



Developing Your Infrastructure Projects – from Procurement to Closeout

2020 CDBG-DR and CDBG-MIT Webinar Series

Webinar Instructions

- PowerPoint and webinar recording will be available on the HUD Exchange
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Chat

Q&A

Send to: Host, Presenter & Panelists

Select a participant in the Send to first, type chat message, and send

All (0)

Select a question and then type your answer here. There's a 256-character limit.

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Developing Your Infrastructure Projects – from Procurement to Closeout

2020 CDBG-DR and CDBG-MIT Webinar Series

Agenda

- Overview of the infrastructure project lifecycle
- Defining and setting up the project and initial compliance
- Construction management and ongoing compliance
- Closeout



Introductions

- Clay Lloyd, HUD
- Lauren Nichols, ICF
- Robby Bizot, ICF



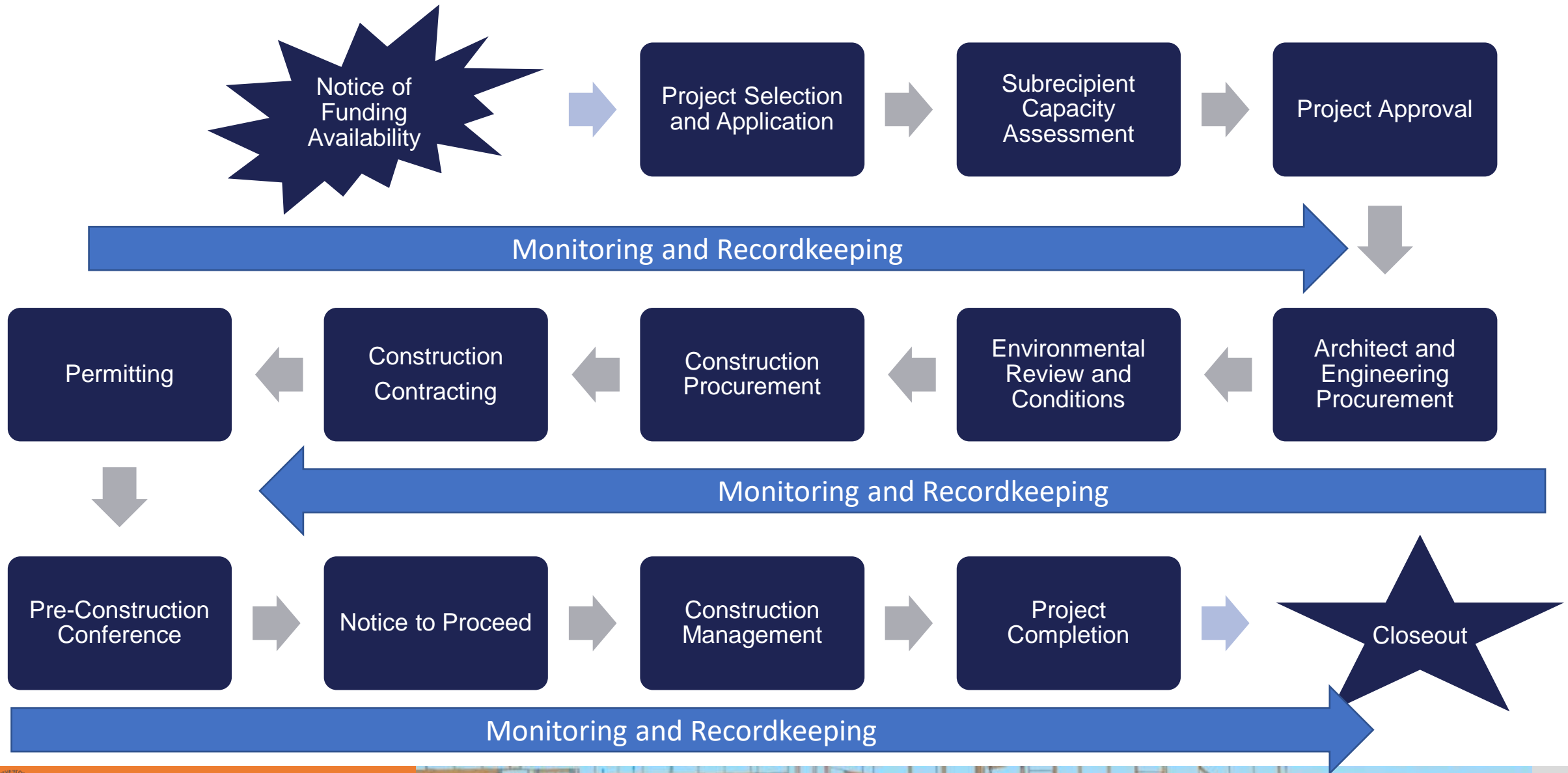
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Overview: Infrastructure Project Lifecycle



Overview of the Infrastructure Project Lifecycle



Key Roles & Responsibilities

- **HUD Grantee:** The entity and lead agency that receives the CDBG-DR or CDBG-MIT grant from HUD and is responsible for oversight of those funds
- **Subrecipient:**
 - 24 CFR 570.500(c): Public or private nonprofit agency, authority or organization, or a for-profit entity serving Microenterprises (24 CFR 570.201(o)) receiving CDBG-DR funds from the recipient or another subrecipient to undertake CDBG-DR eligible activities
 - 2 CFR 200.93 & 200.330(a): non-Federal entity that receives a subaward to carry out part of a Federal program
- **Monitoring** takes place throughout the life of the project



Key Roles & Responsibilities

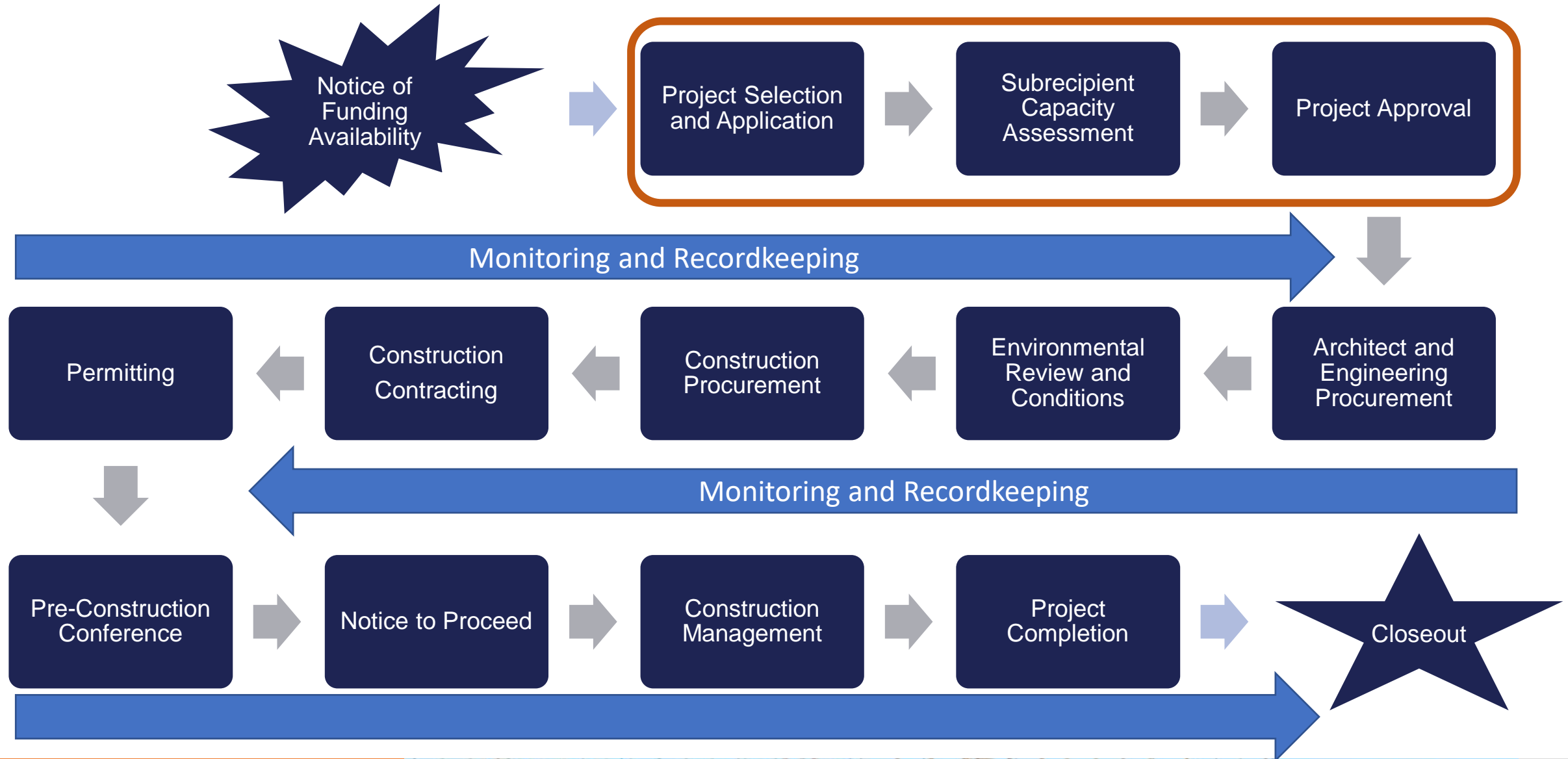
- **Recordkeeping** is compiling and organizing all documentation and information in a way that tells the story to any reviewer for years to come
- **Technical assistance & clear communication** are critical for program and project success
- **Grantees & subrecipients are partners with joint responsibility for monitoring & record keeping to ensure compliance**



Defining and Setting up the Project



Overview: Infrastructure Project Lifecycle



Project Eligibility Requirements



Project Selection and Application

- What is the project and how does it tie to recovery from the disaster or meet a mitigation need?
- What are the quantifiable outcomes from the project?
- Who will benefit?
- Why should this project be prioritized over others?
- What is the timeline?
- What is the budget?
- Are all project funding sources committed?
- Are other untapped funding sources available?
- Is the project feasible, sustainable and what funding sources are available for operations and maintenance (O&M)?
- **Does it meet all program criteria?**



Eligible Activities

Activity MUST:	Applicable to CDBG-DR	Applicable to CDBG-MIT
Respond to a disaster-related impact identified in the Grantee's Unmet Needs Assessment	✓	
Meet the definition of a mitigation activity AND address the risks identified in the Mitigation Needs Assessment		✓
Be allowable in the appropriation & other laws	✓	✓
Be eligible per the CDBG regulations (or a waiver or alternative requirement has been granted)	✓	✓
Meet a CDBG national objective	✓	✓
Be eligible per grantee's Action Plan & program policies/procedures	✓	✓
Meet additional criteria for Covered Projects, if applicable	✓*	✓



Eligible Uses of CDBG-DR and CDBG-MIT Funds

- CDBG-DR funds must be used for:
 - “...necessary expenses related to disaster relief, long term recovery, and restoration of infrastructure, housing, and economic revitalization...”
- CDBG-MIT activities are defined as those 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.”



Order of Assistance, Duplication of Benefits and Non-Federal Cost Share

- Order of Assistance

- Although the language may vary among appropriations, the most common statutory order of assistance requirements prohibit use of CDBG–DR or CDBG-MIT funds for activities reimbursable by or for which funds are made available by FEMA or the Army Corps (USACE)

- Duplication of Benefits

- Must comply with Section 312 of the Stafford Act, the applicable DOB Notices and the requirement that all costs are necessary and reasonable and ensure that each activity provides assistance to an entity only to the extent that the entity has a recovery or mitigation need that has not been fully met



Order of Assistance, Duplication of Benefits and Non-Federal Cost Share (cont.)

- CDBG-DR or CDBG-MIT as Non-Federal Cost Share

- As provided by the HCDA, CDBG-DR and CDBG-MIT funds may be used to meet a matching requirement, share, or contribution for any other Federal program **when used to carry out an eligible CDBG-DR or CDBG-MIT activity**
 - USACE limit: \$250,000
 - Must meet all applicable CDBG-DR or CDBG-MIT requirements



Eligible Infrastructure and Related Activities

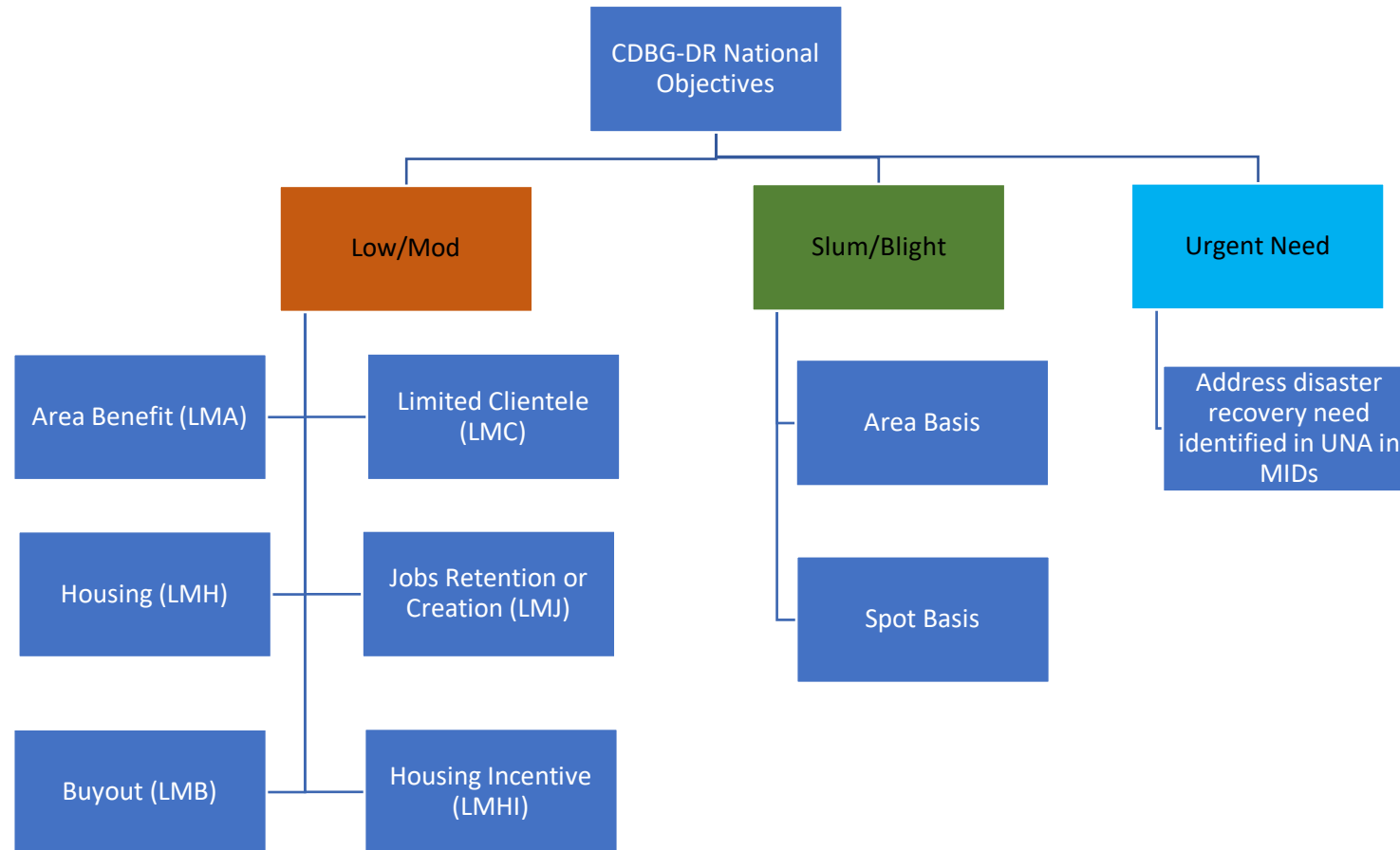
- **Public Facilities and Improvements**
- Acquisitions and Buyouts
- Public Services
- Code Enforcement
- Planning



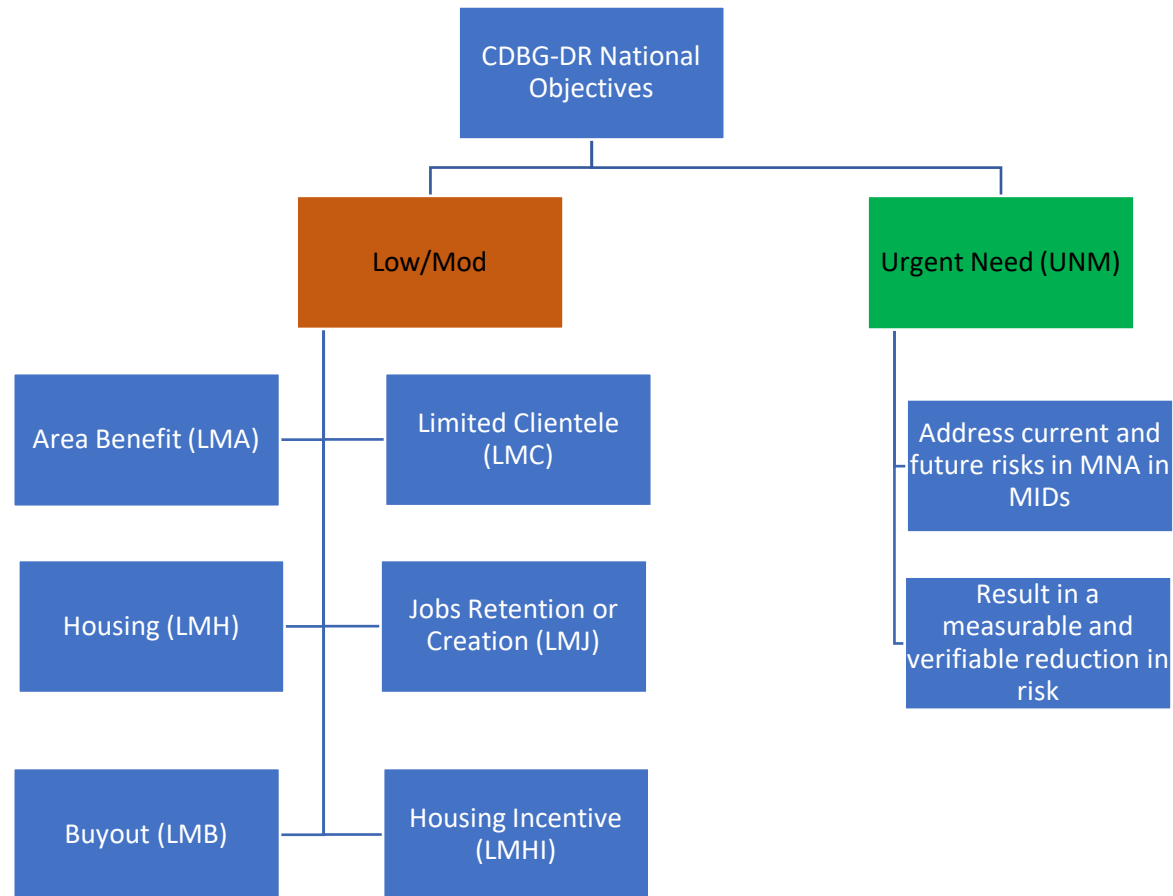
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National Objectives: CDBG-DR



National Objectives: CDBG-MIT



LM Area Benefit (LMA)

24 CFR 570.483(a)(1)	Requirement	Documentation
Eligible Activity	Ensure the activity is eligible under CDBG-DR and clearly ties to recovery from the disaster	Narrative and scope of project demonstrating eligible activity requirements; proof of damages, impact or revitalization
Service Area	Define and draw the boundary of the entire service area, even if that area is not coterminous with census tracts	Description and support analysis or studies for determining the reasonable service area
LMI Percentage	In order to qualify under LMA, at least 51% of the entire service area must be LMI. If the area is not primarily LMI, then the project does not qualify under LMA.	Use LMI Survey Data (LMISD) sets from HUD, local income survey data or combination, as applicable
Beneficiaries	Confirm the project is available to all residents in the service area. If the services are not available to all residents, the project does not qualify under LMA.	Identify access requirements and any barriers to project access, such as fees, membership requirements, physical access, nature of services, etc.
Primarily Residential	Confirm the service area is primarily residential. If the service area or the users of the project are not primarily residential, the project does not qualify under LMA.	Survey, aggregate data, narrative and/or maps demonstrating the area- and the users of the activity- will primarily be residential, and not commercial or public.



LM Area Benefit (LMA) (continued)

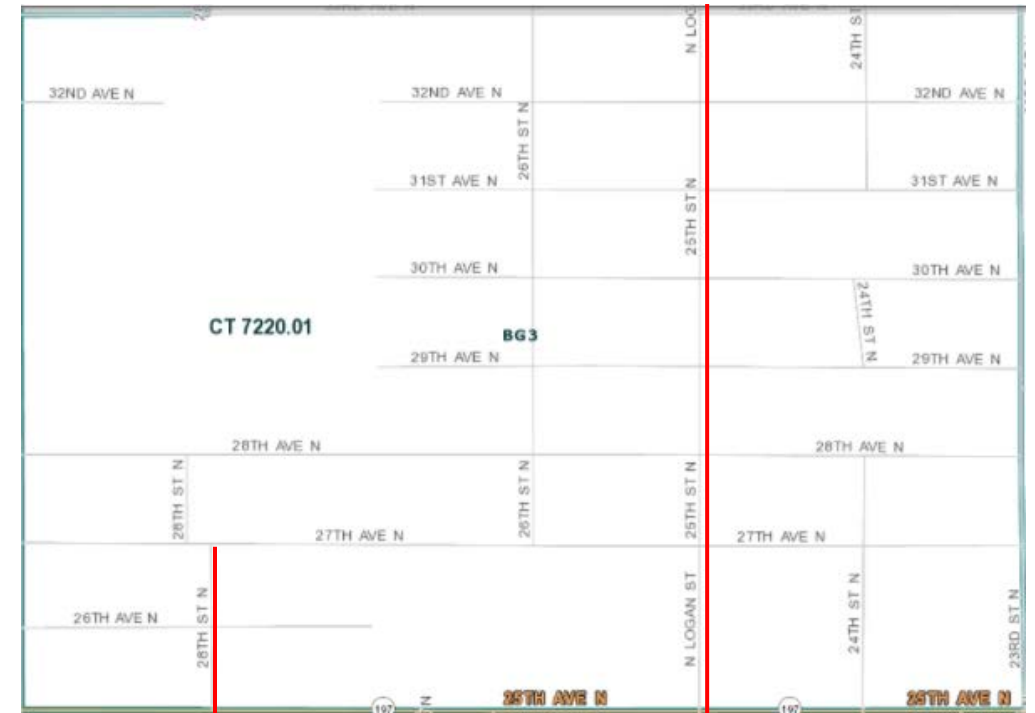
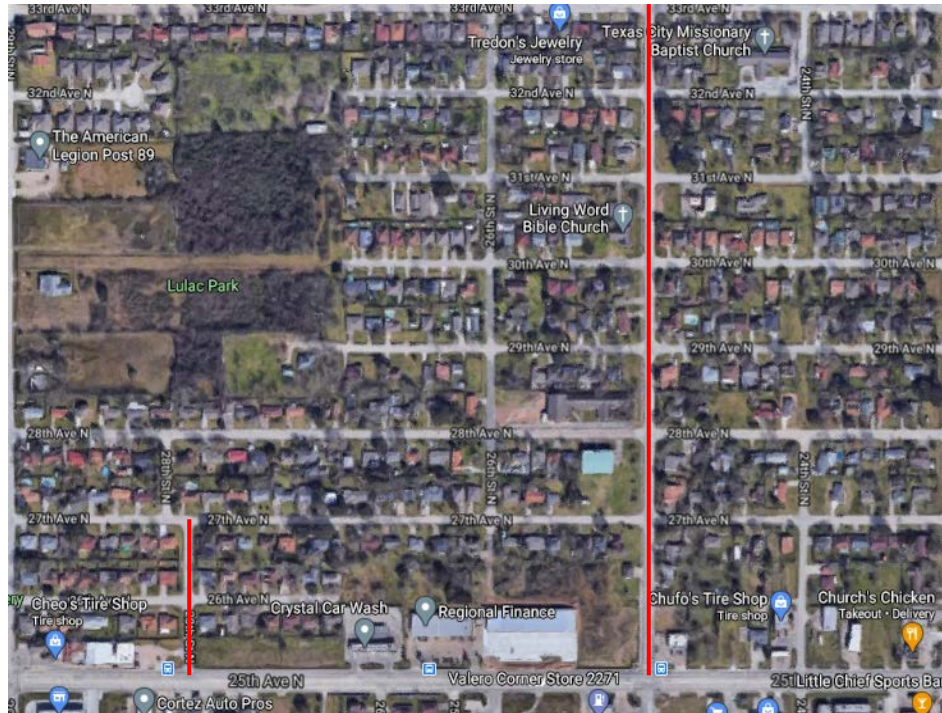
- If a grantee is able to document and support that a service area coincides with one or more census boundaries, the grantee may use [HUD-provided LMI Summary Data \(LMISD\)](#) for particular census tracts to determine whether the project will primarily benefit low- and moderate-income individuals.
- If a service area does not coincide with a census boundary or if the service area includes parts of multiple census tracts, the grantee may perform a survey of the service area. Additional information on [how to perform a survey on new projects can be found here](#)






LM Area Benefit (LMA) (continued)

Example #1: The subrecipient is proposing to preform street rehabilitation improvements within Census Tract 7720.01 Block Group 3

Street Improvements in Red



LM Area Benefit (LMA) (continued)

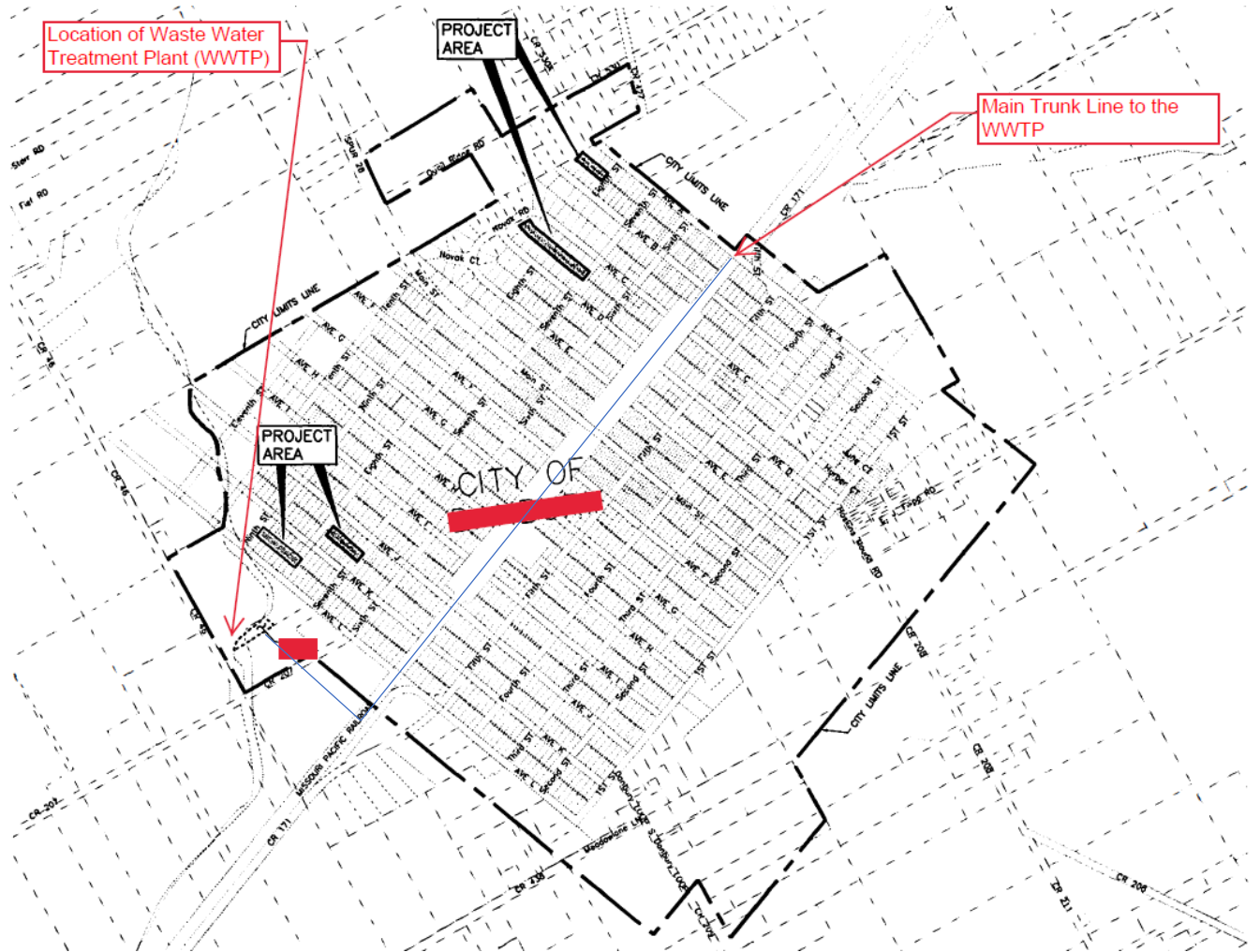
24 CFR 570.483(a)(1)	Project	Yes/ No	Evidence	Example										
Eligible Activity	2,600 linear feet (LF) of street rehabilitation improvements	YES	Construction/reconstruction of streets	N/A										
Service Area	Census Tract 7720.01, Block Group 3	YES	Map created outlining block group boundary/project location(s)											
LMI Percentage	1,115 beneficiaries of which 655 are LMI or 58.74% LMI	YES	HUD LMISD documentation	<table border="1"> <thead> <tr> <th>geoname</th><th>Low</th><th>Lowmod</th><th>Lowmoduniv</th><th>Lowmod_pct</th></tr> </thead> <tbody> <tr> <td>Block Group 3, Census Tract 7720.01</td><td>220</td><td>655</td><td>1,115</td><td>58.74%</td></tr> </tbody> </table>	geoname	Low	Lowmod	Lowmoduniv	Lowmod_pct	Block Group 3, Census Tract 7720.01	220	655	1,115	58.74%
geoname	Low	Lowmod	Lowmoduniv	Lowmod_pct										
Block Group 3, Census Tract 7720.01	220	655	1,115	58.74%										
Beneficiaries	Street Improvements to occur on main through fares within the block group available to all beneficiaries	YES	Map created outlining block group boundary/project location(s), and narrative documenting egress of through fares.											
Primarily Residential	All buildings within the block group are defined as residential structures	YES	Map created outlining block group boundary/project location(s)											





LM Area Benefit (LMA) (continued)

Example #2:

- The subrecipient is proposing to perform sanitary sewer improvements at four different locations
- The work includes rehabilitation of sewer lines within right of way access behind properties and includes rehabilitation of the tie-ins to the residents' existing sewer lines



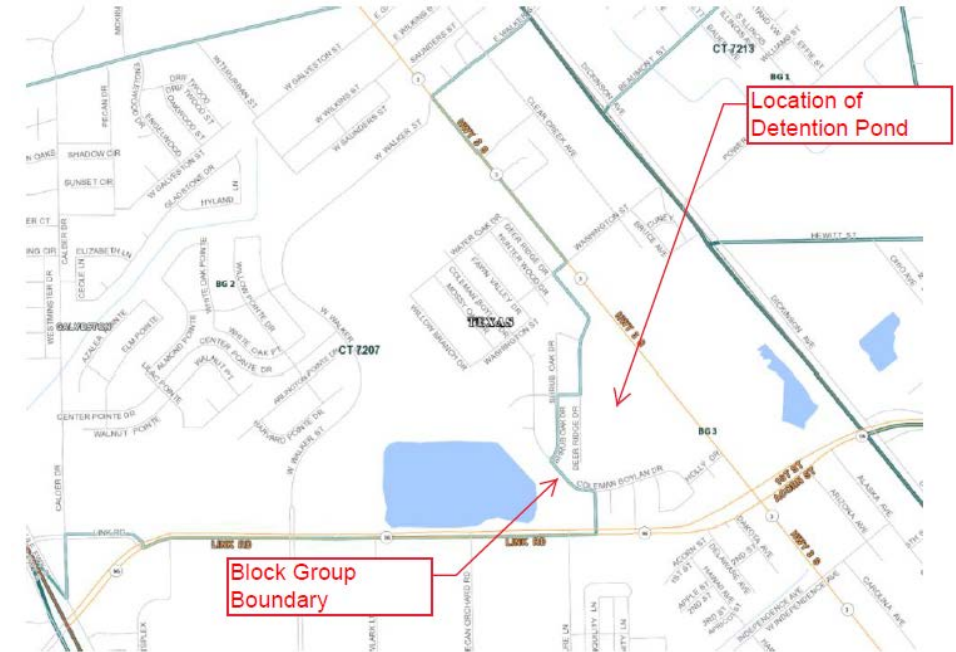
LM Area Benefit (LMA) (continued)

24 CFR 570.483(a)(1)	Project	Yes/ No	Evidence	Example										
Eligible Activity	2,250 linear feet (LF) of sanitary sewer improvements	YES	Construction/reconstruction of water/sewer lines or systems	N/A										
Service Area	Citywide Map showing where project locations fall	YES	Map created outlining City boundary and project location(s)											
LMI Percentage	Citywide HUD LMISD data shows 1,500 beneficiaries of which 1,005 are LMI or 67.00% LMI	YES	HUD LMISD documentation	<table border="1"> <thead> <tr> <th>geoname</th><th>low</th><th>lowmod</th><th>lowmoduniv</th><th>lowmod_pct</th></tr> </thead> <tbody> <tr> <td>City Name</td><td>300</td><td>1,005</td><td>1,500</td><td>67%</td></tr> </tbody> </table>	geoname	low	lowmod	lowmoduniv	lowmod_pct	City Name	300	1,005	1,500	67%
geoname	low	lowmod	lowmoduniv	lowmod_pct										
City Name	300	1,005	1,500	67%										
Beneficiaries	Sewer improvements will only benefit a small set of beneficiaries, not the entire city, nor all of a block group	NO	Surveys will be required to determine the actual beneficiaries receiving benefit from the improvements	Surveys to be completed										
Primarily Residential	Most buildings within the City are defined as residential structures	YES	Map created outlining City boundary and project location(s)											



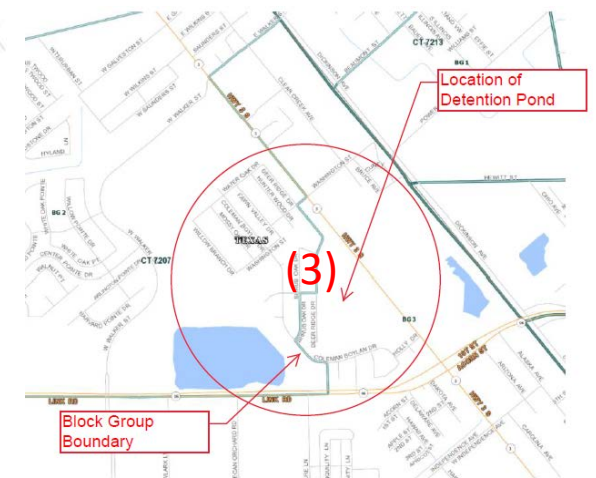
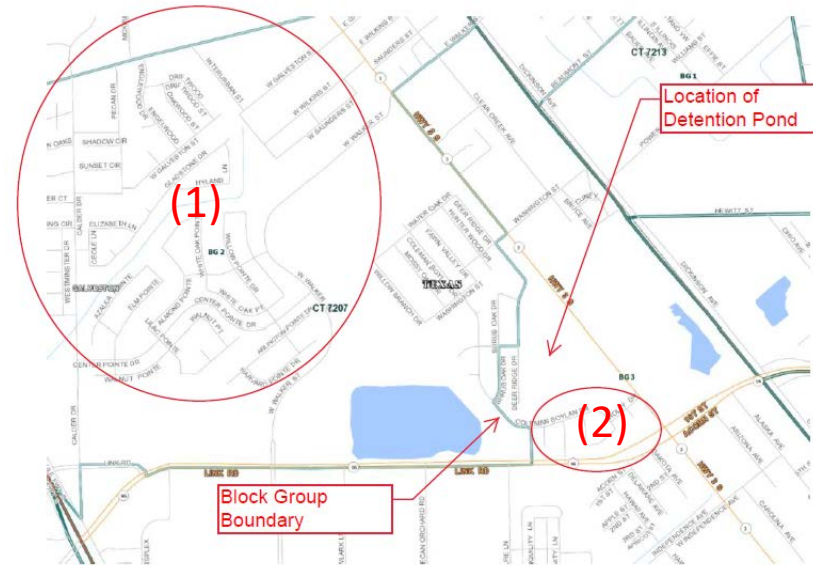
Incorrect Way of Determining LMA

A Subrecipient is intending to create a detention pond that will help reduce flooding during heavy rain events by capturing stormwater runoff from a few neighborhoods.



Incorrect Way of Determining LMA (Cont.)

- The project falls within Census Tract 1234, Block Group 2
- The subrecipient wants to use that Block Group to demonstrate the project meets the LMA national objective
- This Block Group is primarily residential and over 51% of the residents are LMI
- Actual Service Area of project:
 - There is a neighborhood to the West of Block Group 2 (1), that would not benefit from the improvement
 - There is a neighborhood to the South in Block Group 3 (2) that will receive a benefit.
- Not all of Block Group 2 will benefit
- A portion of Block Group 3 will benefit
- **Therefore:** The Subrecipient must preform household surveys of the impacted neighborhoods to identify the true beneficiaries (3)



Subrecipient Capacity Assessment

- Often, infrastructure projects involve subrecipients
- Be sure to determine subrecipient's capacity to carry out its role in a compliant & timely manner including assessing:
 - Grant management history
 - Staffing
 - Program and activity experience
 - Financial management and reporting systems
 - Contractor oversight experience
- Refer to the Subrecipient webinar provided 9/3/20 on HUD Exchange



Cross-Cutting Federal Requirements

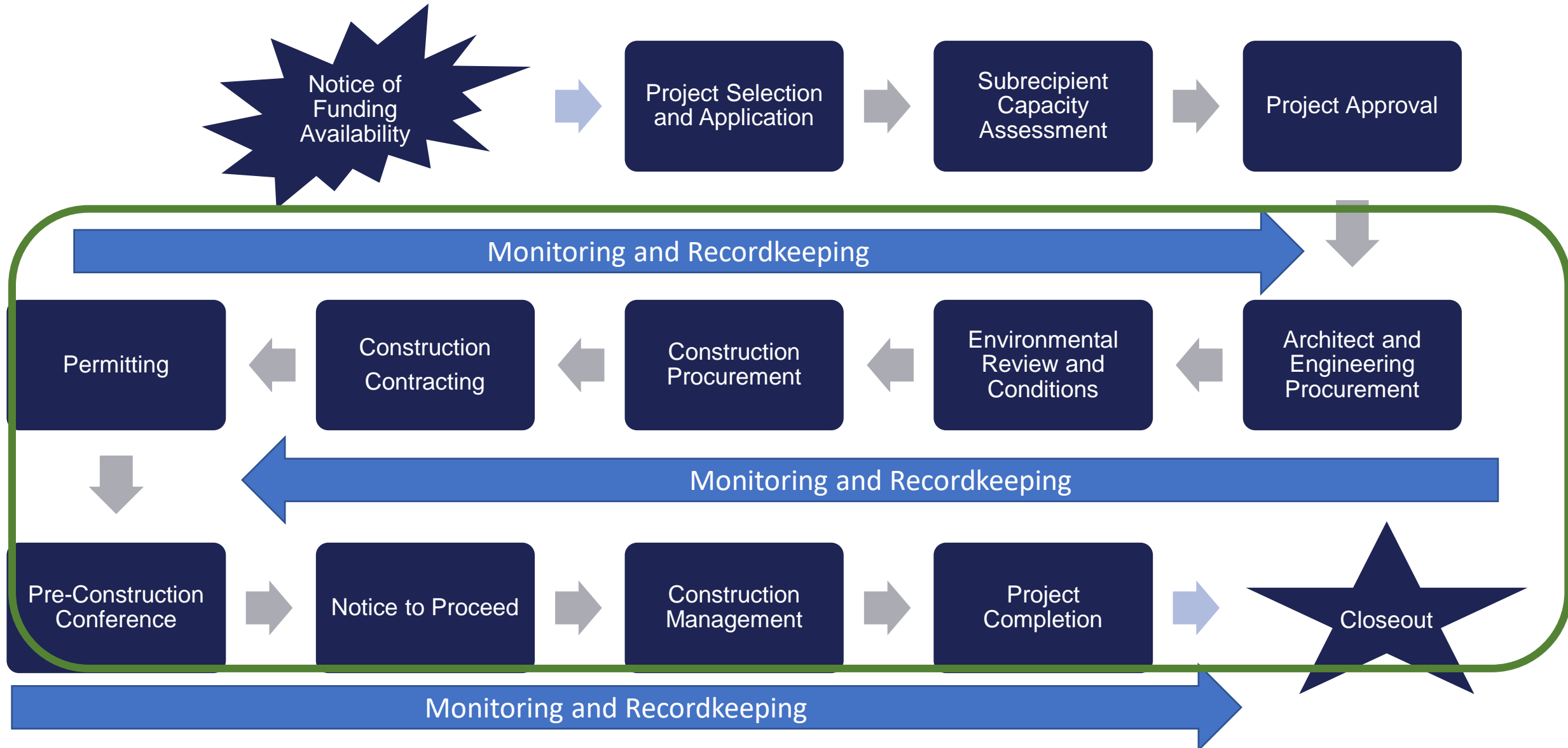
Area of Project Impact	Financial Mgmt and Procurement	Environmental Review	Federal Labor (DBRA)	Section 3	Fair Housing	Section 504	URA
Timeline	•	•	•	•	•	•	•
Budget	•	•	•	•	•	•	•
Scope of Work	•	•	•	•	•	•	•
Record Keeping	•	•	•	•	•	•	•
Monitoring	•	•	•	•	•	•	•
Closeout	•	•	•	•	•	•	•

Refer to the CDBG-DR Toolkits on the HUD Exchange for more information.

Getting to Construction and Closeout



Overview: Infrastructure Project Lifecycle



Procurement Requirements

State Grantees:

1. Follow the existing procurement requirements of their state;
2. Adopt some but not all procurement requirements in 2 CFR 200.318-200.326, combining State and Federal regulations; OR
3. Adopt 2 CFR 200.317 to apply all of the procurement requirements in 2 CFR 200.318- 200.326 to itself and its subrecipients

Entitlement Grantees and Subrecipients:

2 CFR 200.318- 200.326



Procuring Architects and Engineers

- Request for Proposal (RFP)
- Request for Qualifications (RFQ)
 - Cost or price analysis required to determine costs are necessary and reasonable
 - Final cost & compensation are subject to negotiation of fair & reasonable terms
- Publication period
- Clear scope of work
- Clear criteria and methodology for the technical evaluation
- Structure of award and notification of award

OUTCOME: Project design for environmental review & construction bid



Environmental Review

- Subject to NEPA and 24 CFR Part 58
- Required for every dollar of CDBG-DR and CDBG-MIT, **prior to** obligating funds
- Understand the limitations on activities prior to environmental clearance
- Provide clear scope of work
- Understand the process, the correct level of environmental review, the required consultations & the estimated timeline
- Adoption of another Federal agency's environmental review (i.e., FEMA)



Procuring Construction Contracts

- Also must adhere to procurement requirements including these key elements...
- Obtain independent cost estimate (ICE)
- Solicit sealed bids (formal advertising)
 - Firm fixed price lump sum or unit pricing
 - Publication period
 - Published & solicited from potential bidders for a reasonable time frame
 - Clear description, specifications, attachments, scope of work
 - Include Davis-Bacon & Related Acts requirements including current wage decision
- Publicly open sealed bids
 - At time and place described in the invitation for bids
- Select contractor based on criteria outlined in solicitation & in accordance with procurement P&Ps
 - Award to the **lowest responsible** bidder
- Execute contract



Permitting, Pre-Construction Conference & Notice to Proceed (NTP)

- Permitting
 - Federal, state & local compliance with all applicable construction, zoning & other applicable codes and requirements
- Pre-Construction Conference
 - Construction plan
 - Prevailing wages, payroll reporting, worker safety, civil rights, underpayment, restitution & other worker protection and contractual compliance requirements
 - Communication, payment, progress inspection, reporting, change order, record retention & other procedural and documentation requirements
- Notice to Proceed
 - Formal notice allowing contractor to start work



Construction Management

- Ongoing contractor management
- Progress inspections & project schedule management
- Section 3 plan compliance
- Davis-Bacon labor compliance
- Compliance with environmental conditions
- Change order management
- Reporting
- Record keeping



Project Completion

- Typical project completion steps (subject to):
 - Certificate of Occupancy and/or other verification of completion (third party final inspection)
 - Applicable operational permits obtained
 - Photos of final project
 - Environmental conditions met
 - Labor and Section 3 requirements met
 - Final payment (including retainage)
 - Release of liens
 - Review of final file to ensure all documentation is included



Project Closeout

- Key elements of project closeout:
 - ✓ Documentation demonstrating all eligible activities are completed and the project meets a national objective
 - ✓ Project file is fully documented
 - ✓ Budget amendment or reconciliation completed, as applicable
 - ✓ All reporting requirements in DRGR completed
 - ✓ Special conditions met
 - ✓ Monitoring findings closed
 - ✓ Audit findings closed



Q&A



Resources



Resources

- HUD Exchange CDBG-DR page:
<https://www.hudexchange.info/programs/cdbg-dr/>
- HUD Exchange CDBG-MIT page:
<https://www.hudexchange.info/programs/cdbg-mit/>
- Basically CDBG Infrastructure:
<https://files.hudexchange.info/resources/documents/Basically-CDBG-Chapter-6-Public-Facilities.pdf>





Thank you!

- Questions
- Contact Info
 - Lauren Nichols, Lauren.Nichols@icf.com
 - Robby Bizot, Robby.Bizot@icf.com
 - HUD Policy Unit, DRSIPolicyUnit@hud.gov

Upcoming Trainings

Duplication of Benefits: Understanding and Applying the Requirements	Sept. 22, 2020 2:00 - 3:30 PM EDT
Effective Regional Coordination and Engagement Approaches	Sept. 24, 2020 2:00 - 3:30 PM EDT