



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-7000

OFFICE OF COMMUNITY PLANNING
AND DEVELOPMENT

MEMORANDUM FOR: Adrienne Todman, Deputy Secretary, SD

THROUGH: Marion M. McFadden, Principal Deputy Assistant Secretary
for Community Planning and Development, D

FROM: Tennille Parker, Director Office of Disaster Recovery, DGR

SUBJECT: Environmental Assessment and Finding of No Significant Impact
Under the National Environmental Policy Act for the Issuance of
Allocations for Community Development Block Grant Disaster
Recovery and Implementation of the CDBG-DR Consolidated
Waivers and Alternative Requirements Notice [FR-6393-N-01]

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It is the finding of this Office that issuance of the attached notice does not constitute a major Federal action having an individually or cumulatively significant effect on the human environment and, therefore, does not require the preparation of an environmental impact statement.

In March 2023, HUD allocated more than \$3 billion in Community Development Block Grant Disaster Recovery (CDBG-DR) funds appropriated by the Continuing Appropriations Act, 2023 (Pub. L. 117-180, Division A) approved September 30, 2022, and the Department of Housing and Urban Development Appropriations Act, 2023 (Pub. L. 117-328, Division L, Title II) approved December 29, 2022, for major disasters occurring in 2022 (collectively, the "Appropriations Acts"). The attached notice identifies grant requirements for these funds, including requirements in HUD's *CDBG-DR Consolidated Notice* ("Consolidated Notice") (Appendix B), and some amendments to the Consolidated Notice that apply to CDBG-DR grants for disasters occurring in 2022. A Finding of No Significant Impact (FONSI) was prepared for prior notices subject to HUD's Consolidated Notice. The previous FONSI prepared in response to the Federal Register Notice published on January 18, 2023 at 88 FR 3198 is available online on HUD's CDBG-DR website at <https://www.hud.gov/sites/dfiles/CPD/documents/88-FR-3198-CDBG-DR-FONSI.pdf>. That FONSI remains applicable to provisions of the Consolidated Notice.

The Consolidated Notice, as amended by this Allocation Announcement Notice, includes waivers and alternative requirements, relevant regulatory requirements, the grant award process, criteria for action plan approval, and eligible disaster recovery activities. The clarifying guidance, waivers and alternative requirements are not inconsistent with the overall purpose of title I of the Housing and Community Development Act of 1974 (HCDA). While the attached notice also

includes waivers and alternative requirements that are unrelated to environmental considerations (e.g., duplication of benefits, deadlines for submission and review of action plans and amendments, maintaining public website, recordkeeping, etc.), the list below only includes those new waivers that are related to environmental considerations.

1. *Mitigation set-aside.* The Appropriations Acts require HUD to include in any allocation of CDBG-DR funds for unmet needs an additional amount of 15 percent for mitigation activities. For purposes of grants under this notice, mitigation activities are defined as those activities that increase resilience to disasters and reduce or eliminate the long-term risk of loss of life, injury, damage to and loss of property, and suffering and hardship, by lessening the impact of future disasters. Mitigation solutions designed to be resilient only for threats and hazards related to a prior disaster can leave a community vulnerable to negative effects from future extreme events related to other threats or hazards. When risks are identified among other vulnerabilities during the framing and design of mitigation projects, implementation of those projects can enhance protection and save lives, maximize the utility of scarce resources, and benefit the community long after the projects are complete. Accordingly, each grantee receiving an allocation under the notice must conduct a risk-based assessment to inform the use of its CDBG-DR mitigation set-aside considering identified current and future hazards.
2. *Clarification of the green and resilient building standard.* Paragraph II.B.2.a. of the Consolidated Notice requires that all covered construction (new construction, reconstruction, and rehabilitation) that is assisted with CDBG-DR funds must meet an industry-recognized standard that has achieved certain certifications described in the notice. HUD updated its building standards to support the adoption and enforcement of modern and resilient codes for grants subject to the Federal Register notices published on February 3, 2022, at 87 FR 6364, May 24, 2022 at 87 FR 31636, January 18, 2023 at 88 FR 3198, and this notice (including requirements identified as a “Consolidated Notice” incorporated by each of these notices as an Appendix B). During this update, HUD inadvertently omitted a standard. Accordingly, HUD clarifies that paragraph II.B.2.a. in the Consolidated Notice allows a grantee to use either the ICC-700 National Green Building Standard (NGBS) Green or NGBS Green+ Resilience standard, among other industry-recognized standards.
3. *Clarification of the Use of “Uncapped” Income Limits.* HUD clarifies that the annual uncapped income limits published by HUD apply to CDBG-DR funded activities in jurisdictions covered by the uncapped limits, including jurisdictions that receive disaster recovery funds from a state CDBG-DR grantee.
4. *Assistance to utilities.* The Appropriations Acts provide that funds “may be used by a grantee to assist utilities as part of a disaster-related eligible activity under section 105(a) of the Housing and Community Development Act of 1974 (42 U.S.C. 5305(a)).” Accordingly, paragraph III.G.3 of the Consolidated Notice does not apply to funds under the Appropriations Acts, and the notice adds a modified alternative requirement to include basic safeguards necessary to ensure that costs comply with the certification to give maximum feasible priority to activities that benefit low- and moderate-income

persons and that costs are necessary and reasonable and do not duplicate other financial assistance, and to make clear that assistance to utilities is subject to all other requirements that apply to the use of funds.

Assistance under the CDBG program is subject to the environmental review requirements of 24 CFR Part 58. Grantees, or units of general local government that are subrecipients of state grantees, are Responsible Entities (REs) that are responsible for completing environmental reviews on specific projects in accordance with Part 58. When the RE determines that the environmental review is complete, the RE must submit a Request for Release of Funds and Certification and receive approval from HUD or the state, if applicable, before it can commit funds or take any choice limiting action with respect to a project. Issuance of the notice does not constitute approval of any proposed projects. Any impacts arising from program activities would be localized and addressed in the appropriate environmental reviews prior to any choice-limiting actions.

In accordance with the Appropriations Acts noted above, grant recipients of Federal funds that use such funds to supplement Federal assistance provided under sections 402, 403, 404, 406, 407, 408(c)(4), or 502 of the Stafford Act may adopt, without review or public comment, any environmental review, approval, or permit performed by a Federal agency, and such adoption shall satisfy the responsibilities of the recipient with respect to such environmental review, approval, or permit. The grant recipient must notify HUD in writing of its decision to adopt another agency's environmental review. Environmental requirements include historic preservation reviews. To facilitate expedited historic preservation (Section 106) reviews, HUD strongly encourages REs to allocate administrative funds to retain a qualified historic preservation professional and support the capacity of the State Historic Preservation Officer (SHPO)/Tribal Historic Preservation Officer (THPO) to review disaster recovery projects. As appropriate, REs may use provisions in existing Section 106 Programmatic Agreements (PAs) to expedite Section 106 reviews.

In addition, the Appropriations Acts allows the Secretary, upon a receipt of a Request for Release of Funds and certification, to immediately approve the release of funds for an assisted activity or project if the recipient has adopted an environmental review, approval, or permit from another Federal agency or if the activity or project is categorically excluded from review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.). For these grants, HUD will allow a state grantee to also carry out activities directly, in addition to distributing funds to subrecipients that are units of general local government. Thus, per 24 CFR 58.4, when a state grantee carries out activities directly, the grantee must submit the Certification and Request for Release of Funds to HUD for approval. Grantees receiving an allocation of funds under the notice are encouraged to participate in an expedited and unified interagency review process as one means of expediting the implementation of disaster recovery projects.

Tiered environmental reviews, as described at 40 CFR 1508.1(ff) and 24 CFR 58.15, are a means of making the environmental review process more efficient by allowing parties to "eliminate repetitive discussions of the same issues, focus on the actual issues ripe for decision, and exclude from consideration issues already decided or not yet ripe at each level of environmental review" (40 CFR 1501.11(a)). Tiering is appropriate when a responsible entity is evaluating a single-family housing program with similar activities within a defined local geographic area and timeframe (e.g., rehabilitating single-family homes within a city district or county over the course of one to five

years) but where the specific sites and activities are not yet known. Public notice and the Request for Release of Funds (HUD-Form 7015.15) are processed at a broad level, eliminating the need for publication at the site-specific level. However, funds cannot be spent or committed on a specific site or activity until the site-specific review has been completed and approved. HUD encourages grantees as Responsible Entities to develop a tiered approach to streamline the environmental review process whenever the action plan contains a program with multiple similar activities that will result in similar impacts.

Issuance of the notice does not constitute approval of any proposed projects. Any impacts arising from program activities would be localized and addressed in the appropriate environmental reviews prior to any choice-limiting actions. Accordingly, the issuance of the notice is deemed not to be a major Federal action having a significant impact on the human environment.

Concurrences:

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Brian Schlosnagle
Environmental Clearance Officer
Disaster Recovery
Community Planning and Development

Date

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Christopher H. Hartenau
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Kristin L Fontenot
Departmental Environmental Clearance Officer

Date

Approve:



Adrienne Todman
Deputy Secretary

5/12/23

Date

Attachment