

COUNTY OF HAWAI‘I

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

Voluntary Housing Buyout Program
Policy and Procedure Manual

JANUARY 2024



PURPOSE

The County of Hawai'i qualified for receipt of \$107,561,000 in Community Development Block Grant – Disaster Recovery (CDBG-DR) Funds through the U.S. Department of Housing and Urban Development (HUD) following the 2018 eruption of the Kīlauea volcano. In order to receive said funds, the County prepared a CDBG-DR Action Plan that outlined a Voluntary Housing Buyout Program (VHBP) as an eligible activity for the expenditure of HUD funds. This Policy and Procedure Manual (this document) is being developed to provide operational parameters for the implementation of this program. Standard Operating Procedures, Checklists, Applications, and similar internal documents will be further refined for efficiency and completeness.

CONTACT INFORMATION

As of the date of drafting of this Policy and Procedure Manual, the County of Hawai'i Disaster Recovery Division is not a “stand alone” department. It has been administratively associated as a division of the County of Hawai'i Planning Department. Within this document, reference to Disaster Recovery Division employees, Program staff, and VHBP staff may be used interchangeably. Contact information for these County offices are as follows:

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Website: <https://recovery.hawaiicounty.gov/>

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Planning Department

101 Pauahi Street, Suite 3 – Hilo, HI 96720

Phone: (808) 961-8288

Housing Recovery Programs Office

100 Pauahi Street, Suite 200 – Hilo, HI 96720

Phone: (808) 961-8366

ADOPTION BY REFERENCE

In response to the Kīlauea eruption, the County of Hawai'i Disaster Recovery Division has developed various planning documents. Furthermore, the County often requires use of standardized policies and procedures in the course of its regular business activities. The following documents and reference material will be used in concert with this Policy and Procedure Manual, and are hereby adopted by reference:

The County of Hawai'i's Volcanic Risk Assessment, Kīlauea Recovery and Resilience Plan, Economic Recovery Plan, CDBG-DR Action Plan, Grant Compliance Policies and Procedures Manual for CDBG-DR, Finance Department Procedures Manual Supplement for CDBG-DR, and Financial Management and Grant Compliance Certification Checklist



VERSION HISTORY

Version history is to be tracked in the following table, with notes regarding version changes. The dates of each publication are also tracked in this table. The first version of this document is 1.0.

- *Substantive changes* within this document that reflect a policy change will result in the issuance of a new version number. Future policy changes will result in additional revision and issuance of a new primary version number.
- *Non-substantive changes* within this document, such as minor wording and editing or clarification of existing policy that do not affect the interpretation or applicability of the policy, will be included in minor version updates denoted by a sequential number increase after the primary version number.

The above-described numbering convention would result in new version numbers such as 1.1 (non-substantive change), 2.0 (substantive change), 2.1 (non-substantive change), 2.2 (non-substantive change), etc.

8/30/2021	Version 1.0 Published
	<ul style="list-style-type: none"> • Initially released Policy and Procedure Manual
3/1/2022	Version 1.1 Published
	<ul style="list-style-type: none"> • Identification of the current total of allocated HUD funding, increase in funds designated for the VHBP, reiteration that a property acquisition/relocation services can only be provided for a single property/incident per owner or property unless permitted under an Exception Policy/Process, clarification on income certification, clarification on cost reasonableness, clarification of the Exception Policy/Process, clarification of the Appeals Policy/Process, additional explanation on conflicts of interest, minor changes in the definitions section, and other minor/grammatical changes.
7/14/2022	Version 2.0 Published
	<ul style="list-style-type: none"> • Additional specificity provided within Sections 2.2 Threshold Factors and 2.4 Prioritization, revisions to Table 4.1 accompanied by decision-making trees concerning application scoring/ranking, additional definitions identified within Section 11. Glossary, deletion of reference to the Housing Relocation Services Program following approval of a substantial amendment to the Action Plan, and other minor non-substantive changes.
05/18/2023	Version 3.0 Published
	<ul style="list-style-type: none"> • Update to Lawful Presence procedure (1.7) • Update to Income Verification procedure (2.5) • Update to Exception Policy (11.1) • Develop policy and procedures for Inactive Applications and Application Close-Out (11.7) • Develop policy for Residential Anti-Displacement and Relocation Act (11.8) • Additional text edits for clarity throughout document.



01/23/2024	Version 4.0 Published
	<ul style="list-style-type: none">• Section 2.6 Buyout Limits as it relates to changes in buyout offers for second homes within the established maximum grant award based on available funds; and prioritization to serve undeveloped property that are Low- to Moderate-Income.• Section 2.7 Duplication of Benefits, update to policy.• Section 4.1 VHBP Application Review, updated language.



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SECTION 1. PROGRAM DESIGN

1.1 National Objectives

Section 101(c) of the Housing and Community Development Act of 1974 sets forth the primary objective of the program as the development of viable communities by the provision of decent housing and a suitable living environment and expanding economic opportunities, principally for persons with low and moderate incomes. The statute further states in Section 104(b)(3) that this is to be achieved in the Community Development Block Grant (CDBG) program by ensuring that each funded activity meets one of the following three named national objectives:

- Benefiting Low- and Moderate-Income (LMI) Persons
- Preventing or Eliminating Slums or Blight
- Meeting Urgent Needs

The statute also states that each grant recipient must ensure that at least 70% of its expenditures must be used for activities qualifying under the first of those national objectives benefiting Low- and Moderate-Income (LMI) persons.

The voluntary buyout of properties is an eligible activity under the CDBG program as described in 24 CFR 570.201(a) and 24 CFR 570.606(d) with further definition described in the Federal Register Notice (85 FR 4681). All housing activities for the VHBP will meet the National Objectives requirement under the authorizing statute of the CDBG program. The County's CDBG-DR-funded recovery programs will be implemented in accordance with these requirements. The County has developed these programs with the intent to prioritize activities that will benefit populations with greatest need. In particular, the County will ensure that, at minimum, 70% of the total CDBG-DR funds will directly benefit LMI households.

The Federal Notice (83 FR 5844) identifies that in addition to the criteria at 24 CFR 570.208(a)(1)–(4) and 570.483(b)(1)–(4), HUD is establishing an alternative requirement to include the two new national objective criteria. One concerns low- to moderate-income buyouts (LMB) and another concerns housing incentives (LMHI) that benefit LMI households that use CDBG–DR funding provided pursuant to this notice. For a buyout award to meet the new LMB national objectives, grantees must demonstrate the following:

- (1) The CDBG–DR funds have been provided for an eligible activity that benefits LMI households supporting their move from high-risk areas. The following activities shall qualify under this criterion, and must also meet the eligibility criteria of the notices governing the use of the CDBG–DR funds:
 - (a) Low/Mod Buyout (LMB). When CDBG–DR funds are used for a buyout award to acquire housing owned by a qualifying LMI household, the award amount (including optional relocation assistance) is greater than the post-disaster (current) fair market value of that property.

The VHBP aims to serve LMI households through the voluntary purchase of property, to transition residential settlement away from areas of high hazard such as the area impacted by the 2018 Kilauea eruption. The award amount is based



upon 2017 pre-disaster valuations, which are greater than current fair market value (FMV) of damaged or destroyed properties.

Activities under the VHBP are anticipated to primarily meet the Low- to Moderate-Income Buyout (LMB) and Low- to Moderate-Income (LMI) National Objectives, respectively. The Federal Register Notice (85 FR 4681) requires that at a minimum 70 percent of program funding will serve LMI households. The Urgent Need National Objective may also be utilized on an as-needed basis to serve eligible applicants who are not LMI but suffered impacts to their homes during the 2018 Kīlauea eruption. The National Objective to be fulfilled through this program will be specific to each qualifying household and based on verification of each applicant's household income.

For each CDBG-DR-funded activity that is meeting the Urgent Need National Objective, Hawai'i County will assess the type, scale, and location of the disaster-related impacts that the activity is addressing. In this way, the County will ensure that each activity meeting the Urgent Need National Objective is responding directly to an identified disaster-related impact. A significant portion of the Eruption Area in Census Tract 211.01 Block Group 2 is not LMI-eligible although approximately half of the destroyed homes and much of the inundated land from the 2018 Kīlauea eruption is in this area. The County is prioritizing primary homes and LMI households in the administration of its Voluntary Housing Buyout Program (VHBP). There remains an opportunity and a need to serve non-LMI households through the VHBP. CDBG-DR program funds serving non-LMI households will need to be addressed by the Urgent Need National Objective.

There are currently no program activities planned to address slum and blight.

1.2 Accessibility and Reasonable Accommodations

In accordance with the requirements of Title II of the Americans with Disabilities Act of 1990 (ADA), the County of Hawai'i will not discriminate against qualified individuals with disabilities in its services, programs, or activities. The County has established procedures for providing reasonable accommodations for individuals with disabilities to ensure that departments and agencies meet their obligations to reasonably accommodate individuals with disabilities in a consistent, appropriate, and thorough manner. The County will meet accessibility standards, provide reasonable accommodation to persons with disabilities, and take into consideration the functional needs of persons with disabilities in its CDBG-DR program activities.

The County will generally, upon request, provide appropriate aids and services leading to effective communication for individuals with disabilities. Appropriate aids and services include qualified sign language interpreters, making information and communication accessible to individuals who have speech, hearing, visual or cognitive impairments. Furthermore, the County will accommodate individuals with disabilities who have mobility impairments. In practice, events conducted as part of HUD-funded CDBG-DR activities will take place at ADA accessible venues and accommodation will be provided to individuals with disabilities who request it for participation in public events, or access to print or digital information.

In addition, the County of Hawai'i complies with Section 508 requirements regarding the accessibility to electronic and information technology for individuals with disabilities. The County and its vendors assist with ensuring that all public communications, including its website, meet Section 508 requirements.



1.3 Fair Housing

The Fair Housing Act requires all grantees, partners, VHBP recipients, subrecipients, and/or developers whose capital projects are wholly or partially funded with federal assistance to certify that no person, identified within a protected class, is excluded from participation in, denied the benefit of, or subjected to discrimination in any housing program or activity. The protected classes identified within the Federal Fair Housing Act are race, color, religion, sex, national origin, familial status, and disability. The State of Hawai'i Fair Housing Laws expand this list to include the protected classes of race, sex (including gender identity or gender expression), sexual orientation, color, religion, marital status, familial status (including Hanai), ancestry, disability, age, and HIV infection.

The County of Hawai'i and its contractors and third-party vendors, if such parties are used, shall ensure that no applicant is treated in any way that does not comply with the Federal Fair Housing Act, the State of Hawai'i Fair Housing Laws, and the County's Office of Housing and Community Development Plans and Programs.

The County of Hawai'i will be collecting protected class information, for monitoring and ensuring compliance with the Federal Fair Housing Act as well as the State of Hawai'i Fair Housing Laws, in its implementation of the Voluntary Housing Buyout Program. The investigation into any potential violation, and subsequent enforcement action, shall be coordinated between the Disaster Recovery Division and the County's Office of Housing and Community Development.

1.4 HUD Section 3

The County of Hawai'i is committed to furthering the goals of HUD Section 3. Section 3 of the Housing and Urban Development Act of 1968 [12 U.S.C. 1701u and 24 CFR Part 135] represents HUD's policy for providing preference for new employment, training, and contracting opportunities created from the usage of covered HUD funds to low- and very low-income residents of the community where certain funds are spent, and the businesses that substantially employ these persons. To comply with Section 3, the buyout program will do the following to the extent feasible:

- Implement procedures to notify Section 3 residents and business concerning training, employment, and contracting opportunities generated by Section 3 covered assistance;
- Notify potential contractors working on Section 3 covered projects of their responsibilities;
- Incorporate the Section 3 Clause into all covered solicitations and contracts [see 24 CFR Part 135.38];
- Facilitate the training and employment of Section 3 residents and the award of contracts to Section 3 business concerns;
- Assist and actively cooperate with County departments in contractor/subcontractor compliance;
- Refrain from entering contracts with contractors that are in violation of Section 3 regulations;
- Document actions taken to comply with Section 3; and



- Submit Section 3 Quarterly and Annual Summary Reports, as may be necessary, in accordance with 24 CFR Part 135.90.

1.5 Limited English Proficiency

As the HUD disaster recovery funds Administrator, the County of Hawai'i Planning Department's Disaster Recovery Division is required to ensure meaningful access to agency services, programs, and activities for persons who have Limited English Proficiency (LEP). From intake to closeout, County staff will identify applicants who have difficulty communicating in English and will ensure that the language accommodations will be provided in accordance with County Policy.

According to the 2013–2017 ACS, 74.2% of the State of Hawai'i's population speaks only English, and 25.8% speak a primary language other than English. The County contains a slightly higher concentration of people who primarily speak English, with 80.5% of the County's population speaking only English and 19.5% speaking a primary language other than English. The most prevalent languages spoken in the County following English are Asian and Pacific Island languages, which are spoken by 15.2% of the population (28,019 residents). The ACS estimates that 6.3% percent of County residents speak English less than "very well."

Table 1.1 provides an analysis of primary languages spoken in the County of Hawai'i and the Puna District as a count of individuals and provides disaggregated data for LEP individuals within each language group. The specific languages identified are available for tabulation from 2013-2017 ACS however they do not fully represent the primary languages spoken in the community. Analysis of 2013-2017 ACS Public Use Microdata Area (PUMA) data for the County of Hawai'i provides further context for the linguistic diversity and potential language access needs within the Other Asian and Pacific Island Languages category. Hawaiian is the indigenous language of the Hawaiian Islands and the rate of LEP among speakers of Hawaiian in the County of Hawai'i is 9.7%. Across the County, Asian languages not disaggregated in Table 1.1 with high rates of LEP include, but are not limited to, Japanese (39.7% of 1,714 speakers) and Ilocano (54.3% of 2,841 speakers). Pacific Island languages with high rates of LEP include, but are not limited to, Chuukese (46.1% of 171 speakers) and Marshallese (35.6% of 505 speakers).

Data on primary languages other than English and LEP speakers of these languages is challenging to tabulate for the Block Groups that make up the Eruption Area. Table 1.2 presents a count of households surveyed in the Eruption Area by the 2013-2017 ACS. The table identifies the language spoken at home and presence of LEP individuals in that household. The available data indicate that the Eruption Area has less linguistic diversity and a lower proportion of LEP persons by language group when compared to the Puna District and County which are represented in Table 1.1. The margins of error are reported here from the 2013-2017 ACS to provide context to the limitations of these data. These data in Tables 1.1 and 1.2 will be one factor in ensuring access to information and services to LEP persons is provided as part of the VHBP.

Language for limited English proficient (LEP) persons can be a barrier to accessing important benefits or services, understanding, and exercising important rights, complying with applicable responsibilities, or understanding other information provided by the County. In certain circumstances, failure to ensure that LEP persons can effectively participate in or benefit from federally assisted programs and activities may violate the prohibition under Title VI against discrimination on the basis of national origin. The County will take affirmative steps to communicate with people who need services or information in a language other than English.



In order to determine the level of access needed by LEP persons, the County will balance four factors: (1) the number or proportion of LEP persons eligible to be served or likely to be encountered by the CDBG-DR program; (2) the frequency with which LEP persons come in contact with the CDBG-DR program; (3) the nature and importance of the program, activity, or service provided by the CDBG-DR program to people’s lives; and (4) the resources available to the County and associated costs. Balancing these four factors will ensure meaningful access by LEP persons to critical services in a way that is consistent, appropriate, and meaningful.

**Table 1.1 Languages Spoken at Home by Limited English Proficiency
2013 -2017 American Community Survey (ACS)**

	Number of Language Speakers	Number of LEP within Language Group	Percent LEP within Language Group	Percent Language Group among All LEP
English	148,210	-	-	-
Spanish	3,588	1,018	24.8%	8.8%
French, Haitian, Cajun	647	115	17.8%	1.0%
German or Related Lang.	318	76	23.9%	0.7%
Russian, Polish, Slavic Languages.	591	185	31.3%	1.6%
Other Indo-European Languages.	711	120	16.9%	1.0%
Korean	1,236	554	44.8%	4.8%
Mandarin and Cantonese	831	358	43.1%	3.1%
Vietnamese	219	148	67.6%	1.3%
Tagalog	4,182	1,752	41.9%	15.2%
Other Asian Pacific Island languages	21,551	7,095	32.9%	61.5%
Arabic	136	0	0.0%	0.0%
Other Lang.	1,995	111	5.6%	1.0%

Source: 2013-2017 ACS

Note: LEP = individual with limited English proficiency who speaks English less than “very well”



For oral interpretation in languages other than English, the County will utilize a language line for telephone interpreter services. The interpreter support is a service provided to applicants when physically present at County office locations. The County will provide written translations of vital documents for each eligible LEP language group that constitutes 5 percent or 1,000 persons, whichever is less, of the population of persons eligible to be served or likely to be affected or encountered. If there are fewer than 50 persons in a language group that reaches the 5 percent threshold the County does not translate vital written materials but provides written notice in the primary language of the LEP language group of the right to receive competent oral interpretation of those written materials at no cost.

[It should be noted that, due to the limited LEP populations and specific language groups reported in the 2018 Kīlauea eruption area and adjacent parts of the Puna District, the previously generated CDBG-DR Action Plan was not made available in languages other than English. Throughout the community engagement that informed the Action Plan, during the public comment period and since, the County received no requests for information related to recovery from the 2018 Kīlauea eruption or CDBG-DR related activities in a language other than English.]

**Table 1.2 - Household Language by Household Limited English-Speaking Status
(Eruption Area Block Groups)
2013–2017 American Community Survey (ACS)**

	Total for Eruption Area	Census Tract 211.01 (BG 1)	Margin of Error	Census Tract 211.01 (BG 2)	Margin of Error	Census Tract 211.06 (BG 2)	Margin of Error	Census Tract 211.06 (BG 4)	Margin of Error
Total Households	2,994	1378	±129	272	±102	748	±228	596	±125
English Only	2,665	1269	±117	264	±102	624	±200	508	±118
Spanish	54	10	±9	0	±11	44	±40	0	±11
LEP Households	0	0	±11	0	±11	0	±11	0	±11
Other Indo-European Languages	100	23	±17	8	±12	65	±99	4	±6
LEP Households	14	10	±15	0	±11	0	±11	4	±6
Asian and Pacific Island Languages	172	73	±33	0	±11	15	±23	84	±42
LEP Households	51	22	±18	0	±11	0	±11	29	±23
Other Languages	3	3	±6	0	±11	0	±11	0	±11
LEP Households	0	0	±11	0	±11	0	±11	0	±11

Source: 2013–2017 ACS



1.6 Uniform Relocation Assistance and Real Property acquisition Act of 1970, as amended, (URA)

The URA establishes minimum federal requirements for real property acquisition and relocation assistance for federally funded projects. URA requirements pertain to any phase of a project involving acquisition, rehabilitation, or demolition. In circumstances where relocation is prompted, various requirements may need to be met including, but not limited to, relocation advisory services, minimum 90-day written notice to vacate, and moving expense payments.

All buyouts will be voluntary and therefore property owners will not be eligible for Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA), as amended, and implementing regulations at 49 CFR Part 24. However, any tenants residing at a property at the time that an application for the voluntary buyout of the property is submitted will be considered involuntarily displaced and will be eligible for URA.

One-for-one replacement requirements are waived in connection with funds allocated under this program for lower-income dwelling units that are damaged by the disaster and not suitable for rehabilitation. See Section 11.8 Residential Anti-Displacement and Relocation Act for full policy details.

1.7 Lawful Presence

To be eligible for many federally funded programs, applicants or beneficiaries of those programs need to provide verification of their lawful presence in the United States. In the implementation of its application processes Program Administrators, like the County of Hawai'i, require applicants to attest to their lawful presence as U.S. Citizens, U.S. Nationals, Qualified Aliens, or other status, and supply documentation for verification purposes.

For the Voluntary Housing Buyout Program, the position of the County and HUD is that the community as a whole is the program's beneficiary whereby community risk reduction is furthered by transitioning residential settlement away from a high hazard area. As such, lawful presence is not a criterion for determining eligibility for federal assistance through this buyout program specifically. While lawful presence is not a criterion for determining eligibility, the application process does seek information about an applicant's lawful presence in the United States as part of the application process.

1.8 Exceptions, Appeals and Grievances

The County will institute Exception, Appeal, and Complaint and Grievance processes to reach resolutions surrounding the VHBP program. An Exception would be applicable during the processing of a program application, where an applicant requests some deviation from the general program requirements. An Appeal is appropriate after a decision or determination is made by County staff, where the applicant opposes the decision and requests reconsideration. A Grievance is applicable for raising general concerns regarding either program offered by the County. Exceptions, Appeals and Grievances are further discussed within the Appendix of this document (see Policy section).



SECTION 2. VOLUNTARY HOUSING BUYOUT PROGRAM

2.1 Eligibility Requirements

All applicants to the Voluntary Housing Buyout Program (VHBP) must meet the following eligibility standards to qualify for assistance. Eligibility does not ensure assistance, and it is expected that there will be more eligible applicants than can be served with available funds. The County limits one property acquisition per applicant or owner, unless otherwise approved through the County's Exception Policy/Process. Furthermore, applicants who own multiple properties as individuals or through other ownership structures (such as, but not limited to, Trusts, LLCs, and Corporations) cannot qualify for more than one property acquisition unless otherwise approved through the County's Exception Policy/Process.

- The property must be located in Hawai'i County.
- The property must meet at least one of the four criteria listed below:
 - Inundated by lava
 - Isolated by lava or inaccessible due to eruption activity
 - Suffered direct physical damage from lava, including structures affected by fires caused by lava (includes wildfires)
 - Been physically affected by secondary effects of volcanic activity, such as heating or gases

Applicants need not have registered for FEMA Individual Assistance to be eligible for the VHBP. For those who were registered, the VHBP may use FEMA damage documentation for informational purposes, but the VHBP damage verification process will constitute the official documentation of damage linking back to the 2018 Kīlauea eruption. Hawai'i County may also use existing County documentation, such as prior verification from the County's Civil Defense Agency confirming property damage or conduct on-site inspections to determine if the property was impacted by the event.

2.2 Threshold Factors

Additional criteria and threshold factors to determine eligibility for the VHBP include:

- All applicants must have owned their property prior to the 2018 Kīlauea eruption, must have continuously owned their property since that time, and must currently own their property. Properties are not eligible if they have been sold, even in a circumstance where the deed has since been transferred back to the original property owner post-disaster. Applicants must be able to demonstrate clear ownership of the property.
- If there is no County Real Property Tax record of the dwelling being the primary residence of the applicant at the time of the eruption, such as through a primary home exemption, program staff shall request applicants to submit other documentation. Acceptable proof includes, but is not limited to, mortgage documentation, state



or federal tax returns, voter registrations, Hawai'i Driver's License, and Social Security or annuity letters, which identify both the owner's name and location of the primary residence.

- Applicants should be current on property taxes or current on an approved payment plan (including exemptions under current law). Any outstanding County taxes, liens, homeowner association (HOA) dues, or other financial property encumbrances on the property will be cleared at closing.
- Property qualifying as a primary or second home must have had an eligible structure prior to the disaster. Eligible structures for the VHBP must have served as dwelling units. Structures not permitted prior to the eruption may still be eligible for this program; however, proof of use as a dwelling unit prior to the disaster is required.
- Properties with an eligible structure used for both residential and commercial purposes are eligible for the program; however, the commercial purpose must be a secondary use of the property.
- Non-residential properties, whose improvements and/or activities were solely for business or commercial purposes, do not qualify for the Voluntary Housing Buyout Program.
- No condominiums, co-operatives, townhomes, or other housing units that share any common wall or area will be eligible under the VHBP.
- Properties containing recreational vehicles (RV) and camper trailers used as a residence are not eligible for financial compensation. Only the value of the land will be provided for properties that did not contain structures with assessed values as recorded by the County.
- Otherwise, eligible second homes and undeveloped parcels are eligible for the VHBP but will be prioritized after primary homes.

2.3 Ownership Transfers and Disparities

A property that has transferred ownership to another immediate family member after the disaster, such as through a death, divorce, inheritance, or trust, may be eligible with proper documentation. In these situations, or circumstances where ownership discrepancies cloud the title to the property, the County intends to work with program applicants for up to a year from the time of application submittal. Applicants must be proactively involved in resolving these title questions, including communicating and providing documentation to program staff when requested. At the conclusion of the year, the County will reassess the applicant's request and determine whether additional time to resolve the situation will be granted. Additional discussion concerning ownership and breaks in property title can be found in the Exception Policy/Process section of this Policy and Procedure Manual document.



2.4 Prioritization

Applicants applying for disaster assistance, through the VHBP, will be processed according to the following priorities. A weighting, or point system, will also be implemented to assist in the ranking of properties to be acquired. The priority and ranking approach is further discussed within Section 4 of this Policy and Procedure Manual.

Property Classification

Applications will be prioritized based on the following classification of property that existed prior to the disaster:

1. Owner's documented Primary Home
2. Owner's documented Second Home, including Long-Term Rentals
3. Undeveloped/Vacant Parcels

Low- to Moderate-Income (LMI) Households

Hawai'i County will also prioritize LMI applicants over non-LMI applicants. The Federal Register Notice (85 FR 4681) requires that, at a minimum, 70 percent of program funding will serve LMI households. LMI eligibility will be specific to each qualifying household and based on verification of each applicant's household income. All eligible applicants will be required to submit income documentation so that program staff can conduct the LMI determination.

Damage Status

Damage assessment for properties will be given different levels of prioritization. Tier 1 properties that have full inundation are cleared through a desktop review per HUD, Federal and State regulations. Properties that have debris remaining on site go through the tiered review process and the Project Specialist will determine the type of review required. Homes that have structures present or outstanding debris will require a Tier 2 review and site visit.

Road Access

The County will also rank properties without public road access to be restored over those with public road access to be restored.

Short-Term Vacation Rentals

While the buyout program is prioritizing homes of the property owner, as well as long-term rentals, properties with short-term rentals (used for vacation purposes) are also addressed as follows:

1. An owner who used a property as their primary residence (the primary use) and rented out a portion of the property as a short-term vacation rental (an accessory use) would qualify for the buyout program.
2. A long-term tenant who used a property as their primary residence (the primary use), and a portion of the property was rented out as a short-term vacation rental (an accessory use), would qualify for the buyout program.



3. An owner who resided part time in their second home on the property (with or without a long-term tenant), and also rented out a portion of the property as a short-term vacation rental, would qualify for the buyout program.
4. If the property served as a full-time short-term vacation rental, and an owner or long-term tenant did not reside on the property for any portion of the year, then the property would not qualify. In this circumstance the vacation rental would be considered a business which is not eligible for the VHBP.
5. A caretaker residing on the property may be considered a long-term tenant so long as their primary purpose was to maintain or manage the property, with or without monetary compensation or in exchange for room and board. If the caretaker's purpose was to primarily support or manage a short-term vacation rental (as in Example 4 above) the caretaker would not qualify as a long-term tenant but would be considered accessory to a business use.

[Note: County Code defines *short-term rentals* as: A dwelling unit, in which the owner or operator does not reside, that has no more than five bedrooms for rent and is rented for a period of thirty consecutive days or less.]

2.5 Income Verification

Hawai'i County has selected the IRS 1040 Adjusted Gross Income as the income definition for its CDBG-DR programs. In the review of household income, to determine LMI status, the County will be verifying income through varied means such as tax filings, copies of paystubs, or other documentation of income received. Income will be projected for a 12-month period from the date that income is calculated. This income certification will be valid for 12 months. If the applicant has not received assistance with CDBG-DR funds or accepted a written purchase offer from the County within said period, they must be re-certified. While an additional review of income will be required for this re-qualification action, such activity shall not impact an applicant's scoring/ranking (as further discussed within Section 4 of this Policy and Procedure Manual). Receipt of DR funds is determined as the point at which the grant agreement is signed with the applicant.

2.6 Buyout Limits

The total program budget for the VHBP is **\$102,182,950**. This allocation may be modified based on the demand for the Program with amendment to the Action Plan and approval by HUD.

In order to serve as many disaster survivors as possible with available recovery funding, a limit of **\$230,000** has been established as the maximum buyout offer per impacted primary or secondary home property. ***For secondary homes the final buyout offer will be adjusted within the maximum grant award based on the availability of CDBG-DR grant funds. The VHBP expects secondary homes to receive buyout offers of not more than \$142,000, relative to pre-disaster (2017) appraised market value, after the following budget commitments are accounted for:***

- Costs to serve all eligible primary homes;
- Costs to serve all eligible secondary homes;
- Costs to serve all undeveloped properties that are owned by LMI households;
- Costs to complete demolition or environmental mitigation work on certain buyout properties when required by federal or state regulations.



The determination of buyout offers for primary and secondary homes will be based on pre-disaster (2017) appraised market value and fall within the maximum grant award amount of \$230,000. This same determination will apply when the buyout offer is less than the maximum grant award amount of \$230,000 for secondary homes.

A limit of **\$22,000** has been established as the maximum buyout offer per impacted undeveloped property.

The County limits one property acquisition per applicant or owner, unless otherwise approved through the County's Exception Policy/Process. Furthermore, applicants who own multiple properties as individuals or through other ownership structures (such as, but not limited to, Trusts, LLCs, and Corporations) cannot qualify for more than one property acquisition unless otherwise approved through the County's Exception Policy/Process.

The maximum grant award amount of \$230,000 for properties with primary or secondary homes impacted by the disaster event represents the calculated median of the pre-disaster (2017) appraised market value for properties that had a primary home based on Real Property Tax records of an approved homeowners' exemption. The maximum grant award amount of \$22,000 for undeveloped properties impacted by the disaster event represents the calculated median of the pre-disaster (2017) appraised market value for this type of property. The County has established an exception policy for formally evaluating a change to the 2017 pre-disaster total market value per Section 11.1 in this document.

2.7 Duplication of Benefits

Federal law prohibits any person, business concern, or other entity from receiving federal funds for any part of such loss for which the recipient of assistance has already received financial assistance under any other program, private insurance, charitable assistance, or any other source. Per 42 U.S.C. 5155(a) such duplicative funding is called Duplication of Benefit (DOB) and occurs when:

- A beneficiary receives assistance, and
- The assistance is from multiple sources, and
- The assistance amount exceeds the need for a particular disaster recovery purpose.

This prohibition laid out in the Stafford Act, as amended, is a significant added layer of regulation not found within the County's entitlement CDBG program. This is a new regulation with which the County will comply for its CDBG-DR grant.

The County must conduct an individualized review of each applicant to determine that the amount of assistance the applicant is eligible for will not cause a duplication of benefits by exceeding the unmet needs of that applicant. The County has established these policies and procedures to uphold the safeguard against DOB within its program guidelines for each eligible activity. Understanding that prevention of DOB is especially critical in the context of housing programs, the County has established a framework for identifying potentially duplicative sources of funds and reducing documented duplications from potential project awards prior to any award being made.

Part of the process in the duplication of benefits procedures includes verifying necessary and reasonable costs. This helps ensure that funds are efficiently and effectively utilized. The determination of necessary and reasonable costs will apply to any project or program receiving funding, including grant awards to individual property owners or businesses, as well as administrative and planning funds. The County will utilize the cost principles described in 2 CFR 200.404



(Reasonable Costs) to determine necessity and reasonableness. According to 2 CFR 200.404, "A cost is reasonable if, in its nature and amount, it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made." The County will follow these principles and fund only project costs that are deemed necessary and reasonable.

To ensure that the County of Hawai'i does not provide a duplication of benefits, the County will adhere to the following general process in its work with applicants to programs funded through the CDBG-DR grant award:

1. Determination of the applicant's total need;
2. Identify all disaster recovery assistance received;
3. Determine whether or not federal assistance was duplicative and/or unspent;
4. Determine whether or not disaster assistance funds were spent on allowable activities; and
5. Deduct duplicative assistance, unspent funds, and funds spent on unallowable activities from the applicant's total need.

Per our action plan, an applicant's total need is defined as the 2017 total market value of their impacted property. This need may or may not exceed the program maximum grant award.

During the application period and eligibility determination, a Housing Specialist will document sources of funds received or approved from private insurance, SBA, FEMA, and/or volunteer organizations (including in-kind assistance). Once sources of disaster assistance have been identified and after determining an applicant's remaining unmet recovery need, any sources of funds previously received for the same purpose that the CDBG-DR award will be intended will be deducted except where those funds were spent on a disaster related purpose per Stafford Act and HUD guidance, sometimes known or referred to as Allowable Activities. Expenditures for Allowable Activities will not result in a reduction of the final award.

Federal Register Notice 84 FR 28836 regarding the Duplication of Benefits also requires the County to ensure that program costs and grant awards abide by cost principles and are "necessary and reasonable." Under cost principles, a cost assigned to a grant "is reasonable if, in its nature and amount, it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost" pursuant to 2 CFR 200.404. The County must consider factors described at 2 CFR 200.404(a) through (e) when determining which types and amounts of cost items are necessary and reasonable. Based on these factors, HUD generally presumes that if a cost has been paid by another source, charging it to the Federal award violates the necessary and reasonable standard unless grant requirements permit reimbursement. For programs and grant awards it would not be considered necessary and reasonable if federal disaster recovery assistance received remains unspent and available to the applicant and is above the CDBG-DR assistance the applicant is eligible for; or if federal disaster recovery assistance has been spent on a different purpose or use than this assistance was intended per Allowable Activities per 84 FR 28845. VI. If CDBG-DR assistance that an applicant would be otherwise eligible for is deemed not to be necessary and reasonable, it will be considered duplicative and deducted from the applicant's total need.

The County understands that applicant benefits from FEMA, SBA, and insurance can be a moving target with additional funds received much later than initial payouts or due to appeals and litigation. Further, all funding sources may not be known at the time of application. Therefore, the County will periodically monitor program applicants and perform its due diligence to verify benefits that may have been secured from federal resources such as FEMA, SBA, and USDA after the date of application.



Late or additional benefits from other sources can also result in a change to the outcome of the award amount for which an applicant is ultimately eligible. Applicant awards may have to be adjusted as new sources are identified to prevent DOB and minimize recapture.

The County has an arrangement to secure FEMA and SBA data upon request to be used as a part of its DOB analysis. Further, the County has already established relationships with volunteer organizations that have provided assistance to disaster-affected individuals. The County will work to leverage these relationships and applicant release forms to obtain additional DOB data from philanthropic sources.

As a part of its case management process, the County will require applicants to execute an Application for Assistance that will include an Income Certification, Insurance Certification and Release, Release of Information, and Subrogation Agreement, which will become part of each applicant's record. These documents will hold each applicant accountable for the accuracy of information provided and provide the County recourse if it is determined later that applicants received other financial assistance not identified at the time of application.

If a duplication of benefit arises within the term of the applicant benefit delivery and compliance/monitoring period, the County of Hawai'i will adhere to the guidelines set forth in OMB Circular A-87 and the Stafford Act (Chapter 37 of Title 31) for recapture of funds. Beneficiaries of CDBG-DR program funds will be informed of fund recapture in an agreement executed with the County if it is determined that a DOB exists. The CDBG-DR Program Manager will bear responsibility for ensuring compliance with DOB regulatory requirements at the eligibility stage, and for monitoring latent additional funding sources.



SECTION 3. VHBP APPLICATION PROCESS & REQUIREMENTS

3.1 Application Phasing

As previously identified, applications will be prioritized based on various factors such as whether the impacted property was the owner's primary dwelling and household LMI status. The County anticipates there will be more applicants with needs than the funding will accommodate. Furthermore, the submittal of an application is no guarantee that the property will ultimately be acquired by the County.

The VHBP program is being designed to identify a specific "window" of time during when applications are to be submitted. The phases for application submittals reflect the following order:

1. Owner's documented Primary Home
2. Owner's documented Second Home, including Long-Term Rentals
3. Undeveloped/Vacant Parcels

Depending upon the number of interested and qualified applicants, the County may ultimately create additional or altered phases for application submittal and processing.

3.2 Application Requirements

Application forms, checklists, and other program guidance materials will be made available for public use and outline the necessary information to be submitted to the County. VHBP staff will conduct in-person and/or virtual information sessions with potential applicants to discuss the program and provide guidance on the application submittal.

Any qualifying party intending to apply for County acquisition shall submit a VHBP Application Form, along with supportive documentation, to the County for eligibility assessing and review against program requirements. VHBP staff will notify the applicant if information is deficient and whether additional documentation is required. Documentation to be submitted includes a range of information, including verification of household income, verification of ownership, any prior benefits received, impact by the eruption, and other similar data.

The County's application review timeline is contingent upon the number of applications received, as well as the completeness of application submittals. Failure to submit necessary documentation and information, or the presence of outstanding property/ownership/financing issues, will prolong VHBP staff's review and may impact whether a property is ultimately acquired. Those applications successfully screened will then be prioritized for County acquisition.



3.3 Application and Property Acquisition Process

STEP 1: Application Submittal

- Applicants shall go to recovery.hawaiicounty.gov and click the “Housing Buyout” button. By scrolling down the page, applicants can locate the “Application Forms and Supporting Documents” and Application Instructions to be downloaded to assist in the application process.

STEP 2: Application Review

- VHBP staff will review submitted applications for eligibility and identify any additional information needed for the application intake process.

STEP 3: Intake Appointment

- VHBP staff will contact applicants to schedule an intake appointment.

STEP 4: Eligibility Determination

- VHBP staff will consider all the information provided from an applicant’s intake appointment to determine final program eligibility.

STEP 5: Notification of Acceptance

- Applicants who pass the final program determination of eligibility will be notified by mail.

STEP 6: Offer to Purchase

- VHBP staff will send applicants an offer to purchase their impacted property. Applicants will have 30 days, from the date the offer was issued, to decide whether to accept or decline the purchase offer.

STEP 7: Execution of Purchase Agreement

- If an applicant decides to sell their impacted property, a sales contract shall be provided for signature.

STEP 8: Escrow, Closing Process, and Payment

- After the contract is signed, the escrow and closing processes are entered, ending in payment.

3.4 Communication and Coordination

Since the 2018 eruption event, the Disaster Recovery Division has been providing public information and marketing its efforts by numerous means. Furthermore, with the onset of COVID-19 pandemic, minimal in-person interaction between County employees and the public has taken place thus resulting in heightened communication via different means. Marketing efforts will continue through the various phases of application submittal and processing, and is anticipated to include notification via the following:

- Disaster Recovery web site



- County's main web site
- Disaster Recovery newsletter
- Mayor's newsletter
- Disaster Recovery email blasts from its distribution list
- Public Service Announcements to local radio stations and print news outlets
- Verbal announcements at public meetings such as County Council and Planning Commission
- Notification to property associations
- Social media

The Disaster Recovery Division will be expanding its staffing to carry out the buyout program and securing additional office space to accommodate in-person needs with applicants. Applicant assistance will be accommodated both virtually and in-person.



SECTION 4. VHBP APPLICATION REVIEW

4.1 Application Review

Upon application submittal, VHBP staff will conduct a “tiered” review of all applications received. Such approach is anticipated to reflect a process flow similar to the following:

- An initial review of application will be conducted to ensure application completeness. This is intended to limit the potential for applicants rushing to be “first in line” when the application itself is incomplete. Not until an application is confirmed as completed will it continue through Program processing.
- When an application has been determined complete, the applicant and property will be verified for Program acceptance including the location of the property and confirmation of impacts from the 2018 eruption.
- Impacts from the eruption will need to be established by an independent party, who is not the owner or applicant. Documentation of impacts may currently exist and not need to be newly generated or may otherwise be needed such as through an on-site investigation. Examples of parties who are appropriate suppliers of this documentation include the County Civil Defense Agency and Real Property Tax Division of the Department of Finance, as well as FEMA and SBA, who may have previously supplied letters to owners certifying property damage, isolation, or that homes are no longer habitable and functionally destroyed.
- Applications that have met this standard will further be reviewed for verification of other program requirements including, but not limited to, verification the applicants owned the property prior to the 2018 eruption, the applicants currently own the property, and have clear title to the property.
- Property encumbrances, identified within a title report, should be cleared or resolved prior to the County’s acquisition. Financial encumbrances, such as liens, may be resolved at the time of closing if the price for County acquisition meets or exceeds the dollar amount owed or claim imposed on the property. A good faith effort shall be made to resolve other property encumbrances, such as easements, and shall be considered by the County on a case-by-case basis.
- Applicants with outstanding or past due County property taxes shall be on, or will be required to initiate, an active payment plan with the Department of Finance. Any outstanding County taxes still existing at the time of property acquisition shall be collected at closing.
- A prioritization system is being incorporated with the buyout criteria, for ranking purposes, as shown in Table 4.1 and Figures 4.1 through 4.3.
- Additional methods and procedures will be implemented to ensure fairness and non-bias in the submittal and review process. Procedures will be used such as date/time stamping of material received and confirmation of when eligibility has been verified, to ensure appropriate application order has been maintained.



Table 4.1 Buyout Criteria and Ranking

Owner-Occupied Primary Homes	Secondary Homes (Includes Long-Term Rentals)	Undeveloped/Vacant Lots
Primary Home	Secondary Home	Vacant Lot
LMI	LMI	LMI
Inundated/Isolated	Inundated/Isolated	Inundated/Isolated
Non-Restored Road	Non-Restored Road	Non-Restored Road
Total Points: 3125	Total Points: 2125	Total Points: 1375
Primary Home	Secondary Home	Vacant Lot
LMI	LMI	LMI
Inundated/Isolated	Inundated/Isolated	Inundated/Isolated
Restored Road	Restored Road	Restored Road
Total Points: 3075	Total Points: 2075	Total Points: 1325
Primary Home	Secondary Home	Vacant Lot
LMI	LMI	LMI
Significant/Partial Damage	Significant/Partial Damage	Significant/Partial Damage
Non-Restored Road	Non-Restored Road	Non-Restored Road
Total Points: 2925	Total Points: 1925	Total Points: 1175
Primary Home	Secondary Home	Vacant Lot
LMI	LMI	LMI
Significant/Partial Damage	Significant/Partial Damage	Significant/Partial Damage
Restored Road	Restored Road	Restored Road
Total Points: 2875	Total Points: 1875	Total Points: 1125
Primary Home	Secondary Home	Vacant Lot
Non-LMI	Non-LMI	Non-LMI
Inundated/Isolated	Inundated/Isolated	Inundated/Isolated
Non-Restored Road	Non-Restored Road	Non-Restored Road
Total Points: 2750	Total Points: 1750	Total Points: 1000
Primary Home	Secondary Home	Vacant Lot
Non-LMI	Non-LMI	Non-LMI
Inundated/Isolated	Inundated/Isolated	Inundated/Isolated
Restored Road	Restored Road	Restored Road
Total Points: 2700	Total Points: 1700	Total Points: 950
Primary Home	Secondary Home	Vacant Lot
Non-LMI	Non-LMI	Non-LMI
Significant/Partial Damage	Significant/Partial Damage	Significant/Partial Damage
Non-Restored Road	Non-Restored Road	Non-Restored Road
Total Points: 2550	Total Points: 1550	Total Points: 800
Primary Home	Secondary Home	Vacant Lot
Non-LMI	Non-LMI	Non-LMI
Significant/Partial Damage	Significant/Partial Damage	Significant/Partial Damage
Restored Road	Restored Road	Restored Road
Total Points: 2500	Total Points: 1500	Total Points: 750



Table 4.1 Clarifying Notes

Application Processing Prioritization:

Primary Homes Applications and their Subsequent Purchases will be processed before Secondary Homes Applications and Purchases. Likewise, Secondary Homes Applications and their Subsequent Purchases will be processed before Undeveloped Parcel Applications and Purchases.

Household Income:

Low-to-Moderate Income (LMI) means those households with incomes equal to or less than 80% of Area Median Income (AMI). Non-LMI means those households with incomes above 80% AMI.

Damage Status:

- Parcels will be evaluated by the level of lava inundation or isolation. This will range from completely inundated, partially inundated, to property damaged or uninhabitable due to heat and gas.
- Properties that are Inundated/Isolated include those that are: completely inundated by lava (90% or more coverage) regardless of current structure on site, partially inundated by lava (less than 90% coverage) regardless of current structure on site, isolated by lava with destroyed structure (e.g., lava, wildfire), isolated by lava with standing structure, and isolated by lava with no pre-existing structure.
- Properties with Significant Damage include those that are: not inundated or isolated but with substantially damaged structure (verified damages 50% or more of 2017 property value) and property continuously affected by geothermal heat related to 2018 Kilauea eruption.
- Properties with Partial Damage include those that are: not inundated or isolated but with partially damaged structure (verified damages less than 50% of 2017 property value) with subsequent deterioration since the 2018 eruption.
- Properties will be evaluated for application scoring based on the amount of inundation, accessibility, damage from heat, gas, and ash, or uninhabitable due to heat and gas.
- Properties will be evaluated for any existing homes or other structures at the time of application.

No construction or improvements on the property are allowed once an application for buyout is submitted. This requirement will be assessed along with any occupancy of the property at the time of application. *Road Access:*

Non-Restored Roads means those properties that will not have access to restored public roads. Restored Roads means those properties that will have access restored to public roads.



Figure 4.1 Primary Home Decision Tree

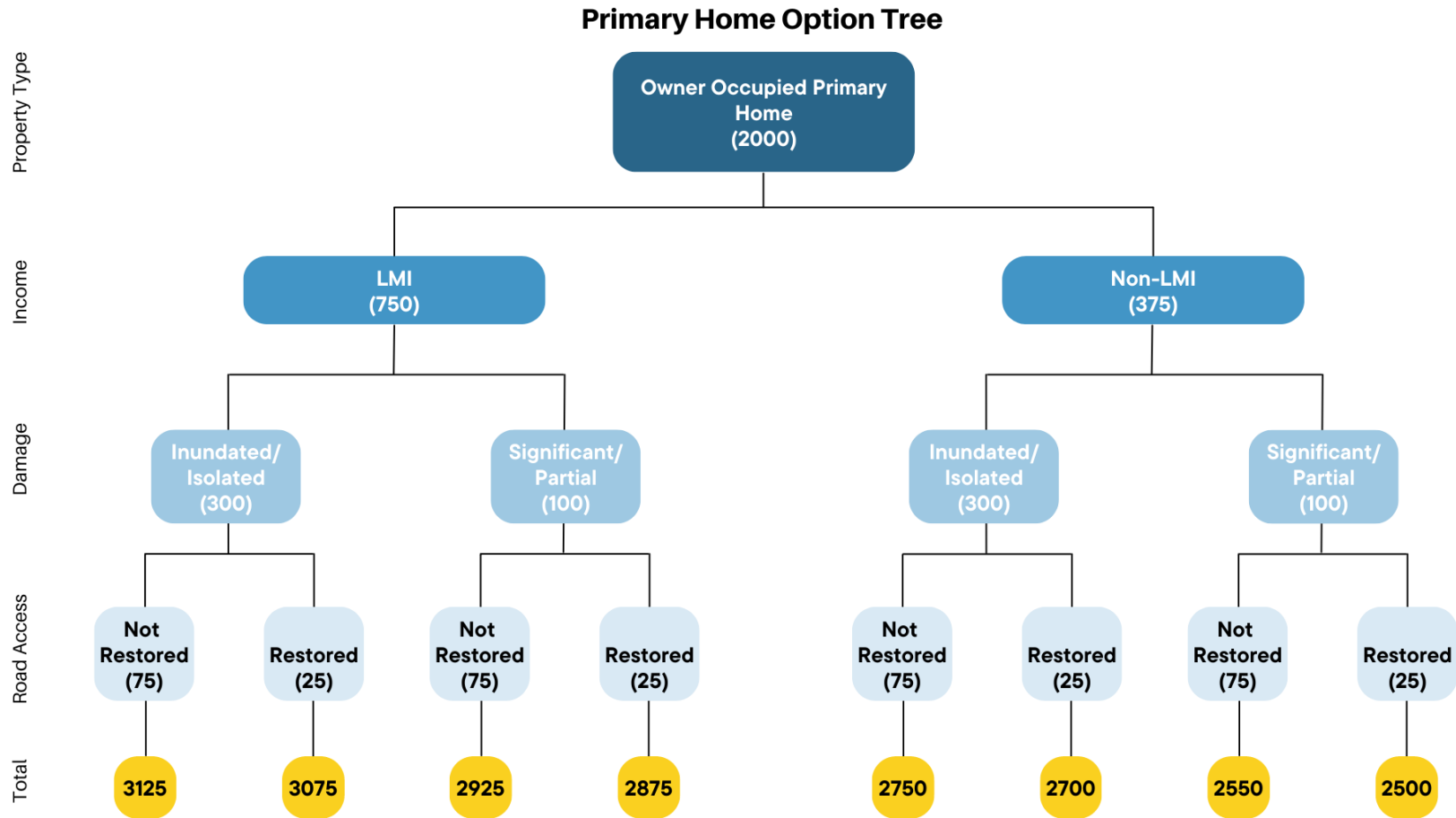




Figure 4.2 Secondary Home Decision Tree

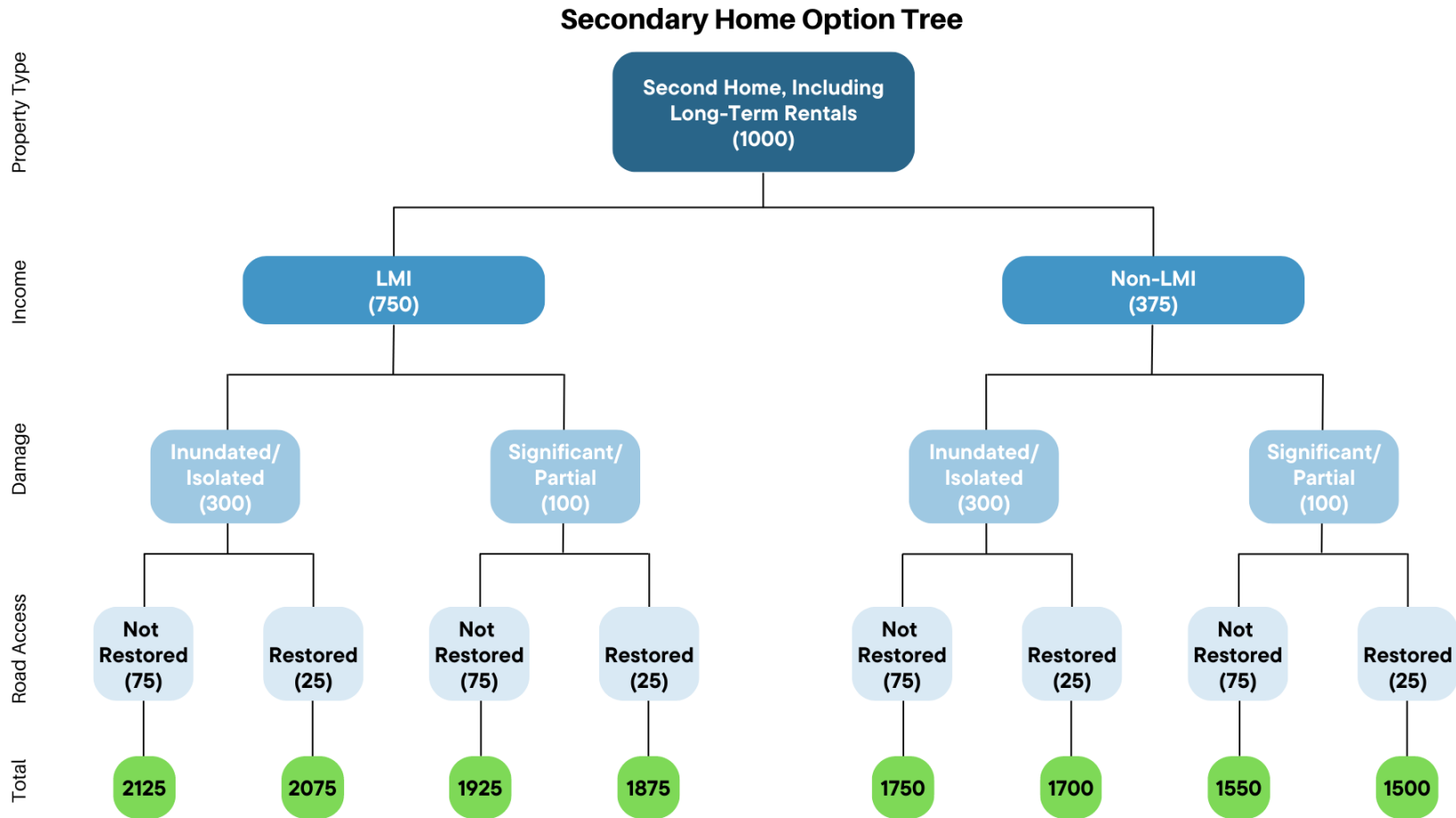
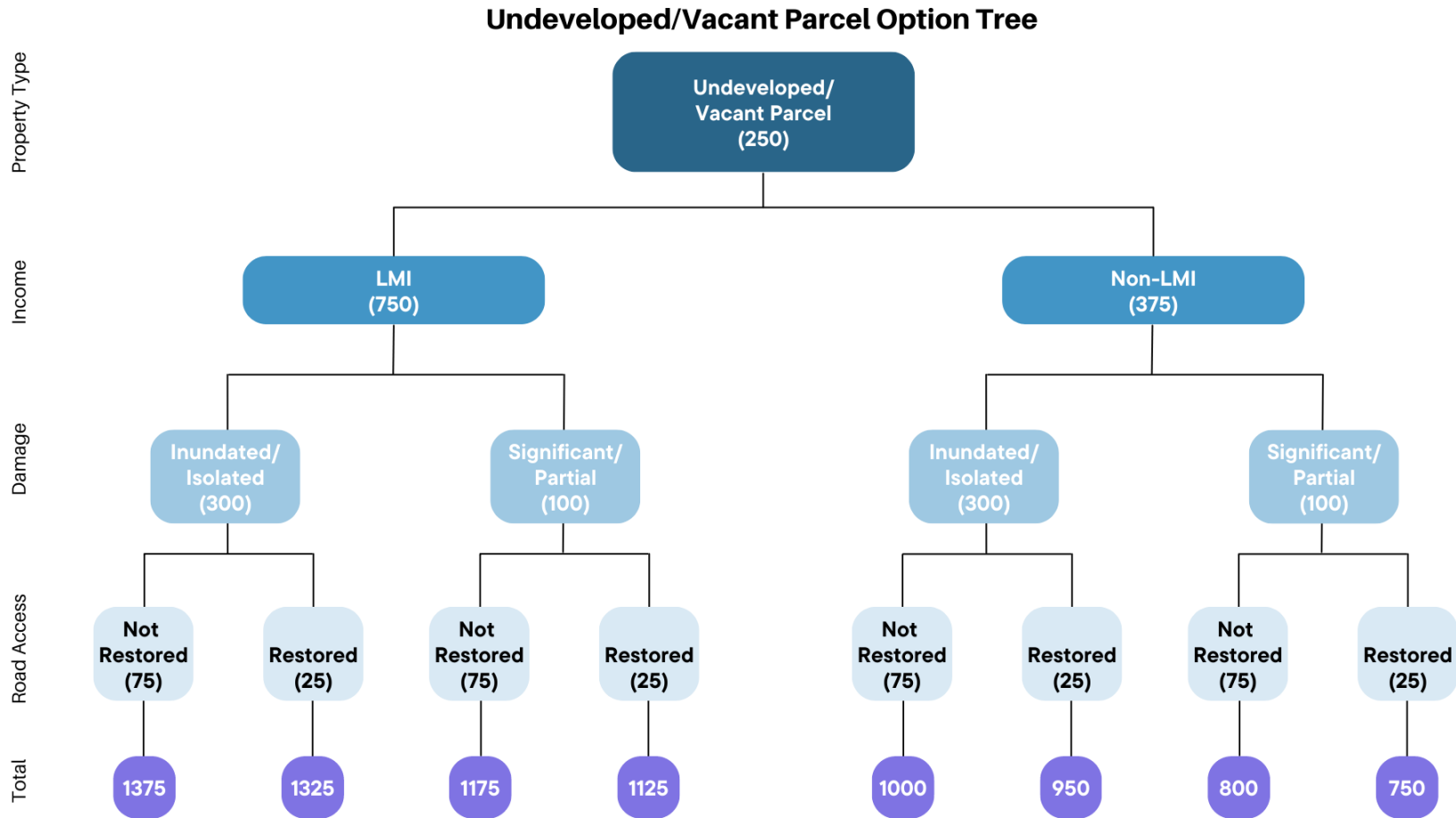




Figure 4.3 Undeveloped Lot Decision Tree





SECTION 5. VHBP PROPERTY VERIFICATION

The County will implement various means of confirming property damage from the 2018 Kīlauea eruption area. Such means include existing documentation from aerial imagery, confirmation from FEMA or other governmental entity such as the County's Civil Defense Agency or Real Property Tax (RPT) Division of the Department of Finance, and receipt of damage documentation from an insurance entity. The VHBP staff may also employ additional means to verify sites proposed for acquisition and property damage, such as through in-person site visits and drone flyovers.

During an applicant's submittal for consideration under the VHBP, the applicant will be required to sign a Right of Entry Authorization. This authorization will allow the County, or its representative, the legal ability to visit the property to assemble documentation verifying the extent of damage if documentation has not yet been established. Information concerning property damage and any remaining improvements will be used for various purposes including:

- Establishing if there are any personal items still on the property that the applicant wishes to collect prior to the acquisition.
- Providing further documentation to support the buyout value.
- Determining if any property improvements still exist and which the applicant wishes to obtain could result in a deduction affecting the final buyout amount.
- A baseline of improvement on which any future demolition will be based.



SECTION 6. VHBP PROPERTY ACQUISITION

Applications that are found to be complete and eligible for property acquisition will proceed with County acquisition based upon established prioritization. Additional parties beyond VHBP staff are anticipated to play necessary roles in the acquisition, including the County's Department of Finance and possibly outside parties such as title insurance companies and authorized legal representatives. In anticipation of many applicants being off-island, certain aspects of required processes may be virtual or involve authorized representatives working at different physical locations.

The following is an outline of typical activities leading up to the formal acquisition of buyout properties by the County.

6.1 Pre-closing

- Based upon the 2017 total market value of the property, along with any additional documentation made available to determine site improvements, VHBP staff will calculate the anticipated buyout offer up to a maximum of \$230,000 (for primary or secondary homes) or \$22,000 (for undeveloped lots).
- An written Purchase Offer shall be supplied to the applicant, including the buyout amount and explanation of the buyout calculation. This offer shall be accepted by the seller and returned within 30 days to VHBP staff, otherwise it shall be presumed the applicant is no longer interested and the offer shall be rescinded.
- The Purchase Offer may include a summary of liens and other property encumbrances, according to a recent title search, with a statement that such encumbrances are to be resolved or retired prior to closing. Additionally, the initial offer price may be used to satisfy liens or other similar financial encumbrances.
- During the 30-day offer acceptance period, the applicant may appeal the initial offer such as in a circumstance where they oppose the buyout amount. Appeals must be accompanied with rationale and/or additional documentation to justify the Appeal.
- If the seller Appeals the Purchase Offer, and the County's decision is to support the Appeal, a Final Written Offer shall be supplied to the applicant incorporating the items addressed in the Appeal. The applicant shall accept this Final Written Offer and return such with 30 days to VHBP staff, otherwise it shall be presumed the applicant is no longer interested and the Offer shall be rescinded.
- If the seller Appeals the Purchase Offer, and the County's decision is to deny the Appeal, the Purchase Offer still stands. The applicant shall accept this Offer and return such within 30 days of Appeal Decision to VHBP staff, otherwise it shall be presumed the applicant is no longer interested and the Offer shall be rescinded.
- Once the Purchase Offer is accepted and returned to the County, a Purchase Agreement shall be supplied to the seller, outlining expectations and commitments between the County and the seller. This agreement shall address the intent to purchase at the specified price, address when the seller is to have vacated the property, address future deed restrictions to be imposed on the property, identify whether the seller has the intention of subsequently using or maintaining the property such as through an agricultural lease, and



other similar stipulations. The applicant has up to 120 days to sign and return the Purchase Agreement to VHBP staff.

- The Purchase Agreement shall address the removal of personal items from the property, if any are present, prior to the closing of the acquisition. Furthermore, if any property improvements have not been damaged or destroyed and the seller desired to retain such, the Grant Agreement shall stipulate the value of such improvements to be deducted from the buyout amount.
- Once the Purchase Agreement is executed by the County it will be sent to escrow for closing.
- At any point prior to property closing the seller may withdrawal from the buyout program, upon providing a signed and notarized letter requesting such withdrawal.

6.2 Closing

Upon receipt of the signed Purchase Agreement, a closing date/time shall be established between VHBP staff and the seller. VHBP staff shall coordinate with its Title Company, obtain an updated title report, and initiate the preparation of closing document. While the seller has been directed to ensure the property is clear and free of all restrictions and encumbrances, as would be verified through a clean title report, the County may allow provisions for using the offered buyout amount towards settling financial obligations associated with the property to be sold.

The owner/seller will be contacted to obtain all information necessary to prepare any documents and obtain the pay-off or release of any open liens or encumbrances out of the owner's sales proceeds.

The property closing may include special instructions such as use of final buyout offer amount to satisfy outstanding liens, financial property obligations such as an SBA loan, and tax pro-rations, as shown on a settlement statement.

As part of the property acquisition, a deed shall be recorded against the subject property to identify it as being purchased through the VHBP. The deed shall further identify subsequent use of the property will be dedicated and maintained in perpetuity for a use that is compatible with open space, recreational, or floodplain and wetlands management practices.

Once closing has been scheduled, the property owner(s) and any tenants must remove their belongings and will be provided a specified period to vacate before the scheduled closing date and time. A vacancy inspection shall also be performed within this specified period of timeframe to ensure that the property has been vacated and is ready for transfer upon closing. The County will then secure the property shortly following closing, to include boarding any structures or restricting access to the premises and posting "Do Not Enter" signage.

The County's buyout program is intended to reduce risk and to transition residential settlement from high hazard areas, such as Lava Zones 1 and 2. While the County is not prohibiting a property seller, who has taken part in the County's buyout program, from locating their new place of residence within a high hazard area, it is strongly discouraged.



SECTION 7. VHBP PROPERTY DEMOLITION

Following the acquisition of properties, the County anticipates securing the services of qualified professionals (such as demolition contractors) to remove any improvements remaining on site and cap all utilities. In compliance with HUD requirements, all improvements are to be removed and the property reverted to a more natural state that would be compatible with open space, agriculture, or similar use. Given that demolition could occur at any point following property acquisition, the applicant/seller will be required to have already vacated the premises and removed any personal items still desired.

Due to the practical aspect of impacted properties being inundated or isolated by the lava flow, there may be properties where prior improvements have been entirely buried and/or burned and nothing remains for demolition. Similarly, it may be tremendously difficult for an individual to reach a property to conduct a demolition in a timely manner. For example, time and resources to install some type of access road through a lava field to a property might surpass the value of improvements to be demolished. The VHBP staff will continue to assess demolition alternatives and realistic timeframes for removal of site improvements.

All properties that require demolition must be verified by a Department of Interior (DOI) certified consultant to verify any historical significance per Section 106: National Historic Preservation Act of 1966. All findings must be documented in State Historic Preservation Division through Hawaii's Cultural Resources Information System (HICRIS).

In the establishment of demolition protocols, the County will require the disposal of construction debris in compliance with local, State, and Federal requirements and shall attempt to accommodate opportunities to recycle usable material. The County, or its contractors, will provide appropriate notice on site regarding the demolition being conducted. The qualified demolition professional(s) will be required to provide documentation verifying such items as the demolition being successfully completed, the content and amounts of debris, how hazardous material has been addressed, where all demolition debris has been disposed of, and the final state of the property.

Prior to property demolition, the County intends to retain fee ownership of the acquired property along with the maintenance obligation. At a future date, a property management plan is anticipated to be established and subsequent property use determined. At such future time, the County may retain ownership but assign the maintenance obligation to another party or may reassign ownership along with the maintenance obligation. Potential parties to be considered for future ownership and maintenance roles could include, but are not limited to, State or Federal government, private or non-profit organizations (including land trusts), educational institutions, farm co-ops, or community associations.



SECTION 8. ADMINISTRATIVE REQUIREMENTS

8.1 File Closeout

Upon finalizing the property acquisition, County staff will initiate file closeout procedures. Steps will be taken to ensure the CDBG-DR VHBP property acquisition files are retained in a secure and orderly fashion. This action will accommodate potential review during audit actions, such as removing duplicate or non-essential information, safeguarding applicant's personal information, and imposing necessary protocols to restrict access to certain information by those deemed necessary. Per the Department's record retention schedule files shall be retained for a period of five (5) years from the date that the last CDBG-DR funds have been expended or (per 24 CFR 570.502(a)(7)(i)(A)), four years from execution of the CDBG-DR grant closeout documentation, whichever is sooner.

8.2 Documentation and Monitoring

The County of Hawai'i understands its fiduciary duty to ensure proper disbursement of grant funds for eligible activities. The County will remain in compliance with applicable CDBG-DR rules and regulations as well as other applicable federal regulations, including 2 CFR 200. The County will institute measures to detect, investigate, and mitigate fraud, abuse, and mismanagement related to accounting, procurement, and accountability. The County will adhere to the conflict-of-interest provisions referenced at 24 CFR 570.

HUD will conduct monitoring for compliance by the County against federal requirements and programmatic policies and procedures throughout the life of the CDBG-DR grant award. The County, through its internal monitoring procedures, will also be responsible for maintaining compliance with federal requirements and programmatic policies associated with the CDBG-DR grant award. These activities will ensure that the County will:

- Fund only expenditures that are eligible CDBG-DR activities, address disaster-related needs directly related to the approved natural disaster and meet at least one of the CDBG-DR national objectives.
- Document that all program activities meet a national objective, address disaster-related needs, and are eligible activities.
- Document all program costs and maintain supporting documentation for all administration costs incurred and activities undertaken.
- Develop an internal monitoring program that will outline the activities that will be monitored and the compliance parameters for each activity, including frequency of the monitoring activities. The County envisions that it will monitor project activities no less than quarterly to ensure compliance and timely expenditure of funds. The County anticipates that monitoring activities will include project and applicant file review as well as on-site visits to projects. The County will utilize resources, including written monitoring and technical assistance guidelines, checklists, and policies and procedures that will be developed specifically for the CDBG-DR program activities selected for implementation using HUD's Disaster Recovery Monitoring Checklist as a template for their creation.



- Build monitoring and compliance requirements into all contracts executed with vendors, professional services, and construction contractors. Vendors will be required to submit project performance reports, financial status reports, and documented requests for reimbursement/invoicing for the duration of contract periods.
- Provide quality assurance (QA) and quality control (QC) functions for internal checks and balances, including random sample file audits as a self-check. This will include source documentation file audits conducted monthly by CDBG-DR program staff as a first-level internal check.
- Confirm the Tiered Environmental review has been completed and signed by either the Project Specialist, the Data Specialist, or the Disaster Recovery Officer.
- Use the HUD-provided Disaster Recovery Grant Reporting (DRGR) contracts management system and upload all Quarterly Performance Reports (QPR) to that system. The County will develop QPRs that will be submitted to HUD no later than 30 days following the end of each quarter after grant award and continuing until all funds have been expended and all expenditures have been reported. Each quarterly report will include information about the uses of funds during the applicable quarter, including but not limited to the project name, activity, location, and national objective; funds budgeted, obligated, drawn down, and expended; the funding source and total amount of any non-CDBG-DR funds to be expended on each activity; beginning and completion dates of activities; achieved performance outcomes; and the race and ethnic status of persons assisted under direct-benefit activities. The County will also post the submitted QPRs to its official website.
- Enter its Action Plan for Disaster Recovery, including performance measures, into HUD's DRGR system. As more detailed information about uses of funds is identified by the County, it will enter such detail into DRGR.
- Develop and implement corrective actions if any weaknesses are identified during monitoring activities.

The County of Hawaii has a Legislative Auditor as required by our Charter, Section 3-18. The Legislative Auditor shall conduct or cause to be conducted the annual financial audit for the county as required in Article X, Financial Procedures, Section 10- 13, Post- audit. In addition, the Legislative Auditor should conduct performance and/or financial audits of the funds, programs, services, and operations of any county agency, executive agency or program based in their annual risk-based audit plan.

The Department of Finance employs an Internal Control Manager. This position is responsible for assessing risk and reviewing internal controls countywide. Under the direct supervision of the Finance Director, this position plans, coordinates, and supervises the conduct of audits and technical studies in the review, analysis, development, installation and establishment of accounting and internal control systems and procedures for County-wide fiscal operations.

The Internal Auditor for CDBG-DR, which reports to the Mayor, will conduct performance reviews related to the CDBG-DR funding for the County of Hawai'i, in addition to conducting fraud, waste and abuse investigations as they relate to the CDBG-DR program. Ongoing monitoring of CDBG-DR activities will be based on adopted financial management and grant compliance policies and procedures, as well as policies and procedures specific to CDBG-DR funded projects. This position will work closely with the Internal Control Manager to determine higher level risk areas within the program.



8.4 Personal Identifiable Information

In the normal course of grant administration, the Planning Department (and the County of Hawai'i Disaster Recovery Division) may receive personal identifiable information (PII), such as names, addresses, tax map keys, income verification documents, disability status, employment status, etc., from applicants and/or beneficiaries. CDBG and CDBG-DR activities most likely to result in the Planning Department's receipt of PII include housing assistance, small business assistance, and public services.

The Planning Department will take the following steps to protect PII:

- Maintain hard copies of PII records in locked filing cabinets.
- Password protect electronic folders and/or files containing PII.

Filing cabinet keys and electronic passwords will be available only to authorized County staff. The Planning Department will release records containing PII after verification to the following entities:

- Federal and state auditors.
- Other federal or state agencies for duplication of benefits analyses.

If records containing PII are subject to the Uniform Information Practices Act, (HRS Chapter 92F), such records shall only be released in accordance with state and federal law.

Hawai'i Revised Statute 487N defines a security breach as an incident of unauthorized access to and acquisition of unencrypted or unredacted records or data containing personal information where illegal use of the personal information has occurred or is reasonably likely to occur and that creates a risk of harm to a person. Any incident of unauthorized access to and acquisition of encrypted records or data containing personal information along with the confidential process or key constitutes a security breach. Good faith acquisition of personal information by an employee or agent of the business for a legitimate purpose is not a security breach; provided that the personal information is not used for a purpose other than a lawful purpose of the business and is not subject to further unauthorized disclosure.

The County of Hawai'i shall provide notice to the affected person that there has been a security breach following discovery or notification of the breach. The disclosure notification shall be made without unreasonable delay, consistent with the legitimate needs of law enforcement, and consistent with any measures necessary to determine sufficient contact information, determine the scope of the breach, and restore the reasonable integrity, security, and confidentiality of the data system. The County of Hawai'i which maintains or possesses records or data containing personal information of residents of Hawaii shall notify the owner or licensee of the information of any security breach immediately following discovery of the breach, consistent with the legitimate needs of law enforcement.

In the event of a security breach of personal information, the County of Hawai'i will provide notice to the affected parties in coordination with law enforcement activities. The notice shall include a description of the following:



- The incident in general terms;
- Type of personal information that was subject to the unauthorized access;
- The general acts of the County to protect the personal information from further unauthorized access;
- Telephone number that the person may call for further information and assistance; and
- Advice that directs the person to remain vigilant by reviewing account statements and monitoring free credit reports.

Notice to affected persons may be provided by one of the following methods:

- Written notice to the last available address the business or government agency has on record;
- Electronic mail notice, for those persons for whom a business or government agency has a valid electronic mail address and who have agreed to receive communications electronically if the notice provided is consistent with the provisions regarding electronic records and signatures for notices legally required to be in writing set forth in 15 U.S.C. Section 7001; or
- Telephonic notice, provided that contact is made directly with the affected persons.

All PII collected shall be maintained, to the extent applicable, in compliance with the Privacy Act (5 U.S.C. 552a) and all other federal, state, and local laws.



SECTION 9. ACRONYMS

Table 9.1 - Acronym List

Acronym	Name
AA	Allowable Activities
AMI	Area Median Income
CDBG	Community Development Block Grant
DOB	Duplication of Benefit
DR	Disaster Recovery
DRGR	Disaster Recovery Grant Reporting System
FMV	Fair Market Value
HUD	Department of Housing and Urban Development
LEP	Limited English Proficiency
LMB	Low/Mod Buyout (CDBG-DR National Objective)
LMHI	Low/Mod Housing Incentive (CDBG-DR National Objective)
LMI	Low to Moderate Income
NEPA	National Environmental Policy Act
QA	Quality Assurance
QC	Quality Control
QPR	Quarterly Performance Report
RV	Recreational Vehicle
URA	Uniform Relocation Act
VHBP	Voluntary Housing Buyout Program



SECTION 10. GLOSSARY

Acquisition: The utilization of CDBG-DR funds to purchase real property impacted by the 2018 Kīlauea eruption event by County of Hawai'i.

CDBG-DR Action Plans: The planning document required by the U.S. Department of Housing and Urban Development (HUD) that describes the strategy of County of Hawai'i for use of CDBG-DR funds to recover from the 2018 Kīlauea eruption event.

Administrator: The County of Hawai'i Disaster Recovery Division, which resides administratively within the County's Planning Department. The Division is responsible for disaster recovery program planning and implementation, budget monitoring, public engagement, and performance reporting.

Appeal: A written request, by an applicant or program participant, proposing reconsideration of a determination made by the Disaster Recovery Division that may affect their eligibility and/or program assistance.

Applicant: An individual(s) who submits an application to the County of Hawai'i Disaster Recovery Division for assistance through the Voluntary Housing Buyout Program.

Appraisal: The act of estimating the value of real estate by a person licensed to do so. As it pertains to the Voluntary Housing Buyout Program, the County of Hawai'i 2017 Real Property Tax values will be used versus reliance on individual or third-party appraisals of property.

Area Median Income (AMI): The median (middle point) household income for an area adjusted for household size as published and annually updated by the U.S. Department of Housing and Urban Development (HUD). Once household income is determined, it is compared to HUD's income limit for that household size.

Building, Accessory: A building, no more than twenty feet in height, detached from and subordinate to the main building or main use on the same building site and used for the purposes customarily incidental to those of the main building or use.

Building, Main (or Primary): A building in which is conducted a principal or main use on the building site on which it is situated.

Business (also Business Use): Any lawful activity, except a farm operation, that is conducted:

- (i) Solely for the purchase or sale of personal and/or real property, and/or short-term vacation rentals;
- (ii) Primarily for the manufacture, processing, and/or marketing of products, commodities, and/or any other personal property;
- (iii) Primarily for the sale of services to the public;
- (iv) Primarily for outdoor advertising display purposes, when the display must be moved as a result of the project; or
- (v) By a nonprofit organization that has established its nonprofit status under applicable Federal or State law.



A business activity is characterized by its commercial or economic nature. A business activity may occur exclusively or in a mix with other uses, such as in the circumstance of a home-based business where the business is accessory to the residential use.

Case Management: Working with Kīlauea eruption event survivors and their families, to understand the program's requirements and benefits, resulting in clear and transparent determination of eligibility.

Clean (or Clear) Title: The legal documentation that indicates that the ownership claim to the property is free of all encumbrances (i.e., claims, liens, court attachments, and pending judgements) and may be sold or transferred to another party.

Community Development Block Grant (CDBG): A federal program administered by the U.S. Department of Housing and Urban Development (HUD), which provides grant funds to local and state governments. The CDBG program works to ensure decent affordable housing, to provide services to the most vulnerable in our communities, and to create jobs through the expansion and retention of businesses.

Community Development Block Grant-Disaster Recovery (CDBG-DR): A federal program administered by the U.S. Department of Housing and Urban Development (HUD), which provides grant funds to local and state governments to assist with eligible recovery efforts after a natural disaster. Recovery efforts may include such activities as homeowner and rental repairs and elevations, purchase of damaged and at-risk properties, and infrastructure repairs.

Complaint: A general written statement, by an applicant or program participant, that a situation in the program or behavior by a Disaster Recovery Division staff is unsatisfactory or unacceptable.

Condominium: A building or complex in which units of property, such as apartments, are owned by individuals and common parts of the property, such as the grounds and building structure, are owned jointly by the unit owners.

Demolition: Permanent removal of all structures, property improvements, and personal property from a piece of land.

Disability: For the purposes of the program, "disability" is consistent with federal law under The Social Security Act, as amended, 42 U.S.C. §423(d), The Americans with Disabilities Act of 1990, as amended, 42 U.S.C. §12102(1)-(3), and in accordance with HUD regulations at 24 CFR §§5.403 and 891.505.

Disaster Recovery Grant Reporting System (DRGR): A reporting system, developed by HUD's Office of Community Planning and Development, for the CDBG-DR/CDBG-MIT Program and other special appropriations. The DRGR system is primarily used by grantees to access grant funds and report performance accomplishments for grant-funded activities. The DRGR system is used by HUD staff to review grant-funded activities, prepare reports to Congress and other interested parties, and monitor program compliance.

Duplication of Benefit (DOB): The receipt of funding from multiple sources for the same purpose. The Robert T. Stafford Disaster Assistance and Emergency Relief Act (Stafford Act) prohibits any person, business concern or other entity from receiving financial assistance from CDBG Disaster Recovery funding with respect to any part of the loss resulting from a major disaster as to which he/she has already received financial assistance under any other Program or from insurance or any other sources. It is an amount determined by the Program that may result in the reduction of an award.



Dwelling Unit: A structure or part of a structure that is used as a home or residence by one or more persons who maintain a household. A dwelling unit shall provide cooking, living, sanitary, and sleeping facilities for the exclusive use of the occupants.

Environmental Review: A review process, required prior to the expenditure of qualifying public funds, that is conducted to ensure that the program activities comply with National Environmental Policy Act (NEPA) and other applicable state and federal laws.

Fair Housing: Activities that follow the rules and guidelines set forth in the Fair Housing Act and subsequent fair housing legislation. The goal of these activities is to eliminate housing discrimination, promote economic opportunity, and achieve diverse, inclusive communities.

Fair Market Value (FMV): The estimated price that real property would sell for on the open market as determined by a license appraiser or the hypothetical price that a willing buyer and seller will agree upon when they are acting freely, carefully, and with complete knowledge of the situation.

Immediate Family: One or more individuals, that may include spouses, siblings, children, grandchildren, parents, or all persons within a household.

Federal Register Notice: Notices posted in the Federal Register by HUD inform grantees of the funding available for recovery efforts as well as HUD's rules and guidelines for the allocation and expenditure of the funds.

Grantee: Refers to any jurisdiction receiving a direct award from HUD.

Grievance: A real or imagined wrong or other cause for complaint or protest, especially unfair treatment such as discrimination or allegations of fraud, waste, and abuse.

Hānai: The term used in the Hawaiian culture that refers to the informal adoption of one person by another. It can be used as an adjective, such as "hānai child," or as a verb to "hānai" someone into the family.

Homeowner: A person or persons who are listed on the deed or title as owning the property and who typically reside in the property as their domicile.

Household: All persons occupying the same housing unit, regardless of their relationship to each other. The occupants could consist of a single family, two or more families living together, or any other group of related or unrelated persons who share living arrangements. For housing activities, the test of meeting the low- and moderate-income objective is based on the LMI of the household.

Housing Unit: A dwelling unit, such as those occupied by an owner or tenant that has been damaged or destroyed by the 2018 Kīlauea eruption event.

Department of Housing and Urban Development (HUD): The Federal department through which the CDBG-DR and CDBG-MIT Program funds are administered, monitored, and distributed to grantees.

Housing and Urban Development Act of 1968, Section 3: Section 3 requires that recipient ensure that training, employment, and other economic opportunities generated by HUD financial assistance be directed to the greatest



extent feasible and consistent with existing Federal, State, and Local laws and regulations, to low- and very low-income persons. Recipients of Section 3-covered funding ensure compliance and the compliance of their contractors/subcontractors with the Section 3 requirements, as outlined in 24 CFR 135.32. 4.

Limited English Proficiency (LEP): A designation for people that are unable to communicate effectively in English because their primary language is not English, and they have not developed fluency in the English language. A person with Limited English Proficiency may have difficulty speaking or reading English. An LEP person will benefit from an interpreter who will interpret verbally communication between English and the person's primary language. An LEP person may also need documents written in English translated into his or her primary language so that person can understand important documents related to health and human services.

Low- to Moderate-Income Buyout (LMB): When CDBG-DR or CDBG-MIT funds are used for a buyout award to acquire housing owned by an LMI household where the award amount is greater than current FMV of that property.

Low- to Moderate-Income Buyout (LMB) National Objectives: Low/Moderate Buyout (LMB) is used for a buyout award to acquire housing owned by a qualifying LMI household, where the award amount (including optional relocation assistance) is greater than the pre-disaster fair market value of that property.

Low- to Moderate-Income Housing Incentive (LMHI): When CDBG-DR or CDBG-MIT funds are used for a housing incentive award, tied to the voluntary buyout of housing owned by a qualifying LMI household, for which the purpose of the housing incentive is for the purpose of moving to a lower risk area.

Low- to Moderate-Income (LMHI) National Objectives: Low/Moderate Housing Incentive (LMHI) benefits LMI households that are used for a housing incentive award and tied to a voluntary buyout or other voluntary acquisition of housing owned or occupied by a qualifying LMI household.

Low- to Moderate-Income (LMI): Low- and moderate-income households are defined under the CDBG Program as those having incomes equal to or less than 80% of Area Median Income as published annually by HUD. This income standard changes from year to year and varies by household size, county, and the metropolitan statistical area.

Low- to Moderate-Income (LMI) Household: A household is considered to be of low or moderate income if the household income is at or below 80 percent of an area's median income. All income is based on the Area Median Income limits set annually by HUD for each county or metropolitan statistical area.

Low- to Moderate-Income (LMI) National Objective: Activities which benefit households whose total annual gross income does not exceed 80% of Area Median Income (AMI), adjusted for family size. Income eligibility will be determined and verified in accordance with adjusted gross income requirements using procedures as stated in the Technical Guide for Determining Income and Allowances, 3rd Edition (HUD-1780-CPD). The most current income limits, published annually by HUD, shall be used by the County to verify the income eligibility of each household applying for assistance at the time assistance is provided.

- Very low: Household's annual income is up to 30% of the area median family income, as determined by HUD, adjusted for family size;
- Low: Household's annual income is between 31% and 50% of the area median family income, as determined by HUD, adjusted for family size;



- Moderate: Household's annual income is between 51% and 80% of the area median family income, as determined by HUD, adjusted for family size.

National Environmental Policy Act (NEPA): Establishes a broad national framework for protecting the environment. NEPA's basic policy is to assure that all branches of government give proper consideration to the environment prior to undertaking any major federal action that could significantly affect the environment.

National Objective: A HUD criterion governing the eligible uses of CDBG-DR and CDBG-MIT funds. All activities funded by CDBG-DR or CDBG-MIT, except administration and planning, must meet a national objective to be considered an eligible activity.

Needs Assessment: An assessment that determines the type of housing programs that will be offered equitably and based upon an objective assessment of unmet needs in the affected community's population.

Open Space: Undeveloped property.

Occupancy (of a Residence): To occupy, reside, or inhabit a dwelling unit.

[For the purposes of the VHBP, an owner or tenant shall have been actively and continuously using the cooking, living, sanitary, and sleeping facilities of the residence prior to the 2018 eruption for it to be considered an "occupied" dwelling unit. This is differentiated from intermittently visiting the property where the owner or tenant is not regularly using the cooking, living, and sanitary facilities or sleeping overnight.]

Person with Disabilities: [24 CFR 5.403]. A person with disabilities for purposes of program eligibility:

1. Means a person who:
 - a. Has a disability, as defined in 42 U.S.C. 423;
 - i. Inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death, or which has lasted or can be expected to last for a continuous period of not less than 12 months; or
 - ii. In the case of an individual who has attained the age of 55 and is blind, inability by reason of such blindness to engage in substantial gainful activity requiring skills or abilities comparable to those of any gainful activity in which he/she has previously engaged with some regularity and over a substantial period of time. For the purposes of this definition, the term blindness means central vision acuity of 20/200 or less in the better eye with use of a correcting lens. An eye which is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees shall be considered for the purposes of this paragraph as having a central visual acuity of 20/200 or less.
 - b. Is determined, pursuant to HUD regulations, to have a physical, mental, or emotional impairment that:
 - i. Is expected to be of long-continued and indefinite duration,



- ii. Substantially impedes his or her ability to live independently, and
- iii. Is of such a nature that the ability to live independently could be improved by more suitable housing conditions; or
- c. Has a developmental disability, as defined in Section 102(7) of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6001(8))

Presidentially-Declared Disaster: The Governor of a State or an Indian tribe may request a disaster declaration from the President of the U.S. All major disaster declarations are made solely at the discretion of the President.

Primary Home (or Primary Residence/Dwelling or Domicile): A dwelling that the owner or tenant uses as their principal and permanent home, which they occupy more than 200 calendar days of a calendar year. It is the place where a person has voluntarily fixed habitation, not used for mere special, temporary or vacation purposes, but where the person intends to make a permanent home. A person may only have one designated primary home at any point in time.

Program Design: The selection and development of programs and activities offered by the subrecipient, based on a needs assessment, that comply with national objectives and requirements.

Property Caretaker: A person, group, or organization that conducts upkeep on real estate for trade, financial compensation, and/or as barter for rent-free or reduced rent living accommodations.

Property Owner (Owner): An individual or entity in legal possession of the title for land, building, or other item.

Quality Assurance (QA): Planned and systematic production processes that provide confidence that the policy and procedures of the program are being executed as planned.

Quality Control (QC): Testing to ensure that the policy and procedures of the program are being executed as planned.

Quarterly Performance Report (QPR): Each grantee/administrator must submit a QPR through the DRGR system no later than 30 days following the end of each calendar quarter. Within 3 days of submission to HUD, each QPR must be posted on the grantee's official web site.

Recreational Vehicle (RV): A motorized wheeled vehicle used for camping or other recreational activities.

Real Estate: Property consisting of land and associated buildings or improvements.

Residence: A dwelling unit used for personal purposes for more than the greater of 1) 14 days or 2) 10% of the total days the owner or tenant rented it to others at a fair rental price.

Second Home (or Secondary Residence/Dwelling): A dwelling that is not the primary home of the owner or tenant, but which they occupy for less than 200 calendar days but more than the greater of: 1) 14 days or 2) 10% of the total days the owner or tenant rent it to others at a fair rental price.

Short-Term Rental (or Short-Term Vacation Rental): A dwelling unit, in which the owner or operator does not reside, that has no more than five bedrooms for rent and is rented for a period of thirty consecutive days or less.



Single Family Home: A single-unit family residence detached or attached to other housing structures.

Slum and Blight: An area in which at least seventy percent of the parcels are blighted parcels and those blighted parcels substantially impair or arrest the sound growth of the state or a political subdivision of the state, retard the provision of housing accommodations, constitute an economic or social liability, or are a menace to the public health, safety, morals, or welfare in their present condition and use.

Slum and Blight National Objective: Activities which help to eliminate slum and blighted conditions. (Use of this National Objective is limited due to its inability to contribute towards the overall requirement for 70% LMI to benefit low- to moderate- income beneficiaries.) Slum and Blight activities must meet the criteria of one of the three following categories:

- Prevent or eliminate slum and blight on an area basis;
- Prevent or eliminate slum and blight on a spot basis; or
- Be in an urban renewal area.

Subrecipient: Cities, Counties, Indian Tribes, local governmental agencies (including COGs), private non-profits (including faith-based organizations), or a for-profit entity authorized under 24 CFR 570.201(o). The definition of subrecipient does not include procured contractors providing supplies, equipment, construction, or services and may be further restricted by program rules or other guidance including applications.

Subrogation: The process by which duplicative assistance, paid to the property owner after receiving an award, is remitted to the program to rectify a duplication of benefit.

Subrogation Agreement: Means an agreement executed by the beneficiary agreeing to repay any duplicative assistance if they later receive other disaster assistance for the same purpose.

Tenant: A person who has the temporary use and occupancy of real property owned by another as defined 49 CFR § 24.2(26) or in applicable program guidelines.

Tenant, Long-Term: A tenant who occupies a dwelling unit for a period of more than thirty consecutive days.

Tenant, Short-Term: A tenant who occupies a dwelling unit for a period of thirty consecutive days or less.

Trust: A legal vehicle to hold property subject to certain duties and to protect it for another individual(s).

Uniform Relocation Assistance and Real Property Acquisitions Policies Act of 1970, as amended (Title 49 CFR Part 24) (URA): Applies to all acquisitions of real property or displacements of persons resulting from Federal or federally assisted program or projects. URA's objective is to provide uniform, fair, and equitable treatment of persons whose real property is acquired or who are displaced in connection with federally funded projects.

Urgent Need National Objective: Under the disaster recovery federal regulations, HUD has determined that an urgent need exists within the Presidentially Declared counties. An urgent need 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 the subgrantee or state cannot finance the activities on its own because other funding sources are not available.

Use: The purpose to which land or any structure or improvement thereon or both are or may be put. The word “use” is synonymous with terms “land use” and “use of land” unless the context clearly indicate otherwise.

Use, Accessory: A use which is customarily associated with and subordinate to the main or principal use and which is located on the same building site as the main or principle use.

Use, Primary: The main or principal use of land or structure(s). A primary and accessory use may be differentiated by various criteria including, but not limited to, the scale/scope/intensity of activities and the duration of time the use is conducted.

Voluntary Housing Buyout Program (VHBP): The program that funds the purchase of properties impacted by the 2018 Kīlauea eruption event. Property owner participation in this program is voluntary. Acquired land will be retained perpetually as, or compatible with, open space. The program is implemented by the County of Hawai'i Disaster Recovery Division through the use of U.S. Department of Housing and Urban Development (HUD) Community Development Block Grant – Disaster Recovery (CDBG-DR) funds.



SECTION 11. PROGRAM POLICIES

11.1 Exception Policy

An Exception is applicable to a situation where the strict implementation of the program requirements may not be appropriate, due to the unique or extenuating circumstances surrounding the buyout property. An Exception should be considered during the application submittal or during the processing of the application by VHBP staff. An applicant may request consideration under the Exception protocol or may be advised by staff that an Exception would be considered. Documentation concerning the requested Exception will need to be identified and submitted for staff consideration along with an Exception Form.

Consideration under the Exception provisions may be applicable, but not limited, to the following topics:

Exception 1: Primary Home 200 Calendar Day Requirement

- The County defines a primary home as being occupied more than 200 calendar days of a calendar year. It may be likely that an owner has resided at the impacted dwelling for less than 200 calendar days but does not have another place of residence. In such a circumstance, program staff shall coordinate with the County Real Property Tax (RPT) Division to determine if the applicant has an established intent to make the dwelling a permanent and primary residence. Intent may be established by providing substantiating documentation (such as purchase documents and tax returns) demonstrating the intent and/or meeting the requirements outlined in RPT's *Claim for Home Exemption* and, if required, a *Request for Resident Income Tax Return Waiver*.

For clarification, regarding use of a dwelling unit such as in the primary home example above, a day of personal use is a day that the unit is used by:

- a) An owner or any other person who has an interest in it, unless an owner rents their interest to another owner as his or her main home and the other owner pays a fair rental price under a shared equity financing agreement
- b) A member of an owner's family or of a family of any other person who has an interest in it, unless the family member uses it as his or her main home and pays a fair rental price
- c) An individual who uses the dwelling under an arrangement which enables the owner to use some other dwelling unit on the same property
- d) Anyone at less than fair rental price

Exception 2: Buyout Purchase Price – No RPT Record of Dwelling

- The County bases its purchase price, for the acquisition of properties through the VHBP, on 2017 RPT total market values. In some circumstances, an applicant's property improvements may not be fully reflected on RPT records. For example, a structure may have had active incomplete or unclosed permits at the time of the 2018 Kīlauea eruption and thus the total market value from 2017 is not fully reflective of improvements that existed at the time. In such a circumstance, program staff shall coordinate with the County Building Division to determine the progress made on home construction, through completed Building Permit inspections. Program staff, in consultation with the County Real Property Tax Office, shall then determine the percentage of overall



home construction which will be translated into a VHBP property buyout value. Properties that had unpermitted improvements are eligible for participation in the buyout program. If County RPT records captured improvement values, on which property owners paid taxes, the buyout amount will honor what was identified in RPT records. If no improvement values were identified in RPT records, the property will be considered vacant for the purposes of buyout offers. The program's Exception provisions cannot be used to deviate from the above-described approach to increase the buyout amount.

Exception 3: Ownership Transfers and Disparities

- As identified within Section 2.3 of this Policy and Procedure Manual, the County CDBG-DR program may consider VHBP applications in circumstances where the property has transferred ownership to another immediate family member. The transfer of ownership may have been initiated prior to or after the 2018 Kilauea eruption. In such circumstances, the following criteria must be met:
 - The transfer of ownership must be between immediate members of the household;
 - Sufficient documentation shall be provided to confirm the immediate family member(s) resided full-time in the primary (Phase 1) or secondary (Phase 2) residence at the time of the eruption; and
 - If the transfer of ownership has not resulted in a recorded deed, such as in a situation with inheritance or a will that has not yet prompted the recordation of a new deed, a deed shall be recorded that identifies the correct ownership prior to the County's completion of the property transaction.

Exception 4: Applicants/Owners Holding Title on Multiple Properties

- The County CDBG-DR program may consider VHBP applications in circumstances where an applicant or owner fully or partially owns more than one property so long as titleholders are immediate family members. One such example would be an adult child (residing in their own primary place of residence) who has also been identified as the owner of a separate residence (which is occupied by their elderly parent who has assigned Power of Attorney and transferred legal title to this property to their adult child). The transfer of ownership may have been initiated prior to the establishment of the Voluntary Housing Buyout Program on April 24, 2021. In such circumstances, the following criteria must be met:
 - The transfer of ownership, resulting in an applicant holding title to more than one property, must be between immediate members of the household;
 - Sufficient documentation shall be provided to confirm the immediate family member(s) resided full-time in the primary (Phase 1) or secondary (Phase 2) residence at the time of the eruption; and
 - The County shall consider no more than two (2) property acquisitions by applicants/owners who hold title to multiple properties.

The County VHBP recognizes that there may be some applicant circumstances that can potentially affect eligibility for this program. These applicants will be assessed on a case-by-case basis and be presented to the exception panel per the exception procedures.

While the County's VHBP incorporates an Exception Policy/Process, there is no guarantee that an applicant will secure an approval of a property buyout or different determination from the standard program requirements by submitting an Exception request.



11.2 Appeal Policy

An Appeal is appropriate when an applicant disagrees with a decision or determination of VHBP staff. Applicants will be notified, in writing, of their opportunity to appeal decisions as well as the process for appealing. They will be reminded of their right to appeal through details provided on program status notifications. Information about the appeals process is described on the County's disaster recovery website. No identifiable applicant information will be available to the public. Documentation concerning the requested Appeal will need to be identified and submitted for staff consideration along with an Appeal Form.

Appeals of program decisions must be received by VHBP staff within thirty (30) calendar days of the date of such decision. County staff will acknowledge receipt of Appeals within fifteen (15) calendar days of receipt where practicable. The applicant shall be informed of the anticipated timeframe during when the Appeal will be considered, and a final determination made.

Examples of when an Appeal might be pursued include:

- Determinations on program eligibility concerning the buyout property and household income levels.
- Application of established program policies and procedures.
- Duplication of benefits analysis and maximum grant award.
- Pre-disaster market valuation, following the application of any exceptions policy.

Appeals will not be accepted after the Grant Purchase Agreement has been signed by the Applicant and County. The VHBP program is not an entitlement program and determinations are not subject to judicial review. Furthermore, statutory and regulatory requirements or guidelines may not be appealed.

While the County's VHBP incorporates an Appeal Policy/Process, there is no guarantee that an applicant will secure an approval of a property buyout or different determination by submitting an Appeal request.

The Appeal process shall allow an opportunity for both the County CDBG-DR staff and applicant/owner to present their respective cases on the County decision and appeal justification. Appeals shall be determined by an Appeal Panel, staffed by County representatives who are independent from CDBG-DR program and trained in HUD grant requirements and program policies and procedures. Appeal determinations shall be deemed final and not subject to further appeal or judicial process.

11.3 Complaint and Grievance Policy

The Voluntary Housing Buyout Program will adhere to the Complaints and Grievances procedures as outlined in its SOP. The Program will be responsible for logging the complaint in the system of record and assigning the appropriate person(s) to provide a response. Complaints received from program applicants, specifically, in the course of administering the Program will be logged with applicant file and/or communications log database. Complaints regarding the Program, disaster recovery activities, or other issues will be record in the citizen complaint log. The Program will be responsible for tracking each complaint and ensuring that a timely response is made.



A complaint is defined as a written statement, by an applicant or designated representative, that a situation in the program or behavior by a Disaster Recovery Division staff is unsatisfactory or unacceptable. Examples of complaints include, but are not limited to, communication of dissatisfaction of the program requirements according to our established Action Plan, Policies and Procedures and/or personnel.

A Grievance is defined as a real or imagined wrong or other cause for complaint or protest, especially unfair treatment. Examples of a grievance include, but are not limited to, discriminatory allegations or allegations of fraud, waste, and abuse. A Grievance must be submitted in writing to VHBP staff, along with any supportive documentation, for it to be considered.

The applicant shall be informed of the anticipated timeframe during when the Grievance will be considered and a final determination made, if applicable.

Responses to parties filing a grievance, and any subsequent action made in response to the grievance, will be made by the Disaster Recovery Officer in consultation with other County management staff who oversee CDBG-DR funded programs.

11.4 Repayment/Recapture of Duplicative Assistance (Subrogation)

All duplicative funding received by the applicant must be remitted to the appropriate Program or accounted for, regardless of when it is received by the applicant. If applicants receive additional funding, for the same purpose as the buyout program, the applicant is required to report the additional funding to the VHBP staff. By accepting the buyout award, applicants agree that they will report any duplicative funds to the Program whenever received. Upon receipt of a report that benefits have been received that were not reported in the award calculation, the VHBP staff will recalculate the applicant's award and provide instructions as to whether such funds must be remitted.

11.5 Anti-Fraud/Waste/Abuse

The County of Hawai'i is committed to anti-fraud, anti-waste, and anti-abuse in its programs, policies, procedures, and utilization of public funds. The County understands its fiduciary duty to ensure proper disbursement of grant funds for eligible activities. The County will remain in compliance with applicable CDBG-DR rules and regulations, as well as other applicable federal regulations such as Office of Management and Budget Circulars A-87, A-133, 2 CFR 200.318 - 326 and 24 CFR Part 85 (Uniform Administrative Requirements) in the management of the CDBG-DR funds. The County will adhere to the conflict-of-interest provisions referenced at 24 CFR 570.

Within the County's CDBG-DR Grant Compliance and Accounts Manuals, among other policies and procedures, the County addresses specific fraud, waste, and/or abuse issues, including timesheet recordkeeping, travel, purchasing of property and equipment, and accounting policies. Policies and procedures for verification of the accuracy of information provided by applicants will be incorporated for specific CDBG-DR funded project activities and protocols. The County's oversight and monitoring shall include procedures to ensure the veracity of the information being provided by applicants.

Applicants, vendors and subrecipients shall be notified that fraud, waste and abuse shall be monitored. Language shall be incorporated into program material to relay that any false, misleading and/or incomplete statements and/or



documents may be prosecuted by Federal, State and/or Local authorities. Furthermore, buyout recipients will be informed they may be required to repay assistance received if such is based upon the filing of false, misleading and/or incomplete information.

Program “checks and balances” shall be incorporated to specifically address potential fraud, waste, and abuse. These mechanisms include, but are not limited to, separation of certain powers and duties among VHBP staff and other departments, assessments and audits conducted under the normal course of business, and review by the CDBG-DR Internal Auditor.

Reports of fraud, waste and abuse can be reported to the HUD Office of Inspector General through its hotline (800) 347-3735 or (800) 8777-8339 (TTY/ASCII) and by email at hotline@hudoig.gov.

Complaints and tips can be submitted to the Office of the County Auditor through the following:

- To Report Fraud and Waste: (808) 480-8213
- To Report Abuse: (808) 480-8279
- To Access the Complaints Directory: <https://www.hawaiicounty.gov/departments/office-of-the-county-auditor/whistleblower>

11.6 Conflict of Interest

The County of Hawai'i is committed to minimizing, and ideally removing, any conflicts of interest in its programs, policies, procedures, and utilization of public funds. The County will adhere to the conflicts of interest provisions reference at 24 CFR 570.611. Further, the County has adopted a high standard within its Code of Ethics that is consistent with 24 CFR 570.611. These provisions can be found within the Hawai'i County Code, Article 15. Code of Ethics, Section 2-84. Conflict of Interests.

Compliance with 24 CFR 570.611

The Code of Federal Regulations that governs conflicts of interest for HUD Community Development Block Grant (CDBG) programs is 24 CFR 570.611. This regulation covers the acquisition and disposition of real property and the provision of assistance by the recipient or by its subrecipients to individuals, businesses, and other private entities under eligible activities that authorize such assistance (e.g., rehabilitation, preservation, and other improvements of private properties or facilities; or grants, loans, and other assistance to businesses, individuals, and other private entities).

As a general rule, paragraph (b) of 24 CFR 570.611 states that a conflict exists when a covered person (1) exercises or has exercised any functions or responsibilities with respect to CDBG activities assisted under this part, or who is in a position to participate in a decision-making process or gain inside information with regard to such activities, may obtain a financial interest or benefit from a CDBG-assisted activity, or have a financial interest in any contract, subcontract, or agreement with respect to a CDBG-assisted activity, or with respect to the proceeds of the CDBG-assisted activity, either for themselves or those with whom they have business or immediate family ties, during their tenure or for one year thereafter; and (2) the benefit has been provided to the covered person. A covered person is defined by paragraph (c) of 24 CFR 570.611 as any person who is an employee, agent, consultant, officer, or elected official or appointed official of the recipient, or of any designated public agencies, or of subrecipients that are receiving funds under this part.



To ensure compliance with 24 CFR 570.611 and the highest level of transparency in the administration of these CDBG-DR funded activities *Form E-1 Conflict of Interest Disclosure – Program Applicant* should be completed by every program applicant at the point of program in-take. This Form E-1, to be executed by the program applicant, identifies any conditions that would identify the program applicant as a covered person and the nature of any potential conflict per 24 CFR 570.611. Form E-1 will be maintained on file with the program application. The clearance for conflicts of interest with program applicants, including Form E-1, must be completed prior to the execution of any Purchase Agreement which serves as the finalized, binding commitment of funds to the applicant.

Each applicant will be reviewed for any potential conflicts of interest utilizing Form E-1. Program staff will conduct a two-step analysis to determine whether:

- 1) The applicant is a covered person, as defined by 24 CFR 570.611 (c), based on responses that are provided to Questions 1. and 2. on Form E-1; and
- 2) A conflict is prohibited for this covered person, as described by 24 CFR 570.611 (b), based on responses that are provided to Questions 1a., 2a., 3., 3a., 4. , and 4a. on Form E-1.

Through this two-step analysis program staff will also review the responses to Form E-1 and discuss conflicts of interest with each applicant. The determination of whether the applicant may be considered a covered person for whom a conflict is prohibited will be documented on *Form C-1 Progress Notes* by program staff and should occur at the point of program in-take.

As the recipient of HUD assistance, the County will comply with the provisions of paragraph (d) of 24 CFR 570.611 regarding Exceptions for program applicants who meet eligibility requirements for federal assistance through the County's CDBG-DR funded programs and are identified as covered persons for whom a conflict is prohibited, as described by 24 CFR 570.611 (b). If the covered person who is a program applicant meets any of the criteria for a conflict that is prohibited per 24 CFR 570.611 (b) as documented on *Form E-1 Conflict of Interest Disclosure - Program Applicant*, the County will prepare an exception request to HUD for those specific program applicants.

Any requests for exceptions to HUD will include (1) a disclosure of the nature of the conflict, accompanied by an assurance that there has been public disclosure of the conflict, such as a legal public notice, and a description of how the public disclosure was made; and (2) an opinion of the County's attorney that the interest for which the exception is sought would not violate State or local law.

The processing, review, and any determination of financial assistance with CDBG-DR funds for covered persons will follow the program's established policies and procedures. Should a program applicant, as a covered person, exercise any function or responsibility with respect to CDBG activities at the time of application, the application will be processed, reviewed and a determination made by County employees outside of the direct line of reporting of that covered person.

Compliance with Hawai'i County Code, Article 15. Code of Ethics

To ensure compliance with the Code of Ethics and the highest level of transparency in the administration of these CDBG-DR funded activities the County will complete *Form E-2 Conflict of Interest Disclosure - Program Employee* for every program application that has been deemed eligible for federal assistance and remains active in the application process for federal assistance. This Form E-2, to be executed by any program employee assigned to make a determination on the program application, identifies any conditions that would identify potential conflicts of interest and the nature of



any potential conflict per the Code of Ethics. Specific determinations by County employees on program applications that will require the assigned employee to complete Form E-2 are:

- Program Eligibility
- Ranking of Program Applications (Based on established factors)
- Household Income (LMI or not)
- Duplication of Benefits
- Site Inspections
- Offer to Purchase
- Environmental Clearance
- Quality Control
- Quality Assurance
- Program Exceptions
- Grievances
- Program Appeals

By completing *Form E-2 Conflict of Interest Disclosure - Program Employee* the employee is attesting to the specific provisions of Article 15. Code of Ethics, Section 2-84. Conflict of Interests. Forms E-1 and E-2 will be maintained on file with the program application.

As the recipient of HUD assistance, the County will follow the provisions of Section 2-86 Informal Advisory Opinions to petition the County's Board of Ethics regarding identified conflicts of interest with program applicants that meet eligibility requirements for federal assistance through the County's CDBG-DR funded programs and are considered covered persons per paragraph (c) of 24 CFR 570.611. The County will prepare a petition to the Board of Ethics for all covered persons who do not meet any of the criteria for when a conflict is prohibited per 24 CFR 570.611 (b) as one class of applicants. If the covered person who is a program applicant meets any of the criteria for when a conflict is prohibited per 24 CFR 570.611 (b) the County will prepare a petition to the Board of Ethics for those specific program applicants.

The processing, review, and any determination of financial assistance with CDBG-DR funds for covered persons will follow the program's established policies and procedures. Should a program applicant, as a covered person, exercise any function or responsibility with respect to CDBG activities at the time of application, the application will be processed, reviewed and a determination made by County employees outside of the direct line of reporting of that covered person.

Regarding the applicability of Hawai'i County Code, Article 15. Code of Ethics, Section 2-85. Contracts, interest in land is not subject to procurement per Hawai'i Revised Statutes Section 103D-104.

11.7 Inactive Applications and Application Close-Out

The County of Hawai'i is committed to providing grant assistance to eligible disaster survivors through the Voluntary Housing Buyout Program in an expeditious manner that is compliant with the federal regulations and requirements associated with the CDBG-DR grant funds. The application timelines, the focus of assistance to low- to moderate-income households, and the prioritization of serving applicants based on property type are among the components of the Program to achieve this commitment. Additionally, HUD requires that these limited CDBG-DR funds are spent within



six years of the execution of the grant agreement. This requirement means that the County must manage the timeliness of expenditures along with the urgency to provide this grant assistance to eligible disaster survivors. This policy sets forth the process whereby the County will deem an application inactive, the steps an applicant can take to return their application to active status, and the process whereby the County will close-out inactive applications at which time the applicants will no longer be eligible to receive grant assistance.

Inactive Applications

The provision of grant assistance through the Voluntary Housing Buyout Program can be complex given the realities survivors face following a disaster and the practical steps in acquiring real property. The Program application process and Citizen Participation Plan are designed to respond to these complexities while also complying with federal, state and county codes, regulations and procedures related to the expenditure of CDBG-DR funds and the acquisition of real property.

As an outcome of the intake and eligibility review process for applications, the Program has the discretion to move Active applications to Inactive status when certain conditions are met. An Active application may be deemed Inactive if the applicant is non-responsive to Program requests for their action, such as documents and/or information that are required to move the application forward toward a purchase offer. The Program may determine an application to be Inactive after three (3) documented attempts to request this information and a failure by the applicant to respond in-whole or in-part to these requests from Program staff within fifteen (15) working days.

The Program shall issue a letter by certified mail to notify the applicant that the Program will be deeming their application to be Inactive. The Inactive letter shall identify specifically the action items, information, and/or documents the applicant must provide in order to keep their application as Active and eligible to proceed with receiving grant assistance through the acquisition of the disaster-impacted property.

The applicant will have 15 calendar-days from the date of the application Inactive letter to contact the Program regarding this determination. This communication may be made by methods identified in the application Inactive letter, including email, written mail and/or telephone. Once the applicant contacts the Program within the 15 calendar-day period regarding their application, the application status will be kept as Active. If the applicant fails to contact the Program regarding their application within 15 calendar-days then the application will be deemed Inactive.

If the Applicant contacts the Program within the 15 calendar-day period, the applicant will have 60 calendar-days from the date of application Inactive letter to work with assigned Program staff to complete the application process for grant assistance. Only after the application process is complete can the Program determine the eligibility of an applicant for grant assistance, provide a non-binding offer to purchase the property, and issue a purchase agreement if the offer to purchase is accepted. If the applicant fails to complete the application process with the Program within 60 calendar-days of the application Inactive letter, then the application will be deemed Inactive.

The County has the discretion to move Inactive applications to Application Close-out following the procedures in this Section 11.7. If an application is closed-out, the applicant is no longer eligible for grant assistance through the Voluntary Housing Buyout Program. There will be no future opportunities to apply for this grant assistance once the application period for this Program ends on October 31, 2022.



Once an application is deemed Inactive by the Program following this procedure, the applicant will be notified in writing through an Inactive Determination letter. The applicant has the right to appeal such action per Section 11.2 of the Voluntary Housing Buyout Program Policy and Procedures Manual. Appeals must be submitted in writing and include documentation as to why the application should not be deemed Inactive.

Application Close-Out

If an applicant is not able to meet the requirements of the Program, including the provision of information and documents or action steps required to make a determination on the eligibility for grant assistance and to meet other federal requirements, the Program has discretion to close-out the application. If an application is closed-out, the applicant is no longer eligible for grant assistance through the Voluntary Housing Buyout Program. There will be no future opportunities to apply for this grant assistance once the application period for this Program ends on October 31, 2022.

The determination of application close-out shall be made only after an application has been deemed Inactive. The Program shall issue an Application Close-out letter to notify the applicant that the Program is seeking to close-out their application. The Application Close-out letter shall identify specifically the action items, information, and/or documents the applicant must provide in order to move their application to active status. This enables the applicant to proceed with receiving grant assistance through the acquisition of the disaster-impacted property.

The applicant will have 15 calendar-days from the date of the Application Close-out letter to contact the Program regarding this determination. This communication may be made by methods identified in the Application Close-out letter, including email, written mail and/or telephone. If the applicant contacts the Program within these 15 calendar-days regarding their Inactive application, the application status will become Active. If the applicant fails to contact the Program regarding their Inactive application within 15 calendar-days then the application will be closed out.

Following initial contact with the Program, the applicant will have 45 calendar-days from the date of Application Close-out letter to work with assigned Program staff to complete the application process for grant assistance. Only after the application process is complete, can the Program determine the eligibility of an applicant for grant assistance, provide a non-binding offer to purchase the property, and issue a purchase agreement if the offer to purchase is accepted. If the applicant fails to complete the application process with the Program within 45 calendar-days of the Application Close-out letter, then the application will be closed out.

Once an application is closed-out by the Program following this procedure, the applicant will be notified in writing of this action. The applicant has the right to appeal such action per Section 11.2 of the Voluntary Housing Buyout Program Policy and Procedures Manual. Appeals must be submitted in writing and include documentation as to why application should not be closed-out from the Program.

11.8 Residential Anti-Displacement and Relocation Act

For the purpose of promoting the availability of decent, safe, and sanitary housing, HUD waived the following URA and section 104(d) requirements with respect to the use of CDBG-DR funds, as applicable, through federal register notice 85 FR 4681. The County is required to the requirements of section VI.A.23.2.a. through e. of the federal register notice 83 FR 5858.



One-for-one replacement requirements are waived in connection with funds allocated under this program for lower-income dwelling units that are damaged by the disaster and not suitable for rehabilitation. Consistent with the goals and objectives of activities assisted under the Act, the Voluntary Housing Buyout Program defines a property as “not suitable for rehabilitation” and exempt from the one-for-one replacement housing requirements of 83 FR 5858 if any of these conditions apply:

- The property is declared a total loss;
- The property is isolated by lava;
- Repairs would exceed 50% of the cost of reconstruction;
- Repairs would exceed 50% of the pre-disaster fair market value; or
- Homes cannot be rehabilitated or reconstructed under existing agency policies or due to legal, engineering, or environmental constraints, such as permitting, extraordinary site conditions, or historic preservation.

Tenant-occupied and vacant occupiable lower-income dwelling units demolished or converted to another use other than lower-income housing in connection with a CDBG-DR assisted activity are generally subject to one-for-one replacement requirements at 24 CFR 42.375 and that those provisions are not waived.

Before entering into a contract committing the County of Hawaii to provide funds for a project that will directly result in demolition or conversion of lower-income dwelling units, County of Hawaii will make public a “One-for-One Unit Replacement Plan”, that will be submitted to the HUD that will include the following information in writing:

1. A description of the proposed assisted project;
2. The address, number of bedrooms, and location on a map of lower-income dwelling units that will be demolished or converted to a use other than as lower-income dwelling units as a result of an assisted project;
3. A time schedule for the commencement and completion of the demolition or conversion;
4. To the extent known, the address, number of lower-income dwelling units by size (number of bedrooms) and location on a map of the replacement lower-income housing that has been or will be provided. NOTE: See also 24 CFR 42.375(d).
5. The source of funding and a time schedule for the provision of the replacement dwelling units;
6. The basis for concluding that each replacement dwelling unit is designated to remain a lower-income dwelling unit for at least 10 years from the date of initial occupancy; and
7. Information demonstrating that any proposed replacement of lower-income dwelling units with smaller dwelling units (e.g., a 2-bedroom unit with two 1-bedroom units), or any proposed replacement of efficiency or single-room occupancy (SRO) units with units of a different size, is appropriate and consistent with the housing needs and priorities identified in the HUD-approved Consolidated Plan and 24 CFR 42.375(b).