U.S. Department of Housing & Urban Development
Denver Regional Office

Monitoring Report
Community Development Block Grant Disaster Recovery (CDBG-DR)

State of Colorado
B-13-DS-38-0001

Monitoring Dates: July 10 - 13, 2017

OVERVIEW

Monitoring is the principal means by which HUD ensures that programs and technical areas are carried out efficiently, effectively, and that the programs comply with applicable laws and regulations. It assists grantees in improving their performance, developing or increasing capacity and augmenting their management and technical skills. Also, it provides a method for staying abreast of the efficacy of CPD-administered programs and technical areas within the communities HUD programs serve. Monitoring is not limited to a one-time review but is meant to be an ongoing process that assesses the quality of a grantee's performance over a period of time involving continuous communication and evaluation. In determining which grantees will be monitored, the Department uses a risk-based approach to rate grantees, programs and functions, including assessing the Department's exposure to fraud, waste and mismanagement. This process not only assists the Department in determining which grantees to monitor, but also identifies which programs and functions will be reviewed. Areas reviewed may result in the identification of findings, concerns or exemplary practices.

Specifics relating to this review are as follows:

Date(s) Monitoring Conducted:	*July 10 - 13, 2017*
Type of Monitoring:	*Onsite*
HUD Reviewer(s):	*Francis McNally, Deputy Director, Disaster Recovery & Special Issues (DRSI); Steve Higginbotham, Sr. CPD Specialist; Donna Roachford, Sr. CPD Specialist; William Bedford, CPD Specialist; Phyllis Foulds, Financial Analyst; Terrance Ware (lead), CPD Specialist; Katy Burke, CPD Program Manager, Region VIII*
Grantee Staff and Other Participants:	*Irv Halter, Executive Director, Department of Local Affairs (DOLA); Molly Urbina, Executive Director, Governor's Office of Resilience & Recovery; Pat Coyle, Deputy Director, DOLA; Dave Bowman, CDBG-DR Grant Manager; Stephanie Morey, Compliance & Monitoring Specialist; Susanna Larson, DOLA-Agriculture program; KC McFerson, DOLA; Tim Mazza, DOLA; Rachel Foster, DOLA; Fredda Martinez, DOLA; Susan House, Office of Economic Development & International Trade (OEDIT); Michael Farley, Compliance Officer, DOLA; Alison O'Kelly, DOLA – Division of Housing (DOH); Kathy Fedler, Boulder County Collaborative; Jo Barios, Department of Homeland Security (DHSEM); LaVerne*

Mathews, DOLA; Melissa Godar, DOLA; Carrie Kronberg, DOH

Entrance Conference:

Date	*July 10, 2017*
Representatives	*Irv Halter; Pat Coyle;Molly Urbina; Dave Bowman; Stephanie Morey; Susanna Larson; KC McFerson; Tim Mazza; Rachel Foster; Fredda Martinez; Susan House; Michael Farley; Alison O'Kelly; Kathy Fedler; Jo Barios; LaVerne Mathews; Melissa Godar; Carrie Kronberg*

Exit Conference:

Date	*July 13, 2017*
Representatives	*Irv Halter; Dave Bowman; Stephanie Morey; Susanna Larson; KC McFerson; Tim Mazza; Rachel Foster; Fredda Martinez; Susan House; Michael Farley; Alison O'Kelly; Kathy Fedler; Jo Barios; LaVerne Mathews; Melissa Godar;*

SUMMARY OF RESULTS AND CONCLUSIONS

This report details the results of the monitoring review and contains 8 Findings and 4 Concerns. A Finding is identified as a deficiency in program performance based on a statutory, regulatory or program requirement for which sanctions or other corrective actions are authorized. A Concern is a deficiency in program performance that is not based on a statutory, regulatory or other program requirement but is brought to the grantee's attention. Required corrective actions are identified for all Findings. Recommended actions are identified for Concerns. Findings must be responded to within 60 days of this report. Although the State is not required to respond to a Concern, the State is encouraged in its response to note any actions that has been taken on the identified issue. An exemplary practice is a noteworthy practice or activity being carried out by the grantee and may possibly be duplicated by another grantee.

The Department's grant manager for the State's Community Development Block Grant disaster recovery (CDBG-DR) grant, Mr. Terrance Ware is available to discuss the results of this monitoring report or provide technical assistance, if requested, and can be reached at 303-839-2639 and terrance.l.ware@hud.gov. If the State disagrees with any of HUD's determinations or conclusions in this monitoring report, please address these issues in writing to this Department within 30 days of this report. The State's written communication should explain the reasons for the disagreement along with supporting evidence and documentation. All communication should be sent to the Department of Housing and Urban Development, Community Planning and Development Division, Region VIII, 1670 Broadway, Denver, CO 80202.

SCOPE OF REVIEW

The review evaluated the State of Colorado's CDBG-DR grant performance and compliance. The focus of the review was on housing rehabilitation, reconstruction and new construction; economic revitalization; infrastructure; property acquisition; procurement; overall and financial management.

Monitoring of this program was conducted using the following monitoring Exhibits:

- **Exhibit 6-1** - Guide for Review of Overall Management of CDBG-DR Grants
- **Exhibit 6-2** - Guide for Review of Flood Zone & Floodway Buyouts
- **Exhibit 6-4** - Infrastructure
- **Exhibit 6-5** - Guide for Review of Economic Development
- **Exhibit 6-7** - Guide for Review of Written Agreements
- **Exhibit 6-9** - Financial Management

Exhibits were used to guide the review from the ***Community Planning and Development Monitoring Handbook 6509.2***; they are available at:

http://portal.hud.gov/hudportal/HUD?src=/program_offices/administration/hudclips/handbooks/cpd/6509.2.

Areas Reviewed and Results

OVERALL MANAGEMENT

The Department of Local Affairs (DOLA), administers its grant through a Method of Distribution to six sub-grantees (partner agencies). HUD staff met with Irv Halter, DOLA Executive Director, Dave Bowman, CDBG-DR Director, and Stephanie Morey, Compliance and Monitoring Specialist to discuss overall management. That discussion covered grant administration, citizen complaints, policy and procedures, projections, waivers, timelines for expenditure of funds, DRGR reporting, overall benefit requirements, Low-Moderate Income (LMI) national objective requirements, and the applicable CDBG cap on the use of funds for public services. HUD staff also provided technical assistance on matters concerning the overall management of the grant.

DOLA received $320,346,000 in funding under Public Law 113-2 for long-term recovery. DOLA is making progress expending funds on its projects. As of September 7, 2017, DOLA has received its full CDBG-DR allocation; obligated funding in the amount of $200,663,327; and has currently expended funds totaling $129,312,139.

Capacity

HUD staff discussed the State's systems and procedures for ensuring that CDBG-DR funds are used in accordance with program requirements. A review of the State's files evidenced that the State acknowledges the requirements set forth in the applicable Federal Register (F.R.) Notices and its approved Actions Plans. The State has an approved Action Plan and has completed the necessary grantee certifications. The State also has written agreements with its sub grantees (Partners), a risk analysis and monitoring plan, policies for preventing fraud waste and abuse, and a training plan.

The CDBG-DR Director, Dave Bowman is responsible for the day-to-day administration of the program. He has been in the position for three years. As CDBG-DR Director, Mr. Bowman makes recommendations to the Executive Director who ultimately provides direction. The State's CDBG-DR disaster recovery team does not directly supervise its partners, although CDBG-DR staff routinely provides direction to the partners regarding issues of compliance. In the absence of this direct oversight of the State's partner agencies , HUD continues to question DOLA's CDBG-DR program unit has the appropriate authority to effect change or force actions to occur regarding partner compliance with program requirements.

Reporting and Monitoring

CDBG-DR staff members Stephanie Morey and Michael Farley share duties for compliance and monitoring. HUD reviewed the State's CDBG-DR monitoring plan and noted the apparent level of effort that was put into its development. The plan is detailed and includes the risk analysis used by the State; a monitoring schedule; the frequency of monitoring; areas reviewed; exhibits that are applicable to each review; technical assistance provided; and, a monitoring report as well as follow-up for addressing any Findings and Concerns.

HUD staff provided technical assistance to the State on it's monitoring of its partners and encouraged the State to continue strengthening its monitoring of its partner's and contractors for program compliance. HUD staff indicated the importance of ensuring that the State, its partners and contractors know that all applicable federal program requirements are delegated to all parties assisting with the administration of CDBG-DR funds. In addition to the monitoring plan, the State has an acceptable training plan and a technical assistance plan and schedule. DOLA provides training to its staff, partners and contractors covering a host of CDBG-DR requirements as well as crosscutting program requirements. HUD staff reviewed the training objectives, the participants list and the attendance rosters. To date, the State has conducted at least six partner training sessions.

Public Website

HUD staff reviewed the States' website and found that it was comprehensive and that all required information was on the site in accordance with the requirements set forth in the March 5, 2014 FR Notice.

Technical Assistance

HUD staff met with Dave Bowman and Stephanie Morey to provide technical assistance regarding the overall management of the CDBG-DR grant and oversight of its partners. Conversations will continue between DOLA and HUD to discuss methods to help the State strengthen its capacity, particularly as it relates to monitoring in order to meet its goals for the administration of the grant.

Citizen Complaints

During the period from October 2016 through September 2017, the State received nine complaints: three anti-fraud waste and abuse (AFWA), and six program related complaints. DOLA has addressed and resolved four of the complaints and is currently working to resolve the remaining in accordance with HUD requirements and DOLA's policies and procedures.

Sub-Grantee/Partner Agreements

HUD staff reviewed the sub grantee agreements between the State and its partners. HUD staff found that the sub-grantee agreement with the Office of Economic Development and International Traded (OEDIT), did not convey all of the CDBG-DR requirements to its recipients (see below). Technical assistance was provided to the State indicating that all CDBG-DR requirements were included through amendments to existing agreements so that the State and HUD can be confident that the State's partners are cognizant of the requirements and compliant with program requirements.

The State is also advised to review the agreements between its partners and their contractors, to ensure that all program requirements have been appropriately communicated and delegated. The State is advised to ensure that those agreements are also amended, as necessary, to ensure that all program requirements are included.

ECONOMIC REVITALIZATION

Tourism Marketing Grant Program Overview:

The Colorado Office of Economic Development and International Trade (OEDIT) administers the Tourism Marketing Grant on behalf of DOLA. The program provides funding to not-for-profit and quasi-governmental organizations to promote the recovery and long-term viability of areas or communities within the 18 counties impacted by the September 2013 floods. The program provides grants of up to $150,000 which can be used to promote tourism and visitor spending, promote local and regional businesses, and create or retain jobs. Applicants must document concentrated economic losses that have had a large impact on the local economy relative to the size of the community.

In June 2014 the Department published a *Federal Register* Notice approving a State request for a statutory waiver to allow the State to use up to $500,000 of its CDBG-DR allocation for tourism industry support (78 FR 31970). In November, 2015, the Department approved a second State request for a continuation of the waiver, authorizing to the State to use an additional $768,300 of CDBG-DR for tourism industry support (80 FR 72104). The State's CDBG-DR Action Plan allocates these funds to a Tourism Marketing Grant Program, administered by the State's Office of Economic Development and International Trade (OEDIT),

OEDIT has awarded the full amount of authorized CDBG-DR funds through two competitive rounds of funding. In Round 1, seven grantees received $500,000 of CDBG-DR funds for tourism promotion activities, including six nonprofit organizations (i.e., visitor bureaus, local chambers of commerce) and one local government. In Round 2, OEDIT awarded $768,300 of CDBG-DR funds to eleven grantees, including two local governments and nine nonprofit organizations. Three nonprofit organizations received awards under both Round 1 and Round 2.

HUD reviewed the award file for each organization receiving a grant under either round of funding. This review resulted in 1 Finding and 2 Concerns as outlined below. The Finding and Concerns are related primarily to Round 1 funding and HUD acknowledges improvements implemented by OEDIT in its administration of Round 2 of the program. The Round 2 improvements include a risk assessment of each applicant, a clearer statement of the criteria used to evaluate each application, a somewhat enhanced explanation of the basis for each grantee's selection and most crucially – the execution of a written agreement for each award. Nonetheless, the Findings and Concerns, and the associated corrective action where applicable, extend to both rounds of program funding.

Finding #1 : Lack of Written Agreements

Cause: The State Office of Economic Development and International Trade (OEDIT), disbursed the full amount of Round 1 grant funds but failed to execute a grant agreement with any of the recipients.

Condition: OEDIT staff indicated that it did not believe that any written agreements were required in providing CDBG-DR funds to the respective Round 1 awardees, reflecting an initial understanding by the State agency that it was merely acting as a "pass through" of the funds to these organizations.

Criteria: 24 CFR 570.490(a) requires the State to maintain records necessary to facilitate a review and/or audit of the State's administration of CDBG funds and sufficient to enable HUD to make determinations of overall program compliance.

Effect: In the absence of executed grant agreements with Round 1 recipients, there is no document that binds a grantee to the terms of its approved application or to the federal requirements that attend to the use of CDBG-DR funds. With regard to procurement, for example, State staff indicated that grantees followed State procurement rules in procuring advertising, marketing and other services funded with the grant. There is, however, no documentation in the files to indicate how funded activities were to be procured by grantees. Absent a grant agreement that allows local government grantees to follow State procurement rules, these grantees are subject to the full federal procurement requirements applicable to local governments as prescribed at 2 CFR Part 200 300.18-300.26.

Corrective Action: The State must monitor each recipient of Round 1 grant funds to ensure that grant funds were expended in accordance with all federal requirements that would have been in force through executed agreements. Where a recipient has not complied with applicable federal requirements, the State will initiate recapture of the grant funds provided. Prior to providing Round 2 grant funds to recipients, the State must execute a grant agreement with each recipient that includes all applicable federal requirements.

Concern #1: Supplanting of State and Local Funds

The November 18, 2015 *Federal Register* Notice authorizing Round 2 funding of the tourism marketing program requires the State, through a matching fund requirement or other means, to demonstrate that the funding provided supplements and does not supplant State and local tourism resources. As the State does not require a match from applicants, it must implement another means to demonstrate that the funds provided to each applicant supplement and not supplant other sources of tourism funding.

Condition: OEDT tourism policies and procedures did not include the requirement from the *Federal Register* Notice for either a matching funds or other means of demonstrating that the federal funds were not supplanting other sources of tourism funding.

Effect: In the absence of a requirement that Tourism Marketing Grant recipients provide matching funds for the assistance, or otherwise demonstrate that no other funds are available for the activity, the State has no means of demonstrating that the funding provided does not supplant other sources of tourism funding.

Recommended Action: As discussed in Concern #2 below, in the development of more robust monitoring of tourism grant recipients, the State should incorporate a review of each organization's operating budget at the time of the award and of any subsequent funding received by the recipient, as one means of demonstrating that federal CDBG-DR funds did not supplant other sources of tourism funding.

Concern #2: Monitoring of Grantees

The State must also adopt and implement more robust monitoring policies and procedures for the tourism marketing grants. While each of the Round 1 files reviewed contained a completed monitoring exhibit that accurately reflected federal requirements, the exhibits were not fully completed nor was there evidence that the State took any action to correct identified deficiencies. In one file (EDTM-01-002), in the procurement section of the exhibit, the name of the contractor and the amount of the contract reviewed was missing (p. 175). On the question of program participants performing the required contractor debarment check, the reviewer responded that no debarments checks were being conducted but there is no evidence of any corrective action (p. 176). In response the question of public advertising of bids, citing a provision of State procurement rules (Part 2 of Article 103 Part 4), the reviewer responded that there was no public advertising – in sum, leaving the question of how the vendor was selected.

Condition: Monitoring of Tourism Marketing grantees is inconsistent and incomplete, with no evidence of mitigating or corrective actions in circumstances where the monitoring reveals noncompliance with program requirements.

Effect: The Tourism Grant Marketing program files indicate evidence of recipient monitoring through completed monitoring exhibits, but those exhibits are inconsistently completed and the files do not indicate any mitigating or corrective actions that were taken when instances of noncompliance were identified.

Recommended Action: The State should provide monitoring training to OEDIT staff and consider an increase in the overall resources dedicated to CDBG-DR monitoring in this and other recovery programs.

HOUSING

HUD reviewed the State's Housing Assistance Program (HAP) in the city of Longmont and Boulder County. HUD staff reviewed 5 files in Longmont, spanning down payment assistance, buyouts, and replacement housing. In addition, HUD staff reviewed 5 files pertaining to BCC's Round 1 and 2 housing assistance program. HUD found the policies and procedures to be adequate and the guidelines specific, detailing how projects are being implemented.

City of Longmont

HUD reviewed the Longmont HAP's documentation of program eligibility, national objective compliance, tieback to the 2013 disaster, verification of flood insurance (when applicable), and compliance with Duplication of Benefits (DOB) requirements. The files were paper-based, and were organized efficiently for review. HUD staff found that the city had performed accurate DOB calculations, and had maintained the necessary documentation. Two of the files reviewed were missing information such as a DOB calculation worksheet and an insurance declaration page; however, those documents were quickly presented to HUD reviewers. There were no Findings or Concerns related to the Longmont HAP.

Boulder County

The Department reviewed Boulder County's policies and procedures manual and files for its housing rehabilitation and buyout programs. HUD found the county's policies and procedures to be adequate, and the staff to be knowledgeable concerning CDBG-DR regulations. The Department found no issues related to the county's buyout program. However, there are four Findings related to the County's housing rehabilitation program.

Finding #2: Cost Reasonableness

Condition: In the Round 1 files reviewed, the scope of work prepared by the county during the initial inspection is vague and lacks a specification sheet, and the county appears to have relied on the contractors' bid proposals rather than developing a true scope of work. Furthermore, no documentation existed to show that a price analysis had been completed for items listed on the contractor's proposal for each rehabilitation project. County staff did provide documentation of a cost estimate that was performed on a Round 2 project (a process begun in response to a monitoring conducted by the City of Longmont in May 2017); however, the cost estimate appeared to have been based on a contractor's proposal, rather than created from an initial scope of work conducted by the county. While county staff did perform an initial inspection and submit a scope of work for the files reviewed, those documents included only vague descriptions, such as: "Rebuild bathroom from ground up. Completely destroyed. $25,000." In contrast, the contractors proposals contained the detailed specifications sheets reflecting which actual costs were incurred. Furthermore, no evidence existed of a cost analysis by which a bid proposal might be judged. In fact, it would be impossible to develop a cost estimate using the scope of work provided during the county's initial inspection, since no specifications were included in those scopes of work.

Criteria: 2 CFR 200.323(c)—Cost estimate requirement; 2 CFR 200.404—Cost Reasonableness
Cause: Boulder County staff did not develop adequate scopes of work based on thorough initial inspections of assisted homes, but instead relied on contractor proposals to determine the scope of work.
Effect: The county relied on the contractors' bid proposals to determine rehabilitation costs, it has no way of determining whether the actual costs were necessary and reasonable. Even if the county had performed a cost estimate to determine whether the bids were assigning reasonable costs for labor and materials, without a detailed scope of work based on the county's initial inspection the county cannot determine whether expensed costs were necessary for recovery.
Corrective Action: In the case of completed rehabilitation activities, the county must provide documentation that all costs were both necessary (in that a detailed scope of work existed prior to the contractor's proposal) and reasonable (via a documented cost estimate), or repay its CDBG-DR program from non-federal sources of funds. Going forward, the county must ensure that contractor bid proposals are submitted in response to a scope of work identified by the county or its designated engineer.

Finding #3: Failure to comply with HUD's Lead-Based Paint (LBP) regulations
Condition: In all of the housing rehabilitation files reviewed, the rehabilitation involved pre-1978 homes and, therefore, meets the definition of "target housing" that must be evaluated for compliance with HUD's Lead Safe Housing Rule (24 CFR Part 35). CPD Notice 15-07, "Guidance for Charging Pre-Application costs of Homeowners, Businesses, and Other Qualifying Entitles to CDBG Disaster Recovery Grants" states that "assistance provided for an applicant's incurred pre-application rehabilitation costs may be exempt from the Lead Safe Housing Rule" if it falls within certain exemptions. One such exemption is for "CDBG-eligible activities that qualify as emergency actions immediately necessary to safeguard against imminent danger to human life, health or safety, or to protect property from further structural damage." However, in at least one file the pre-application rehabilitation work was undertaken after the emergency action of the natural disaster. Also, in at least one other file, although post-application lead rehabilitation work was undertaken, the county documented that the home was exempt from LBP rules.
Citation: 24 CFR Part 35; CPD Notice 15-07
Cause: It appears that county staff assumed that the "emergency action" exemption to the LBP rule applied to homes affected by a natural disaster regardless of when rehabilitation work occurred.
Effect: Homeowners (and their children) who received federal assistance for rehabilitation work may still be living in a hazardous environment.
Corrective Action: The county must review its housing rehabilitation files and identify all pre-1978 homes that were assisted. In the cases where reimbursement only occurred, the county must determine whether the repairs made by homeowners occurred after the emergency action, and provide a LBP screening for homes where rehabilitation occurred after such action. In cases where rehabilitation assistance was provided, all assisted homes must undergo LBP screening. Going forward, the county must apply LBP screening to all pre-1978 homes that do not meet one of the non-emergency exemptions of 24 CFR 35.115.

<u>Finding #4 Failure to comply with thresholds for assistance established for the Housing Rehabilitation Program.</u>

Condition: The county awarded and paid a homeowner $68, 032.09 in assistance for housing rehabilitation

Citation: The program's policy states that award cannot exceed 50 percent of the homes pre-flood value

Cause: The county staff determined the amount of assistance based upon a policy that allows exceptions where the threshold can exceed 50 percent of the pre-storm value; however, that <u>operational policy</u> had not been established in the <u>adopted</u> written policies and procedures for the program.

Effect: Grant funds exceeding the threshold could have been used to assist another homeowner who had an unmet need. Public trust is also compromised when the county fails to implement its program in accordance with the published action plan.

Corrective Action: The county must identify all its applicant files who received awards that exceeded the established threshold and provide a justification in the file to explain the exception. The county must also amend its policy and procedures to add language to authorize the program's exception rule. Evidence that the corrective actions have been implemented must be submitted to the State and to HUD.

<u>Finding #5: The county's recordkeeping practices were not compliant with CDBG requirements</u>

Condition: HUD found that the records in the applicant files were not always completed. Some of the documents in the files lacked dates and signatures, and some of the DOB worksheets did not have a "0" next to FEMA, SBA, and insurance to indicate that no assistance was provided by the respective entity. In addition, one of the files reviewed lacked documentation to explain an exception to the program policy for the grant award. These inconsistencies appeared to be systemic as all the files randomly selected for review had documents that were not completed.

Citation: 24 CFR 570.506 requires recipients of CDBG-DR funding to maintain records necessary to facilitate review and audit by HUD of the counties administration of CDBG-DR funds and to enable HUD to make determinations of overall program compliance.

Cause: The county failed to consistently date and sign all the documents in the applicant files. The county also assumed that if no value was placed next to the entity on the DOB worksheet, that the reviewer would understand that no benefit was received rather than that the worksheet was incomplete.

Effect: In the absence of completed records, HUD was not able to determine if the overall program was compliant with the CDBG-DR requirements.

Corrective Action: The county is advised to review a random sample of its files for completeness and correct any documents it identifies as incomplete. Moving forward, all documents in the files must be checked for completeness. At a minimum N/A should be indicated if a date or signature is not required, or, the date and signature block should be omitted from the form if it is not required. For the DOB worksheet, a "0" should be placed next to the entity to indicate that no assistance was received. The county is advised to follow-up with the State and HUD to provide evidence that the corrective action has been completed.

INFRASTRUCTURE

The State's infrastructure program provides grant funds to cities and counties as well as non-profit agencies to repair and make more resilient damaged infrastructure from the 2013 disasters. Eligible entities can apply to the State for their unmet disaster recovery needs. Included in the application is information relating to the location of infrastructure, damaged sustained from the disaster, project scope, total project costs, and a description of how the CDBG-DR investment can be used to rebuild more resilient from future perils. The State's infrastructure program was reviewed for consistency with program guidelines, the State's current disaster recovery Action Plan, and CDBG-DR program requirements contained within the applicable Federal Register notices.

HUD reviewed the State's CDBG-DR Action Plan along with policies and procedure documents relating to the implementation and administration of the infrastructure program. Additionally, a sample of three Round 1 infrastructure activities administered by the Division of Homeland Security and Emergency Management was reviewed for CDBG-DR eligibility and consistency with program guidelines. The reviewed activities were the FEMA public assistance (PA) match project in Longmont, debris removal, and buyouts in in Boulder County, shown in the table below. All three activities were complete at the time of the review.

Table 1: Infrastructure Activities Reviewed

Name	**DRGR Number**	**Amount**
FEMA PA Match – City of Longmont BCCR1	R1-00-INF-MAT-B07-UN-P-BCC01	$ 821,976
FEMA PA Cost Share – Boulder-Debris Removal	R1-00-INF-MAT-B07-UN-P-85188	$ 2,322,988
Boulder County Acquisitions	R1-00-INF-INF-B07-UN-P-16018A	$ 1,735,942

In general, the records reviewed were well documented and organized in a way that facilitated the monitoring. There were several memorandums to file explaining any unique or unusual circumstances that also aided the review.

For national objective compliance, HUD noted that Urgent Need was frequently used in Round 1. The application for funding asked applicants to select the national objective and Urgent Need was used in all cases reviewed. In the applications, the number of beneficiaries are included, allowing for the identification of the potential service area. HUD advised the State that by checking the census data of the service areas in the review phase, it may have been possible to classify some of the subject activities as meeting the LMI, area benefit national objective. The State however, is currently projected to exceed its 50 percent LMI overall benefit requirement so revisiting the national objective at this point is not necessary. If, however, the State finds it necessary to increase its expenditures to meet its overall LMI benefit requirement, it may revisit the classification of these activities to determine if they may be reclassified as LMI.

There were no issues identified in the FEMA PA Match project in Longmont or in the Boulder debris removal activity. HUD reviewed the Longmont PA worksheet along with the State's monitoring report of its subrecipient, which was conducted during the construction process. At project completion, there was a relatively small balance of funds left unexpended. The file contained documentation on the State's process for de-obligating un-needed funds from a subrecipient so that they may be reprogrammed for other activities.

For the buyouts in Boulder County, HUD reviewed the contract between the State and the county along with the intergovernmental agreement between the county and the participating municipality. There was also clear justification for which properties that were selected for buyout. The severity of the damage to the property was one consideration, but also the risk of repetitive loss and how the buyouts fit in with a larger comprehensive planning effort for the community.

Properties to be bought out are appraised by two different contract appraisers to determine the pre-storm valuation. A review appraiser examines both appraisals to ensure that sound appraisal methods are used. HUD found this to be a sound process, as there were a few instances in which an appraisal was not accepted due to the poor methodology used by the contract appraiser. If both appraisals are accepted, an average is taken, less any amounts determined to be duplicative, and that amount is the offer price to the property owner. The March 5, 2013 FR Notice authorizing buyouts allows the grantee to develop an appropriate valuation method, and the State's chosen methodology is detailed in its Acquisition and Buyout Program Guidelines.

The review identified a circumstance in which the Boulder County Collaborative had managed Uniform Relocation Act (URA), compliance for an activity undertaken by the State, which was explained in a memorandum to file. The policies and procedures didn't specifically address how the State was enforcing the prohibition for providing assistance to second homes which is contained in the March 5, 2013 Federal Register Notice (78 FR 14329 – 23. Alternative requirement for housing rehabilitation—assistance for second homes). HUD provided additional guidance on this requirement, and the State is advised to ensure that the policies and procedures for the buyout program are updated to clearly identify the documentation used to identify second homes.

The "Amended Offer to Sell Real Property" that is signed by the beneficiary contains a subrogation agreement: "Seller will return any disaster aid money received if any such money results in a duplication of benefits." There is also a recorded deed restriction preventing future development of the land. The final use of the acquired properties will be open space consistent with the March 5, 2013 FR notice, and the land is to be perpetually maintained by the Boulder County Open Space Fund.

A "Certification of File Documents" was reviewed, in which a representative of the subrecipient is required to sign at the State's administrative closeout of an activity. The certification states that the subrecipient will maintain documents for five years after the State closes out with the grant with HUD, and then lists the specific documents that are to be maintained by the subrecipient. This is an exemplary practice, as it helps subrecipients comply with record retention requirements.

The review resulted in no Findings or Concerns for the infrastructure activity. Jo Barrios, Sarah Rose, Michael Haney, and the team at the Division of Homeland Security and Emergency Management provided support and greatly aided in the infrastructure monitoring review.

FINANCIAL MANAGEMENT

HUD reviewed DOLA's financial management of funds appropriated under Public Law 113-2 for disaster recovery. A similar review was conducted in May 2016 during which HUD identified three Findings and one Concern. DOLA provided written assurance to the HUD in Denver that all items had been addressed and resolved.

During the 2017 monitoring visit, HUD reviewed the internal controls and financial management practices which resulted in one Finding and four Concerns as explained below.

Internal Controls and Funds Management:

HUD reviewed DOLA's chart of accounts and financial management practices to ensure grant funds were being handled in the same manner as other state funds as required by regulations. The agency's accounting system, budget reports and chart of accounts identified sound accounting practices. Since the previous monitoring visit, DOLA has made substantial improvements to the disaster recovery program's financial management policies and procedures. The division has improved communication and data sharing between various program areas, which has resulted in more centralized internal controls.

While HUD found marked improvements with the consolidated financial policies and procedures, there were several instances in which those procedures were inconsistent or unclear, resulting in three financial management Concerns.

Concern #3 – DOLA's policy for recognizing and applying overpayments to subrecipients or programs does not serve to minimize the time between drawdown and use of HUD funds.

Condition: HUD reviewed the grantee's policies for managing funds that are identified as overpayments. The policy (Colorado CDBG-DR Payment Review Policies and Procedures) defines a variety of reasons that funds may be considered as overpayments… *funds that were drawn for ineligible costs, return of grants at the beneficiary level, duplication of benefits identified after payment, underutilization of advance payments, and other errors in the payment process.* According to the policy, overpayments in excess of $100,000 will be applied to the next need for funding under any disaster recovery program area. However, overpayments below that amount may be held for up to 14 calendar days in order to apply the funds to the same program area. If funds are not needed in the same program area within those 14 days, the funds may then be applied to the next need for funding under any other disaster recovery program area. The policy further states that … *repayment from a grantee/borrower must be made* *within 60 calendar days if the correction cannot be made within the particular contract with overpayment.*

Cause: The $100,000 threshold is a significant amount of funds to be held up to 14 days before being applied to the next need for grant funding in another program area. In addition, allowing a subrecipient or borrower to wait 60 days before making repayment, in case there are additional needs for funding for which an overpayment could be applied, is an excessive amount of time.

Effect: DOLA's current policy for managing overpayments does not adequately minimize the amount of time between drawdown and use of HUD funds.

Recommended Action: DOLA is advised to revise its policy for managing overpayments by reducing the threshold and amount of time before recognized overpayments must be applied to next need of funding. DOLA should also consider reducing the 60-day period for beneficiaries or subrecipients must repay funds that have been drawn in excess of need.

<u>Concern #4 – DOLA policy for applying program income is unclear and does not comply with the FR Notice regarding program income for PL 113-2 grants.</u>

Condition: DOLA's financial policies includes a section titled Processing Payments involving Program Income. The policy provides guidance for applying program income in excess of a defined threshold of $25,000.

Cause: DOLA's policy provides guidance for applying program income that exceeds a defined threshold amount. The threshold amount does not reflect the amount identified by HUD under 78 FR 23580. Additionally, the policy does not fully define the terms of the program income being generated – whether the threshold applies to program income generated at one time, throughout a single fiscal year, or across the full term of the grant.

Finally, DOLA's program income policy provides guidance for applying program income to the need for funding within the grantee's accounting system, but does not include steps to record and apply the program income in the Disaster Recovery Grant Reporting System (DRGR). When program income exceeds the threshold amount, it should be receipted into DRGR and applied to the next DRGR voucher that is created. Failure to do so would mean that DRGR data is incomplete and does not reflect actual financial information.

Effect: DOLA's policies for applying program income are inconsistent with the threshold amount established by HUD for this appropriation, unclear as to the calculation of program income, and incomplete regarding the reporting of program income in DRGR.

Recommended Action: HUD recommends that DOLA revise its policies and procedures for managing and recording program income.

<u>Finding #6 – DOLA policy for advancing funds to subrecipients is unclear and does not allow for verification of timely use of those funds.</u>

Condition: HUD reviewed DOLA's CDBG-DR Advance Payment Policy. The policy allows short-term advances of costs incurred by subrecipients with a valid invoice from a vendor or service provider as well as working capital advances, allowing subrecipients to request advanced funding under certain circumstances.

Criteria: 24 CFR 570.489 (c) requires State grantee's to use procedures to minimize the time elapsing between the transfer of grant funds and disbursement of funds by the State to units of general local government. States must also have procedures in place, and units of general local government must use these procedures to minimize the time elapsing between the transfer of funds by the State and disbursement for CDBG activities.

Cause: The grantee's policies for advance payments are unclear and do not provide for adequate follow-up regarding the time in which the funds were fully expended. The policy states that the grantee or subrecipient must provide proof that the invoice was paid within five business days of receiving an advance. This implies that there is a follow-up for each advance of funds when in fact, the proof of prompt payment is required on the subsequent request for advance. Even though DOLA does validate the time the initial advanced funds were paid out, the policy does not explain that the documentation will be in the next request for funding – not the initial request.

In addition, the language in the policy for Working Capital Advance indicates that funds could be advanced to a funded agency up to 30 days in advance of nee, which would be far outside the scope of time that would be considered as minimizing the amount of time between drawdown and disbursement. HUD discussed the full process for working capital advances with DOLA staff and found that there are additional internal controls in place that are not fully disclosed or explained in the agency's policies.

Effect: DOLA policies for advanced payments do not comply with requirements to minimize the amount of time between drawdown and disbursement of grant funds.

Corrective Action: DOLA must review and revise its policies, to accurately define the advanced payment process and to ensure that the agency complies with all timeliness requirements.

Staffing Plan and Organizational Chart:

HUD reviewed DOLA's organizational chart and staffing plan to test for adequate separation of duties and internal controls in approving payments, managing funds, and determining cost eligibility. The department continues to show multiple layers of programmatic and financial reviews to support separation of duties, as well as a clear chain of command for reporting any possible fraud, waste and abuse. As identified in the previous monitoring, there are a number of staff members who were fully dedicated to the disaster recovery grant program but DOLA did not have the required biannual payroll certification to fully document that they were one hundred percent dedicated to the single grant program – resulting in the following finding:

<u>Finding #7 – DOLA does not perform required biannual payroll certification for staff who are fully dedicated to the CDBG-DR grant program.</u>

Condition: During the financial management review, HUD determined that the grantee did not have biannual payroll certifications for those staff members who are fully dedicated to the CDBG-DR grant program, even though the organizational chart identified a number of employees who are in such positions.

Criteria: According to 2 CFR 225 Appendix B – Selected Items of Costs, certain payroll costs must be supported by certifications as defined below:

Item 8. Compensation for Personal Services

(h) Support of salaries and wages.

(3) Where employees are expected to work solely on a single Federal award or cost objective, charges for their salaries and wages will be supported by periodic certifications that the employees worked solely on that program for the period covered by the certification. These certifications will be prepared at least semi-annually and will be signed by the employee or supervisory official having first-hand knowledge of the work performed by the employee.

Cause: A number of DOLA staff are employed for the sole purpose of working on the CDBG-DR grant. DOLA, however, does not have the required payroll certifications for those employees nor policies to assure the certification requirements are fulfilled.

Effect: The lack of the required payroll certifications means that DOLA cannot fully demonstrate that staff costs that were paid are eligible costs as required by OMB under 2 CFR 225 Appendix B. 8 (h)(3).

Corrective Action: DOLA must develop a payroll certification format and process for certifying staff whose only functions are dedicated to the disaster recovery program. The certification must be performed on a biannual basis.

This Finding was also identified in the 2016 monitoring visit, after which DOLA prepared the required certifications and the Finding was closed. However, during the 2017 visit, it was determined the certification process had not been adopted by the department and this Finding is now reopened.

Single Audit Review:

2 CFR 200 Subpart F outlines audit requirements for both grantees and their subrecipients receiving federal grant funding. Non-federal agencies who expend $750,000 or more during their fiscal year must have a single audit performed. These audit reports are due within nine months of the fiscal year end. In addition to ensuring their own compliance with the requirement, grantees must develop a process to ensure their subrecipients are compliant. During the previous monitoring visit, DOLA did not have procedures in place to ensure subrecipient compliance.

During the past year, DOLA has taken steps to require their subrecipients to secure these audits, and has adopted policies and procedures to ensure subrecipients take corrective actions for any single-audit findings or deficiencies that may impact their sub-award. These new procedures serve to close the prior Finding, however, the process DOLA has developed to determine whether or not a subrecipient meets the single audit requirement is insufficient, resulting in the following Concern:

Finding #8 – DOLA's method for determining whether or not a subrecipient has met the 2 CFR 200 single audit threshold in not sufficient.

Condition: HUD reviewed the grantee's process for ensuring subrecipients comply with the single audit requirement, and further ensuring the subrecipients take measures to address any material weaknesses or deficiencies identified as a result of those audits.

Criteria: 2 CFR Subpart F sets forth the audit standards associated with non-Federal entities expending Federal awards. 2 CFR 200.501 (f) states, in part, that federal awards expended by subrecipients are subject to audit considerations as defined under Subpart F – Audit Requirements. The subpart further defines (2 CFR 200.505) that noncompliance with audit requirements could result in sanctions as provided in 2 CFR 200.338. A non-federal agency is required to have a single audit when they have expended at least $750,000 of federal funds in a fiscal year.

Cause: In response to a similar Finding in 2016, DOLA developed policies and procedures for monitoring subrecipient compliance regarding single audits. However, during this monitoring review, HUD determined that DOLA is only considering a subrecipient's expenditure of funds under the PL 113-2 grant in any given fiscal year, to determine whether or not the single audit threshold has been met. All federally funded expenditures are to be considered in determining if a single audit is required.

Effect: DOLA's process for determining whether or not a subrecipient is required to have a single audit is incorrect and may not capture all grantees that need to comply with the audit requirement. All federally funded expenditures of a subrecipient must be considered in determining if the audit threshold has been met, not just the funds under the disaster recovery grant administered by DOLA.

Corrective Action: The grantee is advised to modify its policies and procedures for determining when a subrecipient needs to comply with the single audit requirement.

Voucher Reviews:

HUD reviewed a number of DRGR voucher payments to test implementation of the grantee's review and approval processes as defined within its policies and procedures. All vouchers included supporting documentation for the funds drawn and included both programmatic and financial reviews and approvals.

Table 2: Colorado Payments Selected for the CDBG-DR Financial Review

Grant Number B-13-DS-08-0001 **Activity Descriptions:**	**Sum of Vouchers Reviewed**
Administration	$ 10,590
Economic Development/Agriculture Business	43,614
Housing	306,569
Infrastructure/Watershed	76,567
Grand Total:	**$ 437,340**

Overall Financial Condition and Technical Assistance:

In addition to the monitoring objectives, HUD provided technical assistance to the State regarding the financial deadlines associated with the P. L. 113-2 appropriation. The appropriation carries an obligation deadline of September 30, 2017. Once funds have been obligated by HUD, the grantee has 24 months to draw the funds from their line of credit, or must seek an extension from HUD for additional time. As of July 1, 2017, just prior to the monitoring review, the State had obligated nearly 82% of its $320 million grant. During the review, HUD met with DOLA to discuss a timeline for obligation of the remaining $58 million of the grant as of September 30, 2017, the grant is fully obligated.

HUD also discussed the expenditure schedule for those funds already obligated to the grantee. At the time of the monitoring, DOLA had drawn enough grant funds through DRGR to meet the 2-year disbursement amounts required through December 2017.

HUD provided general guidance and discussed the process for requesting an expenditure deadline extension, which allows grantees to request additional time beyond the 2-year obligation date to expend grant funds. Given the amount of funds that will be obligated in the final three obligation rounds, DOLA may wish to consider making such a request.

Finally, HUD provided technical assistance regarding funds that have been drawn as Administration but could be eligible as Project Delivery costs. Because no more than five percent of the CDBG-DR grant may be used for administration costs, grantees are encouraged to maximize the funds available to them for grant administration by ensuring that funds drawn for project delivery are not being inadvertently accounted for as administrative costs.

CONCLUSION

This report details the results of the monitoring review and contains 8 Findings and 4 Concerns. Required corrective actions are identified for all Findings. Recommended actions are identified for Concerns. Findings must be responded to within 60 days of this report. Although the State is not required to respond to a Concern, the State is encouraged in its response to note any actions that has been taken on the identified issue. An exemplary practice is a noteworthy practice or activity being carried out by the grantee and may possibly be duplicated by another grantee.