



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

PRINCIPAL DEPUTY ASSISTANT SECRETARY
FOR COMMUNITY PLANNING AND DEVELOPMENT

MEMORANDUM FOR: State of Louisiana for Disasters Occurring in 2020 and 2021 (Allocations announced in the February 2022 Notice, the May 2022 Notice and the January 2023 Notice); Community Planning and Development Field Office Directors, Deputy Directors, and Program Managers.

FROM: Marion M. McFadden, Principal Deputy Assistant Secretary for Community Planning and Development, D_____/s/____

THROUGH: Claudia I. Monterrosa, Deputy Assistant Secretary for Grant Programs, DG_____/s/____

Tennille Smith Parker, Director, Office of Disaster Recovery, DGR_____/s/____

SUBJECT: Buildings for the General Conduct of Government Waiver and Alternative Requirement (State of Louisiana only)

APPLICABILITY DATE: January 27, 2024

PURPOSE

This waiver and alternative requirement memorandum governs Community Development Block Grant disaster recovery (CDBG-DR) funds, including CDBG-DR mitigation set-asides, allocated to the State of Louisiana pursuant to the Disaster Relief Supplemental Appropriations Act, 2022 (Pub. L. 117-43) approved September 30, 2021, for major disasters occurring in 2020 and 2021, and the Continuing Appropriations Act, 2023 (Pub. L. 117-180) approved September 30, 2022, for major disasters occurring in 2021.

This waiver and alternative requirement lift the prohibition on assisting buildings for the general conduct of government at 42 U.S.C. 5305(a)(2) and associated regulations at 24 CFR 570.207(a) and ensures that funds are used in accordance with the overall purposes of title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.) (HCDA). This will permit the State of Louisiana to use these CDBG-DR funds, including CDBG-DR mitigation set-asides, for the construction, reconstruction, and rehabilitation of buildings for the general conduct of government under the State's Resilient Communities Infrastructure Program, or when the funds are used as the non-federal match for funds provided through the Federal Emergency Management Agency's Public Assistance Program.

WAIVER AUTHORITY

The Disaster Relief Supplemental Appropriations Act, 2022 made available \$5,000,000,000 in CDBG-DR funds for 2020 and 2021 disasters. The Continuing Appropriations Act, 2023 made available \$2,000,000,000 in CDBG-DR funds for 2021 and 2022 disasters. The CDBG-DR funds

made available by these acts (the “Appropriations Acts”) are for necessary expenses for activities authorized under title I of the HCDA related to disaster relief, long-term recovery, restoration of infrastructure and housing, economic revitalization, and mitigation in the “most impacted and distressed” (MID) areas resulting from qualifying major disasters.

The Appropriations Acts authorize the Secretary to waive or specify alternative requirements for any provision of any statute or regulation that the Secretary administers in connection with the obligation by the Secretary, or use by the recipient, of these funds, except for requirements related to fair housing, nondiscrimination, labor standards, and the environment, if the Secretary finds that good cause exists for the waiver or alternative requirement and such waiver or alternative requirement would not be inconsistent with the overall purpose of title I of the HCDA. HUD may also exercise its regulatory waiver authority under 24 CFR 5.110, 91.600, and 570.5. The waiver and alternative requirement included below are based upon a determination by the Secretary that good cause exists, and that the waiver and alternative requirement is not inconsistent with the overall purposes of title I of the HCDA.

The Appropriations Acts require the Secretary to publish any waiver or alternative requirement via a *Federal Register* notice or on the Department’s website no later than 5 days before the effective date of such waiver or alternative requirement. For the waiver and alternative requirement included below, HUD is exercising its authority to publish on the Department’s website.

Of the amounts made available by Public Law 117-43, HUD initially allocated \$2,040,617,000 for 2020 disasters, which was later increased to \$2,051,217,000. These amounts are governed by a *Federal Register* notice published February 3, 2022 (87 FR 6364) (“February 2022 Notice”). In March 2022, HUD allocated an additional \$722,688,000 for 2020 disasters and \$2,213,595,000 for 2021 disasters, which are governed by a *Federal Register* notice published May 24, 2022 (87 FR 31636) (“May 2022 Notice”). Subsequently, HUD allocated an additional \$1,446,629,000 in CDBG-DR funds appropriated by Public Law 117-180 for major disasters occurring in 2021, which are governed by requirements in a *Federal Register* notice published January 18, 2023 (88 FR 3198) (“January 2023 Notice”).

The Department allocated the State of Louisiana \$1,050,267,000 for 2020 disasters and \$2,103,848,000 for 2021 disasters governed by the February 2022 Notice, the May 2022 Notice, and the January 2023 Notice. Each of these *Federal Register* notices include the Consolidated Notice as Appendix B and made the Consolidated Notice applicable to these allocations. This memorandum modifies the requirements for the CDBG-DR funds awarded to the State of Louisiana under the Appropriations Acts by adding a new waiver and alternative requirement.

BUILDINGS FOR THE GENERAL CONDUCT OF GOVERNMENT WAIVER (STATE OF LOUISIANA)

Background

The Department received a request and justification of good cause from the State of Louisiana to waive the prohibition on using CDBG-DR funds for activities that assist buildings for the general conduct of government. As described at 42 U.S.C. 5305(a)(2) and the associated regulations at 24 CFR 570.207(a), CDBG funds may not be used for acquisition, construction, reconstruction, or installation of buildings for the general conduct of government. This

prohibition applies to the State of Louisiana per section I of the Consolidated Notice included in the *Federal Register* notices mentioned above, which stipulates that the statutory and regulatory requirements governing the CDBG program apply to CDBG-DR grantees, except where HUD has issued a waiver or alternative requirement.

To aid with recovery of infrastructure, the State of Louisiana, Office of Community Development (OCD) is implementing its Non-Federal Match Program (NFMP), under which it plans to use CDBG-DR funds to assist in the non-Federal cost share of infrastructure projects as part of FEMA's Public Assistance Program, which includes Category E (Public Buildings). OCD is also implementing a Resilient Communities Infrastructure Program (RCIP), which addresses unmet infrastructure needs across the MID areas to 1) improve resilient community planning, 2) mitigate risks to the population and structures from future hazard events, 3) improve community services available in low- and moderate-income (LMI) areas where people have limited access to transportation, and 4) reduce reliance on federal funding in future disasters. The OCD anticipates that both the NFMP and RCIP will include improvements to buildings, such as town halls, community centers, and city halls, used for the general conduct of government.

To assist with recovery via the implementation of its NFMP and RCIP, OCD has requested a waiver of the prohibition on buildings for the general conduct of government at 42 U.S.C. 5305(a)(2) and the associated regulations at 24 CFR 570.207(a). This waiver would help the State reach its long-term recovery goals faster while meeting its FEMA match obligations and CDBG-DR expenditure deadlines because it would not have to restrict its use of CDBG-DR funds as match for FEMA activities that are eligible under FEMA Public Assistance Category of Work E (Public Buildings). Further, OCD noted in its waiver request that parishes receiving allocations represent the HUD-identified MID areas in both urban and rural areas and that the buildings in its NFMP and RCIP may include facilities, such as city halls and community centers, that provide services focused on wellness and healthcare for the elderly, community events, youth sports, Louisiana's Head Start program, and emergency response both during and after disaster events, among other possible uses.

Buildings for the General Conduct of Government Waiver and Alternative Requirement (State of Louisiana only)

After reviewing the grantee's request, the Department has determined there is good cause to grant this waiver because the buildings the State anticipates including in its NFMP and RCIP are necessary for impacted parishes to adequately address critical infrastructure needs created and/or exacerbated by the disaster, help disaster recovery by reinvigorating both urban and rural areas, improve access to community services, promote long-term resilience and recovery, and help coordinate resilience and mitigation efforts across Louisiana.

Therefore, HUD is waiving the prohibition on assisting buildings for the general conduct of government at 42 U.S.C. 5305(a)(2) and associated regulations at 24 CFR 570.207(a) to permit the State of Louisiana to carry out the construction, reconstruction, and rehabilitation of public improvements or facilities on buildings for the general conduct of government within the NFMP or RCIP programs, subject to the following alternative requirements. All recovery activities funded with CDBG-DR funds, excluding funds allocated by the Department as CDBG-DR mitigation set-aside funding, must address a direct or indirect impact from the major disaster

in a MID area resulting from the major disaster. Additionally, while CDBG-DR mitigation funds may also be used for purposes of this waiver and alternative requirement, all activities funded with CDBG-DR mitigation set-aside funds must also meet the requirements established in the February 2022, May 2022, and January 2023 Notices that govern the use of these funds. The grantee is prohibited from using CDBG-DR funds for buildings that do not provide services all year around and is prohibited from using funds for buildings that are used exclusively as emergency operations centers.

FOR FURTHER INFORMATION CONTACT

Tennille Smith Parker, Director, Office of Disaster Recovery, Department of Housing and Urban Development, 451 7th Street SW, Room 7282, Washington, DC 20410, telephone number 202-708-3587 (this is not a toll-free number). HUD welcomes and is prepared to receive calls from individuals who are deaf or hard of hearing, as well as individuals with speech and communication disabilities. Email inquiries may be sent to Disaster_Recovery@hud.gov.