



---

**MINOT NATIONAL DISASTER RESILIENCE  
PUBLIC INFRASTRUCTURE PROGRAM  
POLICIES**

June 3, 2019



## **Part I: Public Infrastructure Program Policy**

### **1.0 Purpose**

The Minot National Disaster Resiliency - Public Infrastructure Program (PIP) is a program established in the National Disaster Resiliency Action Plan approved by the Department of Housing and Urban Development (HUD). A copy of the approved action can be found on the City's website. Funds were appropriated under Public Act 113-2 in response to Federal Disaster FEMA-1981-DR.

As outlined in the Action Plan, the City of Minot plans to provide assistance to projects with funding for public infrastructure that is critical to long term recovery. Project types include public facilities for the gathering space, a homeless shelter, center for technical education, and other infrastructure needed to support other activities approved in the Resilient Action Plan which support our long-term flood resiliency efforts.

### **2.0 Program Overview**

#### **2.1 Funding Appropriation**

Federal Register/81 FR 36557, Docket No. FR-5936-N-01, June 7, 2016 provided the City of Minot an allocation of \$74,340,770 of Community Development Block Grant (CDBG) National Disaster Resiliency (NDR) toward meeting unmet needs as directed by National Disaster Appropriations Act, Public Law 113-2.

#### **2.2 Program Administration**

The City of Minot contracted with CDM Smith to provide the following services under the auspices and with management oversight by city staff. In performing these services, CDM Smith will act in capacity as the City's Project Delivery Contractor for their NDR grant.

Program Team's responsibilities include:

1. Implement approved NDR projects, and oversee management, compliance, and reporting of project activities.
2. Complete required Environmental Reviews.
3. Coordinate and assist the City in Developing Request for Qualifications (RFQ) for engineering services.
4. Coordinate with engineering consultants to assure appropriate CDBG clauses are incorporated into construction bids and construction award documents.
5. Provide technical support to city personnel on pre-construction conferences for each selected contractor.

6. Verify that the construction of projects is in compliances with CDBG-NDR program requirements.
7. Oversee compliance with the Davis-Bacon Act.
8. Set up and maintain in concert with the City's Finance Department HUD's Disaster Recovery Grant Reporting (DRGR) system as it pertains to infrastructure projects and activities.
9. Maintain hard files (Minot Project Files) which contain required documentation to support compliance with federal regulations and which will be maintained under the auspices to the city to ultimately be turned over to the city based upon a mutually agreed upon procedure and timeline.

These responsibilities and other contractual tasks can be found in the contract between CDM Smith and the City of Minot.

## 3.0 PIP Program Requirements

### 3.1 CDBG National Objective

Proposed projects seeking NDR funding must meet one of the following national objectives:

1. Principally benefit low-and moderate-income (LMI) persons;
2. Aid in the prevention or elimination of slums or blight; or
3. Meet community development needs having a particular urgency because existing conditions pose a serious and immediate threat to the health or welfare of the community where other financial resources are not available.

All program activities (with certain exceptions with regard to administrative and planning activities) must meet an applicable CDBG National Objective.

### 3.2 Overall LMI Benefit Requirement

At least 50% of the awarded CDBG-NDR funds received must be awarded for activities that will principally benefit low-and-moderate income persons.

### 3.3 Eligible PIP Activities

Eligible activities are infrastructure activities which support projects outlined in the approved Action Plan. All eligible infrastructure projects must be tied to the Disaster and meet a national objective.



### **3.4 Ineligible PIP Activities**

Ineligible activities include general government expenses such as bad debts, fines and penalties, legislative expenses, political activities, purchase of equipment, operating and maintenance expenses, and projects which cannot be tied to the 2011 declared disaster.

### **3.5 Basic CDBG Requirements**

All CDBG-funded activities are subject to a variety of applicable federal statutes and waivers. These requirements are defined at length within HUD's regulations from Title 24 Part 570 of the Code of Federal Regulations (24 CFR Part 570) and the June 7, 2016 Federal Register which contains the NDR waivers and requirements.

### **3.6 Disaster CDBG Requirements**

Since the program is funded under the CDBG-NDR grant, additional disaster-related requirements may be associated with the project activity. These requirements are primarily defined within the following statutes and regulations:

- Robert T. Stafford Disaster Relief and Emergency Assistance Act;
- The Department of Housing and Urban Development Appropriations Act, 2013 (Public Law 113-2, enacted January 29, 2013); and
- HUD national resilient disaster recovery appropriation regulations found within the Federal Register Volume 81, Number 109, Docket No. FR-5936-N-01 and Federal Register Volume 82, Number 150, Docket No. FR-6039-N-01.

### **3.7 Other Federal Requirements**

Depending on the nature of the activity, a variety of additional statutory-regulatory requirements may apply, including but not limited to the following areas:

- Citizen Participation Plan
- Environmental
- Uniform Administrative Requirements
- Document Management and Record Retention
- Labor Standards
- Procurement
- Acquisition and Relocation in accordance with URA regulation 49 CFR 24
- Financial Management
- Civil Rights (Fair Housing and Equal Opportunity)
- 2 CFR 200



- Other requirements as indicated via federal regulations

### **3.8 State and Local Requirements**

Additional requirements (laws, regulations, codes, etc.) may be imposed at the state and local level, depending on the area and the activity. When a state/local requirement conflicts with a federal requirement, the more stringent of the requirements must be adopted.

### **3.9 Duplication of Benefits**

The PIP program will comply with the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121-5207), as amended (Stafford Act). This act prohibits any “person, business concern or other entity” from receiving Federal assistance “to the extent such assistance duplicates benefits available to the person for the same purpose from another source.” [42 U.S.C. 5155(a) and (c)] Any use of funds must consider any other project funding sources and deduct all funds that could be considered a duplication of benefits.

Some sources of recovery/development funding include, but are not limited to:

- FEMA benefits (Public Assistance, Individual Assistance, HMGP, etc.)
- SBA
- Insurance
- Army Corps of Engineers Assistance
- HUD Community Development Programs
- Other State or charitable assistance

## **4.0 Environmental Review and Clearance**

All activities funded with CDBG-DR funds must, as applicable, have had an environmental review (ER) and received clearance to expend funds on the activity. The regulations for meeting HUD’s environmental review requirements can be found at 24 CFR Part 58. For further detail please reference the ER procedures for the Minot National Disaster Resiliency Program.

## **5.0 Construction Process**

All construction projects will be competitively bid in accordance with 2 CFR 200.318. CDM Smith will work with the DR Grant Program Manager, City of Minot Public Works, City Engineer, and other personnel designated by the DR Grant Manager to insure all federal and state procurement laws are followed appropriately.

### **5.1 Bid**



CDM Smith in conjunction with the city Finance Department will review bid packages and bid advertisements for compliance with federal, state, and local laws and regulations. The City of Minot will advertise in accordance with State of North Dakota (NDC 48-01.2) and City of Minot procurement policies (City Ordinances Chap. 2 Art. IV Sec. 2-136). There will be scheduled by CDM Smith as requested by the DR Program Manager at least one Question and Answer session for each bid.

All bids will be sealed and follow the Procurement Policy of the City of Minot.

The bid document will contain HUD's Labor Compliance Provisions and the most recent federal wage rates. Approximately ten days prior to bid opening, the wages rates will be checked by CDM Smith for modifications. If there are modifications, an addendum will be issued and sent to all bidders once approved by the city. The construction engineer/architect will review responses according to criteria outlined in the bid documents and will award to the lowest most responsible and responsive bidder pending clearance of the contractor through SAMS to be determined by the city and approved by the city council.

## **5.2 Construction**

Once a bid has been awarded to the lowest most responsible and responsive bidder and all award documents have been signed, a pre-construction meeting will be scheduled by CDM Smith with the City Staff, Construction Engineer, contractor, and NDR Team. A notice to proceed (NTP) will be issued to the contractor at that time.

## **5.3 Compliance**

The CDM Smith staff will provide technical support and assistance with the city NDR staff to act as the labor compliance officer and provide technical assistance on Davis Bacon Act requirements (including review of contractor payrolls and conducting construction employee interviews), the Section 3, and other labor standards requirements. In addition, NDR will ensure compliance with other applicable city, state, and federal requirements.

CDM Smith in conjunction with the Federal Compliance Officer shall also periodically review, based on risk analysis compliance by the contractor of all terms and conditions of the contract. Such reviews shall be memorialized in written form including adverse findings and corrective action and included in contract master folder.

## **6.0 Contractor Payment**

All contractors will be paid on a reimbursement basis not to exceed the construction contract amount and approved change orders. All requests for reimbursement will be



dependent upon approved pay point inspections, the submission of all required payment request documentation from the contractor, and final approval by the City of Minot.

The contractor payment process will include initial review by CDM Smith to assure consistency with contract, performance requirements, and applicable HUD rules. CDM Smith upon completion of payment request review shall submit all required documents and documentation to Finance Department for additional review as necessary.

No payment shall be made to a contractor should a contractor be in breach or violation of any of the terms of the contract.