

agreement that the agreement for CDBG-MIT funds is legally-binding.

(3) The Grantee must impose specific subaward conditions upon an agency or subrecipient as described in § 200.207 Specific conditions.

(4) The Grantee, based on the evaluation of risk posed by the agency or subrecipient, must ensure proper accountability and compliance with program requirements and achievement of performance goals by:

(a) Providing agencies or subrecipients with training and technical assistance on program-related matters;

(b) Performing on-site reviews of the agency's or subrecipient's program operations; and,

(c) Arranging for agreed-upon-procedures engagements as described in § 200.425 Audit services.

(5) The Grantee must verify that every agency (where not included in the audit of the grantee) or subrecipient is audited as required by Subpart F—Audit Requirements of 2 CFR part 200 when it is expected that the agency or subrecipient's subaward expended during the respective fiscal year equaled or exceeded the threshold set forth in § 200.501 Audit requirements.

(6) The Grantee must consider whether the results of the agency or subrecipient's audits, on-site reviews, or other monitoring indicate conditions that necessitate adjustments to the Grantee's own records.

(7) The Grantee must take enforcement action against noncompliant agencies or subrecipients as described in § 200.338 Remedies for noncompliance of this part and in program regulations.

II.B.15. Additional requirements for Fiscal Distress Risk. Based on the financial risk posed by the Grantee's fiscal distress (as evidenced by ongoing debt restructuring pursuant to the Puerto Rico Oversight, Management, and Economic Stability Act (PROMESA), 48 U.S.C. 2101–2241) the Grantee must comply with the requirements of the October 26, 2017 “ORDER GRANTING URGENT JOINT MOTION OF THE COMMONWEALTH OF PUERTO RICO, PUERTO RICO HIGHWAYS AND TRANSPORTATION AUTHORITY, PUERTO RICO ELECTRIC POWER AUTHORITY, AND THE PUERTO RICO FISCAL AGENCY AND FINANCIAL ADVISORY AUTHORITY FOR ORDER CONCERNING RECEIPT AND USE OF ANTICIPATED FEDERAL DISASTER RELIEF FUNDS AND PRESERVING RIGHTS OF PARTIES,” as may be amended from time to time by the United States District Court for the District of Puerto Rico or other court

with jurisdiction (the Order). As required by the Order, grant funds received by the Commonwealth or other Non-Federal entity (as defined by 2 CFR 200.69) shall be deposited solely into a Disaster Relief Account, meaning a new, segregated, non-co-mingled, unencumbered account held in the name of the Commonwealth or of the Non-Federal entity to whom the funds have been provided, and shall be used solely for eligible activities. Evidence of the Disaster Relief Account held by the Commonwealth must be provided to HUD within 60 days of the date of the CDBG-MIT grant agreement with the submission of a completed SF-1199 (direct deposit form) or other similar form specified by HUD. The Grantee must maintain documentation of the Disaster Relief Accounts held by other Non-Federal entities that receive grant funds from the Grantee.

III. Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance numbers for the disaster recovery grants under this notice are as follows: 14.218 and 14.228.

IV. Finding of No Significant Impact

A Finding of No Significant Impact (FONSI) with respect to the environment has been made in accordance with HUD regulations at 24 CFR part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)). The FONSI is available for inspection at HUD's Funding Opportunities web page at: https://www.hud.gov/program_offices/spm/gmorgmt/grantsinfo/fundingopps. The FONSI is available for public inspection between 8 a.m. and 5 p.m. weekdays in the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street SW, Room 10276, Washington, DC 20410–0500. Due to security measures at the HUD Headquarters building, an advance appointment to review the docket file must be scheduled by calling the Regulations Division at 202–708–3055 (this is not a toll-free number). Hearing- or speech-impaired individuals may access this number through TTY by calling the Federal Relay Service at 800–877–8339 (this is a toll-free number).

Dated: January 16, 2020.

Benjamin Carson, Sr.,
Secretary.

[FR Doc. 2020–01334 Filed 1–24–20; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–6182–N–01]

Allocations, Common Application, Waivers, and Alternative Requirements for Disaster Community Development Block Grant Disaster Recovery Grantees

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This notice allocates a total of \$3,831,428,000 in Community Development Block Grant disaster recovery (CDBG–DR) funds appropriated by the Supplemental Appropriations for Disaster Relief Act, 2018, and the Additional Supplemental Appropriations for Disaster Relief Act, 2019. The combined amount of \$3,831,428,000 in CDBG–DR funds is allocated by this notice for the purpose of assisting in long-term recovery from major disasters that occurred in 2017, 2018, and 2019. This notice also contains clarifications on waivers and alternative requirements that were included in the Prior Notices. Unless expressly limited to certain grantees, the amended waivers and alternative requirements apply to all CDBG–DR grants that are subject to the Prior Notices (previous grants for 2017 disasters and grants under this Notice).

DATES: *Applicability Date:* February 3, 2020.

FOR FURTHER INFORMATION CONTACT:

Jessie Handforth Kome, Acting Director, Office of Block Grant Assistance, U.S. Department of Housing and Urban Development, 451 7th Street SW, Room 7282, Washington, DC 20410, telephone number 202–708–3587. Persons with hearing or speech impairments may access this number via TTY by calling the Federal Relay Service at 800–877–8339. Facsimile inquiries may be sent to Ms. Kome at 202–708–0033. (Except for the “800” number, these telephone numbers are not toll-free.) Email inquiries may be sent to disaster_recovery@hud.gov.

SUPPLEMENTARY INFORMATION:

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- Appendix A: Allocation Methodology

I. Allocations

Two public laws have been enacted that provide supplemental CDBG–DR appropriations. The Supplemental Appropriations for Disaster Relief Act, 2018 (Pub. L. 115–254, approved October 5, 2018) (2018 Appropriations Act) made available \$1,680,000,000 in CDBG–DR funds for major disasters declared in 2018. The Additional Supplemental Appropriations for Disaster Relief Act, 2019 (Pub. L. 116–20, approved June 6, 2019) (2019 Appropriations Act) made \$2,431,000,000 in CDBG–DR funds available for major disasters occurring in 2017, 2018, or 2019, of which \$431,000,000 is for grantees that received funds in response to disasters occurring in 2017. Based on the unmet needs allocation methodology outlined in Appendix A, this notice allocates \$3,400,428,000 in CDBG–DR funds in accordance with the 2018 Appropriations Act and the 2019 Appropriations Act (the “2018 and 2019 Appropriations Acts”), to address unmet disaster recovery needs through activities authorized under title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 *et seq.*) (HCDA) related to disaster relief, long-term recovery, restoration of infrastructure and housing, economic revitalization, and mitigation in the “most impacted and distressed” areas resulting from a qualifying major disaster in 2018 and 2019, as well as \$431,000,000 for unmet infrastructure needs for 2017 disasters. Qualifying major disasters are those declared by the President pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1974 (42 U.S.C. 5121 *et seq.*) (Stafford Act) and identified in Table 1.

When additional data becomes available for other disasters occurring in

2019, the remaining \$272,072,000 from Public Law 116–20 will be allocated for those disasters in a subsequent notice. In **Federal Register** notices published on February 9, 2018 at 83 FR 5844, August 14, 2018 at 83 FR 40314, February 19, 2019 at 84 FR 4836, and June 20, 2019 at 84 FR 28848 (the “Prior Notices”), HUD described the applicable waivers and alternative requirements, relevant statutory and regulatory requirements, the grant award process, criteria for action plan approval, updates to duplication of benefits requirements, and eligible disaster recovery activities associated with grants for 2017 disasters. This notice imposes the requirements of the Prior Notices, as amended by provisions in this notice, on the grants announced in this notice.

In accordance with the 2018 and 2019 Appropriations Acts, \$2,500,000 of the amounts these acts made available will be transferred to the Department’s Office of Community Planning and Development (CPD), Program Office Salaries and Expenses, for necessary costs of administering and overseeing CDBG–DR grants under the 2018 and 2019 Appropriations Acts. Additionally, in accordance with the 2019 Appropriations Act, \$5,000,000 is to be transferred to CPD to provide necessary capacity building and technical assistance to grantees that receive a CDBG–DR grant under the 2018 and 2019 Appropriations Acts or future acts. As mentioned above, the 2019 Appropriations Act requires HUD to allocate \$431,000,000 to address unmet infrastructure needs for grantees that received an allocation for a disaster that occurred in 2017, of which \$331,442,114 shall be allocated to those grantees affected by Hurricane Maria.

The 2018 and 2019 Appropriations Acts provide that grants shall be

awarded directly to a State, unit of general local government, or Indian tribe at the discretion of the Secretary. Unless noted otherwise, the term “grantee” refers to the entity receiving a grant from HUD under this notice. To comply with statutory requirements that funds be used for disaster-related expenses in the most impacted and distressed areas, HUD allocates funds using the best available data that covers all the eligible affected areas.

Grantees receiving an allocation of funds under this notice are subject to the requirements of the Prior Notices, as amended by this notice or by subsequent notices. Pursuant to the Prior Notices, each grantee receiving an allocation for a 2018 or 2019 disaster is required to primarily consider and address its unmet housing recovery needs. These grantees may, however, propose the use of funds for unmet economic revitalization and infrastructure needs unrelated to the grantee’s unmet housing needs if the grantee demonstrates in its needs assessment that there is no remaining unmet housing need or that the remaining unmet housing need will be addressed by other sources of funds. Grantees receiving funds under this notice for an additional allocation for unmet infrastructure needs arising from a 2017 disaster must use those funds for unmet infrastructure needs.

Table 1 (below) shows the major disasters that grants under this notice may address and the minimum amount of funds from the combined allocations under the 2018 and 2019 Appropriations Acts that must be expended in the HUD-identified most impacted and distressed areas. The information in this table is based on HUD’s review of the impacts from the qualifying disasters and estimates of unmet need.

TABLE 1—ALLOCATIONS UNDER PUBLIC LAWS 115–254 AND 116–20

Disaster year	Disaster No.	Grantee	Unmet needs allocation under Public Law 115–254	Unmet needs allocation under Public Law 116–20	Total allocation for unmet needs (Pub. L. 115–254 and Pub. L. 116–20)	Minimum amount that must be expended for recovery in the HUD-identified “most impacted and distressed” areas
2017 Disasters (Additional Unmet Infrastructure Needs).	4344 & 4353	State of California	\$0	\$38,057,527	\$38,057,527	(No less than \$30,446,000) Sonoma and Ventura counties: 93108, 94558, 95422, 95470, and 95901 Zip Codes.
	4337 & 4341	State of Florida	0	38,637,745	38,637,745	(No less than \$30,910,000) Brevard, Broward, Clay, Collier, Duval, Hillsborough, Lee, Miami-Dade, Monroe, Orange, Osceola, Palm Beach, Polk, St. Lucie, and Volusia counties; 32084, 32091, 32136, 32145, 33440, 33523, 33825, 33870, 33935, and 34266 Zip Codes.
	4294, 4297, & 4338	State of Georgia	0	13,015,596	13,015,596	(No less than \$10,412,000) 31520, 31548, and 31705 Zip Codes.
	4317	State of Missouri	0	9,847,018	9,847,018	(No less than \$7,878,000) 63935, 63965, 64850, 65616, and 65775 Zip Codes.
	4336 & 4339	Commonwealth of Puerto Rico.	0	277,853,230	277,853,230	(\$277,853,230) All Components of the Commonwealth of Puerto Rico.
	4335	U.S. Virgin Islands	0	53,588,884	53,588,884	(\$53,588,884) All components of the U.S. Virgin Islands.
2018 Disasters	4413	State of Alaska	0	35,856,000	35,856,000	(No less than \$28,685,000) Anchorage Borough.

TABLE 1—ALLOCATIONS UNDER PUBLIC LAWS 115–254 AND 116–20—Continued

Disaster year	Disaster No.	Grantee	Unmet needs allocation under Public Law 115–254	Unmet needs allocation under Public Law 116–20	Total allocation for unmet needs (Pub. L. 115–254 and Pub. L. 116–20)	Minimum amount that must be expended for recovery in the HUD-identified “most impacted and distressed” areas
2019 Disasters	4357	American Samoa	16,539,000	6,500,000	23,039,000	(\$23,039,000) All components of American Samoa.
	4407 & 4382	State of California	491,816,000	525,583,000	1,017,399,000	(No less than \$813,919,000) Butte Lake, Los Angeles, and Shasta Counties.
	4399	State of Florida	448,023,000	287,530,000	735,553,000	(No less than \$588,442,000) Bay, Calhoun, Gulf and Jackson Counties; 32321 (Liberty), 32327 (Wakulla), 32328 (Franklin), 32346 (Wakulla and Franklin), 32351 (Gadsden), and 32428 (Washington) Zip Codes.
	4400	State of Georgia	34,884,000	6,953,000	41,837,000	(No less than \$33,470,000) 39845 (Seminole) Zip Code.
	4366	Hawaii County, HI	66,890,000	16,951,000	83,841,000	(\$83,841,000) Hawaii County.
	4365	Kauai County, HI	0	9,176,000	9,176,000	(No less than \$7,341,000) 96714 (Kauai) Zip Code.
	4393	State of North Carolina	336,521,000	206,123,000	542,644,000	(No less than \$434,115,000) Brunswick, Carteret, Columbus, Craven, Duplin, Jones, New Hanover, Onslow, Pender, and Robeson Counties; 28352 (Scotland), 28390 (Cumberland), 28433 (Bladen), and 28571 (Pamlico) Zip Codes.
	4396 & 4404	The Commonwealth of the Northern Mariana Islands.	188,652,000	55,294,000	243,946,000	(No less than \$195,157,000) Saipan and Tinian Municipalities.
	4394	State of South Carolina ...	47,775,000	24,300,000	72,075,000	(No less than \$57,660,000) Horry and Marion counties; 29536 (Dillon) Zip Code.
	4377	State of Texas	46,400,000	26,513,000	72,913,000	(No less than \$58,330,000) Hidalgo County.
	4402	State of Wisconsin	0	14,355,000	13,355,000	(No less than \$12,284,000) 53560 (Dane) Zip Code.
	4441	State of Arkansas	0	8,940,000	8,940,000	(No less than \$7152,000) 71602 (Jefferson) and 72016 (Perry) Zip Codes.
	4421	State of Iowa	0	96,741,000	96,741,000	(No less than \$77,393,000) Mills County; 51640 (Fremont) Zip Code.
	4451	State of Missouri	0	30,776,000	30,776,000	(No less than \$24,621,000) St. Charles County; 64437 (Holt) and 65101 (Cole) Zip Codes.
	4420	State of Nebraska	0	108,938,000	108,938,000	(No less than \$87,150,000) Sarpy County; 68025 (Dodge), 68064 (Douglas) and 68069 (Douglas) Zip Codes.
	4447	State of Ohio	0	12,305,000	12,305,000	(No less than \$9,844,000) 45426 (Montgomery) Zip Code.
	4438	State of Oklahoma	0	36,353,000	36,353,000	(No less than \$29,082,000) Muskogee and Tulsa Counties; 74946 (Sequoyah) Zip Code.
	4454 & 4466	State of Texas	0	212,741,000	212,741,000	(No less than \$170,193,000) Cameron, Chambers, Harris, Jefferson, Liberty, Montgomery, and Orange Counties; 78570 (Hidalgo) Zip Code.
	Total	1,677,500,000	2,153,928,000	3,831,428,000	

Pursuant to the 2018 and 2019 Appropriations Acts, HUD has identified the most impacted and distressed areas based on the best available data for all eligible affected areas. A detailed explanation of HUD’s allocation methodology is provided in Appendix A of this notice.

In some instances, HUD identified the entire jurisdiction of a grantee as the most impacted and distressed area. For all other grantees, at least 80 percent of the total funds provided to a grantee under this notice must address unmet disaster needs within the HUD-identified most impacted and distressed areas, as identified in the last column in Table 1. Note that if HUD designates a ZIP Code for 2018 and 2019 disasters as a most impacted and distressed area for purposes of allocating funds, the grantee may expand program operations to the whole county (county is indicated in parentheses next to the ZIP Code as a most impacted and distressed area. The grantee should indicate the decision to

expand eligibility to the whole county in its action plan.

A grantee may determine where to use the remaining 20 percent of the allocation, but that portion of the allocation may only be used to address unmet disaster needs in those areas that the grantee determines are “most impacted and distressed” and received a presidential major disaster declaration pursuant to the disaster numbers listed in Table 1. A grantee may use up to 5 percent of the total grant award for grant administration and no more than 15 percent of the total grant award for planning activities. Therefore, HUD will include 80 percent of a grantee’s expenditures for grant administration in its determination that 80 percent of the total award has been expended in the most impacted and distressed areas identified in Table 1. Additionally, expenditures for planning activities may be counted towards a grantee’s 80 percent expenditure requirement, provided that the grantee describes in

its action plan how those planning activities benefit the HUD-identified most impacted and distressed areas.

II. Use of Funds

Funds allocated under this notice are subject to the requirements of the Prior Notices, as amended by this notice or subsequent notices. This notice outlines additional requirements imposed by the 2018 and 2019 Appropriations Acts that apply to funds allocated under this notice.

The 2018 and 2019 Appropriations Acts require that prior to the obligation of CDBG–DR funds a grantee shall submit a plan detailing the proposed use of all funds. The plan must include criteria for eligibility, and how the use of these funds will address long-term recovery and restoration of infrastructure and housing, economic revitalization, and mitigation in the most impacted and distressed areas. Therefore, the action plan submitted in response to this notice must describe

uses and activities that: (1) Are authorized under title I of the HCDA or allowed by a waiver or alternative requirement; and (2) respond to a disaster-related impact to infrastructure, housing, or economic revitalization in the most impacted and distressed areas, and if the grantee chooses to do so, how mitigation will be incorporated into recovery activities. To inform the plan, each grantee must conduct an assessment of community impacts and unmet needs and guide the development and prioritization of planned recovery activities, pursuant to section VI.A.2.a. of the February 9, 2018 notice (83 FR 5849).

While CDBG-DR funding is a valuable resource for long-term recovery and mitigation in the wake of major disasters, HUD expects that grantees will take steps to set in place substantial State and local governmental policies to enhance the impact of HUD-funded investments and limit damage from future disasters. The **Federal Register** notice published February 9, 2018 (83 FR 5850), requires all grantees to describe how they plan to promote sound, sustainable long-term planning. HUD is encouraging wildfire-impacted grantees in particular to consider land-use plans that address density and quantity of development, as well as emergency access, landscaping, and water supply considerations. Grantees are reminded that they may use CDBG-DR funds for planning activities, including, but not limited to, developing a Community Wildfire Protection Plan (CWPP). Grantees are encouraged to review U.S. Forest Service's resources on wildland fire (<https://www.fs.fed.us/managing-land/fire>) and work with Federal and State forestry and fire agencies that carry out activities related to fire risk reduction, including upgrading mapping, data, and other capabilities to better manage wildland fire risk areas. To maximize the impact of all available funds, all grantees are encouraged to coordinate and align these funds with other projects funded with CDBG-DR and CDBG-Mitigation funds, as well as other disaster recovery activities funded by the Federal Emergency Management Agency (FEMA), the U.S. Army Corps of Engineers (USACE), the U.S. Forest Service, and other agencies as appropriate.

Grantees should note that a subsequent notice published on August 14, 2018 (83 FR 40314), which clarifies and/or modifies requirements in the February 9, 2018 notice, applies to grantees receiving funds under this notice. Specifically, grantees should note the following clarifications and

modifications in the August 14, 2018 notice governing the use of these funds: Allowing for unmet economic revitalization and infrastructure needs (83 FR 40314), which are addressed in section I in this notice; the use of terminology around an evaluation of the cost or price of a product or service (83 FR 40317); additional requirements for the comprehensive disaster recovery website (83 FR 40317); clarification of working capital to aid in recovery (83 FR 40317); underwriting requirements (83 FR 40317); limitation of use of funds for eminent domain (83 FR 40317); increased public comment period (83 FR 40318); cost verification (83 FR 40318); additional criteria and specific conditions to mitigate risk (83 FR 40318–40319); the waiver of Section 414 of the Stafford Act as amended (83 FR 40319) and addressed in section IV.C.2. in this notice; modification of affordability periods for rental properties (83 FR 40320); clarification of the environmental review requirements (83 FR 40319); CDBG-DR housing assistance and FEMA's permanent and semi-permanent housing programs (83 FR 40320); rehabilitation and reconstruction cost-effectiveness (83 FR 40321); infrastructure planning and design (83 FR 40321); discipline and accountability in the environmental review and permitting of infrastructure projects (83 FR 40321); and CDBG-DR funds as match for FEMA 428 Public Assistance projects (83 FR 40321).

Additionally, HUD published a notice on June 20, 2019 entitled, "Updates to Duplication of Benefits Requirements Under the Stafford Act for Community Development Block Grant (CDBG) Disaster Recovery Grantees" (84 FR 28836) (2019 DOB Notice) and a second notice that implemented the 2019 DOB Notice by making corresponding amendments to the Prior Notices (Applicability of Updates to Duplication of Benefits Requirements Under the Stafford Act for Community Development Block Grant (CDBG) Disaster Recovery Grantees, published at 84 FR 28848) (the "Implementation Notice"). Those changes are explained in section IV.B.6. of this notice and in detail in the 2019 DOB Notice (84 FR 28836).

Finally, the February 9, 2018 notice was also amended by the February 19, 2019 notice (84 FR 4836) with a clarification on green building standards (84 FR 4844).

III. Overview of Grant Process

Each grantee must submit an action plan for disaster recovery pursuant the requirements of section VI.A.2 of the February 9, 2018 notice (83 FR 5849), as

modified by the requirements of the August 14, 2018 notice (83 FR 40314), not later than 120 days after the applicability date of this notice. All requirements of the Prior Notices related to the action plan submission shall apply, including the public comment period which was extended to not less than 30 calendar days under the August 14, 2018 notice (83 FR 40318), and the manner of publication which must include prominent posting on the grantee's official website (83 FR 40317). Each grantee must publish the action plan in a manner that affords citizens, affected local governments, and other interested parties a reasonable opportunity to examine the contents and provide feedback. Each grantee must also submit the Financial Management and Grant Compliance submission and Pre-Award Implementation Plan pursuant to section VI.A.I of the February 9, 2018 notice. All deadlines for these submissions are determined by the applicability date of this notice.

In the Prior Notices, the Department included its intention to establish special grant conditions for individual CDBG-DR grants based upon the risks posed by the grantee, including risks related to the grantee's capacity to carry out the specific programs and projects proposed in its action plan. As described in the Prior Notices, these conditions will be designed to provide additional assurances that programs are implemented in a manner to prevent waste, fraud, and abuse and the Department has established specific criteria and conditions for each grant award as provided for at 2 CFR 200.205 and 200.207(a), respectively, to mitigate the risks of the grant.

To begin expending CDBG-DR funds, the grantee must follow the process outlined in the February 9, 2018 notice (83 FR 5846), unless otherwise amended below:

- Within 60 days of the applicability date of this notice (or when the grantee submits its action plan, whichever is earlier), submit documentation for the certification of financial controls and procurement processes and adequate procedures for grant management, as amended in section IV.B.1 of this notice. A grantee that received a certification of its financial controls and procurement processes pursuant to a 2016 or 2017 disaster may request that HUD rely on that certification for purposes of this allocation, provided, however, that grantees shall be required to provide updates to reflect any material changes in the submissions.

- Within 60 days of the applicability date of this notice (or when the grantee

submits its action plan, whichever is earlier), submit documentation for the implementation plan and capacity assessment.

- Additionally, all funds must be expended within 6 years of the date of obligation as described in section V of this notice.

III.A. Funds for Unmet Infrastructure Needs for Grantees That Received Allocations for 2017 Disasters

Each grantee that received an allocation pursuant to Public Law 115–56 or Public Law 115–123 for 2017 disasters and an additional allocation in this notice for unmet infrastructure needs is required to submit a substantial amendment to its current action plan required by the Prior Notices. The substantial amendment must be submitted no later than 90 days after the applicability date of this notice. The substantial amendment must include the additional allocation of funds and address the requirements of the Prior Notices, as amended by this notice. Each grantee must follow the applicable substantial amendment process pursuant to section III.B of the August 14, 2018 notice (83 FR 40316). Based on the 2019 Appropriations Act, HUD will condition the availability of these funds for grantees that have entered into alternative procedures under section 428 of the Stafford Act as of the date of enactment of the 2019 Appropriations Act until such grantees have reached a final agreement on all fixed cost estimates within the timeline provided by FEMA.

IV. Applicable Rules, Statutes, Waivers, and Alternative Requirements

This section of the notice describes rules, statutes, waivers, and alternative requirements that apply to each grantee receiving an allocation under this notice. The Secretary has determined that good cause exists to apply each waiver and alternative requirement established in the Prior Notices to grantees receiving funds under this notice and that such waivers and alternative requirements are not inconsistent with the overall purpose of title I of the HCDA. The Secretary's determination of good cause extends to each waiver or alternative requirement as amended by this notice. Grantees are reminded that all fair housing and nondiscrimination requirements, as well as environmental and labor requirements, continue to apply. The following requirements apply only to the CDBG–DR funds appropriated under the 2018 and 2019 Appropriations Acts (unless otherwise noted) and not to funds provided under the annual

formula State or Entitlement CDBG programs, the Indian Community Development Block Grant program, or those provided under any other component of the CDBG program, such as the Section 108 Loan Guarantee Program, or any previous CDBG–DR appropriations, unless otherwise noted.

A grantee may request additional waivers and alternative requirements from the Department as needed to address specific needs related to its recovery activities, accompanied by data to support the request. Grantees should work with the assigned Community Planning and Development representatives to request any additional waivers or alternative requirements from HUD. Except where noted, the waivers and alternative requirements described below apply to all grantees under this notice. Pursuant to the requirements of the 2018 and 2019 Appropriations Acts, waivers and alternative requirements are effective 5 days after they are published in the **Federal Register**.

Except as described in this notice or the Prior Notices, statutory and regulatory provisions governing the State CDBG program shall apply to State grantees receiving a CDBG–DR grant. Except as described in this notice or the Prior Notices, statutory and regulatory provisions governing the entitlement CDBG program shall apply to any local government receiving a CDBG–DR grant. Based on the Prior Notices' treatment of grantees in the CDBG Insular areas program, all references to states and State grantees shall include the Commonwealth of the Northern Mariana Islands and the American Samoa. State and Entitlement CDBG regulations can be found at 24 CFR part 570. References to the action plan in these regulations shall refer to the action plan for disaster recovery required by section VI.A.2 of the February 9, 2018 notice. All references in this notice pertaining to timelines and/or deadlines are in terms of calendar days unless otherwise noted. The date of this notice shall mean the applicability date of this notice unless otherwise noted.

IV.A. Incorporation of Waivers and Alternative Requirements for Local Governments

This notice extends the waivers and alternative requirements in the Prior Notices to states and local governments receiving grants under the 2018 and 2019 Appropriations Acts. Because the Prior Notices only govern grants to states, this notice amends the Prior Notices by adding regulations that apply to units of general local government the waivers previously granted by the

Secretary (except in cases such as the timely distribution of funds, the consolidated plan waiver, or reimbursement where the Prior Notices already waive entitlement CDBG program regulations). Where requirements are different for units of general local government than the requirements applicable to states, this notice amends the Prior Notices to add the local government requirement.

IV.A.1. The Secretary amends the following sections of the February 9, 2018 notice to expand waivers to include waivers of the regulations that apply to local government grantees: In Section VI.A.2., *Action Plan for Disaster Recovery waiver and alternative requirement*, the Secretary waives 24 CFR 91.220; in section VI.A.4., *Citizen participation waiver and alternative requirement*, the Secretary waives 24 CFR 91.105(b) and (c); and in section VI.A.12, *Use of the urgent need national objective*, the Secretary waives 24 CFR 570.208(c). Grantees are responsible for ensuring that all citizens have equal access to information about the programs, including persons with disabilities and limited English proficiency (LEP). This waiver does not affect the statutory and regulatory obligations of CDBG–DR grantees to affirmatively further fair housing. As part of the CDBG–DR action plan, all grantees must certify that they will affirmatively further fair housing. For CDBG–DR grantees, this means conducting an Analysis of Impediments to Fair Housing Choice (AI), taking appropriate actions to overcome the effects of any impediments identified through that analysis, and keeping records of these actions.

IV.A.2. *Procurement*. This notice amends the sections of the February 9, 2018 notice to add additional requirements or to clarify procurement requirements that apply to local governments:

Paragraph V.A.1.a.(2) is modified after the sentence that begins “A State grantee (including the Commonwealth of Puerto Rico and the U.S. Virgin Islands) has proficient procurement policies and processes if . . .” to add the following sentence: “A local government grantee has proficient procurement policies and processes if it follows procurement requirements in the Uniform Administrative Requirements at 2 CFR 200.318 through 200.326, and imposes these requirements on its subrecipients.”

Paragraph VI.A.26 of the February 9, 2018 notice is modified by adding after the first paragraph, “Any local government receiving a CDBG–DR grant is subject to procurement requirements

in the Uniform Administrative Requirements at 2 CFR 200.318 through 200.326.”

IV.B. Grant Administration

IV.B.1. *Certification of financial controls and procurement processes, and adequate procedures for proper grant management.* The 2018 and 2019 Appropriations Acts require that the Secretary certify, in advance of signing a grant agreement, that the grantee has in place proficient financial controls and procurement processes and has established adequate procedures to prevent any duplication of benefits as defined by section 312 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act), 42 U.S.C. 5155, to ensure timely expenditure of funds, maintain a comprehensive website regarding all activities assisted with these funds, and detect and prevent waste, fraud, and abuse of funds. To enable the Secretary to make this certification, each grantee must submit to HUD the Financial Management and Grant Compliance certification submission pursuant to section VI.A.1.a of the February 9, 2018 notice (83 FR 5847), as amended in this section.

A grantee that received a certification of its financial controls and procurement processes pursuant to a 2016 or 2017 disaster may request that HUD rely on that certification for purposes of this grant, provided, however, that grantees shall be required to provide updates to reflect any material changes in the submissions. This information must be submitted within 60 days of the applicability date of this notice. The grant agreement will not be executed until HUD has approved the grantee's certifications. The grantee must implement the CDBG-DR grant consistent with the controls, processes, and procedures as certified by HUD. HUD is requiring each grantee to submit (or update and resubmit, as applicable) all policies and procedures pertaining to its duplication of benefits procedures as outlined below:

(1) Duplication of benefits procedures. A grantee has adequate procedures to prevent the duplication of benefits if the grantee submits uniform processes that reflect the requirements of the February 9, 2018 notice (83 FR 5860) and the 2019 DOB Notice (84 FR 28836), including: (a) Verifying all sources of assistance received by the grantee or applicant, as applicable, prior to the award of CDBG-DR funds; (b) determining a grantee's or an applicant's remaining funding need(s) for CDBG-DR assistance before committing funds or awarding assistance; and (c) requiring

beneficiaries to enter into a signed agreement to repay any duplicative assistance if they later receive additional assistance for the same purpose for which the CDBG-DR award was provided. The grantee must identify a method to monitor compliance with the agreement for a reasonable period and must articulate this method in its written administrative procedures, including the basis for the period in which the grantee will monitor compliance. This agreement must also include the following language: “*Warning:* Any person who knowingly makes a false claim or statement to HUD may be subject to civil or criminal penalties under 18 U.S.C. 287, 1001 and 31 U.S.C. 3729.”

Policies and procedures of the grantee submitted to support the certification must provide that prior to the award of assistance, the grantee will use the best, most recent available data from FEMA, the Small Business Administration (SBA), insurers, and any other sources of local, State and Federal sources of funding to prevent the duplication of benefits. In developing these policies and procedures, grantees are directed to the 2019 DOB Notice (84 FR 28836). To be adequate, a grantee's policies and procedures must reflect the treatment of loans that is consistent with the requirements of the Declined Loans Provision and the section 1210 of the Disaster Recovery Reform Act of 2018 (DRRA) (division D of Pub. L. 115-254), as explained in section IV.B.6 of this notice and in the 2019 DOB Notice.

IV.B.2. *Procurement.* Grantees must comply with procurement requirements for states or for local governments, as applicable, in the Prior Notices (as amended).

IV.B.3. *Use of administrative funds across multiple grants.* The 2019 Appropriations Act authorizes special treatment of grant administrative funds for grantees that received awards under certain CDBG-DR grants. Grantees that received awards under Public Laws 114-113, 114-223, 114-254, 115-31, 115-56, 115-123, and 115-254, or any future act may use eligible administrative funds (up to 5 percent of each grant award plus up to 5 percent of program income generated by the grant) appropriated by these acts for the cost of administering any of these grants without regard to the particular disaster appropriation from which such funds originated. If the grantee chooses to exercise this authority, the grantee must ensure that it has appropriate financial controls to ensure that the amount of grant administration expenditures for each of the aforementioned grants will not exceed 5 percent of the total grant

award for each grant (plus 5 percent of program income), review and modify its financial management policies and procedures regarding the tracking and accounting of administration costs, as necessary, and address the adoption of this treatment of administrative costs in the applicable portions of its Financial Management and Grant Compliance submissions as referenced in section VI.A.1 of the February 9, 2018 notice (83 FR 5847-5848). Grantees are reminded that all costs incurred for administration must still qualify as an eligible administration expense.

IV.B.4. *Use of funds in response to Hurricane Matthew and Hurricane Florence (State of North Carolina and South Carolina only).* The 2019 Appropriations Act provides that grantees that received CDBG-DR grants under Public Laws 114-223, 114-254, and 115-31 in response to Hurricane Matthew, may use those funds interchangeably for the same activities that can be funded by CDBG-DR grants in the most impacted and distressed areas related to Hurricane Florence. Specifically, these CDBG-DR grants in response to Hurricane Matthew may be used interchangeably and without limitation for the same activities that can be funded by CDBG-DR grants in the most impacted and distressed areas related to Hurricane Florence. Additionally, all CDBG-DR grants under the 2018 and 2019 Appropriations Acts in response to Hurricane Florence may be used interchangeably and without limitation for the same activities in the most impacted and distressed areas related to Hurricane Matthew.

Grantees are reminded that expanding the eligible beneficiaries of their Hurricane Matthew activities or programs to include those impacted by Hurricane Florence requires the submission of a substantial action plan amendment in accordance with section VI.A.2.g of the November 21, 2016 notice (81 FR 83254). Additionally, all waivers and alternative requirements associated with a CDBG-DR grant apply to the use of the funds provided by that grant, regardless of which disaster (Matthew or Florence) the funded activity will address.

IV.B.5. *One-for-One Replacement Housing, Relocation, and Real Property Acquisition Requirements.* Grantees that received a CDBG-DR grant for 2018 or 2019 disasters under Public Laws 115-254 or 116-20 (“current requirements”) are currently subject to different requirements with respect to One-for-One Replacement Housing, Relocation, and Real Property Acquisition Requirements, than grantees that received a CDBG-DR grant for previous

disasters pursuant to Public Laws 114–113, 114–223, 114–254, and 115–31 (“previous requirements”). To avoid the administrative burden of implementing two different Uniform Relocation Assistance and Real Property Acquisition Act (URA) waivers and alternative requirements, HUD is authorizing grantees with CDBG–DR grants subject to the previous requirements to carry out its programs under the same (URA) requirements as is required for its grant(s) under the current requirements.

HUD is authorizing grantees under Public Laws 114–113, 114–223, 114–254, and 115–31 that also received a CDBG–DR grant under Public Law 115–254 or 116–20 to either: (a) continue to follow One-for-One Replacement Housing, Relocation, and Real Property Acquisition Requirements as provided in section VI.A.19. of the November 21, 2016 notice (81 FR 83266) for its Public Laws 114–113, 114–223, 114–254, and 115–31 CDBG–DR grants; or (b) follow the requirements of section VI.A.23.a. through e. of the February 9, 2018 notice (83 FR 5858) for its Public Laws 114–113, 114–223, 114–254, and 115–31 CDBG–DR grants. The grantee’s programs under the most recent Public Laws (Pub. L. 115–254 or 116–20) are already required to follow the waiver and alternative requirement defined in the February 9, 2018 notice (83 FR 5858). If a grantee chooses to follow option (b) above, then it must identify this approach in its policies and procedures related to that particular activity and consistently apply that option for all displaced persons affected by that activity.

IV.B.6. Duplication of benefits. The Prior Notices described duplication of benefits (DOB) requirements in Section 312 of the Stafford Act and subjected grantees to the requirements of a notice published in the **Federal Register** on November 16, 2011, at 76 FR 71060 (the “2011 DOB Notice”).

HUD subsequently published the 2019 DOB Notice, which revised the DOB requirements that apply to CDBG–DR grants for disasters declared between January 1, 2015, and December 31, 2021. HUD also published a separate notice that implemented the 2019 DOB Notice (84 FR 28848) (the “Implementation Notice”) by making corresponding amendments to the February 9, 2018 and August 14, 2018 notices. The amendments in the Implementation Notice provide that the 2019 DOB Notice shall supersede the 2011 DOB Notice for any new programs or activities submitted in an action plan or action plan amendment on or after June 25, 2019.

Accordingly, grantees must comply with the requirements of the Prior Notices, including amendments in the Implementation Notice. Because the applicability date of this notice is after June 25, 2019, provisions of the Implementation Notice that apply only to grants made before June 25, 2019 do not apply to grants under the 2018 and 2019 Appropriations Acts.

IV.B.7. The waiver and alternative requirement in section VI.A.6. of the February 9, 2018 notice is replaced with the following language to include 2018 and 2019 disaster grantees: “HUD is temporarily waiving the requirement for consistency with the consolidated plan (requirements at 42 U.S.C. 12706, 24 CFR 91.325(a)(5) and 91.225(a)(5)), because the effects of a major disaster alter a grantee’s priorities for meeting housing, employment, and infrastructure needs. In conjunction, 42 U.S.C. 5304(e), to the extent that it would require HUD to annually review grantee performance under the consistency criteria, is also waived. Grantees are encouraged to incorporate disaster-recovery needs into their consolidated plan updates as soon as practicable, but any unmet disaster-related needs and associated priorities must be incorporated into the grantee’s next consolidated plan update no later than its Fiscal Year 2020 update for 2017 disasters and Fiscal Year 2022 for 2018 and 2019 disasters.”

IV.C. Clarifications and Amendments for Grants Under Public Law 115–56, 115–123, 115–254, and 116–20

IV.C.1. Clarification on Affordability Periods and Amended Alternative Requirement. The **Federal Register** notice published on August 14, 2018 (83 FR 40320) imposed a 5-year affordability period on all newly constructed single-family housing units constructed with CDBG–DR funds. HUD intended to impose the affordability period only on single-family units constructed and sold by the grantee or its subrecipient through an affordable homeownership program. It was not intended to impose affordability restrictions where the beneficiary owned and occupied a home that was damaged by the disaster and the grantee then provides the owner-occupant with a newly constructed or reconstructed housing unit rather than rehabilitate the damaged home. HUD’s intent was to impose affordability restrictions when CDBG–DR funds are used to expand housing stock, not to replace damaged units owned and occupied by a beneficiary. Therefore, HUD is amending paragraph IV.B.10 of the

August 14, 2018 notice by replacing it in its entirety with the following:

“10. *Affordability Period for CDBG–DR funded Homeownership Programs.* Grantees receiving funds under this notice are required to implement a minimum 5-year affordability period on all newly constructed single-family housing made available for low- and moderate-income homeownership through a CDBG–DR funded homeownership program. This notice requires any grantee implementing a CDBG–DR funded homeownership program to develop and impose affordability (*i.e.*, resale or recapture) restrictions and to enforce those restrictions through recorded deed restrictions, covenants, or other similar mechanisms, for a period not less than 5 years. Grantees shall establish resale or recapture requirements for housing funded pursuant to this paragraph and shall describe those requirements in the action plan or substantial amendment in which the activity is proposed. The resale or recapture provisions must clearly describe the terms of the resale or recapture, the specific circumstances under which these provisions will be used, and how the provisions will be enforced. This affordability period does not apply to housing units newly constructed or reconstructed for an owner-occupant to replace an owner-occupied home that was damaged by the disaster.”

IV.C.2. Clarification and Amendment on Section 414 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*). The **Federal Register** notice published on February 19, 2019 (84 FR 4842) provided a waiver and alternative requirement of Section 414 for all grantees receiving a grant for a major disaster occurring in 2015, 2016, and 2017. This waiver and alternative requirements allowed grantees that received a grant(s) under Public Laws 114–113, 114–223, 114–254, and 115–31 to carry out its programs under the same Section 414 requirements as its grant(s) under Public Laws 115–56 or 115–123. To clarify this provision and extend the Section 414 waiver and alternative requirement to include grantees under those older Public Laws that are now receiving a grant under the 2018 and 2019 Appropriations Acts for a major disaster in 2018 or 2019, HUD is amending paragraph IV.2 of the February 19, 2019 notice by replacing it in its entirety with the following:

“2. *Waiver of Section 414 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*).* Section 414 of the Stafford Act (42 U.S.C. 5181) provides that

“Notwithstanding any other provision of law, no person otherwise eligible for any kind of replacement housing payment under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Pub. L. 91-646) [42 U.S.C. 4601 *et seq.*] [“URA”] shall be denied such eligibility as a result of his being unable, because of a major disaster as determined by the President, to meet the occupancy requirements set by [the URA].” Accordingly, homeowner occupants and tenants displaced from their homes as a result of the identified disaster and who would have otherwise been displaced, as a direct result of any acquisition, rehabilitation, or demolition of real property for a federally funded program or project, may become eligible for a replacement housing payment, notwithstanding their inability to meet occupancy requirements prescribed in the URA.

Grantees that received a CDBG-DR grant for a major disaster in 2015, 2016, or 2017 under Public Laws 114-113, 114-223, 114-254, or 115-31, and a CDBG-DR grant for a 2017, 2018, or 2019 major disaster under Public Laws 115-56, 115-123, 115-254, or 116-20 are subject to different alternative requirements with respect to protections afforded to tenants and homeowners under Section 414 of the Stafford Act.

To avoid the administrative burden of implementing two different URA alternative requirements, HUD is authorizing grantees under Public Laws 114-113, 114-223, 114-254, and 115-31 that also received a CDBG-DR grant under Public Law 115-56, 115-123, 115-254, or 116-20 to either: (a) Continue to follow Section 414 of the Stafford Act (or any grantee-specific alternative requirement previously authorized by HUD) for its Public Laws 114-113, 114-223, 114-254, and 115-31 CDBG-DR grants; or (b) follow the waiver and alternative requirement described in the following paragraph for its Public Laws 114-113, 114-223, 114-254, and 115-31 CDBG-DR grants. The grantee's programs under the most recent Public Laws (Pub. L. 115-56, 115-123, 115-254, or 116-20) are already required to follow the waiver and alternative requirement defined below. If a grantee chooses to follow option (b) above then it must identify this approach in its policies and procedures related to that particular activity, and consistently apply that option for all displaced persons affected by that activity.

The waiver and alternative requirement is as follows: Section 414 of the Stafford Act (including its implementing regulation at 49 CFR

24.403(d)(1)), is waived to the extent that it would apply to real property acquisition, rehabilitation, or demolition of real property for a CDBG-DR funded project, undertaken by the grantee or subrecipient, commencing more than one (1) year after the Presidentially declared disaster, provided that the project was not planned, approved, or otherwise underway prior to the disaster. For purposes of this paragraph, a CDBG-DR funded project shall be determined to have commenced on the earliest of: (1) The date of an approved Release for Request of Funds (RROF) and certification, or (2) the date of completion of the site-specific review when a program utilizes tiered environmental reviews, or (3) the date of sign-off by the approving official when a project converts to exempt under 24 CFR 58.34(a)(12). The Secretary has the authority to waive provisions of the Stafford Act and its implementing regulations that the Secretary administers in connection with the obligation of CDBG-DR funds covered under this waiver and alternative requirement, or the grantees' use of these funds. The Department has determined that good cause exists for a waiver and that such waiver is not inconsistent with the overall purposes of title I of the HCDA. The waiver will simplify the administration of the disaster recovery process and reduce the administrative burden associated with the implementation of Stafford Act Section 414 requirements for projects commencing more than one (1) year after the date of the Presidentially declared disaster, considering the majority of such persons displaced by the disaster will have returned to their dwellings or found another place of permanent residence. This waiver does not apply with respect to persons that meet the occupancy requirements to receive a replacement housing payment under the URA nor does it apply to persons displaced or relocated temporarily by other HUD-funded programs or projects. Such persons' eligibility for relocation assistance and payments under the URA is not impacted by this waiver.”

IV.C.3 Clarification on Procurement and Use of Subrecipients for State grantees only. The **Federal Register** notice published on February 9, 2018 (83 FR 5856) included a provision on the use of subrecipients that was applicable to State grantees only. In section VI.A.14. of that notice, HUD made 24 CFR 570.502, 570.503, and 570.500(c) applicable to states exercising their authority under the

waiver to carry out activities directly. To eliminate any confusion regarding procurement requirements that are applicable to the State's subrecipients, HUD is clarifying that 24 CFR 570.502, 570.503, and 570.500(c) apply to states carrying out activities directly, except for procurement requirements as provided for in the February 9, 2018 notice. Specifically, when HUD allows a State grantee the flexibility in section VI.A.1.a.(2) of the February 9, 2018 notice to choose one of three options when developing its procurement policies and procedures, and in paragraph VI.A.26., which requires State grantees to establish procurement requirements for local governments and subrecipients, those provisions continue to apply and will determine those procurement provisions of 2 CFR part 200 that are applicable to a State's subrecipients.

IV.C.4. Clarification on Acquisition of real property, flood, and other buyouts to include Wildfire-Impacted Grantees. The **Federal Register** notice published February 9, 2018 (83 FR 5863) describes how grantees may carry out property acquisitions for a variety of purposes and that they may carry out a buyout program in a Disaster Risk Reduction Area. HUD is clarifying this provision so that grantees understand that wildland fire risk areas may also be identified by the grantee as Disaster Risk Reduction areas. Accordingly, HUD is amending paragraph IV.B.37.a. of the February 9, 2018 notice by adding the following language to the end of that section:

“37. *Clarification of “Buyout” and “Real Property Acquisition” activities.*” Wildland fire risk areas may also be identified by the grantee as Disaster Risk Reduction areas eligible for a buyout to reduce risk from future wildfires. Grantees are encouraged to carry out property acquisitions as a means of acquiring contiguous parcels of land for uses compatible with wildland-urban interface management practices. Grantees are also encouraged to take actions to promote an increase in hazard insurance coverage in the wildland fire risk areas.”

V. Duration of Funding

The 2018 and 2019 Appropriations Acts make the funds available for obligation by HUD until expended. This notice requires each grantee to expend 100 percent of its CDBG-DR grant on eligible activities within 6 years of HUD's obligation of funds under Public Laws 115-254 and 116-20 pursuant to an executed grant agreement. Furthermore, consistent with 31 U.S.C. 1555 and OMB Circular A-11, if the Secretary or the President determines

that the purposes for which the appropriation has been made have been carried out and no disbursements have been made against the appropriation for two consecutive fiscal years, any remaining balance will be made unavailable for obligation or expenditure. In such case, the funds shall not be available for obligation or expenditure for any purpose after the account is closed.

VI. Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance numbers for the disaster recovery grants under this notice are as follows: 14.228 for State CDBG grantees and 14.218 for Entitlement CDBG Grantees.

VII. Finding of No Significant Impact

A Finding of No Significant Impact (FONSI) with respect to the environment has been made in accordance with HUD regulations at 24 CFR part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)). The FONSI is available for public inspection between 8 a.m. and 5 p.m. weekdays in the Regulations Division, Office of General Counsel, U.S. Department of Housing and Urban Development, 451 7th Street SW, Room 10276, Washington, DC 20410-0500. Due to security measures at the HUD Headquarters building, an advance appointment to review the docket file must be scheduled by calling the Regulations Division at 202-708-3055 (this is not a toll-free number). Hearing- or speech-impaired individuals may access this number through TTY by calling the Federal Relay Service at 800-877-8339 (this is a toll-free number).

Dated: January 16, 2020.

Benjamin S. Carson, Sr.,
Secretary.

Appendix A—Detailed Methodology

Allocation of CDBG-DR Funds to Most Impacted and Distressed Areas Due to 2018 and 2019 Federally Declared Disasters

Background

The FAA Reauthorization Act of 2018 (Pub. L. 115-254) enacted on October 5, 2018, appropriated \$1,680,000,000 through the Community Development Block Grant disaster recovery (CDBG-DR) program. The statutory text related to the allocation is as follows:

“For an additional amount for ‘Community Development Fund’, \$1,680,000,000, to remain available until expended, for necessary expenses for activities authorized under title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 *et seq.*) related to

disaster relief, long-term recovery, restoration of infrastructure and housing, and economic revitalization in the most impacted and distressed areas resulting from a major disaster declared in 2018 pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*): *Provided*, That funds shall be awarded directly to the State or unit of general local government at the discretion of the Secretary[.]”

Public Law 116-20 appropriated \$2,431,000,000 through the Community Development Block Grant disaster recovery (CDBG-DR) program. The statutory text related to the allocation is as follows:

“For an additional amount for ‘Community Development Fund,’ \$2,431,000,000, to remain available until expended, for necessary expenses for activities authorized under title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 *et seq.*) related to disaster relief, long-term recovery, restoration of infrastructure and housing, economic revitalization, and mitigation in the most impacted and distressed areas resulting from a major disaster that occurred in 2018 or 2019 (except as otherwise provided under this heading) pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*): *Provided*, That funds shall be awarded directly to the State, unit of general local government, or Indian tribe (as such term is defined in section 102 of the Housing and Community Development Act of 1974) at the discretion of the Secretary. . . . *Provided further*, That of the amounts made available under this heading \$431,000,000 shall be allocated to meet unmet infrastructure needs for grantees that received allocations for disasters that occurred in 2017 under this heading of division B of Public Law 115-56 and title XI of subdivision 1 of division B of Public Law 115-123, of which \$331,442,114 shall be allocated to those grantees affected by Hurricane Maria:

“*Provided further*, That of the amounts made available under this heading, up to \$5,000,000 shall be made available for capacity building and technical assistance *Provided further*, That of the amounts made available under this heading and under the same heading in Public Law 115-254, up to \$2,500,000 shall be transferred, in aggregate, to ‘Department of Housing and Urban Development—Program Office Salaries and Expenses—Community Planning and Development’ for necessary costs, including information technology costs, of administering and overseeing the obligation and expenditure of amounts under this heading[.]”

Most Impacted and Distressed Areas

As with prior CDBG-DR appropriations, HUD is not obligated to allocate funds for all major disasters occurring in the statutory timeframes. HUD is directed to use the funds “in the most impacted and distressed areas.” HUD has implemented this directive by limiting CDBG-DR formula allocations to grantees with major disasters that meet three standards:

(1) Individual Assistance/Individual and Households Program (IHP) designation. HUD

has limited allocations to those disasters where FEMA had determined the damage was sufficient to declare the disaster as eligible to receive IHP funding.

(2) Concentrated damage. HUD has limited its estimate of serious unmet housing needs to counties and ZIP Codes with high levels of damage, collectively referred to as “most impacted areas.” For this allocation, HUD is defining most impacted areas as either most impacted counties—counties exceeding \$10 million in serious unmet housing needs—and most impacted ZIP Codes—ZIP Codes with \$2 million or more of serious unmet housing needs. The calculation of serious unmet housing needs is described below.

(3) Disasters meeting the most impacted threshold. Only 2018 and 2019 disasters that meet this requirement for most impacted damage are funded if one or more county or ZIP Code meets the thresholds above. Note that this allocation only includes disasters declared as of October 4, 2019. Other 2019 disasters will be addressed in a future notice.

For disasters that meet the most impacted threshold described above, the unmet need allocations are based on the following factors summed together:

(1) Repair estimates for seriously damaged owner-occupied units without insurance (with some exceptions) in most impacted areas after FEMA and SBA repair grants or loans; an estimate for homeowners served by FEMA’s Permanent Housing Construction program is also deducted from the homeowner unmet need estimate;

(2) Repair estimates for seriously damaged rental units occupied by very low-income renters in most impacted areas;

(3) Repair and content loss estimates for small businesses with serious damage denied by SBA; and

(4) The estimated local cost share for Public Assistance Category C to G projects.

Methods for Estimating Serious Unmet Needs for Housing

The data HUD uses to calculate unmet needs for 2018 qualifying disasters come from the FEMA Individual Assistance program data on housing-unit damage as of July 17, 2019. The data for 2019 qualifying disasters is as of November 13, 2019.

The core data on housing damage for both the unmet housing needs calculation and the concentrated damage are based on home inspection data for FEMA’s Individual Assistance program and SBA’s disaster loan program. HUD calculates “unmet housing needs” as the number of housing units with unmet needs times the estimated cost to repair those units less repair funds already provided by FEMA and SBA.

Each of the FEMA inspected owner units are categorized by HUD into one of five categories:

- **Minor-Low:** Less than \$3,000 of FEMA inspected real property damage.
- **Minor-High:** \$3,000 to \$7,999 of FEMA inspected real property damage.
- **Major-Low:** \$8,000 to \$14,999 of FEMA inspected real property damage and/or 1 to 3.9 feet of flooding on the first floor;
- **Major-High:** \$15,000 to \$28,800 of FEMA inspected real property damage and/or 4 to 5.9 feet of flooding on the first floor.

- *Severe*: Greater than \$28,800 of FEMA inspected real property damage or determined destroyed and/or 6 or more feet of flooding on the first floor.

When owner-occupied properties also have a personal property inspection or only have a personal property inspection, HUD reviews the personal property damage amounts such that if the personal property damage places the home into a higher need category over the real property assessment, the personal property amount is used as follows:

- *Minor-Low*: Less than \$2,500 of FEMA inspected personal property damage.
- *Minor-High*: \$2,500 to \$3,499 of FEMA inspected personal property damage.
- *Major-Low*: \$3,500 to \$4,999 of FEMA inspected personal property damage or 1 to 3.9 feet of flooding on the first floor.
- *Major-High*: \$5,000 to \$9,000 of FEMA inspected personal property damage or 4 to 5.9 feet of flooding on the first floor.
- *Severe*: Greater than \$9,000 of FEMA inspected personal property damage or determined destroyed and/or 6 or more feet of flooding on the first floor.

To meet the statutory requirement of “most impacted” in this legislative language, homes are determined to have a high level of damage if they have damage of “major-low” or higher. That is, they have a FEMA inspected real property damage of \$8,000 or above, personal property damage \$3,500 or above, or flooding 1 foot or above on the first floor.

Furthermore, a homeowner with flooding outside the 1 percent risk flood hazard area is determined to have unmet needs if they reported damage and no flood insurance to cover that damage. For homeowners inside the 1 percent risk flood hazard area, homeowners without flood insurance with flood damage below the greater of national median or 120 percent of Area Median Income are determined to have unmet needs. For non-flood damage, homeowners without hazard insurance with incomes below the greater of national median or 120 percent of Area Median Income are included as having unmet needs.

FEMA does not inspect rental units for real property damage so personal property damage is used as a proxy for unit damage. Each of the FEMA-inspected renter units are categorized by HUD into one of five categories:

- *Minor-Low*: Less than \$1,000 of FEMA inspected personal property damage.
- *Minor-High*: \$1,000 to \$1,999 of FEMA inspected personal property damage.
- *Major-Low*: \$2,000 to \$3,499 of FEMA inspected personal property damage or 1 to 3.9 feet of flooding on the first floor.
- *Major-High*: \$3,500 to \$7,500 of FEMA inspected personal property damage or 4 to 5.9 feet of flooding on the first floor.
- *Severe*: Greater than \$7,500 of FEMA inspected personal property damage or determined destroyed and/or 6 or more feet of flooding on the first floor.

To meet the statutory requirement of “most impacted” for rental properties, homes are determined to have a high level of damage if

they have damage of “major-low” or higher. That is, they have a FEMA personal property damage assessment of \$2,000 or greater or flooding 1 foot or above on the first floor.

Furthermore, landlords are presumed to have adequate insurance coverage unless the unit is occupied by a renter with income less than the greater of the Federal poverty level or 50 percent of median income. Units occupied by a tenant with income less than the greater of the poverty level or 50 percent of median income are used to calculate likely unmet needs for affordable rental housing.

The average cost to fully repair a home for a specific disaster to code within each of the damage categories noted above is calculated using the median real property damage repair costs determined by the SBA for its disaster loan program for the subset of homes inspected by both SBA and FEMA for each eligible disaster.

Minimum multipliers are not less than the 1st quarter median for all Individual Assistance (IA) eligible disasters combined in each disaster year at the time of the allocation calculation, and maximum multipliers are not more than the 4th quarter median for all IA eligible disasters combined in each disaster year with data available as of the allocation. Because SBA is inspecting for full repair costs, their estimate is presumed to reflect the full cost to repair the home, which is generally more than the FEMA estimates on the cost to make the home habitable. If there is a match of fewer than 20 SBA inspections to FEMA inspections for any damage category, the minimum multiplier is used.

For each household determined to have unmet housing needs (as described above), their estimated average unmet housing need is equal to the average cost to fully repair a home to code less assistance from FEMA and SBA provided for repair to the home, based on their damage category (noted above).

Methods for Estimating Serious Unmet Economic Revitalization Needs

Based on SBA disaster loans to businesses using data for 2018 disasters from as of date July 17, 2019 and for 2019 disasters from as of the date November 14, 2019, HUD calculates the median real estate and content loss by the following damage categories for each state:

- *Category 1*: Real estate + content loss = below \$12,000
- *Category 2*: Real estate + content loss = \$12,000–\$29,999
- *Category 3*: Real estate + content loss = \$30,000–\$64,999
- *Category 4*: Real estate + content loss = \$65,000–\$149,999
- *Category 5*: Real estate + content loss = \$150,000 and above

For properties with real estate and content loss of \$30,000 or more, HUD calculates the estimated amount of unmet needs for small businesses by multiplying the median damage estimates for the categories above by the number of small businesses denied an SBA loan, including those denied a loan prior to inspection due to inadequate credit

or income (or a decision had not been made), under the assumption that damage among those denied at pre-inspection have the same distribution of damage as those denied after inspection.

Methods for Estimating Unmet Infrastructure Needs

To calculate 2018 and 2019 unmet needs for infrastructure projects, HUD obtained FEMA cost estimates (as of July 17, 2019 for the 2018 disasters and November 13, 2019 for 2019 disasters) of the expected local cost share to repair the permanent public infrastructure (Categories C to G) to their pre-storm condition.

To calculate additional infrastructure unmet needs for 2017 disasters, HUD compares the change in FEMA Category C to G local match cost estimates between March 2018 (when funds had been allocated under Pub. L. 115–23) and November 2019. For grantees impacted by Hurricane Maria—Puerto Rico and the Virgin Islands—the statutorily required allocation of \$331,442,114 is allocated proportional based on their relative share of growth in Category C to G local match cost estimates. For other 2017 grantees where the November 2019 estimate exceeds the March 2018 estimate, each grantee is first increased dollar-for-dollar to their local match requirements. For any of the remaining funds of the required \$431 million for 2017 disasters, they are allocated to the non-Maria disasters that have been funded at 100 percent or less of infrastructure match needs proportional to their share of eligible grantees' November 2019 estimated infrastructure match needs.

Allocation Calculation

Once eligible entities are identified using the above criteria, the allocation to individual grantees represents their proportional share of the estimated unmet needs. For the formula allocation, HUD calculates total unmet recovery needs for eligible 2018 and 2019 disasters as the aggregate of:

- Serious unmet housing needs in most impacted counties;
- Serious unmet business needs; and
- Unmet infrastructure need.

Two jurisdictions have their unmet needs calculations adjusted due to unusual circumstances not covered in the standard methodology. First, Hawaii County in Hawaii has 76 homes that were not damaged but are completely surrounded by lava fields. HUD assumes that those homes will never be habitable and categorizes them as destroyed with no insurance for the serious unmet need calculation. Second, FEMA is administering its Permanent Housing Construction program in the Northern Marianas and expects to serve 455 homeowners with seriously damaged homes. As such, HUD subtracts the unmet needs of 455 homeowners from the base estimate.

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