



## **BOULDER COUNTY COLLABORATIVE**

**CDBG-DR**

### **General Requirements, Authorizations and Definitions**

#### **Housing Assistance Programs**

*For residents affected by the September 2013 flood*

Lead Agency:

City of Longmont

Housing and Community Investment Division

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Longmont, CO 80501

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## 1. Introduction

Boulder County, Colorado, experienced a catastrophic flood event from September 11<sup>th</sup>, 2013 through September 15<sup>th</sup>, 2013. Beginning September 9<sup>th</sup>, more than 17 inches of rain fell along the Colorado Front Range. This was an historic event, and the rainfall triggered flash floods across Boulder County and the surrounding region. The volume of water in the St. Vrain Creek in Longmont was ten times its normal amount by the evening of September 11, 2013. In different parts of the county, the event ranged from a 100-year flood to a 1000-year flood. As indicated in the State of Colorado's Action Plan, Boulder County was the hardest hit county in the state. Boulder County received approximately 50% of the housing damage reported for the State.

Boulder County and the units of local government within the county have formed the Boulder County Collaborative (BCC) partnership among its impacted communities with a focus on strategic coordination for long-term recovery. The Boulder County Collaborative is comprised of the following eight (8) Participating Governmental Entities (hereafter "Participating Entities" or "PE"):

1. Boulder County
2. City of Boulder
3. Town of Jamestown
4. City of Lafayette
5. City of Longmont
6. City of Louisville
7. Town of Lyons
8. Town of Nederland

The City of Longmont will be the Lead Agency in administering these programs throughout the county. Longmont is an entitlement city and has been administering HUD CDBG dollars since 1984. The City has a long history of administering the various HUD programs such as the HOME Investment Partnerships Program and CDBG and is familiar with the federal regulations governing the CDBG program. The City of Longmont has procured Hagerty Consulting to provide CDBG-DR subject matter experts and staff augmentation to increase the City's capacity to assist the BCC with CDBG-DR specific expertise.

These Program Guidelines provide the policies and standards for the management and operation of the Boulder County Collaborative (BCC) Community Development Block Grant Disaster Recovery (CDBG-DR) Housing Assistance Programs (HAP), using CDBG-DR Program funds. The housing programs covered under the HAP include Homeowner Rehabilitation Program (HRRP), the Mobile Home Replacement Program (MHRP), the Down Payment Assistance Program (DPA), the Temporary Rental Assistance Program (TRA) and the Home Access Program (HA) unless explicitly stated otherwise in this document. These programs are designed to address the unmet needs required to repair or replace flood damaged residential properties or to relocate affected persons by assisting in making or locating homes that are decent, safe, and sanitary, and to correct health and safety hazards. Loans and grants are available to achieve cost-effective repairs for flood impacted owner-occupied households within Boulder County. It is the intent of this policy and procedure to create a consistent and equitable HAP for all BCC partner communities.

## 2. Authority

The following document establishes the policies and procedures to be used to implement the BCC CDBG-DR HAP. The HAP operates throughout Boulder County and is funded by a CDBG-DR grant from the Colorado Department of Local Affairs (DOLA), Division of Housing. The administrating entities for the BCC HAP program will be the City of Longmont and Boulder County Human Services herein referred to as the Administrating Entities (AE).

### 2.1 Advisory Committee

The Longmont Housing and Human Services Advisory Board (Advisory Board) serves as the Advisory Board for the Longmont service area. The Advisory Board will assist in policy development and management issues. Awards and policy within the Boulder County Human Services' service area will be reviewed by the Boulder County CDBG-DR Funding Panel, via authority delegated by the Boulder County Board of County Commissioners.

### 3. Definitions

**Abatement** – Any set of measures designed to permanently eliminate lead-based paint or lead-based paint hazards, asbestos, and/or mold. Abatement includes the removal of lead-based paint and dust-lead hazards, the permanent enclosure or encapsulation of lead-based paint, the replacement of components or fixtures painted with lead-based paint, and the removal or permanent covering of soil-lead hazards and all preparation, cleanup, disposal, and post abatement clearance testing activities associated with such measures.

**CDBG-DR** – Community Development Block Grant for Disaster Recovery are federal funds appropriated by the Disaster Relief Appropriations Act, 2013 (Pub. L. 113-2) administered by the U.S. Department of Housing and Urban Development (HUD) for the purpose of assisting recovery in the most impacted and distressed areas declared a major disaster under a Presidential declaration. HUD provides the allocation of funds to affected communities through a Federal Register Notice which provides allocation amounts, specific waivers, and alternative requirements to the standard CDBG regulations found at 24 CFR 570. All standard CDBG regulations apply except as specifically waived or altered in a relevant Federal Register Notice.

**CHFA**—Colorado Housing Finance Authority

**Contractors** – Procured contractors providing supplies, equipment, construction, or services, and may be further restricted by Program Rules or other guidance including applications.

**Displacement** – The involuntary movement of a person, household, or business from a rental unit as a direct result of a CDBG assisted acquisition activity.

**Disaster Risk Reduction Area (DRRA)** - HUD provided clarifying guidance to expand the scope of authorized buyouts to mean, “acquisition of properties located in a floodway or floodplain that is intended to reduce risk from future flooding, or the acquisition of properties in ‘Disaster Risk Reduction Areas’ located outside of floodways and floodplains for the purpose of reducing risks from the hazard that was the basis of the Disaster Risk Reduction designation.”

**DOH** – Colorado Division of Housing

**DOL** – Department of Labor

**Down Payment Assistance (DPA) and For-Sale Construction-** assists qualified low-to moderate income families afford to purchase a home.

**Duplication of Benefits (DOB)**– Prohibits any person, business concerns or other entity from receiving financial assistance from CDBG-DR funding with respect to any part of a loss resulting from a major disaster as to which he has already received financial assistance from FEMA, SBA, insurance or any other source.

**Family** – A household composed of two or more related persons. The term family also includes one or more eligible persons living with another person or persons who are determined to be important to their care or wellbeing.

**Federal Emergency Management Agency (FEMA)** – Designates High Risk Area; Areas designated by FEMA as vulnerable to significant wind and/or storm surge damage and areas located in 100 year flood zones.

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

**Home Access Program**– Re-establishing access to homes cut off by flood damage through construction, repair or replacement of privately maintained roads, bridges and culverts damaged by the flood.

**Homeowner Repair/Replacement Activity** –CDBG-DR funding used to rehabilitate or reconstruct disaster-impacted homes in order for the applicant to remain in the original home and on the original home site. This includes the replacement of mobile homes that have damages and repair needs that exceed 50% of the mobile homes value prior to the flood. The home to be assisted must have been owner-occupied at the time of the disaster and be the primary residence of the household.

**Housing Assistance Programs (HAP)** - The Boulder County Collaborative Community Development Block Grant Disaster Recovery Housing Assistance Programs (HAP) using CDBG-DR Program funds to assist flood impacted households in Boulder County. The housing programs covered under the HAP include Homeowner Rehabilitation Program (HRRP), the Mobile Home Replacement Program (MHRP), the Down Payment Assistance Program (DPA), the Temporary Rental Assistance Program (TRA) and the Home Access Program (HA) unless explicitly stated otherwise in this document. The City of Longmont will be the administrator for Rehab and Replacement housing activities for homes located within the city limits of Longmont. Boulder County will administer these activities for homes located outside of Longmont but within Boulder County. Longmont will administer the DPA program for all of Boulder County and Boulder County will administer TRA for the entire county. The Home Access program will be administered by Boulder County for all of the county.

**Household** – A household is defined as all persons occupying the same housing unit, regardless of their relationship to each other.

**Housing Units Not Suitable for Rehabilitation** – A housing unit is not suitable for rehabilitation if it was substantially impacted by the flood and the cost of repair and elevation (when required for properties located in a 100 yr. flood plain) is more than 50% of the pre-disaster fair market value (FMV); or, the housing unit is located in a Disaster Risk Reduction Area (DRRA) as defined by the State of Colorado’s Action Plan Amendment #4.

**Immediate family member** –includes spouse, parents and grandparents, children and grandchildren, brothers and sisters, mother in law and father in law, brothers in law and sisters in law, daughters in law and sons in law. Adopted, half, and step members are also included in immediate family.

**Individual Mitigation Measures (IMM)** – Activities designed to mitigate and/or reduce risk beyond the pre-disaster condition of a housing unit when the activities are above and beyond the federal, state, or local construction or code requirements. In accordance with HUD’s guidance, repair and rehabilitation of housing units, and the payment of flood insurance are not IMM activities. Examples of IMM activities include:

- elevation above the base flood elevation level
- the addition of storm shutters,
- disaster proof windows

**Low to Moderate Income (LMI) National Objective** – Activities which benefit households whose total annual gross income does not exceed 80% of the Area Median Income (AMI) adjusted for family size.

**Manufactured Housing Unit (MHU)** – A structure, transportable in one or more sections and is built on a permanent chassis and is designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein.

**Mobile Home** - A structure, transportable in one or more sections and is built on a permanent chassis and is designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein.

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

**National Green Building Standards Code** – Adopted comprehensive provisions and standards regulating the construction, alteration, movement, enlargement, replacement, repair, equipment use and maintenance for the purpose of safeguarding the public health, safety and general welfare.

**Occupiable Lower-Income Dwelling Unit** – For the purposes of CDBG-DR funded activities that demolish or convert occupied or vacant “Occupiable Lower-Income Dwelling Units” for the purposes of meeting HUD’s 104(d) One-for-One Replacement requirements as stated in the March 5, 2013 Federal Register Notice (78 FR 14329), these units are defined

as a single-family 2-3 bedroom home that has a current fair market value of up to \$251,560<sup>1</sup>; or, a rental unit that meets the HUD low HOME rent limits for Boulder County. Limits for 2016 are listed below:

- Efficiency \$989
- One Bedroom \$1142
- Two Bedroom \$1,381
- Three Bedroom \$2,004
- Four Bedroom \$2,382
- Five Bedroom \$2,656
- Six Bedroom \$2,692

*Note: Gross monthly income is not the same as net monthly income (i.e., gross income minus taxes and benefits), therefore low HOME rents were used to determine “Occupiable Lower-Income Dwelling Units for rental property).*

Alternatively, an Occupiable Lower-Income Dwelling Unit is a unit that a household, at or below 80% area median income, could occupy without exceeding 30% of the household’s gross monthly income. For example, in the case of a household of 4 members in Boulder County, the maximum yearly household income is \$65,800. Thirty percent (30%) of the monthly income would be approximately \$1,645.

**Optional Relocation Policy** – The City of Longmont adopted an Optional Relocation Assistance Plan under 24 CFR, part 570.606(d) to assist mobile home owners who were leasing space at the Royal Mobile Home Park during the 2013 flood event.

**Primary Residence** - The Participant is the legal and equitable owner of the real estate receiving CDBG-DR funds. The Participant must live in the property a minimum of 11 months out of the year and it must be used as their legal address. The home must be used exclusively for housing throughout the year.

**Rehabilitation** – Repair or restoration of housing units in the disaster-impacted areas in Longmont to applicable construction codes and standards.

**Reconstruction** – Demolition and re-building of a home on the same lot on substantially the same footprint and manor as the original.

**Relocations of Structures** - Relocating single family and mobile homes in stable or undamaged condition to be moved from their current vulnerable locations in floodplains to a permanent location outside the floodplain.

**Replacement** – Mobile homes that have damages and repair needs that exceed 50% of the mobile homes value prior to the flood will be replaced with a new decent, safe, and sanitary unit.

**Sub-recipient** – An entity that receives CDBG-DR funds from a HUD direct Grantee. The State of Colorado is the HUD direct Grantee for the CDBG-DR funds. The Boulder County Collaborative is the sub-recipient of those funds. Sub-recipients are bound by the same laws and regulations of the Grantee.

**Substantial Damage** – damage of more than 50% of the home’s pre-storm appraised value (50% Rule) as determined by the Boulder County property tax assessment records, unless another third-party appraisal was conducted no more than six months prior to the flood.

**Suitable for Rehabilitation** – Properties under the HRP program will be considered “suitable for Rehabilitation” if the cost of repairs to bring the property to standard condition is less than 50 percent of the pre-flood county appraised values, including all funding for the project.

**Temporary Rental Assistance**-short-to-medium term rental assistance to eligible households who were displaced from their permanent homes as a direct result of September 2013 flood.

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<sup>1</sup> This is based on HUD HOME 2015 Sale Price limits for Boulder County which has an unadjusted median value of \$314,450. Adjusted to reflect affordability for persons at 80% area median income is \$251,560 (\$314,450/.80).

***Uniform Relocation Act (URA)*** – The Federal law requiring compensation to displaced homeowners, tenants, and businesses resulting from an action taken that is paid for in whole or in part by Federal funds. The URA is triggered when there is an “involuntary” displacement. The displacement is involuntary when actions are initiated using eminent domain or when a voluntary sale of property by a property owner displaces a tenant.

***Unmet Needs*** - Needs that are not covered by other sources and can be covered by CDBG-DR funds.

***Urgent Need National Objective*** – An urgent need that exists because existing conditions pose serious and immediate threat to health/welfare of community, the existing conditions are recent or recently became urgent (typically within 18 months), and because other funding sources are not available.

#### **4. Compliance with Appropriate Laws and Regulations**

The HAP is committed to helping applicants repair, rebuild, and replace their homes so that they can return to a pre-flood routine. However, the HAP will be operated in strict compliance with the appropriate laws and regulations governing State and Federal funds. These policies are intended to ensure that the HAP will be compliant and in accordance with State and Federal fraud prevention requirements.

##### ***SAFE Act***

Each AE is exempt from the ‘Secure and Fair Enforcement for Mortgage Licensing Act of 2008’. This Act requires licensure of all loan originators excluding those employed at state or local government, housing authorities, HUD-approved housing counselling agencies, community development organizations, and/or self-help housing organizations.

##### ***Record retention***

Each HAP manager shall maintain all records related to products, transactions or services under this Program for a period of five (5) years after the State grant is closed by HUD pursuant to 24 CFR 570.490(d).

##### ***Section 3 compliance***

Each AE is committed to running an effective and viable Section 3 Compliance and Reporting Plan as called for in the HUD CDBG Policies.

##### ***Labor Standards***

The Program is committed to meeting or exceeding compliance with all laws related to State and Federal laws regarding prevailing wages and labor standards.

##### ***English Proficiency***

It is HAP policy that applicants who do not have sufficient English language proficiency to represent themselves through the HAP process will be provided support, including translation, interpretation and/or written materials, to allow their participation in the Program.

##### ***Elderly and/or special needs***

HAP policies and operating procedures are designed to ensure that eligible elderly persons and persons with special needs are able to successfully participate in the Program and that the rehabilitation or reconstruction of their homes includes necessary physical adaptations.

##### ***504 Statement***

The AE does hereby certify that as a recipient of HUD Disaster Recovery Community Development Block Grant funds, all activities of this grant and any federal assistance will be operated in compliance with requirements of Section 504 of the Rehabilitation Act of 1973, as amended.

##### ***Lead Based Paint***

The HAP will comply with Federal and State requirements related to the prevention of lead-based paint poisoning and hazard mitigation and abatement. This includes educating applicants about the risks, conducting lead-based paint assessments as required and ensuring that all work under the HAP program is completed using methods that mitigate risk to applicants and workers.

### ***Environmental***

The National Environmental Protection Act (NEPA) requires Federal agencies to integrate environmental values into their decision making processes by considering the environmental impacts of their proposed actions and reasonable alternatives to those actions. To fully consider the environmental consequences of a proposed action, the Federal agency often prepares and Environmental Assessment (EA). For CDBG-DR funded actions, the primary purpose of the EA is to (1) assess the applicant property for environmental issues, and (2) propose mitigation measures to offset environmental impacts. A site specific environmental review will be conducted prior to the City providing any assistance funds.

### ***Conflict of Interest***

No member of the AE Advisory Board or Funding Panel nor any employee who exercises responsibilities with respect to the Program or participates in its decision-making processes, may obtain a personal or financial interest or benefit from the Program, or have any interest in any contract, subcontract, or agreement or the proceeds thereunder, either for themselves or for those with whom they have family or business ties, during their employment or for one year thereafter.

***Anti-Fraud compliance*** Fraud Prevention: The AE will put in place internal fraud prevention methods to protect the grant funds from improper payments, intentional or unintentional. Below are some of the approaches that will be taken to address them;

- Cooperation with Federal and State Monitors and HUD office of Inspector General; All HAP staff will provide cooperation to State and Federal monitors and inspectors. This means allowing access to program related materials and providing support to the monitors or inspectors when requested.
- Referral of Suspected Fraud: It is the affirmative responsibility of any city or county employee and any HRP staff that has reasonable suspicion that any form of Fraud is occurring, to notify the appropriate State or Federal agency or department. Notification of suspected fraud can be made to the Office of the State Auditor. Referrals should be based on a reasonable belief that a fraud has been committed.
- Draw process: The AE's Housing and Community Investment Manager will review and approve all draw requests submitted by staff under the HAP. Requests for payments will be accompanied with all required back up documents and kept in the appropriate applicants file. To keep these responsibilities separate, no one submitting for payment will be permitted to approve payment

### ***Nondiscrimination compliance***

- The AE will administer the HAP in a manner that will ensure consistent and fair treatment to all persons interested in Program participation.
- The AE will not discriminate at any stage of the application/participation process due to race, color, national origin, religion, creed, sex, age, familial status or disability. The AE is bound by the nondiscrimination requirements of Federal, State, and local laws and will abide by the nondiscrimination requirements of:

A. Title VI of the Civil Rights Act of 1964, which prohibits discrimination based on race, color, or national origin in programs receiving Federal financial assistance;

B. Title VII of the Civil Rights Act of 1966, which prohibits discrimination based on race, color, religion, national origin or sex in the sale, rental or advertising of housing;

C. Section 504 of the Rehabilitation Act of 1973, which prohibits discrimination based on handicap in programs receiving Federal financial assistance;

D. The Age Discrimination Act of 1975, which prohibits discrimination based on age in programs receiving Federal assistance; and

E. Executive Order 11063, which requires HUD to take whatever action is necessary to prohibit discrimination based on race, color, national origin, religion (creed), or sex in housing receiving Federal assistance.