy the unit and for up to 30 days thereafter. After the unit is surrendered or abandoned (see 23(B) and (C) below) or vacated for any other reason, the amount of the refund to which You may be entitled will be determined in accordance with the following conditions and procedures:
- 1) YOU WILL BE ELIGIBLE FOR REFUND OF YOUR SECURITY DEPOSIT ONLY

IF:

- a. THERE IS A BALANCE REMAINING AFTER THE DEDUCTION OF APPLICABLE CHARGES; AND
  - b. YOU PROVIDE US WITH A WRITTEN STATEMENT OF FORWARDING ADDRESS OR COME TO THE LANDLORD OFFICE IN PERSON AT THE END OF 30 DAYS TO COLLECT THE SECURITY DEPOSIT.
- 2) IF YOU ARE ELIGIBLE FOR A REFUND THE LANDLORD WILL REFUND THE AMOUNT OF THE SECURITY DEPOSIT LESS ANY AMOUNT NEEDED TO PAY THE COST OF:
- a. UNPAID RENT TO INCLUDE UP TO 30 DAYS' RENT IF 30 DAYS' NOTICE OF LEASE TERMINATION IS NOT GIVEN BY YOU;
  - b. MAINTENANCE AND REPAIR CHARGES FOR INTENTIONAL OR NEGLIGENT AND DAMAGES TO THE LEASED PREMISES THAT ARE NOT DUE TO NORMAL WEAR AND TEAR FOR INTENTIONAL OR NEGLIGENT DAMAGES TO THE LEASED PREMISES/PROPERTY;
  - c. CHARGES FOR LATE PAYMENT OF RENT AND RETURNED CHECKS;
  - d. CHARGES FOR UNRETURNED KEYS;
  - e. CLEANING CHARGES; AND
  - f. ANY OTHER UNPAID CHARGES PROVIDED FOR IN THIS LEASE (ATTORNEY'S FEES, COURT COSTS, NON-ROUTINE CLEANING, SMOKE DETECTOR BATTERIES, ETC.)
- 3) THE LANDLORD WILL MAIL YOUR SECURITY DEPOSIT REFUND (LESS ANY DEDUCTIONS) AND AN ITEMIZED ACCOUNTING OF ANY DEDUCTIONS NO LATER THAN 30 DAYS AFTER YOU VACATE, SURRENDER, OR ABANDON THE LEASED PREMISES/PROPERTY, UNLESS THE LAW PROVIDES OTHERWISE OR YOU HAVE COMPLIED WITH PARAGRAPH 23(A) ABOVE.
- B. Surrender. You surrender the Leased Premises/Property on the date of or the earlier of the following:
- 1) All keys have been turned in and Rent is paid; or
  - 2) Your move-out date has passed and, in Our reasonable judgment, no resident or occupant is living in the Leased Premises/Property.
- C. Abandonment. Abandonment terminates this Lease and ends your right of possession for all purposes. You "abandon" the Leased Premises/Property when, in reasonable judgment of the Landlord of the Leased Premises/Property:
- 1) You and all Household Members are absent from the Leased Premises/Property for fourteen (14) consecutive days without prior notice to Us;
  - 2) Clothes, furniture and personal belongings have been substantially removed from the Leased Premises/Property, in Our reasonable judgment;
  - 3) No one has been in the Leased Premises/Property for five (5) consecutive days while the Rent or any other charges are due and unpaid;

- 4) Ten (10) days have passed since the death of a sole resident; or
- 5) Individuals other than the Lessee(s) named above are the only persons living in the Leased Premises/Property.

If You have abandoned the Leased Premises/Property, the Landlord may secure Your abandoned Leased Premises/Property against vandalism and attach a notice of entry to the door of said Leased Premises/Property stating that We consider the Leased Premises/Property to be abandoned. If there is no response to this notice of entry from You within forty-eight (48) hours after posting or if substantially all Your belongings have been removed, Your right of possession is terminated for all purposes and the Landlord will take immediate possession of the Leased Premises/Property, provided that the Rent still remains unpaid.

D. Disposition of Abandoned Property.

- 1) If the Leased Premises/Property have been surrendered or abandoned, or if Lessee has been judicially evicted, the Landlord may remove and/or store all personal property remaining in the Leased Premises/Property or common area, including vehicles owned or operated by Lessee.
- 2) Except for animals and items with little or no value as provided below, the Landlord has a duty to store personal property removed from the Leased Premises/Property which have been surrendered or abandoned, but the Landlord shall not be liable for casualty, loss or theft by others. The Landlord will comply with West Virginia law regarding any duty to store personal property removed after judicial eviction, but to the fullest extent permitted by law, the Landlord shall not be liable for casualty, loss, or theft by others.
- 3) If personal property has been removed and stored by the Landlord after surrender, abandonment, or judicial eviction, You may redeem the personal property if you pay all charges which have been incurred by the Landlord for packing, removing and storing such personal property.
- 4) You agree that personal property removed after the Leased Premises/Property have been surrendered, or abandoned, and not redeemed by You on or before the 30<sup>th</sup> day thereafter, or personal property left outside for more than one hour after a Writ of Possession is executed following judicial eviction, shall be deemed to be of no value and to have been abandoned, and may be disposed of by Us in any manner We consider appropriate.

- E. Nothing in this Paragraph 23 shall limit the Landlord's right to immediately dispose of trash or other personal property appearing to have no value, left in the Leased Premises/Property after the Leased Premises/Property have been surrendered or abandoned by you, or after judicial eviction. Costs of disposal shall be assessed against You accordingly.

## **24 . TERMINATION OF LEASE**

- A. You may terminate this Lease by giving the Landlord 30 days' written notice, in the manner required by Paragraph 14 of this Lease, of Your intention to move out. If you do not give the full 30-day notice, You will be liable for Rent up to the end of the 30-day period for which notice was required or to the date the Leased Premises/Property is re-rented, whichever date comes first.
- B. We may terminate this Lease for:
- 1) Serious or repeated violations by you of material terms of this Lease, including, but not limited to:
    - i. One or more serious violation by You or a Household Member that:
      1. Disrupt the livability of the surrounding properties or neighborhood;
      2. Adversely affect the health or safety of any person or the right of any other resident to their quiet enjoyment of their leased premises;
      3. Interfere with the management of the Leased Premises/Property; or
      4. Have an adverse financial effect on the Leased Premises/Property.
    - ii. Repeated minor violation of the Lease.
    - iii. Your misrepresentation of or failure to timely supply all required information regarding assets, income and family composition or other eligibility factors of Your household (including, but not limited to a failure to meet the disclosure and verification requirements for Social Security numbers, or failure to sign and submit consent forms for the obtaining of wage and claim information from the wage information collections agencies) or knowingly providing incomplete or inaccurate information.
    - iv. Repeated late payment of Rent, which shall be defined as the failure to pay the amount of Rent due, on or before the fifth (5<sup>th</sup>) day of the month (with or without the timely payment of the late-payment penalty for that month), for two consecutive months or three times within a consecutive 12-month period.
    - v. Failure to pay any other charges or financial obligations due under this Lease by the due-date.
    - vi. Serious or repeated damage to the Leased Premises/Property, or the creation of physical hazards in the Leased Premises/Property by You or a member of Your household, a guest, or other person(s) under Your control.
    - vii. Your failure to accept Our request for a revision to Your existing Lease under any new lease form adopted by the Landlord. We will give You 30 days' written notice of Our request for a lease revision before it is scheduled to take effect. The notice must specify a reasonable time limit within those 30 days for Your acceptance.
    - viii. Your failure to keep Your Leased Premises/Property and other areas

of the Leased Premises/Property in a clean and safe condition, as required by the Landlord.

ix. Other good cause.

- 2) Any of the following types of activity by You, Household Member, a guest, or another person(s) under your control (as identified in 24 C.F.R. Sec. 5.100):
- i. Criminal or other activity (to include lewd behavior) on or near the Leased Premises/Property owned by the Landlord that threatens the health, safety or right to peaceful enjoyment of the Leased Premises/Property by other residents or neighbors or that threatens the health, safety, or right of peaceful enjoyment of their residence by persons residing in the immediate vicinity of the Landlord's premises. "Criminal Activity" means any conduct prohibited by the West Virginia Code or by any other statute of the State of West Virginia or the United States for which a term of confinement in jail or in prison is a potential punishment, and includes "violent criminal activity," which means any criminal activity that has, as one of its elements, the use, attempted use, or threatened use of physical force substantial enough to cause, or be reasonably likely to cause, serious bodily injury or property damage, or involves the illegal possession or use of firearms or other dangerous weapons.
  - ii. Drug-related criminal activity on or off the Leased Premises/Property. The term drug-related criminal activity means the illegal possession, manufacture, sale, distribution, use or possession with intent to manufacture, sell, distribute, or use, of a controlled substance, controlled substance analogue, or chemical precursor, or the illegal manufacture, sale, distribution, use, or possession with intent to manufacture, sell, distribute, or use of drug paraphernalia. For purposes of this Paragraph 24, the terms "controlled substance," "controlled substance analogue," "chemical precursor," and "drug paraphernalia" shall have the same meanings as in the West Virginia Code or in Section 102 of the Federal Controlled Substance Act (21 U.S.C Sec. 802). Nothing in this Lease shall be construed to require Us to prove any specific criminal intent in our efforts to enforce this Paragraph 24.
  - iii. Alcohol abuse or a pattern of alcohol abuse that the Landlord has interferes with the health, safety, or right to peaceful enjoyment by others.
  - iv. Illegal use of a drug or a pattern of illegal use of a drug that interferes with the health, safety, or right to peaceful enjoyment of the residents and neighbors. The activities listed shall be treated as serious violations of the material terms of the Lease and shall be cause for the immediate termination of Your tenancy and Your eviction from the Leased Premises/Property. Arrest and conviction are not necessary to trigger termination of tenancy and eviction. The burden of proof in any civil proceeding filed by Us based upon these activities described, shall be by a preponderance of the evidence, and We shall never be required to prove such activity by the standard of proof used for criminal conviction (i.e., beyond a reasonable doubt).

- C. The specific mention in this Lease that certain violations are considered serious violations and/or grounds for termination do not prohibit Us from asserting in any proceeding that other violations of this Lease are serious violations and grounds for termination of this Lease.
- D. If We elect to terminate this Lease, We will give immediate written notice of Lease termination with the following period to vacate the Leased Premises/Property:
- 1) One full calendar month in the case of failure to pay Rent;
  - 2) Immediately, if the health or safety of other residents or neighbors is threatened; or
  - 3) One full calendar month in all other cases.

The notice shall specify that if You fail to vacate the Leased Premises/Property within the applicable period, suit will be brought against You, and that You will be obligated to pay court costs, attorney's fees, or other costs associated with the Lease termination or eviction if We prevail in court.

(Your initials\_\_\_\_\_) (Landlord's initials\_\_\_\_\_)

- E. If We give You notice of the Lease termination, We may still accept Rent or other sums due, and the acceptance of Rent or other sums due does not waive or diminish our right to institute or continue eviction proceedings or Our other rights under this Lease.
- F. The notice of Lease termination to you shall state specific grounds for termination and shall inform You of your right to: (1) make such reply as You may wish; and (2) examine our documents directly relevant to the termination or eviction decision. Procedures are not available to You when the reason for Our termination of this Lease involves a threat to the safety or health of others, their guests, our staff, or involves drug-related criminal activity or alcohol abuse.
- G. You must not holdover beyond the date contained in Our notice to You of the Lease termination. If holdover occurs, You agree that You will be liable to Us for holdover Rent and for all other charges which would have been due from You in the absence of Our notice of Lease termination, at the same rate as provided in this Lease.

## **25. SAFETY AND SECURITY.**

You, Your Household Members, and guests must exercise due care for Your own safety and security. We will not be liable to you, any Household Members, any guest, or other occupant for personal injury or for any damages or loss to personal property caused by other persons not employees or agents of the Landlord, including theft, burglary, assault, vandalism, or other crime. The Landlord has no duty to remove any ice, sleet, or snow but may remove any



amount with or without notice. You will not consider any security measures we undertake as an express or implied warranty of security or as a guarantee against crime or of reduced risk of crime. Unless otherwise provided by law, the Landlord will not be liable to You, Your Household Members, or any guests or occupants for personal injury or damage or loss to Your personal property (furniture, jewelry, clothing, etc.) from water leaks, assault, theft, burglary, vandalism, fire, water, rain, hail, smoke, lightning, wind, explosions, sonic booms, acts of God, interruption of utilities, or other causes whatsoever, unless the same is due to the intentional acts or omissions or negligence of the Landlord or of Our representatives. We strongly recommend that You secure Your own insurance to protect Yourself against all of the above occurrences. You agree that existing locks and latches are safe and acceptable, subject to our duty to make needed repairs of same upon written request by You. The Landlord shall have no duty to furnish smoke detectors, security guards, security lighting, security gates or fences, or additional locks and latches, except as required by law. If these things are provided at the Leased Premises/Property, Lessee acknowledges that they are for the protection of the Landlord's property only, and are not to be relied on by Lessee as protection for Lessee or Lessee's property. Any notice or request You give to Us regarding doorknob locks, door viewers, keyed deadbolts, keyless bolting devices, sliding door pin locks, sliding door security bars, or window latches must be in writing. You are required to pay for repair or replacement of a security device if the repair or replacement is necessitated by misuse or damage by You, a Household Member, or your guest, and not by normal wear and tear. Any misuse or damage to a security device that occurs during Your occupancy is presumed to be caused by You, a Household Member or guest.

## 26. UTILITIES AND APPLIANCES

An "Allowance" for utilities will be credited to the Rent amount. The "Allowance for Tenant-Furnished Utilities and Other Services" will be used to determine the amount of the Allowance. The Lessee(s) will be responsible for arranging and paying for all utilities and utility deposits. All utilities will be in Lessee(s)'s name. The Landlord shall deduct \$\_\_\_ from Rent each month. In addition, Landlord agrees to furnish a range and refrigerator in working order.

You agree to comply with all applicable laws, regulations, and guidelines of all governmental entities regulating utilities or fuels. Illegal tampering with utility metering devices, pursuant to the West Virginia Code or any other applicable law, shall be considered a serious violation of this Lease and grounds for termination of the Lease.

If Your electricity is interrupted, You agree to use only battery-operated lighting. Candles or oil burning lamps are NOT acceptable and must never be used.

You agree to maintain sufficient heat to prevent freezing of piped water. If for

any reason, You are unable to maintain sufficient heat, You shall immediately notify Us. Any damage to the Leased Premises/Property resulting from such failure to provide immediate notice shall be deemed to have been caused by You for the purposes of this Lease.

## **27. NO WAIVER**

Any delay, forbearance, or failure by Us to exercise any right or power under this Lease (such as delay or forbearance in terminating this Lease) shall not impair our right to exercise such right or power at a later time nor be construed as a waiver of such right or power.

No waiver by Us of any default or violation of this Lease by You shall be deemed to be a waiver of any other or subsequent default by You, nor shall any such waiver be deemed to be a continuing waiver. No single or partial exercise by Us of any right or power under this Lease shall preclude other or further exercise of such right or power by Us, or the exercise by Us of any other right or power under this Lease. In particular, You agree that the acceptance by the Landlord of payments by You of Rent or other charges due under this Lease after some act or omission by which would entitle the Landlord to terminate this Lease under any provision of this Lease, shall not be deemed or construed to be a waiver of the Landlord's right to terminate this Lease at any time thereafter on account of such act or omission by You of this Lease regarding the acceptance of a late payment of Rent in any one month with a late-payment penalty.

Neither an invalid clause nor the omission of your initials herein this Lease invalidates this Lease Contract.

## **28. ZERO TOLERANCE POLICY**

We endorse and will enforce a zero-tolerance policy with regard to drug related and/or other criminal activity. Violation of the terms of this policy and/or related provisions of this Lease agreement will result in immediate eviction.

## **29. TERMS TO BE EXCLUSIVE**

This Agreement, the Landlord's policies which are incorporated into this Lease by reference and any future Rent adjustment letters constitute the entire agreement of the parties with respect to the subject matter of this Lease, and supersede any and all prior verbal or written agreements or understanding between You and the Landlord relating to the subject matter of this Lease except as provided herein, no other writing or verbal statement shall be of any force or effect in the interpretation of this Lease. You understand and agree that our representatives (management personnel, employees and agents) have no authority to waive, amend or alter any part of this Lease or to make promises, representations, or agreements which would impose other of different obligations on Us or release You from any obligations of the Lease. Lessee acknowledges that the Landlord has not made any representations, warranties,



or guaranties, express or implied, written or oral, other than those express representations, warranties, or guaranties contained in this Lease. YOU AGREE THAT NO VERBAL REPRESENTATIONS HAVE BEEN MADE TO YOU BY ANY OFFICER OR EMPLOYEE OF THE LANDLORD REGARDING THE LEASED PREMISES OR THIS LEASE, THAT ARE NOT STATED IN WRITING IN THIS LEASE. Except as may be expressly provided to the contrary in this Lease, the provisions of this Lease are for the benefit of any other person, firm, or entity, and create no rights, of enforcement or otherwise, in any other person, firm, or entity.

### **30. ABILITY TO COMPLY WITH THE LEASE TERMS**

To the fullest extent allowed by law, if, during the Term of this Lease, by reason of physical or mental impairment, Lessee is unable to comply with the material provisions of this Lease and cannot make arrangements for someone to aid him/her in complying with this Lease, and the Landlord has complied with all applicable statutes, laws, and regulations that would enable Lessee to comply with this Lease, the Landlord may terminate this Lease for good cause in accordance with all applicable sections of this Lease.

### **31. EMERGENCY CONTACT**

At the time of signing of this Lease, Lessee(s) identifies the following as a contact person in case of an emergency if We are unable to contact the Lessee(s) or if the Lessee(s) is unable to comply with the Lease provisions by reason of physical or mental impairment:

Name of Contact: \_\_\_\_\_ Contact No.: \_\_\_\_\_

### **32. DISCLOSURE RIGHTS**

If information is requested from Us regarding You, any member of Your household, or Your rental history by any governmental or law-enforcement agency, We may disclose such information to such agencies, without such disclosure being considered a violation of Your rights, including privacy rights.

### **33. REPRESENTATION BY LESSEE.**

BY SIGNING THIS LEASE BELOW, YOU ARE STATING: THAT ALL INFORMATION OR DATE PROVIDED BY YOU TO THE LANDLORD ABOUT INCOME, FAMILY COMPOSITION, AND NEEDS IS TRUE AND CORRECT; THAT YOU HAVE READ ALL OF THIS LEASE; THAT YOU UNDERSTAND ALL OF ITS TERMS AND PROVISIONS; AND THAT YOU UNDERSTAND THAT IN ENTERING INTO THIS LEASE WITH YOU, THE LANDLORD IS RELYING UPON YOUR STATEMENT THAT YOU HAVE READ AND UNDERSTANDS THIS LEASE.

IN WITNESS WHEREOF, the parties have executed this Lease this \_\_\_\_ of \_\_\_\_

\_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
(Lessee)

\_\_\_\_\_  
(Lessee)

\_\_\_\_\_  
(Lessee)

\_\_\_\_\_  
(Lessee)

\_\_\_\_\_  
(Lessee)

\_\_\_\_\_  
(Lessee)

# **Exhibit 7**

## **WEST VIRGINIA RENTAL ASSISTANCE PROGRAM ANNUAL COMPLIANCE QUESTIONNAIRE**

The purpose of the West Virginia Rental Assistance Program (WV-RAP) is to provide assistance to property owners in an effort to make affordable rental properties available for low to moderate income tenants for a rental period of three (3) years in Clay, Fayette, Greenbrier, Jackson, Kanawha, Lincoln, Monroe, Nicholas, Pocahontas, Roane, Summers, and Webster Counties.

By completion of this annual certification, the Applicant acknowledges that the Applicant is required to comply with the WV-RAP program for a three (3) year rental period which begins on the later of:

- (a) The date of the Applicant's certificate of occupancy or local equivalent; or
- (b) If no certificate of occupancy was required by the local governing authority, the date of the final approved WV-RAP inspection.

If the Applicant received any extensions of the requirement to rent the WV-RAP property within ninety (90) days of the certificate of occupancy or a vacancy, the three (3) year compliance period will be increased by the length of the extension(s).

The information collected below will be used to determine whether your West Virginia Rental Assistance Program property is in compliance with all program rules. You must answer each of the questions below and you must fill out each box. Failure to fully answer each of these questions completely and truthfully may result in loan default and removal from the West Virginia Rental Assistance Program.

### **I. Applicant Identification**

Application Identification Number: \_\_\_\_\_

Primary Applicant Name: \_\_\_\_\_

If the contact information of the Primary Applicant has changed, please enter it below:

Street: \_\_\_\_\_

\_\_\_\_\_

City: \_\_\_\_\_

State: \_\_\_\_\_

Zip Code: \_\_\_\_\_

Telephone Number: \_\_\_\_\_

Email Address: \_\_\_\_\_

### **II. Property Identification**

Rental Property Street: \_\_\_\_\_

Rental Property City: \_\_\_\_\_

Rental Property Zip Code: \_\_\_\_\_

## II. Fair Housing Act

To review these requirements, refer to HUD's website <https://www.hudexchange.info/trainings/courses/overview-of-the-assessment-of-fair-housing-webcast1/>

1. Have any tenants or housing applicants submitted a HUD / Fair Housing complaint against you in the last year?"  
☐ Yes ☐ No
2. Did any complaint result in any legal action before any court or administrative agency?  
☐ Yes ☐ No ☐ Not Applicable
3. Did you attend a HUD Fair Housing presentation? If not, please review the HUD Fair Housing presentation at the website listed above or schedule review of the presentation at our local office.  
☐ Yes ☐ No ☐ Not Applicable

## III. Minimum Property Standards

To review these standards, refer to HUD's website <http://www.hud.gov/offices/hsg/ramh/mps/mhsmppsp.cfm>

1. Does the property comply with all local building codes and zoning ordinances?  
☐ Yes ☐ No
2. Are all basic utilities (water, electricity, natural gas, sewer/septic service, and garbage collection) turned on and operating in each unit?  
☐ Yes ☐ No
3. Do all units have basic appliances that are currently functioning properly as designed (refrigerator, oven, stove or range, heating and air conditioning, hot water heater, ventilation system)?  
☐ Yes ☐ No
4. Are all electrical outlets and lighting fixtures within each unit in proper operating condition?  
☐ Yes ☐ No
5. Does each unit contain a bathroom with a flushing toilet, working sink, and shower or tub with hot and cold running water?  
☐ Yes ☐ No
6. Are the exterior walls, roof, foundation, and floor free from structural damage and other defects?  
☐ Yes ☐ No
7. Is each dwelling's unit and equipment in sanitary condition?

- ☐ Yes ☐ No
8. Have there been any reported problems with vermin or rodent infestation such as rats, mice, cockroaches or termites?
- ☐ Yes ☐ No
9. Is at least one smoke detector installed and in proper operating condition on each level of the dwelling unit (including basements but excluding unfinished attics)?
- ☐ Yes ☐ No

#### IV. West Virginia Landlord & Tenant Act

To review the act, refer to the following

website: <http://www.legis.state.wv.us/WVCODE/Code.cfm?chap=37&art=6>

1. Did you utilize the WV-RAP Lease Form or HUD Section 8 Lease Form?
- ☐ Yes ☐ No
2. Have you charged any tenant for anything other than the rental amount?
- ☐ Yes ☐ No
3. Did you terminate a lease agreement or refuse to renew a lease agreement that resulted in a complaint?
- ☐ Yes ☐ No

#### V. Covenants, Loan Agreement & Deed of Trust

1. Has the ownership of the property been transferred (other than by death or divorce) without WV-RAP's written approval since you executed the Covenants, Loan Agreement, and Deed of Trust?
- ☐ Yes ☐ No
2. If ownership of the West Virginia Rental Assistance Program property is in a limited liability company, corporation or partnership, has any interest in the entity been transferred without WV-RAP's written approval since you executed the Covenants, Loan Agreement and Deed of Trust?
- ☐ Yes ☐ No ☐ Not Applicable
3. Are you current on any mortgage or deed of trust on the West Virginia Rental Assistance Program property?
- ☐ Yes ☐ No ☐ Not Applicable
4. Have you maintained property (hazard) insurance over the past year for the West Virginia Rental Assistance Program property?
- ☐ Yes ☐ No
6. If required, have you maintained flood insurance for the West Virginia Rental Assistance Program

property for the lesser of (i) the full insurable value of the structure as determined by the applicable property insurer, or (ii) the maximum amount available for the structure under the National Flood Insurance Program?

☐ Yes ☐ No ☐ Not Applicable

7. Are you current on all property taxes?

☐ Yes ☐ No

**Please obtain the following items for your records since WV-RAP participants are subject to random monitoring and compliance inspections at WV-RAP's discretion:**

- The HUD Fair Housing Act attendance certification.
- All leases entered into for each unit during the past year.
- If applicant performed tenant income verification, please provide the documentation provided to verify tenant income. Find HUD Forms at website:  
<http://www.hud.gov/offices/pih/programs/hcv/forms/forms.cfm>
- The most current mortgage statement.
- The insurance declaration page showing property and windstorm coverages.
- The insurance declaration page showing flood insurance coverage, if required by the program.
- The current year property tax receipt.

I certify that, to the best of my knowledge and belief, all the information on and attached to this Annual Compliance Questionnaire is true, correct, complete, and provided in good faith. I understand that false or fraudulent information on, or attached to this Annual Compliance Questionnaire may be grounds for default of West Virginia Rental Assistance Program forgivable loan and may be punishable by fine and/or imprisonment. I understand that any information I give may be investigated.

\_\_\_\_\_  
Applicant / Representative (print name)

\_\_\_\_\_  
Applicant / Representative (signature)

\_\_\_\_\_  
Date