



CDBG-MIT Public Facilities Hardening Program Guidelines

Round 1 Application Cycle

Application Open: March 8, 2021

Application Deadline: July 6, 2021

This document provides the guidelines for implementation of the West Virginia CDBG-MIT Public Facilities Hardening Program administered by the West Virginia Development Office (WVDO). This Program is funded by the U.S. Department of Housing and Urban Development (HUD) Community Development Block Grant - Mitigation (CDBG-MIT) allocation as described in Public Law 115-123.

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I. Definitions and Acronyms

100-year flood plain—The geographical area defined by FEMA as having a 1% chance of being inundated by a flooding event in any given year

500-year flood plain—The geographical area defined by FEMA as having a .2% chance of being inundated by a flooding event in any given year

AMI—Area Median Income

CDBG—Community Development Block Grant

CDBG-DR—Community Development Block Grant - Disaster Recovery

CDBG-MIT—Community Development Block Grant - Mitigation

DOB—Duplication of Benefits. Any assistance provided to subrecipients for the same purpose (i.e., for repair, replacement or reconstruction) as any previous financial or in-kind assistance already provided for the same. This prohibition comes from the Robert T. Stafford Disaster Assistance and Emergency Relief Act (Stafford Act) and therefore, these other sources of funds must be deducted from any potential award

FEMA—Federal Emergency Management Agency

FRN—Federal Register Notice. The Federal Register Notice for CDBG-MIT funds was published August 30, 2019 (84 FR 45838)

HCDA—Housing and Community Development Act of 1974

HMGP—Hazard Mitigation Grant Program

HMP—Hazard Mitigation Plan

HUD—U.S. Department of Housing & Urban Development

HUD MID—Most Impacted and Distressed areas as determined by HUD in the CDBG-MIT Federal Register Notice (84 FR 45838)

LEP—Limited English proficiency. Individuals who do not speak English as their primary language and who have a limited ability to read, speak, write, or understand English

LMA—Low- to Moderate-Income Area Benefit describes activities where the area served includes 51% or more LMI households

LMI—Low- to Moderate-Income. An income of less than 80% of the local area median income (AMI).

LMH—Low- to Moderate-Income Household. A household with an income of less 80% of the local area median income (AMI)

MIDs—Most Impacted and Distressed areas

MNA—Mitigation Needs Assessment (also, Risk-Based Mitigation Needs Assessment)

NFIP—National Flood Insurance Program **RPDC**—
Regional Planning and Development Council

SHMO—State Hazard Mitigation Officer **SRO**—
State Resiliency Office

State MID—Most Impacted and Distressed areas as determined by the State of West Virginia, based on the Presidentially Declared counties in FEMA Disaster Declaration DR-4273

Subrecipient—A city or a county or other eligible applicant that has applied for and been awarded a grant by the West Virginia Development Office

WVCAD—West Virginia Office of Community Advancement and Development

WVDO—West Virginia Development Office

UGLG—Units of General Local Government. Cities, counties, towns, villages and other general-purpose political subdivisions of a state

II. Program Overview

A. Program Purpose

The U.S. Department of Housing and Urban Development (HUD) published its Federal Register Notice (FRN) for the allocation of \$106,494,000 in Community Development Block Grant – Mitigation (CDBG-MIT) funds to the state of West Virginia for qualifying 2016 disasters (DR-4273) on August 30, 2019 (84 FR 45838). These funds were allocated by Congress through its allocation of \$6.875 billion in funding made available by the Further Additional Supplemental Appropriations for Disaster Relief Requirements Act of 2018 (approved February 9, 2018). The purpose of the CDBG-MIT program, and as defined in the CDBG-MIT FRN, is to fund mitigation activities that increase resilience to disasters and reduce or eliminate the long-term risk of loss of life, injury, damage to and loss of property, and suffering and hardship, by lessening the impact of future disasters.

The West Virginia Development Office is the lead agency and responsible entity for administering the CDBG-MIT funds allocated to the state. The state of West Virginia's Action Plan, which was approved by HUD on December 22, 2020, details how this funding, along with subsequent allocations, will be apportioned to address unmet mitigation needs in West Virginia that represent targeted strategic investments for grantees based on current or foreseeable risks. In addition to mitigating disaster risks, the funds provide an opportunity to improve state and local planning protocols and procedures.

West Virginia's focus is to support investments in high-impact projects that will reduce risks attributable to natural disasters. WVDO's strategy is built on a comprehensive Risk-Based Mitigation Needs Assessment, presented in its Action Plan, that identified flooding, winter weather, and severe storms as the most significant risks to West Virginians.

B. Public Facilities Hardening Program (PFHP) Overview

The PFHP program is designed to provide funding to units of general local government (UGLG) such as municipalities and counties, state agencies, non-profits and nongovernmental organizations to implement innovative, collaborative, multi-jurisdictional and/or large-scale mitigation activities that reduce previously-identified hazard risks for local communities to better withstand emergency-related challenges. These regional investments include, but are not limited to, upgrading of water, sewer, solid waste, communications, energy, transportation, health and medical and other public infrastructure projects.

WVDO has allocated \$14,000,000 in CDBG-MIT funding for the PFHP program. The PFHP will account for 13.1% of the total CDBG-MIT grant funding. It is the broadest, most flexible program, and is anticipated to provide the greatest range of impact among the proposed programs. Funding will be awarded through subrecipient agreements for approved projects. Subrecipient’s will be responsible for adhering to federal rules and regulations associated with CDBG-MIT funds. This is not a direct grant program. The CFHP only applies to existing critical facilities that need to be hardened. New construction for a facility or new construction to add onto a facility is not eligible. Applicable federal regulations will be outlines in the subrecipient agreement and are available for review in Part 2.

Table 1: PFHP Program Overview

Public Facilities Hardening Program	
Funding Level	\$14,000,000
Percent of Allocation	13.1%
HUD MID Allocation Minimum	\$7,000,000
CDBG Eligible Activity	HCDA Section 105(a)(1) – Acquisition of Real Property HCDA Section 105(a)(2) – Public Facilities and Improvements HCDA Section 105(a)(4) – Clearance, Rehabilitation, Reconstruction, and Construction of Buildings (Including Housing) HCDA Section 105(a)(9) – Payment of Non-Federal Share HCDA Section 105(a)(11) – Relocation
National Objectives Fulfilled	Low- to Moderate-Income (LMI) Urgent Need Mitigation
Method of Distribution and Eligible Entities	Subrecipient; municipalities, counties, state agencies, RPDCs, Public Service Districts. Nonprofit entities may partner with government entities as co-applicants to receive funds.
Maximum Grant Award	\$5,000,000
Geographic Eligibility	HUD and State MID identified areas
Hazard Risks Addressed	flood, winter weather, severe storms, and landslides
Lifelines Protected	Safety and Security, Food, Water and Shelter, Health and Medical, Energy, Communications, Transportation, Hazardous Materials

The PFHP will allow eligible entities (municipalities, counties, state agencies, RPDCs, Public Service Districts; nonprofit entities may partner with government entities as co-applicants) to harden public buildings that serve a public safety purpose for local communities. This program will enable local police, fire, shelters, medical care facilities, and local emergency management facilities and other designated

public facilities to better withstand the effects of the previously identified hazard risks. Examples of hardening against flood, winter weather, and severe storms include, but are not limited to, dry flood proofing, wet flood proofing, anchoring roof-mounted heating, shelters, ventilation and air-conditioning units and retrofitting building exteriors with hazard-resistant materials in accordance with national safety standards.

The hardening program will also encompass energy resiliency projects that help ensure that the most critical facilities in West Virginia's communities have access to power throughout and following an emergency when local sources of power are down. Eligible public facilities include, but are not limited to: potable water facilities, wastewater facilities, police departments, fire departments, hospitals, emergency operation centers and emergency shelters. Local units of government that apply for this program will need to identify critical public facilities that have a need to update or replace existing power sources (such as stationary generators or resiliency systems) so as to allow these facilities to safely maintain power during emergencies.

PFHP eligible activities include: clearance, demolition, removal, reconstruction and rehabilitation (including rehabilitation which promotes energy efficiency) of buildings and improvements (including interim assistance, and financing public or private acquisition for reconstruction or rehabilitation, and reconstruction or rehabilitation, of privately owned properties, and including the renovation of closed school buildings); special projects directed to the removal of material and architectural barriers which restrict the mobility and accessibility of elderly and persons with disabilities; and lead-based hazard evaluation and reduction, as defined in section 1004 of the Residential Lead-Based Paint Hazard Reduction Act of 199253.

C. Allocation

A total of \$14,000,000 has been allocated for the PFHP program. This allocation may be increased or decreased based on the demand for the program by amendment to the Action Plan, subject to approval by HUD.

D. Program Requirements

Funds must be used solely for necessary expenses related to mitigation activities in the MID areas covered by presidential declaration DR 4273 – West Virginia Severe Storms, Flooding, Landslides, and Mudslides, pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1974.

At least 50% of funds must be spent in HUD-identified MID areas. The remaining 50% may be spent on state-identified MID areas that were declared disaster areas eligible for FEMA Individual and Public Assistance.

Funds may not be used to supplant existing funding sources or programming.

Entities applying for funding through the PFHP program must submit an application that meets the criteria outlined in this manual.

All CDBG-MIT projects must comply with all applicable federal, state and local requirements.

E. Implementation Process

CDBG-MIT programs will be delivered in a multi-step process to comply with all applicable regulations and requirements. The preliminary process includes a Request for Proposals (RFP) and submission of

applications by eligible local entities. The West Virginia Development Office will oversee the application evaluation and scoring process that will result in an award of funding and the execution of a subrecipient agreement. The selected subrecipients will be responsible for delivery of services. Program Applications and Scoring Criteria are available on the WVDO website: wvfloodrecovery.com/mitigation.

During the implementation process, as subrecipients meet specified deliverables, program funding will be provided to subrecipient awardees on a reimbursement basis. Subrecipients must develop and implement policies, procedures and processes to deliver projects/services. Projects may be provided by the subrecipient directly or in collaboration with non-profit partners. At the conclusion of the term specified in the subrecipient agreement, the grant will be closed. WVDO will monitor subrecipients at project spending milestones and after closeout of the project.

Eligible applicants will be invited to submit applications proposing PFHP projects for funding to the CDBG-MIT Program. Responses will be evaluated to ensure the proposed projects meet the minimum criteria as outlined below. Responses that meet minimum threshold requirements will then be evaluated according to the scoring criteria outlined below.

Applications must, at a high level, describe what is being identified as a critical facility and address how and why it needs to be hardened to mitigate risks attributable to threats identified in the Mitigation Needs Assessment. Plans must also include a proposed budget with a detailed description of anticipated costs by category, including support services, program management, and administration.

The State will release the full allocation for PFHP in an initial Request for Proposals (RFP) release. All potential eligible applicants are encouraged to submit an application at this time. Funds will be awarded based on the scoring criteria outlined below. Should this initial RFP not result in the full obligation of the program allocation, subsequent rounds of applications will be conducted via RFP on an annual basis until the full allocation has been obligated.

WVDO will host a webinar to provide an overview of the PFHP Guidelines, specific to the application process. The webinar will include a live question and answer period. These questions and answers will be published on WVDO's website within five business days after the webinar. WVDO will also provide an opportunity for applicants to schedule phone calls with WVDO's mitigation staff. These calls will provide applicants an opportunity to ask questions and/or discuss issues specific to their project and the application process. Applicants may check on the status of their submissions by sending an email to CDBGmitigation@wv.gov or checking online at <https://wvfloodrecovery.com/mitigation>

F. Project Timelines - Contract Term

Subrecipient agreements will have a term of two (2) years, and projects funded under PFHP are expected to be completed within this timeframe. Optional one-year extensions may be granted on a case-by-case basis and must be approved by WVDO.

G. Eligible Activities

In accordance with the HCDA, eligible activities for infrastructure projects include the acquisition, construction, reconstruction, or installation (including design features and improvements with respect to such construction, reconstruction or installation that promote energy efficiency) of public works, facilities (except for buildings for the general conduct of government), and site or other improvements.

Additionally, per Federal Register Notice FR-6109-N-02J, CDBG-MIT funds can be used to meet a matching requirement, share or contribution for other federal grant programs if they are used to carry out an eligible mitigation activity. This includes mitigation grants administered by FEMA and the United States Army Corps of Engineers (the maximum amount for the US Army Corps of Engineers is \$250,000). Activities that are funded with match dollars must meet the definition of a mitigation activity and must meet the eligibility requirements for the CDBG-MIT program and the federal program that is being aided with CDBG-MIT funds. Accordingly, eligible subrecipients may seek matching funds under this program.

Eligible activities include projects that demonstrably increase community resilience. For purposes of PFHP the following types of infrastructure projects are encouraged:

- Rehabilitation of critical infrastructure;
- Rehabilitation or construction of stormwater management systems;
- Improving or installing retention basins;
- Relocating water lines;
- Culvert improvements;
- Green infrastructure.

Note that the above are examples and not an exhaustive list of the possible projects that may be undertaken with PFHP funding.

H. Ineligible Activities

Any activity not authorized under the State of West Virginia’s Action Plan, CDBG-DR, or CDBG-MIT statute and/or regulations, as noted in the applicable Federal Register Notices, is ineligible to be assisted with CDBG-MIT Funds.

In addition, an activity is ineligible if it meets any one of the following criteria:

- Is not located in a Presidentially-declared county;
- Is explicitly prohibited by the appropriation law;
- Does not meet the mitigation definition;
- Is ineligible under the applicable CDBG regulations (and a waiver has not been granted); or
- Fails to meet a national objective

Additionally, purchasing equipment is typically considered ineligible. The following equipment is ineligible under CDBG-MIT: mobile command centers, radios, portable lights, fire trucks, security equipment, or communication systems. Buildings used for the general conduct of government cannot be assisted with CDBG-MIT funds. Per HUD, the definition of “buildings for the general conduct of government” encompasses buildings whose predominant use involves activities such as planning and administration. These buildings could be city halls, county administrative buildings, or facilities in which the legislative or general administrative affairs of the government are conducted. Buildings that are used to deliver services to the public would not fall within this category.

Some equipment may be eligible, including: fire protection equipment considered to be an integral part of a public facility, equipment that constitutes all or part of a public service, or equipment that is attached to a structure and becomes an integral fixture.

I. Eligible Areas

At least 50% of funds must be spent in HUD-identified MID areas. The remaining 50% may be spent on state-identified MID areas. Tables 3 and 4 identify areas eligible for CDBG-MIT funding; the HUD and State identified MID areas

Table 2: HUD MID Counties

HUD MID Counties	<ul style="list-style-type: none"> • Kanawha • Clay • Greenbrier • Nicholas
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Table 3: State MID Counties

State MID Counties	<ul style="list-style-type: none"> • Summers • Monroe • Fayette • Pocahontas • Webster • Jackson • Roane • Lincoln
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J. PFHP Eligibility Criteria

Entities that are eligible to apply include:

- Units of General Local Government (UGLG);
- State agencies;
- Non-profits that apply in partnership with their local UGLG or state agencies; and
- Non-governmental agencies that apply in partnership with their local UGLG or state agencies.

The State anticipates that regional coalitions, local governments, or local public entities will act as partners in the implementation of the programs. Each project will be prioritized based on the overall score following the scoring criteria outline below. Applications submitted by eligible applicants must meet the criteria listed below in order to progress to the scoring stage of the program.

To be eligible for funding, an application must:

1. Be in conformance with the State Mitigation Plan and Local Mitigation Plan approved under 44 CFR part 201.4; or for Indian Tribal governments acting as grantees, be in conformance with the Tribal Mitigation Plan approved under 44 CFR 201.7;
2. Have a beneficial impact upon the designated disaster area;

3. Solve a problem independently or constitute a functional portion of a solution in which there is assurance that the project will be completed. Projects that merely identify or analyze hazards or problems are not eligible;
4. Consider the following for any flood mitigation project: high wind, continued sea level rise and ensure responsible floodplain and wetland management based on the history of flood mitigation efforts and the frequency and intensity of precipitation events.
5. Identify plans for funding operations and maintenance costs (when applicable). Long-term maintenance and operating costs are ineligible under CDBG-MIT funding except as identified at 84 FR 45838 Section V.A.9.
6. Be cost-effective and substantially reduce the risk of future damage, hardship, loss or suffering resulting from a major disaster. The grantee must demonstrate this by documenting that the project:
 - a. Addresses a problem that has been repetitive or a problem that poses a significant risk to public health safety if left unsolved;
 - b. Costs less than the anticipated value of the reduction in both direct damages and subsequent negative impacts to the area if future disasters were to occur;
 - c. Has been determined to be the most practical, effective and environmentally sound alternative after consideration of a range of options;
 - d. Contributes, to the extent practicable, to a long-term solution to the problem it is intended to address; and
 - e. Considers long-term changes to the areas and entities it protects and have manageable future maintenance and modifications requirements.

K. PFHP Scoring Criteria and Award Determination

Applications will be evaluated to determine the mitigation value and cost effectiveness of the proposed project. An applicant's planning strategy and management capacity must be evident. The threshold eligibility (unscored) requirements include meeting all PFHP eligibility criteria (see previous page). Applicants that do not meet threshold eligibility requirements will not progress to the scoring stage.

The PFHP will select projects based on the rankings from the scores with additional consideration to ensure that funding is applied in an equitable manner on a geographic basis to be in compliance with HUD MID spending and LMI benefits. The application process will be competitive.

The maximum allowable award will be \$5 million. The State reserves the ability to allocate funds to program applicants that require additional technical assistance or capacity in order to submit a project which is ready to proceed.

Each scored element of the applications is included in a Criteria Evaluation Rubric and has a value associated with it. If eligible applications exceed available funding, applicants will be funded in rank order based on evaluation scores, with consideration for overall MID spending and LMI grant requirements. WVDO reserves the option to fund all, a portion of, or none of each application submitted by an applicant. Scored criteria is listed below in its order of importance. A total of 150 points are available.

WVDO will apply a two-phase process to review applications:

1. Phase One: Applications will first be evaluated for Minimum Criteria, Table 4. This phase is unscored. WVDO will further review only the applications that pass Phase One.
2. Phase Two: If the Minimum Criteria is in compliance, the second phase of the review process will be initiated. Applications will be reviewed and scored based on Scoring Criteria Evaluation Rubric, Table 5.

Only the application itself (including requested attachments) will be scored. Any documents submitted with the application that were not requested will not be scored. The evaluation team will consist of CDBG-MIT staff who will independently and objectively score applications consistent with the Scoring Criteria Evaluation Rubric. The reviewers' scores will be averaged to determine a final score for each application.

Each element of the Scoring Criteria Evaluation Rubric has a value associated with it. A potential maximum of 150 points may be awarded. If eligible responses exceed available funding, applicants will be funded in rank order based on evaluation scores. WVDO reserves the option to fund all, a portion of or none of each application submitted by an applicant.

Applicants will be notified that their application was submitted successfully via email.

Table 4: Mandatory Threshold Compliance Criteria

Minimum Criteria
Application is signed and complete.
Application was submitted on time.
Public Notice documents were submitted on time.
Applicant is an eligible UGLG, state agency, or non-profit or non-governmental entity that applied in partnership with a UGLG or state agency.
Applicant's project benefits HUD and/or state-identified MID areas.

Table 5: Program Scoring Evaluation Rubric

Available Points	Scoring Categories	Evaluation Rubric
25	Mitigation Impact	Project meets the HUD definition of a mitigation activity and clearly demonstrates reduction of risk to life and repetitive loss to property and critical community facilities.
20	Project Description	Project demonstrates detailed scope of work, professional up-to date cost estimates (e.g., preliminary engineering report), clearly defined milestones, and quantifiable outcome measurements. Budget supplements and does not supplant already existing public or private funding
15	Quantity of Protection	Project demonstrates a high quantity of structures will be made more resilient to future disasters and/or that the risk to a higher number of lives from future disasters will be reduced
15	Readiness to Proceed	Project has completed pre-construction requirements such as design, permitting, and environmental review and can quickly proceed to

		construction phase functionally complete (a stand-alone project that is not dependent upon completion of a separate project)
15	Capacity	Project sponsor demonstrates extensive project and financial management experience and internal controls
15	LMI Priority	Project benefits an area with a population of at least 50% low- to moderate-income (LMI) households.
10	HUD MID Areas Served	Project demonstrates significant and quantifiable benefits to HUD MID areas (Clay, Greenbrier, Kanawha, and Nicholas Counties)
10	Implementation Plan	Project demonstrates long-term ability by responsible entity to sustain improvements made by grant
10	Leverage	Project demonstrates committed matching dollars from federal and other sources of funding
10	Investment Linkage	Project complements other mitigation-focused activities and projects in the area and demonstrates consistency with local, regional, or state plans
5	Vulnerable Populations	Project benefits an area with a with a high overall Social Vulnerability ranking according to the CDC (https://svi.cdc.gov/prepared-county-maps.html)
150	Total Points	

L. Application for Program Services and Benefits

The applications for the PFHP program will open March 8, 2021 and will close 120 days later on July 6, 2021, 5:00pm EST. The fillable PDF application for the PFHP program will be available on the WVDO website: <https://wvfloodrecovery.com/mitigation/>.

Only completed PFHP subrecipient applications, including all requested supporting documentation, will be considered. Applications will only be accepted during the published time period.

Applicants must demonstrate that they have the capacity and expertise to conduct the activities for which they are requesting the funds. Applicants must explain how the project will incorporate feedback from community members and how the completion will benefit the public. Applicants must also describe under what circumstances the project should be updated and how that update will be funded.

Applications will be prepared at the applicant's expense and costs are not reimbursable using CDBG-MIT grant funds. Applicants will be provided with several resources to ensure all requirements are met, including a reference guide, a webinar, and one-on-one phone calls with WVDO staff.

M. Application Submission

Applicants can download the application and submit via email to CDBGmitigation@wv.gov or mailed to:

Attention: Sherry Risk
West Virginia Development Office
1900 Kanawha Boulevard, East
Building 3, Suite 700
Charleston, WV 25305

If a paper application is submitted in lieu of an electronic application, two identical hard copies must be submitted including any attachments or supporting documents. Paper applications must be postmarked

by July 6, 2021. Late applications will not be accepted, under any circumstance, including delivery problems.

WVDO will email application receipt confirmations as they arrive and/or by close of business on July 11, 2021.

Applicants may check on the status of their submissions by sending an email to CDBGmitigation@wv.gov or calling 304-558-2234.

N. Application Process

Eligible applicants will be invited to submit applications proposing PFHP projects for funding through the CDBG-MIT program. Responses will be evaluated to ensure the proposed projects meet the minimum criteria as outlined in the application materials provided in Appendices A - C of these Guidelines. Responses that meet minimum threshold requirements will then be evaluated according to the scoring criteria listed in these guidelines. The following appendices are included in these Guidelines:

- Appendix A – Application Form;
- Appendix B – Implementation Plan;
- Appendix C – Budget Template;

O. Applicant Review Process Responsiveness

During the application review process, applicants are required to respond in a timely manner to WVDO requests for information/materials to complete the evaluation process. Any request for additional information will include a definitive due date for return of requested information. If the applicant needs an extension, a clarification or assistance, the applicant may make its request within the allotted response timeframe. If an applicant fails to provide the requested information/materials or fails to ask for an extension or assistance, the applicant's response will be closed and disqualified.

P. Joint Applications

Joint applications are generally required when the beneficiaries are in multi-jurisdictional census tracts. Additionally, non-governmental entities (non-profits, universities, school districts, public housing authority) must file joint applications with their local UGLG or RPDC.

Applicants submitting a joint application must attach a copy of an executed Cooperating Agreement, such as a Memorandum of Understanding. This agreement should:

- Designate the unit of government that will serve as lead applicant.
- Delineate the responsibilities of each participating unit of government, including the application, to include:
 - That each jurisdiction is eligible to apply for CDBG funding and has the legal authority to carry out the activity, and it does not violate any State or local laws.
 - Each participating jurisdiction must:
 1. Meet the citizen participation requirements outlined in this document; and
 2. Sign the Assurances in the Application Form.
 - That the applicant assumes overall responsibility for ensuring that the entire project approved in the application.

Please consult with WVDO for guidance concerning the need for joint applications. Requests for exceptions should be made to WVDO as early as possible.

Q. Regional Applications

Regional applications are intended to allow an applicant to address problems and apply for a project benefiting a multi-county region where multi-county cooperation and agreements are required (e.g., purchase and sale agreements, management agreements, memorandums of understand, etc.). Regional applications must meet the requirements for joint applications outlined in the preceding section.

R. Public Notice Requirement

All applicants are required to do public outreach prior to the submission of an application to WVDO. Public notices and/or public meetings must be completed, and the public must be given an opportunity to comment on the applicant's proposed project. All applicants should take proactive steps to engage with LMI or protected/vulnerable populations who may be impacted by the proposed project.

Due to the impacts of COVID-19, WVDO is allowing applicants to receive public input on RLPG application by the following formats:

- 1. Public Notice without Public Hearing:** Post the information about your project and the public comment period in a newspaper of general circulation for five (5) days. The public comment period **must last for 14 days and be completed prior to the submission of the application.** State the type/s of project/s to be undertaken, the source, the amount of funding available for the activities, the date by which comments must be made, and contact information. Applicants are also encouraged to post this same information on their websites. A copy of the public notice and a copy of any public comments received must be included in the application.
- 2. Public Notice with Public Hearing:** Post the information about your project and the public comment period in a newspaper of general circulation for five (5) days. State the type/s of project/s to be undertaken, the source, the amount of funding available for the activities, the date by which comments must be made, and contact information. The notice should be posted in a newspaper of general circulation and to your UGLG website at least five days prior to the meeting. If an applicant holds a public meeting, they **must provide for a 10-day comment period, which must be completed prior to the submission of the application.** A copy of the public notice and a copy of any public comments received must be included in the application. Public hearings may be held virtually in accordance with public health guidance.

Evidence of a public meeting (Option 2) with city, county and tribal governments must also meet the following requirements:

- Documentation of newspaper advertisement tear sheet with published date and website posting.
- Notice of the public meeting must be provided at least five days prior to the meeting.
- Documentation of a meeting must include meeting minutes and an attendance report (sign-in sheets or a screen shot/report from a virtual meeting software).

Information to be shared with the public should include the following:

- Beginning and end date/time for public comment period
- Brief description of the project and amount of funding requested
- Information on project site, service area, and impacted populations
- Contact information for comments, questions, or accessibility requests

S. Application Assistance

The application submission cycle for the GIP Program will open March 8, 2021. WVDO will host a Webinar on March 16, 2021 to provide an overview of the Guidelines, specific to the application process. The webinar will include a live question and answer period. These questions and answers will be published on WVDO's website no later than March 26, 2021. There will also be an opportunity for applicants to schedule 30-minute phone calls with WVDO staff. These calls will provide applicants an opportunity to ask questions and/or discuss issues specific to their project and the application process.

T. National Objectives

All projects supported by HUD Community Development Block Grant - Mitigation (CDBG-Mitigation) assistance must meet one of two National Objectives:

1. Benefiting low-and-moderate income (LMI) persons; or
2. Addressing an urgent need through activities that result in measurable and verifiable reductions in the risk of loss of life and property from future disasters and yield community development benefits

HUD has recognized that the most effective mitigation strategies are regional in scale. PFHP applicants will be required to identify the entire area (non-LMI and LMI) that will benefit from the proposed project. WVDO will utilize HUD guidance in CPD Notice 19-02 to calculate the LMI benefit percentage of each project.

At least 50% of CDBG-MIT funds must benefit low- to moderate-income persons. WVDO reserves the right to make funding decisions to achieve this requirement.

U. Management Capacity

WVDO is the agency responsible for the administration of mitigation funds allocated to activities in West Virginia. The CDBG-MIT program is funded by HUD under Public Law 115- 123.

WVDO will execute subrecipient agreements with selected applicants, who will complete projects and/or deliver services. Subrecipients must certify that they have the capacity to carry out mitigation activities in a timely manner and that they have reviewed the requirements of 84 FR 45838-45871.

Applicants must provide organizational charts, identify staff members who will be responsible for administering the CDBG-MIT program, and a description of work completed on comparable projects with federal funding in the past 5 years.

Applicants must also provide a copy of a recent independent auditor's report.

For applicants submitting water/sewer projects, a copy of the IJDC technical review must be submitted within 30 days of the submission deadline.

The program contact for subrecipients only is:

Attention:
Sherry Risk
1900 Kanawha Boulevard, East
Building 3, Suite 700
Charleston, WV 25305
304-558-2234
CDBGmitigation@wv.gov

V. Environmental Review

All CDBG-MIT and related activities are subject to the provisions of the National Environmental Policy Act of 1969 (NEPA), as well as the HUD environmental regulations provided in 24 CFR part 58. The primary purpose of these regulations is to protect and enhance the quality of the natural environment. To meet these requirements, the subrecipient is responsible for ensuring that environmental reviews are completed for all projects. The environmental review must be completed prior to any funds being obligated toward a project. If an environmental condition identified on a proposed PFHP activity site cannot be cleared, the site may not be an eligible location for activities.

Environmental review activities must be included in the Implementation Plan provided in Appendix B. Environmental review forms, including the Environmental Review for Activity/Project that is Exempt or Categorically Excluded Not Subject to Section 58.5 pursuant to 24 CFR Part 58.34(a) and 58.35(b) can be found at <https://www.hudexchange.info/programs/environmental-review/>.

All applicants will submit a Part 58 Environmental Review – Exempt or Categorically Excluded Form along with their application materials for administrative-related expenses only. This does not preclude, replace, or fulfill the environmental review requirements for an awarded project.

W. Appeals

Informal Appeals

Appeals may be filed only upon the deliverance of an adverse program decision regarding eligibility, benefits, or closure of an application. Appeals must be filed within the parameters set by this appeals procedure. Participants may not appeal program policy. If an applicant is denied program services or benefits and desires to appeal, an appeal may be filed with WVDO as follows:

1. All appeal letters must be submitted in writing within 30 days of the date of the denial letter via:
 - a. U.S. mail to: Address
 - b. Email to: CDBGMitigation@wv.gov
2. All appeal letters must include:
 - a) The reason for the appeal;
 - b) A clear explanation that describes the evidence that the denial was contrary to applicable laws or regulations or in some other way inequitable;
 - c) The reason that the applicant is eligible for the service or benefit that was denied, delayed, reduced, modified or terminated;
 - d) The proposed remedy sought by the applicant;
 - e) Name, contact address and contact telephone number of entity filing appeal; and

- f) Signature and date.

An appeal initiated by an applicant with WVDO must follow written appeal procedures, which may include, but not be limited to, informal hearings, third-party review or administrative review. A determination letter will be sent, post-appeal, to the entity that initiated the appeal. Applicants may contact WVDO for more information on the appeal procedure.

III. Subrecipient Information

WVDO will use a subrecipient model to deliver the PFHP. Subrecipients will be selected through a competitive RFP process. This program is not a direct grant program. No funds will be paid directly to individuals.

A. Awarded Subrecipient Responsibilities

Subrecipients have the following responsibilities and must:

- Demonstrate how the proposed project meets one or more of the national objectives;
- Submit an accurate account of how the absence of the project being requested has affected the community's critical services during disasters;
- Submit a detailed scope of work;
- Provide evidence that selected site has appropriate approvals;
- Enter into a subrecipient agreement with WVDO specific to the PFHP;
- Comply with all terms and conditions of the subrecipient agreement, PFHP guidelines, Mitigation Action Plan and applicable federal, state and local laws;
- Develop policies and procedures to detect and prevent fraud, waste and abuse that describe how the subrecipient will verify the accuracy of information and report instances of suspected fraud, waste or abuse;
- Follow a detailed citizen participation plan that satisfies the requirements of 24 CFR 570.486;
- Develop policies and procedures for complaints and grievances and for appeals. These policies and procedures must be made available to participants and participant applicants;
- Update application or program policies and procedures upon WVDO request;
- Document all complaints, grievances and appeals received. To comply with HUD requirements, a response to each complaint, grievance or appeal must be made within 15 working days of receipt;
- Maintain organized files and make them accessible to WVDO or its representatives upon request;
- Maintain books, records and documents relating to the PFHP in accordance with generally-accepted accounting procedures and practices which sufficiently and properly reflect all expenditures of funds provided by WVDO under this program. All records must be maintained for five years beyond the closeout of the grant;
- Retain sufficient records to document program activities, participants and services and to demonstrate compliance with the PFHP Program Guidelines, subrecipient agreement and applicable federal, state and local laws and regulations. All records must be maintained for five years beyond the closeout of the grant;
- Ensure that any partners, subcontractors, vendors or other entities to whom the subrecipient intends to disburse PFHP funds are not listed as excluded, debarred, or

suspended on the System for Award Management (<https://sam.gov/SAM/>), including affiliated businesses with the same EIN;

- Comply with the requirement that subrecipients will not carry out any of the activities under their agreement with WVDO in a manner that results in a prohibited duplication of benefits as defined by Section 312 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1974;
- Provide a detailed timeline for implementation consistent with the milestones outlined in these PFHP Program Guidelines and report actual progress against the projected progress on a monthly basis;
- Provide a quarterly report to WVDO that outlines the activities completed in the previous quarter.
 - The report must include financial metrics that demonstrate the implementation costs to date with projected spending.
 - Reporting must include documentation of the number of complaints received, the nature of the complaint, and that complaint was responded to within 15 days of receipt.
 - Additional quarterly reporting requirements may be required, depending on the specific program design implemented by a subrecipient.
- Provide a monthly report to WVDO that details the grant funding approved versus funding disbursed;
- Monitor compliance with the terms and conditions of the subrecipient agreement; and
- Maintain organized files and make them accessible to WVDO or its representatives upon request.

B. Compliance and Monitoring of Subrecipients

As a recipient of federal funds, WVDO is charged with ensuring that any subrecipient has the capacity and means to deliver projects and services and that the costs of its activities are allowable, reasonable and necessary. Therefore, each subrecipient assessed by WVDO must demonstrate the organizational capacity and implementation experience necessary to deliver services. Each subrecipient must meet performance metrics for implementation. Additionally, all subrecipients will be subject to routine monitoring and compliance review by WVDO or its representatives based on an initial risk analysis.

WVDO will monitor the PFHP directly and through designated partners. This includes verification of official documents against state records, review of application materials and expense documentation, and physical site visits to verify compliance and appropriate use of funds. Additional reviews may be conducted by HUD. Monitoring reviews may be announced or unannounced. Monitoring may take place on site or remotely. Reviewed documentation may be randomly selected. Project applications and documentation must be maintained and made available by subrecipients. All monitoring results will be recorded in detail for program compliance and use of funds.

Any issues of non-compliance may be categorized as either findings or observations. Subrecipients found to be non-compliant, or who received funds in error, may be required to repay grant funds to the state of West Virginia, in accordance with the subrecipient agreement

General Requirements

A. Construction Regulations

The Davis-Bacon Act (DBA) applies to all construction contracts greater than \$2,000 unless the program's authorizing legislation contains exceptions. It requires that all workers or mechanics working on projects covered by the Act be paid minimum hourly wages and fringe benefits according to the wage decision(s) applicable to that contract. If any portion of a contract requires DBA, then all work performed under the contract is subject to DBA.

Work done by a local government's employees (force account) is not subject to DBA. Additionally, contractors must comply with the Contract Work Hours and Safety Standards Act (CWHSSA) and the Copeland Anti-Kickback Act (Copeland Act). CWHSSA requires that, for any project in which the prime contract exceeds \$100,000, workers must be paid one-and-one-half their normal hourly rate for any hours worked in excess of 40 hours weekly, based on a workweek of seven consecutive days. The Copeland Act prohibits any person from inducing a worker on a federally-funded project to give up any part of the compensation to which the worker is entitled. No payroll deductions are permitted that are not specifically listed in the Copeland Act unless the contractor has obtained written permission from the employee as specified in 29 CFR 3.5 for otherwise permissible payroll deductions.

B. Flood Insurance & Elevation Standards

As applicable, future property damage will be minimized by requiring that any rebuilding be done according to the best available science for that area with respect to base flood elevations, such as the WV Flood tool available at <https://www.mapwv.gov/flood/> and FEMA's Flood Map Service Center available at <https://msc.fema.gov/portal/home>. Infrastructure hardening projects within a floodplain will be built with compliance to elevation standards. The State's subrecipients will document decisions to elevate structures. This documentation will address how projects will be evaluated and how elevation costs will be reasonably determined relative to other alternatives or strategies, such as the demolition of substantially-damaged structures with reconstruction of an elevated structure on the same site, property buyouts, or infrastructure improvements to reduce the risk of loss of life and property

C. Equal Opportunity

Federal policies ensure that no person be excluded, denied benefits or subjected to discrimination on the basis of race, color, national origin, sex, disability or age under any program funded in whole or in part by CDBG-MIT funds. WVDO and subrecipients may not discriminate in any of the following areas: deciding who will be admitted, or have access, to any CDBG-MIT funded program or activity; providing opportunities in, or treating any person with regard to, such a program or activity; or making employment decisions in the administration of, or in connection with, such a program or activity. WVDO requires any entity receiving assistance through CDBG-MIT grant to comply with the Part 3 requirements herein. In addition, WVDO and subrecipients must administer and fund programs that are in conformity with title VI of the Civil Rights Act of 1964 (42 USC 2000d), the Fair Housing Act (42 USC 3601-3619), and implementing regulations, and will affirmatively further fair housing.

WVDO requires subrecipients to certify that they have adopted and are enforcing policies that:

- 1) Prohibit the use of excessive force by law enforcement agencies within its jurisdiction against any individuals engaged in nonviolent civil rights demonstrations and
- 2) Prohibit physically barring entrance to or exit from a facility or location that is the subject of such nonviolent civil rights demonstrations within its jurisdiction.

Any person who believes he or she, or any specific class of individuals, has been subjected to unlawful discrimination may file a complaint regarding the alleged discrimination with:

State Contact	HUD Contact
<p style="text-align: center;">Rawleigh Greenhalgh CPD Specialist, Disaster Recovery and Special Issues Division</p> <p style="text-align: center;">Office of Block Grant Assistance U.S. Department of Housing and Urban Development</p> <p style="text-align: center;">414 Summers St, Suite 110 Charleston, WV 25301 Phone: 304-347-7044</p>	<p style="text-align: center;">Philadelphia Regional Office of FHEO U.S. Department of Housing and Urban Development The Wanamaker Building 100 Penn Square East, 12th Floor Philadelphia, Pennsylvania 19107-3380</p> <p style="text-align: center;">(215) 861-7646 (888) 799-2085 TTY (215) 656-3450</p> <p style="text-align: center;">Civil Rights Complaints: ComplaintsOffice03@hud.gov</p>

Further information about eligibility for filing an equal opportunity complaint, time limits, instructions, and procedures may be found at: <https://wvcad.org/>

D. Conflict of Interest

State officials and employees, WVDO employees, subrecipients, contractors and consultants who exercise functions with respect to CDBG-MIT activities or who are in a position to participate in a decision-making process or gain inside information with regard to such activities, are prohibited from receiving any benefit from the activity either for themselves or for those with whom they have family or business ties, during their tenure.

The WVCAD makes subawards of federal funds to other organizations. All subawards shall be subject to the conflict of interest policies and provisions described in the WV Ethics Act applicable procedures delineated in 24 CFR 570.489(h)(4).

For purposes of this section, “family” is defined to include parents (including mother-in-law and father-in-law), grandparents, siblings (including sister-in-law and brother-in-law) and children of an official covered under the conflict of interest regulations at 24 CFR 570.489(h). Per 24 CFR 570.489(h)(2) - Conflicts prohibited: Except for eligible administrative or personnel costs, the general rule is that no one who exercises or has exercised any functions or responsibilities with respect to CDBG-MIT activities assisted under this subpart or who are in a position to participate in a decision-making process or gain inside information with regard to such activities, may obtain a financial interest or benefit from the activity, or have an interest or benefit from the activity, or have an interest in any contract, subcontract or agreement with respect thereto, or the proceeds thereunder, either for themselves or those with whom they have family or business ties, during their tenure or for one year thereafter.

Per 24 CFR 570.489(h)(4) - An exception to the conflict of interest provision may be granted after it is determined that such an exception will serve to further the purpose of the Act and the effective and efficient administration of the program or project of the state or unit of general local government as

appropriate. An exception may also be granted should it be determined that all of the concerns generated by the potential conflict of interest have been adequately and publicly addressed and that an exception would serve to further the purposes of Title I of the Housing and Community Development Act of 1974 and the effective and efficient administration of the program. No party will enter into a conflict of interest until a request for an exception has been granted by WVDO.

E. Anti-Fraud and Compliance Policies

HUD requires policies to prevent fraud, waste and abuse. WVDO is committed to aggressively detecting and eradicating fraud, waste and abuse to ensure that WVDO administered programs provide services to customers effectively and efficiently and that taxpayer funds are protected. Each employee, customer and partner has a role and responsibility to ensure that program and service delivery is in compliance with local, state and federal laws and policies and that any incidents are reported immediately for investigation and resolution.

WVDO has established procedures for verifying the accuracy of information provided by subrecipients and participants. The program will investigate all allegations regarding eligibility, disbursement of funds or any other allegations of fraud or noncompliance. As appropriate, the WVDO will assist federal, state and local agencies in investigations.

Instances of suspected fraud, waste and abuse should be reported by sending an e-mail to: DisasterRecovery@WV.gov. The West Virginia Disaster Recovery Office maintains a hotline to report your concerns. If you suspect fraud, waste or abuse, call (304) 553-0927.

All substantiated cases of fraud, waste or abuse of government funds will be forwarded to the United States Department of Housing and Urban Development (HUD), Office of Inspector General (OIG) Fraud Hotline (phone: 1-800-347-3735 or email: hotline@hudoig.gov and WV's HUD Community Planning and Development (CPD) Representative.

F. Files, Records and Reports

WVDO and subrecipients will maintain accurate files and records on its projects and WVDO will retain all pertinent documentation for the grant between HUD and WVDO. Compliance will be maintained in accordance with the reporting requirements as outlined in the WVDO Policies and Procedures Manual.

All official records on project activities are maintained for a five-year period beyond the date of grant closeout.

G. Section 3

The Housing and Urban Development Act of 1968, Section 3, mandates that recipients of CDBG-MIT funding provide, to the greatest extent possible, training, employment, contracting and other economic opportunities to low and very low-income persons or business concerns that provide economic opportunities to LMI persons. Subrecipients are required to comply with Section 3 requirements for projects funded through the WV Public Facilities Hardening Program.

H. Program Income

The WVDO does not anticipate that the CDBG-MIT Public Facilities Hardening Program will generate program income. Any program income generated by subrecipients is required to be returned to the State of West Virginia.

