

STATE OF ALABAMA



CDBG-CV GRANT PROGRAM

POLICIES AND PROCEDURES

Alabama CDBG-CV Administrative Policies and Procedures

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ADMINISTRATIVE POLICIES AND PROCEDURES
COMMUNITY DEVELOPMENT BLOCK GRANT
COVID -19 PROGRAM
ALABAMA

Pursuant to the *Coronavirus Aid, Relief, and Economic Security Act* (the CARES ACT) that was passed by Congress and signed into law by President Trump on March 27, 2020, the State of Alabama (the State) was awarded the amounts of \$14,011,858 in CDBG-CV Round 1 funds, \$15,068,316 in CDBG-CV Round 2 funds, and \$11,379,612 in CDBG-CV Round 3 funds, for a total award amount of \$40,459,786 from the U.S. Department of Housing and Urban Development (HUD). On August 20, 2020, HUD issued a Notice of Program Rules, Waivers, and Alternative Requirements Under the CARES Act for Community Development Block Grant Program Coronavirus Response Grants, which Notice became effective August 7, 2020. On August 27, 2020, HUD provided CDBG-CV Notice FAQs (frequently asked questions), which serves as foundation for Alabama's CDBG -CV program.

Alabama's strategy for administration of CDBG Covid funds will be similar to the strategy the Alabama Department of Economic and Community Affairs (ADECA) utilized in previous special purpose grants such as disasters. As before, ADECA will be the primary entity responsible for carrying out the tasks involving all aspects of the grant cycle including exercises necessary to secure funds and ensuring award and utilization of these funds in accordance with State and Federal requirements required by the US Department of Housing and Urban Development (HUD), Office of Management and Budget (OMB), and other agency rules in effect or promulgated specially to accommodate COVID-19 funds.

The State of Alabama has administered the CDBG Small Cities Program since PY 1982. The State has gained valuable experience during these decades of program administration. During these years, many programmatic experiments have been tried; many rules, policies, and directives have been written, modified, or eliminated; a large number of communities assisted and even larger number of citizens with critical needs served; much public goodwill has been earned, relationships have been created among state and federal agencies and trust built between the funding and recipient entities. Interestingly, some members of the State's CDBG staff have remained in place since 1982 resulting in continuity, progressiveness, and program effectiveness. Due to the layers of checks and balances, prudent management and effective oversight, the State's program has remained devoid of major issues.

The Alabama CDBG-CV program will typically be comprised of four primary components – Federal award, State distribution of funds, post award activities, and closeout. Each component can be further broken down into the following subcomponents:

Federal Fund Awards – The following will be a general guide to developing the State’s CDBG-COVID program.

1. Examine and comprehend the law and HUD rule for commonality and specificity between the regular CDBG program and the COVID grants.
2. Assemble a team in the Community and Economic Development Division (CED) of ADECA to implement the program under the supervision of the CED Division Chief.
3. Develop options for fund distribution for consideration by the Governor and ADECA Director.
4. Request necessary waivers from HUD.
5. Insure citizen participation.
6. Hold the hearing and provide time frame for public comments.
7. Incorporate comments in the Plan and submit the Plan to HUD for approval.

ADECA recognizes the uncertainty underlying the timing of the above tasks and modify steps, plans, or directions as may be necessary to ensure expediency and effectiveness of the State’s COVID program.

State Distribution of Funds - In the years past, the State has typically distributed funds among qualifying communities through a competition based on needs, capacity, impacts, costs, timing, etc. With CARES ACT funds, ADECA staff considered three options to use or award COVID funds in Alabama as follows:

1. Award funds to communities in Alabama based on a statewide competition as has been practiced for the State’s regular program and disaster grants.
2. Select a State agency such as the Alabama Department of Public Health or the Emergency Management Agency to administer funds in Alabama, and
3. Award funds to the State’s 67 counties and thirteen entitlement cities based on the formula allocation.

Of the three options, the Alabama Governor and the ADECA Director selected option number 3 by recognizing that COVID has impacted all communities, competition does result in a lot of wasted resource by those not lucky enough to be awarded grants, and lastly and most importantly, local communities already have established Department of

Public Health and emergency responders within their local government structure, and these elements of local government can quickly provide valuable input on the changing status of the pandemic needs as well as render the services required to address those needs.

Based on the decision by the Governor and ADECA Director, ADECA's CDBG-CV Action Plan (APPENDIX ZZ) seeks to provide the widest distribution of funds among the State's counties and entitlement cities; seeks participation among the county and incorporated jurisdictions in those counties; requires consultation with the county health departments, local emergency management agencies, and local health care providers; ensures compliance with CARES ACT requirements and HUD Notice; allows for local flexibilities to undertake joint projects between counties and/or entitlement cities ; and allows for contingencies to use unobligated balances.

With the decision to distribute CDBG-CV funds made, the State's application process is designed to ensure compliance with the CARES ACT and HUD Notice as follows:

1. Develop application forms to capture appropriate information to ensure the activities will not only meet the CDBG eligibility requirements but also will help to prevent, provide for, and respond to COVID-19.
2. Develop certifications and assurances for the communities to sign agreeing to follow the necessary citizen participation process and other compliance requirements related to Environmental, Labor, Fair Housing and Equal Opportunity, Etc.
3. Hold an application workshop (virtual) to inform and provide application material to the attending communities, planning commissions, consultants, and interested persons.
4. Receive applications by the cut-off-date.
5. Make staff evaluation of applications to ensure completeness and compliance with national objective, eligibility of activities, citizen participation, etc.
6. Provide award letters and agreements to communities with qualifying applications.

For any unobligated balances due to one or more communities choosing not to apply or for activities not meeting eligibility requirements, ADECA may distribute those balances via a statewide competition. In addition, if the balances are not great, the ADECA Director, at his or her discretion, may use an appropriate amount of unobligated balances referred to as Recaptured Fund to accomplish the objectives of the CARES ACT, including provide funds to a community that has shown strong need for additional funds; provide funds to communities with both good grant program results and good

grant fund expenditure rates; provide funds to another State agency or nonprofit entity to implement a specific CDBG-CV Program activity or project; and engage ADECA to directly implement specific CDBG-CV Program activities.

Post Award Activities – Upon award of CDBG-CV grants by the Governor, the actual task of grant implementation begins. At this stage, the State’s primary concern is to ensure the recipient communities carry out the grants in accordance with the approved application in an expedient manner in compliance with all applicable State and Federal laws, regulations, and policies. Majority of the non- entitlement communities receiving CDBG-CV funds have been the beneficiary of the regular CDBG funds and possess some experience and often are assisted by the professional grant administrators to manage these grants. Likewise, entitlement communities having worked directly with HUD for many years already possess significant experience managing CDBG projects. The post award activities will involve the following tasks.

1. Within a few days of issuance of the Governor’s award letters, ADECA will provide to each grantee with a grant agreement and a Letter of Conditional Commitment (LCC). The purpose of LCC is to require grantee to satisfy certain program startup requirements in order to secure release of funds. The common items required by the LCCs include a Local Program Implementation Schedule, a CDBG-CV Budget/Financial Report, a Request for Release of Funds and Certification, a Designation of Responsible Officials form, a standard Certification showing signatures to be used in the drawdown forms and DUNS Number, a signed Subrecipient Self-Certification of No Duplication of Benefit/Subrogation Agreement form, and a copy of the Active Status page from sam.gov showing the registration expiration date. The LCC may also contain special conditions unique to specific grants or those items necessary to fulfill the application requirements. The grantee is not authorized to draw any funds until the submissions are made, and the release of funds is accomplished.
2. Upon release of funds by the State, the grantee will proceed to implement the grant. Unlike the regular CDBG projects which are primarily comprised of construction activities, a large number of CDBG-CV activities will be comprised of purchase of items or services. The grant implementation will typically entail procurement of professional services such as a grant administrator and professional engineer if not already procured. The construction activities will typically involve design of projects, bid preparation and bid awards, construction, inspections, and final construction notice. For purchase of items and services, steps will generally involve preparing specifications of items or services to be acquired, examining the State Purchasing Site for the availability of such items,

- compiling a vendor list, soliciting verbal or written quotes or sealed bids, purchasing items and services, and completing PMI form for items over \$5,000.
3. As the grantee progresses with grant implementation, it will be allowed to draw funds with CDBG-CV payment request forms. The grantee will be limited to draw only the amount necessary for immediate needs. The State will use the standard draw-down checklist to process each draw. The checklist will enable the State to ensure that the grantee has met the requirements to draw funds and funds are drawn for the right activity and in the right amount. As with the State's regular program, the grantee will not be required submit backup documentation. Instead, the backup documentation will be reviewed during the State's monitoring of the grant.
 4. During the project implementation phase, ADECA staff will schedule a monitoring visit to the grantee site. With the regular CDBG program, such visits are generally scheduled at after around 30 percent of the funds have been drawn. Due to the continuing pandemic infections as well as varying nature of activities some of which may jump from zero draw to nearly 100 percent draw, 30 percent guide may not be feasible. Hence, the ADECA staff will use their best judgement to monitor projects when such monitoring will be most effective to ensure grantee compliance. The monitoring is an arduous task and involves use of checklists to ensure and programmatic compliance and a visit to the project site to ensure the activities are carried out in accordance with the activities in the approved application. The checklists allow the State to determine the grantee's compliance in the area of citizen participation, national objective, eligibility, progress, professional services, environmental, fair housing and equal opportunity, bidding and contracting, labor, Uniform Act, financial management, record keeping, amendments, change orders, and individual case files. Upon completion of monitoring visits, generally within thirty days, the State will provide a letter to the grantee outlining findings if any including corrective actions. Monitoring determinations range from "acceptable" to "concerns" to "finding". Corrective measures may include certifications that inadequacies will be resolved, documentary and corrective actions have been instituted, reimbursement of disallowed costs, or other sanctions. Upon resolution of corrective actions, the finding(s) is released.

ADECA's monitoring strategy for COVID projects will be similar to the regular programs to the extent the projects are similar in nature and scope. For projects that are either complex or involve several distinct activities and/or large grant amounts, the State will adopt a flexible approach tailored to individual grantee. The approach may consist of several visits, and each visit may involve specific

activities or specific compliance areas. Frequency and depth of the visit will depend on findings or concerns uncovered during the previous visits.

The post award activities involving project implementation will be guided as much as possible by the State's CDBG Management and Implementation Manual. The online Manual was initially compiled as three paper volumes when the State first undertook the management of the CDBG Small Cities program in Alabama. The manuals were continually updated for several years by the distribution of selective hand-outs and fully updated several years ago at a great cost. Since the advent and wider usage of the online format, the manuals are now periodically updated and available online at <https://adeca.alabama.gov/cdbg/cdbg-management-and-implementation-manual/> under the Community and Economic Development Programs. The online Manual will be significantly relevant to the administration of the COVID programs, except where waivers have been provided by Congress or HUD.

Closeouts – The final stage in the grant implementation will be the closeout of the grant. The closeout of the grant will first take place at the grantee level and then at the State level. Each grantee receiving COVID funds from the State will go through a grant closeout with the State. Once all local grants are closed with the State, the State will officially close the grant with HUD.

1. *Grantee Closeout:* In case of grants that include construction of public infrastructure or public facilities, upon completion of such activities, the grantee will require the project engineer/architect to complete a final inspection certification. In addition, a completion notice will be advertised in the newspaper. Subsequently, as part of the closeout process, the grantee will advertise and hold a public hearing. In the absence of any complaints, the grantee will submit to the State closeout documents that generally will include a final "as expended" budget, proof of a closeout hearing, final payment request (if any), final inspection report, wage compliance certification, and performance assessment report. Since many COVID activities are of a non-construction nature, certain documents such as inspections and wage reports wouldn't be applicable.

The State will follow a standard closeout procedure to close the grantee's grant. The procedure generally entails following the items in the closeout checklist. The closeout checklist is used with all regular CDBG projects will also be used to close COVID grants. A modified checklist will be used to for COVID projects to ensure all required information is captured. Upon satisfaction of all closeout requirements, the State will write to the grantee a closeout letter closing the

project as of the date of the letter subject to the audit and record keeping requirements.

If there are complaints against the grantee or about the grantee's program, the grantee shall guide the person or persons filing the complaint to follow the grievance procedure in the grantee's Citizen Participation Plan. The State will not close the grantee's grant until such time all complaints are satisfactorily resolved.

2. *State Closeout:* After all grants are closed with the State, the State will proceed to close the grant with HUD. The regular CDBG closeout with HUD happens after one hundred percent of the funds are expended in the Integrated Disbursement and Information System (IDIS) and final financial report is submitted to HUD. Unless modified by HUD, the COVID closeout grant with HUD will follow a similar path.

Additional Program Guidance – The following guidance is incorporated for ADECA to address other issues as they relate to ADECA's role in meeting its responsibility to provide appropriate level of technical assistance; recognizing and providing steps to address program changes; grantee's responsibility in reporting information and maintaining and assuring access to records; and priding for a tracking system.

1. *Technical Assistance:* The backbone of the State COVID program will be the provision of ample technical assistance to grantees. The CDBG-CV related technical assistance will entail both formal and informal approaches. The State will quickly disseminate to all grantees any guidance and instructions originating from HUD. Likewise, the State will be quick to respond to all grantee questions as expeditiously as possible when answers are known, and when answers are not known, to reach out to HUD or HUD Technical assistance providers for answers. Emails and phone calls are the fastest means of communication and will be used extensively. While there may be more desirable way of communication, the timing is of essence with the pandemic and expenditure of COVID funds to prevent, provide for, and respond to the Coronavirus and other infectious diseases.
2. *Amendments:* From time to time, it will become necessary for grantee to request an amendment to accommodate a variety of situations including cost under- or over-runs, changing needs and conditions, timeline, and budgetary changes. These amendments can be local if changes are of minor nature and not greatly impacting the original activities, beneficiaries, or costs. For such local amendments, grantee's responsibility is to inform the State of the changes it is proposing to carry out locally. For changes of a significant nature, a formal amendment process is proposed wherein a grantee is required to conduct a

public hearing of the changes is contemplating and submitting the detailed information to the State requesting approval of a formal amendment. The amendment process will be generally guided by the State Policy Letter No. 2; although, this policy letter may not address all COVID situations. If such is the case, the State will make the call that will generally favor the expediency for use of COVID funds provided no rules are violated.

3. *Reporting and Record Keeping:* Each grantee will be required to maintain a reasonable filing system and maintain records that will allow for a thorough review of grantee' program for financial and regulatory compliance. These records must be made available as and when required for review by the State and Federal monitors, Auditors, Examiners, Inspector General and other regulatory officials. In addition, the grantee shall provide information and reports, as and when required, by the State and Federal Officials to allow for necessary oversight, transparency, or respond to public questions. all records are to be retained for five years after grant closeout. As a general policy, all records will be required to be maintained at a grantee level, unless the State finds it necessary to require the grantee to submit such records, such as detected risk in the grantee's performance of the grant implementation. The following is a comprehensive list of records that grantee will generally be required to maintain for construction projects. Since many of the COVID grants do not involve construction, many of the items such as labor standards or Uniform Land Acquisition may not be relevant to the grantee's program. A basic rule of thumb will be for grantee to document all actions related to the grant and ensure all applicable compliance requirements are adhere to:

General Project Information

Grant Agreement

General Correspondence

Amendments

Citizen Participation

Copy of Executed Citizen Participation Plan

Public Hearing Details

National Objective and Eligibility

Documentation of National Objective

Income Surveys (if applicable)

Progress

Implementation Schedule

Disclosure

Updated Disclosure File

List of Persons/Firms with Reportable Financial Interest

Professional Services

Copies of Newspaper/Other Advertisements (RFQs)
Executed Contracts with Professional Service Providers
RFQ Evaluation Materials
Professional Service Providers Debarred Status

Environmental

Environmental Review Record
Letters from Concurring Agencies
Environmental Assessment
Proofs of Advertisements
Levels of Clearance Finding
Finding of No Significant Impact
Request for Release of Funds
Published Notice if Intent to Seek Release of Funds
Removal of Grant Conditions

Bidding and Contracting

Bid Advertisements
Procurement Documentation
Public Bid Opening Details
Properly Executed Contract Including Proper Clauses
Change Orders

Labor Standards

Designated Labor Standards Officer
Notice of Start of Construction
Wage Decision
Pre-Construction Conference
Payrolls
HUD11s
Final Inspection and Notice of Completion

Civil Rights/Equal Opportunity & Fair Housing

Equal Opportunity File
Letter of Office of Minority Business Enterprise
Form 2516 and Form 60002 Reporting
Solicitation of Small and Minority Firms

Rental/Utility Assistance

Individual Case File
Evidence of Need
Household Status of Low and Moderate Income
Duplication of Benefit Certification
Payments

Demolition

Section 104(D) Compliance Certifications

Uniform Land Acquisition

Inventory of Parcels

Separate Parcel Files

Appraisal Information

Documentation of Fair Offer

Settlement Information

Financial

Budgets

Cash Receipt & Disbursements Journals

General Ledger

Approved Invoices

Evidence of Match Expenditure

Copies of Drawdowns

Bank Statements

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**Table of Contents**

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I. Overview and Background

Q: Will the Notice be published in the Federal Register?

A: Yes. The Notice was published in the Federal Register with the Docket Number FR-6218-N-01 on August 20, 2020, <https://www.govinfo.gov/content/pkg/FR-2020-08-20/pdf/2020-18242.pdf>.

Q: Is the Notice effective before it is published in the Federal Register?

A: Yes. The Notice was effective August 7, 2020, when it was signed.

Q: What programs are covered by the Notice?

A: Most of the Notice is about Community Development Block Grant coronavirus (CDBG-CV) grants, as well as annual FY2019 and FY2020 Community Development Block Grant (CDBG) grants. The HOME, Emergency Solutions Grant (ESG) and Housing Opportunities for Persons With AIDS (HOPWA) programs are addressed in the Consolidated Plan section.

Q: Why have a Federal Register (FR) Notice?

A: The FR Notice puts all the CDBG-CV waivers and alternative requirements in one place so grantees and stakeholders can more easily find, use, and understand them. Although the Notice is necessarily technical, HUD did try to use plain language wherever possible to speed understanding and implementation.

II. Summary of Special Authorities Under the CARES Act

Q: Which requirements apply to CDBG-CV grants?

A: CDBG-CV grants are subject to the Coronavirus Aid, Relief and Economic Security Act (CARES Act), the authorities and conditions imposed on fiscal year 2020 CDBG grants, the Notice and except as provided in the Notice, the statutory and regulatory provisions governing the CDBG program. The CDBG regulations, at 24 CFR part 570, implement Title I of the Housing and Community Development Act of 1974, as amended. The CARES Act modifies some CDBG program rules and authorizes the Secretary of HUD to grant waivers and alternative requirements. Accordingly, the Notice describes how certain requirements of the CDBG

program are modified for CDBG-CV grants, fiscal year 2020 CDBG grants under the Department of Housing and Urban Development Appropriations Act, 2020 (Public Law 116-94), and fiscal year 2019 CDBG grants under the Department of Housing and Urban Development Appropriations Act, 2019 (Public Law 116-6). Unless the Notice states otherwise, the CARES Act statutory flexibilities, waivers, and alternative requirements do not apply to other sources of CDBG funds. A grantee's CDBG-CV grant agreement has conditions binding the grant to the program requirements.

Q: I am a citizen who may be affected by CDBG-CV. Where can I get more information and who should I contact with questions?

A: CDBG-CV grantees make the local project or activity funding decisions. You can find your grantee's contact information here: <https://www.hudexchange.info/grantees/contacts/> (and click the "CDBG: Community Development Block Grant Program" box). Also, HUD has field offices all over the country. You can find your Community Planning and Development (CPD) field office here: https://www.hud.gov/program_offices/comm_planning/staff#fieldoffices. Finally, questions regarding the CDBG-CV program may be submitted to CPDQuestionsAnswered@hud.gov. Interested parties may also visit HUD's website at https://www.hud.gov/program_offices/comm_planning for updated information and resources.

Q: How big is CDBG-CV and when was it appropriated?

A: The CARES Act, enacted March 27, 2020, appropriated \$5 billion in CDBG-CV funds to be allocated to about 1,250 States, local governments, and insular areas. HUD anticipates that grantees will fund tens of thousands of activities to prevent, prepare for, and respond to coronavirus with this funding. To address these challenges, CDBG-CV and CDBG grants are a flexible source of funding that can be used to pay costs that are not covered by other sources of assistance, particularly to benefit persons of low and moderate income.

Q: What are the main changes the CARES Act makes to the CDBG requirements?

A: The CARES Act modifications are:

- Permits a public comment period of no less than 5 days when citizen participation is required.
- Permits grantees to develop expedited citizen participation procedures and to hold virtual public hearings when necessary for public health reasons.
- Eliminates the public services cap for coronavirus-related activities.
- Allows states and local governments to reimburse allowable costs of eligible activities regardless of the date the costs were incurred.

III. CDBG-CV Grants

III.A. Allocations of CDBG-CV Funds

Q: How much did my city or state receive in the first and second CDBG-CV allocations?

A: HUD made the first CDBG-CV allocation on April 2, 2020, 24 days before the 30-day allocation deadline in the CARES Act, in the amount of \$2 billion. HUD made the second round of CDBG-CV allocations on May 11, 2020, in the amount of \$1 billion. The allocations are

available on HUD's website at https://www.hud.gov/program_offices/comm_planning/budget/fy20/.

Q: How much is in the third allocation and when is it coming?

A: HUD will publish additional third round allocations and a description of the allocation formulas on HUD's website at

https://www.hud.gov/program_offices/comm_planning/budget/fy20/ and will provide a link to this site in any press release announcing an allocation.

III.B. CDBG-CV Grant Rules, Waivers, and Alternative Requirements

Q: Should grantees use their normal CDBG funding distribution procedures for CDBG-CV?

A: Grantees should consider how to expedite use of funds, and not assume that their normal CDBG funding distribution procedures are adequate to swiftly distribute and use CDBG-CV grants. For example, if a grantee's existing policies mandate lengthy processes to select activities or complete procurements, grantees should try to expedite actions with local waiver authorities or emergency procedures that may be available without state or local rulemaking.

Q: What transparency and accountability measures is HUD taking for CDBG-CV?

A: In addition to HUD's normal CDBG monitoring and oversight, measures to increase transparency and accountability include:

- regular reporting on the use of CDBG-CV funds, including reporting required by the CARES Act; and
- a requirement that grantees prevent the duplication of benefits that is caused when a person, household, business, or other entity receives financial assistance from multiple sources for the same purpose, and the total assistance is more than the total need.

Q: My jurisdiction received a CDBG-CV allocation. How can the jurisdiction apply for the grant?

A: The Chief Elected Official will designate an agency to apply for the grant using a substantial amendment to an existing FY2019 CDBG Action Plan or by adding information to a new FY2020 Action Plan. The following procedures apply:

- All grantees may adopt and use expedited procedures to draft, propose, modify, or amend consolidated plans for CDBG-CV and fiscal year 2019 and 2020 CDBG grants. These expedited procedures amend the grantee's citizen participation plan and require it be published for no less than 5 calendar days to solicit public comment. Expedited procedures may include virtual public hearings.
- The grantee must publish its application for CDBG-CV funds for no less than 5 calendar days to solicit public comment. The comment period can run concurrently with the comment period on changes to add expedited procedures to the citizen participation plan. The grantee must respond to public comments.
- The grantee must submit its application for CDBG-CV funds to HUD for review. To receive a CDBG-CV grant, a grantee must also submit certain forms and certifications.
- HUD and the grantee will enter a grant agreement and HUD will establish the grantee's line of credit.

- The grantee may draw funds from the line of credit after any applicable steps for the environmental review(s) process are completed.

Q: When may a grantee hold a virtual public hearing rather than an in-person hearing?

A: For as long as national or local health authorities recommend social distancing and limiting public gatherings for public health reasons, the CARES Act authorizes the grantee to hold virtual hearings in lieu of in-person public hearings for CDBG-CV grants and for fiscal year 2019 and 2020 CDBG grants. The Notice expands this to include virtual hearings for other consolidated plan formula programs.

Q: Do grantees have to inform citizens how to join virtual hearings, answer their questions, and see the hearing records?

A: Virtual hearings shall provide reasonable notification and access for citizens in accordance with the grantee's certifications, timely responses from local officials to all citizen questions and issues, and public access to all questions and responses.

Q: What kind of online platforms or apps can host virtual hearings?

A: Grantees may use online platforms to hold virtual hearings that facilitate public access to all questions and responses and provide timely responses from local officials. Additionally, grantees must take appropriate actions to encourage the participation of all residents, including the elderly, minorities, persons with limited English proficiency, as well as persons with disabilities, consistent with the jurisdiction's citizen participation plan. The CARES Act does not modify nondiscrimination requirements.

Q: Do expedited procedures also apply to non-entitlement units of government funded by States?

A: Yes. HUD and the CARES Act authorized States to use expedited procedures and virtual public hearings for citizen participation by units of general local government that receive CDBG-CV funds from a state through a method of distribution. Expedited procedures must still describe how units of local governments receiving funds from the state will meet the citizen participation requirements in 24 CFR 570.486.

Q: Do the expedited procedures also apply to insular areas?

A: Yes. HUD waived the requirement that an insular area must hold a public hearing on a substantial amendment. Instead, HUD is imposing an alternative requirement to permit the insular area to adopt expedited requirements by modifying its citizen participation plan to replace the hearing if it provides community residents with reasonable notice and an opportunity to comment on substantial amendments to the consolidated plan or annual action plan.

Q: Do expedited amendment and action plan procedures also apply to other programs covered by the Consolidated Plan?

A: Yes. In the FR Notice, HUD consolidated and extended prior waivers by issuing waivers and alternative requirements to expedite procedures to modify citizen participation plans for *all* 2020 fiscal year consolidated plan and annual action plan submissions that pertain to ESG, HOME, HTF, and HOPWA formula programs. Specifically:

- CDBG, HOME, HTF, HOPWA, and ESG grantees may modify their citizen participation plans to adopt expedited procedures that apply when the grantees prepare, propose, modify, or amend any consolidated plan submissions that contain uses of CDBG-CV funds or uses of fiscal year 2019 or 2020 CDBG funds to prevent, prepare for, and respond to coronavirus. The expedited procedures must, at a minimum, provide citizens with notice and a reasonable opportunity to comment of no less than 5 days.
- For as long as national or local health authorities recommend social distancing and limiting public gatherings for public health reasons, CDBG, ESG, HOME, HTF, and HOPWA grantees, and units of general local government receiving CDBG funds from state or insular area CDBG grantees, may hold virtual hearings in lieu of in-person public hearings to fulfill public hearing requirements or the grantee's citizen participation plan.

Q: Can citizen participation be eliminated for CDBG or CDBG-CV?

A: No. HUD cannot modify requirements for CDBG grantees to mirror the elimination of citizen participation for substantial amendments and new consolidated plan submissions for ESG-CV funds because HUD cannot waive the minimum requirements the CARES Act imposed on CDBG grantees. Therefore, the CDBG-CV Notice does not alter or expand the authority for ESG grantees to omit the citizen participation and consultation requirements for consolidated plan submissions that only pertain to ESG CARES Act (ESG-CV) funding.

Q: Do housing activities funded with CDBG-CV have to be consistent with the strategic plan portion of the Consolidated Plan?

A: Temporarily, no. As part of the application submission, HUD is temporarily waiving the requirements that grantees certify that housing activities to be undertaken with CDBG, HOME, ESG, and HOPWA funds are consistent with the strategic plan portion of the consolidated plan. HUD is imposing a related alternative requirement that allows grantees to submit those certifications when the grantee submits its next full (3-5 year) consolidated plan due after the 2020 program year.

Q: Where are the instructions for applying through a plan amendment?

A: Section III.B.4.(b)(i). of the Notice and <https://www.hud.gov/sites/dfiles/CPD/documents/Setting-Up-a-Substantial-Amendment-for-CARES-Act-Funding.pdf> on HUD.gov.

Q: Does a CDBG-CV substantial amendment have to be submitted to HUD for review prior to receiving a CDBG-CV grant?

A: Yes. HUD created an alternative requirement to require submission of a CDBG-CV substantial amendment and to provide for expedited HUD review.

Q: What must be included in a substantial amendment to apply for CDBG-CV funds?

A: In general, the substantial amendment must include the CDBG-CV allocation as an available resource for the year. The amendment must include the proposed use of all funds and how the funds will be used to prevent, prepare for, and respond to coronavirus. (There are some additional specific requirements for States.) HUD granted a range of waivers in the Notice to permit grantees to prepare substantial amendments to their most recent annual action plan

(including their 2019 annual action plan). To receive a CDBG-CV grant, a grantee must also submit a SF-424, SF-424D, and the certifications at 24 CFR 91.225(a) and (b) (entitlements) or 24 CFR 91.325(a) and (b) (states).

Q: What must an insular area include when it is applying for CDBG-CV?

A: The substantial amendment must include the CDBG-CV allocation as an available resource for the year. The amendment must include the proposed use of all funds and how the funds will be used to prevent, prepare for, and respond to coronavirus. To receive a CDBG-CV grant, it must submit a SF-424, SF-424D and the certifications at 24 CFR 570.440(e).

Q: Do existing cooperation agreements between a local government and an urban county cover CDBG-CV grants?

A: Yes. These cooperation agreements will continue to apply to the use of CDBG-CV funds for the duration of the CDBG-CV grant.

Q: May a grantee apply for a CDBG-CV grant through a new annual action plan submission?

A: Yes. The action plan submission procedures in 24 CFR part 91 (*including consultation and a public hearing*), as modified by the Notice, apply to grantees that choose to submit CDBG-CV applications by including CDBG-CV funds in a new annual action plan submission.

Q: When did HUD grant the initial action plan waivers for CDBG-CV?

A: The waivers and alternative requirements in the April 9, 2020, memorandum apply to all allocations of CDBG-CV funds. The CDBG-CV Notice includes and expands on the April 9 memorandum. The April 9 memo can be found here:

<https://www.hud.gov/sites/dfiles/CPD/documents/CARES-Act-Flexibilities-CDBG-Funds-Used-Support-Coronavirus-Response.pdf>.

Q: Should grantees wait to apply until all allocation rounds are announced?

A: No. HUD strongly encourages grantees to apply for allocations of CDBG-CV funds as they are announced by submitting substantial amendments to their most recent annual action plan. Grantees are advised that an application for an additional allocation of CDBG-CV funds should be submitted as a substantial amendment to the annual action plan that describes the first CDBG-CV allocation.

Q: May States carry out activities directly, rather than distributing almost all funds to non-entitlement units of general local government?

A: Yes. States may act directly for their CDBG-CV grant.

Q: Must a State distribute any funds to nonentitlement UGLGs?

A: Yes, the FR Notice provides for a set-aside for funds to be distributed to UGLGs for their use.

Q: If a State acts directly, what must it include in its CDBG-CV application?

A: A state shall submit a description of a method of distribution and include a list of the use of all funds for activities it will carry out directly, and how the use of the funds will prevent, prepare for, and respond to coronavirus. A state that has already submitted its application for CDBG-CV funds may amend its annual action plan that describes the use of CDBG-CV funds to

modify its description of a method of distribution and include a list of the use of all funds for activities it will carry out directly, and how the use of the funds will prevent, prepare for, and respond to coronavirus.

Q: What is the deadline for a grantee to apply to HUD for CDBG-CV and FY2020 CDBG grants?

A: Under the CARES Act, the deadline is August 16, 2021, for grantees to submit their CDBG-CV action plan and the annual Action Plan for fiscal year (FY) 2020 CDBG funds. (This deadline supersedes the August 16, 2020 deadline established by 24 CFR 91.15 in accordance with section 116(b) of the HCD Act.)

Q: What can CDBG-CV funds be used for?

A: The grantee is required to use all CDBG-CV funds for CDBG-eligible activities that are carried out to prevent, prepare for, and respond to coronavirus. CDBG-CV grants cannot be used for any other purpose.

Q: CDBG funds may not be used to supplant local financial support for community development activities. What if extra costs of dealing with the pandemic coupled with the economic downturn have caused a community to shift funding?

A: HUD weighed the purpose of the CARES Act to prevent, prepare for, and respond to coronavirus with the intent of Congress expressed in the HCD Act (42 U.S.C. 5301(c) that CDBG funds not be used to reduce substantially the amount of local financial support for community development activities below the level of such support prior to the availability of such assistance. Given the extreme and unexpected downturn in local and national economic conditions, local resources are strained. Jurisdictions must provide new and expanded support with fewer resources. Therefore, HUD has concluded that when CDBG funding is used for purposes of the CARES Act, it is not considered to substantially replace the amount of local financial support previously provided to community development activities.

Q: May CDBG-CV funds reimburse any costs prior to grant execution?

A: Yes. The CARES Act provides that CDBG-CV funds may be used to cover or reimburse allowable costs of activities to prevent, prepare for, and respond to coronavirus incurred by a state or locality regardless of the date on which such costs were incurred. This authority is broader than the authority to reimburse costs with other CDBG funds.

The FR Notice permits reimbursement of pre-application costs of subrecipients, units of general local government, and the grantee, in addition to pre-agreement and pre-award costs. However, an environmental review must be performed and a release of funds must be obtained in accordance with 24 CFR part 58 prior to committing CDBG-CV funds to reimburse such costs. After the grantee signs a CDBG-CV agreement it may reimburse a unit of general local government or subrecipient for costs incurred before the unit of general local government or subrecipient applies to the grantee for assistance.

Q: For purposes of CDBG-CV reimbursement, what is a “locality”?

A: The term “locality” is not defined by the CARES Act, the HCD Act, or the CDBG program regulations. The FR Notice says that for purposes of CDBG-CV grants, a “locality” shall mean units of general local government, as defined in section 102 of the HCD Act.

Q: For purposes of reimbursement, what CDBG-CV costs are “allowable”?

A: In addition to the normal allowability requirements applicable to grants, grantees shall not reimburse costs incurred before January 21, 2020, without written approval from HUD. To safeguard allowable use of funds, HUD imposed a presumption that costs of activities undertaken before January 21, 2020, the date the CDC confirmed the first case of coronavirus in the United States in the State of Washington, are highly unlikely to be eligible for reimbursement because they likely are not costs to prevent, prepare for, and respond to coronavirus.

Q: If a grantee wants to use CDBG-CV funds for costs incurred prior to January 21, 2020, what should it consider and do?

A: The FR Notice cautions that HUD will only consider granting written approval in extraordinary cases where the clear link to the purposes of the CARES Act is documented by substantial evidence provided to HUD by the grantee. Inquiries related to this requirement can be submitted to the assigned local field office or to the contact provided in the FR Notice.

Q: How will pre-award costs be handled for entitlement communities?

A: For grantees subject to the entitlement CDBG regulation at 24 CFR 570.200(h), in lieu of the effective date described at 570.200(h), the grantee shall use the date in box 4 of form HUD-7082, Funding Approval/Agreement. The activity for which costs were incurred must be included in the grantee’s CDBG-CV application before CDBG-CV funds are used to reimburse those costs. Or, if the use of CDBG-CV funds for reimbursements is not included in the CDBG-CV application, this use may be included in a subsequent amendment to the annual action plan that describes the use of the CDBG-CV funds (following the grantee’s citizen participation plan procedures for amendments).

The FR Notice waived the time limitation and the monetary limitation on reimbursements in 24 CFR 570.200(h)(1)(v) and (vi) and related provisions at 24 CFR 570.200(h)(2). The Notice did not waive the requirement at 24 CFR 570.200(h)(1)(iii) to comply with the environmental review procedures stated in 24 CFR Part 58.

Q: May subrecipients incur pre-award costs?

A: All grantees may authorize subrecipients to incur pre-award costs in accordance with pre-agreement cost authority under 24 CFR 570.489(b) (states) and pre-award cost authority under 24 CFR 570.200(h) (entitlements) (as modified by the Notice).

Q: Does the waiver to act directly affect how States deal with pre-agreement costs?

A: Yes. The FR Notice authorized a state to charge to the grant pre-agreement costs of its subrecipients in addition to the pre-agreement costs of units of general local government, in accordance with procedures established by the state and subject to the requirements that apply to pre-agreement costs of units of general local government in 24 CFR 570.489(b), and the requirements that apply to the use of CDBG-CV funds.

While provisions of 24 CFR 570.489(b) requiring compliance with 24 CFR Part 58 do not apply prior to an application for CDBG-CV funds, a unit of general local government or state must document compliance with the environmental review requirements at 24 CFR Part 58 following the application to the state or unit of general local government for funding and prior to reimbursement of pre-application costs, per 24 CFR 570.200(h)(1)(iii) and 24 CFR 570.489(b). If a grantee cannot meet all requirements at 24 CFR Part 58 and cannot demonstrate there was no environmental harm committed, the pre-application costs cannot be reimbursed with CDBG-CV or other HUD funds.

Q: Does the CDBG eminent domain limitation apply to CDBG-CV funds?

A: Yes. The CARES Act provides that a grantee shall ensure that no CDBG-CV funds are used to support any Federal, state, or local projects that seek to use the power of eminent domain, unless eminent domain is employed only for a public use. For the purposes of this requirement, public use shall not be construed to include economic development that primarily benefits private entities. Any use of funds for mass transit, railroad, airport, seaport or highway projects as well as utility projects which benefit or serve the general public (including energy-related, communication-related, water-related and wastewater-related infrastructure), other structures designated for use by the general public or which have other common-carrier or public-utility functions that serve the general public and are subject to regulation and oversight by the government, and projects for the removal of an immediate threat to public health and safety or brownfield as defined in the Small Business Liability Relief and Brownfields Revitalization Act (Public Law 107-118) shall be considered a public use for purposes of eminent domain.

Q: May a grantee transfer or trade its funds with another grantee? For example, an urban county and a metro city located within its boundaries?

A: No. The CARES Act includes the same statutory limitation for CDBG-CV as applies to CDBG. Therefore, a grantee or unit of general local government that directly or indirectly receives CDBG-CV funds may not sell, trade, or otherwise transfer all or any such portion of such funds to another such entity in exchange for any other funds, credits or non-Federal considerations, but must use such funds for activities eligible under title I of the HCD Act or permitted by waiver and alternative requirements that apply to the use of CDBG-CV funds.

Q: Will HUD waive the underwriting requirements for special economic development assistance to small businesses affected by the pandemic?

A: HUD cannot waive this CARES Act and HCD Act requirement. CDBG-CV funds may not be provided to a for-profit entity pursuant to section 105(a)(17) of the HCD Act (as implemented at 24 CFR 570.203(b) for entitlements) unless such activity or project has been evaluated and selected in accordance with Appendix A to 24 CFR 570 - "Guidelines and Objectives for Evaluating Project Costs and Financial Requirements."

Given the likelihood that CDBG-CV funds will be used to assist businesses needing working capital financing for everyday operations, such as payroll costs, HUD intends to provide advice or technical assistance on the application of the guidelines and objectives set forth in Appendix A to such assistance.

Q: Given the current public health emergency, will HUD please provide guidance on documenting how an activity that prepares for, prevents, or responds to the coronavirus meets the Urgent Need national objective?

A: The FR Notice goes into greater detail about the existing certification and recordkeeping requirements before providing the records HUD will accept to support the required grantee and/or state grant recipient certification. To demonstrate each criteria of the Urgent Needs national objective:

Criteria 1. Is the activity designed to alleviate existing conditions?

Use the same records used to show that grant funds were used to prevent, prepare for, and respond to coronavirus, as required by the CARES Act.

Criteria 2. Does the condition pose a serious and immediate threat to the health or welfare of the community that is of recent origin or that recently became urgent? Use one of the below:

- Referral to a U.S. Department of Health and Human Services issued press release declaring a public health emergency for the entire United States found at <https://www.hhs.gov/about/news/2020/01/31/secretary-azar-declares-public-health-emergency-us-2019-novel-coronavirus.html>. The declaration was retroactive to January 27, 2020;
- Referral to the President’s declaration of the ongoing Coronavirus Disease 2019 (COVID-19) pandemic as an emergency of sufficient severity and magnitude to warrant an emergency declaration for all states, tribes, territories, and the District of Columbia pursuant to section 501(b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121-5207 (the “Stafford Act”). (The President subsequently approved additional major disaster declarations for states); or
- Referral to the effective dates of a grantee’s own local or state emergency declaration.

Criteria 3. Is the grantee or unit of general local government unable to finance the activity on its own, and are other sources of funds are not available to carry out the activity? Use the documentation that the activity will prevent, prepare for, and respond to the coronavirus to demonstrate that a grantee or unit of general local government is unable to finance the activity on its own. Use the required records of compliance with mandatory duplication of benefits requirements to demonstrate that no other funds are available for an activity.

Q: How was the location-based presumption for LMI benefit for job creation/retention changed by the FR Notice?

A: HUD removed the higher poverty rate (30%) required in some cases for census tracts that contain at least a portion of a central business district. Instead, the FR Notice applies an alternative requirement that such a census tract qualifies for the same presumptions available to other tracts under the criteria established in regulations at 24 CFR 570.208(a)(4)(v) and 24 CFR 570.483(b)(4)(v) if the poverty rate is at least 20 percent and if the area evidences pervasive poverty and general distress using the criteria described in 24 CFR 570.208(a)(4)(v)(C) (entitlement) and 24 CFR 570.483(b)(4)(v)(C) (states).

Q: Why did HUD decrease the percentage associated with the central business district presumption for LM jobs?

A: HUD has determined that eliminating the 30 percent requirement for tracts that contain central business districts will standardize the required poverty rate to meet the presumption regardless of where the persons or the business is located, which facilitates the use of grant funds to assist desperate businesses. Central business districts are hubs that contain many coronavirus-affected businesses and facilitating assistance to businesses that seek to retain jobs is consistent with the purposes of the CARES Act. Standardizing the poverty rate for the LMI benefit presumption may help to avoid wholesale collapse of central business districts at a time when many businesses have closed or are at risk of closing due to insufficient revenues.

Q: How does the FR Notice simplify recordkeeping requirements for the LM Jobs national objective?

A: The normal job creation and retention recordkeeping requirements consider family income when determining whether a beneficiary is a person of low or moderate income, but these requirements are likely to be burdensome during a time when unemployment has surged and family income is more difficult to document. Collection of income information directly from assisted businesses can streamline assistance.

For activities that prevent, prepare for, and respond to coronavirus, grantees and employers may consider individuals that apply for or hold jobs to be members of one-person families. HUD has also modified related recordkeeping requirements at 24 CFR 570.506(b)(7) (entitlement) and the jointly agreed upon requirements referenced in 24 CFR 570.490 (state) by adding the following additional presumption: the recipient may substitute records showing the type of job and the annual wages or salary of the job in lieu of maintaining records showing the person's family size and income to demonstrate that the person who filled or held/retained the job was a low- or moderate-income person. HUD will consider the person income-qualified if the annual wages or salary of the job is equal to or less than the Section 8 low-income limit established by HUD for a one-person family. Under this alternative requirement, a grantee will have substantially reduced documentation requirements because they will be working with assisted businesses rather than each person, and potentially their households, who received a job.

Q: Does the overall benefit requirement apply to CDBG-CV? If yes, how?

A: Yes, the overall LMI benefit requirement applies to each CDBG-CV grant. However, the FR Notice establishes an alternative requirement to modify the calculation of overall LMI benefit. A grantee must demonstrate compliance with the overall benefit requirement separately for a grantee's total CDBG-CV grant allocation and not in combination with annual formula CDBG funding or commitments under the Section 108 Loan Guarantee program.

CDBG-CV grants are subject to the requirement that 70 percent of funds are for activities that benefit LMI persons. The grantee is required to ensure that 70 percent of its CDBG-CV grant is expended for activities that benefit LMI persons.

There is no option for grantees to select the timeframe for compliance. HUD previously instructed grantees to submit certifications required by 24 CFR 91.225 (entitlements) or 24 CFR 91.325 (states). The regulations at 24 CFR 91.225(b)(4)(ii) and 24 CFR 91.325(b)(4)(ii) require

grantees to certify that the aggregate use of CDBG funds will comply with the overall benefit requirement during a period specified by the jurisdiction, consisting of one, two, or three specific consecutive program years. As of the effective date of the FR Notice, grantees are not required to carry out the CDBG-CV grant consistent with the mandatory overall benefit certification because HUD has changed the requirement related to overall benefit.

Q: What changes does the FR Notice make to the aggregate Public Benefit test for economic development activities?

A: The FR Notice waives the standard for aggregate public benefit that applies to economic development activities described in 24 CFR 570.209(b)(1)-(2) (entitlement) and in 24 CFR 570.482(f)(2)-(3) (state). This applies to CDBG-CV grants and to FY2019 and FY2020 CDBG activities to prevent, prepare for, or response to coronavirus.

Q: What changes does the FR Notice make to the individual Public Benefit standards for economic development activities?

A: Certain economic development activities described in 24 CFR 570.209 (entitlement) and in 24 CFR 570.482(f)(1) (state) are subject to individual public benefit standards at 24 CFR 570.209(b)(3) (entitlement) and 24 CFR 570.482(f)(4) (state).

The FR Notice provides that for CDBG-CV activities (and for FY2019 or FY2020 activities to prevent, prepare for, and respond to coronavirus) subject to the public benefit standards, grantees must document that:

- a. the activity will create or retain at least one full-time equivalent, permanent job per \$85,000 of CDBG funds used;
- b. the activity will provide goods or services to residents of an area such that the number of LMI persons residing in the area served by the assisted businesses amounts to at least one LMI person per \$1,700 of CDBG funds used; OR
- c. the assistance was provided due to business disruption related to coronavirus (in which case, no monetary standard applies because HUD has determined that there is sufficient public benefit derived from the provision of assistance to stabilize or sustain businesses in the grantee's jurisdiction that suffer disruption due to coronavirus, and that facilitation of business assistance for this purpose may help to avoid complete economic collapse within the grantee's jurisdiction).

Q: Will HUD waive the CARES Act requirement that CDBG-CV funds must be used only for those activities carried out to prevent, prepare for, and respond to coronavirus?

A: By law, use of funds for any other purpose is unallowable and HUD is not authorized to grant a waiver of this provision. To satisfy these purposes, grantees may assist activities that respond to direct effects, such as the need to rehabilitate a building to add isolation rooms for recovering coronavirus patients. A grantee may also undertake activities to address indirect effects of the virus, such as the economic and housing market disruptions caused by social distancing measures and stay at home orders implemented to prevent the spread of coronavirus. HUD cautions grantees that the recordkeeping requirements of the Notice require clear documentation that all uses of funds satisfy the statutory purposes of the CARES Act.

Q: Are all of the activity types listed as eligible in the HCD Act still eligible for CDBG-CV?

A: Some activities clearly tie back to the purposes of the CARES Act, such as public services, economic development and microenterprise assistance, public facilities, and the rehabilitation of private buildings to provide housing. However, HUD is not prohibiting grantees from carrying out any particular CDBG eligible activity described in the HCD Act and the 24 CFR part 570 regulations, because other CDBG eligible activities, such as acquisition, can justifiably be used to fulfill the CARES Act purposes depending upon the circumstances.

Q: What if our CDBG program has never included emergency payments or health services? Does HUD have program models and technical assistance?

A: The current needs to prevent, prepare for, and respond to coronavirus may require use of CDBG-CV funds for uncommon activities. HUD is preparing a series of technical assistance products that describe opportunities to quickly deploy CDBG-CV funds to address immediate needs. As this technical assistance is developed, it will be posted on the CDBG-CV page on the https://www.hud.gov/program_offices/comm_planning/cdbg_programs_covid-19.

Q: Will HUD extend the duration allowed for emergency payments beyond three months?

A: The FR Notice extends the period that grantees can make emergency grant payments on behalf of individuals and families from three consecutive months to six consecutive months.

Q: What are the requirements related to an emergency payments activity in addition to meeting a national objective?

A: As a public services activity designed to prevent, prepare for, or respond to coronavirus:

- Activity may be assisted with CDBG-CV or FY2019 or FY2020 grant funds.
- Funds may be used to provide emergency payments for individuals or families impacted by coronavirus for items such as food, clothing, housing (emergency rental assistance or mortgage assistance) or utilities for up to six consecutive months.
- Emergency payments must be made to the provider of such items or services on behalf of an individual or family, and not directly to an individual or family in the form of income payments, debit cards, or similar direct income payments.
- Grantees must ensure that proper documentation is maintained to ensure that all costs incurred are eligible.
- Grantees using this alternative requirement must document, in their policies and procedures, how they will determine the amount of assistance to be provided is necessary and reasonable.

HUD will be providing more technical assistance related to emergency payments, such as questions regarding payment of arrearages as part of such an activity in the near future.

Q: What is the difference between an “income payment” and an “emergency payment” in the CDBG regulations?

A: Normally, CDBG funds may not be used for income payments, which are not included among eligible activities in section 105(a) of the HCD Act for states, and which are expressly prohibited by 24 CFR 570.207(b)(4) in the Entitlement CDBG regulations. The phrase income payments means a series of subsistence-type grant payments made to an individual or family for items such

as food, clothing, housing (rent or mortgage) or utilities, but excludes emergency payments made over a period of up to three consecutive months to the provider of such items or services on behalf of an individual or family.

Q: May funds assist an economic development activity by being passed through a for-profit entity to a financing mechanism?

A: In the FR Notice, HUD provided a clarification about financing mechanisms. Grantees may provide assistance to an economic development project through a for-profit entity that passes the funds through a financing mechanism (e.g., Qualified Opportunity Funds and New Markets Tax Credit (NMTC) investment vehicles). The regulations at 24 CFR 570.203(b) already list forms of support by which grantees can provide assistance to private, for-profit businesses where the assistance is appropriate to carry out an economic development project. HUD has previously interpreted this provision to allow for CDBG assistance to NMTC investment vehicles. This clarification makes clear that such assistance through any financing mechanism (which is not limited to NMTC investment vehicles) is eligible under 24 CFR 570.203(b). The regulation also does not apply to states, but states may consider 24 CFR 570.203(b), as clarified by the following alternative requirement, as guidance in the same way that they may consider other Entitlement CDBG regulations.

Q: May funds assist an economic development activity by being passed through a nonprofit organization to a financing mechanism?

A: The FR Notice establishes an alternative requirement that expands the authority in section 105(a)(15) of the HCD Act and 24 CFR 570.204 to permit grantees subject to entitlement CDBG regulations to assist nonprofit organizations serving the development needs of their jurisdiction by carrying out community economic development projects through a financing mechanism. The qualified nonprofit may pass assistance through a financing mechanism to another entity based on the language in section 105(a)(15) of the HCD Act. Grantees subject to entitlement regulations must document that the assisted nonprofit is serving the development needs of the jurisdiction and that the assistance is used for a community economic development project that is necessary to prevent, prepare for, and respond to coronavirus.

Q: Does the 15 percent public services limitation apply to CDBG-CV grants?

A: No. The CARES Act provides that there shall be no per centum limitation for the use of funds for public services activities to prevent, prepare for, and respond to coronavirus. The CARES Act provides this flexibility for all CDBG-CV funds.

Q: Does the 15 percent public services limitation apply to FY2019 and FY2020 CDBG grants?

A: The public services limitation does not apply to CDBG funds appropriated in fiscal years 2019 and 2020, or program income for FY2019 and FY2020, to the extent that grantees use these funds to carry out public service activities to prevent, prepare for, and respond to coronavirus. For fiscal years 2019 and 2020, the cap shall still be calculated and shall apply to public service activities carried out for activities that do NOT prevent, prepare for, and respond to coronavirus.

Q: Can CDBG-CV assist existing public services?

A: CDBG and CDBG-CV funds may only be used for those public service activities that are new or that represent a quantifiable increase above the level of an existing service that has been

provided by or on behalf of the unit of general local government (through funds raised by the unit or received by the unit from the state in which it is located) in the 12 calendar months before the submission of the action plan, unless the Secretary finds that the discontinuation of such services was the result of events not within the control of the unit of general local government.

Q: Is it eligible to use grant funds to purchase personal property or equipment?

A: Purchase of personal property and equipment is generally ineligible. However, the entitlement CDBG regulation at 24 CFR 570.207(b)(1) (which may be used as guidance by state grantees), allows grantees to purchase or to pay depreciation in accordance with 2 CFR part 200, subpart E, for personal property, fixtures, and equipment when necessary when such items constitute all or part of a public service.

Thus, it is important for the grantee to define the public service activity and the role of the equipment in providing it. Examples of use of equipment that constitute all or part of a public service include equipment and supplies owned by the grantee or subrecipient that provides the public service, e.g., ventilators or other medical equipment and supplies that will be used in providing health care at a field clinic, or a vehicle outfitted with medical equipment to provide mobile health care.

Q: How will program income be treated under CDBG-CV?

A: The receipt and expenditure of program income that is generated by the use of CDBG-CV funds shall be treated as annual formula CDBG program income and recorded as part of the financial transactions of the annual formula CDBG grant program. Any program income generated from the use of CDBG-CV funds will be receipted in HUD's Integrated Disbursement and Information System (IDIS) as program income to the annual formula CDBG grant program. This provision paired with the requirement that 80 percent of a CDBG-CV grant be expended within three years facilitate expeditious use of funds.

Q: May CDBG-CV funds be used for float-funded activities?

A: Grantees shall not use CDBG-CV funds for float-funded activities or guarantees.

Q: May CDBG-CV subrecipients retain program income?

A: A grantee may permit subrecipients (including units of general local government receiving funds from a state) to retain program income from the use of CDBG-CV funds under this paragraph if the amount held does not exceed the subrecipient's projected cash needs for CDBG activities including activities to prevent, prepare for, and respond to coronavirus.

Q: May States act directly to carry out CDBG-CV activities rather than passing nearly all funds through to local governments?

A: States are significant coordinators of statewide and regional activities to prevent, prepare for, and respond to coronavirus. The FR Notice provides waivers and alternative requirements that permit a state grantee to use a portion of its funds to act directly to carry out activities through employees, contractors, and subrecipients in all geographic areas within its jurisdiction, including entitlement areas and tribal populations.

Q: When are the waivers and alternative requirements to act directly available?

A: They are only available to a state if it complies with the “conforming changes” and with the following alternative requirements:

- *Nonentitlement set aside:* A state must set aside a portion of its grant for use by nonentitlement units of general local government.
- *Inclusion in CDBG-CV Application:* A state’s proposal to act directly and to distribute or use CDBG-CV funds in entitlement areas must be published for public comment in its application for CDBG-CV funds or in a subsequent substantial amendment to the annual action plan that includes the CDBG-CV funds.
- *Activities carried out in tribal areas:* A state grantee may carry out activities in tribal areas. States carrying out projects in tribal areas through employees, contractors, or subrecipients must obtain the consent of the Indian tribe with jurisdiction over the tribal area.

Q: What is the amount of the nonentitlement set aside?

A: The nonentitlement set aside must be no less than an amount equal to the state’s first CDBG-CV allocation and may be from any portion of the state’s additional CDBG-CV allocation. The nonentitlement set aside fulfills the intent reflected by the formula to address needs in urban and rural areas, while giving states the flexibility to determine how to expend each allocation as it is made based on needs within its jurisdiction.

Q: What are the “conforming changes” and alternative requirements made for States that act directly?

A: The following are the “conforming changes” and alternative requirements for States that choose to carry out some or all CDBG-CV activities directly:

- *Carry out.* A state may carry out eligible activities directly, consistent with the entitlement program requirement of 24 CFR 570.200(f), through its employees, through procurement contracts, or through assistance provided under agreements with subrecipients. Pursuant to section 102(c) of the HCD Act, one or more public agencies may be designated by the chief executive officer of a state to undertake activities assisted under this chapter. A state is responsible for ensuring that CDBG-CV funds are used in accordance with all program requirements. The use of interagency agreements, subrecipient agreements (including agreements with Indian tribes and designated public agencies, as described in section III.B.6.(b)(ii)) or contracts does not relieve the state of this responsibility. States are responsible for determining the adequacy of performance under subrecipient agreements and procured contracts, and for taking appropriate action when performance problems arise. State grantees continue to be responsible for civil rights, labor standards, and environmental protection requirements, for compliance with all applicable requirements, including conflict of interest provisions in 24 CFR 570.489(g) and (h).
- *National objective.* The national objective criteria in 24 CFR 570.483 are modified by the following alternative requirement when states carry out activities directly: the state must fulfill all requirements that 570.483 imposes on units of general local government to demonstrate compliance with national objective criteria.

- Recordkeeping.* The recordkeeping requirements at 24 CFR 570.490(b) are waived when states carry out activities directly, and the following alternative requirement shall apply: the state shall establish and maintain such records as may be necessary to facilitate review and audit by HUD of the state’s administration of CDBG-CV funds, under 24 CFR 570.493. Consistent with applicable statutes, regulations, waivers and alternative requirements, and other Federal requirements, the content of records maintained by the state shall be sufficient to: (1) enable HUD to make the applicable determinations described at 24 CFR 570.493; (2) make compliance determinations for activities carried out directly; and (3) show how activities funded are consistent with the descriptions of activities proposed for funding in the CDBG-CV application. For fair housing and equal opportunity (FHEO) purposes, as applicable, such records shall include data on the race, ethnicity, and sex of persons who are applicants for, participants in, or beneficiaries of the activity.
- Change of use.* The change of use of real property rule at 24 CFR 570.489(j) is modified to include instances when a state carries out activities directly. All references to “unit of general local government” shall be read as “state, unit of general local government (UGLG) or state subrecipient.”
- Reviews and audits.* To include instances when a state carries out activities directly, 24 CFR 570.492 is waived and the following alternative requirement applies: the state shall make reviews and audits, including on-site reviews of any subrecipients and local governments, as may be necessary or appropriate to meet the requirements of section 104(e)(2) of the HCD Act, as amended. In the case of noncompliance with these requirements, the state shall take such actions as may be appropriate to prevent a continuance of the deficiency, mitigate any adverse effects or consequences, and prevent a recurrence. The state shall establish remedies for noncompliance by any subrecipients or local governments.
- Procurement.* To include instances when a state carries out activities directly in accordance with the waiver in this paragraph, 24 CFR 570.489(g) is modified to revise the requirement that “[t]he state shall establish requirements for procurement policies and procedures for units of general local government” so that it applies to “units of general local government and subrecipients.” To facilitate grant administration by adopting state-wide procurement policies, a state agency designated to oversee the use of all its CDBG-CV funds pursuant to section 102(c) of the HCD Act may impose its procurement requirements on all uses of CDBG-CV funds by the state, including by other state agencies that administer a portion of the CDBG-CV grants, so long as those requirements comply with 24 CFR 570.489(g).
- Subrecipients.* States carrying out activities through subrecipients must comply with 24 CFR 570.489(m) relating to monitoring and management of subrecipients. The definition of subrecipient at 24 CFR 570.500(c) applies when states carry out activities through subrecipients, and the requirements of 24 CFR 570.489(g) (as modified by section III.B.6.(b)(i)) shall apply. For purposes of this alternative requirement, the definition of subrecipients at 24 CFR 570.500(c) is modified to expressly include Indian tribes. Indian tribes that receive CDBG-CV funding from a state grantee must comply with the Indian Civil Rights Act (Title II of the Civil Rights Act of 1968, 25 U.S.C. 1301 et seq.). This conforming requirement is necessary because the state CDBG regulations do not

anticipate states distributing funds through means other than a method of distribution to units of general local government.

- *Entitlement share not required.* States, either directly or through units of general local government, may use CDBG-CV funding for activities located in entitlement areas without contribution from the entitlement jurisdiction.
- *Exception criteria.* If the area in which an activity is carried out would benefit from the “exception criteria” that permit a grantee to use a percentage less than 51 percent to qualify activities under the LMI area benefit criteria, those exception criteria apply to the use of CDBG-CV funds by a state the same way that they apply to the use of CDBG funds by the entitlement grantee in the same area. CDBG-CV grantees are required to use the most recent data available in implementing the exception criteria. For more information on the data set, please visit <https://www.hudexchange.info/programs/acs-low-mod-summary-data/acs-low-mod-summary-data-exception-grantees/>.

Q: Are States required to provide match for State administration for their CDBG-CV grant?

A: The FR Notice waived program requirements to the extent necessary to eliminate the state match requirement for general administrative costs.

Q: What administrative cap requirements apply to State CDBG-CV grants?

A: A state and its funded units of general local government and subrecipients are, in aggregate, permitted to expend no more than 20 percent of the CDBG-CV grant for planning, management, and administrative costs. A state may use up to 7 percent of its CDBG-CV grant combined for general administration and technical assistance costs; of that 7 percent, a state may use up to 5 percent of CDBG-CV funds for general administration costs and up to 2 percent of the grant for technical assistance activities. The remainder of the amount may be used by units of general local government for administrative and technical assistance costs, provided that a state and its funded units of general local government and subrecipients expend no more than 20 percent of the CDBG-CV grant for planning, management, and administrative costs. A grantee must meet this alternative requirement over the life of its grant, as amended to incorporate additional allocations of CDBG-CV funds.

Q: Are there any circumstances under which a State’s CDBG-CV grant may be used to pay administrative costs of the annual formula CDBG program?

A: CDBG-CV grant funds shall not be used to pay planning and program administrative costs allocable to another grant under the CDBG annual formula program; however, CDBG-CV funds may be used to pay costs that benefit both the CDBG-CV grant and another CDBG award and can be distributed between the grants in proportions that may be reasonably approximated.

Q: How much can CDBG-CV entitlements and counties of the State of Hawaii use for planning and program administrative costs and how will the cap be calculated?

A: For grants subject to subpart D (entitlement grants and grants to the nonentitlement counties of the State of Hawaii): no more than 20 percent of the total CDBG-CV grant shall be expended for planning and program administrative costs. There is no program year obligation test for planning and administrative costs of CDBG-CV grants. Additionally, CDBG-CV funds shall not be included in the compliance determination of the program year obligation test applicable to annual formula CDBG funds. Additionally, program income, regardless of the source funding of

the activity that generated the income, shall be included in the compliance determination of the administrative and planning cost cap applicable to annual formula CDBG grants and program income, separately from CDBG-CV funds.

Q: Are there any circumstances under which an entitlement's CDBG-CV grant may be used to pay administrative costs of the annual formula CDBG program?

A: CDBG-CV grant funds shall not be used to pay planning and program administrative costs allocable to another grant under the CDBG annual formula program; however, CDBG-CV funds may be used to pay costs that benefit both the CDBG-CV grant and another CDBG award and can be distributed between the grants in proportions that may be reasonably approximated.

Q: When a State carries out activities directly, does this change its environmental review responsibilities?

A: Yes. Usually, a state distributes CDBG funds to local governments and takes on HUD's role in receiving environmental certifications from the grant recipients and approving releases of funds. Because the FR Notice will allow a State CDBG-CV grantee to carry out activities directly in addition to distributing funds to subrecipients, per 24 CFR 58.4, when a state carries out activities directly, the state must submit the Certification and Request for Release of Funds to HUD for approval.

Q: Are there any ways to streamline environmental review for CDBG-CV?

A: The FR Notice clarifies that environmental review regulations in 24 CFR part 58 include two provisions that may be relevant for activities to prevent, prepare for, and respond to coronavirus.

1. 24 CFR 58.34(a)(10) provides an exemption for certain activities undertaken in response to a national or locally declared public health emergency. Except for the applicable requirements of 24 CFR 58.6, a responsible entity does not have to comply with the requirements of part 58 or undertake any environmental review, consultation or other action under NEPA and the other provisions of law or authorities cited in 24 CFR 58.5 for exempt activities or projects consisting solely of exempt activities. Exempt activities include assistance for temporary or permanent improvements that do not alter environmental conditions and are limited to protection, repair, or restoration activities necessary only to control or arrest the effects from imminent threats to public safety.
2. A streamlined public notice and comment period is in the regulation at 24 CFR 58.33, which may apply in some cases for emergency activities undertaken to prevent, prepare for, and respond to coronavirus. The application of these two provisions following a presidentially-declared or locally-declared public health emergency is discussed in the FR Notice, Guidance on conducting environmental review pursuant to 24 Part 58 for activities undertaken in response to the public health emergency as a result of COVID-19 (CPD-20-07) posted at <https://www.hud.gov/sites/dfiles/OCHCO/documents/2020-07cpdn.pdf>.

Q: Can HUD waive Davis-Bacon for CDBG-CV?

A: CDBG-CV grants are subject to the Davis-Bacon prevailing wage requirements imposed by section 110(a) of the HCD Act. HUD cannot waive this or other labor laws.

Q: Do the Davis-Bacon requirements apply to reimbursements? Is so, how?

A: Under regulations of the Department of Labor (DOL) at 29 CFR 1.6(g), where Federal assistance is not approved prior to contract award (or the beginning of construction if there is no contract award), Davis-Bacon wage rates apply retroactively to the beginning of construction and must be incorporated retroactively in the contract specifications. However, if there is no evidence that the owner intended to apply for the CDBG-CV assistance prior to the contract award or the start of the construction, HUD may request that DOL allow prospective, rather than retroactive, application of the Davis-Bacon wage rates. DOL may allow prospective application of Davis-Bacon requirements where it finds that it is necessary and proper in the public interest to prevent injustice or undue hardship and it finds no intent to apply for the federal assistance before contract award or the start of construction. The CDBG-CV Grantee should contact a HUD Labor Relations Specialist if such a situation arises.

Q: Do the CDBG-CV grants affect a grantee's borrowing authority in the Section 108 Loan Guarantee Program.

A: No. Under the Section 108 Loan Guarantee Program, CDBG grantees can borrow up to five times their most recent CDBG grant by issuing federally guaranteed notes. The Notice provides that CDBG-CV funds shall not be factored into a grantee's Section 108 borrowing authority.

Q: May a grantee use CDBG-CV funds to make a Section 108 payment?

A: Yes, in some cases. A grantee may use CDBG-CV funds to make a direct payment of principal, interest, or any fees due under a Section 108 note only if the use of funds is to prevent, prepare for, and respond to coronavirus. The necessity of such use shall be documented by the grantee or the subrecipient that provided the assistance (e.g., if Section 108 funds were used by the grantee to provide assistance to a for-profit business in the form of a loan and the business is unable to make a payment due to the reduction in revenue caused by coronavirus, any restructuring of that loan must be supported by modification to loan documents that document the relationship to coronavirus). When CDBG-CV funds are used to subsidize or replace principal, interest, or fees due under a loan previously made with guaranteed loan funds as part of an activity to assist a for-profit or a subrecipient, and the CDBG-CV assistance is necessary to respond to the impact of coronavirus (e.g., a third-party business borrower whose loan is the intended source for repayment of a Section 108 loan is not collecting sufficient revenue due to local public health conditions), the documentation that the original assisted activity satisfies national objective criteria shall be sufficient to demonstrate that the use of the guaranteed loan funds and the additional CDBG-CV assistance meet a CDBG national objective.

Q: What is the period of performance of a CDBG-CV grant?

A: A CDBG-CV grantee must expend all CDBG-CV funds (including CDBG-CV funds from additional allocations that are obligated by HUD through amendments to the grant agreement) within the 6-year period of performance established by the CDBG-CV grant agreement. Grant funds are not available for expenditure after the period of performance.

Q: What is the expedited expenditure requirement for a CDBG-CV grant?

A: Each CDBG-CV grantee must expend at least 80 percent of all CDBG-CV funds (including CDBG-CV funds from additional allocations that are obligated by HUD through amendments to the grant agreement) no later than the end of the third year of the period of performance established by the CDBG-CV grant agreement.

Q: What is the corrective action or sanction for failure to meet the 80 percent expenditure requirement?

A: If this three-year requirement is not met, and evidence meeting the criteria for extension described in the FR Notice is not provided, an amount equivalent to the difference between the total amount expended at the end of the third year and 80 percent of all CDBG-CV funds will be recaptured from the CDBG-CV grant.

Q: Do the annual formula CDBG timeliness requirements apply to CDBG-CV?

A: No. CDBG-CV grants are available for limited purposes under the CARES Act. They are subject to a shortened period of performance. CDBG-CV funds will not be included in determining compliance with the requirements of 24 CFR 570.902 and 570.494. (Note that income generated from CDBG-CV activities will be included in timely expenditure compliance determinations for each entitlement grantee's annual formula CDBG program. Grantees should consider the potential effects of additional program income to compliance with timeliness requirements applicable to their annual formula CDBG grant program when they select and design CDBG-CV assisted activities.)

Q: What are the applicable grant closeout requirements?

A: For grantees subject to entitlement regulations, HUD will close out grants in accordance with grant closeout requirements of 2 CFR 200.343. This approach is consistent with the state regulation at 24 CFR 570.489(o). Grantees subject to this alternative requirement must submit all financial, performance, and other reports as required by 24 CFR 91.520.

Q: What if a grantee cannot meet the expenditure requirement or the period of performance?

A: In general, HUD expects all grantees to comply with all grant requirements and fully close out a grant at the end of the period of performance. However, HUD recognizes that there are many things that could disrupt a grantee's intended timeline for activity completion: litigation, disasters, limited construction seasons due to weather, or other extenuating circumstances. Therefore, HUD may authorize an extension of the three-year expenditure requirement or the overall period of performance if the grantee provides evidence of such extenuating circumstances that would warrant the extension and that they could demonstrate they would meet all program requirements within the extended expenditure period or period of performance.

Q: What reporting requirements apply to CDBG-CV?

A: The reporting requirements that apply to the use of annual formula CDBG grants also apply to CDBG-CV grants. This includes the annual CAPER (for entitlements) or PER (for States). In addition, the CARES Act requires that recipients of \$150,000 or more of CARES Act funding submit, not later than 10 days after the end of each calendar quarter, a report containing: information regarding the amount of funds received; the amount of funds obligated or expended for each project or activity; a detailed list of all such projects or activities, including a description of the project or activity; and detailed information on any subcontracts or subgrants awarded by the recipient.

Existing reporting requirements are anticipated to meet the CARES Act requirements, but the content and format for this reporting is still under development and will need to be reviewed

against current program practices. The Department will work in coordination with OMB to ensure that this requirement can be fulfilled by recipients of CARES Act funding in a manner that utilizes to the greatest extent possible existing reporting streams, providing the necessary transparency and accountability with minimal additional burden. If additional reporting is necessary, further advice or technical assistance will be provided by the Department.

Q: Can a grantee combine funds from multiple sources in a single activity?

A: It is possible. However, a grantee is required to develop and maintain adequate procedures to prevent a duplication of benefits that address (individually or collectively) each activity or program. A grantee's policies and procedures are not adequate unless they include, at a minimum: (1) a requirement that any person or entity receiving CDBG-CV assistance (including subrecipients and direct beneficiaries) must agree to repay assistance that is determined to be duplicative; and (2) a method of assessing whether the use of CDBG-CV funds will duplicate financial assistance that is already received or is likely to be received by acting reasonably to evaluate need and the resources available to meet that need.

Q: How does CDBG-CV define duplication of benefits?

A: Duplication of benefits occurs when Federal financial assistance is provided to a person or entity through a program to address losses resulting from a Federally-declared emergency or disaster, and the person or entity has received (or would receive, by acting reasonably to obtain available assistance) financial assistance for the same costs from any other source (including insurance), and the total amount received exceeds the total need for those costs.

Q: What does the FR Notice say about citizenship requirements?

A: Please note that the U.S. Department of Homeland Security, U.S. Citizenship and Immigration Services provides that the Immigration Reform and Control Act, 8 U.S.C. 1324a et seq. prohibits employers from hiring and employing an individual for employment in the U.S. knowing that the individual is not authorized with respect to such employment. This generally applicable law also applies to CDBG grantees and their subrecipients and/or contractors/subcontractors (including relating to employees recruited under Section 3). For more information, please see <https://www.uscis.gov/i-9-central/form-i-9-resources/handbook-for-employers-m-274/10-why-employers-must-verify-employment-authorization-and-identity-of-new-employees> and <https://www.uscis.gov/i-9-central/legal-requirements-and-enforcement>.

IV. Fiscal Year 2019 and Fiscal Year 2020 CDBG Grants

IV.A. General Requirements

Q: What requirements apply to FY 2019 and FY2020 CDBG annual formula grants other than the FR Notice?

A: Except as described in the FR Notice or other applicable waivers and alternative requirements (in memos), the normal statutory and regulatory provisions governing the CDBG program apply to fiscal year 2019 and 2020 CDBG grants, including regulations at 24 CFR part 570 subpart I (states), 24 CFR part 570 subparts A, C, D, E, J, K, and O (entitlements), and 24 CFR subpart F (insular areas and Hawaii counties).

Q: Is HUD aware that some grantees may struggle with timely expenditures for annual formula CDBG grants in 2020?

A: Because of the coronavirus many local governments are operating under extenuating circumstances and may need additional time for certain administrative requirements, so HUD is suspending for fiscal year 2020 all corrective actions, sanctions, and informal consultations for timeliness effective January 21, 2020. Grantees are advised that this suspension does not eliminate the timely expenditure requirements set forth in 24 CFR 570.902 (entitlements). HUD will continue to run expenditure reports and will continue to notify grantees of deficiencies.

Going forward, HUD will monitor changing conditions. Before the end of the fiscal year, HUD will determine whether to extend this suspension for all or a portion of fiscal year 2021. HUD may consider regional and local conditions when determining when to begin scheduling informal consultations.

IV.B. Flexibilities, Waivers, and Alternative Requirements

Q: What is the deadline set by the CARES Act for grantees to submit FY2019, FY2020, and CDBG-CV action plans?

A: The deadline for grantees to submit action plans and other updates to their consolidated plans submissions for fiscal years 2019 and 2020 to include CDBG-CV funds is August 16, 2021.

Q: Has HUD extended the deadline for submitting the annual Consolidated Annual Performance and Evaluation Report (Performance Report (CAPER))?

A: On May 7, 2020, Acting Assistant Secretary John Gibbs issued a memorandum to all Community Planning and Development Field Office Directors, Deputy Directors and Program Managers with the subject "Availability of a Waiver and Alternate Requirement for the Consolidated Annual Performance and Evaluation Report (Performance Report) for Community Planning and Development (CPD) Grant Programs in Response to the Spread of Coronavirus." This memorandum authorized a waiver of the regulatory requirement at 24 CFR 91.520(a) that grantees submit a performance report known as the Consolidated Annual Performance and Evaluation Report (CAPER) within 90 days of the end of a jurisdiction's program year. Under this memorandum, for program year 2019 CAPERs, the requirement that grantees submit a performance report within 90 days after the close of a jurisdiction's program year is waived, subject to the condition that within 180 days after the close of a jurisdiction's program year the jurisdiction shall submit its performance report.

Q: Do a grantee's CDBG activities to prevent, prepare for, and respond to coronavirus need to be consistent with its Consolidated Plan?

A: The Notice temporarily waived the requirement for consistency with the consolidated plan when fiscal year 2019 and 2020 CDBG funds are used to prevent, prepare for, and respond to coronavirus, because grantees may not have considered the needs associated with this special purpose funding when developing their current consolidated plan strategic plan and needs assessment. In conjunction, HUD is temporarily waiving 42 U.S.C. 5304(e) to the extent that it would require HUD to annually review grantee performance under the consistency criteria. These waivers apply only until the grantee submits its next full (3-5 year) consolidated plan due after the 2020 program year.

In addition, the regulations at 24 CFR 91.225(b)(5) (entitlements) and 24 CFR 91.325(b)(5) (states) require grantees to certify that the housing activities to be undertaken with CDBG, HOME, ESG, and HOPWA funds are consistent with the strategic plan portion of the consolidated plan. The Notice provided an alternative requirement that grantees are not required to carry out the portions of their fiscal year 2019 and 2020 annual formula CDBG grants that are used to prevent, prepare for, and respond to coronavirus in a manner consistent with the certifications in 24 CFR 91.225(b)(5) and 24 CFR 91.325(b)(5), because HUD has changed the requirement related to consistency.

Q: Will CDBG-CV grants be included in the base for calculating the annual formula program's public service cap compliance?

A: No. CDBG-CV grant funds shall not be included in the public service cap compliance determination which is applicable to annual formula CDBG funds used for activities not related to coronavirus.

Q: How will program income generated by the use of CDBG-CV grants affect the public services cap compliance calculation for the annual formula grants?

A: Program income generated by the use of CDBG-CV grants is considered program income to the grantee's annual formula CDBG program. Program income, regardless of the source funding of the activity that generated the income, shall be included in the compliance determination of the public service cap applicable to the annual formula CDBG grants and program income, separately from CDBG-CV funds. For purposes of calculating the public services cap, the treatment of program income generated by the CDBG-CV grant and received (i.e., documented in IDIS) by the annual formula CDBG program shall be considered as any other program income received by the annual formula CDBG program.

Q: Do you have a quick list of the CDBG-CV requirements that ALSO apply to CDBG FY2019 and FY2020 grants?

A: These Section III provisions of the Notice apply to the use of fiscal year 2019 and 2020 CDBG funds for activities to prevent, prepare for, and respond to coronavirus; these provisions shall also apply to the use of Section 108 guaranteed loan funds when they are used together with fiscal year 2019 and 2020 CDBG funds for activities to prevent, prepare for, and respond to coronavirus. Where these paragraphs refer to CDBG-CV funds, they apply equally to fiscal years 2019 and 2020 CDBG grants.

- III.B.5.(d)(i) Use of Urgent Need National Objective.
- III.B.5.(d)(ii) Modification of Location-Based Presumption of LMI Benefit for Job Creation and Retention National Objective Criteria.
- III.B.5.(d)(iii) LMI Job Creation and Retention Records.
- III.B.5.(e)(i) Elimination of Aggregate Public Benefit Test.
- III.B.5.(e)(ii) Modification of Individual Public Benefit Standards.
- III.B.5.(f)(i) Extension of Emergency Payments.
- III.B.5.(f)(ii) Opportunity Zones and Related Flexibilities for Economic Development.
- III.B.5.(f)(iii) Public Services Cap.
- III.B.5.(f)(iv) Other Public Services Considerations.
- III.B.5.(f)(v) Clarification on Application of Cost Principles.

- III.B.6.(d)(iii) Clarifying note on emergency environmental review procedures.
- III.B.9. Duplication of Benefits (applies for programs and activities with annual formula CDBG funds when the grantee uses these funds to carry out programs to respond to losses caused by disasters and emergencies).
- III.B.10. Citizenship Requirements.

Q: Do you have a quick list of the CDBG-CV requirements that do **NOT** apply to CDBG FY2019 and FY2020 grants?

A: Waivers and alternative requirements and other provisions in the following paragraphs of Section III of the Notice do **not** apply to fiscal year 2019 CDBG Grants and fiscal year 2020 CDBG grants:

- III.A. Allocations of CDBG-CV Funds
- III.B.1. General Grant Requirements
- III.B.2. Responsible Use of CARES Act Funds
- III.B.3. Overview of Process to Receive CDBG-CV Grants
- III.B.4.(b) CDBG-CV Application Content and Submission
- III.B.5.(a) Use of Funds for CARES Act Purposes
- III.B.5.(b) Reimbursements
- III.B.5.(c) Terms and Conditions Made Applicable by the CARES Act
- III.B.5.(d)(iv) Overall Benefit to LMI Persons.
- III.B.6.(a) Program Income
- III.B.6.(b) Rules Applicable to State CDBG-CV Grants
- III.B.6.(c) Rules for Entitlements, Insular Areas, and Nonentitlement Hawaii Counties
- III.B.6.(d)(ii) Clarifying note on the process for environmental release of funds when a state carries out activities directly.
- III.B.6.(e) Compliance with Labor Laws
- III.B.6.(f) Relationship to Section 108 Loan Guarantees
- III.B.7. Period of Performance, Timeliness, and Closeout
- III.B.8. Reporting

CDBG-CV COVID-19 Fact Sheet

Updated: July 10, 2020

This fact sheet provides information to Community Development Block Grant (CDBG) and CDBG CARES Act (CDBG-CV) grantees on using grant funds and related flexibilities provided by the CARES Act as communities work to prevent and respond to the spread of COVID-19.

FAQs

Use of CDBG and CDBG-CV Grant Funds for COVID-19 Recovery

CARES Act and CDBG General Information

Q1: Where do I find the CARES Act? When was it enacted?

A: The CARES Act, PL 116-136, was signed by President Trump on March 27, 2020. It is available online at : <https://www.congress.gov/bill/116th-congress/house-bill/748>, and the section dealing with CDBG can be found under the subheading “Community Development Fund.”

Q2: Where can I find the CDBG regulations?

A: The regulations can be found at the following websites:

- For entitlements, States, and insular areas:
https://www.hud.gov/program_offices/comm_planning/communitydevelopment
- For the Consolidated Plan:
https://www.hudexchange.info/program_offices/comm_planning/consolidatedplan

Q3: How do I explain CDBG to local officials and citizens who do not know much about it?

- A: Resources can be found at the following websites:
- Explore CDBG: <https://www.hudexchange.info/programs/cdbg/cdbg-ta-products/#all-products>
 - Public Services video: <https://www.hudexchange.info/programs/cdbg/public-services/>
 - Public facilities video: <https://www.hudexchange.info/programs/cdbg/public-facilities-and-improvements/>

Q4: Is there a basic guide to CDBG that isn't a regulation?

A: Yes, HUD and HUD's Technical Assistance providers have developed resources for grantees. These include:

- Basically CDBG for Entitlements:
<https://www.hudexchange.info/resource/19/basically-cdbg-training-guidebook-and-slides/>
- Basically CDBG for States:
<https://www.hudexchange.info/resource/269/basically-cdbg-for-states/>
- The Guide to National Objectives and Eligible Activities for Entitlement Communities:
<https://www.hudexchange.info/resource/89/community-development-block-grant-program-cdbg-guide-to-national-objectives-and-eligible-activities-for-entitlement-communities/>
- The Guide to National Objectives and Eligible Activities for State CDBG Programs:
<https://www.hudexchange.info/resource/2179/guide-national-objectives-eligible-activities-state-cdbg-programs/>

Q5: Where can I find contact information for a CDBG grantee?

A: Grantee contact information is available on the HUD Exchange at:
<https://www.hudexchange.info/grantees/>

Q6: Does HUD have any ideas for how CDBG can help with pandemic response, prevention, or preparation?

A: HUD issued a Quick Guide to CDBG Eligible Activities to Support Coronavirus and Other Infectious Disease Response. You can find it on the HUD Exchange here:
<https://www.hudexchange.info/news/hud-publishes-a-cdbg-quick-guide-to-support-infectious-disease-response/>

Duplication of Benefits

Q7: What is a duplication of benefits?

A: A duplication of benefits occurs when a person, household, business, government, or other entity receives financial assistance from multiple sources for the same purpose, and the total assistance received for that purpose is more than the total need for assistance.

The CARES Act provides that the Secretary shall ensure there are adequate procedures in place to prevent any duplication of benefits as required by section 312 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5155) and in accordance with section 1210 of the Disaster Recovery Reform Act of 2018 (division D of Public Law 115–254; 132 Stat. 3442), which amended section 312 of the Robert T.

Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5155). HUD will require each grantee to have procedures in place to prevent the duplication of benefits when it provides financial assistance with CDBG-CV funds. Grant funds may not be used to pay for a particular cost if another source of financial assistance is available to fully pay for that same cost.

Q8: We are hearing HUD representatives say that HUD stresses that CDBG-CV funds should not be used in a way that duplicates other resources. Is that an accurate representation of HUD's guidance? Would it be fair to read that as a caution against applying these funds to uses supported by the rest of the CARES Act?

A: CDBG-CV grantees must have policies and procedures in place to prevent duplication of benefits with Stafford Act and other CARES Act programs. This means that grantees may not use CDBG-CV funds for costs already fully covered by other programs. Many other programs are providing similar advice. HUD is not cautioning grantees to avoid the same uses as other CARES Act programs if unmet need exists and the use is CDBG-CV eligible. Rather, HUD is advising grantees to be strategic in selecting program designs that best align funding sources with local needs.

Practically, CDBG-CV funds cannot be used to pay for eligible costs that have already been paid for, or will be paid for, by another Federal program, insurance, or other sources. If this occurs, the grantee must repay its CDBG-CV grant. (This does not include the reimbursement of costs previously incurred by the grantee as authorized under the CARES Act.)

A grantee must check to see that subrecipients, assisted individuals or families, businesses, and other entities that receive CDBG-CV assistance have not previously received, or will not receive, duplicative assistance from another source before CDBG-CV assistance is provided. This duplication of benefits analysis may be accomplished in various ways including by requiring these entities or beneficiaries to provide a self-certification indicating that they have not received a duplicative benefit, requiring them to fill out a questionnaire listing potentially duplicative assistance that they have already received, or reasonably anticipate receiving, and through other means. The grantee must do this duplication of benefits analysis before providing CDBG-CV assistance and should only pay for unmet needs/needs not met by other sources of assistance. The grantee must also require that if a subgrantee, individual or family, business, or other entity subsequently receives a duplicative benefit, it agrees to repay the grantee.

A CDBG-CV grantee may permit payment of a cost that will be or is likely to be paid by another source in the future if the person or entity receiving the assistance enters an agreement to repay the CDBG-CV funds when the other source of assistance is received.

Q9a: What is another option to complete a duplication of benefits analysis at a project or activity level?

When assistance is provided to entities for CDBG activities, including activities that are part of a larger project, a grantee may complete a duplication of benefits analysis by developing an overall budget for COVID-19 preparation, prevention and response that demonstrates the funding need for the activity and the funding reasonably anticipated. (HUD has described this on stakeholder webinars as being similar in many ways to a “sources and uses” analysis for a housing or economic development project.) This budget should include all Federal and non-Federal funding, including in-kind donations. If the budget shows that the need is greater than the funding sources, there is no duplication of benefits.

The recipient must do this duplication of benefits analysis before providing CDBG-CV assistance and may only pay for unmet needs/needs not met by other sources of assistance.

When assistance is provided to individuals, the duplication of benefits analysis must examine other sources the person has or will receive for the same purpose (i.e.cost).

Q9b: How can a grantee prevent a duplication of benefits?

A: A grantee can prevent duplication of benefits by having an awareness of other assistance that its community may receive for COVID-19 prevention, preparation and response and designing its CDBG-CV program and activities to target unmet needs.

Q10: What happens if there is a duplication of benefits?

A: HUD will require the grantee to repay the CDBG-CV grant with non-Federal funds.

CARES Act and Program Implementation

Q11: What are the CDBG program flexibilities available under the CARES Act?

A: HUD published guidance on *CARES Act Flexibilities for CDBG Funds Used to Support Coronavirus Response*. The document is available here: <https://files.hudexchange.info/resources/documents/CARES-Act-Flexibilities-CDBG-Funds-Used-Support-Coronavirus-Response.pdf>

Q12: The CARES Act suspended the public services limitation for what purpose and which grants?

A: Pursuant to the CARES Act, the public services cap in section 105(a)(8) (42 U.S.C. 5305(a)(8)) and 24 CFR 570.201(e) does not apply to CDBG-CV grants, or to FY 2019 and 2020 CDBG grant funds used to prevent, prepare for and respond to coronavirus.

Q13: Is emergency rental assistance eligible under CDBG?

A: Yes, with limits. First, other assistance may be available for this purpose from the Emergency Solutions Grant (ESG) program, or under other Federal or State emergency programs, so a grantee must be alert for possible duplication of benefits in program design and execution.

In terms of eligibility, CDBG funds may not be used for income payments, which are not included among eligible activities in section 105(a) of the Housing and Community Development Act of 1974 for States, and which are expressly prohibited by 24 CFR 570.207(b)(4) in the Entitlement CDBG Regulations. Income payments mean a series of subsistence-type grant payments made to an individual or family for items such as food, clothing, housing (rent or mortgage) or utilities. The definition of income payments excludes emergency payments made over a period of up to three consecutive months to the provider of such items or services on behalf of an individual or family. Such emergency payments are eligible as a public service.

Q14: Can I use the Urgent Need national objective?

A: Yes, to some extent. At least 70 percent of CDBG-CV funds must assist activities that meet the Low- and Moderate-Income national objective. The remaining 30 percent may be used for activities that meet either the Urgent Need national objective or the Slums and Blight national objective.

To meet the urgent need national objective criteria at 24 CFR 570.208(c), the Entitlement CDBG program requires a recipient to certify that the activity is designed to alleviate existing conditions which pose a serious and immediate threat to the health and welfare of the community which are of recent origin or recently became urgent, that the recipient is unable to finance the activity on its own, and that other sources of funds are not available. In the State CDBG program, the criteria at 24 CFR 570.483(d) require that the local government provides this certification and the State makes the determination of the same.

Q15: How do I add CDBG-CV to my Action Plan and submit to HUD?

A: A grantee may amend its FY2019 plan (or its FY2020 plan) to include the CDBG-CV, ESG-CV, and HOPWA-CV funding. This means that a grantee that has not yet submitted its FY 2020 plan does not need to expedite its FY2020 plan submission to receive its CARES Act funding; instead, the grantee may make a substantial amendment to the FY 2019 Action Plan. The FY 2020 annual action plan is still required to be submitted for the FY 2020 formula programs, including CDBG.

A grantee that has submitted a FY 2020 annual action plan to HUD that was marked “review completed” in IDIS or not disapproved within 45 days, must amend its FY 2020 plan to include CARES Act funding. Other grantees may include CARES Act funding in either a substantial amendment to the FY2019 plan or an original FY 2020 plan

submission. Grantees are encouraged to choose the most expeditious option given individual circumstances.

HUD has issued waivers to permit grantees to prepare substantial amendments to their most recent annual action plan, including their 2019 annual action plan. The substantial amendments must identify the proposed use of all funds and how the funds will be used to prevent, prepare for, and respond to coronavirus. The waivers require grantees to submit the following to HUD: the substantial amendment describing the use of CDBG-CV funds, a SF-424, SF-424D, and the certifications at 24 CFR 91.225(a) and (b) or 24 CFR 91.325(a) and (b).

Q16: Will HUD expedite reviews?

A: Yes, normally, HUD reviews Consolidated Plans and Action Plans within 45 days. For CDBG-CV, HUD plans to expedite reviews.

Q17: The CARES Act says grantees may reimburse for coronavirus preparation, response, and prevention costs. How will that work?

A: The CARES Act provides that CDBG-CV funds may be used to cover or reimburse allowable costs of activities to prevent, prepare for, and respond to coronavirus incurred by a State or locality regardless of the date on which such costs were incurred. Grantees may also pay costs in accordance with pre-agreement cost authority under 24 CFR 570.489(b) (States) and pre-award cost authority under 24 CFR 570.200(h) (Entitlements). Reimbursed costs must comply with all grant requirements, must be costs to prevent, prepare for, or respond to coronavirus, and must not constitute a duplication of benefits.

Q18: Will HUD publish a Federal Register Notice?

A: HUD intends to issue a notice in the Federal Register to provide additional waivers, alternative requirements, and the rules implementing CARES Act requirements. This will facilitate and expedite the use of the funds for preventing, preparing for, and responding to coronavirus.

Q19: What is a virtual hearing and how do I do one? Do I have to do a public hearing?

A: The CARES Act provides that, for as long as national or local health authorities recommend social distancing and limiting public gatherings for public health reasons, a grantee may create virtual public hearings to fulfill applicable public hearing requirements related to plans for the use of FY2019, FY2020, and CDBG-CV grants. The CARES Act also provides that any such virtual hearings shall provide: (1) reasonable notification and access for citizens in accordance with the grantee's certifications, (2) timely responses from local officials to all citizen questions and issues; and (3) public access to all questions and responses. Some platforms for virtual hearings are Facebook,

Zoom, Skype, email, and conference calls, but the grantee is not limited to these methods. Additionally, grantees must take appropriate actions to encourage the participation of all residents, including the elderly, minorities, and non-English speaking persons, as well as persons with disabilities. For an amendment, a hearing is required if the grantee's citizen participation plan requires one. (To take advantage of the CARES Act provisions, a grantee may amend its citizen participation plan concurrently with its CDBG-CV plan or amendment publication.) For an action plan or Consolidated Plan, hearing requirements are contained in 24 CFR 91.105(e) for entitlement communities and 24 CFR 91.115(b)(3) for states.

Q20: Are the CARES Act flexibilities just for CDBG-CV or may a grantee access them for the main program as well?

A: Some flexibilities also apply to FY2019 or FY2020 grants as well as CDBG-CV. HUD posted a guide to the flexibilities here:

<https://files.hudexchange.info/resources/documents/CARES-Act-Flexibilities-CDBG-Funds-Used-Support-Coronavirus-Response.pdf>

Q21: Does an Urban County have to consider the needs of all of its participating units of general local government in designing and implementing its program?

A: Every grantee should consider the needs of all citizens who may reasonably be expected to participate in or be affected by CDBG or CDBG-CV programs. Urban Counties that normally distribute CDBG funds on a proportional basis among all participating jurisdictions should consider whether their normal procedures would result in funding awards that are too small to be used expeditiously and productively by the participating jurisdictions.

Q22: Will HUD extend the deadline for CAPERs?

A: HUD has issued a waiver to the 2019 CAPER Submission. The Waiver provides grantees an additional 90 days to submit their 2019 CAPER. Grantees may now submit the 2019 CAPER within 180 days of the end of their 2019 program year. The Waiver can be found at the following link: <https://www.hud.gov/sites/dfiles/CPD/documents/CPD-COVID-19-CAPER-Waiver-050420-signed-JG.pdf>

Q23: Can I have relief from Single Audit requirements and deadlines?

A: The U.S. Office of Management and Budget (OMB) memorandum, M-20-17, dated March 19, 2020 (available [here](#)) discusses the Single Audit submission extension [2 CFR 200.512] and modifies prior guidance found in the M-20-11 memo, dated March 9, 2020.

Pursuant to the March 19th memo, awarding agencies, in their capacity as cognizant or oversight agencies for audit, should allow recipients and subrecipients that have not yet filed their single audits with the Federal Audit Clearinghouse as of March 19, 2020, that have fiscal year-ends through June 30, 2020, to delay the completion and submission of the Single Audit reporting package, as required under Subpart F of 2 CFR § 200.501 - Audit Requirements, to six (6) months beyond the normal due date.

No further action by awarding agencies is required to enact this extension. This extension does not require individual recipients and subrecipients to seek approval for the extension by the cognizant or oversight agency for audit; however, recipients and subrecipients should maintain documentation of the reason for the delayed filing. Recipients and subrecipients taking advantage of this extension would still qualify as a "low-risk auditee" under the criteria of 2 CFR § 200.520 (a) – Criteria for a low-risk auditee.

Q24: How will HUD handle the CDBG timeliness requirements in FY2020?

A: HUD has a statutory responsibility to review a grantee's performance at least annually to determine whether the grantee has the continuing capacity to carry out grant activities in a timely manner. HUD will continue its oversight of grantee progress and will notify grantees who are not progressing as expected. However, in the normal course of oversight, if a CDBG grantee does not carry out its activities in a timely manner, HUD consults with the grantee to determine the causes. If the causes are beyond the grantee's control, as coronavirus (COVID-19) is, HUD does not take corrective action or sanction, but works with the grantee to ensure that the grantee is timely at the next annual checkpoint.

Q25: How do I do electronic signatures?

A: On March 22, 2020, the U.S. Office of Management and Budget (OMB) released a memorandum providing guidance on the use of technology to support mission continuity in response to coronavirus. The guidance is in the form of Frequently Asked Questions and includes OMB guidance for the use of e-signatures. Also included in the Frequently Asked Questions are resources for implementing technology.

A copy of the memorandum and related Frequently Asked Questions can be found here: <https://www.whitehouse.gov/wp-content/uploads/2020/03/M-20-19.pdf>

Q26: Is assistance to hospitals or clinics a CDBG eligible activity?

A: Please see the Quick Guide to CDBG Eligible Activities to Support Coronavirus and Other Infectious Disease Response: <https://www.hudexchange.info/news/hud-publishes-a-cdbg-quick-guide-to-support-infectious-disease-response/>.

Note that each such activity must meet a national objective. Additionally, funds can be used for the *allocable* costs of operating and maintaining a facility used in providing a

public service, even if no other costs of providing such a service are assisted with such funds, but funds cannot be used for operation and maintenance costs that cannot be allocated to the public service (see the CDBG Entitlement program regulation at 24 CFR 570.207(b)(2), which states may use as guidance).

Further, use for operation and maintenance costs of a public service trigger CDBG requirements. Particularly for hospitals, a grantee may wish to consult with its field office in structuring the assisted activity so that the grantee can clearly identify which public service activities within the hospital are subject to CDBG requirements. In addition, a grantee assisting a hospital or clinic should be aware of the possibility that other federal and state funds may be available for this purpose and take this under consideration in its analysis of duplications of benefit.

Q27: May a CDBG grantee provide housing near the hospital for medical staff and first responders who are concerned about going home and possibly bringing back infections that will further spread the disease to those receiving health care at the hospital? And for such staff who become infected and must self-isolate?

A: It depends. Housing staff may be necessary as part of an eligible public service, if providing the public service requires the staff to be located in housing that reduces risk of infection through isolation to prevent the spread of coronavirus.

The activity must also meet a national objective by either benefitting low-and moderate-income (LMI) persons or meeting an urgent need. To benefit LMI persons, the grantee may demonstrate that at least 51 percent of the public receiving the benefit of the public service provided by the hospital are low-and moderate-income persons, or that the hospital provides services to a primarily residential area with a predominantly LMI population.

Alternatively, the activity may meet an urgent need related to the novel coronavirus if the grantee has no other funding for the activity. Grantees are reminded that overall benefit requires that at least 70 percent of the funds be used to benefit LMI persons.

Q28: Can CDBG assist a food bank purchasing and delivering emergency food for current and new beneficiaries? How can we meet a national objective?

A: Yes. For a food bank located in and serving a primarily residential low/mod area, the grantee may document compliance with low-and-moderate-income (LMI) area benefit national objective criteria. For a food bank serving a non-LMI service area, the regulations provide that the grantee may meet the LMI limited clientele national objective in one of two ways.

One way is to document how the nature and location of the activity will result in at least 51 percent of the beneficiaries being LMI. Another would be to collect a simple verifiable income certification from at least 51 percent of the beneficiaries attesting they

are LMI. Some grantees have provided a pro tip on obtaining this documentation: If the beneficiary signs a paper certification and the grantee or subrecipient uses a cell phone document scanning app to collect the image prior to instructing the beneficiary to place the completed certification in a storage box, collection of such certifications can be contactless. Either wipe down the pen between signers or provide hand sanitizer.

Q 29: May I use CDBG or CDBG-CV for FEMA cost share?

A: Yes. Under 24 CFR 570.201(g), CDBG funds may be used to pay the non-Federal share of a Federal grant-in-aid program, provided that the activities funded are otherwise eligible for CDBG assistance and comply with CDBG requirements. State grantees are authorized to pay non-Federal cost share under Section 105(a)(9) of the Housing and Community Development Act of 1974.

Q30: Can I use CDBG or CDBG-CV to help small businesses?

A: Yes, direct assistance to for-profits is a special economic development activity in the CDBG program and it is eligible provided it meets a national objective, underwriting, and public benefit requirements. Because there is a large amount of SBA funding for small businesses in the CARES Act and other sources of financial assistance to small businesses may be available, grantees must also have procedures to prevent duplications of benefits between various programs that provide this type of financial assistance.

Q31: Are staff costs of CDBG program administration and eligible activities allowable if the staff person is on leave due to the closure of the grantee or subrecipient's offices in response to COVID-19?

A: Yes. If staff costs meet the program administration requirements of 24 CFR 570.206 or are related to carrying out activities eligible under § 570.201 through § 570.204, the cost of fringe benefits, as provided at 2 CFR 200.431(b), in the form of regular compensation paid to employees during periods of authorized absences from the job, such as for annual leave, family-related leave, sick leave, holidays, court leave, military leave, administrative leave, and other similar benefits, are allowable if all of the following criteria are met:

- (1) They are provided under established written leave policies;
- (2) The costs are equitably allocated to all related activities, including Federal awards; and
- (3) The accounting basis (cash or accrual) selected for costing each type of leave is consistently followed by the grantee/subrecipient or specified grouping of employees.

Please note, however, that such charges are subject to regulatory or statutory limits on certain categories of costs (e.g., the 20-percent limit on CDBG planning and administrative costs).

Q32: What about the costs of unused and partially utilized space, when space used by grantees/subrecipients in carrying out activities with CDBG funds is no longer used or is no longer used fully as a result of COVID-19? Are costs such as maintenance, repair, rent, and other related costs (e.g., insurance, interest, and depreciation,) allowable?

A: Yes, subject to program restrictions and the regulations at 2 CFR 200.446 *Idle facilities and idle capacity*. While costs for unused space (idle facilities) are usually unallowable, §200.446(b)(2) permits exceptions when the space (facilities) are idle for causes which could not have been reasonably foreseen. Clearly, the COVID-19 situation falls within that exception. Under this exception, "...costs of idle facilities are allowable for a reasonable period of time, ordinarily not to exceed one year, depending on the initiative taken to use, lease, or dispose of such facilities."

Grantees and subrecipients should note, however, that program regulations may prohibit certain costs referenced in the question. For example, 24 CFR 570.207(b)(2)(i) prohibits use of CDBG funds for maintenance and repair of publicly owned facilities and improvements.

As to partially utilized space (idle capacity), 2 CFR 200.446(c) provides that:

"The costs of idle capacity are normal costs of doing business and are a factor in the normal fluctuations of usage or indirect cost rates from period to period. Such costs are allowable, provided that the capacity is reasonably anticipated to be necessary to carry out the purpose of the Federal award or was originally reasonable and is not subject to reduction or elimination by use on other Federal awards, subletting, renting, or sale, in accordance with sound business, economic, or security practices...."

Accordingly, costs of idle capacity are allowable, subject to the provisions in §200.446(c) and to any program regulatory restrictions noted above.

Q33: May the grantee continue to fund a subrecipient for an activity that will be canceled or postponed?

A. It depends. The recent OMB memo M-20-17 discusses allowability of costs not normally chargeable to awards, stating:

"Awarding agencies may allow recipients who incur costs related to the cancellation of events, travel, or other activities necessary and reasonable for the performance of the award, or the pausing and restarting of grant funded activities due to the public health emergency, to charge these costs to their award without regard to 2 CFR § 200.403, *Factors affecting allowability of costs*, 2 CFR § 200.404, *Reasonable costs*, and 2 CFR § 200.405, *Allocable costs*. Awarding agencies may allow recipients to charge full cost of cancellation when the event, travel, or other activities are conducted under the auspices of the grant. Awarding agencies must advise recipients that they should not assume additional funds will be available should the charging of cancellation or other fees result in a shortage of funds to eventually carry out the event or travel. Awarding agencies must

require recipients to maintain appropriate records and cost documentation as required by 2 CFR § 200.302 - *Financial management* and 2 CFR § 200.333 - *Retention requirement of records*, to substantiate the charging of any cancellation or other fees related to interruption of operations or services. As appropriate, awarding agencies may list additional guidance on specific types of costs on their websites and/or provide a point of contact for an agency program official.”

In addition, in the context of subrecipients, CDBG grantees should also consider whether the subrecipient’s staff costs are administrative (see 2 CFR 570.206) or related to carrying out activities eligible under § 570.201 through § 570.204. The activity delivery costs associated with postponed or cancelled activities are limited to those necessary and reasonable to the pausing and restarting of the grant and may include cancellation fees, as explained further in OMB memo M-20-17. For subrecipients with an administrative role, their allowable costs may include fringe benefits, such as authorized leave (see Q31 above for more information); however, planning, administrative and management costs are limited to 20 percent of the grant, pursuant to Annual Appropriations Acts.

Grantees may be interested in providing assistance to their partners to retain employees during this crisis; however, HUD strongly recommends that this be done appropriately. Grantees may wish to direct such partners to apply for assistance available to small businesses and nonprofits for the retention of employees, such as programs provided by the Small Business Administration and, possibly, a local CDBG-funded job retention program, if one has been appropriately established.

U.S Department of Housing and Urban Development Summary of Primary CDBG Activity Categories to Support Coronavirus

Primary Activities That Can Be Used to Prevent, Prepare for, and Respond to Coronavirus in the Community Development Block Grant Program		
<ul style="list-style-type: none"> • Time Period For Activities: Grantees must complete all activities and expend all funds during the period of performance of the grant. Grantees may reimburse allowable costs incurred before the period of performance. • Geographic Areas Served: Activities must benefit residents within the jurisdiction of the grantee or as permitted by the CARES Act. • Eligible Grantees: States, Metropolitan Cities, Urban Counties, and Insular Areas. The funding is a block grant. HUD makes allocations based on a formula and enters into grant agreements. HUD provides funds in a line of credit to the grantee. Recipient makes funding decisions to decide which activities to assist. Recipient may use its own staff, make a sub-grant, or procure a contractor. In some cases, a recipient may select a developer to carry out an activity. • Program objectives: 70 percent of all grant funds must benefit persons of low- and moderate-income. All CDBG activities must meet one of three national objectives of the program. • Form of assistance: Grantees can choose the form of assistance. Assistance for public services is typically provided as a grant. For other activities, grantees commonly assist activities through grants, loans, loan guarantees, reserve funds, or other mechanisms. • Major Cross-cutting Requirements: Environmental Review, Uniform Relocation Act, Financial Management, Labor Standards, Civil Rights and Equal Opportunity 		
Public Service Activities	Typical National Objectives	Additional Detail
<ul style="list-style-type: none"> • Operating Costs of Homeless/Aids Patients Programs • Senior Services • Services for Persons with Disabilities • Legal Services • Youth Services • Substance Abuse Services • Services for victims of domestic violence, dating violence, sexual assault or stalking • Employment Training • Crime Awareness/Prevention • Fair Housing Activities • Tenant/Landlord Counseling • Child Care Services • Health Services 	<p>Low- and moderate- income (LMI) persons, families, clientele, or area; prevent or eliminate blight; meet unfunded, urgent local need</p>	<p>Grantee may provide a new or increased level of a public service. All activities must result in achievement of a CDBG national objective, typically by providing services to an LMI clientele or to LMI persons residing in a qualified area.</p>

U.S Department of Housing and Urban Development Summary of Primary CDBG Activity Categories to Support Coronavirus

<ul style="list-style-type: none"> • Abused and Neglected Children • Mental Health Services • Screening for Lead-Based Paint/Lead Hazards Poisoning • Subsistence Payments • Security Deposits • Food Banks • Housing Information and Referral Services • Housing Counseling 		
Housing-Related Activities (Mostly Housing Preservation)	Typical National Objectives	Additional Detail
<ul style="list-style-type: none"> • Rehabilitation: Single and Multi-Unit Residential • Construction of Housing (limited) • Direct Homeownership Assistance • Housing Counseling • Public Housing Modernization • Energy Efficiency Improvements • Rehabilitation Administration • Lead-Based Paint/Lead Hazard Test/Abatement • Code Enforcement 	<p>LMI households; prevent or eliminate blight; meet unfunded, urgent local need</p>	<p>Grantee may rehabilitate or reconstruct or convert structures, provide homeownership assistance, and housing counseling. Includes all activity costs such as applicant intake, construction specs and procurement, and construction. All activities must result in achievement of a CDBG national objective, typically by providing housing to an LMI household.</p>
Public Improvements and Facilities	Typical National Objectives	Additional Detail
<ul style="list-style-type: none"> • Senior Centers • Facility for Persons with Disabilities 	<p>LMI households; prevent or eliminate blight; meet unfunded, urgent local need</p>	<p>Grantee may acquire, construct, reconstruct, or rehabilitate a public facility or improvement. All activities must result in achievement of a CDBG national objective, typically by providing access to a facility or improvement to an LMI clientele or to LMI</p>

U.S Department of Housing and Urban Development Summary of Primary CDBG Activity Categories to Support Coronavirus

<ul style="list-style-type: none"> • Homeless Facilities (not operating costs) • Youth Centers/Facilities • Neighborhood Facilities • Parks, Recreational Facilities • Parking Facilities • Solid Waste Disposal Facilities • Flood and Drainage Facilities • Water/Sewer Improvements • Sidewalks • Child Care Centers • Fire Stations/Equipment • Health Facilities • Removal of Architectural Barriers 		<p>persons residing in a qualified area.</p> <p>Duplications: Start by looking for possible federal duplications with: FEMA Disaster Relief Fund and Public Assistance, Treasury Coronavirus Relief Fund, USDA programs; local duplications with previously committed and available financial resources.</p>
Activities to Acquire Real Property	Typical National Objectives	Additional Detail
<ul style="list-style-type: none"> • Acquisition of Property • Disposition • Clearance and Demolition • Clean-up of Contaminated Sites/Brownfields • Relocation 	<p>Low- and moderate- income (LMI) persons, families, or area; prevent or eliminate blight; meet unfunded, urgent local need</p>	<p>Grantee may buy, clean up, demolish, dispose of, and relocate occupants from a property for a public purpose.</p>
Economic Development Activities	Typical National Objectives	Additional Detail
<ul style="list-style-type: none"> • Rehabilitation: Publicly or Privately Owned Commercial/ Industrial • Commercial/Industrial Land Acquisition/ Disposition • Commercial/Industrial Infrastructure Development • Commercial/Industrial Building Acquisition, Construction, Rehabilitation • ED Direct: Financial Assistance to For-Profit Businesses 	<p>Low- and moderate- income (LMI) persons, families, or area; businesses providing LMI jobs or services; prevent or eliminate blight; meet unfunded, urgent local need</p>	<p>Grantee may assist commercial or industrial activities or provide direct financial or technical assistance to for profit businesses. All activities must result in achievement of a CDBG national objective, typically by creating or retaining permanent LMI jobs or serving an LMI area. Project examples range from working capital loans, to neighborhood store expansion, to construction of railheads and seaports.</p>

U.S Department of Housing and Urban Development Summary of Primary CDBG Activity Categories to Support Coronavirus

<ul style="list-style-type: none"> • ED Direct: Technical Assistance • Micro-Enterprise Assistance 		
General Administrative and Planning Activities (20% cap)	Typical National Objectives	Additional Detail
<ul style="list-style-type: none"> • General Program • Administration • Indirect Costs • Public Information and Consultation • Planning and Capacity Building 	NA for Admin; usually LMI for planning.	<p>Grantee may administer CDBG grants and undertake project, functional, environmental, capacity building, and neighborhood plans, including plans for pandemic prevention, preparation, and response in LMI areas.</p> <p>Up to 20 percent of a grant may be used for Planning and Admin costs (within the 20%, States are capped at 3% for their own costs or providing technical assistance). Absent a statutory waiver, states pass-through funds to non-entitled units of general local governments.</p>

Background: The Community Development Block Grant Program(CDBG) provides funds to approximately 1250 States, entitlement cities and urban counties under the Housing and Community Development Act of 1974, as amended. State CDBG grantees pass the funds through to non-entitlement units of general local government. HUD establishes broad guidelines and sets national objectives for CDBG activities. Grantees determine which activities to fund after consultation with program stakeholders and citizens, set local community development objectives and submit an Action Plan for HUD review. Grantees may amend their Action plans.

The CDBG program provided \$3.4 billion in annual grants by formula in FY2020. CARES Act CDBG-CV funding provides an additional \$5 billion, also to be distributed by formula. At least 70 percent of every grant must be expended for activities that benefit low- and moderate-income persons by providing housing, a permanent job, a public service, or access to new or significantly improved infrastructure. The remaining 30 percent may be used to eliminate slum or blighted conditions, or to address an urgent need for which the community certifies it has no other funding.

NOTE ON NON-FEDERAL COST SHARE AND MATCH: CDBG and CDBG-CV funds may, by statute, be the non-federal cost share or match for FEMA and other federal funding if the assisted activity is also CDBG eligible. When the Stafford Act duplication of benefit provisions apply, a grantee must use CDBG to address needs not met by other sources.

This is a summary document. It is provided for informational purposes and does not describe all program requirements. For more information about how CDBG grants can be used to prevent, prepare for, and respond to coronavirus, please visit: https://www.hud.gov/program_offices/comm_planning/cdbg_programs_covid-19 . For more information about the CDBG program, please visit <https://www.hudexchange.info/programs/cdbg/>

Rural Coronavirus Response with CDBG-CV

INTRODUCTION

This quick Guide provides resources to help states and rural grantees identify eligible activities and programs to prevent, prepare for and respond to the disruption and impacts of the coronavirus pandemic using CDBG-CV and 2019 and 2020 entitlement funds. The effects of the COVID-19 pandemic on rural populations have been severe. A recently published study has shown the COVID-19 pandemic significantly impacted rural well-being on health-related and economic dimensions, and that these impacts are shared across sex, age, ethnicity, and education.¹

Rural regions tend to have higher levels of poverty, fewer job opportunities, and heightened vulnerability to labor market shocks relative to urban areas. Rural areas broadly lack access to healthcare, are seeing an increased reliance on telehealth without an increase in broadband access, tend to have older and health-compromised populations, face serious barriers to enrollment in clinical trials and have far more limited access to COVID-19 testing².

Grantee and subrecipient capacity in rural areas is often limited. By its very nature, population in rural areas are dispersed, making it difficult to offer services or accept applications at a central location. Lack of broadband and internet access can also make online applications difficult. This guide addresses CDBG-CV activities designed to serve rural populations.

HOUSING

EMERGENCY PAYMENTS

CDBG funds can be used to provide emergency payments for past due, current, or future housing costs on behalf of an individual or family for up to three consecutive months ([24 CFR 570.207\(b\)\(4\)](#)). By waiver, HUD has extended the emergency payments **to six consecutive months** when using CDBG-CV funds and grant year 2019 and 2020 formula CDBG funds to prevent, prepare for, or respond to coronavirus.

1. WHAT CAN EMERGENCY PAYMENTS COVER?

Grantees can provide rental assistance, mortgage assistance and utility assistance.

Payments must be made directly to the provider (landlord, mortgage servicer, utility company).

Housing assistance can be provided for households that have a contract for deed³. HUD recommends, but does not require, that the contract for deed be properly recorded, serviced by a third-party servicer, and

¹ Mueller, et al "Impacts of the COVID-19 pandemic on rural America" 01/05/2021, [Impacts of the COVID-19 pandemic on rural America | PNAS](#)

²ibid

³ The contract for deed instrument is a private real estate contract between a buyer and seller. Unlike other real property sales, the mortgage payments are paid by the buyer to the property owner/seller. The buyer

otherwise provide appropriate protections for the buyer. Grantees should consider these assurances and also balance those with the need to assist people in need who might also be the victims of unscrupulous developers that have proliferated in certain less-regulated rural areas. Because assistance payments are made to the provider, grantees must be able to confirm that the payments were properly applied and the intended benefit was received, especially when less conventional real estate agreements are involved.

As noted above, utility payments on behalf of an individual or family are an eligible CDBG/CDBG-CV public services activity. Special rules, however, apply when the utility provider is a publicly owned entity. HUD has published a Q and A on this topic, which is available [here](#).

2. HOW TO APPLY?

CDBG-CV housing assistance programs for rural areas are administered by state grantees. Some states allocate the money to cities and counties for implementation to be done at the local level. Others implement it at the state level.

A household would submit an application to program created by the state or local government administrator, not to HUD. Applications are usually submitted electronically via some type of existing platform or one created specifically for this program.

Given limits on internet access for many low-income rural households, several states have enlisted the help of local community action agencies or other nonprofits that accept and submit the application for the internet challenged applicant. This is an eligible CDBG-CV Activity Delivery cost.

Like all CDBG-CV activities, duplication of benefits must be considered. For housing assistance, a duplication occurs when two sources pay for the same need – such as two different agencies making the rent payment for the same month. If two sources provide rental assistance for different months, a duplication has not occurred.

HOUSING REHABILITATION

In an effort to respond to living conditions (such as mold, lead-based paint, and poor ventilation) associated with more severe coronavirus disease or poorer post-COVID health outcomes, grantees may use CDBG and CDBG-CV funds to assist property owners with necessary housing rehabilitation and reconstruction. This can include providing forgivable loans for rehabilitating homeowner housing as well as renter occupied housing to comport with standard building codes and public health advice.

For further information see link below for CDBG-CV PPR Tieback Flexibilities Quick Guide.

MOTEL ACQUISITION FOR LONG-TERM HOMELESS NON-CONGREGATE SHELTER

To limit congregate homeless shelters, some grantees have pursued acquisition and rehabilitation of abandoned or under-used motels. This activity is eligible as either a public facility or housing activity depending on how the tenancy is structured. Several communities in California and Texas have acquired

lives on the property with all other rights of an owner, but the deed to the property does not transfer to the buyer until the final payment has been made. HUD is not encouraging the use of contract for deed, as these agreements have historically not provided adequate protections to low-income buyers, especially along the U.S. Mexico border. However, HUD will consider this type of housing cost payment to be eligible.

existing motels or entered into long term leases with existing owners for the properties to use as non-congregate shelter.

Results from a University of Washington study of a King County initiative that moved people out of homeless shelters and into hotel rooms indicated that the program helped slow the transmission of coronavirus. The results also showed that individuals who moved to area hotels reported improved physical and mental health, and the ability to focus on long-term goals such as obtaining housing, employment and education, rather than simply focusing on day-to-day survival.⁴

Davis-Bacon requirements must be considered when rehab is needed. As a reminder, support services are an important component of this type of activity.

FOOD

Many grantees have provided CDBG-CV assistance to food banks in response to the increased demand for assistance.

Food banks that serve a primarily residential low/mod area, may meet the low-and-moderate area benefit (LMA) national objective.

For food banks that do not have a low-mod service area, grantees may use the low-mod clientele national objective. Grantees should use their best judgment in funding agencies providing these services and should at least ensure that they have a written policy on self-certifications.

CDBG-CV funds have been used by grantees to increase the number of meals that can be delivered by Meals on Wheels programs. While programs have typically focused on funding the cost for additional meals, some grantees have used funds to expand the kitchens utilized by Meals on Wheels programs.

Meals on Wheels programs are designed to serve elderly residents who live homebound and without regular access to food. The pandemic has resulted in a surge of seniors who may have otherwise been living independent lives but became isolated and homebound due to quarantine or social distancing due to medical vulnerabilities.

Generally, based on the program design, Meals on Wheels programs meet the Low-Mod Clientele (LMC) Presumed Benefit national objective because they serve the elderly.

Several school districts in rural Kentucky created grab-and-go sites for families to pick up meals, and some districts designated vehicles to drive to different communities and neighborhoods to drop off food.

- The programs are designed for families that qualify for free or reduced-price lunches.
- This activity could meet the Low-Mod Area (LMA) national objective if the population of the service area is 51% or more low-mod.
- The LMC national objective can also be used. Grantees could use self-certification to reduce the administrative burden of collecting income verification from every assisted household. More info on self-certification is available at [CDBG Self-Certification of Annual Income Form - HUD Exchange](#)

Vermont Everyone Eats! is a program that pays restaurants in rural Vermont to provide free meals to people in need. The program is administered by a Community Action Agency. The program requires an application

⁴ Colburn, et al. "Impact of Hotels as Non-Congregate Emergency Shelters" November 2020, [Impact of Hotels as Non-Congregate Emergency Shelters \(regionalhomelessssystem.org\)](http://regionalhomelessssystem.org)

process for eligible applicants. More information can be found at [Vermont Everyone Eats! \(vteveryoneeats.org\)](http://Vermont Everyone Eats! (vteveryoneeats.org)).

Under its existing “Lakewood Engage” program, Lakewood Health Systems, located in rural Minnesota, provides fresh-frozen microwave meals to older adult patients recovering from surgery. This program has been expanded to include patients who have tested positive for the COVID-19 virus.

- Each meal was designed by a licensed dietician and prepared at a local facility that also prepares food for the Meals on Wheels program.
- All meals are made with fresh ingredients and frozen right after their preparation, which gives them higher nutritional value and requires less food processing than typical frozen dinners.
- The program allows patients access to nutritious food that takes very little preparation as they recover from the effects of the virus, while reducing the need for patients to leave home while infected.
- While possible challenging to start from scratch, CDBG-CV funds could be used to expand an existing program, especially in conjunction with a federally qualified health center.
- The most likely national objective would be LMC but could also meet a LMA national objective, if geography or logistics dictates that the meals are only delivered to a specific service area.

BROADBAND

Broadband access refers to an always-on, high-speed Internet connection. Broadband connectivity provides access to a wide variety of resources, services, and products and closes the gap in education, services and employment opportunities that exists in many low-and-moderate income communities.

CDBG-CV funds may be used to install wiring, fiber optic cables, and permanently affixed equipment such as receivers for areas to receive broadband access. The acquisition, construction, reconstruction, rehabilitation, or installation of public facilities and improvements, including infrastructure improvements, are also eligible.

USING BUSES TO BRING WI-FI TO STUDENTS

Thirty-five percent of the students in the rural areas of Jackson County, MI do not have access to internet. To help address this during the days of virtual learning, the school district deployed a fleet of 13 school buses equipped with WIFI to certain parts of the district. Each bus has explanations of how to connect to its WIFI and provide WIFI at a range of 150 to 300 feet from the buses. Depending on where the buses are parked, this would likely meet a LMA national objective. The activity could meet a LMC national objective if the grantee documented that the nature and location of the activity were such that at least 51% of the users would reasonably be expected to be income qualified, or if the grantee only provided passwords to households that provided an income self-certification.

INSTALLING WI-FI AT PUBLIC FACILITIES

Escambia County Florida is installing WIFI at all county parks and community centers. Initially, the county planned on just installing the service at community centers, primarily to provide virtual learners with access to WIFI. The decision was made to expand the program parks to provide access for people in rural areas of the county, who don't have nearby community centers.

While the county is using CARES Act funds, this CDBG-CV eligible activity would meet a LMA national objective provided the population of public facility's service area is at least 51% low-mod. Since it is the expansion of a public service, it would be a CDBG-CV eligible expense.

For additional information please see the CDGG-CV for Broadband Quick Guide linked below.

<https://www.hudexchange.info/resource/6329/cdbg-cv-broadband-quick-guide/>

ECONOMIC DEVELOPMENT AND RECOVERY

CDBG-CV funds can be used for special economic development activities, including direct assistance to businesses and microenterprises, to help local businesses respond to the impacts of the coronavirus pandemic as well as to prevent the further spread of COVID-19. The assistance can be for working capital and facility safety improvements, as well as operating costs such as payroll, rent and utilities.

For additional information on Economic Development and Recovery programs please see the CDBG-CV Program Economic Development Quick Guide and the Microenterprise Assistance Tool Kit linked below.

ASSISTING FOR-PROFIT BUSINESS RECOVERING FROM THE IMPACTS OF COVID-19

The State of Nebraska Department of Economic Development is currently offering loans and grants to businesses under two eligible activity types: 1) funding assistance for new businesses or business expansion to create Low/Mod Jobs (LMJ) and manufacture medical supplies necessary to respond to infectious disease, and 2) funding assistance to avoid job loss caused by business closures related to social distancing by providing short-term working capital assistance to small businesses, to enable retention of jobs held by low and moderate income persons (LMJ).

The State of Vermont's Sole Proprietor Stabilization Program provides CDBG-CV funds to sole proprietorships that have been impacted by the COVID-19 pandemic. Grants range from as little as \$1,500 to \$10,000 which may be used for eligible business expenses including rent, utilities, supplies and inventory.

ASSISTING RETAIL ORIENTED BUSINESSES AND RESTAURANTS

CDBG-CV funds may be provided to assist for-profit retail and restaurant businesses providing economic opportunities for the residents (LMJ) or serving the area (LMA). The City of St. Cloud, FL is providing funding to retail and restaurant-oriented businesses, located in the city's Downtown Entertainment District, for the acquisition and installation of outdoor dining furniture. Outdoor dining facilities will allow restaurants and businesses to re-open at greater capacity while still maintaining social distancing protocols.

USEFUL RESOURCES

CDBG-CV Federal Register Notice

<https://www.hudexchange.info/resource/6113/fr-6218-n-01-notice-of-program-rules-waivers-alt-requirements-under-cares-act-cdbg/>

CDBG-CV Resources

<https://www.hudexchange.info/programs/cdbg-cv/>

CDBG CARES Act Webinar Series

<https://www.hudexchange.info/news/cdbg-cares-act-webinar-series/>

CDBG-CV FAQs

<https://www.hudexchange.info/resource/6090/cdbgcv-covid19-faqs/>

Quick Guides

CDBG-CV PPR Flexibilities Quick Guide

<https://www.hudexchange.info/resource/6309/cdbg-cv-ppr-tieback-flexibilities-quick-guide/>

CDBG-CV Financial Management quick Guide

<https://www.hudexchange.info/resource/6308/cdbg-cv-financial-management-quick-guide/>

CDBG-CV Economic Development Tool-Kit

<https://files.hudexchange.info/resources/documents/Economic-Development-Toolkit-Manual.pdf>

CDBG-CV Economic Development Quick Guide

<https://www.hudexchange.info/resource/6303/cdbg-cv-economic-development-quick-guide/>

Microenterprise Assistance Tool Kit

<https://files.hudexchange.info/resources/documents/CDBG-Microenterprise-Assistance-Toolkit.pdf>

CDGG-CV for Broadband Quick Guide

<https://www.hudexchange.info/resource/6329/cdbg-cv-broadband-quick-guide/>

CDBG-CV Ask-A-Question

<https://www.hudexchange.info/program-support/my-question/>

CDBG-CV On-Call TA

<https://www.hudexchange.info/program-support/technical-assistance/>

- N–SUMHSS, an annual census of substance use and mental health treatment facilities which collects descriptive data on the location, scope of services provided, and operational characteristics of all known substance use and mental health treatment facilities in the United States and jurisdictions, and on utilization of services by means of a single-day count of clients in treatment; and
- I–BHS data collection activities associated with updating the inventory

of both mental health treatment facilities and substance use treatment facilities.

The information in N–SUMHSS and I–BHS is needed to assess the nature and extent of these resources, to identify gaps in services, and to provide a database for treatment referrals.

The request for OMB approval will include a request to conduct the N–SUMHSS survey which includes facility characteristics and services and one-day client counts and to update the I–BHS

facility listing on a continuous basis in 2021, 2022 and 2023. Also included in this request is the Between Cycle N–SUMHSS data collection (N–SUMHSS BC), to be conducted between annual surveys to collect information on new facilities for inclusion in the Treatment Locator. N–SUMHSS BC use is an abbreviated N–SUMHSS survey questionnaire.

The estimated annual burden for the I–BHS and BHSIS activities is as follows:

Type of respondent and activity	Number of respondents	Responses per respondent	Total responses	Hours per response	Total burden hours	Wage rate	Total hour cost
States: I–BHS Online ¹	56	75	4,200	0.08	336	\$23	\$7,728
State Subtotal	56	.....	4,200	.....	336	.....	7,728
Facilities:							
I–BHS application ²	800	1	800	0.08	64	19.40	1,242
Augmentation screener	1,300	1	1,300	0.08	104	19.40	2,018
N–SUMHSS questionnaire (either SU or MH)	32,000	1	32,000	0.67	21,333	47.95	1,022,917
N–SUMHSS (both SU and MH)	5,000	1	5,000	1.17	5,833	47.95	279,692
N–SUMHSS BC	1,000	1	1,000	0.58	580	47.95	27,811
Facility Subtotal	40,100	.....	40,100	.....	27,914	.....	1,333,680
Total	40,156	.....	44,300	.....	28,250	.....	1,341,408

¹ States use the I–BHS Online system to submit information on newly licensed/approved facilities and on changes in facility name, address, status, etc.

² New facilities complete and submit the online I–BHS application form in order to get listed on the Inventory.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting “Currently under 30-day Review—Open for Public Comments” or by using the search function.

Carlos Graham,
Social Science Analyst.

[FR Doc. 2020–18220 Filed 8–19–20; 8:45 am]

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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–6218–N–01]

Notice of Program Rules, Waivers, and Alternative Requirements Under the CARES Act for Community Development Block Grant Program Coronavirus Response Grants, Fiscal Year 2019 and 2020 Community Development Block Grants, and for Other Formula Programs

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

ACTION: Notice.

SUMMARY: This notice describes the program rules, statutory and regulatory waivers, and alternative requirements applicable to supplemental Community Development Block Grant (CDBG) funds made available to prevent, prepare for, and respond to coronavirus (CDBG–CV funds) and to annual formula CDBG grants awarded in fiscal years 2019 and 2020. Except as otherwise described in this notice and the CARES Act, the statutory and regulatory provisions governing the CDBG program apply to

CDBG–CV and CDBG grants. This notice also describes conforming waivers and alternative requirements for other formula programs included in the consolidated planning regulations in 24 CFR part 91.

DATES: *Applicable:* August 7, 2020.

FOR FURTHER INFORMATION CONTACT: Jessie Handforth Kome, Director, Office of Block Grant Assistance, Office of Community Planning and Development, 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. Questions regarding the CDBG–CV program may be submitted to CPDQuestionsAnswered@hud.gov. Interested parties may also visit HUD’s website at https://www.hud.gov/program_offices/comm_planning for updated information and resources.

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I. Overview and Background

On January 21, 2020, the Centers for Disease Control and Prevention (CDC) confirmed the first case in the United States of a coronavirus known by several names, including novel coronavirus, and SARS–CoV–2, and which causes the disease commonly referred to as COVID–19. On March 27, 2020, President Trump signed the Coronavirus Aid, Relief, and Economic Security Act (Pub. L. 116–136) (CARES Act). The CARES Act makes available \$5 billion in CDBG coronavirus response (CDBG–CV) funds to prevent, prepare for, and respond to coronavirus. In the CARES Act and this notice, the term “coronavirus” means SARS–CoV–2 or another coronavirus with pandemic potential.

The nation faces significant public health and economic challenges related to this respiratory disease. To address these challenges, CDBG–CV and CDBG grants are a flexible source of funding that can be used to pay costs that are not covered by other sources of assistance, particularly to benefit persons of low and moderate income.

This notice is broken into sections. Section II provides a general overview of the CDBG–CV and CDBG program flexibilities provided by the CARES Act. Section III describes the allocations, grant procedures, program flexibilities, waivers, and alternative requirements applicable to CDBG–CV grants. Section IV describes the program flexibilities, waivers, and alternative requirements that apply to fiscal years 2019 and 2020 CDBG grants used to prevent, prepare for, and respond to coronavirus or that affect other aspects of program administration. Other sections contain administrative information related to this notice.

II. Summary of Special Authorities Under the CARES Act

The CARES Act modifies some CDBG program rules and authorizes the Secretary of HUD to grant waivers and alternative requirements. Accordingly, this notice describes how requirements of the CDBG program are modified for CDBG–CV grants, fiscal year 2020 CDBG grants under the Department of Housing and Urban Development Appropriations Act, 2020 (Pub. L. 116–94), and fiscal year 2019 CDBG grants under the Department of Housing and Urban Development Appropriations Act, 2019 (Pub. L. 116–6). For ease of reference, citations in this notice include parentheticals indicating whether a CDBG program statute or regulation applies to entitlement grants, state grants, insular area grants, or grants to nonentitlement counties in Hawaii. Where citations do not include Hawaii counties or insular areas, the additional citation is not necessary because the cited entitlement CDBG regulation applies to insular areas and Hawaii counties in addition to entitlement grantees.

II.A. Program Modifications in the CARES Act

The Community Development Fund heading in title XII of Division B of the CARES Act modifies some CDBG program requirements to provide immediate support for coronavirus efforts. The modifications are described in more detail in Section III, and are the following:

- Permits a public comment period of no less than 5 days when citizen participation is required.
- Permits grantees to develop expedited citizen participation procedures and to hold virtual public hearings when necessary for public health reasons.
- Eliminates the public services cap for coronavirus-related activities.

- Allows states and local governments to reimburse allowable costs of eligible activities regardless of the date the costs were incurred.

II.B. Authority To Grant Waivers and Alternative Requirements

The CARES Act authorizes the Secretary to waive, or specify alternative requirements for, any provision of any statute or regulation that the Secretary administers in connection with the use of CDBG–CV grants, fiscal year 2020 CDBG grants, and fiscal year 2019 CDBG grants to prevent, prepare for, and respond to coronavirus or that affect other aspects of program administration for the fiscal year 2019 and 2020 CDBG grants, except for requirements related to fair housing, nondiscrimination, labor standards, and the environment, upon a finding by the Secretary that any such waivers or alternative requirements are necessary to expedite or facilitate the use of such amounts to prevent, prepare for, and respond to coronavirus. Additional waiver authority is provided in 24 CFR 5.110 and 91.600. In accordance with these provisions, HUD may waive regulatory provisions (subject to statutory limitations) for good cause.

As required by the CARES Act, the Secretary has considered the waivers and alternative requirements in this notice and finds that there is good cause for each and that each is necessary to expedite or facilitate the use of grant funds to prevent, prepare for, and respond to coronavirus.

III. CDBG–CV Grants

This section describes the CDBG–CV allocations to states and units of general local government (including insular areas), the process to access grant funds, and the rules, waivers, and alternative requirements that apply to CDBG–CV grants.

III.A. Allocations of CDBG–CV Funds

Of the \$5 billion made available by the CARES Act, HUD will use \$10,000,000 to make technical assistance awards to provide an immediate increase in capacity building and technical assistance to support the use of CDBG–CV grants and CDBG grants to prevent, prepare for, and respond to coronavirus.

The remaining funds will be allocated as described in sections III.A.1. and III.A.2.

III.A.1. First Allocation

The CARES Act requires HUD to allocate up to \$2 billion in CDBG–CV funds using the same formula that it used to allocate fiscal year 2020 CDBG

grants pursuant to section 106 of the Housing and Community Development Act of 1974 (42 U.S.C. 5306). HUD made this first CDBG–CV allocation on April 2, 2020, 24 days before the 30-day allocation deadline in the CARES Act, in the amount of \$2 billion. The allocations are available on HUD’s website at https://www.hud.gov/program_offices/comm_planning/budget/fy20/.

III.A.2. Additional Allocations

The CARES Act requires HUD to make a second round of CDBG–CV allocations within 45 days of enactment of the CARES Act. HUD is required to make this allocation in the amount of \$1 billion directly to states and insular areas to prevent, prepare for, and respond to coronavirus within the state or insular area. HUD made this second round of CDBG–CV allocations on May 11, 2020, in the amount of \$1 billion. The allocations and methodology are available on HUD’s website at: https://www.hud.gov/program_offices/comm_planning/budget/fy20/. The second CDBG–CV allocations were based on factors identified in the CARES Act: Public health needs, risk of transmission of coronavirus, number of coronavirus cases compared to the national average, economic and housing market disruptions, and other factors, as determined by the Secretary, using best available data.

The CARES Act authorized HUD to allocate the remaining \$2 billion in CDBG–CV funds, minus the \$10 million set aside for technical assistance, on a rolling basis. The CARES Act provides that the remaining \$2 billion shall be distributed directly to states or units of general local government, at the discretion of the Secretary, according to a formula based on factors to be determined by the Secretary, prioritizing risk of transmission of coronavirus, number of coronavirus cases compared to the national average, and economic and housing market disruptions resulting from coronavirus. The District of Columbia is defined as a metropolitan city under the Housing and Community Development Act of 1974 and not as a state or insular area. As such, it was not eligible for funding under the Round 2 \$1 billion allocation. To ensure national geographic coverage in Round 2, HUD made an allocation from the third round of funding to the District of Columbia simultaneously with the second round because the District met the geographic criteria for the third round of allocations and was the only geographic area in the nation that was not covered by the second round of allocations.

HUD will publish additional third round allocations and a description of the allocation formulas on HUD’s website at https://www.hud.gov/program_offices/comm_planning/budget/fy20/ and will provide a link to this site in any press release announcing an allocation.

III.A.3. Reallocation

Under Section 106 of the Housing and Community Development Act of 1974 (HCD Act) (42 U.S.C. 5306), HUD reallocates annual formula CDBG funds that cannot be distributed to grantees when it allocates the next fiscal year’s appropriation of annual formula CDBG funding. Given the immediate need for coronavirus assistance, the Department is specifying the following alternative requirement to sections 106I and (d)(3)I (42 U.S.C. 5306I and 5306(d)(3)I), and the reallocation provisions of 24 CFR 570.4(a), 570.420I, 570.429(d)(2), and 570.442(b), to expedite the use of any funds that may become available for reallocation.

If a jurisdiction receiving an allocation of CDBG–CV funds fails to apply for funding in accordance with the requirements of this notice by August 16, 2021 (the deadline established by the CARES Act) or HUD is unable to distribute funds to a grantee for another reason, HUD may notify the jurisdiction of the cancellation of all or part of its allocation amount. Funds that are not awarded to jurisdictions under the formulas described in paragraphs III.A.1. and III.A.2. may be reallocated based on factors identified in the CARES Act, as determined by the Secretary. If made, reallocations will be published on HUD’s website.

III.B. CDBG–CV Grant Rules, Waivers, and Alternative Requirements

This section describes program flexibilities in the CARES Act and provides waivers and alternative requirements to expedite or facilitate the use of CDBG–CV funds. The rules, waivers, and alternative requirements described in this section only apply to CDBG–CV grants (as specified in this section) and in some cases to fiscal year 2019 and fiscal year 2020 CDBG grants (as specified in section IV) and program income (as specified in sections III.B.5.(f)(iv) and III.B.6.(a)). The CARES Act statutory flexibilities, waivers, and alternative requirements do not apply to other sources of CDBG funds (even if used in conjunction with CDBG–CV funds, fiscal year 2019 CDBG funds, or fiscal year 2020 CDBG funds) except as otherwise described in section IV.B.3.(b).

III.B.1. General Grant Requirements

CDBG–CV grants are subject to the requirements of the CARES Act, the authorities and conditions imposed on fiscal year 2020 CDBG grants, and the mandatory provisions of this notice and waivers and alternative requirements. Except as otherwise described, grantees must comply with statutory and regulatory provisions governing the CDBG program. These include regulations at: 24 CFR part 570 subpart I (states); 24 CFR part 570 subparts A, C, D, E, F, J, K, and O for CDBG (entitlements, nonentitlement Hawaii counties and insular areas).

To facilitate the use of CDBG–CV funds in accordance with the grant requirements, HUD is imposing an alternative requirement that the definitions of CDBG funds in 24 CFR 570.3 (entitlements) and 24 CFR 570.481(a)(2) (states) include CDBG–CV funds. This alternative requirement applies the requirements in 24 CFR part 570 to the use of CDBG–CV funds, except as modified by rules, waivers, and alternative requirements applicable to CDBG–CV grants.

CDBG–CV grant agreements will impose requirements by incorporating program rules, waivers, and alternative requirements (including those published in memoranda, in this and any future notices).

Grantees should not assume that their normal CDBG funding distribution procedures are adequate to swiftly distribute and use CDBG–CV grants. For example, if a grantee’s existing policies mandate lengthy processes to select activities or complete procurements, grantees should try to expedite actions with local waiver authorities or emergency procedures that may be available without state or local rulemaking. In addition, urban counties that normally distribute CDBG funds on a proportional basis among all participating jurisdictions should consider whether their normal procedures would result in funding awards that are too small to be used expeditiously and productively by the participating jurisdictions.

III.B.2. Responsible Use of CARES Act Funds

CDBG–CV funds are subject to additional measures designed to prevent fraud, waste, and abuse. HUD will conduct regular oversight and monitoring activities to determine that use of CDBG–CV funds is consistent with grant requirements and limited to the necessary and reasonable costs of activities to prevent, prepare for, and respond to coronavirus. Measures to

increase transparency and accountability include:

- Regular reporting on the use of CDBG–CV funds, including reporting that may be required by the CARES Act to conduct audits and reviews of programs, operations, and expenditures relating to funds under the CARES Act and the Coronavirus response (see section III.B.8. for information on reporting requirements); and
- a requirement that grantees prevent the duplication of benefits that is caused when a person, household, business, or other entity receives financial assistance from multiple sources for the same purpose, and the total assistance is more than the total need (see section III.B.9. for information on duplication of benefits).

III.B.3. Overview of Process To Receive CDBG–CV Grants

On April 2, 2020, HUD published the first round of CDBG–CV allocations on the *hud.gov* website and notified jurisdictions of their allocation amounts. On April 9, 2020, John Gibbs, Acting Assistant Secretary for Community Planning and Development, issued a memorandum with the subject, “*CARES Act Flexibilities for CDBG Funds Used to Support Coronavirus Response and plan amendment waiver*” (“April 9 memorandum”), available at <https://www.hud.gov/sites/dfiles/CPD/documents/CARES-Act-Flexibilities-CDBG-Funds-Used-Support-Coronavirus-Response.pdf>. The memorandum advised grantees to amend or prepare consolidated plan submissions for CDBG–CV grants as soon as possible. Grantees may have partially or fully completed the application process before HUD publishes this notice.

The April 9 memorandum also granted waivers to expedite this process of applying for CDBG–CV funds by permitting application for a grantee’s share of the first \$2 billion through a substantial amendment to a grantee’s most recent annual action plan (the most recent year may be the 2019 annual action plan). These waivers and alternative requirements describing the content of a substantial amendment to add CDBG–CV allocations to the most recent annual action plan are in section III.B.4.(b)(i).

Submitting a substantial amendment may speed access to grant funds because consultation and public hearings are not required (although 24 CFR 570.441I(2) requires insular areas to hold a public hearing for amendments, section III.B.4.(a)(iii) waives this requirement for CDBG–CV substantial amendments). However, the April 9 memorandum

does not preclude grantees from applying by submitting a FY 2020 Action Plan that includes the CDBG–CV funds. If the grantee chooses to include CDBG–CV grant funds in its annual action plan for FY 2020 funds, the grantee must comply with action plan submission procedures in 24 CFR part 91 (including consultation and a public hearing), as modified by the waiver and alternative requirements in paragraph III.B.4.(a)(iv), which apply the CARES Act citizen participation flexibilities to all consolidated plan formula grant programs.

The following procedures apply regardless of whether the grantee applies for CDBG–CV funds through an action plan or action plan substantial amendment:

- Rather than wait to apply until HUD allocates all available CDBG–CV funds, HUD recommends that grantees apply as soon as possible for CDBG–CV funds that HUD has allocated. Grantees receiving subsequent allocations can make substantial amendments to apply for subsequent allocation amounts after they are announced.

- All grantees may adopt and use expedited procedures to draft, propose, modify, or amend consolidated plans for CDBG–CV and fiscal year 2019 and 2020 CDBG grants as described in section III.B.4. These expedited procedures amend the grantee’s citizen participation plan and require it be published for no less than 5 calendar days to solicit public comment. Expedited procedures may include virtual hearings, as described in section III.B.4.(a)(ii).

- The grantee must publish its application for CDBG–CV funds (whether through a new action plan or action plan substantial amendment) for no less than 5 calendar days to solicit public comment. The comment period can run concurrently with the comment period on changes to add expedited procedures to the citizen participation plan. The grantee must respond to public comments.

- The grantee must submit its application for CDBG–CV funds to HUD for review in accordance with 24 CFR 91.500. To receive a CDBG–CV grant, a grantee must also submit a SF–424, SF–424D and the certifications at 24 CFR 91.225(a) and (b) or 24 CFR 91.325(a) and (b) and 24 CFR 91.425.

- HUD and the grantee will enter a grant agreement and HUD will establish the grantee’s line of credit.

- The grantee may draw funds from the line of credit after the Responsible Entity completes applicable environmental review(s) pursuant to 24 CFR part 58 and, as applicable, receives

from HUD the Authority to Use Grant Funds (AUGF) form and certification.

III.B.4. Application for Grant Funds and Citizen Participation

This section III.B.4. describes the CDBG program flexibilities in the CARES Act and additional waivers and alternative requirements that HUD granted to facilitate or expedite the process to amend consolidated plans and apply for CDBG–CV grants.

III.B.4.(a) Expedited Citizen Participation and Virtual Hearings

The CARES Act permits grantees to adopt expedited citizen participation procedures and hold virtual hearings for consolidated plan submissions for CDBG–CV funds and for CDBG grants for fiscal years 2019 and 2020. Section III.B.4.(a)(iii) includes a corollary waiver and alternative requirement to permit states to extend these flexibilities to units of general local government and insular areas. Section III.B.4.(a)(iv) includes a corollary waiver and alternative requirement extending these flexibilities to other consolidated plan formula programs.

III.B.4.(a)(i) Citizen Participation, Public Notice and Comment Period. The CARES Act authorizes a CDBG–CV grantee to adopt and utilize expedited procedures to prepare, propose, modify, or amend its consolidated plan, notwithstanding sections 104(a)(2), (a)(3), and (c) of the HCD Act (42 U.S.C. 5304(a)(2), (a)(3), and (c)) and section 105 of the Cranston-Gonzalez National Affordable Housing Act (NAHA, at 42 U.S.C. 12705). The expedited procedures may permit virtual hearings, as described in section III.B.4.(a)(ii), whenever a public hearing is required by 24 CFR 91.105 (entitlements), 91.115 (states), 570.431 (Hawaii counties), 570.441 (insular areas), or by the grantee’s citizen participation plan. Expedited procedures adopted by the grantee shall provide citizens with notice and a reasonable opportunity to comment of no less than 5 days.

Expedited procedures must be published for no less than 5 calendar days to solicit public comment, and once adopted, become part of the grantee’s citizen participation plan. The public comment period for incorporating expedited procedures into the citizen participation plan may run concurrently with the public comment period on a proposed CDBG–CV substantial amendment or other proposed consolidated plan submissions for CDBG–CV funds and fiscal year 2019 and 2020 CDBG grants. Consolidated plan submissions for other

programs are addressed in section III.B.4.(a)(iv).

The CARES Act modifies the annual formula CDBG program requirement that a grantee must solicit comments from its citizens for a period of at least 30 days before it submits a substantial amendment or an annual action plan to HUD.

III.B.4.(a)(ii) Virtual Hearings. For as long as national or local health authorities recommend social distancing and limiting public gatherings for public health reasons, the CARES Act authorizes the grantee to hold virtual hearings in lieu of in-person public hearings for CDBG–CV grants and for fiscal year 2019 and 2020 CDBG grants (virtual hearings for other consolidated plan formula programs are addressed in section III.B.4.(a)(iv)). All virtual hearings held under the authority provided by the CARES Act shall provide reasonable notification and access for citizens in accordance with the grantee's certifications, timely responses from local officials to all citizen questions and issues, and public access to all questions and responses.

Therefore, grantees may use online platforms to hold virtual hearings that facilitate public access to all questions and responses and provide timely responses from local officials. Additionally, grantees must take appropriate actions to encourage the participation of all residents, including the elderly, minorities, persons with limited English proficiency, as well as persons with disabilities, consistent with the jurisdiction's citizen participation plan.

The CARES Act does not modify nondiscrimination requirements. Consistent with 24 CFR 91.105 (entitlements) and 91.115 (states), and 24 CFR 570.431 (Hawaii counties) and 570.441 (insular areas), a jurisdiction is expected to take whatever actions are appropriate to encourage the participation of all its citizens in virtual and in-person hearings, including minorities and persons with limited English proficiency, as well as persons with disabilities. Whether hearings are in-person or virtual, grantees must take appropriate steps to ensure effective communication with persons with disabilities consistent with the requirements of accessibility laws, such as Section 504 of the Rehabilitation Act and the Americans with Disabilities Act. The grantee must provide appropriate auxiliary aides and services where necessary to afford individuals with hearing and vision impairments an equal opportunity to access and participate in such hearings. These may include effective methods that make

aurally delivered information available to individuals who are deaf or hard of hearing, and visually delivered materials available to individuals who are blind or have low vision. The type of auxiliary aid or service necessary to ensure effective communication will vary in accordance with the method of communication used by the individual; the nature, length, and complexity of the communication involved; and the context in which the communication is taking place. In determining what types of auxiliary aids and services are necessary, a grantee shall give primary consideration to the requests of individuals with disabilities. In order to be effective, auxiliary aids and services should be provided in accessible formats, in a timely manner, and in such a way as to protect the privacy and independence of the individual with a disability. For virtual hearings, such steps should include ensuring that information is provided on an accessible website, that emails and other digital notifications are accessible, and that the application or platform used to host the hearing is also accessible. Additional services such as audio description or captioning may also be needed to provide effective communication in a digital context. Helpful guidelines for ensuring the accessibility of web-based and digital materials are available through the World Wide Web Consortium's Web Accessibility Initiative at <https://www.w3.org/WAI/>. Examples of auxiliary aids and services that may be necessary when conducting hearings online can be found at 28 CFR 35.104.

Grantees must also take reasonable steps to provide meaningful access to persons with limited English proficiency consistent with Title VI of the Civil Rights Act. To ascertain their obligations, grantees should conduct the four-factor analysis set forth in HUD's limited English proficiency guidance found at <https://www.hud.gov/sites/documents/FINALLEP2007.PDF>, which may be covered by grantees' Language Assistance Plan, recognizing that the use of the internet to conduct such a hearing may change the analysis. For virtual or online hearings, such services may also include translation of documents and captioning or interpretation in the appropriate language(s). More information on the four-factor analysis and other requirements can be found at <https://www.hud.gov/sites/documents/FINALLEP2007.PDF>.

III.B.4.(a)(iii) Modifications to citizen participation requirements for local governments that receive funds from States and for insular areas. HUD is

clarifying that by authorizing states to adopt expedited citizen participation procedures, the CARES Act authorized expedited procedures and virtual public hearings for citizen participation by units of general local government that receive CDBG–CV funds from a state through a method of distribution. This is because 24 CFR 91.115I requires states to include citizen participation requirements for units of general local government in its own citizen participation plan. Expedited procedures must still describe how units of local governments receiving funds from the state will meet the citizen participation requirements in 24 CFR 570.486.

Additionally, HUD is waiving the requirement in 570.441I(2) that an insular area must hold a public hearing on a substantial amendment. Instead, HUD is imposing an alternative requirement to permit the insular area to adopt expedited requirements by modifying its citizen participation plan to replace the hearing if it provides community residents with reasonable notice and an opportunity to comment on substantial amendments to the consolidated plan or annual action plan.

III.B.4.(a)(iv) Extension of CARES Act Flexibilities to All Consolidated Plan Formula Programs (CDBG, CDBG–CV, HOME, HOPWA, HTF, ESG) and Section 108 Loan Guarantees. The CARES Act altered consolidated plan citizen participation requirements for some CDBG–CV grants, fiscal year 2019 and 2020 annual formula CDBG grants, and Emergency Solutions Grant supplemental CARES Act (ESG–CV) grants. It did not modify citizen participation for other annual formula CDBG and ESG grants, Section 108 Loan Guarantees, or for HOME Investment Partnerships (HOME), Housing Trust Fund (HTF), and Housing Opportunities for Persons With AIDS (HOPWA) formula programs before fiscal year 2019.

On April 1, 2020, HUD issued two waivers to modify citizen participation requirements for consolidated plan substantial amendments for CDBG, ESG, HOME, HTF, and HOPWA. The first eliminated the 30-day minimum for the required public comment period for substantial amendments, provided that no less than 5 days are provided for public comments on each substantial amendment concerning the proposed uses of CDBG, HOME, HTF, HOPWA, or ESG funds. The second allowed grantees to determine what constitutes reasonable notice and opportunity to comment, given their circumstances, for the 2020 program year. The waivers were published in a memorandum

signed by Acting Assistant Secretary John Gibbs on March 31, 2020. It is available at: <https://www.hud.gov/sites/dfiles/CPD/documents/Availability-of-Waivers-of-CPD-Grant-Program-and-Consolidated-Plan-Requirements-to-Prevent-the-Spread-of-COVID-19-and-Mitigate-Economic-Impacts-Caused-by-COVID-19.pdf>.

HUD is now issuing waivers and alternative requirements to expedite procedures to modify citizen participation plans for all 2020 fiscal year consolidated plan and annual action plan submissions that pertain to ESG, HOME, HTF, and HOPWA formula programs. The waivers are necessary to effectively implement the CARES Act flexibilities offered to CDBG grantees because planning and annual action plan consolidated plan submissions for CDBG–CV and CDBG grants are inextricably linked with the consolidated plan submissions for ESG, HOME, HTF, and HOPWA.

In 1995, HUD published the consolidated plan regulation at 24 CFR part 91. The consolidated plan replaced the following separate application and planning submissions: The Comprehensive Housing Affordability Strategy (CHAS), enacted by NAHA at 42 U.S.C. 12701, the Community Development Plan requirements, added to the CDBG program by NAHA (42 U.S.C. 5304), the CDBG final statement, the HOME program description, and the ESG and HOPWA applications. In 2015, HUD published an interim rule that added HTF to the consolidated planning regulations. States and units of general local government (including insular areas) that apply for Section 108 loan guarantees pursuant to 24 CFR 570.704 may also be required to include the use of guaranteed loan funds in their consolidated plans.

Grantees that apply for CDBG–CV or CDBG funds as part of their 3–5 year consolidated plan or annual action plan submissions cannot reasonably take advantage of the expedited CARES Act citizen participation requirements unless the other programs included in these submissions are subject to the same expedited requirements. Creating a separate application process for CDBG–CV and CDBG funds would add time and complications that are likely to delay the availability of funds and undermine the purpose of the CARES Act provisions to expedite assistance. Further, separating CDBG planning and applications would thwart several of the reasons cited for the consolidated planning rule, e.g., providing comprehensive information on the jurisdiction that is easy to understand and reducing paperwork and

simplifying the process of requesting and obtaining federal funds available to the jurisdictions (60 FR 1878, published January 5, 1995).

Therefore, HUD is waiving provisions at 24 CFR 91.105(b)(4), (c)(2) and (k), 24 CFR 91.115(b)(4), (c)(2) and (i), 24 CFR 91.401, 24 CFR 570.431, 24 CFR 570.441, and 24 CFR 570.704 to the extent necessary to permit the following alternative requirement: CDBG, HOME, HTF, HOPWA, and ESG grantees may modify their citizen participation plans to adopt expedited procedures that apply when the grantees prepare, propose, modify, or amend any consolidated plan submissions that contain uses of CDBG–CV funds or uses of fiscal year 2019 or 2020 CDBG funds to prevent, prepare for, and respond to coronavirus. The expedited procedures must, at a minimum, provide citizens with notice and a reasonable opportunity to comment of no less than 5 days.

Additionally, HUD is waiving provisions at 24 CFR 91.105(b) and I, 24 CFR 91.115(b) and I, 24 CFR 91.401, and 24 CFR 570.431, 570.441, and 570.486(a) to the extent necessary to establish the following alternative requirement. For as long as national or local health authorities recommend social distancing and limiting public gatherings for public health reasons, CDBG, ESG, HOME, HTF, and HOPWA grantees, and units of general local government receiving CDBG funds from state or insular area CDBG grantees, may hold virtual hearings in lieu of in-person public hearings to fulfill public hearing requirements imposed by 42 U.S.C. 12707(a)(3) and the regulations at 24 CFR part 91 and 24 CFR part 570, or by the grantee's citizen participation plan.

For each virtual hearing, a grantee shall provide reasonable notification and access for citizens in accordance with the grantee's certifications, timely responses from local officials to all citizen questions and issues, and public access to all questions and responses. Therefore, grantees may use online platforms to hold virtual hearings that provide public access to questions and responses and provide timely responses from local officials. This alternative requirement is only applicable to consolidated planning submissions describing the use of fiscal year 2019 or 2020 annual formula funds for CDBG, ESG, HOME, HTF, and HOPWA, or for CDBG–CV or ESG–CV funds provided under the CARES Act.

HUD cannot modify requirements for CDBG grantees to mirror the elimination of citizen participation for substantial amendments and new consolidated plan

submissions for ESG–CV funds because HUD cannot waive the minimum requirements the CARES Act imposed on CDBG grantees. Therefore, this waiver and alternative requirement does not alter or expand the authority for ESG grantees to omit the citizen participation and consultation requirements for consolidated plan submissions that only pertain to ESG CARES Act (ESG–CV) funding.

III.B.4.(b) CDBG–CV Application Content and Submission

III.B.4.(b)(i) CDBG–CV Application Content, Submission, Consistency with Other Portions of Consolidated Plan. In the April 9 memorandum, HUD issued a waiver and alternative requirement that permits a grantee to apply for CDBG–CV funds by submitting a substantial amendment to its most recently approved annual action plan. Grantees may also apply for CDBG–CV funds in a future annual action plan submission.

As part of the application submission, HUD is temporarily waiving the requirements (found at 42 U.S.C. 12706 and 24 CFR 91.325(a)(5) and 91.225(a)(5)) that grantees certify that the housing activities to be undertaken with CDBG, HOME, ESG, and HOPWA funds are consistent with the strategic plan portion of the consolidated plan. HUD is imposing a related alternative requirement that allows grantees to submit those certifications when the grantee submits its next full (3–5 year) consolidated plan due after the 2020 program year. Grantees may not have considered the needs associated with CDBG–CV funds when developing their current consolidated plan strategic plan and needs assessment.

In conjunction, HUD is temporarily waiving 42 U.S.C. 5304I to the extent that it requires HUD to annually review grantee performance under the consistency criteria. This waiver also only applies until the grantee submits its next full (3–5 year) consolidated plan due after the 2020 program year.

Applying through a substantial amendment to the most recent action plan. If the CDBG–CV application is submitted as a substantial amendment to the most recent annual action plan, the substantial amendment must include the CDBG–CV allocation as an available resource for the year. The amendment must include the proposed use of all funds and how the funds will be used to prevent, prepare for, and respond to coronavirus. To permit this expedited application process, in the April 9 memorandum HUD waived statutory provisions at 42 U.S.C. 12705(a)(2) to the extent they require

updates to the housing and homeless needs assessment, (24 CFR 91.205 and 91.405), housing market analysis (24 CFR 91.210 and 91.410), and strategic plan (24 CFR 91.215 and 91.415. HUD also waived 24 CFR 91.220 (entitlements) and 91.320 (states), to the extent those regulations limit the action plan to a specific program year, to permit grantees to prepare substantial amendments to their most recent annual action plan (including their 2019 annual action plan).

In the April 9 memorandum, HUD also issued a waiver and alternative requirement to 24 CFR 91.505 to facilitate the use of the CDBG–CV funds to the extent necessary to require submission of the substantial amendment to HUD for review in accordance with 24 CFR 91.500, and required that, to receive a CDBG–CV grant, a grantee must also submit a SF–424, SF–424D, and the certifications at 24 CFR 91.225(a) and (b) (entitlements) or 24 CFR 91.325(a) and (b) (states).

HUD is now adding to the waivers in the April 9 memorandum as follows. The abbreviated consolidated plan regulations for insular areas at 24 CFR 570.440(i) are waived to the extent necessary to impose the same alternative requirements in the April 9, 2020 waiver, so that if an insular area applies for CDBG–CV funds by submitting a substantial amendment to an abbreviated consolidated plan, the following requirements apply. The substantial amendment must include the CDBG–CV allocation as an available resource for the year. The amendment must include the proposed use of all funds and how the funds will be used to prevent, prepare for, and respond to coronavirus. The grantee must submit the substantial amendment to HUD for review in accordance with 24 CFR 91.500, and to receive a CDBG–CV grant, it must submit a SF–424, SF–424D and the certifications at 24 CFR 570.440I.

If CDBG–CV funds are included in a substantial amendment to the most recently submitted annual action plan, existing cooperation agreements between a local government and an urban county governing other CDBG funds in the most recently submitted annual action plan (for purposes of either an urban county or a joint program) will automatically cover CDBG–CV funding as well. These cooperation agreements will continue to apply to the use of CDBG–CV funds for the duration of the CDBG–CV grant.

Applying through a new annual action plan submission. The action plan submission procedures in 24 CFR part 91 (including consultation and a public

hearing) apply to grantees that choose to submit CDBG–CV applications by including CDBG–CV funds in a new annual action plan submission. Content of action plans is described at 24 CFR 91.220 (entitlements), 91.320 (states), and 24 CFR 570.440 (insular areas).

Applying for additional CDBG–CV allocations. The waivers and alternative requirements in the April 9 memorandum apply to all allocations of CDBG–CV funds. HUD encourages grantees to apply for additional allocations of CDBG–CV funds as they are announced by submitting substantial amendments to their most recent annual action plan. Grantees are advised that an application for an additional allocation of CDBG–CV funds should be submitted as a substantial amendment to the annual action plan that describes the first CDBG–CV allocation.

An application submitted as a substantial amendment must include the CDBG–CV allocation as an available resource for the year and include the proposed use of all funds and how the funds will be used to prevent, prepare for, and respond to coronavirus.

HUD strongly encourages grantees to apply for allocations through substantial amendments as they are announced. However, grantees that have not submitted applications for CDBG–CV funds when additional allocations are announced may submit a single application for all allocations as a substantial amendment to the most recent annual action plan, or as part of a new annual action plan.

III.B.4.(b)(ii). Content of CDBG–CV application for States Acting Directly. The waiver and alternative requirement in paragraph III.B.6.(b)(i) permit states to carry out activities directly. Therefore, HUD is granting the following waiver and alternative requirement to amend 24 CFR 91.320(d) and 24 CFR 91.320(k)(1)(i) to the extent necessary to require a state to submit a description of a method of distribution and include a list of the use of all funds for activities it will carry out directly, and how the use of the funds will prevent, prepare for, and respond to coronavirus. A state that has already submitted its application for CDBG–CV funds may amend its annual action plan that describes the use of CDBG–CV funds to modify its description of a method of distribution and include a list of the use of all funds for activities it will carry out directly, and how the use of the funds will prevent, prepare for, and respond to coronavirus.

III.B.4.(b)(iii). Deadline to Apply for Assistance. Under the CARES Act, the deadline is August 16, 2021, for grantees to submit their CDBG–CV action plan

and the annual Action Plan for fiscal year 2019 and 2020 CDBG funds. This deadline supersedes the August 16, 2020 deadline established by 24 CFR 91.15 in accordance with section 116(b) of the HCD Act.

III.B.5. Allowable Costs, Eligible Activities and National Objectives

This section describes modifications to the CDBG program requirements that address allowability of costs that can be charged to CDBG–CV grants.

III.B.5.(a) Use of Funds for CARES Act Purposes

The grantee is required to use all CDBG–CV funds for CDBG-eligible activities that are carried out to prevent, prepare for, and respond to coronavirus. CDBG–CV grants cannot be used for any other purpose. This requirement is discussed more fully in section III.B.5.(f), which discusses eligible activities.

Additionally, HUD weighed the purpose of the CARES Act to prevent, prepare for, and respond to coronavirus with the intent of Congress expressed in section 101I of the HCD Act (42 U.S.C. 5301I) that CDBG funds not be utilized to reduce substantially the amount of local financial support for community development activities below the level of such support prior to the availability of such assistance. Given the extreme and unexpected downturn in local and national economic conditions, local resources are strained. Jurisdictions must provide new and expanded support with fewer resources. Therefore, HUD has concluded that when CDBG funding is used for purposes of the CARES Act, it is not considered to substantially replace the amount of local financial support previously provided to community development activities.

III.B.5.(b) Reimbursements

The CARES Act provides that CDBG–CV funds may be used to cover or reimburse allowable costs of activities to prevent, prepare for, and respond to coronavirus incurred by a state or locality regardless of the date on which such costs were incurred. This authority is broader than the authority to reimburse costs with other CDBG funds.

The term “locality” is not defined by the CARES Act, the HCD Act, or the CDBG program regulations. For purposes of CDBG–CV grants, a “locality” shall mean units of general local government, as defined in section 102 of the HCD Act.

The CARES Act also requires that all costs reimbursed with CDBG–CV funds be allowable costs, meaning they comply with all grant requirements.

Therefore, HUD is adopting the following waivers and alternative requirements to 24 CFR 570.200(h) and 570.489(b) to facilitate the use of CDBG–CV funds to reimburse allowable costs by modifying current regulations that are inconsistent with CARES Act reimbursement authority and imposing safeguards to help ensure the allowability of all costs charged to the CDBG–CV grant:

Grantees shall not reimburse costs incurred before January 21, 2020, without written approval from HUD's Office of Block Grant Assistance (OBGA), by emailing the contact person listed at the beginning of this notice. HUD is imposing a presumption that costs of activities undertaken before January 21, 2020, the date the CDC confirmed the first case of coronavirus in the United States in the State of Washington,¹ are highly unlikely to be eligible for reimbursement because they likely are not costs to prevent, prepare for, and respond to coronavirus. The need to pay for coronavirus-related costs incurred after this date far exceeds the amount of CDBG–CV funds available. HUD cautions that it will only consider granting written approval in extraordinary cases where the clear link to the purposes of the CARES Act is documented by substantial evidence provided to HUD by the grantee. Inquiries related to this requirement can be submitted to the contact identified above for this notice.

HUD is waiving the requirements of 570.200(h) and 570.489(b) to the extent necessary to authorize a grantee to permit reimbursement of pre-application costs of subrecipients, units of general local government, and itself, in addition to pre-agreement and pre-award costs. However, an environmental review must be performed and a release of funds must be obtained in accordance with 24 CFR part 58 prior to committing CDBG–CV funds to reimburse such costs. After the grantee signs a CDBG–CV agreement it may reimburse a unit of general local government or subrecipient for costs incurred before the unit of general local government or subrecipient applies to the grantee for assistance.

For grantees subject to the entitlement CDBG regulation at 24 CFR 570.200(h), the following waivers and alternative requirements apply: In lieu of the effective date described at 570.200(h), the grantee shall use the date in box 4 of form HUD–7082, Funding Approval/Agreement. HUD is waiving the

requirement at 570.200(h)(1)(i) and (ii) that the activity for which costs are incurred must be included in a consolidated plan action plan or amended consolidated plan action plan before incurring the costs. Instead, the activity for which costs were incurred must be included in the grantee's CDBG–CV application before CDBG–CV funds are used to reimburse those costs. Or, if the use of CDBG–CV funds for reimbursements is not included in the CDBG–CV application, this use may be included in a subsequent amendment to the annual action plan that describes the use of the CDBG–CV funds (following the grantee's citizen participation plan procedures for amendments). To facilitate the use of funds provided under a one-time grant rather than an annual appropriation, HUD is waiving the time limitation and the monetary limitation on reimbursements in 570.200(h)(1)(v) and (vi) and related provisions at 570.200(h)(2). HUD is not waiving the requirement at 570.200(h)(1)(iii) to comply with the environmental review procedures stated in 24 CFR part 58.

All grantees may authorize subrecipients to incur pre-award costs in accordance with pre-agreement cost authority under 24 CFR 570.489(b) (states) and pre-award cost authority under 24 CFR 570.200(h) (entitlements), as modified above. Consistent with the waiver and alternative requirement in paragraph III.B.6.(b)(i) that authorizes states to act directly, the provisions of 24 CFR 570.489(b) are waived to the extent necessary to authorize a state to charge to the grant pre-agreement costs of its subrecipients in addition to the pre-agreement costs of units of general local government, in accordance with procedures established by the state and subject to the requirements that apply to pre-agreement costs of units of general local government in 24 CFR 570.489(b), and the requirements that apply to the use of CDBG–CV funds.

While provisions of 24 CFR 570.489(b) requiring compliance with 24 CFR part 58 do not apply prior to an application for CDBG–CV funds, a unit of general local government or state must document compliance with the environmental review requirements at 24 CFR part 58 following the application to the state or unit of general local government for funding and prior to reimbursement of pre-application costs, per 24 CFR 570.200(h)(1)(iii) and 24 CFR 570.489(b). If a grantee cannot meet all requirements at 24 CFR part 58 and cannot demonstrate there was no environmental harm committed, the pre-application costs cannot be

reimbursed with CDBG–CV or other HUD funds.

III.B.5.(c) Terms and Conditions Made Applicable by the CARES Act

The CARES Act subjects CDBG–CV funds to the authorities and conditions applicable to annual CDBG grants for fiscal year 2020. Therefore, the following requirements apply to CDBG–CV grants:

III.B.5.(c)(i). Limitations on Use of Funds for Eminent Domain. The grantee shall ensure that no CDBG–CV funds are used to support any Federal, state, or local projects that seek to use the power of eminent domain, unless eminent domain is employed only for a public use. For the purposes of this requirement, public use shall not be construed to include economic development that primarily benefits private entities. Any use of funds for mass transit, railroad, airport, seaport or highway projects as well as utility projects which benefit or serve the general public (including energy-related, communication-related, water-related and wastewater-related infrastructure), other structures designated for use by the general public or which have other common-carrier or public-utility functions that serve the general public and are subject to regulation and oversight by the government, and projects for the removal of an immediate threat to public health and safety or brownfield as defined in the Small Business Liability Relief and Brownfields Revitalization Act (Pub. L. 107–118) shall be considered a public use for purposes of eminent domain.

III.B.5.(c)(ii). Prohibition on Certain Funds Transfers. The Grantee or unit of general local government that directly or indirectly receives CDBG–CV funds may not sell, trade, or otherwise transfer all or any such portion of such funds to another such entity in exchange for any other funds, credits or non-Federal considerations, but must use such funds for activities eligible under title I of the HCD Act or permitted by waiver and alternative requirements that apply to the use of CDBG–CV funds.

III.B.5.(c)(iii). E.O. 12372—Special Contract Condition. Notwithstanding any other provision governing CDBG–CV funds, no funds may be obligated or expended for the planning or construction of water or sewer facilities until receipt of written notification from HUD of the release of funds on completion of the review procedures required under Executive Order (E.O.) 12372, Intergovernmental Review of Federal Programs, and HUD's implementing regulations at 24 CFR part

¹ See CDC Press Release at: <https://www.cdc.gov/media/releases/2020/p0121-novel-coronavirus-travel-case.html>.

52. The recipient shall also complete the review procedures required under E.O. 12372 and 24 CFR part 52 and receive written notification from HUD of the release of funds before obligating or expending any funds for any new or revised activity for the planning or construction of water or sewer facilities not previously reviewed under E.O. 12372 and implementing regulations.

III.B.5.(c)(iv). Mandatory Evaluation of Special Economic Development Activities. CDBG–CV funds may not be provided to a for-profit entity pursuant to section 105(a)(17) of the Act unless such activity or project has been evaluated and selected in accordance with Appendix A to 24 CFR 570—“Guidelines and Objectives for Evaluating Project Costs and Financial Requirements.” Given the likelihood that CDBG–CV funds will be used to assist businesses needing working capital financing for everyday operations, such as payroll costs, HUD intends to provide advice or technical assistance on the application of the guidelines and objectives set forth in Appendix A to such assistance. HUD will consider providing advice or technical assistance in recognition of the differences in underwriting assistance for the wide range of economic development projects permitted under section 105(a)(17) (as implemented at 24 CFR 570.203(b)).

III.B.5.(d) National Objectives

III.B.5.(d)(i) Use of Urgent Need National Objective. HUD has received questions regarding the records necessary to document that a grantee’s activities to prevent, prepare for, and respond to coronavirus satisfy the urgent need national objective. To meet the urgent need national objective criteria at 24 CFR 570.208I (entitlements) and 570.483(d) (states), a grantee (or in the case of the State CDBG program, a unit of general local government or a state, if the state is carrying out activities directly as authorized by section III.B.6.(b)(i)) must certify that: (1) The activity is designed to alleviate existing conditions; (2) those existing conditions pose a serious and immediate threat to the health or welfare of the community and are of recent origin or recently became urgent; and (3) that the grantee, state, or unit of general local government is unable to finance the activity on its own, and that other sources of funds are not available. The State CDBG regulation at 24 CFR 570.483(d) requires the state’s determination of these elements in addition to the unit of general local government’s certification.

Entitlement grantees must maintain records required by 24 CFR 570.506(b)(12) to document: (1) The nature and degree of seriousness of the condition requiring assistance and the timing of its development; (2) evidence that the recipient certified that the CDBG activity was designed to address the urgent need; and (3) evidence confirming that other financial resources to alleviate the need were not available. The State CDBG recordkeeping requirements at 24 CFR 570.490 require states and state recipients to maintain records to demonstrate compliance with the urgent need criteria.

The following information provides guidance on how a grantee may satisfy existing recordkeeping requirements for the urgent need national objective criteria in addition to a grantee’s or unit of general local government’s certification and a state’s determination (or state’s certification, if the state is acting directly):

Criteria 1: Is the activity designed to alleviate existing conditions? For CDBG–CV grants, the records the grantee maintains to demonstrate that the activity was designed to alleviate existing conditions can be the same records used to show that grant funds were used to prevent, prepare for, and respond to coronavirus, as required by the CARES Act.

Criteria 2: Does the condition pose a serious and immediate threat to the health or welfare of the community that is of recent origin or that recently became urgent? In light of the severity of coronavirus and the urgency of the nation in addressing its impacts, pursuant to 24 CFR 570.208I (entitlements) or 24 CFR 570.483(d) (states), a grantee may certify that the activity is designed to alleviate existing conditions which pose a serious and immediate threat to the health or welfare of the community within 18 months following a date determined by one of the following three methods:

- Referral to a U.S. Department of Health and Human Services issued press release declaring a public health emergency for the entire United States found at <https://www.hhs.gov/about/news/2020/01/31/secretary-azar-declares-public-health-emergency-us-2019-novel-coronavirus.html>. The declaration was retroactive to January 27, 2020;
- Referral to the President’s declaration of the ongoing Coronavirus Disease 2019 (COVID–19) pandemic as an emergency of sufficient severity and magnitude to warrant an emergency declaration for all states, tribes, territories, and the District of Columbia

pursuant to section 501(b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5207 (the “Stafford Act”). (The President subsequently approved additional major disaster declarations for states); or

- Referral to the effective date of a grantee’s own local or state emergency declaration.

Criteria 3: Is the grantee or unit of general local government unable to finance the activity on its own, and are other sources of funds not available to carry out the activity? The extreme needs of local governments resulting from coronavirus in the United States outweigh available resources, despite the extraordinary level of assistance provided to states and units of general local government under the CARES Act. Therefore, documentation that the activity will prevent, prepare for, and respond to the coronavirus may be used to demonstrate that a grantee or unit of general local government is unable to finance the activity on its own.

All CDBG–CV grantees are required to establish and maintain adequate procedures to prevent any duplication of benefits for assisted activities (as discussed in section III.B.9. of this notice). To demonstrate that no financial assistance has been received or is available to pay costs charged to a CDBG–CV grant, a grantee may demonstrate that no other funds are available for an activity by maintaining records of compliance with mandatory duplication of benefits requirements described in section III.B.9.

All grantees are reminded to consider how the use of the urgent need national objective will affect their compliance with the CDBG “overall benefit” requirements discussed in paragraph III.B.5.(d)(iv).

III.B.5.(d)(ii) Modification of Location-Based Presumption of LMI Benefit for Job Creation and Retention National Objective Criteria. To facilitate the use of funds for economic development, HUD is removing the higher poverty rate required in some cases for central business districts, which is not required by statute. HUD is instituting an alternative requirement to modify the regulations at 24 CFR 570.208(a)(4)(v) (entitlement) and 24 CFR 570.483(b)(4)(v) (state) by deleting the criteria at 24 CFR 570.208(a)(4)(v)(B) (entitlement) and 24 CFR 570.483(b)(4)(v)(B) (state). Under this alternative requirement, for purposes of the LMI job creation/retention national objective at 24 CFR 570.208(a)(4) and 24 CFR 570.483(b)(4), a census tract qualifies for the presumptions under the criteria established in regulations at 24

CFR 570.208(a)(4)(v) and 24 CFR 570.483(b)(4)(v) if the poverty rate is at least 20 percent and if it evidences pervasive poverty and general distress using the criteria described in 24 CFR 570.208(a)(4)(v)(C) (entitlement) and 24 CFR 570.483(b)(4)(v)(C) (states).

This alternative requirement eliminates a requirement that census tracts that contain at least a portion of a central business district must have a poverty rate of at least 30 percent before residents and businesses in the tract are entitled to a presumption of low- and moderate-income (LMI) benefit. HUD has determined that eliminating the 30 percent requirement for tracts that contain central business districts will standardize the required poverty rate to meet the presumption regardless of where the persons or the business is located, which facilitates the use of grant funds to assist desperate businesses. Central business districts are hubs that contain many coronavirus-affected businesses and facilitating assistance to businesses that seek to retain jobs is consistent with the purposes of the CARES Act. Standardizing the poverty rate for the LMI benefit presumption may help to avoid wholesale collapse of central business districts at a when many businesses have closed or at risk of closing due to insufficient revenues.

III.B.5.(d)(iii) LMI Job Creation and Retention Records. HUD is establishing the following waiver and alternative requirement to facilitate and expedite assistance to coronavirus-affected businesses by streamlining national objective criteria and recordkeeping requirements for activities that benefit LMI persons by retaining or creating jobs. The normal job creation and retention recordkeeping requirements consider family income when determining whether a beneficiary is a person of low or moderate income, but these requirements are likely to be burdensome during a time when unemployment has surged and family income is more difficult to document. Collection of income information directly from assisted businesses can streamline assistance. Therefore, notwithstanding that the definitions of low-income person and moderate-income person in 24 CFR 570.3 are based on family income, for purposes of meeting the national objective criteria for job creation or retention at 24 CFR 570.208(a)(4) and 24 CFR 570.483(b)(4), HUD is imposing the following waiver and alternative requirement: Grantees and employers may consider individuals that apply for or hold jobs to be members of one-person families for activities that prevent, prepare for,

and respond to coronavirus. HUD is also modifying related recordkeeping requirements at 24 CFR 570.506(b)(7) (entitlement) and the jointly agreed upon requirements referenced in 24 CFR 570.490 (state) by adding the following additional presumption: The recipient may substitute records showing the type of job and the annual wages or salary of the job in lieu of maintaining records showing the person's family size and income to demonstrate that the person who filled or held/retained the job was a low- or moderate-income person, when required by paragraph 24 CFR 570.506(b)(5)(i)(B), (b)(5)(ii)(C), (b)(6)(iii) or (b)(6)(v) (entitlement) or the requirements referenced in 24 CFR 570.490 (state). HUD will consider the person income-qualified if the annual wages or salary of the job is equal to or less than the Section 8 low-income limit established by HUD for a one-person family. Under this alternative requirement, a grantee will have substantially reduced documentation requirements because they will be working with assisted businesses rather than each person, and potentially their households, who received a job.

III.B.5.(d)(iv) Overall Benefit to LMI Persons. HUD is establishing an alternative requirement to modify the calculation of overall LMI benefit, so that compliance with the requirement is separated from the annual formula CDBG program calculation of overall benefit. Overall LMI benefit for CDBG-CV grants will be calculated based on the percentage of the CDBG-CV grant that benefits LMI persons. This alternative requirement is consistent with the idea that one-time, supplemental funding should not skew the calculation of overall benefit for use of annual formula CDBG grants and guaranteed loan funds. This modification expedites and facilitates the use of funds in part by enabling grantees to best plan which activities will benefit LMI persons.

Section 1011 of the HCD Act (42 U.S.C. 5301I) establishes the primary objective of the HCD Act: the "development of viable urban communities, by providing decent housing and a suitable living environment and expanding economic opportunities, principally for persons of low and moderate income." CDBG-CV grants are subject to the requirement that 70 percent of funds are for activities that benefit LMI persons. The requirements at 42 U.S.C. 5301I, 42 U.S.C. 5304(b)(3)(A), 24 CFR 570.200(a)(3) (entitlements and nonentitlement counties in Hawaii), 24 CFR 570.420(d)(2)-(3) (insular areas), and 24 CFR 570.484 (states) shall

remain in place to the extent that they require the grantee to ensure that 70 percent of its CDBG-CV grant be expended for activities that benefit LMI persons. As an alternative requirement, however, HUD is requiring that grantees must demonstrate compliance with the overall benefit requirement separately for a grantee's total CDBG-CV grant allocation and not in combination with annual formula CDBG funding or commitments under the Section 108 Loan Guarantee program.

Under this alternative requirement, there is no option for grantees to select the timeframe for compliance. HUD previously instructed grantees to submit certifications required by 24 CFR 91.225 (entitlements) or 24 CFR 91.325 (states). The regulations at 24 CFR 91.225(b)(4)(ii) and 24 CFR 91.325(b)(4)(ii) require grantees to certify that the aggregate use of CDBG funds will comply with the overall benefit requirement during a period specified by the jurisdiction, consisting of one, two, or three specific consecutive program years. Under this alternative requirement, grantees are not required to carry out the grant consistent with the mandatory overall benefit certification because HUD has changed the requirement related to overall benefit.

III.B.5.(e) Public Benefit

III.B.5.(e)(i) Elimination of Aggregate Public Benefit Test. HUD is waiving the standard for aggregate public benefit that applies to economic development activities described in 24 CFR 570.209(b)(1)-(2) (entitlement) and in 24 CFR 570.482(f)(2)-(3) (state). The public benefit standards were designed to require that economic development activities, in the aggregate, provide an appropriate amount of public benefit based on the amount of CDBG funds used. Given the clear benefit derived from addressing economic disruptions due to coronavirus, CDBG-CV grantees can adequately demonstrate public benefit based on the individual public benefit standards, as modified by waivers and alternative requirements in section III.B.5.(e)(ii).

Therefore, to facilitate and expedite the use of CDBG-CV funds for coronavirus-related economic development activities, HUD is waiving the aggregate public benefit standards at 24 CFR 570.209(b)(1)-(2) (entitlement) and 24 CFR 570.482(f)(2)-(3) (state). In granting this waiver, HUD notes that based on the growing number of urgent requests for economic development assistance, particularly from small business, grantees are likely to have difficulty determining the appropriate

amount of CDBG assistance, in the aggregate, for their current and next program years.

III.B.5.(e)(ii) Modification of Individual Public Benefit Standards. To facilitate the use of grant funds by providing greater leeway to grantees to identify the most advantageous means of providing economic development assistance, HUD is modifying the individual public benefit standards. HUD is imposing a waiver and alternative requirement to establish an alternative means by which grantees can demonstrate public benefit from the use of CDBG–CV funds for individual special economic development activities.

Certain economic development activities described in 24 CFR 570.209 (entitlement) and in 24 CFR 570.482(f)(1) (state) are subject to individual public benefit standards at 24 CFR 570.209(b)(3) (entitlement) and 24 CFR 570.482(f)(4) (state). Grantees must satisfy these public benefit standards to show that the amount of CDBG funds used for individual economic development activities is appropriate relative to the benefit to the public from those activities.

HUD is waiving the individual standards at 24 CFR 570.209(b)(3) and 24 CFR 570.482(f)(4) and imposing the following alternative requirement. For activities subject to the public benefit standards, grantees must document that: (a) The activity will create or retain at least one full-time equivalent, permanent job per \$85,000 of CDBG funds used; (b) the activity will provide goods or services to residents of an area such that the number of LMI persons residing in the area served by the assisted businesses amounts to at least one LMI person per \$1,700 of CDBG funds used; or (c) the assistance was provided due to business disruption related to coronavirus (in which case, no monetary standard applies because HUD has determined that there is sufficient public benefit derived from the provision of assistance to stabilize or sustain businesses in the grantee's jurisdiction that suffer disruption due to coronavirus, and that facilitation of business assistance for this purpose may help to avoid complete economic collapse within the grantee's jurisdiction). This alternative requirement does not modify the requirements related to eligible activities and national objectives criteria.

III.B.5.(f) Eligible Activities

Grantees may use CDBG–CV funds only for those activities carried out to prevent, prepare for, and respond to

coronavirus. By law, use of funds for any other purpose is unallowable. To satisfy these purposes, grantees may assist activities that respond to direct effects, such as the need to rehabilitate a building to add isolation rooms for recovering coronavirus patients. A grantee may also undertake activities to address indirect effects of the virus, such as the economic and housing market disruptions caused by social distancing measures and stay at home orders implemented to prevent the spread of coronavirus.

Some activities clearly tie back to the purposes of the CARES Act, such as public services, economic development and microenterprise assistance, public facilities, and the rehabilitation of private buildings to provide housing. However, HUD is not prohibiting grantees from carrying out any particular CDBG eligible activity described in the HCD Act and the part 570 regulations, because other CDBG eligible activities, such as acquisition, can justifiably be used to fulfill the CARES Act purposes depending upon the circumstances.

To remain consistent with the structure of a block grant program and the flexibility of CDBG to provide multiple avenues to achieve the purposes of the CARES Act, HUD is implementing the limitation that funds be used for the coronavirus-related purposes of the CARES Act by requiring grantees to document the use of funds to prevent, prepare for, and respond to coronavirus, rather than by expressly prohibiting grantees from undertaking any of the eligible activities described in the HCD Act. HUD cautions grantees that the recordkeeping requirements of this notice require clear documentation that all uses of funds satisfy the statutory purposes of the CARES Act.

The current needs to prevent, prepare for, and respond to coronavirus may require use of CDBG–CV funds for uncommon activities. HUD is preparing a series of technical assistance products that describe opportunities to quickly deploy CDBG–CV funds to address immediate needs. As this technical assistance is developed, it will be posted on the CDBG–CV page on the https://www.hud.gov/program_offices/comm_planning/cdbg_programs_covid-19.

When identifying eligible activities to be carried out with CDBG–CV funds, grantees can reduce the potential for duplication of benefits by designing activities that address needs not covered by other sources of financial assistance. More information on requirements to prevent the duplication of benefits is described in section III.B.9.

III.B.5.(f)(i) Extension of Emergency Payments. HUD is providing an alternative requirement to extend the period that grantees can make emergency grant payments on behalf of individuals and families. Normally, CDBG funds may not be used for income payments, which are not included among eligible activities in section 105(a) of the HCD Act for states, and which are expressly prohibited by 24 CFR 570.207(b)(4) in the Entitlement CDBG regulations. The phrase *income payments* means a series of subsistence-type grant payments made to an individual or family for items such as food, clothing, housing (rent or mortgage) or utilities, but excludes *emergency payments* made over a period of up to three consecutive months to the provider of such items or services on behalf of an individual or family.

Coronavirus has had a massive impact on families' ability to work for pay, make rent or mortgage payments, access or pay for food, clothing, and basic utilities, and access many other essential items and services. To help individuals and families address these challenges, HUD is waiving section 105(a)(8) of the HCD Act and 24 CFR 570.207(b)(4) only to the extent necessary to establish the following alternative requirement: CDBG–CV funds may be used to provide emergency payments for individuals or families impacted by coronavirus for items such as food, clothing, housing (emergency rental assistance or mortgage assistance) or utilities for up to six consecutive months.

Emergency payments must be made to the provider of such items or services on behalf of an individual or family, and not directly to an individual or family in the form of income payments, debit cards, or similar direct income payments. CDBG–CV grantees must ensure that proper documentation is maintained to ensure that all costs incurred are eligible. Grantees using this alternative requirement must document, in their policies and procedures, how they will determine the amount of assistance to be provided is necessary and reasonable.

III.B.5.(f)(ii) Opportunity Zones and Related Flexibilities for Economic Development. To facilitate and expedite the use of grant funds for economic development during this time of extraordinary need, HUD is clarifying the existing requirements and adopting an alternative requirement that expands economic development activities that can be carried out with CDBG–CV funds. HUD is adopting this alternative requirement because the entitlement

regulations at 24 CFR 570.203(b) describe some financing mechanisms for economic development, but do not provide an exhaustive list of the forms of support grantees can provide to private, for-profit businesses and to nonprofits for special economic development activities. Many economic development activities are carried out in conjunction with other forms of assistance and Federal tax-based programs that help provide additional sources of financing for economic development, particularly in LMI areas. HUD wants to facilitate the ability for grantees to use CDBG–CV funds to fill financing gaps that cannot be met by other sources and quickly launch critical economic development projects, particularly in Opportunity Zones and other target areas, without taking the time to seek additional clarification from HUD on activity eligibility for individual projects.

First, this notice clarifies an existing requirement of economic development activities that grantees may carry out pursuant to 24 CFR 570.203(b) (entitlement) or section 105(a)(17) of the HCD Act (state). Grantees may provide assistance to an economic development project through a for-profit entity that passes the funds through a financing mechanism (e.g., Qualified Opportunity Funds and New Markets Tax Credit (NMTC) investment vehicles). The regulations at 24 CFR 570.203(b) already list forms of support by which grantees can provide assistance to private, for-profit businesses where the assistance is appropriate to carry out an economic development project. HUD has previously interpreted this provision to allow for CDBG assistance to NMTC investment vehicles. This clarification makes clear that such assistance through any financing mechanism (which is not limited to NMTC investment vehicles) is eligible under 24 CFR 570.203(b). The regulation also does not apply to states, but states may consider 24 CFR 570.203(b), as clarified by the following alternative requirement, as guidance in the same way that they may consider other Entitlement CDBG regulations.

HUD is not waiving 24 CFR 570.203(b) (entitlement) or section 105(a)(17) (state), and other statutory and regulatory requirements remain in place.

Second, this notice establishes an alternative requirement that expands the authority in section 105(a)(15) of the HCD Act and 24 CFR 570.204 to permit grantees subject to entitlement CDBG regulations to assist nonprofit organizations serving the development needs of their jurisdiction by carrying out community economic development

projects through a financing mechanism. The nonprofit may pass assistance through a financing mechanism to another entity based on the language in section 105(a)(15) of the HCD Act. Grantees subject to entitlement regulations must document that the assisted nonprofit is serving the development needs of the jurisdiction and that the assistance is used for a community economic development project that is necessary to prevent, prepare for, and respond to coronavirus.

III.B.5.(f)(iii) Public Services Cap. The CARES Act provides that notwithstanding section 105(a)(8) of the HCD Act (42 U.S.C. 5305(a)(8)), there shall be no per centum limitation for the use of funds for public services activities to prevent, prepare for, and respond to coronavirus. The CARES Act provides this flexibility for all CDBG–CV funds and CDBG funds appropriated in fiscal years 2019 and 2020 to the extent that grantees use these funds to carry out public service activities to prevent, prepare for, and respond to coronavirus.

Following enactment of the CARES Act, the public services cap described in section 105(a)(8) of the HCD Act and 24 CFR 570.201I has no effect on CDBG–CV grants. Program income generated by the use of CDBG–CV funds is given special treatment, as discussed in III.B.6.(a). Therefore, notwithstanding the provisions of section 105(a)(8) of the HCD Act, program income is not a consideration for purposes of determining the amount of CDBG–CV funds that can be expended on public services. The calculation of the public services cap for fiscal year 2020 and 2019 annual formula CDBG grants is discussed in section IV.B.4.(a).

III.B.5.(f)(iv) Other Public Services Considerations. HUD reminds grantees to comply with other requirements in section 105(a)(8) of the HCD Act, and for grantees subject to entitlement CDBG regulations, 24 CFR 570.201I. Namely, CDBG–CV funds may only be used for those public service activities that are new or that represent a quantifiable increase above the level of an existing service that has been provided by or on behalf of the unit of general local government (through funds raised by the unit or received by the unit from the state in which it is located) in the 12 calendar months before the submission of the action plan, unless the Secretary finds that the discontinuation of such services was the result of events not within the control of the unit of general local government.

Additionally, grantees are reminded that the purchase of personal property and equipment is generally ineligible.

However, the entitlement CDBG regulation at 24 CFR 570.207(b)(1) (which may be used as guidance by state grantees), allows grantees to purchase or to pay depreciation in accordance with 2 CFR part 200, subpart E, for personal property, fixtures, and equipment when necessary when such items constitute all or part of a public service. Examples of use of equipment that constitute all or part of a public service include equipment and supplies owned by the grantee or subrecipient that provides the public service, e.g., ventilators or other medical equipment and supplies that will be used in providing health care at a field clinic, or a vehicle outfitted with medical equipment to provide mobile health care.

III.B.5.(f)(v) Clarification on Application of Requirements in 2 CFR part 200. In response to the coronavirus pandemic, the Office of Management and Budget (OMB) released two memoranda that allow Federal agencies to grant exceptions to some requirements under 2 CFR part 200, the *Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards*. HUD reminds grantees that the flexibilities in these memoranda do not automatically apply to grantees. HUD has not approved class exceptions to 2 CFR part 200 for CDBG–CV grants or CDBG grants, so the requirements in 2 CFR part 200 continue to apply.

The OMB memoranda were for limited purposes and were not intended to cover all grantees and activities. The March 9, 2020 memorandum, M–20–11, *Administrative Relief for Recipients and Applicants of Federal Financial Assistance Directly Impacted by the Novel Coronavirus (COVID–19)* (available at <https://www.whitehouse.gov/wp-content/uploads/2020/03/M-20-11.pdf>), allows Federal agencies to grant class exceptions in instances where the agency has determined that the purpose of the Federal awards is to support the continued research and services necessary to carry out the emergency response related to COVID–19. The March 19, 2020 memorandum, M–20–17, *Administrative Relief for Recipients and Applicants of Federal Financial Assistance Directly Impacted by the Novel Coronavirus (COVID–19) due to Loss of Operations* (available at <https://www.whitehouse.gov/wp-content/uploads/2020/03/M-20-17.pdf>) allows HUD to make class exceptions for an expanded scope of recipients affected by the loss of operational capacity and increased costs due to the COVID–19 crisis. OMB indicated that it would

reassess the authority granted by these memoranda within 90 days.

III.B.6. Other Program Requirements

III.B.6.(a) Program Income

To expedite use of grant funds, HUD is clarifying the requirements for CDBG–CV grants on the treatment of program income at 24 CFR 570.504 (entitlement) and 24 CFR 570.489I–(f) (state) that is generated by the use of CDBG–CV funds. The receipt and expenditure of program income that is generated by the use of CDBG–CV funds shall be treated as annual formula CDBG program income and recorded as part of the financial transactions of the annual formula CDBG grant program. This clarification will facilitate expenditures of CDBG–CV grant funds for their intended purpose, while continuing to maintain appropriate controls on the use of program income.

III.B.6(a)(i) Use of program income before annual formula CDBG grant funds. Any program income generated from the use of CDBG–CV funds will be receipted in HUD's Integrated Disbursement and Information System (IDIS) as program income to the annual formula CDBG grant program.

III.B.6(a)(ii) Inapplicability of float-funded activities. Based on the treatment of income generated from the use of CDBG–CV funds as annual formula CDBG program income, HUD is waiving 24 CFR 570.301(b) and section 104(h) of the HCD Act for CDBG–CV grants. HUD is imposing the following alternative requirement: Grantees shall not use CDBG–CV funds for float-funded activities or guarantees.

III.B.6(a)(iii) Retention of program income by subrecipients. A grantee may permit subrecipients (including units of general local government receiving funds from a state) to retain program income from the use of CDBG–CV funds under this paragraph if the amount held does not exceed the subrecipient's projected cash needs for CDBG activities including activities to prevent, prepare for, and respond to coronavirus.

III.B.6.(b) Rules Applicable to State CDBG–CV Grants

The paragraphs in this section apply only to State CDBG–CV grantees.

III.B.6.(b)(i) Direct Action by States. The waivers and alternative requirements in this section and in sections III.B.6.(b)(ii)–(iv) permit a state grantee to use a portion of its funds to act directly to carry out activities through employees, contractors, and subrecipients in all geographic areas within its jurisdiction, including entitlement areas and tribal populations.

HUD is issuing the waivers and alternative requirements in this section based in part on information in requests from states and in part to implement provisions of the CARES Act that permit grant funds allocated to states to be used in entitlement areas.

HUD has determined that this waiver and alternative requirement will facilitate and expedite the use of CDBG–CV funds by supporting states in their roles as significant coordinators of statewide and regional activities to prevent, prepare for, and respond to coronavirus. Additionally, these waivers and alternative requirements are designed to reduce administrative costs and streamline the delivery of assistance by maintaining a single set of grant requirements for all CDBG–CV allocations.

These waivers and alternative requirements are only available to a state if it complies with the following alternative requirements in this paragraph and in III.B.6.(b)(ii)–(iv):

Nonentitlement set aside: A state must set aside a portion of its grant for use by nonentitlement units of general local government. The nonentitlement set aside must be no less than an amount equal to the state's first CDBG–CV allocation and may be from any portion of the state's additional CDBG–CV allocation. This limitation is imposed for consistency with the CDBG–CV formulas, which include a direct allocation to entitlement areas and to states on behalf of nonentitlement areas to prevent, prepare for, and respond to coronavirus. The nonentitlement set aside fulfills the intent reflected by the formula to address needs in urban and rural areas, while giving states the flexibility to determine how to expend each allocation as it is made based on needs within its jurisdiction.

Inclusion in CDBG–CV Application: A state's proposal to act directly and to distribute or use CDBG–CV funds in entitlement areas must be published for public comment in its application for CDBG–CV funds or in a subsequent substantial amendment to the annual action plan that includes the CDBG–CV funds.

Activities carried out in tribal areas: A state grantee may carry out activities in tribal areas. States carrying out projects in tribal areas through employees, contractors, or subrecipients must obtain the consent of the Indian tribe with jurisdiction over the tribal area.

Other conforming changes: Requirements at section 106(d) of the HCD Act (42 U.S.C. 5306(d)) and 24 CFR 570.480(g) are waived to the extent

necessary to allow a state to use its CDBG–CV funds for eligible activities that the state carries out directly. The standard at 24 CFR 570.480I and the provisions at section 104I(2) of the HCD Act (42 U.S.C. 5304I(2)) are modified to also include activities that the state carries out directly. Section 106(d) of the HCD Act is not otherwise waived, except as provided in this notice.

A state may carry out eligible activities directly, consistent with the entitlement program requirement of 24 CFR 570.200(f), through its employees, through procurement contracts, or through assistance provided under agreements with subrecipients. Pursuant to section 102I of the HCD Act, one or more public agencies may be designated by the chief executive officer of a state to undertake activities assisted under this chapter. A state is responsible for ensuring that CDBG–CV funds are used in accordance with all program requirements. The use of interagency agreements, subrecipient agreements (including agreements with Indian tribes and designated public agencies, as described in section III.B.6.(b)(ii)) or contracts does not relieve the state of this responsibility. States are responsible for determining the adequacy of performance under subrecipient agreements and procured contracts, and for taking appropriate action when performance problems arise. State grantees continue to be responsible for civil rights, labor standards, and environmental protection requirements, for compliance with all applicable requirements, including conflict of interest provisions in 24 CFR 570.489(g) and (h).

The national objective criteria in 24 CFR 570.483 are modified by the following alternative requirement when states carry out activities directly: The state must fulfill all requirements that 570.483 imposes on units of general local government to demonstrate compliance with national objective criteria.

The recordkeeping requirements at 24 CFR 570.490(b) are waived when states carry out activities directly, and the following alternative requirement shall apply: The state shall establish and maintain such records as may be necessary to facilitate review and audit by HUD of the state's administration of CDBG–CV funds, under 24 CFR 570.493. Consistent with applicable statutes, regulations, waivers and alternative requirements, and other Federal requirements, the content of records maintained by the state shall be sufficient to: (1) Enable HUD to make the applicable determinations described at 24 CFR 570.493; (2) make compliance

determinations for activities carried out directly; and (3) show how activities funded are consistent with the descriptions of activities proposed for funding in the CDBG–CV application. For fair housing and equal opportunity (FHEO) purposes, as applicable, such records shall include data on the race, ethnicity, and sex of persons who are applicants for, participants in, or beneficiaries of the activity.

The change of use of real property rule at 24 CFR 570.489(j) is modified to include instances when a state carries out activities directly. All references to “unit of general local government” shall be read as “state, unit of general local government (UGLG) or state subrecipient.”

To include instances when a state carries out activities directly, 24 CFR 570.492 is waived and the following alternative requirement applies: The state shall make reviews and audits, including on-site reviews of any subrecipients and local governments, as may be necessary or appropriate to meet the requirements of section 104I(2) of the HCD Act, as amended. In the case of noncompliance with these requirements, the state shall take such actions as may be appropriate to prevent a continuance of the deficiency, mitigate any adverse effects or consequences, and prevent a recurrence. The state shall establish remedies for noncompliance by any subrecipients or local governments.

To include instances when a state carries out activities directly in accordance with the waiver in this paragraph, 24 CFR 570.489(g) is modified to revise the requirement that “[t]he state shall establish requirements for procurement policies and procedures for units of general local government” so that it applies to “units of general local government and subrecipients.” To facilitate grant administration by adopting state-wide procurement policies, a state agency designated to oversee the use of all its CDBG–CV funds pursuant to section 102I of the HCD Act may impose its procurement requirements on all uses of CDBG–CV funds by the state, including by other state agencies that administer a portion of the CDBG–CV grants, so long as those requirements comply with 24 CFR 570.489(g).

III.B.6.(b)(ii) Use of Subrecipients by States (Including Nonprofits and Tribes). HUD is adopting the following alternative requirement that shall apply when states carry out activities directly: States carrying out activities through subrecipients must comply with 24 CFR 570.489(m) relating to monitoring and management of subrecipients. The

definition of subrecipient at 24 CFR 570.500(c) applies when states carry out activities through subrecipients, and the requirements of 24 CFR 570.489(g) (as modified by section III.B.6.(b)(i)) shall apply.

For purposes of this alternative requirement, the definition of subrecipients at 24 CFR 570.500I is modified to expressly include Indian tribes. Indian tribes that receive CDBG–CV funding from a state grantee must comply with the Indian Civil Rights Act (Title II of the Civil Rights Act of 1968, 25 U.S.C. 1301 *et seq.*). This conforming requirement is necessary because the state CDBG regulations do not anticipate states distributing funds through means other than a method of distribution to units of general local government.

III.B.6.(b)(iii) Activities Carried Out by States in Entitlement Areas. The provisions of 24 CFR 570.486(c) are waived to the extent that they allow States, either directly or through units of general local government, to use CDBG–CV funding for activities located in entitlement areas without contribution from the entitlement jurisdiction, consistent with the waiver and alternative requirements in sections III.B.6.(b)(i) and (ii). HUD is granting this waiver to facilitate and expedite the use of grant funds for consistency and ease of administration by granting the same geographic flexibilities to all allocations of CDBG–CV funds, since they will be administered under a single grant.

III.B.6.(b)(iv) Use of the “upper quartile” or “exception criteria” for LMI area benefit activities. Section 105(c)(2)(A) of the HCD Act authorizes HUD to permit an exception to the LMI area benefit national objective criteria that are normally satisfied when at least 51 percent of the population of an area are persons of low and moderate income. HUD is clarifying how this “exception criteria” applies when State CDBG–CV grantees carry out activities in entitlement jurisdictions as authorized by section III.B.6.(b)(iii). If the area in which the activity is carried out would benefit from the “exception criteria” that permit a grantee to use a percentage less than 51 percent to qualify activities under the LMI area benefit criteria, those exception criteria apply to the use of CDBG–CV funds by a state the same way that they apply to the use of CDBG funds by the entitlement grantee in the same area. CDBG–CV grantees are required to use the most recent data available in implementing the exception criteria. For more information on the data set, please visit <https://www.hudexchange.info/programs/acs-low-mod-summary-data/>

acs-low-mod-summary-data-exception-grantees/.

III.B.6.(b)(v) Elimination of State Administrative Match. To expedite the use of CDBG–CV funds, HUD is waiving the requirement for matching state administrative funds, subject to the requirements of section III.B.6.(b)(vi) below. Requiring states to match administrative funds may considerably slow down the expenditure of CDBG–CV funds in states struggling to accurately project and adjust their budgets given the challenges caused by coronavirus. The requirements at 42 U.S.C. 5306(d)(3)(A) and 24 CFR 570.489(a) are waived to the extent necessary to eliminate the state match requirement for general administrative costs.

III.B.6.(b)(vi) Cap on State Administrative Costs and Technical Assistance. Pursuant to 24 CFR 570.489(a)(3)(iii), a state and its funded units of general local government and subrecipients are, in aggregate, permitted to expend no more than 20 percent of the CDBG–CV grant for planning, management, and administrative costs. Under 42 U.S.C. 5306(d)(5) and (6) and 24 CFR 570.489(a)(1) a state may not directly use more than \$100,000 plus 3 percent of its annual grant for administrative and technical assistance costs combined. HUD is waiving 42 U.S.C. 5306(d)(5) and (6) and 24 CFR 570.489(a)(1) and establishing an alternative requirement that a state may use up to 7 percent of its CDBG–CV grant combined for general administration and technical assistance costs; of that 7 percent, a state may use up to 5 percent of CDBG–CV funds for general administration costs and up to 2 percent of the grant for technical assistance activities. The remainder of the amount may be used by units of general local government for administrative and technical assistance costs, provided that a state and its funded units of general local government and subrecipients expend no more than 20 percent of the CDBG–CV grant for planning, management, and administrative costs. A grantee must meet this alternative requirement over the life of its grant, as amended to incorporate additional allocations of CDBG–CV funds.

CDBG–CV grant funds shall not be used to pay planning and program administrative costs allocable to another grant under the CDBG annual formula program; however, CDBG–CV funds may be used to pay costs that benefit both the CDBG–CV grant and another CDBG award and can be distributed

between the grants in proportions that may be reasonably approximated.

III.B.6.(b)(vii) Procurement. Except as described in section III.B.6. to accommodate states acting directly, this notice does not modify procurement requirements at 24 CFR 570.489(g) for state grantees. As discussed above, the local procurement policies and procedures that apply to the use of annual formula CDBG grant funds may not be nimble enough to accommodate this urgent need to quickly procure goods and services necessary to carry out eligible activities. HUD recommends that CDBG–CV grantees review their existing procurement policies to explore the potential use of state or local waiver authority and emergency procedures that may expedite procurement processes.

Additionally, if the grantee plans to use CDBG–CV grants to carry out eligible activities that satisfy non-Federal cost share requirements under section 105(a)(9) of the HCD Act, the grantee should consider modifying procurement policies to authorize grantees to use procurement policies and procedures of the agencies paying the Federal cost share of the activity, to the extent that those policies and procedures are consistent with the procurement requirements on the use of CDBG–CV funds. Modifying procurement policies to allow the use of procurement requirements imposed by other Federal grants is easier for state grantees, but entitlement grantees that anticipate use of a substantial amount of CDBG–CV funds to satisfy non-Federal cost share may also be able to adopt a similar provision where the other Federal granting agency imposes the procurement requirements in 2 CFR part 200.

III.B.6.(c) Rules for Entitlements, Insular Areas, and Nonentitlement Hawaii Counties

III.B.6.(c)(i) Administrative and Planning Cost Caps. To expedite the use of grant funds, HUD is waiving requirements of 24 CFR 570.200(g) that are inconsistent with the treatment of program income in section III.B.6.(a) and the treatment of CDBG–CV funds as a standalone grant. The following alternative requirement applies to grants subject to subpart D (entitlement grants and grants to the nonentitlement counties of the State of Hawaii): No more than 20 percent of the total CDBG–CV grant shall be expended for planning and program administrative costs, as defined in 24 CFR 570.205 and 24 CFR 570.206, respectively. There is no program year obligation test for planning and administrative costs of

CDBG–CV grants. Additionally, CDBG–CV funds shall not be included in the compliance determination of the program year obligation test applicable to annual formula CDBG funds.

Additionally, program income, regardless of the source funding of the activity that generated the income, shall be included in the compliance determination of the administrative and planning cost cap applicable to annual formula CDBG grants and program income, separately from CDBG–CV funds.

CDBG–CV grant funds shall not be used to pay planning and program administrative costs allocable to another grant under the CDBG annual formula program; however, CDBG–CV funds may be used to pay costs that benefit both the CDBG–CV grant and another CDBG award and can be distributed between the grants in proportions that may be reasonably approximated.

III.B.6.(d) Compliance With Environmental Review Requirements

III.B.6.(d)(i) Overview of Environmental Review Requirements. Environmental regulations at 24 CFR 58.22 prohibit CDBG grantees, a recipient, and any other participant in the development process from committing HUD or non-HUD funds to a project until the environmental compliance review process has been successfully completed or until receipt of the Authority to Use Grant Funds, if applicable. In addition, neither a recipient nor any participant in the development process may commit non-HUD funds on or undertake an activity or project if the activity or project would have an adverse environmental impact or limit the choice of reasonable alternatives. Therefore, it is very important for grantees to begin and complete any required environmental compliance review as soon as possible. Grantees are urged to contact their Field Environmental Officer for more information about environmental review requirements.

III.B.6.(d)(ii) Clarifying note on the process for environmental release of funds when a State carries out activities directly. Usually, a state distributes CDBG funds to local governments and takes on HUD's role in receiving environmental certifications from the grant recipients and approving releases of funds. Under the waiver and alternative requirement in paragraph III.B.6.(b), HUD will allow a State CDBG–CV grantee to carry out activities directly in addition to distributing funds to subrecipients. Thus, per 24 CFR 58.4, when a state carries out activities directly, the state must submit the

Certification and Request for Release of Funds to HUD for approval.

III.B.6.(d)(iii) Clarifying note on emergency environmental review procedures. HUD's environmental review regulations in 24 CFR part 58 include two provisions that may be relevant to environmental review procedures for activities to prevent, prepare for, and respond to coronavirus. The first is 24 CFR 58.34(a)(10), which provides an exemption for certain activities undertaken in response to a national or locally declared public health emergency. Except for the applicable requirements of 24 CFR 58.6, a responsible entity does not have to comply with the requirements of part 58 or undertake any environmental review, consultation or other action under NEPA and the other provisions of law or authorities cited in 24 CFR 58.5 for exempt activities or projects consisting solely of exempt activities. Exempt activities include assistance for temporary or permanent improvements that do not alter environmental conditions and are limited to protection, repair, or restoration activities necessary only to control or arrest the effects from imminent threats to public safety.

The second is a streamlined public notice and comment period in the regulation at 24 CFR 58.33, which may apply in some cases for emergency activities undertaken to prevent, prepare for, and respond to coronavirus. The application of these two provisions following a presidentially-declared or locally-declared public health emergency is discussed in the Notice, *Guidance on conducting environmental review pursuant to 24 Part 58 for activities undertaken in response to the public health emergency as a result of COVID–19* posted at <https://www.hud.gov/sites/dfiles/OCHCO/documents/2020-07cpdn.pdf>.

III.B.6.(e) Compliance With Labor Laws

CDBG–CV grants are subject to the Davis-Bacon prevailing wage requirements imposed by section 110(a) of the HCD Act. HUD cannot waive this or other labor laws. Under regulations of the Department of Labor (DOL) at 29 CFR 1.6(g), where Federal assistance is not approved prior to contract award (or the beginning of construction if there is no contract award), Davis-Bacon wage rates apply retroactively to the beginning of construction and must be incorporated retroactively in the contract specifications. However, if there is no evidence that the owner intended to apply for the CDBG–CV assistance prior to the contract award or the start of the construction, HUD may request that DOL allow prospective,

rather than retroactive, application of the Davis-Bacon wage rates. DOL may allow prospective application of Davis-Bacon requirements where it finds that it is necessary and proper in the public interest to prevent injustice or undue hardship and it finds no intent to apply for the federal assistance before contract award or the start of construction. The CDBG–CV Grantee should contact a HUD Labor Relations Specialist if such a situation arises.

III.B.6.(f) Relationship to Section 108 Loan Guarantees

Under the Section 108 Loan Guarantee Program, CDBG grantees can borrow up to five times their most recent CDBG grant by issuing federally guaranteed notes. To ensure that CDBG–CV funds are used for the purposes authorized by the CARES Act, HUD is issuing the following alternative requirement to sections 108(b) and (c) of the HCD Act (42 U.S.C. 5308(c)): CDBG–CV funds shall not be factored into a grantee's Section 108 borrowing authority.

A grantee may use CDBG–CV funds to make a direct payment of principal, interest, or any fees due under a Section 108 note only if the use of funds is to prevent, prepare for, and respond to coronavirus. The necessity of such use shall be documented by the grantee or the subrecipient that provided the assistance (*e.g.*, if Section 108 funds were used by the grantee to provide assistance to a for-profit business in the form of a loan and the business is unable to make a payment due to the reduction in revenue caused by coronavirus, any restructuring of that loan must be supported by modification to loan documents that document the relationship to coronavirus). When CDBG–CV funds are used to subsidize or replace principal, interest, or fees due under a loan previously made with guaranteed loan funds as part of an activity to assist a for-profit or a subrecipient, and the CDBG–CV assistance is necessary to respond to the impact of coronavirus (*e.g.*, a third-party business borrower whose loan is the intended source for repayment of a Section 108 loan is not collecting sufficient revenue due to local public health conditions), the documentation that the original assisted activity satisfies national objective criteria shall be sufficient to demonstrate that the use of the guaranteed loan funds and the additional CDBG–CV assistance meet a CDBG national objective.

This alternative requirement does not limit the Secretary's authority under section 108I of the HCD Act.

III.B.7. Period of Performance, Timeliness, and Closeout

III.B.7.(a) Period of Performance

CDBG–CV grantees must expend all CDBG–CV funds (including CDBG–CV funds from additional allocations that are obligated by HUD through amendments to the grant agreement) within the 6-year period of performance established by the CDBG–CV grant agreement. HUD is imposing this period of performance to ensure the use of CDBG–CV funds to prevent, prepare for, and respond to coronavirus. The CDBG regulations at 24 CFR 570.200(k) and 24 CFR 570.480(h) permit HUD to establish a period for expenditure and performance in a grant agreement that is shorter than the normal 8-year period. HUD is exercising its authority to establish a 6-year period of performance and expenditure deadline in the CDBG–CV grant agreement. Grant funds are not available for expenditure after the period of performance. In addition, to further ensure the expedited use of the funds, HUD is imposing an alternative requirement that each grantee must expend at least 80 percent of all CDBG–CV funds (including CDBG–CV funds from additional allocations that are obligated by HUD through amendments to the grant agreement) no later than the end of the third year of the period of performance established by the CDBG–CV grant agreement. If this three-year requirement is not met, and evidence meeting the criteria for extension described in section III.B.7.(c) below is not provided, an amount equivalent to the difference between the total amount expended at the end of the third year and 80 percent of all CDBG–CV funds will be recaptured from the CDBG–CV grant.

III.B.7.(b) Timeliness

CDBG–CV grants are available for limited purposes under the CARES Act. They are subject to a shortened period of performance. Under section III.B.6.(a), program income generated by the use of CDBG–CV funds is treated as program income to a grantee's annual formula CDBG program. For these reasons, HUD is waiving to the extent necessary to allow HUD to determine that every grantee has circumstances beyond its reasonable control the timely performance enforcement actions found at 24 CFR 570.902 (entitlement timely expenditure), and 24 CFR 570.494 (state timely distribution). CDBG–CV funds will not be included in determining compliance with the requirements of 24 CFR 570.902 and 570.494. However, as program income to the grantees' annual formula CDBG programs, income

generated from CDBG–CV activities will be included in timely expenditure compliance determinations for each entitlement grantee's annual formula CDBG program. Grantees should consider the potential effects of additional program income to compliance with timeliness requirements applicable to their annual formula CDBG grant program when they select and design CDBG–CV assisted activities.

III.B.7.(c) Closeout

To facilitate the use of grant funds in a timely manner, HUD is waiving the CDBG closeout regulations at 24 CFR 570.509 for grantees subject to entitlement regulations and imposing an alternative requirement that HUD will close out grants in accordance with grant closeout requirements of 2 CFR 200.343. This approach is consistent with the state regulation at 24 CFR 570.489(o). This will help all grantees to expend grant funds within a short timeframe designed to maximize the ability of CDBG–CV funds to prevent, prepare for, and respond to coronavirus. Grantees subject to this alternative requirement must submit all financial, performance, and other reports as required by 24 CFR 91.520.

In general, HUD expects all grantees to comply with all grant requirements and fully close out a grant at the end of the period of performance. However, HUD recognizes that there are many things that could disrupt a grantee's intended timeline for activity completion: Litigation, disasters, limited construction seasons due to weather, or other extenuating circumstances. Therefore, HUD may authorize an extension of the three-year expenditure requirement or the overall period of performance if the grantee provides evidence of such extenuating circumstances that would warrant the extension and that they could demonstrate they would meet all program requirements within the extended expenditure period or period of performance.

HUD may consider, in closing out CDBG–CV grants, any requirements that remain applicable after closeout. These may include authority for HUD to monitor the recipient's compliance and performance after the closeout of the award with respect to requirements that are applicable after closeout, and HUD may take findings of noncompliance into account, with the closeout process, as unsatisfactory performance of the recipient, in the consideration of any future grant made under title I of the HCD Act. Examples of requirements that may survive closeout include: (i)

Closeout costs (e.g., audit costs) and costs resulting from contingent liabilities described in the closeout agreement; (ii) use of real property assisted with CDBG funds in accordance with program regulations; (iii) taking measures that are adequate to enforce and implement mandatory flood insurance coverage requirements; and (iv) other provisions included in the grant closeout agreement.

III.B.8. Reporting

The reporting requirements that apply to the use of annual formula CDBG grants also apply to CDBG–CV grants. Section 104I of the HCD Act requires that the Secretary shall, at least on an annual basis, make such reviews and audits as may be necessary or appropriate to determine whether the grantee has carried out its activities in a timely manner, whether the grantee's activities and certifications are carried out in accordance with the requirements and the primary objectives of the HCD Act and other applicable laws, and whether the grantee has the continuing capacity to carry out those activities in a timely manner.

III.B.8.(a) General Reporting Requirements

Reporting requirements for CDBG–CV grantees can be found at 42 U.S.C. 12708(a), 24 CFR 91.520, 24 CFR 570.507 (entitlement), 24 CFR 570.440(j) (insular areas), and 24 CFR 570.491 (state).

III.B.8.(b) Additional CARES Act Reporting

Section 15011 of the CARES Act requires that recipients of \$150,000 or more of CARES Act funding submit, not later than 10 days after the end of each calendar quarter, a report containing: Information regarding the amount of funds received; the amount of funds obligated or expended for each project or activity; a detailed list of all such projects or activities, including a description of the project or activity; and detailed information on any subcontracts or subgrants awarded by the recipient. As outlined in OMB memorandum M–20–21, *Implementation Guidance for Supplement Funding in Response to the Coronavirus Disease (COVID–19)* (available at <https://www.whitehouse.gov/wp-content/uploads/2020/04/Implementation-Guidance-for-Supplemental-Funding-Provided-in-Response.pdf>), existing reporting requirements are anticipated to meet the requirements of Section 15011, but the content and format for this reporting is still under development

and will need to be reviewed against current program practices. The Department will work in coordination with OMB to ensure that this requirement can be fulfilled by recipients of CARES Act funding in a manner that utilizes to the greatest extent possible existing reporting streams, providing the necessary transparency and accountability with minimal additional burden. If additional reporting is necessary, further advice or technical assistance will be provided by the Department.

III.B.9. Duplication of Benefits

The CARES Act requires HUD to ensure that there are adequate procedures in place to prevent any duplication of benefits as required by section 312 of the Stafford Act, as amended by section 1210 of the Disaster Recovery Reform Act of 2018 (division D of Public Law 115–254; 42 U.S.C. 5121 *et seq.*).

Duplication of benefits occurs when Federal financial assistance is provided to a person or entity through a program to address losses resulting from a Federally-declared emergency or disaster, and the person or entity has received (or would receive, by acting reasonably to obtain available assistance) financial assistance for the same costs from any other source (including insurance), and the total amount received exceeds the total need for those costs.

A grantee is required to develop and maintain adequate procedures to prevent a duplication of benefits that address (individually or collectively) each activity or program. A grantee's policies and procedures are not adequate unless they include, at a minimum: (1) A requirement that any person or entity receiving CDBG–CV assistance (including subrecipients and direct beneficiaries) must agree to repay assistance that is determined to be duplicative; and (2) a method of assessing whether the use of CDBG–CV funds will duplicate financial assistance that is already received or is likely to be received by acting reasonably to evaluate need and the resources available to meet that need.

Most CARES Act assistance programs have more limited durations for availability of assistance or a more limited scope of eligible activities or entities than does CDBG–CV. HUD strongly encourages each CDBG–CV grantee to become familiar with the range of available assistance and uses and apply its more flexible CDBG–CV assistance to unmet needs or to gaps, with special attention to the coronavirus

response, prevention, or preparation needs of LMI persons.

HUD will provide advice and technical assistance to grantees to facilitate compliance with this requirement.

III.B.10 Citizenship Requirements

Please note that the U.S. Department of Homeland Security, U.S. Citizenship and Immigration Services provides that the Immigration Reform and Control Act, 8 U.S.C. 1324a *et seq.* prohibits employers from hiring and employing an individual for employment in the U.S. knowing that the individual is not authorized with respect to such employment. This generally applicable law also applies to CDBG grantees and their subrecipients and/or contractors/subcontractors (including relating to employees recruited under Section 3). For more information, please see <https://www.uscis.gov/i-9-central/form-i-9-resources/handbook-for-employers-m-274/10-why-employers-must-verify-employment-authorization-and-identity-of-new-employees> and <https://www.uscis.gov/i-9-central/legal-requirements-and-enforcement>.

IV. Fiscal Year 2019 and Fiscal Year 2020 CDBG Grants

IV.A. General Requirements

Except as described in this notice or other applicable waivers and alternative requirements, the statutory and regulatory provisions governing the CDBG program apply to fiscal year 2019 and 2020 CDBG grants, including regulations at 24 CFR part 570 subpart I (states), 24 CFR part 570 subparts A, C, D, E, J, K, and O (entitlements), and 24 CFR subpart F (insular areas and Hawaii counties).

IV.B. Flexibilities, Waivers, and Alternative Requirements

The following rules, waivers, and alternative requirements apply to fiscal year 2019 and 2020 CDBG grants. These include statutory authorities included in the CARES Act and other waivers and alternative requirements or clarifications that HUD is making for fiscal year 2019 and 2020 grants.

IV.B.1. Timeliness

Because of the coronavirus many local governments are operating under extenuating circumstances and may need additional time for certain administrative requirements, HUD is suspending for fiscal year 2020 all corrective actions, sanctions, and informal consultations for timeliness effective January 21, 2020. Grantees are advised that this suspension does not eliminate the timely expenditure

requirements set forth in 24 CFR 570.902 (entitlements). HUD will continue to run expenditure reports and will continue to notify grantees of deficiencies.

Based on government restrictions, closures, shelter-in-place orders, and social distancing guidance related to coronavirus, HUD has determined that all entitlement grantees have factors beyond their reasonable control that, to HUD's satisfaction, impact the carrying out of CDBG-assisted activities in a timely manner. As a result, HUD has determined that corrective actions related to timeliness are not appropriate at this time. HUD will monitor changing conditions. Before the end of the fiscal year, HUD will determine whether to extend this suspension for all or a portion of fiscal year 2021. HUD may consider regional and local conditions when determining when to begin scheduling informal consultations.

IV.B.2. Consolidated Plan, Citizen Participation, and CAPER

IV.B.2.(a) Expedited Citizen Participation and Virtual Hearings

Section III.B.4.(a) of section III apply to all fiscal year 2019 and 2020 annual formula CDBG grants, regardless of the use of funds. This section describes the program flexibilities provided by the CARES Act related to Expedited Citizen Participation and Virtual Hearings. Where this section refers to CDBG-CV funds, it shall apply equally to fiscal years 2019 and 2020 CDBG grants.

IV.B.2.(b). Deadline To Submit Consolidated Plans and FY 2020 Annual Action Plans

The deadline for grantees to submit action plans and other updates to their consolidated plans submissions for fiscal years 2019 and 2020 to include CDBG-CV funds is August 16, 2021.

IV.B.2.(c) CAPER Extension

On May 7, 2020, Acting Assistant Secretary John Gibbs issued a memorandum to all Community Planning and Development Field Office Directors, Deputy Directors and Program Managers with the subject "Availability of a Waiver and Alternate Requirement for the Consolidated Annual Performance and Evaluation Report (Performance Report) for Community Planning and Development (CPD) Grant Programs in Response to the Spread of Coronavirus." This memorandum authorized a waiver of the regulatory requirement at 24 CFR 91.520(a) that grantees submit a performance report known as the Consolidated Annual Performance and Evaluation Report (CAPER) within 90 days of the end of

a jurisdiction's program year. The waiver was granted under HUD's regulatory waiver authority at 24 CFR 5.110 and 24 CFR 91.600. Under this memorandum, for program year 2019 CAPERs, the requirement that grantees submit a performance report within 90 days after the close of a jurisdiction's program year is waived, subject to the condition that within 180 days after the close of a jurisdiction's program year the jurisdiction shall submit its performance report.

IV.B.2.(d) Other Consolidated Planning Waivers

HUD is temporarily waiving the requirement for consistency with the consolidated plan (requirements at 42 U.S.C. 12706 and 24 CFR 91.325(a)(5) and 91.225(a)(5)) when fiscal year 2019 and 2020 CDBG funds are used to prevent, prepare for, and respond to coronavirus, because grantees may not have considered the needs associated with this special purpose funding when developing their current consolidated plan strategic plan and needs assessment. In conjunction, HUD is temporarily waiving 42 U.S.C. 5304(e) to the extent that it would require HUD to annually review grantee performance under the consistency criteria. These waivers apply only until the grantee submits its next full (3–5 year) consolidated plan due after the 2020 program year.

HUD is imposing a related alternative requirement. The regulations at 24 CFR 91.225(b)(5) (entitlements) and 24 CFR 91.325(b)(5) (states) require grantees to certify that the housing activities to be undertaken with CDBG, HOME, ESG, and HOPWA funds are consistent with the strategic plan portion of the consolidated plan. Under this alternative requirement, grantees are not required to carry out the portions of their fiscal year 2019 and 2020 annual formula CDBG grants that are used to prevent, prepare for, and respond to coronavirus in a manner consistent with the certifications in 24 CFR 91.225(b)(5) and 24 CFR 91.325(b)(5), because HUD has changed the requirement related to consistency.

IV.B.3. Flexibilities That Apply to Coronavirus-Related Activities

The following flexibilities apply to all fiscal year 2019 and 2020 CDBG grants when those grants are used for activities to prevent, prepare for, and respond to coronavirus.

IV.B.3.(a) Calculation of the Public Services Cap. As described in paragraph III.B.5.(f)(iii), following enactment of the CARES Act, the public services cap described in section 105(a)(8) of the

HCD Act and 24 CFR 570.201(e) has no effect on assistance available to the grantee for fiscal years 2019 and 2020, including the program income that would normally be included in the grantee's calculation of the program income cap for fiscal years 2019 or 2020, when the grantee uses CDBG grant funds to prevent, prepare for, and respond to coronavirus. For fiscal years 2019 and 2020, the cap shall still be calculated and shall apply to public service activities carried out for activities that do not prevent, prepare for, and respond to coronavirus. Additionally, CDBG-CV grant funds shall not be included in the public service cap compliance determination which is applicable to annual formula CDBG funds used for activities not related to coronavirus.

Program income generated by the use of CDBG-CV grants is considered program income to the grantee's annual formula CDBG program, as discussed in section III.B.6.(a).

The public services cap imposed by section 105(a)(8) of the HCD Act applies to "the amount of any assistance to a unit of general local government (or in the case of nonentitled communities not more than 15 per centum statewide) under this title *including program income*" (emphasis added). The CARES Act provision that removes the public services cap applies to all "activities to prevent, prepare for, and respond to coronavirus" for the CDBG-CV grants and fiscal year 2019 and 2020 annual formula CDBG grants. The activities for grants are described in each grantee's annual action plan required by 24 CFR 91.220 (entitlements), 24 CFR 91.320 (states), or 24 CFR 570.440 and 24 CFR 91.235 (insular areas). In these regulations, the activities for grants include activities carried out with grant funds and program income expected to be made available. Therefore, removing the cap in section 105(a)(8) of the HCD Act for activities to prevent, prepare for, and respond to coronavirus also removes the public services cap on the use of the program income, and removes the corresponding regulatory cap in 24 CFR 570.201(e) (entitlements) for CDBG-CV funds and fiscal year 2019 and 2020 funds used to prevent, prepare for, and respond to coronavirus.

Program income generated by the use of CDBG-CV grants is considered program income to the grantee's annual formula CDBG program, as discussed in section III.B.6.(a). Additionally, program income, regardless of the source funding of the activity that generated the income, shall be included in the compliance determination of the public service cap applicable to the annual

formula CDBG grants and program income, separately from CDBG–CV funds. For purposes of calculating the public services cap, the treatment of program income generated by the CDBG–CV grant and received (*i.e.*, documented in IDIS) by the annual formula CDBG program shall be considered as any other program income received by the annual formula CDBG program.

IV.B.3.(b) Provisions in Section III that apply to Coronavirus-Related Activities. The following provisions in Section III apply to the use of fiscal year 2019 and 2020 CDBG funds for activities to prevent, prepare for, and respond to coronavirus; these provisions shall also apply to the use of Section 108 guaranteed loan funds when they are used together with fiscal year 2019 and 2020 CDBG funds for activities to prevent, prepare for, and respond to coronavirus. Where these paragraphs refer to CDBG–CV funds, they shall apply equally to fiscal years 2019 and 2020 CDBG grants.

- III.B.5.(d)(i) Use of Urgent Need National Objective.
- III.B.5.(d)(ii) Modification of Location-Based Presumption of LMI Benefit for Job Creation and Retention National Objective Criteria.
- III.B.5.(d)(iii) LMI Job Creation and Retention Records.
- III.B.5.(e)(i) Elimination of Aggregate Public Benefit Test.
- III.B.5.(e)(ii) Modification of Individual Public Benefit Standards.
- III.B.5.(f)(i) Extension of Emergency Payments.
- III.B.5.(f)(ii) Opportunity Zones and Related Flexibilities for Economic Development.
- III.B.5.(f)(iii) Public Services Cap.
- III.B.5.(f)(iv) Other Public Services Considerations.
- III.B.5.(f)(v) Clarification on Application of Cost Principles.
- III.B.6.(d)(iii) Clarifying note on emergency environmental review procedures.
- III.B.9. Duplication of Benefits (applies for programs and activities with annual formula CDBG funds when the grantee uses these funds to carry out programs to respond to losses caused by disasters and emergencies).
- III.B.10. Citizenship Requirements.

IV.B.4. Provisions That Do Not Apply to FY 19 and FY 20 Grants

Waivers and alternative requirements and other provisions in the following paragraphs of Section III do *not* apply to fiscal year 2019 CDBG Grants and fiscal year 2020 CDBG grants:

- III.A. Allocations of CDBG–CV Funds

- III.B.1. General Grant Requirements
- III.B.2. Responsible Use of CARES Act Funds

• III.B.3. Overview of Process to Receive CDBG–CV Grants

- III.B.4.(b) CDBG–CV Application Content and Submission

• III.B.5.(a) Use of Funds for CARES Act Purposes

- III.B.5.(b) Reimbursements
- III.B.5.(c) Terms and Conditions Made Applicable by the CARES Act

• III.B.5.(d)(iv) Overall Benefit to LMI Persons.

- III.B.6.(a) Program Income
- III.B.6.(b) Rules Applicable to State CDBG–CV Grants

• III.B.6.(c) Rules for Entitlements, Insular Areas, and Nonentitlement Hawaii Counties

- III.B.6.(d)(ii) Clarifying note on the process for environmental release of funds when a state carries out activities directly.

• III.B.6.(e) Compliance with Labor Laws

- III.B.6.(f) Relationship to Section 108 Loan Guarantees

• III.B.7. Period of Performance, Timeliness, and Closeout

• III.B.8. Reporting

Paperwork Reduction Act: The information collection requirements in this notice have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520) and assigned OMB Control Number 2506–0085. In accordance with the Paperwork Reduction Act, HUD may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a currently valid OMB control number.

Catalog of Federal Domestic Assistance: The Catalog of Federal Domestic Assistance numbers for the CDBG–CV grants under the CARES Act are: 14.218 (Community Development Block Grants/Entitlement Grants); 14.225 (Community Development Block Grants/Special Purpose Grants/Insular Areas); and 14.228 (Community Development Block Grants/State’s Program and Non-Entitlement Grants in Hawaii) (formerly CDBG Grant/Small Cities Program).

Environmental 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/grants/>. 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).

John Gibbs,

Assistant Secretary for Community Planning and Development.

[FR Doc. 2020–18242 Filed 8–19–20; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

[FWS–R4–ES–2020–N106;

FVHC98220410150–XXX–FF04H00000]

Louisiana Trustee Implementation Group Deepwater Horizon Oil Spill Draft Restoration Plan and Environmental Assessment #7: Wetlands, Coastal, and Nearshore Habitats; and Birds

AGENCY: Department of the Interior.

ACTION: Notice of availability; request for public comments.

SUMMARY: In accordance with the Oil Pollution Act of 1990 (OPA); the National Environmental Policy Act of 1969 (NEPA); the Final Programmatic Damage Assessment Restoration Plan and Final Programmatic Environmental Impact Statement (Final PDARP/PEIS) and Record of Decision; and the Consent Decree, the federal and state natural resource trustee agencies for the Louisiana Trustee Implementation Group (LA TIG) have prepared the *Louisiana Trustee Implementation Group Draft Restoration Plan #7 and Environmental Assessment: Wetlands, Coastal and Nearshore Habitats; and Birds* (RP/EA #7). In the Draft RP/EA #7, the LA TIG proposes projects to help restore bird habitat and marshes injured as a result of the *Deepwater Horizon* (DWH) oil spill in the Louisiana Restoration Area under the “Wetlands, Coastal and Nearshore Habitats” and “Birds” restoration types described in the Final PDARP/PEIS. The approximate cost to implement the LA TIG’s proposed project with five preferred alternatives is \$234,100,000. We invite public comments on the Draft RP/EA #7.

OFFICE OF THE GOVERNOR

KAY IVEY
GOVERNOR



STATE OF ALABAMA

ALABAMA DEPARTMENT OF ECONOMIC
AND COMMUNITY AFFAIRS

KENNETH W. BOSWELL
DIRECTOR

October 13, 2020

MEMORANDUM

TO: All Interested Parties

FROM: Kenneth W. Boswell
ADECA Director

A handwritten signature in blue ink, appearing to read "K. W. Boswell".

SUBJECT: November 4, 2020 Public Hearings for State of Alabama's
COVID-19 CARES Act Grant Program Funds

The Alabama Department of Economic and Community Affairs (ADECA) has scheduled a Public Hearing to take place on Wednesday, November 4, 2020 to seek input and collect information from all interested parties on the State's planned uses for Alabama's grant funds that were awarded from the U.S. Department of Housing and Urban Development (HUD) under the *Coronavirus Aid, Relief, and Economic Security Act* (CARES Act) through the Community Development Block Grant Fund (CDBG-CV), the Emergency Solutions Grant Fund (ESG-CV), and the Housing Opportunities for Persons with AIDS Grant Fund (HOPWA-CV). The Notice of Public Hearing attached here provides additional information on this hearing.

In conjunction with – and as part of – this CARES Act Public Hearing, ADECA will also be conducting a public hearing to seek input and collect information from all interested parties on ADECA's planned revisions to the State's Citizen Participation Plan affecting these grant programs. The proposed revisions particularly pertain to Plan aspects that will allow for expedited actions to occur if and when situations arise that require the State's rapid response to expend HUD's grant program funds throughout the State of Alabama.

I encourage each of you to participate in these public hearings on November 4, 2020. If you have any questions, please call Shabbir Olia at (334) 242-5468. ADECA thanks you for your attention to, and participation in, these important matters.

SAO:KAR:tmn
Attachment

KAY IVEY
GOVERNOR



KENNETH W. BOSWELL
DIRECTOR

STATE OF ALABAMA

November 23, 2020

MEMORANDUM

TO: All Interested Parties

FROM: Kenneth W. Boswell
Director *Kenneth W. Boswell*

SUBJECT: Alabama's CDBG-CV
Application Workshop & Submission Deadline

The ADECA Community and Economic Development Division (CED Division) will conduct the CDBG-CV application workshop on Thursday, December 3, 2020, via WebEx. The workshop will begin at 10:00 a.m. and conclude at 12:00 noon. The application forms for the CDBG-CV program can be found at the ADECA website under the Community and Economic Development Division, Community Development Programs. The workshop can be accessed on the location below.

WebEx conference call per the following instructions:

Tap to join from a mobile device (attendees only)

+1-415-655-0001,1774273302## US Toll

Join by phone +1-415-655-0001 US Toll Global call-in numbers

Join from a video system or application

Dial [1774273302@al.gov.webex.com](tel:1774273302)

You can also dial 173.243.2.68 and enter your meeting number

Join using Microsoft Lync or Microsoft Skype for Business

dial [1774273302.al.gov@lync.webex.com](tel:1774273302)

Meeting Number (access code): 177 427 3302

Meeting Password: KWqpJ4rSF54

If you are planning on joining us for the workshop, we request that you call or email Teresa Nobles at (334)242-0492 or teresa.nobles@adeca.alabama.gov. The location of the workshop is accessible to persons with disabilities. Persons with disabilities or special needs who may require special materials, services, or assistance should call or email Ms. Nobles.

Please note the 2020 CDBG-CV Grant Application submission deadline is Thursday, April 1, 2021 at 4:00 pm at the ADECA CED Division's Office in Room 592 of the Alabama Center for Commerce Building.

If there are any questions concerning this matter, please call Mr. Shabbir Olia at (334)242-5468, or email him at shabbir.olia@adeca.alabama.gov. Thank you for your attention to this matter.

KWB:SAO:tmn

OFFICE OF THE GOVERNOR

KAY IVEY
GOVERNOR



STATE OF ALABAMA

ALABAMA DEPARTMENT OF ECONOMIC
AND COMMUNITY AFFAIRS

KENNETH W. BOSWELL
DIRECTOR

February 12, 2021

MEMORANDUM

TO: All Interested Parties

FROM: Shabbir Olia 
ADECA CED Division Chief

RE: REMINDER: Grant Applications for ADECA's COVID-19
CARES Act CDBG-CV Grant Program Funds are due to be
Received by ADECA on or before Thursday, April 1, 2021

This is a REMINDER that the Alabama Department of Economic and Community Affairs (ADECA) Community and Economic Development Division (CED Division) has been awarded approximately \$40.4 Million from the U.S. Department of Housing and Urban Development (HUD) under the *Coronavirus Aid, Relief, and Economic Security Act* (CARES Act) through HUD's Community Development Block Grant Fund (CDBG-CV). ADECA's planned uses for these funds are stated in the CDBG-CV Action Plan that is posted on the ADECA website (www.adeca.alabama.gov) at the following web address: <https://adeca.alabama.gov/Divisions/ced/cdp/Pages/covid.aspx>. Please feel free to access this Plan to obtain more detailed information on grant amounts and activities that are allowed under the CDBG-CV Program.

This is a REMINDER to the counties and the entitlement cities that applications for the CDBG-CV grant funds are due on or before April 1, 2021 at ADECA's CED Division. I encourage each of the eligible governments to participate in this CDBG-CV Program by submitting a grant application for these funds.

If you have any questions, then please call me at (334)242-5468. ADECA thanks you for your attention to, and participation in, these important matters.

SAO:KAR:tmn

OFFICE OF THE GOVERNOR

KAY IVEY
GOVERNOR



STATE OF ALABAMA

ALABAMA DEPARTMENT OF ECONOMIC
AND COMMUNITY AFFAIRS

KENNETH W. BOSWELL
DIRECTOR

February 24, 2021

MEMORANDUM

TO: All Interested Parties

FROM: Shabbir Olia 
ADECA CED Division Chief

RE: ADECA's CARES Act PY2020 CDBG-CV Action Plan

This Memorandum is to inform you that the U.S. Department of Housing and Urban Development (HUD) has approved the State of Alabama's CDBG-CV Action Plan. This Plan also includes the HUD-authorized waivers that allow the State's CDBG-CV grant funds to be applied for and expended by Alabama's eligible local governments to prevent, prepare for, and respond to the COVID-19 pandemic and other infectious diseases.

The HUD-authorized waivers provide to Alabama's local governments the flexibility to qualify their respective grant project's activities for receiving the CDBG-CV funds from ADECA. The CDBG-CV Plan and the requested waivers may be accessed and viewed on the ADECA website (www.adeca.alabama.gov) at <https://adeca.alabama.gov/Divisions/ced/cdp/Pages/covid.aspx>.

Also, please be reminded that Alabama's counties and entitlement cities must submit to ADECA their applications for the CDBG-CV grant funds on or before April 1, 2021. I encourage each of the eligible governments to participate in this CDBG-CV Program by submitting a grant application for these funds.

If you have any questions, please call me at (334) 242-5468. ADECA thanks you for your attention to, and participation in, these important matters.

SAO:KAR:tmn



KAY IVEY
GOVERNOR

KENNETH W. BOSWELL
DIRECTOR

STATE OF ALABAMA

April 20, 2021

MEMORANDUM

TO: All Interested Parties

FROM: Shabbir Olia
CED Division Chief

A handwritten signature in black ink, appearing to read "S. Olia", positioned to the right of the "FROM:" line.

SUBJECT: Update on ADECA's CARES Act PY2020 CDBG-CV Grant
Program Implementation

Pursuant to the ADECA Community and Economic Development Division's (CED Division) ongoing administration of the federal CARES Act PY2020 CDBG-CV Grant Program, and in efforts to comply with the U.S. Department of Housing and Urban Development's (HUD) timeline for the States to expend these grant funds on COVID-related activities to prevent, prepare for, and respond to the COVID-19 pandemic and other infectious diseases, ADECA's CED Division is adopting steps to expedite the CDBG-CV grant implementation process.

The CED Division's staff has begun reviewing the CDBG-CV grant applications to determine their compliance with the CDBG Program's national objectives, eligibility of activities and other items (such as certifications, assurances, etc.) required for program implementation. Upon the staff's completion of their reviews of these applications, ADECA will provide the respective community with a Grant Agreement and a Letter of Conditional Commitment (LCC). The LCC will state the conditions that must be satisfied for the community to receive and expend its CDBG-CV funds. The LCC incorporates certain standard conditions (such as an environmental release, local program implementation schedule, and a budget) as well as certain special conditions that are necessary to correct any issues of discrepancy found within the grant application.

The CED Division's grant application review process is slow but thorough, so it will be a while before the CED Division staff can complete their reviews of all submitted grant applications. In efforts to expedite the CDBG-CV grant implementation process, ADECA advises those communities who have submitted their CDBG -CV grant applications to now proceed with their

All Interested Parties
Page 2
April 20, 2021

environmental reviews/release of funds and procurement processes even as they await the receipt of ADECA's Grant Agreements. Because the environmental review and procurement processes can often take several weeks to complete, conducting these processes simultaneously – even as the CED Division staff conducts their application reviews – will result in a significant saving of time on the part of everyone involved. ADECA does caution communities to not enter into any agreements that would result in obligating their CDBG-CV funds until such time when the Grant Agreement between ADECA and the community is fully executed and in place, and after ADECA has released the funds.

Additionally, for those localities who are seeking to expend their CDBG-CV grant funds on construction activities that involve water or sewer improvements, or alterations in a city hall or courthouse building, please be advised that ADECA's CED Division has contacted HUD and has requested information as to whether or not such activities meet HUD's CARES Act CDBG-CV COVID-related pandemic requirements. Those communities who have proposed to conduct such activities with their CDBG-CV funds may want to wait until ADECA has received a definitive answer from HUD so as to not waste their efforts and resources should these activities be deemed as not meeting HUD's requirement "to prevent, prepare for, or respond to COVID-19 or other infectious diseases".

If you have any questions concerning this matter, please call me at (334)242-5468, or send an email to me at shabbir.olia@adeca.alabama.gov. Thank you for your attention to this matter.

SAO:tmn

KAY IVEY
GOVERNOR



STATE OF ALABAMA

KENNETH W. BOSWELL
DIRECTOR

August 11, 2021

MEMORANDUM

TO: All Interested Parties

FROM: Kenneth W. Boswell
Director

A handwritten signature in black ink that reads "Kenneth W. Boswell" with a stylized flourish at the end.

SUBJECT: Recaptured CARES Act Coronavirus CDBG-CV Grant Program Funds
Available for Distribution to Alabama's Individual Cities and Counties

Pursuant to the State of Alabama's *PY2020 Action Plan for CARES Act CDBG-CV Grant Program Funds* that is posted on the ADECA website (at www.adeca.alabama.gov at the link <https://adeca.alabama.gov/ced/cares-act-covid-19-grant-program-resources/>), beginning on April 1, 2021 the ADECA CED Division commenced conducting an initial round of accepting grant applications and awarding the State's approximately \$40.4 Million in CDBG-CV grant funds to the 67 counties and 13 entitlement cities that are identified in that *Action Plan* at "*Appendix A: CDBG-CV Program Fund Allocations Among Alabama's Entitlement Communities and Counties.*" However, as of the date of this Memorandum, the ADECA CED Division has not awarded the entirety of the CDBG-CV grant funds that were made available to be distributed due to circumstances that include (i) not all of the 67 counties and 13 entitlement cities submitted grant applications to ADECA seeking these grant funds, and (ii) a few of the submitted grant applications contained projects that are ineligible to receive CDBG-CV grant funds because the intended project activities did not focus on the CARES Act's requirement that the funds be expended to "prevent, prepare for, or respond to the COVID-19 pandemic and other infectious diseases."

ADECA presently has approximately \$7 Million in CDBG-CV *Recaptured Funds* that are available for distribution. Therefore, beginning on September 1, 2021, the ADECA CED Division will commence a second round of accepting CDBG-CV grant applications which may be submitted from all of Alabama's cities and counties experiencing pandemic-related needs. The deadline for submitting these grant applications to ADECA is 12:00 Noon on November 1, 2021. All cities and counties regardless of their

All Interested Parties
Page 2
August 11, 2021

entitlement status will be eligible to apply for these funds. Also, those counties and entitlement cities that have already been awarded CDBG-CV funds from ADECA's initial round of CDBG-CV grant funding that began on April 1, 2021 may request these additional grant funds in the form of a Formal Amendment to their current CDBG-CV grant award rather than submitting a completely new CDBG-CV grant application for the additional fund amount. ADECA's selection of projects to be awarded these grant funds will focus on the community's pandemic-related needs, urgency associated with such needs, and capacity to expend the grant funds in a timely manner.

If local governments are interested in applying for these CDBG-CV *Recaptured Funds* during this second round of funding, the ADECA CED Division requires that the local governments follow the directives stated in the *Action Plan* and the *CDBG-CV Grant Application* posted on the ADECA website when preparing their grant applications. A grant ceiling of \$500,000 will apply for this second round of funding. Additionally, for this second round of funding, an applicant county will not be required to show support from at least two-thirds (2/3) of the local governing bodies representing two-thirds (2/3) of the population within that respective county.

If you have any questions concerning this matter, please call Shabbir Olia, Community and Economic Development Division Chief, at (334)242-5468 or email him at shabbir.olia@adeca.alabama.gov. Thank you for your attention to this matter.

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STATE OF ALABAMA
PY2020 ACTION PLAN FOR CARES ACT
CDBG-CV GRANT PROGRAM FUNDS

INTRODUCTION

Pursuant to the *Coronavirus Aid, Relief, and Economic Security Act* (the CARES Act) that was passed by Congress and signed into law by President Trump on March 27, 2020, the State of Alabama (the State) has been awarded the amounts of (1) \$14,011,858 in Community Development Block Grant (CDBG) Round 1 funds (CDBG CV-1), (2) \$15,068,316 in CDBG Round 2 funds (CDBG CV-2), and (3) \$11,379,612 in CDBG Round 3 funds (CDBG CV-3), for a total award amount of \$40,459,786 from the U.S. Department of Housing and Urban Development (HUD). These CDBG CV-1, CDBG CV-2, and CDBG CV-3 funds are treated as one CDBG-CV Program fund (CDBG-CV) in this Plan. On August 10, 2020, a 70-page Notice issued by HUD was published in the Federal Register as *FR-6218-N-01: Notice of Program Rules, Waivers, and Alternative Requirements Under the CARES Act for Community Development Block Grant Program Coronavirus Response Grants, Fiscal Year 2019 and 2020 Community Development Block Grants, and for Other Formula Programs* (the HUD Notice). The HUD Notice provides guidance pertaining to the State's planning for and expenditure of these CDBG-CV Program funds. The State's Plan is as follows.

REQUIREMENTS

1. The CDBG-CV Program funds will be subject to (i) the requirements of the Housing and Community Development Act of 1974, as amended, unless provided otherwise in the CARES Act and the HUD Notice, and (ii) approval by HUD of waivers to the Program that are allowed under the CARES Act and that have been requested by the State, as they are identified in **Appendix B**.
2. The activities must address at least one of the required CDBG Program's three national objectives, which are:
 - a. To benefit low-income and moderate-income persons, of which at least 51% must be from low-income and moderate-income households, except for single family housing activities which must benefit 100% low-income and moderate-income households;
 - b. Aid in the prevention or elimination of slums and blight; or,
 - c. Meet other urgent community needs posing a serious and immediate threat to the health or welfare of the community where other financial resources are not available.
3. In addition to meeting at least one of the three National Objectives listed above, the CDBG-CV Program activities must meet the performance goals of preventing, preparing for, and responding to the spread of infectious diseases such as COVID-19.
4. Both entitlement and non-entitlement communities are eligible for the State's CDBG-CV Program funds, provided that the State's non-entitlement communities receive no less than the CDBG CV-1 allocation amount. The CDBG-CV Program's 15 qualifying entitlement

communities (cities and counties) are comprised of Anniston, Auburn, Bessemer, Birmingham, Decatur, Dothan, Florence, Gadsden, Huntsville, Mobile, Montgomery, Opelika, Tuscaloosa, Jefferson County, and Mobile County.

METHOD OF ALLOCATION

The State’s plan for allocating the CDBG-CV Program funds is comprised of providing a block of funds to each of the 15 qualifying entitlement communities (cities and counties) and the 65 remaining counties that do not include Jefferson County and Mobile County. Each of these 65 counties’ and the 15 qualifying entitlement communities’ allocations are based on the population group under which each community falls. The county population is adjusted by subtracting the population of any entitlement city within the county. These population groups and corresponding CDBG-CV Program fund amounts are as follows:

Entitlement City Population Groups:

Population Range	Dollar Allocation
20,000 to 45,000	\$500,000
45,001 to 100,000	\$750,000
100,001 to 225,000	\$1,500,000

Entitlement County Population Lump Sum Amounts (adjusted by deducting their entitlement city population):

Population Range	Dollar Allocation
225,000 or less	\$700,000
225,001 and over	\$1,036,800 (available balance)

Non-entitlement County Population Groups:

Population Range	Dollar Allocation
5,000 to 15,000	\$200,000
15,001 to 30,000	\$300,000
30,001 to 50,000	\$400,000
50,001 to 75,000	\$500,000
75,001 to 110,000	\$600,000
110,001 and over	\$700,000

The proposed amount for each of the 15 qualifying entitlement communities (cities and counties) and the 65 remaining counties are presented at **Appendix A**.

Allocations:

The total CDBG-CV Program allocations for the State are as follows:

CDBG CV-1	\$14,011,858
CDBG CV-2	\$15,068,316
CDBG CV-3	<u>\$11,379,612</u>
Total	<u>\$40,459,786</u>

As shown in **Appendix A**, the distribution of total CDBG-CV Program fund allocations among the State’s 15 qualifying entitlement communities (cities and counties) and the 65 remaining counties, and the State’s allowed allocation for Administration is as follows:

Entitlement Communities Total:	\$13,236,800
Non-entitlement Counties Total:	<u>\$25,200,000</u>
Subtotal:	\$38,436,800
State Administration:	<u>\$2,022,986</u>
Total:	<u>\$40,459,786</u>

Note: The amounts shown in **Appendix A** are subject to change in order to correct any inaccuracies as well as to address other reasons. The final distribution of funds among the State’s 15 qualifying entitlement communities (cities and counties) and the 65 remaining counties may change due to the recapture of funds and the redistribution of those funds as addressed below under the Section entitled “Recaptured Funds.”

CDBG-CV PROGRAM CRITERIA

The award of the State’s CDBG-CV Program funds will be governed by the following criteria:

1. Each county (including Jefferson and Mobile) must work with the non-entitlement cities located within that respective county to agree on the CDBG-CV Program project activities which the county is proposing to implement. As a minimum, the proposed activities must have the support from at least two-thirds (2/3) of the local governing bodies representing two-thirds (2/3) of the population within the county (exclusive of the county’s entitlement cities and their populations). If a county fails to achieve this two-thirds (2/3) ratio of support for its proposed project activities, that county will forfeit its CDBG-CV Program grant funds.
2. Each county and entitlement community must consult with, and involve input from, the local emergency management agency (EMA), the county public health department, and other local health care providers in the planning process for their CDBG-CV Program project activities.
3. Each county and entitlement community must address how each proposed activity relates to supporting local responses to infectious diseases such as the coronavirus disease 2019.
4. Each proposed activity must identify the CDBG Program’s National Objective that the activity will address.
5. Within the respective county, the benefit for each proposed activity should, as much as possible, extend to the entirety of all areas within the county.
6. Each qualifying community to receive CDBG-CV Program funds may enter into a Memorandum of Understanding (MOU) with its contiguous/neighborhood counties, and with the

entitlement communities located within the respective county, so as to create joint programs designed to support local responses to infectious diseases, including the COVID-19 pandemic. For such joint projects, the participating jurisdictions must designate only one community among them that will serve as the lead community to submit the grant application and maintain responsibility for implementing the funded grant.

7. Any county, via an MOU, may allow a designated city that is located within that county to take the lead in applying for and implementing the CDBG-CV Program grant funded project(s) on behalf of that county if the designated city has the administrative capacity to administer said project(s).

8. A local government recipient of the CDBG-CV Program funds may spend a total of up to ten percent (10%) of the allocated grant amount to administer the grant program. However, if a funded project does not generate the required beneficiaries and/or does not otherwise meet one of the CDBG Program's National Objectives as is specified in the local government's approved CDBG-CV plan, that local government will be required to reimburse to ADECA all of the CDBG-CV grant funds that have been drawn-down and expended on the funded project.

THRESHOLDS

The following thresholds will apply to communities seeking to apply for the CDBG-CV Program grant funds:

1. An entitlement community or a county may not apply for these funds if it has an unresolved audit finding involving disallowed costs as the result of a determination made by a private audit, an ADECA financial review, or an ADECA CDBG staff monitoring review. A waiver may be provided in cases where the ADECA Director has reviewed the affected entitlement community's or county's proposed response and has determined that repayments due to the State are secured by an appropriate security instrument, stream of income, or other adequate measures.

2. An entitlement community or a county may not apply for these funds if it owes money to the State or Federal government as the result of determinations made by a private audit, an ADECA financial review, or an ADECA CDBG staff monitoring review. A waiver may be provided in cases where the ADECA Director has determined that repayments due to the State are secured by an appropriate security instrument, stream of income, or other adequate measures.

3. An entitlement community's or a county's proposed CDBG-CV Program grant project must stand alone to serve the proposed beneficiaries without the need for additional funds that are not shown in the entitlement community's or county's grant application, unless the other necessary funds are known of and verifiable by the State.

4. An entitlement community or a county grant applicant must demonstrate to ADECA the ability to maintain and operate facilities that are to be funded from the CDBG-CV Program grant funds.

5. An entitlement community or a county grant applicant must not have been deemed by the State to lack the capacity to implement a grant project that is to be funded from the CDBG-CV Program grant funds.

6. For any issue or subject not addressed in this Plan, or in the case of conflicting issues, the ADECA Director will make a final ruling based on the precedents, established practices, or other information determined to be in the best interests of the State. The ADECA Director may provide a waiver from these Thresholds or other requirements if specific situations merit granting such a waiver.

RECAPTURED FUNDS

All CDBG-CV Program unobligated, de-obligated, unexpended, or disallowed expenditures will become recaptured funds. Identified below are circumstances wherein these funds may become recaptured funds to the State.

1. During the allotted time period announced by the State, any entitlement community or county that fails to submit to ADECA a grant application/plan that details the use of that local government's CDBG-CV Program grant funds will forfeit its allocation of those funds.

2. If an entitlement community's or county's submitted plan is deemed by ADECA as requiring modifications and/or corrections, that community will be granted a set amount of time to make such modifications/corrections and to resubmit the plan to ADECA. If the community fails to accomplish such changes, the community will forfeit its allocation of the CDBG-CV Program funds.

3. The ADECA Director, at his or her discretion, may use an appropriate amount of funds from the Recaptured Fund to accomplish the objectives of the CARES Act, including the following:

- a. Provide funds to a community that has shown strong need for additional funds;
- b. Provide funds to a community that has shown both good grant program results and good grant fund expenditure rates;
- c. Provide funds to another State agency or a nonprofit entity in order to implement a specific CDBG-CV Program activity or project; and
- d. Engage ADECA to directly implement specific CDBG-CV Program activities.

APPLICATIONS FOR CDBG-CV PROGRAM FUNDS

The CDBG-CV Program's grant funds will be distributed by ADECA to the entitlement community and county grant applicants through a noncompetitive allocation process. These communities may submit to ADECA one (1) grant application which may contain one (1) or more eligible activities that are designed to prevent, prepare for, and/or respond to the COVID-19 pandemic and other infectious diseases in order to meet a single need or multiple needs. ADECA will provide guidance, a format, and a timeline for the submission of grant applications for these funds via a virtual workshop and/or additional digital means.

The submitted grant applications will be reviewed by ADECA staff to ensure that each proposed program activity will, at the least:

1. Be eligible and will address a CDBG Program National Objective;
2. Meet the CDBG-CV Program's performance goals of preventing, preparing for, and responding to the COVID-19 pandemic and other infectious diseases; and
3. Be financially and operationally feasible.

Each submitted grant application must contain required certifications, assurances, and other documentation that show that the general public was provided an opportunity to review and comment on the local government grant applicant's plan for expenditure of the CDBG-CV Program funds. For the counties, each submitted grant application must show that at least two-thirds (2/3) of the non-entitlement local governing bodies representing two-thirds (2/3) of the non-entitlement population within that county are supportive of the grant applicant's said plan. In addition, the documentation must show that each entitlement community or county grant applicant has consulted with, and has included input from, the local emergency management agency (EMA), the county public health department, and other local health care officials and providers during the planning process for the CDBG-CV grant funded project(s).

An entitlement community or a county whose grant application (i) does not contain all of the required documentation, or (ii) is not clear about compliance with the CDBG Program's National Objectives, or (iii) is not clear about the eligibility of a program activity, will be given an opportunity to make modifications/corrections and changes to its grant application within an allotted time period so as to render said grant application acceptable to ADECA. Upon ADECA's approval of the grant application and award of the grant funds, the entitlement community or county shall begin to implement its plan strictly in adherence with its approved grant application. Should it become necessary for a grant recipient to amend its approved grant application's planned program activities, that local government shall be required to follow ADECA's CDBG Policy Letter No. 2 (Revision 6) governing program changes and amendments in requesting approval from the State.

ELIGIBLE ACTIVITIES

All CDBG Program activities eligible under the Housing and Community Development Act of 1974, as amended, are eligible under the State's CDBG-CV Program. However, as a practical matter, not all eligible activities will serve to meet the performance goals of the CARES Act designed to prevent, prepare for, and respond to the COVID-19 pandemic and other infectious diseases. **Appendix C** provides a list of potential program activities that could serve to further the performance goals of the CARES Act.

APPENDIX A

CDBG-CV Program Fund Allocations
Among Alabama's Entitlement Communities and Counties

Name of Entitlement Community	Population of Entitlement Community	Adjusted Population of Entitlement County	CDBG-CV Amount
Birmingham	212,021		\$1,500,000.00
Montgomery	200,156		\$1,500,000.00
Huntsville	193,663		\$1,500,000.00
Mobile	191,485		\$1,500,000.00
Tuscaloosa	98,881		\$750,000.00
Dothan	67,872		\$750,000.00
Auburn	62,996		\$750,000.00
Decatur	54,617		\$750,000.00
Florence	40,104		\$500,000.00
Gadsden	35,624		\$500,000.00
Opelika	29,798		\$500,000.00
Bessemer	26,759		\$500,000.00
Anniston	21,924		\$500,000.00
Jefferson County	659,892	423,232	\$1,036,800.00
Mobile County	414,659	223,174	\$700,000.00
Total for Entitlement Communities			\$13,236,800.00

Name of County	Population of County	Adjusted Population of County	CDBG-CV Amount
Shelby County	211,261	211,261	\$700,000.00
Baldwin County	208,107	208,107	\$700,000.00
Madison County	357,560	165,834	\$700,000.00
Tuscaloosa County	206,213	107,332	\$600,000.00
Marshall County	95,145	95,145	\$600,000.00
Calhoun County	115,098	93,174	\$600,000.00
Limestone County	93,052	91,028	\$600,000.00
St. Clair County	87,306	87,306	\$600,000.00
Cullman County	82,313	82,313	\$600,000.00
Elmore County	81,212	81,212	\$600,000.00
Talladega County	80,565	80,565	\$600,000.00
DeKalb County	71,200	71,200	\$500,000.00

Etowah County	102,939	67,315	\$500,000.00
Lee County	159,287	66,493	\$500,000.00
Morgan County	119,122	64,592	\$500,000.00
Walker County	64,493	64,493	\$500,000.00
Russell County	58,213	58,213	\$500,000.00
Blount County	57,645	57,645	\$500,000.00
Autauga County	55,200	55,200	\$500,000.00
Colbert County	54,495	54,495	\$500,000.00
Lauderdale County	92,585	52,481	\$500,000.00
Jackson County	52,094	52,094	\$500,000.00
Coffee County	51,288	51,288	\$500,000.00
Dale County	49,255	47,999	\$400,000.00
Chilton County	43,930	43,930	\$400,000.00
Tallapoosa County	40,636	40,636	\$400,000.00
Dallas County	40,029	40,029	\$400,000.00
Houston County	104,352	37,743	\$400,000.00
Covington County	37,351	37,351	\$400,000.00
Escambia County	37,328	37,328	\$400,000.00
Chambers County	33,826	33,826	\$400,000.00
Pike County	33,403	33,403	\$400,000.00
Lawrence County	33,171	33,171	\$400,000.00
Franklin County	31,542	31,542	\$400,000.00
Marion County	29,965	29,965	\$300,000.00
Montgomery County	226,941	26,785	\$300,000.00
Geneva County	26,491	26,491	\$300,000.00
Cherokee County	25,853	25,853	\$300,000.00
Barbour County	25,782	25,782	\$300,000.00
Clarke County	24,387	24,387	\$300,000.00
Winston County	23,875	23,875	\$300,000.00
Randolph County	22,574	22,574	\$300,000.00
Bibb County	22,527	22,527	\$300,000.00
Monroe County	21,512	21,512	\$300,000.00
Pickens County	20,298	20,298	\$300,000.00
Butler County	20,025	20,025	\$300,000.00
Marengo County	19,538	19,538	\$300,000.00
Macon County	19,054	19,054	\$300,000.00

Henry County	17,124	17,117	\$300,000.00
Washington County	16,643	16,643	\$300,000.00
Fayette County	16,585	16,585	\$300,000.00
Cleburne County	14,938	14,938	\$200,000.00
Hale County	14,887	14,887	\$200,000.00
Lamar County	13,933	13,933	\$200,000.00
Crenshaw County	13,865	13,865	\$200,000.00
Clay County	13,378	13,378	\$200,000.00
Choctaw County	13,075	13,075	\$200,000.00
Sumter County	12,985	12,985	\$200,000.00
Conecuh County	12,514	12,514	\$200,000.00
Coosa County	10,855	10,855	\$200,000.00
Wilcox County	10,809	10,809	\$200,000.00
Bullock County	10,352	10,352	\$200,000.00
Lowndes County	10,236	10,236	\$200,000.00
Perry County	9,486	9,486	\$200,000.00
Greene County	8,426	8,426	\$200,000.00
Total for Counties			\$25,200,000.00

APPENDIX B

HUD Waivers To CDBG-CV Program Allowed Under The CARES Act As Requested By The State Of Alabama

According to (i) the text within the CARES Act that was passed by Congress and signed into law by President Trump on March 27, 2020 in response to the Centers for Disease Control and Prevention's January 21, 2020 confirmation of the first coronavirus case in the United States, (ii) the subsequent HUD-issued April 9, 2020 Memorandum entitled "CARES Act Flexibilities for CDBG Funds Used to Support Coronavirus Response and Plan Amendment Waiver," and (iii) the subsequent HUD-issued August 10, 2020 *FR-6218-N-01: Notice of Program Rules, Waivers, and Alternative Requirements Under the CARES Act for Community Development Block Grant Program Coronavirus Response Grants, Fiscal Year 2019 and 2020 Community Development Block Grants, and for Other Formula Programs* that was published in the Federal Register, along with HUD's telephonic discussions and webinars with the States conducted on August 14, 2020 and September 9, 2020, HUD was provided explicit authorization to allow waivers within the CDBG-CV Program to the States in any program areas that do not pertain to "fair housing, nondiscrimination, labor standards, and the environment." ADECA has submitted to HUD the following request for specific waivers which will enable the most effective and efficient allocation and timely expenditure of CDBG-CV Program funds within the State of Alabama, while ensuring that the overarching objectives of the CDBG Program are maintained.

ADECA has given consideration to information contained within the CARES Act and the subsequent guidance issued by HUD. Stated herein this Appendix B are waivers that the State of Alabama/ADECA intends to exercise with its CDBG-CV Program allocations. Specifically, the State of Alabama/ADECA will utilize the waivers that are numbered 1 through 4 below – which waivers are already included in HUD's August 10, 2020 Federal Register Notice. Additionally, the State of Alabama/ADECA has requested to utilize the waivers that are numbered 5 through 8 below – which waivers will allow the State of Alabama/ADECA to optimize the use of the CDBG-CV Program funds to prevent, prepare for, and respond to the COVID-19 pandemic and other infectious diseases.

1. Citizen Participation Public Comment Period for a Consolidated Plan Amendment.

Requirement: 30-day Public Comment Period.

Citation: 24 CFR §91.105(c)(2) and (k), 24 CFR §91.115(c)(2) and (i), 24 CFR §91.401, and HUD's August 10, 2020 Federal Register Notice *FR-6218-N-01: Notice of Program Rules, Waivers, and Alternative Requirements Under the CARES Act for Community Development Block Grant Program Coronavirus Response Grants, Fiscal Year 2019 and 2020 Community Development Block Grants, and for Other Formula Programs.*

Explanation: A HUD Community Planning and Development (CPD) grant recipient may amend an approved Consolidated Plan in accordance with 24 CFR §91.505. Substantial amendments to the Consolidated Plan are subject to the citizen participation process contained in the grant recipient's Citizen Participation Plan (CPP). The CPP must provide citizens with 30 days to comment on substantial amendments to plans.

Justification: Given the need to expedite actions to respond to COVID-19, HUD waives 24 CFR §91.105(c)(2) and (k), and 24 CFR §91.115(c)(2) and (i), as specified below, in order to

balance the need to respond quickly to the growing spread and effects of COVID-19 with the statutory requirement to provide reasonable notice and opportunity for citizens to comment on a plan's substantial amendment(s) concerning the proposed uses of CDBG, ESG, HOME, HOPWA, or HTF funds.

Applicability: This 30-day minimum for the required public comment period is waived for substantial amendments to plans, provided that no less than 5 days are provided for public comments on each substantial amendment to a plan. The waiver is available through the end of the recipient's 2020 program year. The State of Alabama/ADECA intends to utilize this option. Additionally, any grant recipient desiring to undertake further amendments to prior years' plans following PY2020 can do so during the development of its PY2021 Annual Action Plan.

2. Citizen Participation Reasonable Notice and Opportunity to Comment.

Requirement: Reasonable Notice and Opportunity to Comment.

Citation: 24 CFR §91.105(c)(2) and (k), 24 CFR §91.115(c)(2) and (i), 24 CFR §91.401, and HUD's August 10, 2020 Federal Register Notice ***FR-6218-N-01: Notice of Program Rules, Waivers, and Alternative Requirements Under the CARES Act for Community Development Block Grant Program Coronavirus Response Grants, Fiscal Year 2019 and 2020 Community Development Block Grants, and for Other Formula Programs.***

Explanation: As indicated above, the regulations at 24 CFR §91.105 (for local governments) and 24 CFR §91.115 (for State governments) set forth the CPP requirements for grant recipients. For substantial amendments to the Consolidated Plan, the regulations require the grant recipient to follow its CPP to provide citizens with reasonable notice and opportunity to comment. The CPP must state how reasonable notice and opportunity to comment will be given.

Justification: HUD recognizes that the efforts to contain the COVID-19 pandemic require limiting public gatherings of large groups of people – such as those often used to obtain citizen participation, and that there is a need to respond quickly to the growing spread and effects of COVID-19. Therefore, HUD waives 24 CFR §91.105(c)(2) and (k), 24 CFR §91.115(c)(2) and (i), and 24 CFR §91.401 as specified below to allow these grant recipients to determine what constitutes “reasonable notice” and “opportunity to comment” given their circumstances.

Applicability: This authority is in effect through the end of the recipient's 2020 program year. The State of Alabama/ADECA intends to utilize this option. Additionally, the State of Alabama/ADECA intends to utilize virtual public hearing methods and mechanisms (such as WebEx calls) through which ADECA will conduct the required public hearing(s) and five (5) day public comment period(s) for its CDBG-CV substantial amendment(s) to the State's Plan.

3. Eligible Entities.

Requirement: Only the units of local government – including both the entitlement and non-entitlement communities – are eligible for CDBG-CV funds.

Citation: 24 CFR §570.4(a), and HUD's August 10, 2020 Federal Register Notice ***FR-6218-N-01: Notice of Program Rules, Waivers, and Alternative Requirements Under the CARES Act for Community Development Block Grant Program Coronavirus Response Grants, Fiscal Year 2019 and 2020 Community Development Block Grants, and for Other Formula Programs.***

Explanation: CDBG program regulations prohibit State governments or non-profit entities from being the recipient of CDBG funding. Similarly, CDBG-CV funding would be so limited in availability.

Justification: Within the State of Alabama, the COVID-19 response has been originated and coordinated primarily by Alabama's Governor and the State government agencies. To ensure that effective and efficient coordination is maintained and furthered by ADECA, the State of Alabama/ADECA intends to utilize this option of a waiver to the provisions contained in 24 CFR §570.480(a) and HUD's August 10, 2020, Federal Register Notice **FR-6218-N-01** requiring that local governments are the only eligible recipients of the CDBG grant funds. Specifically, the State of Alabama/ADECA intends to utilize this option that State government agencies who are leading the State's COVID-19 response and recovery efforts, as well as the non-profit and/or for-profit hospitals and non-profit entities that are specifically involved in the COVID-19 response, may be grant recipients of CDBG-CV funding through the State of Alabama's CDBG-CV allocation.

4. Pre-Agreement Cost Approval.

Requirement: The State may permit a unit of local government to incur costs for CDBG activities before the establishment of a formal grant relationship between the State and that unit of local government, and these pre-agreement costs may be charged to the grant if the activities are eligible. Also, the State may incur costs prior to entering into a grant agreement with HUD, and the State may charge those pre-agreement costs to the grant, provided that the activities are eligible.

Citation: 24 CFR §570.489(b), 24 CFR Part 58, the citizen participation requirements of 24 CFR Part 91, and HUD's August 10, 2020 Federal Register Notice **FR-6218-N-01: Notice of Program Rules, Waivers, and Alternative Requirements Under the CARES Act for Community Development Block Grant Program Coronavirus Response Grants, Fiscal Year 2019 and 2020 Community Development Block Grants, and for Other Formula Programs.**

Explanation: States and local governments may incur pre-agreement costs prior to entering into a grant agreement, provided that the requirements of environmental review and citizen participation are met.

Justification: Given that the Centers for Disease Control and Prevention confirmed the first coronavirus case in the United States on January 21, 2020, the State of Alabama/ADECA intends to utilize this option of a waiver effective January 21, 2020 as the date triggering the pre-agreement cost approval.

5. Low-Income and Moderate-Income Persons.

Requirement: The terms "persons of low and moderate income" and "low- and moderate-income persons" is defined as meaning "families and individuals whose incomes do not exceed 80 percent of the median income of the area involved, as determined by the [HUD] Secretary with adjustments for smaller and larger families".

Citation: The Housing and Community Development Act at §102(a)(20), 42 USC §5302(a)(20)(A), and HUD's August 10, 2020 Federal Register Notice **FR-6218-N-01: Notice of Program Rules, Waivers, and Alternative Requirements Under the CARES Act for Community Development Block Grant Program Coronavirus Response Grants, Fiscal Year 2019 and 2020 Community Development Block Grants, and for Other Formula Programs.**

Explanation: ADECA requests a waiver to permit the State of Alabama to use income limits of 120 percent of the median income of the area involved.

Justification: The COVID-19 pandemic has impacted all communities across the State of Alabama. ADECA respects and supports the intent of CDBG funds being expended to assist

low-income and moderate-income persons through the State's COVID-19 response efforts. For that reason, the State of Alabama/ADECA requests a waiver to allow the State of Alabama's CDBG-CV Program to reflect the 120 percent income limits.

6. National Objective of Urgent Need.

Requirement: Currently, activities that qualify under the CDBG Program's National Objective of "Urgent Need" must meet several criteria – as follows: (i) the existing conditions must pose a serious and immediate threat to the health or welfare of the community; (ii) the existing conditions must be of recent origin or recently became urgent (generally, within the past 18 months); (iii) the grantee is unable to finance the activity on its own; and (iv) other sources of funding are not available.

Citation: 24 CFR §570.483(d) or 24 CFR §570.208(c), and HUD's August 10, 2020 Federal Register Notice ***FR-6218-N-01: Notice of Program Rules, Waivers, and Alternative Requirements Under the CARES Act for Community Development Block Grant Program Coronavirus Response Grants, Fiscal Year 2019 and 2020 Community Development Block Grants, and for Other Formula Programs.***

Explanation: This waiver request is to expand the definition of "urgent need" as was done for the CDBG-DR Program. Under the CDBG-DR Program, a new "Urgent Need Mitigation" (UNM) National Objective requires activities funded with the CDBG-MIT grant to result in

(i) measurable and verifiable reductions in the risk of loss of life and property from future disasters, and (ii) yielding community development benefits.

Justification: The State of Alabama/ADECA's waiver request is that an expanded definition be allowed for activities related to COVID-19 to "prevent, prepare for, and respond to coronavirus". Throughout Alabama, many areas have experienced very serious health issues, and in some areas a high number of deaths have resulted from COVID-19. Because the purpose of the CARES Act is to provide health care resources to fight COVID-19, an expanded definition of "urgent need" to address these health issues will allow the State to respond to needs being experienced throughout Alabama.

7. Limited Clientele.

Requirement: The term "limited clientele" is defined as a benefit to a group of persons who are generally presumed to be principally of low- and moderate-income (LMI). This presumption covers abused children, battered spouses, elderly persons, severely disabled adults, homeless persons, illiterate adults, persons living with AIDS, and migrant farm workers. Use of this term may also require documentation on family size and income level in order to show that at least 51 percent of the clientele are LMI persons, or have income eligibility requirements limiting the activity to LMI persons only, or be of such a nature and in such a location that it can be concluded that clients are primarily LMI persons.

Citation: 24 CFR §570.208(a)(2)(i), and HUD's August 10, 2020 Federal Register Notice ***FR-6218-N-01: Notice of Program Rules, Waivers, and Alternative Requirements Under the CARES Act for Community Development Block Grant Program Coronavirus Response Grants, Fiscal Year 2019 and 2020 Community Development Block Grants, and for Other Formula Programs.***

Explanation: The State of Alabama/ADECA's waiver request is to expand the definition of "limited clientele" to include a health care provision. Some examples of activities that qualify

under the “limited clientele” category already include (i) acquisition of a building to be converted into a shelter for the homeless, (ii) rehabilitation of a center for training severely disabled persons to enable them to live independently, (iii) clearance of a structure from the future site of a neighborhood center that will exclusively serve the elderly, and (iv) public services activities such as the provision of health services.

Justification: This waiver request is twofold. First, the State of Alabama/ADECA seeks to expand the definition of “limited clientele” so as to include the provision of health care as an eligible category for serving “limited clientele” beneficiaries for the purpose of enabling the CDBG-CV funds to be used to allow for the delivery of services to the citizens of Alabama who are being impacted by COVID-19. Second, the expansion of the definition of “limited clientele” will allow public facility activities (such as construction of broadband) to qualify as an allowable activity to address citizens’ COVID-19 health needs.

8. National Objective of Low-Income and Moderate-Income Beneficiaries.

Requirement: At least 70 percent of CDBG funds must assist activities that meet the Low-Income and Moderate-Income National Objective.

Citation: The Housing and Community Development Act at §101(c), 42 USC §5301(c), 24 CFR §570.200(a)(3), and HUD’s August 10, 2020 Federal Register Notice ***FR-6218-N-01: Notice of Program Rules, Waivers, and Alternative Requirements Under the CARES Act for Community Development Block Grant Program Coronavirus Response Grants, Fiscal Year 2019 and 2020 Community Development Block Grants, and for Other Formula Programs.***

Explanation: The State of Alabama/ADECA’s waiver request is to allow a program activity to qualify under any of the three National Objectives without a specific percentage target for low-income and moderate-income persons. There is a need to assist all of the citizens of Alabama during this COVID-19 pandemic, not just those citizens who are of at least 51% low-income and moderate-income.

Justification: Many COVID-19 eligible activities that are included in the Quick Guide issued by HUD to support infectious disease response are not possible, if not challenging. Activities such as (i) the construction of a testing and diagnosis or treatment facility, or (ii) acquiring and rehabilitating a commercial or closed school building to provide a group living facility for patients undergoing treatment or to accommodate the isolation of patients during their recovery, cannot be appropriately or wisely targeted towards the low-income and moderate-income persons at the exclusion of those other persons who are impacted by the COVID-19 virus but who would not qualify as low-income and moderate-income beneficiaries. The containment of the COVID-19 virus dictates that as widely as possible, all persons who are impacted by the virus be qualified to participate under the National Objective of Urgent Need.

APPENDIX C

CDBG-CV PROGRAM ELIGIBLE ACTIVITIES

All proposed activities under the CDBG-CV Program must assist towards preventing, preparing for, or responding to the COVID-19 pandemic and other infectious diseases. Examples of such activities include:

1. Acquire, rehabilitate, or construct a testing, diagnosis, or treatment facility/clinic.
2. Acquire, rehabilitate, or construct a group living facility that may be used to centralize patients undergoing treatment.
3. Acquire or rehabilitate a hotel, motel, or large open facility that can be converted into a facility to accommodate isolation of patients during recovery, or hospital workers from infecting family members.
4. Provide grants or loans to support new businesses or business expansion to create jobs due to a rise in unemployment caused by a pandemic, including jobs to manufacture medical supplies necessary to respond to infectious disease.
5. Avoid and/or restore job loss caused by business closures related to public order or social distancing by providing short-term working capital assistance to small businesses to enable retention of jobs held by low-income and moderate-income persons.
6. Provide testing, diagnosis, or other services at a fixed or mobile location.
7. Increase the capacity and availability of targeted health services for infectious disease response within existing health facilities.
8. Provide equipment, supplies, and materials necessary to carry-out a public service to cause testing, diagnosis, treatment, and/or prevention of the spread of the virus.
9. Provide grants for expansion of broadband services and/or to create fixed or mobile hot spots for distance learning, telemedicine, or teleworking.
10. Provide grants for extension of public water and sewer services in areas lacking such services in efforts to promote good hygiene to prevent the spread of infectious virus.
11. Provide rental and utility assistance to prevent dislocation and eviction of families due to the loss of income caused by business shutdown or other valid reasons.
12. Extend assistance to nonprofits, such as food banks, in efforts to facilitate distribution of foods to low-income and moderate-income persons or other limited clientele groups impacted by the spread of infectious virus.

13. Provide a public service to prevent, prepare for, assist with, and respond to infectious diseases.

_____ End of PY2020 CDBG-CV Action Plan _____

The State of Alabama/ADECA will review any activities not listed above to determine whether the activity is eligible for CDBG-CV funds.

Community Development Systems Integrated Disbursement & Information System (IDIS)



User: B58320
Role: Grantee
Organization:
ALABAMA

- Logout

Activity

- Add
- Search
- Search HOME/HTF
- Review
- CDBG Cancellation

Project

- Add
- Search
- Copy

Consolidated Plans

- Add
- Copy
- Search

Annual Action Plans

- Add
- Copy
- Search

Consolidated Annual Performance Evaluation Report

- Add
- Search

Utilities

Plans/Projects/Activities

Funding/Drawdown

Grant

Grantee/PJ

Reports

You have **52 CDBG** activities that have been flagged. Click on the number to go to the review page.

Consolidated Plans

Search

Search Criteria

Year:
All Years ▼

Status:
Select ▼

Search | Reset

Results Page 1 of 1

Grantee Name	State	Year	Version	Title	Status	Action
ALABAMA	AL	2015	2	Alabama 2015-2019 5-Year ConPlan	Review Completed	View
ALABAMA	AL	2015	DRAFT	Do Not Use #2	Open - in Progress	View
ALABAMA	AL	2020	1	Alabama First Substantial Amendment to PY2020-PY2024 Five-Year Consolidated Plan - CARES Act Funds	Reviewed and Awaiting for Modifications	Edit | View
ALABAMA	AL	2015	TEST	Do Not Use #3	Open - in Progress	View
ALABAMA	AL	2015	1	Do Not Use #1	Open - in Progress	View

- Home
- Data Downloads
- Print Page
- Help

ALABAMA	AL	2015	HTF Amendment	Alabama 2015-2019 Five-Year Consolidated Plan - HTF Version	Review Completed	Amend View
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- Links**
-  Contact Support
 -  Rules of Behavior
 - CPD Home
 - HUD Home

For IDIS Support only: Fri Dec 11, 2020 at 21:18

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
 Community Development Systems
 Integrated Disbursement & Information System (IDIS)

Skip Top Navigation



User: B58320
Role: Grantee
Organization: ALABAMA
 - Logout

Plans/Projects/Activities	Funding/Drawdown	Grant	Grantee/PJ	Reports
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You have **52 CDBG** activities that have been flagged. Click on the number to go to the review page.

Activity
 - Add
 - Search
 - Search HOME/HTF
 - Review
 - CDBG Cancellation

Consolidated Plans
AD-25 Administration of the Consolidated Plan

Close

Project
 - Add
 - Search
 - Copy

Strategic Plan Beginning Year:* 2020
 Ending Year:* 2024

Consolidated Plans
 - Add
 - Copy
 - Search

Title:* Alabama First Substantial Amendment to
 Plan Version:* 1

Annual Action Plans
 - Add
 - Copy
 - Search

If Amendment: Substantial

Consolidated Annual Performance Evaluation Report
 - Add
 - Search

Purpose of the amendment:* This First Substantial Amendment to the State of Alabama PY2020-PY2024 Five-Year Consolidated Plan (April 1, 2020 through March 31, 2025) includes the CARES Act CDBG-CV, ESG-CV, and HOPWA-CV Grant Programs Funds, and updated/increased grant award amounts for the PY2020 CDBG, HOME, and HTF Programs.

Utilities
 - Home
 - Data Downloads
 - Print Page
 - Help

Programs included:*
 CDBG
 HOME
 HTF
 HOPWA
 ESG

Links
 - Contact Support
 - Rules of Behavior
 - CPD Home
 - HUD Home

Consolidated Plan is for*: Grantee

Alternate/Local Data Sources

Sort*	Data Source Name	Description	Do not Include in Plan
1	State of Alabama Survey Data	Survey	<input type="checkbox"/>
2	AL Analysis of Impediments to Fair Housing Choice	Administrative	<input type="checkbox"/>

[Add Survey Data Source](#) [Add Administrative Data Source](#)

Public Housing Agencies

Code	Agency Name
AL006	Housing Authority of the City of Montgomery

Attachments (optional)

- Cover Page Image
- Report Header Icon
- Page Header

Attachments

- Citizen Participation Comments [2020 Alabama Summary of Public Comments and Responses - CDBG, HOME, HTF, CDBG-CV, and ESG-CV Programs.pdf](#) [View](#)
- Grantee Unique Appendices [2020-2024 Alabama First Substantial Amendment to Alabama Five-Year Consolidated Plan - CARES Act Funds.docx](#) [View](#)
- Grantee SF-424's and Certification(s) [2020 Signed Forms SF-424 and Certifications for Alabama PY2020 CDBG, ESG, HOME, HOPWA, HTF, CDBG-CV, ESG-CV, and HOPWA-CV Programs.pdf](#) [View](#)

[Quality Check](#)

Review comment:

Status: Reviewed and Waiting for Modifications ▼
Status changed on: Tue, Feb 16 2021 at 12:55:53 PM EST

[Close](#)

STATE OF ALABAMA

COMMUNITY DEVELOPMENT BLOCK GRANT – CV PROGRAM

FY 2020 APPLICATION

Please Mail the Original Application to:

**Alabama Department of Economic and Community Affairs
401 Adams Avenue, Suite 592
Montgomery, Alabama 36104
ATTN: CDBG-CV Application**

Telephone: (334) 242-5370

www.adeca.alabama.gov

Applications are due April 1, 2021, by 4:00 pm.

Grant Number: _____

FOR ADECA USE ONLY

ALABAMA CDBG-CV APPLICATION SUMMARY FORM

Applicant Name: _____

If this application represents collaboration between two or more Approved Communities, Applicant listed above must be the same as designated in the Local Government Collaborative Agreement.

Please name all collaborators and attach a copy of the Agreement: _____

Chief Elected Official: _____

Mailing Address: _____
STREET

CITY ST **AL** ZIP

Phone Number: _____

E-mail Address: _____

COUNTY: _____

FEIN: _____

DUNS No.: _____

SAM.gov Expiration Date: _____

Amount Requested: \$ _____

If the amount requested is less than the allocated amount, does the Applicant intend to apply for the balance? Yes No

Other Funds: \$ _____ Source: _____

Federal Congressional District: _____ / _____

State District: (Senate) _____ / _____ / _____ (House) _____ / _____ / _____

Total Beneficiaries: _____ No. of LMI Bnf: _____ % of LMI Bnf: _____

Type of Beneficiaries: Direct Area Wide Limited Clientele

National Objective: LMI Urgent Need Slum and Blight

Contact Person/Grant Writer: _____

Firm or Organization: _____

Mailing Address: _____

City, State & Zip: _____
CITY STATE ZIP

Phone / E-mail Address: _____ / _____

List Activities: _____

Project Location: _____

CERTIFICATIONS

- (a) A resolution passed by the Approved Non-Entitlement County or Entitlement Community on _____ has authorized the filing of this application by the Chief Elected Official.
- (b) The public was informed about the local community development program including the proposed filing of this application in a public hearing held on _____ at _____.
- (c) The information presented in this application is true and correct to the best of my knowledge.
- (d) I certify that:
1. The Applicant will minimize displacement of persons as a result of activities with CDBG-CV funds and will assist persons actually displaced as a result of such activities.
 2. The Applicant's program will be conducted and administered in conformance with Public Law 88-352 and Public Law 90-284, and the Applicant will affirmatively further fair housing.
 3. The Applicant has conducted a Four-Factor Analysis to identify any limited English proficiency persons and if required is conducting all citizen participation activities in compliance with a locally adopted Language Access Plan.
 4. The Applicant has held a public participation hearing to obtain the views of citizens on needs to prevent, prepare for, or respond to COVID-19 or other infectious diseases.
 5. The Applicant has furnished citizens information concerning the amount of funds available for proposed CDBG-CV activities that may be undertaken including the estimated amount of funds proposed to be used for activities.
 6. The Applicant has made available to the public a summary of the proposed project to afford affected citizens an opportunity to comment.
 7. The Applicant will provide citizens with reasonable notice of, and opportunity to comment on, any substantial change proposed to be made in the use of CDBG-CV funds.
 8. The Applicant will not attempt to recover any capital costs of public improvements assisted in whole or in part with CDBG-CV funds by assessing any amount against properties owned and occupied by persons of very low, low- and moderate-income. If a fee or assessment is required, the Applicant will use CDBG-CV funds to pay the proportion of such fee or assessment that relates to the capital costs of such public improvements that are financed from revenue sources other than CDBG-CV funds. The Applicant through proper certification to the State may assess any amounts against properties owned and occupied by persons of moderate income who are not persons of very low or low income if the Applicant lacks sufficient funds received under the CDBG-CV program to pay those costs.

9. The Applicant is is not (please check one) delinquent on any State/Federal debt (If answered "is", attach explanation).

(e) I further certify that the Applicant is following a detailed Citizen Participation Plan which:

1. provides for and encourages citizen participation, with particular emphasis on participation by persons of low- and moderate-income who are residents of slum and blight areas and of areas in which Section 106 funds are proposed to be used, and in the case of a grantee described in Section 106(a), provides for participation of residents in low- and moderate-income neighborhoods as defined by the local jurisdiction;
2. provides citizens with reasonable and timely access to local meetings, information, and records relating to the grantee's proposed use of funds, as required by regulations of the Secretary, and relating to the actual use of funds under this title;
3. provides for technical assistance to groups representative of persons of low- and moderate-income that request such assistance in developing proposals with the level and type of assistance to be determined by the grantee;
4. provides for public hearings to obtain citizen views and to respond to proposals and questions at all stages of the community development program, including at least the development of needs, the review of proposed activities and review of program performance, which hearings shall be held after adequate notice, at times and locations convenient to potential or actual beneficiaries, and with accommodation for the handicapped;
5. provides for a timely written answer to written complaints and grievances, within 15 working days where practicable;
6. identifies how the needs of non-English speaking residents will be met in the case of public hearings where a significant number of non-English speaking residents can be reasonably expected to participate; and
7. provides citizens with reasonable advance notice of, and opportunity to comment on, proposed activities not previously described in the community development-CV application, and for activities which are proposed to be deleted or substantially changed in terms of purpose, scope, location, or beneficiaries.

Mayor/Chairman

Date

CDBG-CV GRANT APPLICATION

1. **Impact Assessment**

Provide an assessment of the impact that the COVID-19 pandemic has had on the community in terms of healthcare crisis, loss of jobs, loss of income, housing, homelessness, reduced tax base, food insecurity, business closures, and other factors.

2. **Proposed Actions**

Describe the measures which the community proposes to undertake to address and minimize the impact of the COVID-19 pandemic and other infectious diseases.

3. **Local Officials Involvement**

Explain the process by which the community incorporated input from the public health officials, local emergency management agency, medical community, and the public.

4. **Activity Description**

Provide a description of specific activities which the community proposes to implement to prevent, prepare for, and respond to the COVID-19 pandemic and other infectious diseases. Include detailed cost estimates, maps, drawings, photos, and other relevant information to fully explain the proposed project activity(ies). For any additional funds required for the completion of the activity(ies), document and confirm the availability of the funds. Complete the "CDBG-CV Budget Report" in its entirety. (If the budget is less than the allocated amount, please indicate if the Applicant intends to apply for the balance. The balance must be applied for in the following six months after this application is submitted.)

5. **Beneficiary Information**

Complete the "Project Beneficiary Table" identifying the proposed beneficiaries associated with each activity. Explain the methodology used to determine the beneficiaries. ADECA may grant approval of project activities on a case-by-case basis for activities that address a national objective other than benefit to 51% LMI persons.

6. **Community Support (FOR COUNTY OR COLLABORATIVE APPLICATIONS ONLY)**

Provide verification that at least two-thirds (2/3) of the local governing bodies representing two-thirds (2/3) of the population within the County (exclusive of the County's entitlement cities and their populations) support the CDBG-CV Program Application. (Attach agreement)

7. **Additional Activities**

Identify inclusive costs of other programs, activities, and services or the expansion of such items proposed here in this application if additional funds were to be made available outside the allocated amount.

PROJECT BENEFICIARY TABLE

For each proposed activity listed below, quantify the direct beneficiaries and indicate (by number, household, and percent) their respective income level, race, ethnicity, etc., in the appropriate classifications.

			Very Low Income (A)			Low Income (B)			Moderate Income (C)			Total LMI (A+B+C)		
Activity	Total People	Total HH	People	HH	% of Total People	People	HH	% of Total People	People	HH	% of Total People	People	HH	% of Total People

	Activity 1				Activity 2				Activity 3			
Race, Ethnicity, Etc.	Total People	Total HH	Total Hispanic People	Total Hispanic HH	Total People	Total HH	Total Hispanic People	Total Hispanic HH	Total People	Total HH	Total Hispanic People	Total Hispanic HH
White												
Black / African Am												
Asian												
American Indian / Alaskan Native												
Native Hawaiian / Other Pacific Is												
Am Indian / Alaskan Native & White												
Asian & White												
Black / African American & White												
Am Indian / Alaskan & Black / African Am												
Other Multi-Racial												
Disabled												
Female-Headed HH												

Note: 1. Applicants proposing projects with more than three activities should use additional copies of this table.

ALABAMA COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM
CERTIFIED ASSURANCES

General Assurances

As the duly authorized representative of the applicant, I certify that the applicant:

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project costs) to ensure proper planning, management and completion of the project described in this application.
2. Will give the awarding agency, the Comptroller General of the United States, and the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the assistance; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.
3. Will not dispose of, modify the use of, or change the terms of the real property title, or other interest in the site and facilities without permission and instructions from the awarding agency. Will record the Federal interest in the title of real property in accordance with awarding agency directives and will include a covenant in the title of real property in whole or in part with Federal assistance funds to assure nondiscrimination during the useful life of the project.
4. Will comply with the requirements of the assistance awarding agency with regard to the drafting, review, and approval of construction plans and specifications.
5. Will provide and maintain competent and adequate engineering supervision at the construction site to ensure that the complete work conforms with the approved plans and specifications and will furnish progress reports and such other information as may be required by the assistance awarding agency or State.
6. Will initiate and complete the work within the applicable time frame after receipt of approval by the awarding agency.
7. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.
8. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. 4728-4763) relating the prescribed standards for merit systems for programs funded under one of the nineteen statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).
9. Will comply with the Housing and Community Development Act of 1974, as amended; Coronavirus Aid, Relief, and Economic Security Act (the CARES Act) of March 27, 2020; Federal Register Notice FR-6218-N-01: Notice of Program Rules, Waivers, and Alternative Requirements Under the CARES Act for Community Development Block Grant Program Coronavirus Response Grants, Fiscal Year 2019 and 2020 Community Development Block Grants, and for Other Formula Programs (the HUD Notice) of August 10, 2020; and other applicable Federal and State laws, rules and policies.

10. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4801 et seq.) which prohibits the use of lead-based paint in the construction or rehabilitation of residential structures.
11. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color, or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. 1681-1683, and 1685-1686) which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794) which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. 6101-6107) which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 93-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination Statute(s) which may apply to the application.
12. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646), as amended (P.L. 100-17) which provides for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal and federally assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.
13. Will comply with the provisions of the Hatch Act (5 U.S.C. 1501-1508 and 7324-7328) which limit the potential activities of employees whose principal employment activities are funded in whole or in part with Federal funds.
14. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. 276a to 276a-7), The Copeland Act (40 U.S.C. 276c and 18 U.S.C. 874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333) regarding labor standards for federally assisted construction contracts.
15. Will comply with the flood insurance purchase requirements of Section 102 (a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more.
16. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (c)

notification of violating facilities pursuant to EO 11738; (d) protection of wetlands pursuant to EO 11990; (e) evaluation of flood hazards in flood plains in accordance with EO 11988; (f) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.); (g) conformity of Federal actions to State (Clean Air) Implementation Plans under Section 176(c) of the Clean Air Act of 1955, as amended, (42 U.S.C. 7401 et seq.); (h) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (P.L. 93-523); and (i) protection of endangered species under the Endangered Species Act of 1973, as amended, (P.L. 93-205).

17. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. 1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.
18. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470), EO 11593 (identification and preservation of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. 469a-1 et seq.)
19. Will cause to be performed the required financial and compliance audits in accordance with Single Audit Act of 1984, as amended, and OMB Circular A-128.
20. Will comply with all applicable requirements of all other Federal laws, Executive Orders, regulations and policies governing this program.

Anti-Displacement Assurance

As the duly authorized representative of the applicant, I certify that the applicant will comply with:

1. Section 104(d) of Title I of the Housing and Community Development Act of 1974, as amended. This provision, authorized by Section 509(a) of the Housing and Community Development Act of 1987, contains requirements for a residential anti-displacement and relocation assistance plan. Each State recipient must adopt, make public, and certify to the State that it is following a "residential anti-displacement and relocation assistance plan."
2. Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended through 1987, (Public Law 100-17, 101 Stat. 246-256). This provision extends Uniform Relocation Assistance coverage to any person (family individual, business, nonprofit organization or farms) displaced as a direct result of rehabilitation, demolition, or privately undertaken acquisition carried out for a federally assisted project or program.

Certification For Contracts, Grants, Loans, And Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal

contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

Certification Regarding Survey

If a survey to determine project beneficiaries was undertaken for the proposed project, such survey was conducted with full regard to obtaining accurate information. The City/County agrees that any evidence to the contrary could result in adverse consequences, including the repayment of grant funds.

Certification Regarding Excessive Force

In accordance with Section 519 of Public Law 101-140, (the 1990 HUD Appropriations Act), _____ certifies that it has adopted and is enforcing a policy prohibiting the use of excessive force by law enforcement agencies within its jurisdiction against any individuals engaged in nonviolent civil rights demonstrations.

Mayor/Chairman

Date

Applicant/Recipient Disclosure/Update Report

U.S. Department of Housing and Urban Development

OMB Approval No. 2510-0011 (exp. 11/30/2014)

Instructions. (See Public Reporting Statement and Privacy Act Statement and detailed instructions on page 2.)

Applicant/Recipient Information

Indicate whether this is an Initial Report or an Update Report

1. Applicant/Recipient Name, Address, and Phone (include area code):	2. Social Security Number or Employer ID Number:
3. HUD Program Name	4. Amount of HUD Assistance Requested/Received
5. State the name and location (street address, City and State) of the project or activity:	

Part I Threshold Determinations

1. Are you applying for assistance for a specific project or activity? These terms do not include formula grants, such as public housing operating subsidy or CDBG block grants. (For further information see 24 CFR Sec. 4.3). <input type="checkbox"/> Yes <input type="checkbox"/> No	2. Have you received or do you expect to receive assistance within the jurisdiction of the Department (HUD), involving the project or activity in this application, in excess of \$200,000 during this fiscal year (Oct. 1 - Sep. 30)? For further information, see 24 CFR Sec. 4.9 <input type="checkbox"/> Yes <input type="checkbox"/> No.
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If you answered "No" to either question 1 or 2, **Stop!** You do not need to complete the remainder of this form. **However,** you must sign the certification at the end of the report.

Part II Other Government Assistance Provided or Requested / Expected Sources and Use of Funds.

Such assistance includes, but is not limited to, any grant, loan, subsidy, guarantee, insurance, payment, credit, or tax benefit.

Department/State/Local Agency Name and Address	Type of Assistance	Amount Requested/Provided	Expected Uses of the Funds

(Note: Use Additional pages if necessary.)

Part III Interested Parties. You must disclose:

- All developers, contractors, or consultants involved in the application for the assistance or in the planning, development, or implementation of the project or activity and
- any other person who has a financial interest in the project or activity for which the assistance is sought that exceeds \$50,000 or 10 percent of the assistance (whichever is lower).

Alphabetical list of all persons with a reportable financial interest in the project or activity (For individuals, give the last name first)	Social Security No. or Employee ID No.	Type of Participation in Project/Activity	Financial Interest in Project/Activity (\$ and %)

(Note: Use Additional pages if necessary.)

Certification

Warning: If you knowingly make a false statement on this form, you may be subject to civil or criminal penalties under Section 1001 of Title 18 of the United States Code. In addition, any person who knowingly and materially violates any required disclosures of information, including intentional non-disclosure, is subject to civil money penalty not to exceed \$10,000 for each violation.

I certify that this information is true and complete.

Signature: X	Date: (mm/dd/yyyy)
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Public reporting burden for this collection of information is estimated to average 2.0 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This agency may not conduct or sponsor, and a person is not required to respond to, a collection information unless that collection displays a valid OMB control number.

Privacy Act Statement. Except for Social Security Numbers (SSNs) and Employer Identification Numbers (EINs), the Department of Housing and Urban Development (HUD) is authorized to collect all the information required by this form under section 102 of the Department of Housing and Urban Development Reform Act of 1989, 42 U.S.C. 3531. Disclosure of SSNs and EINs is voluntary. HUD is authorized to collect this information under the Housing and Community Development Act of 1987 42 U.S.C.3543 (a). The SSN or EIN is used as a unique identifier. The information you provide will enable HUD to carry out its responsibilities under Sections 102(b), (c), and (d) of the Department of Housing and Urban Development Reform Act of 1989, Pub. L. 101-235, approved December 15, 1989. These provisions will help ensure greater accountability and integrity in the provision of certain types of assistance administered by HUD. They will also help ensure that HUD assistance for a specific housing project under Section 102(d) is not more than is necessary to make the project feasible after taking account of other government assistance. HUD will make available to the public all applicant disclosure reports for five years in the case of applications for competitive assistance, and for generally three years in the case of other applications. Update reports will be made available along with the disclosure reports, but in no case for a period generally less than three years. All reports, both initial reports and update reports, will be made available in accordance with the Freedom of Information Act (5 U.S.C. §552) and HUD's implementing regulations at 24 CFR Part 15. HUD will use the information in evaluating individual assistance applications and in performing internal administrative analyses to assist in the management of specific HUD programs. The information will also be used in making the determination under Section 102(d) whether HUD assistance for a specific housing project is more than is necessary to make the project feasible after taking account of other government assistance. You must provide all the required information. Failure to provide any required information may delay the processing of your application, and may result in sanctions and penalties, including imposition of the administrative and civil money penalties specified under 24 CFR §4.38.

Note: This form only covers assistance made available by the Department. States and units of general local government that carry out responsibilities under Sections 102(b) and (c) of the Reform Act must develop their own procedures for complying with the Act.

Instructions

Overview.

A. Coverage. You must complete this report if:

- (1) You are applying for assistance from HUD for a specific project or activity **and** you have received, or expect to receive, assistance from HUD in excess of \$200,000 during the during the fiscal year;
- (2) You are updating a prior report as discussed below; or
- (3) You are submitting an application for assistance to an entity other than HUD, a State or local government if the application is required by statute or regulation to be submitted to HUD for approval or for any other purpose.

B. Update reports (filed by "Recipients" of HUD Assistance):

General. All recipients of covered assistance must submit update reports to the Department to reflect substantial changes to the initial applicant disclosure reports.

Line-by-Line Instructions.

Applicant/Recipient Information.

All applicants for HUD competitive assistance, must complete the information required in blocks 1-5 of form HUD-2880:

1. Enter the full name, address, city, State, zip code, and telephone number (including area code) of the applicant/recipient. Where the applicant/recipient is an individual, the last name, first name, and middle initial must be entered.
2. Entry of the applicant/recipient's SSN or EIN, as appropriate, is optional.
3. Applicants enter the HUD program name under which the assistance is being requested.
4. Applicants enter the amount of HUD assistance that is being requested. Recipients enter the amount of HUD assistance that has been provided and to which the update report relates. The amounts are those stated in the application or award documentation. NOTE: In the case of assistance that is provided pursuant to contract over a period of time (such as project-based assistance under section 8 of the United States Housing Act of 1937), the amount of assistance to be reported includes all amounts that are to be provided over the term of the contract, irrespective of when they are to be received.
5. Applicants enter the name and full address of the project or activity for which the HUD assistance is sought. Recipients enter the name and full address of the HUD-assisted project or activity to which the update report relates. The most appropriate government identifying number must be used (e.g., RFP No.; IFB No.; grant announcement No.; or contract, grant, or loan No.) Include prefixes.

Part I. Threshold Determinations - Applicants Only

Part I contains information to help the applicant determine whether the remainder of the form must be completed. **Recipients filing Update Reports should not complete this Part.**

If the answer to **either** questions 1 or 2 is No, the applicant need not complete Parts II and III of the report, but must sign the certification at the end of the form.

Part II. Other Government Assistance and Expected Sources and Uses of Funds.

A. Other Government Assistance. This Part is to be completed by both applicants and recipients for assistance and recipients filing update reports. Applicants and recipients must report any other government assistance involved in the project or activity for which assistance is sought. Applicants and recipients must report any other government assistance involved in the project or activity. Other government assistance is defined in note 4 on the last page. For purposes of this definition, other government assistance is expected to be made available if, based on an assessment of all the circumstances involved, there are reasonable grounds to anticipate that the assistance will be forthcoming.

Both applicant and recipient disclosures must include all other government assistance involved with the HUD assistance, as well as any other government assistance that was made available before the request, but that has continuing vitality at the time of the request. Examples of this latter category include tax credits that provide for a number of years of tax benefits, and grant assistance that continues to benefit the project at the time of the assistance request.

The following information must be provided:

1. Enter the name and address, city, State, and zip code of the government agency making the assistance available.
2. State the type of other government assistance (e.g., loan, grant, loan insurance).
3. Enter the dollar amount of the other government assistance that is, or is expected to be, made available with respect to the project or activities for which the HUD assistance is sought (applicants) or has been provided (recipients).
4. Uses of funds. Each reportable use of funds must clearly identify the purpose to which they are to be put. Reasonable aggregations may be used, such as "total structure" to include a number of structural costs, such as roof, elevators, exterior masonry, etc.

B. Non-Government Assistance. Note that the applicant and recipient disclosure report must specify all expected sources and uses of funds - both from HUD **and any other source** - that have been or are to be, made available for the project or activity. Non-government sources of

funds typically include (but are not limited to) foundations and private contributors.

Part III. Interested Parties.

This Part is to be completed by both applicants and recipients filing update reports. Applicants must provide information on:

1. All developers, contractors, or consultants involved in the application for the assistance or in the planning, development, or implementation of the project or activity and
2. any other person who has a financial interest in the project or activity for which the assistance is sought that exceeds \$50,000 or 10 percent of the assistance (whichever is lower).

Note: A financial interest means any financial involvement in the project or activity, including (but not limited to) situations in which an individual or entity has an equity interest in the project or activity, shares in any profit on resale or any distribution of surplus cash or other assets of the project or activity, or receives compensation for any goods or services provided in connection with the project or activity. Residency of an individual in housing for which assistance is being sought is not, by itself, considered a covered financial interest.

The information required below must be provided.

1. Enter the full names and addresses. If the person is an entity, the listing must include the full name and address of the entity as well as the CEO. Please list all names alphabetically.
2. Entry of the Social Security Number (SSN) or Employee Identification Number (EIN), as appropriate, for each person listed is optional.
3. Enter the type of participation in the project or activity for each person listed: i.e., the person's specific role in the project (e.g., contractor, consultant, planner, investor).
4. Enter the financial interest in the project or activity for each person listed. The interest must be expressed both as a dollar amount and as a percentage of the amount of the HUD assistance involved.

Note that if any of the source/use information required by this report has been provided elsewhere in this application package, the applicant need

not repeat the information, but need only refer to the form and location to incorporate it into this report. (It is likely that some of the information required by this report has been provided on SF 424A, and on various budget forms accompanying the application.) If this report requires information beyond that provided elsewhere in the application package, the applicant must include in this report all the additional information required.

Recipients must submit an update report for any change in previously disclosed sources and uses of funds as provided in Section I.D.5., above.

Notes:

1. All citations are to 24 CFR Part 4, which was published in the Federal Register. [April 1, 1996, at 63 Fed. Reg. 14448.]
2. Assistance means any contract, grant, loan, cooperative agreement, or other form of assistance, including the insurance or guarantee of a loan or mortgage, that is provided with respect to a specific project or activity under a program administered by the Department. The term does not include contracts, such as procurements contracts, that are subject to the Fed. Acquisition Regulation (FAR) (48 CFR Chapter 1).
3. See 24 CFR §4.9 for detailed guidance on how the threshold is calculated.
4. "Other government assistance" is defined to include any loan, grant, guarantee, insurance, payment, rebate, subsidy, credit, tax benefit, or any other form of direct or indirect assistance from the Federal government (other than that requested from HUD in the application), a State, or a unit of general local government, or any agency or instrumentality thereof, that is, or is expected to be made, available with respect to the project or activities for which the assistance is sought.
5. For the purpose of this form and 24 CFR Part 4, "person" means an individual (including a consultant, lobbyist, or lawyer); corporation; company; association; authority; firm; partnership; society; State, unit of general local government, or other government entity, or agency thereof (including a public housing agency); Indian tribe; and any other organization or group of people.

SAMPLE

LOCAL GOVERNMENT AGREEMENT
(please modify as necessary)

The State of Alabama’s CDBG-CV program requires that at least two-thirds (2/3) of the communities located within the county, including the county and representing at least two-thirds (2/3) of the population within that county, sign an agreement showing support for the county’s CDBG-CV program application submitted to the Alabama Department of Economic Community Affairs. The signatories below, representing specific communities and specific populations within and including the county of _____, confirm that they have participated in the development of the county’s CDBG-CV program application and agree that the program, when implemented, will have beneficial impact on their populations to prevent, prepare for, and respond to the COVID-19 pandemic and other infectious diseases. It is therefore agreed by the signatories below that they fully support _____ County’s CDBG-CV grant application being submitted to the Alabama Department of Economic and Community Affairs to request CDBG-CV program funds. It is further agreed that this Agreement authorizes the Chairman of the _____ County Commission to sign all certifications, agreements, assurances, and other grant related documents required to complete and submit the grant application, and implement all necessary functions relating thereto, including the contracting and hiring of a grant administrator, project engineer, and other assistance required to successfully implement and close the grant in a timely manner consistent with the State’s closeout procedures.

Chairman Signature	Name	County	Date
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Mayor Signature	Name	City/Town	Date
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SAMPLE

LOCAL GOVERNMENT COLLABORATIVE AGREEMENT

(please modify as necessary)

The State of Alabama’s CDBG-CV Program allows for the collaboration among those communities which are qualified to receive the State’s CDBG-CV grant funds in efforts to develop a regional approach that will achieve the goals of preventing, preparing for, and responding to the spread of Coronavirus (COVID-19) and other infectious diseases within that respective geographic region. The State, by and through the Alabama Department of Economic and Community Affairs (ADECA), has authorized that one community – among collaborative communities – may serve as the applicant government entity to submit the CDBG-CV grant application to ADECA. In that capacity, such applicant community shall also ensure that two-thirds of the communities among the collaborative partners, and two-third of their populations exclusive of the Entitlement Cities and their populations, have agreed to the proposed CDBG-CV grant application containing the plan for addressing the COVID-19 pandemic. That applicant community will also undertake and be responsible for performing all duties and activities pertaining to the CDBG-CV grant implementation for and on behalf of all of the participating communities in that region.

Therefore, we the undersigned, comprising the communities of _____

agree that we recognize and approve of the benefits of joining together to develop a collaborative regional approach designed to combat the COVID-19 pandemic and other infectious diseases, as we believe that such virus does not conform to any geographic boundaries and does not target any specific persons. We agree that bringing efficiency to implementing the CDBG-CV Program’s allowable grant activities within the geographic jurisdiction of this Agreement is beneficial to the recipient communities and their populations. As such, we do hereby appoint the City/County of _____ as the government entity to serve as the grant applicant that will submit a CDBG-CV Program grant application to ADECA for and on behalf of the communities identified herein above. As our appointee, the City/County of _____ will perform all actions necessary and proper to fulfill the CDBG-CV grant requirements. Such actions are to include, but shall not be limited to, developing and signing all required grant documents; conducting required citizen participation activities; seeking input from local emergency management agencies, local public health officials, and officials from the local medical community; procuring all professional, engineering, environmental, construction, and other services required to develop and implement the CDBG-CV Program’s allowable grant activities; complying with all applicable federal, state, and local laws, rules, and regulations governing the CDBG-CV Program; requesting,

receiving, and expending the grant funds from ADECA and managing the grant's financial responsibilities; maintaining required records of the grant's activities; and closing the grant in a timely manner consistent with the State's closeout procedures.

This Agreement is entered into by the communities listed herein above, and bears the signature of each respective community's Chief Elected Official identified herein below.

City/County

Signature/Date

Chairman/Mayor

SAMPLE

MEMORANDUM OF UNDERSTANDING

(please modify as necessary)

On this the _____ day of _____, 20____, the _____ County Commission (County) and the City of _____ (City) do hereby enter into this Memorandum of Understanding (MOU) for the purpose of the City assisting the County in the implementation of a Community Development Block Grant COVID-19 Program (CDBG-CV) grant awarded from the Alabama Department of Economic and Community Affairs (ADECA) to the County. This MOU sets forth the terms and understandings between the County and the City for the City's role in the implementation of the County's CDBG-CV grant for and on behalf of the County.

The County has been approved by ADECA to apply for a federal CDBG-CV grant award in the amount of \$_____ for the purpose of preventing, preparing for, and responding to the COVID-19 pandemic and other infectious diseases within the County. ADECA's award of these grant funds to the County is subject to the County's submittal to ADECA of an acceptable grant application on or before ADECA's designated grant application submission deadline. Because the County is authorized to assign its CDBG-CV grant implementation duties and responsibilities to the City, and because the City desires to perform the County's CDBG-CV grant implementation duties and accepts those responsibilities for and on behalf of the County, and because the City is deemed by the County to have the necessary capacity to implement such grant duties and responsibilities, the County and the City do hereby consent for the County to authorize the City to assist the County in implementing the County's CDBG-CV grant for and on behalf of the County and the municipalities located therein.

Therefore, it is agreed by and between the County and the City that, as is provided in this MOU, the City will accept and be responsible for performing the County's specific CDBG-CV grant program implementation duties and activities listed below:

It is agreed by and between the County and the City that to assist the City to carry out above listed responsibilities, the County will perform the following services:

It is agreed by and between the County and the City that the County shall ultimately remain the responsible entity to the State for ensuring the overall proper administration of the CDBG-CV grant, to include accounting for all grant funds; maintaining compliance with all federal, state, and local laws, rules and regulations that are applicable to the grant; and closing the grant in a timely manner consistent with the State's closeout procedures.

This MOU is agreed to on the date first written above by:

County Commission

City

Chairman Signature

Mayor Signature

Date

Date

Contact Person

Contact Person

Phone/Email

Phone/Email

DUPLICATION OF BENEFITS

A duplication of benefits (DOB) occurs when a person, household, business, government, or other entity receives financial assistance from multiple sources for the same purpose, and the total assistance received for that purpose is more than the total need for assistance.

As part of the CARES Act and described in FR-6218-N-01 (CDBG-CV Federal Register Notice), all CDBG-CV Program grantees are bound by Section 312 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act), as amended by section 1210 of the Disaster Recovery Reform Act (DRRA) of 2018, and the OMB Cost Principles within 2 CFR § 200 that requires all costs to be “necessary and reasonable for the performance of the Federal award.”

To comply with DOB requirements and prevent the duplication of benefits, all grantees must:

1. Assess whether the use of these funds will duplicate financial assistance that is already received or is likely to be received acting reasonably to evaluate the need and the resources available to meet that need.
2. Require that any person or entity receiving CDBG-CV assistance sign a “Self Certification of No Benefit” attesting that no other assistance have been received that will create a duplication of benefits.
3. Require that any person or entity receiving CDBG-CV assistance agree to repay assistance that is determined to be duplicative as documented through a “Subrogation Agreement”.



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

ASSISTANT SECRETARY FOR
COMMUNITY PLANNING AND DEVELOPMENT

MEMORANDUM FOR: All Fiscal Year 2019 and 2020 CDBG and CDBG-CV Grantees
and All CPD Field Office Directors

FROM: John Gibbs, Acting Assistant Secretary, D

SUBJECT: Community Development Block Grant Coronavirus Response
Grantee Resources Related to Preventing Duplication
of Benefits

This memorandum and attachments provide grantees and HUD field offices with initial technical assistance resources to support the use of \$5 billion in Community Development Block Grant Coronavirus Response (CDBG-CV) funds. The Coronavirus Aid, Relief, and Economic Security Act (Public Law 116-136) (CARES Act) authorized this funding for grants to prevent, prepare for, and respond to coronavirus. Please note that this document is the first in a series of guidance and technical assistance resources the Department intends to make available to assist grantees in preventing Duplication of Benefits (DOB).

Based on the Department's previous experiences launching large-scale programs in response to economic emergencies and major disasters, HUD anticipates that this memorandum and the attached resources will assist grantees as they partner with nonprofits, public agencies, and other entities. When choosing which activities to carry out with CDBG-CV funds, grantees should consult with other entities working on coronavirus-related efforts to avoid DOB and to develop innovative solutions to this complex national emergency.

Background:

The CARES Act provides that the Secretary shall ensure there are adequate procedures in place to prevent any DOB as required by section 312 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5155), as amended by section 1210 of the Disaster Recovery Reform Act of 2018 (division D of Public Law 115-254; 132 Stat. 3442). HUD is requiring that each grantee have procedures to prevent the duplication of benefits when it provides financial assistance with CDBG-CV funds.

Federal disaster law prohibits the provision of federal assistance in excess of need. Before paying a cost with federal disaster assistance, a Federal agency must check to see that the assistance will not cause a duplication of benefits, meaning that the cost has not or will not be paid by another source. HUD grantees are required to prevent the duplication of benefits when carrying out HUD-funded programs to provide disaster assistance.

Knowing the other sources of assistance that may be available to pay for coronavirus-related needs can help grantees prevent duplication of benefits in two ways. First, it helps grantees design

programs that target needs that are unlikely to be addressed by other sources. Second, it helps grantees know which sources of assistance it needs to look for when completing a duplication of benefits check before providing assistance to individuals, households, and entities.

Several communities have asked whether they can assist an activity using more than one funding source because a grantee may need more than one funding source for an activity to meet all local needs. In response, HUD advises that providing CDBG-CV assistance is not prohibited to meet needs that remain after considering other financial assistance for an activity. Not only the amounts of assistance, but also timing of funding availability from various sources may also be a consideration. HUD urges grantees to strategically consider the appropriate uses of available funding sources for the same or similar purposes.

Communities have also asked about the treatment of private, unsubsidized loans in considering DOB. Note that, generally, private unsubsidized loans are not considered a DOB for this purpose.

Resources:

CDBG Primary Activities Table. This resource is for a grantee's stakeholders and partners. It is a summary table designed primarily for entities and individuals who are unfamiliar with the CDBG program. The table will help CDBG-CV grantees explain the range of possible uses of CDBG-CV funds when working with other funders and leaders seeking to identify possible DOB and to design procedures to avoid them. This document summarizes eligible grantees, HUD's allocation of funds, and key program requirements. It lists the most likely types of activities grantees will carry out with CDBG-CV and highlights the primary objective to benefit low- and moderate-income persons.

Federal Coronavirus Resources Table. This resource is also for grantee decision-makers and staff. The table summarizes other Federal coronavirus-related resources (primarily those funded under the CARES Act). Increased awareness of other sources of assistance that may be available to pay for coronavirus-related needs can help grantees prevent DOB in two ways. First, it helps grantees design programs to target needs that are unlikely to be addressed by other sources. Second, it helps a grantee consider sources of assistance it may need to look for when completing a DOB check before providing assistance to individuals, households, and entities. Building grantee awareness of other sources of assistance available for coronavirus-related needs will encourage the design of CDBG-CV funded activities that strategically target unmet needs and funding gaps.

Webinars and additional technical assistance planned. In addition to the attached initial resources, HUD will provide more specific information about how to comply with this CARES Act requirement, beginning with a DOB webinar for all CDBG-CV grantees covering the attached resources, followed by additional technical assistance in the form of Frequently Asked Questions (FAQs), follow-up webinars, and other resources covering the process of preventing DOB.

One key planned resource will be for grantee decision-makers and staff. It will summarize principles guiding consideration of DOB under CDBG-CV. This will help grantees understand the basic DOB framework and give grantees a better understanding of how to align their local policies

and procedures to prevent DOB.

Grantees may direct questions to their assigned field office. Email inquiries to CPDQuestionsAnswered@hud.gov will continue to receive individual replies and guidance. HUD will also batch questions and responses and periodically make them available as FAQs. Additional resources will continue to be posted to <https://www.hud.gov/coronavirus/grantees> and to www.hudexchange.info/programs/cdbg/disease/.

Thank you for the work you and your staff do with our communities in the fight against the coronavirus.

Attachment(s)

DUPLICATION OF BENEFITS

As part of the CARES Act and described in FR-6218-N-01 (CDBG-CV Federal Register Notice), HUD must ensure that there are adequate procedures in place to prevent any duplication of benefits as required by Section 312 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act), as amended by section 1210 of the Disaster Recovery Reform Act (DRRA) of 2018. To ensure HUD complies with this requirement, this responsibility is passed on to all CDBG-CV grantees. This Quick Guide provides a brief explanation of the duplication of benefits requirement, how it applies to grantees and beneficiaries, and examples of how to calculate and evaluate the risk of duplication of benefits.

BACKGROUND

A duplication of benefits (DOB) occurs when a person, household, business, government, or other entity receives financial assistance from multiple sources for the same purpose, and the total assistance received for that purpose is more than the total need for assistance. Within the CDBG-CV program, all grantees are bound by Section 312 of the Stafford Act, as amended by the DRRA, and the OMB Cost Principles within 2 CFR § 200 that requires all costs to be “necessary and reasonable for the performance of the Federal award.”

To comply with DOB requirements, grantees are required by the CARES Act to establish and follow procedures to ensure that DOB does not occur. Establishing a process to effectively identify and prevent duplication of benefits is critical for CDBG-CV grantees to effectively manage the multiple active funding streams related to coronavirus response and efficiently target CDBG-CV resources to meet unmet needs within the community.

Note to grantees with experience administering CDBG-DR: Unlike other disaster funds, CDBG-CV grantees do not need to follow a statutory “Order of Assistance” for delivery of different federal and non-federal programs. This means that grantees do not need to validate whether other funding sources are available or will be available before allocating CDBG-CV assistance (as opposed to CDBG-DR, where the grantee generally must check to see whether FEMA assistance was provided before making an award). The grantee is solely responsible for ensuring that an actual duplication of benefits does not occur.

APPLICABILITY

Duplication of benefits requirements apply to all CDBG-CV allocations as well as to FY2019 and FY2020 formula CDBG allocations used to prevent, prepare for, and respond to coronavirus.

REQUIRED POLICIES AND PROCEDURES

To prevent the duplication of benefits, all grantees must establish policies and procedures that include the following components:

1. Requirement that any person or entity receiving CDBG-CV assistance (including subrecipients and direct beneficiaries) must agree to **repay assistance that is determined to be duplicative**. This may be documented through a **subrogation agreement** or similar clause included in the agreement with the person or entity. The grantee should establish a protocol to monitor compliance based on risk of duplication of benefits for each activity.
2. Method of assessing whether the use of these funds will duplicate financial assistance that is already received or is likely to be received (such as insurance proceeds) by **acting reasonably to evaluate the need and the resources available to meet that need**. Grantees should evaluate current programs available at the local, county, state, and federal level as well as current and anticipated non-governmental assistance from nonprofits or faith-based groups and establish lines of communication for preventing duplication of benefits. HUD has prepared a [list](#) of active Federal CARES Act and coronavirus response programs and funding sources to help grantees evaluate potential risk for duplication for each activity and applicant. HUD encourages grantees to target CDBG-CV activities to address unmet needs and gaps to reduce the risk of duplication of benefits.

To ensure that policies and procedures accurately reflect the specific components of each program, grantees should consider designing DOB policies and procedures that are specific to each CDBG-CV program and activity. Policies and procedures should be specific for each program supported with CARES Act funding and should be commensurate with risk of duplication of benefits.

DETERMINING DUPLICATION OF BENEFITS

To analyze duplication of benefits a grantee should complete the following steps:

1. Assess Need: Determine the amount of need (total cost)
2. Determine Assistance: Determine the amount of assistance that has or will be provided from all sources to pay for the cost
3. Calculate Unmet Need: Determine the amount of assistance already provided compared to the need to determine the maximum CDBG-CV award (unmet need)
4. Document analysis: Document calculation and maintain adequate documentation justifying determination of maximum award

DUPLICATION OF BENEFITS EXAMPLES

Rental Assistance

A family that has suffered job loss due to the economic impact of the coronavirus seeks rental assistance under a CDBG-CV Emergency Payment program for 3 months of arrears payments and 2 months of current/ future rent.

Step 1: Assess Need

Monthly Rent = \$1,000

Potential Total Need: $\$1,000 * 5 \text{ months} = \$5,000$

Step 2: Determine Assistance

In the application, the applicant was asked to report if they are receiving or expecting to receive any additional or similar assistance. The applicant reported that a local faith-based organization provided \$250/ month for the past three months, but that aid is no longer available. The family certified that it has not applied for assistance from any other source.

Step 3: Calculate Unmet Need

Total Need = \$5,000

Other Assistance = \$750 (\$250/ month for three months)

Actual Unmet Need (Maximum Award) = \$4,250 (\$5,000- \$750)

Step 4: Document the Analysis

Maintain documentation of calculation and justification to confirm amount of unmet need.

Small Business Assistance

A small business requests a grant for working capital funds to retain employees that would otherwise be laid off due to the economic impact of the coronavirus. The small business requests three months of assistance.

Step 1: Assess Need

Capital funds needed via underwriting = \$10,000

Potential Total Need: \$10,000 * 3 months = \$30,000

Step 2: Determine Assistance

In the application, the applicant was asked to report if it was receiving any additional or similar assistance or had made any claims on existing business insurance. The business reported that it previously received a PPP forgivable loan under the CARES Act to cover payroll, but that the assistance has run out. The business certified that it made a claim on its business interruption insurance but was declined because the insurer said the economic impacts of the coronavirus are outside the scope of the policy.

Step 3: Calculate Unmet Need

Total Need = \$30,000

Other Assistance = \$0

Actual Unmet Need (Maximum Award) = \$30,000

Step 4: Document the Analysis

Maintain documentation of calculation and justification to confirm amount of unmet need.

SUBSIDIZED LOANS

In DOB calculations, private loans are not considered a form of assistance and should not be considered when calculating duplication of benefits. However, subsidized loans from SBA or FEMA should be included in the duplication of benefits analysis unless one of the three exceptions is met:

1. Short-term subsidized loans (e.g. bridge loans) for costs later reimbursed with CDBG-CV funds
2. Declined or cancelled subsidized loans
3. Loan assistance is used toward a loss suffered as a result of a major disaster or emergency

An example of a subsidized loan is the SBA Economic Injury Disaster Loans (EIDL). This type of loan is summarized in more detail in [FR-6169-N-01](#).

RESOURCES

1. [CDBG-CV Federal Register Notice \(FR-6218-N-01\)](#) (8/7/2020)
2. [Duplication of Benefits Memo](#) (7/13/2020)
3. [Federal Funding Priority Order for NCS](#) (6/23/2020)
4. [Summary of CDBG Activity Categories](#) (6/23/2020)
5. [CARES Act Programs](#) (7/10/2020)
6. [Federal Register Notice Webinar](#) (8/20/2020 and 9/1/2020)
7. CDBG CARES Act Launch Kit (*forthcoming*)
8. Duplication of Benefits Webinar (*forthcoming*)

CARES Act Programs through SBA, FEMA, IRS, Treasury, USDA, and HHS for CDBG Grantees' Awareness for Duplication of Benefits

Agency	Program Name	Populations Served	Services Provided	Program Rollout and Duration	Size & Additional Notes on Eligibility	Funding and operating mechanisms
SBA	Paycheck Protection Program Loans	All small businesses, including non-profits, Veterans organizations, Tribal concerns, sole proprietorships, self-employed individuals, and independent contractors, with 500 or fewer employees, or no greater than the number of employees set by the SBA as the size standard for certain industries. ¹	The new loan program will help small businesses with their payroll and other business operating expenses. It will provide critical capital to businesses without collateral requirements, personal guarantees, or SBA fees – all with a 100% guarantee from SBA. All loan payments will be deferred for six months. Most importantly, the SBA will forgive the portion of the loan proceeds that are used to cover the first eight weeks of payroll costs, rent, utilities, and mortgage interest.	Treasury and the Small Business Administration launched this program on April 3, allowing businesses to go to a participating SBA 7(a) lender, bank, or credit union, to apply for a loan, and be approved on the same day. As of April 7, the program had reached the funding limit set in the CARES Act. The Paycheck Protection Program resumed accepting applications July 6, 2020. The new deadline to apply for a Paycheck Protection Program loan is August 8, 2020.	Maximum loan amounts up to \$10 million. Small Business owners in all U.S. states and territories	\$669 billion of loans available. Loan forgiveness if proceeds used for payroll costs and other designated business operating expenses in the 8 weeks following the date of loan origination (due to likely high subscription, it is anticipated that not more than 25% of the forgiven amount may be for non-payroll costs). All loans under this program will have the following identical features: Interest rate of 0.5%, maturity of 2 years, first payment deferred for six months, 100% guarantee by SBA, no collateral, no personal guarantees, no borrower or lender fees payable to SBA
SBA	Economic Injury Disaster Loans	Qualified small business owners, including agricultural businesses and private non-profits in all U.S. States and territories	In response to the Coronavirus (COVID-19) pandemic, small business owners in all U.S. states, Washington D.C., and territories are eligible to apply for an Economic Injury Disaster Loan advance of up to \$10,000. ²	Funds will be made available within three days of a successful application, and this loan advance will not have to be repaid. All available funds for the EIDL Advance Loan program have been allocated, but SBA resumed taking applications for the EIDL loan program on June 15. CDBG grantees may check data on loans and advances made at https://www.sba.gov/funding-	Loans up to \$10,000. Small Business owners in all U.S. states and territories	An additional appropriation of \$10 billion . This advance will provide economic relief to businesses that are currently experiencing a temporary loss of revenue. Funds will be made available within three days of a successful application. This loan advance will not have to be repaid.

¹ <https://www.sba.gov/about-sba/sba-newsroom/press-releases-media-advisories/349-billion-emergency-small-business-capital-cleared-sba-and-treasury-begin-unprecedented-public>

² <https://www.sba.gov/disaster-assistance/coronavirus-covid-19>

Agency	Program Name	Populations Served	Services Provided	Program Rollout and Duration	Size & Additional Notes on Eligibility	Funding and operating mechanisms
SBA	Express Bridge Loans	Small Business owners in all U.S. States and territories	Express Bridge Loan Pilot Program allows small businesses who currently have a business relationship with an SBA Express Lender to access up to \$25,000 quickly.	programs/loans/coronavirus-relief-options/economic-injury-disaster-loans These loans can provide vital economic support to small businesses to help overcome the temporary loss of revenue they are experiencing and can be a term loans or used to bridge the gap while applying for a direct SBA Economic Injury Disaster loan.	Access up to \$25,000 quickly.	If a small business has an urgent need for cash while waiting for decision and disbursement on an Economic Injury Disaster Loan, they may qualify for an SBA Express Disaster Bridge Loan.
SBA	Debt Relief Program	Small Business owners in all U.S. States and territories	As part of its debt relief efforts, SBA will automatically pay the principal, interest, and fees for: - current 7(a), 504, and microloans for a period of six months, and - new 7(a), 504, and microloans issued prior to September 27, 2020.	For current SBA Serviced Disaster (Home and Business) Loans: If your disaster loan was in “regular servicing” status on March 1, 2020, the SBA is providing automatic deferments through December 31, 2020.		Payment of applicable principal, interest, and fees, or of loan deferment, is automatic.
FEMA	Disaster Relief Fund	State and local governments attempting to mitigate against the spread of COVID-19 and protect public health.	FEMA can direct, coordinate, manage, and fund eligible response and recovery efforts associated with COVID-19 that overwhelm State resources pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act. ³	Every 30 days the Administrator shall provide the Committees on Appropriations of the Senate and the House both projected and actual costs for funds provided.	\$25 billion set aside for major disasters declared pursuant to the Stafford Act. The other \$15 billion may be used for all purposes authorized by FEMA under the CARES Act. <i>(The other \$5 billion seems to be unmentioned)</i>	\$45 billion to remain available until expended. Through the DRF, FEMA can fund authorized Federal disaster support activities as well as eligible State, territorial, tribal, and local actions, such as: (1) the repair and restoration of qualifying disaster-damaged public infrastructure; (2) hazard mitigation initiatives; (3) financial assistance to eligible disaster survivors.

³ <https://www.fema.gov/disasters/stafford-act>

Agency	Program Name	Populations Served	Services Provided	Program Rollout and Duration	Size & Additional Notes on Eligibility	Funding and operating mechanisms
FEMA	Public Assistance Program	State, territorial, tribal, and local government entities and certain private non-profit organizations are eligible to apply for Public Assistance .	Under the COVID-19 Emergency Declaration described above, FEMA may provide assistance for emergency protective measures including, but not limited to: <i>Management, control and reduction of immediate threats to public health and safety, Emergency medical care, Medical sheltering, and Purchase and distribution of food</i> , provided they are not funded by the HHS/CDC or other federal agency. Final reimbursement determinations will be coordinated by HHS and FEMA.	Consistent with the President’s national emergency declaration for the coronavirus (COVID-19) pandemic on March 13, 2020, FEMA urges officials to, without delay, take appropriate actions that are necessary to protect public health and safety pursuant to public health guidance and conditions and capabilities in their jurisdictions. FEMA provides the following guidance on the types of emergency protective measures that may be eligible under FEMA’s Public Assistance Program in accordance with the COVID-19 Emergency Declaration in order to ensure that resource constraints do not inhibit efforts to respond to this unprecedented disaster.	President Trump declared a national emergency under Section 501(b) of the Stafford Act on March 13 in wake of the ongoing COVID-19 pandemic. State, territorial, tribal, and local government entities and certain private non-profit organizations are eligible to apply for Public Assistance . FEMA will not duplicate any assistance provided by HHS/CDC.	FEMA assistance will be provided at a 75 percent federal cost share. This assistance will require execution of a FEMA-State/Tribal/Territory Agreement, as appropriate, and execution of an applicable emergency plan. Local governments and other eligible PA applicants will apply through their respective state, tribal or territorial jurisdictions.
FEMA	Emergency Food and Shelter Program (EFSP)	American families in sudden economic crisis.	Shelter, food and supportive services to individuals and families in sudden economic crisis.	EFSP was established to supplement and expand the ongoing work of local social service organizations, both nonprofit and governmental. Accordingly, EFSP funding is open to all organizations helping hungry and homeless people, as well as organizations that support those at risk of becoming hungry or homeless due to economic hardships ⁴	\$200 million allocation to program account. Nonprofit and governmental service organizations in U.S. states and territories	Unlike FEMA’s disaster assistance programs authorized under the Stafford Act, EFSP is authorized by the McKinney-Vento Homeless Assistance Act of 1987 (PL 100-77).

⁴ <https://www.fema.gov/news-release/20200726/fema-announces-supplemental-funding-through-cares-act>

Agency	Program Name	Populations Served	Services Provided	Program Rollout and Duration	Size & Additional Notes on Eligibility	Funding and operating mechanisms
Treasury	Unemployment Insurance Provisions	Temporary expansion of unemployment. Covers self-employed, gig workers, independent contractors; partially offsets unemployment costs for employees of governments and nonprofits.	Makes benefits more generous by adding a \$600/week across-the-board payment increase through the end of July.	For those who need extra assistance the bill provides an additional 13 weeks of benefits beyond what states typically allow.	\$250 billion to expand unemployment benefits. Individuals in U.S. states and territories.	The expansion in unemployment benefits expires at the end of 2020 in recognition of the temporary nature of this challenge.
Treasury	The Coronavirus Relief Fund	States, Tribal governments, and units of local governments with a population above 500,000	The CARES Act requires that the payments from the Coronavirus Relief Fund only be used to cover expenses that— (1) are necessary expenditures incurred due to the public health emergency created by COVID-19. (2) were not accounted for in the budget most recently approved as of March 27, 2020 (the date of enactment of the CARES Act) for the State or government; and (3) were incurred during the period that begins on March 1, 2020, and ends on December 30, 2020.	The legislation specifies that within 30 days of passage the funds will be released to states based on their relative populations, with each state receiving at least \$1.25 billion.	\$150 billion fund. U.S. states and territories. Additional information on eligible uses of Fund disbursements by governments will be posted as it becomes available.	Funds will be released to states based on their relative populations, with each state receiving at least \$1.25 billion. A local government must have a population above 500,000 to qualify. \$3 billion for making payment to the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, and American Samoa. \$8 billion for making payments to Tribal governments.
IRS	Economic Impact Payments	Tax filers with adjusted gross income up to \$75,000 for individuals and up to \$150,000 for married couples filing joint returns will receive the full payment. For filers with income above those amounts, the payment	Direct payment.	One-time payment for eligible citizens.	Up to \$1,200 for single filers. Up to \$2,400 for joint filers. Individuals in U.S. states and territories.	The payments will be administered by the Internal Revenue Service (IRS) and function as a federally refundable tax credit. The payment is not includible in gross income. A payment also will not affect a household's or individual's income for purposes

Agency	Program Name	Populations Served	Services Provided	Program Rollout and Duration	Size & Additional Notes on Eligibility	Funding and operating mechanisms
		amount is reduced by \$5 for each \$100 above the \$75,000/\$150,000 thresholds. Single filers with income exceeding \$99,000 and \$198,000 for joint filers with no children are not eligible. Social Security recipients and railroad retirees who are otherwise not required to file a tax return are also eligible and will not be required to file a return.				of determining eligibility for federal government assistance or benefit programs
USDA	Commodity Supplemental Food Program	Through CSFP, USDA distributes both food and administrative funds to participating states and Indian Tribal Organizations (ITOs).	The Commodity Supplemental Food Program (CSFP) works to improve the health of low-income elderly persons at least 60 years of age by supplementing their diets with nutritious USDA Foods.	Sec 1101. (g) AVAILABILITY OF COMMODITIES.—During fiscal year 2020, the Secretary of Agriculture may purchase commodities for emergency distribution in any area of the United States during a public health emergency designation. (i) FUNDING.—There are hereby appropriated to the Secretary of Agriculture such amounts as are necessary to carry out this section.	Through CSFP, USDA distributes both food and administrative funds to participating states and Indian Tribal Organizations (ITOs).	\$450 million to Commodity Assistance Program, \$150 million of which may be used for distribution.
USDA	Child Nutrition Programs	Children from low-income families (at or below 130% of the Federal Poverty Level (FPL), or \$31,590 for a family of four in school year 2016 - 2017) are eligible for free meals. Those with incomes up to 185% of the FPL are eligible for reduced price meals.	Child nutrition programs help to ensure that children have access to nutrition meals and snacks in schools, summer programs, childcare centers and homes, and afterschool programs. FNS also issued guidance on meal delivery using existing authorities in summer meal programs.	Waiver authority for existing program.	For Congregate Meal Waivers, FNS has approved waivers from all 50 states, DC, Guam, Puerto Rico, and the Virgin Islands, enabling Summer Food Service Program (SFSP) and National School Lunch Program Seamless Summer Option (SSO) sponsors to serve meals in a non-congregate setting and at school sites during school closures related to the coronavirus.	\$8.8 billion. Pandemic EBT – Supplemental EBT allotments in FY2020 for the value of school meals for each eligible child in the household.

Agency	Program Name	Populations Served	Services Provided	Program Rollout and Duration	Size & Additional Notes on Eligibility	Funding and operating mechanisms
USDA	Supplemental Nutrition for Women, Infants and Children (WIC)	The WIC target population are low-income, nutritionally at risk: - Pregnant women (through pregnancy and up to 6 weeks after birth or after pregnancy ends). - Breastfeeding women (up to infant's 1st birthday) - Non breastfeeding postpartum women (up to 6 months after the birth of an infant or after pregnancy ends) - Infants (up to 1st birthday). - Children up to their 5th birthday.	The Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) provides federal grants to states for supplemental foods, health care referrals, and nutrition education for low-income pregnant, breastfeeding, and non-breastfeeding postpartum women, and to infants and children up to age five who are found to be at nutritional risk.	WIC is not an entitlement program as Congress does not set aside funds to allow every eligible individual to participate in the program. WIC is a Federal grant program for which Congress authorizes a specific amount of funds each year for the program. WIC is administered at the Federal level by FNS, and by 90 WIC state agencies, through approximately 47,000 authorized retailers.	WIC operates through 1,900 local agencies in 10,000 clinic sites, in 50 State health departments, 34 Indian Tribal Organizations, the District of Columbia, and five territories (Northern Mariana, American Samoa, Guam, Puerto Rico, and the Virgin Islands).	The Families First Coronavirus Response Act provided the WIC Program with \$500 million to remain available through Sept. 30, 2021 for increases in program participation. FNS will work with state to ensure funding is available to state agencies that require additional funds based on enrollment.
USDA	Nutrition Assistance Block Grant to Territories	Low-income individuals and families are eligible for benefits as determined by each Territory.	The NABG Provides food assistance to low-income households in the U.S. Territories of the Commonwealth of Puerto Rico, American Samoa, and the Commonwealth of the Northern Mariana Islands, in lieu of operating a Supplemental Nutrition Assistance Program (SNAP).	With the authority granted them via the block grants, the U.S. territories establish eligibility and benefit levels for their nutrition assistance programs.	\$200 million U.S. Territories of the Commonwealth of Puerto Rico, American Samoa, and the Commonwealth of the Northern Mariana Islands	\$200 million for PR, CNMI, AS.
USDA	Disaster Household Distribution	USDA has approved targeted DHD programs for the following states and Indian Tribal Organizations (ITOs) .	States and Tribes may apply for the DHD program to meet specific needs when traditional channels of food are unavailable and not being replenished on a regular basis.	Please check with the specific state or ITO for details on the DHD operation	USDA has approved targeted DHD programs for the following states and Indian Tribal Organizations (ITOs).	Please check with the specific state or ITO for details on the DHD operation

Agency	Program Name	Populations Served	Services Provided	Program Rollout and Duration	Size & Additional Notes on Eligibility	Funding and operating mechanisms
USDA	Summer Food Service Program	Summer Food Service Program (SFSP) and National School Lunch Program Seamless Summer Option (SSO) to serve meals in non-congregate setting and at school sites during COVID-related school closures.	The U.S. Department of Agriculture's (USDA) Summer Food Service Program (SFSP), also known as the Summer Meals Program, provides kids and teens in low-income areas free meals when school is out.	The SFSP reimburses providers who serve free healthy meals to children and teens in low-income areas during the summer months when school is not in session.	The SFSP serves children and teens age 18 and younger. Serve meals in non-congregate setting and at school sites during COVID-related school closures.	<p>There are three main players involved: State agencies, sponsors, and sites.</p> <ul style="list-style-type: none"> - State agencies administer the program and communicate with USDA. - Sponsors enter into agreements with State agencies to run the program. Schools, local government agencies, camps, faith-based and other non-profit community organizations that can manage a food service program may be SFSP sponsors. Sponsors get reimbursed by the Program and may manage multiple sites. - Sites are places in the community where children receive meals in a safe and supervised environment. Sites may be in a variety of settings, including schools, parks, community centers, health clinics, hospitals, apartment complexes, churches, and migrant centers. Sites work directly with sponsors.
USDA	The Emergency Food Assistance Program	The Emergency Food Assistance Program (TEFAP) is a federal program that helps supplement the diets of low-income Americans, including elderly people, by providing them with	Through TEFAP, the U.S. Department of Agriculture (USDA) purchases a variety of nutritious, high-quality USDA Foods, and makes those foods available to State Distributing Agencies.	States provide the food to local agencies that they have selected, usually food banks, which in turn distribute the food to local organizations, such as soup kitchens and food pantries that directly serve the public.	The amount of food each state receives out of the total amount of food provided is based on the number of unemployed persons and the number of people with incomes below the poverty level in the state.	State agencies may adjust The Emergency Food Assistance Program (TEFAP) income eligibility guidelines to expand participation at any time; can consider categorical income eligibility (e.g. all SNAP and WIC participants).

Agency	Program Name	Populations Served	Services Provided	Program Rollout and Duration	Size & Additional Notes on Eligibility	Funding and operating mechanisms
USDA	Pandemic EBT	As a result of the Families First Coronavirus Response Act of 2020, children who would receive free or reduced-price meals if not for school closures are eligible to receive assistance under this provision. USDA is providing guidance to state agencies on plan requirements in order to receive approval.	Temporary emergency standards of eligibility and levels of benefits for free or reduced-price meals.	Waiver of existing requirements is provided upon request.	State agencies may submit plans in any case in which a school is closed for at least 5 consecutive days during a public health emergency designation during which the school would otherwise be in session.	Secretary has authority to approve state agency plans for temporary emergency standards of eligibility and levels of benefits under the Food and Nutrition Act of 2008. Children eligible for free or reduced-price meals if not for the school closure are eligible under this provision.
USDA	Supplemental Nutrition Assistance Program Emergency Allotments	USDA has granted waivers to all states, allowing for the issuance of emergency allotments (supplements) based on a public health emergency declaration by the Secretary of Health and Human Services under section 319 of the Public Health Service Act related to an outbreak of COVID-19 when a state has also issued an emergency or disaster declaration.	SNAP provides nutrition benefits to supplement the food budget of needy families so they can purchase healthy food and move towards self-sufficiency.	Waiver of existing program requirements is provided upon request.	Options for plan adjustments include a number of approaches to easing states' workload to facilitate processing the large number of new applications expected. For example, USDA has already allowed states to extend certification periods and take other measures to keep current participants from having their cases closed when they cannot conduct business online or remotely. USDA also has allowed states to modify their application processes to streamline operations, for example by reducing interview requirements and adapting telephone signature procedures.	The Act allows USDA to approve state plans to adjust their SNAP operations and procedures to help states manage their workload under current conditions.

Agency	Program Name	Populations Served	Services Provided	Program Rollout and Duration	Size & Additional Notes on Eligibility	Funding and operating mechanisms
HHS	Community Living Allocation	Older adults in need of meals.	These programs provide meals to more than 2.4 million older adults each year, both through home delivery and in places like community centers. The need for these services, particularly home-delivered and packaged meals, has increased as community measures to slow transmission of COVID-19 have closed meal sites and have left many family caregivers unable to assist their older loved ones.	Funding has been provided to states, territories, and tribes for subsequent allocation to local meal providers. Grant amounts are determined based on the population-based formulas defined in the Older Americans Act.		\$250 million in grants from the Administration for Community Living (ACL) to help communities provide meals for older adults.
Labor	Dislocated Worker Grants	Workers laid off because of impact from COVID-19.	Grants for temporary employment and training services, including humanitarian assistance, clean-up and mitigation associated with the virus, and job training for industries still hiring during the health emergency.	Grants will be made in installments to state and local workforce programs, with the first 26 grants totaling \$131 million awarded on April 15, 2020.	States and other eligible entities may also apply for Employment Recovery DWGs to provide reemployment services to eligible individuals	\$345 million made available through state and local workforce programs.
EDA	Supplemental Economic Adjustment Assistance (EAA)	Government entities that need coordinated, long-term, regional, and strategic responses to economic recovery, particularly due to budget shortfalls as a result of the coronavirus because of declining revenues and increased demand for services.	Assistance supports the ability to return economic and business activities to a healthy state. Assisted activities can enhance a community or region's ability to anticipate, withstand and recover from future disruptions to its economic base.	Eligible applicants include EDA-designated Economic Development Districts (EDDs); Indian tribes or a consortium of Indian tribes; states and local governments; institutions of higher education or a consortium of institutions; and nonprofit organizations acting in cooperation with officials of a political subdivision of a state (42 U.S.C. §3122(4)(a)).	Provides funding in in regions experiencing severe economic dislocations. Non-Federal cost share in the non-disaster EAA program can be 20-50% (42 U.S.C. §3144). EAA grants for disaster may require lower or no non-Federal cost share. (42 U.S.C. §3233).	The CARES Act provides \$1.5 billion in disaster economic recovery funding for the EAA program. Eligible activities include construction and non-construction activities (e.g., infrastructure, design and engineering, technical assistance, economic recovery strategies, and capitalization or re-capitalization of Revolving Loan Funds).

***Note on Duplication of Benefits**

Federal disaster law prohibits the provision of federal assistance in excess of need. Before paying a cost with federal disaster assistance, a Federal agency must check to see that the assistance will not cause a duplication of benefits, meaning that the cost has not or will not be paid by another source. HUD grantees are required to prevent the duplication of benefits when carrying out HUD-funded programs to provide disaster assistance.

Knowing the other sources of assistance that may be available to pay for coronavirus-related needs can help grantees prevent duplication of benefits in two ways. First, it helps grantees design programs that target needs that are unlikely to be addressed by other sources. Second, it helps grantees know which sources of assistance it needs to look for when completing a duplication of benefits check before providing assistance to individuals, households, and entities.

Assistance is not prohibited to meet needs that remain after considering other federal, state, local or philanthropic financial assistance. Private, unsubsidized loans generally are not considered a duplication of benefits. In some cases, subsidized loans do not cause a duplication, if all assistance is used for disaster-related needs. More specific information about how to comply with this requirement is available from HUD.

This guidance was developed by a HUD TA provider. Guidance documents, except when based on statutory or regulatory authority or law, do not have the force and effect of law and are not meant to bind the public in any way. Guidance documents are intended only to provide clarity to the public regarding existing requirements under the law or agency policies.

Grantee Name _____
 Project Number _____
 Preparer _____
 Date Prepared _____
 Follow-up Review Indicated _____

Duplication of Benefits

I. Records and Reports

		Yes	No	N/A	Notes
A.	Is there a Subrogation Agreement on file for Grantee, Third Parties, and Sub-recipients if applicable?				
B.	Is there a Self Certification of No Duplication of Benefits on file for Grantee, Third Parties, and Sub-recipients if applicable?				
C.	Does the grantee keep a record of all grants, insurance claims, private donations, etc. for CARES Act funds?				
D.	Does a review of these records indicate a duplication of benefits has occurred?				
	** If yes, which CDBG-CV activities are affected?				
	** What is the duplicated amount to be returned to ADECA for each activity affected?				

Monitoring Plan

During the project implementation phase, ADECA staff will schedule a monitoring visit to the grantee site. With the regular CDBG program, such visits are generally scheduled at after around 30 percent of the funds have been drawn. Due to the continuing pandemic infections as well as varying nature of activities some of which may jump from zero draw to nearly 100 percent draw, 30 percent guide may not be feasible. Hence, the ADECA staff will use their best judgement to monitor projects when such monitoring will be most effective to ensure grantee compliance. The monitoring is an arduous task and involves use of checklists to ensure and programmatic compliance and a visit to the project site to ensure the activities are carried out in accordance with the activities in the approved application. The checklists allow the State to determine the grantee's compliance in the area of citizen participation, national objective, eligibility, progress, professional services, environmental, fair housing and equal opportunity, bidding and contracting, labor, Uniform Act, financial management, record keeping, amendments, change orders, and individual case files. Upon completion of monitoring visits, generally within thirty days, the State will provide a letter to the grantee outlining findings if any including corrective actions. Monitoring determinations range from "acceptable" to "concerns" to "finding". Corrective measures may include certifications that inadequacies will be resolved, documentary and corrective actions have been instituted, reimbursement of disallowed costs, or other sanctions. Upon resolution of corrective actions, the finding(s) is released.

ADECA's monitoring strategy for COVID projects will be similar to the regular programs to the extent the projects are similar in nature and scope. For projects that are either complex or involve several distinct activities and/or large grant amounts, the State will adopt a flexible approach tailored to individual grantee. The approach may consist of several visits, and each visit may involve specific activities or specific compliance areas. Frequency and depth of the visit will depend on findings or concerns uncovered during the previous visits. The post award activities involving project implementation will be guided as much as possible by the State's CDBG Management and Implementation Manual. The online Manual was initially compiled as three paper volumes when the State first undertook the management of the CDBG Small Cities program in Alabama. The manuals were continually updated for several years by the distribution of selective hand-outs and fully updated several years ago at a great cost. Since the advent and wider usage of the online format, the manuals are now periodically updated and available online at <https://adeca.alabama.gov/cdbg/cdbg-management-and-implementation-manual/> under the Community and Economic Development Programs. The online Manual will be significantly relevant to the administration of the COVID programs, except where waivers have been provided by Congress or HUD.

INDEX OF POLICY LETTERS FOR THE CDBG PROGRAM

(Any revisions to the policy letters will be updated on the CDBG Web site)

Policy Letter No. 1	Policy on the selection of Engineers, Architects, consultants, and other professional services relating to procurement of, and expenditures made, in regard to state CDBG funds.
Policy Letter No. 2	Policy on program changes, amendments and cost underruns.
Policy Letter No. 3	Policy on the use of match in the Community development Block grant program as related to man hours and use of equipment.
Policy Letter No. 4	Liquidated damages (amounts and purposes).
Policy Letter No. 5	Policy on Grantee property management procedures.
Policy Letter No. 6	Policy on Fidelity Bond Requirements.
Policy Letter No. 7	Policy on program income.
Policy Letter No. 8	Policy on local contributions match.
Policy Letter No. 9	Policy on the applicability of Federal laws on other public funds.
Policy Letter No. 10	Rescinding of Policy Letter Number 10 (Revision 1).
Policy Letter No. 11	Policy letter on administrative costs for state CDBG projects.
Policy Letter No. 12	Policy on applicability of administrative and engineering costs when CDBG projects do not materialize.
Policy Letter No. 12(a)	Policy on allowable administrative costs.
Policy Letter No. 12(a)-1	Clarification of Policy Letter No. 12(a).
Policy Letter No. 13	Policy on housing standards and conditions.
Policy Letter No. 14	Policy on collateralization of CDBG funds by cash depositories.
Policy Letter No. 15	Liquidated Damages (disposition of).
Policy Letter No. 16	Policy on advertising for completion of construction contract and affect on close out of CDBG projects.
Policy Letter No. 17	Policy on timely start up.
Policy Letter No. 17(a)-1	Policy on acceptance of Drawdowns for construction.
Policy Letter No. 18	Policy on new residential water and sewer hookups (service connections) in CDBG projects.
Policy Letter No. 19	Requests for funds at close of fiscal year.
Policy Letter No. 20	Policy on volunteer labor on housing rehabilitation or new construction.
Policy Letter No. 21	Clarification of policy on construction contracting (labor and materials).
Policy Letter No. 22	Establishment of LMI benefit for area wide projects.
Policy Letter No. 23	Housing rehabilitation eligibility.
Policy Letter No. 24	Payment for local government employee's time or equipment used with CDBG funds.
Policy Letter No. 25	Policy on drawdowns for community development block grant administration engineering/architectural fees (including inspections).
Policy Letter No. 26	Policy on establishing a cost estimate for CDBG building activity and Davis-Bacon compliance.

OFFICE OF THE GOVERNOR

BOB RILEY
GOVERNOR



ALABAMA DEPARTMENT OF ECONOMIC
AND COMMUNITY AFFAIRS

Bill JOHNSON
DIRECTOR

STATE OF ALABAMA

October 1, 2008

ALABAMA CDBG INTERGOVERNMENTAL
POLICY LETTER NUMBER 1
(Revision 9)

To: Persons Interested in State
CDBG Program

From: Bill Johnson 
Director

POLICY ON SELECTION OF ENGINEERS, ARCHITECTS, CONSULTANTS,
OTHER PROFESSIONAL SERVICES RELATING TO PROCUREMENT OF,
AND EXPENDITURES MADE, IN REGARD TO STATE CDBG FUNDS

The method of procuring professional services for CDBG program purposes is governed by the Common Rule as revised by the ADECA.

Services Costing \$100,000 or Less

For services costing in the aggregate not more than \$100,000, the grantee may use "small purchase procedures." These are relatively simple and informal methods for the procurement of services, supplies, or other property. If small purchase procedures are used, price or rate quotations shall be obtained from an adequate number of qualified sources.

Services Costing More Than \$100,000

For professional services costing over \$100,000, the State is requiring that competitive negotiations be conducted as stipulated in the Common Rule as revised by ADECA.

Optional Three Year Selection

Should a community so choose, it may follow the competitive negotiation process as stipulated in the Common Rule as revised by ADECA, and select firms for professional services for a three year period. An agreement would be drawn up outlining the time frame and the relationship to include all CDBG requirements. Contracts for specific projects would be negotiated upon issuance of a Letter of Conditional Commitment with fees and services required to be in accordance with the State approved project, budget and fee scales. The three year period is defined as three CDBG fiscal year cycles.

Type of Contract

Either a fixed price or cost reimbursable (with a maximum amount specified) contract will be used. No percentage or cost plus percentage type contract will be allowed.

Payment for Services Rendered Prior to Grant Approval

Payment for services rendered prior to grant approval are not normally eligible. The only exceptions are reasonable costs for services necessary for the preparation of the application, such as securing accurate cost estimates, preliminary maps or drawings, and surveys required to establish the extent of need and those determined through the optional three year selection process. All costs of services for which reimbursement is expected must be separately identified in the application as preagreement costs. No more than \$2,500 will be approved as an eligible CDBG cost for application preparation. In no case will the payment be eligible on an unapproved application. The amount to be approved for administration or engineering/architectural services shall be based on the complexity of an application and shall be the State's determination.

Procurement of Non-Profit Agencies

An applicant will follow the procedures outlined in the Common Rule as adopted by ADECA when procuring the services of a non-profit agency. However, an applicant need not apply these procurement procedures if it chooses to contract with a regional planning and development commission for professional services. However, any non-profit agency may charge only the actual costs incurred in providing the services under contract. These actual costs incurred must be documented by the non-profit entity in accordance with OMB Circular A-110.

Exemption from Requirement for Cost or Price Analysis

The State will recognize as Match or pay from CDBG funds only those engineering or administrative costs that are within the State approved scales. In general, this ensures the reasonableness of costs and eliminates the need for cost or price analysis.

However, the State reserves the right to require a cost or price analysis when administrative fees do not appear to be appropriate for the complexity of the project or the scope of services to be provided.

Effective Date: Immediately

September 24, 1997

ALABAMA CDBG INTERGOVERNMENTAL
POLICY LETTER NUMBER 2
(Revision 6)

TO: Persons Interested in State
CDBG Program

FROM: Jean D. Davis
Chief, Planning and Economic
Development Division

POLICY ON PROGRAM CHANGES, AMENDMENTS AND COST UNDERRUNS

Amendments to CDBG Programs are changes to the approved program or any activities, necessitated by circumstances beyond the control of the municipality/county, which alter any of the following:

1. Dollar amounts spent on any activity;
2. Beneficiaries of any activity;
3. Geographic location(s) of any activity;
4. The design nature of an activity; for example, increasing the size of water lines, increasing the size of drainage pipes; or
5. The policies and procedures of a Housing Rehabilitation Program.

Given the possible range and types of amendments listed above, the state has determined that there will be two general types of amendments to programs which will be allowed. The types of amendments are formal amendments requiring state approval and local amendments which require that documentation be supplied to the State but which do not require formal state approval. All changes, revisions, or amendments to a program require prior written approval by either the state or the local governing body.

This policy letter provides guidance to localities on the types of changes which require state approval and the types which do not.

Formal State Approved Amendments

A Formal Amendment is necessitated by:

1. A proposed change in costs associated with a program of more than 10 percent of the total CDBG Program costs. This includes any change made that would cause the cumulative amount of changes to equal more than 10 percent, and this also includes those instances where the balance of funds resulting from a cost underrun is more than 10 percent of the CDBG grant amount;
2. An increase in the cost for the line item, "Administration", "Engineering" and/or "Architectural" services which exceeds 10 percent of the costs budgeted for that line item whether within the CDBG amount of the line item or the total line item. (This includes any proposed change made that would cause the cumulative amount of the line item, "Administration", "Engineering" and/or "Architectural" services to be increased by more than 10 percent.);
3. A proposed change in direct beneficiaries of the program so as to lower the total number of direct beneficiaries of the program by more than 10 percent;
4. A proposed change in direct beneficiaries of the program so as to lower the number of low and moderate income or minority beneficiaries by more than 10 percent;
5. A proposed change in the scope of activities so as:
 - a. To add any activity not originally proposed in the application,
 - b. To delete any activity originally proposed in the application,

- c. To alter the location so that the originally proposed beneficiaries are reduced by more than 10 percent, or
 - d. To expand or reduce the area in which comprehensive program activities are occurring; or
6. A proposed change in housing rehabilitation program policies and procedures which alter the number of beneficiaries or the housing standard to be used.
 7. An underrun on an activity or activities resulting in over 10 percent of grant funds being unobligated.

When a formal amendment is needed, the municipality and/or county shall:

1. Provide citizens with reasonable notice of and opportunity to comment on the change proposed to be made. This shall be accomplished by holding one or more public hearings to obtain the views of citizens concerning the proposed formal amendment.
 - a. Such hearing shall be advertised far enough in advance of the public hearing and in enough detail to allow interested citizens to have a reasonable change to attend the hearing and make their viewpoints known.
 - b. Information presented at the hearing shall describe: 1) the current program and the proposed change which may necessitate a formal amendment; 2) the amount of funds currently benefiting low and moderate income persons and the amount proposed to benefit low and moderate income persons; and 3) plans of the community for dealing with any displacement of persons that may occur due to the proposed change.
2. Provide the state with:
 - a. Evidence that the circumstances necessitating the proposed change(s) are clearly beyond the control of the local government;
 - b. A resolution from the municipality/county commission or council authorizing the change(s);

- c. An explanation of the proposed change which includes:
 1. A description of the proposed change;
 2. A revised budget;
 3. A description of the beneficiaries to be gained or lost;
 4. A description of the percent of beneficiaries to be gained or lost which are low and moderate income or minority;
 5. Appropriate map(s).
- d. Other sufficient information on appropriate Alabama CDBG application forms to enable the state to re-rate the application taking the proposed change(s) into consideration. (The rating of the program with proposed change(s) must be equal to or greater than the lowest rating received by a funded program during that cycle of application ratings.)

Further, a municipality/county which proposes to noticeably reduce the number of percent of beneficiaries who are low or moderate incomes or minority persons must clearly substantiate the reasons for such reductions. In no case may the percent of low and moderate income beneficiaries be reduced to less than 51 percent.

When a municipality/county has determined that a program change is necessitated by circumstances beyond its control, and the change requires a formal amendment (according to criteria outlined in this policy letter), the chief elected official shall send to the ADECA a formal request for a program amendment and provide sufficient information, as described above, to permit the state to make a decision on the appropriateness of the change.

The municipality/county shall take no further action, i.e., obligate or use funds for any activity related to the proposed change, until the state gives preliminary approval. At this time the grantee will/will not be authorized to incur costs such as environmental review preparation/ads, preliminary engineering, etc., related to a significant change in scope, location, or

scale. No other obligation or expenditure of funds may be made until final approval by the state. Further, the State will not guarantee that a formal amendment that is submitted less than sixty days prior to a scheduled closeout, can be processed and approved in order to meet the closeout date.

Local Amendments

Local amendments may be used to make changes in the program of a more minor nature than those which require a formal amendment. Such changes must be necessitated by circumstances beyond the municipality/county's control and will generally consist of the following types of changes:

1. Expansion or addition to an activity in cases where there is a cost underrun 10 percent or less of the grant award. The money made available due to the cost underrun (the remainder of the amount budgeted for the activity) may be spent on a continuation of the same activity. The continuation of that activity must be in the original project area or adjacent to the original project area. The relationship of the current activity to the continuation should be in a neighborhood of the same economic character, i.e., one of at least 51 percent low and moderate income persons.
2. Change in the cost of a program of less than 10 percent of the total CDBG Program cost or changes in the Administration line item or less than 10% of that line item, provided that:
 - a. The scope of the program is not noticeably reduced. (In the case of a Comprehensive Program the project area boundaries may not be reduced or expanded by local amendment.);
 - b. The scope of any activity is not noticeably reduced;
 - c. The beneficiaries of any activity are not reduced by more than 10 percent.

In changes of this type when an activity is increased in size, the increase must consist of an expansion or addition to an approved activity and the relation of the extension to the approved activity must be readily apparent and must serve a neighborhood of essentially

the same economic character, i.e., one of at least 51 percent low and moderate income persons.

3. Changes in the design nature of an activity such as expanding the size of water lines or drainage pipe provided that Program costs are changed by no more than 10 percent of the total CDBG Program cost, and provided that the location and beneficiaries of the activity are in no way changed so as to require a formal amendment.
4. Changes in housing rehabilitation program policies or procedures which do not require a formal amendment.

In cases where the municipality/county desires to make changes by means of a local amendment the following information must be supplied to the state as evidence of that local amendment:

1. A letter from the chief elected official noting that such change is proposed to be made and is necessitated by circumstances beyond the jurisdiction's control or why it is to their advantage.

State approval of local amendments is not required. However, the municipality/county must have determined that a formal amendment was not required and then provide the information listed above to the appropriate CDBG Program Supervisor. Furthermore, the grantee should take particular care not to obligate or incur additional costs without prior written approval of the locality's chief elected official.

In the case of cost overruns, such shortfalls are to be paid out of local funds or contingency funds and are not viewed as justifiable grounds for program amendments requesting additional funds. However, a cost overrun on an approved activity or activities may be paid by funds made available due to a cost underrun or underruns on other approved activities provided that no approved activity has its direct beneficiaries reduced by more than 10 percent and provided that budgeted costs are not changed by more than 10 percent of the CDBG Program cost.

Effective Date: Immediately

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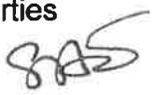
ALABAMA DEPARTMENT OF ECONOMIC
AND COMMUNITY AFFAIRS

ROBERT BENTLEY
GOVERNOR

JIM BYARD, JR.
DIRECTOR

STATE OF ALABAMA

May 15, 2013

To: Interested Parties
From: Shabbir Olia 
CED Programs Manager
Re: Revision of Policy Letter #3 Related to Equipment Rates

In an effort to streamline the equipment rate process, Policy Letter #3 has been revised removing the requirement of State pre-approval of equipment to be used and equipment rates charged for projects including in-kind match. Effective immediately, the attached revised forms are to be used by the grantee in conjunction with FEMA's Schedule of Equipment Rates found on-line at: www.fema.gov/schedule-equipment-rates, to determine equipment rates. The revised "Equipment Rental Rate" form must be completed with a list of equipment and rates to be used and submitted to ADECA along with the Notice of Start of Construction. The "Weekly Employee Man Hours and Equipment Usage Report" is still required and should be kept on file for monitoring purposes.

If you have any questions, please contact the Program Supervisor assigned to your project.

SAO:WAJ:tn

OFFICE OF THE GOVERNOR

ROBERT BENTLEY
GOVERNOR



STATE OF ALABAMA

ALABAMA DEPARTMENT OF ECONOMIC
AND COMMUNITY AFFAIRS

JIM BYARD, JR.
DIRECTOR

April 1, 2013

Alabama CDBG Intergovernmental Policy Letter #3 (Revision 3)

To: Interested Parties

From: Beatrice M. Forniss 
Chief, Community and Economic Development Division

Re: POLICY ON THE USE OF MATCH IN THE COMMUNITY
DEVELOPMENT BLOCK GRANT PROGRAM AS RELATED
TO MAN HOURS AND USE OF EQUIPMENT

In order for there to be an auditable record of force account projects for the purpose of either local contribution or in lieu of contracting labor or equipment, statewide uniform standards are necessary. As such, any community using man hours or equipment usage as match should adhere to the following:

LABOR

1. Time sheets must be kept on each individual for each week throughout the life of the project. All hours worked each week according to service performed and project worked on must be shown to include all hours both on usual city/county work and CDBG project work.
2. Hourly rates should be in accordance with OMB A-87 and may not exceed actual compensation paid. Fringe benefits may not be counted.
3. Costs should be journalized on a weekly basis with time and equipment converted to cash credit in accordance with payroll timeframes.

EQUIPMENT

1. Equipment purchased with federal funds may not be used as credit toward local contribution.
2. Equipment must be in actual operation performing eligible work in order for reimbursement to be eligible.

3. FEMA's Schedule of Equipment Rates is to be used to determine rates charged. This Schedule can be found at: www.fema.gov/schedule-equipment-rates. This document is updated as necessary and a copy of the Schedule should be printed on the date equipment rates are determined, and kept in the program files to enable review for proper rate determination.
4. For any equipment that is not listed on FEMA's Schedule, please contact the ADECA Program Supervisor assigned to the project for the rate.

BF:WAJ:tn

WEEKLY EMPLOYEE MAN HOURS AND EQUIPMENT USAGE REPORT

EMPLOYEE	CDBG PROJECT NUMBER	PAYROLL NUMBER
	PROJECT NAME	PERIOD BEGINNING
	PROJECT LOCATION (CITY, STATE)	PERIOD ENDING

DATE	WORK DESCRIPTION (INCLUDING EQUIPMENT USED)	(A) TOTAL HOURS	(B) PROJECT HOURS	(C) RATE OF PAY	(D) TOTAL GROSS PAY (A x C)	(E) PROJECT GROSS PAY (B x C)	(F) PROJECT EQ RENT	(G) EQUIP RENTAL RATE	(H) TOTAL EQ RENT (F x G)
		O							
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EMPLOYEE SIGNATURE _____

SUPERVISOR SIGNATURE _____

APPROVAL _____

DATE _____

DATE _____

DATE _____

TOTAL PROJECT MAN HOURS AND
EQUIPMENT USAGE (E+H) _____

WEEKLY EMPLOYEE MAN HOURS AND EQUIPMENT USAGE REPORT
Instructions for Completion

Employee: Enter the Name of the Employee.

CDBG Project Number: Enter the CDBG Project Number.

CDBG Project Name: Enter the Name of the CDBG Project.

Project Location: Enter the Location of the Project.

Payroll Number: Enter the Payroll Number. Payrolls should be annotated as first through final.

Period Beginning: Enter beginning Date of this Payroll Period.

Period Ending: Enter the Ending Date of this Payroll Period.

Date: Enter the Date (Month/Date/Year) of the Work Day.

Work Description: Enter the Work Description, including Equipment Used.

Total Hours: Enter the Total Number of Hours the Employee Worked for the Day. Distribute the Hours by Straight (S) and Overtime (O).

Project Hours: Enter the Total Number of Hours the Employee Worked on the CDBG Project for the Day. Distribute the Hours by Straight (S) and Overtime (O).

Rate of Pay: Enter the Employee's Hourly Rate of Pay: (S) - Straight Hourly Rate and (O) Overtime Hourly Rate.

Total Gross Pay: Enter the Employee's Total Gross Pay (A x C) for the Day.

Project Gross Pay: Enter the Employee's Total Project Gross Pay (B x C) for the Day.

Project Equipment Use: Enter the Number of Hours the Employee used the Equipment on the CDBG Project for the Day.

Equipment Rental Rate: Enter the Hourly Equipment Rental Rate.

Total Equipment Rental: Enter the Employee's Total Equipment Rental Charges (F x G) for the Day.

Totals: Enter the Totals for Columns A through H.

Employee Signature: Have the Employee Certify the Validity of the Report by Affixing Signature.

Date: Enter the Date the Employee Signs the Report.

Supervisor Signature: Have the Supervisor Certify the Validity of the Report by Affixing Signature.

Date: Enter the Date the Supervisor Signs the Report.

Approval/Date: Have the Payroll Clerk Certify the Correctness of the Report by Affixing his Signature and the Date.

Total Project Man Hours and Equipment Usage: Enter the Employee's Total Project Man Hours and Equipment Usage for the Week (Column E Total + Column H Total).

Compute the Total of All Employees Man Hours and Equipment Usage for the Week and Make Appropriate Entries in the Journals and the General Ledger.

November 19, 1991

ALABAMA CDBG INTERGOVERNMENTAL
POLICY NUMBER 4
(Revised)

TO: All CDBG Grantees

FROM: Don C. Hines, Ph.D., Chief
Planning and Economic Development

LIQUIDATED DAMAGES

The Alabama Department of Economic and Community Affairs, at HUD's direction, has developed a policy and procedure for the resolution of Liquidated Damages.

Liquidated damages for the purpose of this policy letter are limited to those penalties (\$10.00 per person, per day, per violation) that may or may not be imposed for violation (s) of the Contract Work Hours and Safety Standards Act-overtime pay requirements.

Violations of the Contract Work Hours and Safety Standards Act result not only in the payment of unpaid wages for the overtime worked but in "liquidated damages" due to the United States in the sum of \$10.00 per person, per day, for each violation. Intentional violations are a Federal misdemeanor, punishable for each and every offense by a fine of not more than \$1,000 or by imprisonment for not more than (6) months, or both. Violations may also be grounds for termination of contract.

Once a violation is observed or discovered, please forward a copy of the payroll that either should have contained the overtime or that has incorrect wages in behalf of overtime to the ADECA, Attention: Labor Standards Specialist. The payroll (s) should be accompanied by a letter of explanation from the grantee. This letter should contain the grantee's contract number as it appears on the contract between the locality and the ADECA, the number of the applicable wage determination, and an explanation regarding the nature of the violation (s). The ADECA will advise you of any additional information we may need and of additional steps necessary for the resolution of the violation (s).

Effective date: Reissued November 19, 1991

September 17, 2003

ALABAMA CDBG INTERGOVERNMENTAL
POLICY LETTER NUMBER 5
(Revision 4)

TO: Persons Interested in State
CDBG Program

FROM: John D. Harrison, Director

POLICY ON GRANTEE PROPERTY
MANAGEMENT PROCEDURES

The Alabama Department of Economic and Community Affairs (ADECA) has developed the following property management procedures for grantees to provide uniform procedural guidance for CDBG projects involving the purchase of equipment/property in the amount of \$5,000 or more. Typically, property purchases will be approved through the grant agreement. Any purchase not expressly allowed in the grant agreement will require prior written approval from ADECA. At a minimum, the grantee will be required to accept fiscal responsibility for the property; develop a system to ensure adequate safeguards to prevent loss, damage, or theft of property; maintain a current listing of the location and condition of all property purchased in whole or in part with CDBG funds; and follow the procedures outlined below.

PROCEDURES

Material Receipt Form: The grantee shall complete a Property Management Unit Material Receipt form (PMU-1) to be submitted with the drawdown request form for the purchase of the equipment. A copy of the paid invoice should be included with the PMU-1. For vehicle purchases, a copy of the title should also be attached. A PMU-1 and instructions are attached. Due to the nature of equipment purchases, funds for deposits or purchases may need to be drawn prior to the receipt of the property. When necessary, a partial PMU-1 will be acceptable documentation to draw funds. However, the grantee shall submit the completed PMU-1 and all attachments with the next drawdown request. A project cannot be closed until the completed PMU-1 and attachments have been submitted to ADECA.

Inventory Verification: Once the community has submitted the completed PMU-1 and attachments, ADECA will forward an inventory form and inventory identification tags (stickers) to the Chief Elected Official. The inventory form is to be completed and signed by the Chief Elected Official and returned to ADECA. The stickers are to be affixed to the property where they will be readily visible upon examination. A copy of the PMU-1 and attachments must be kept on file in the community.

The Property Management Unit (PMU) of ADECA is required to conduct an inventory at least once every two years. PMU accomplishes this by mailing inventory listings to grantees. Upon receipt of the inventory listing, the Chief Elected Official shall verify the location and condition of the property, complete and sign the inventory listing, and return it to ADECA.

Lost, Stolen, or Destroyed Property: If property is lost, stolen, or destroyed, the community must complete a Report of Survey (PMU-4) and submit it to ADECA. A copy of the PMU-4 and instructions are available from your CDBG program supervisor. If the property is lost, a complete description detailing all controls and safeguards exercised by the property custodian should be attached to the PMU-4. If the property is stolen, the incident should be reported to local law enforcement and the police report should accompany the PMU-4. If the property is destroyed by fire, the local fire marshall's report should be included with the PMU-4. If the property is destroyed by other means, a detailed report that completely explains the incident should be prepared to accompany the PMU-4.

Documentation regarding insurance reports and claims should also be submitted to ADECA. If the grantee receives insurance proceeds, please contact your CDBG program supervisor for additional instructions.

Disposition of Property: Property may not be sold, transferred, traded-in, or otherwise disposed of without prior written consent from ADECA. If the grantee no longer needs the equipment or the equipment is obsolete, the grantee must contact ADECA in writing for instructions regarding the disposition of property.

DEFINITIONS

The following definitions will apply to this policy and the Property Management Unit forms.

Equipment: The Common Rule defines equipment as tangible, non-expendable, personal property having a useful life of more than one year and an acquisition cost of \$5,000 or more per unit.

Acquisition Cost: The net invoice unit price of the property including the cost of modifications, attachments, accessories, or auxiliary apparatus necessary to make the property usable for the purpose for which it was acquired. Other charges such as the cost of installation, transportation (freight-in), taxes, duty, or protective in-transit insurance shall be included to calculate the unit acquisition cost.

Percentage of Federal Participation: Computed by dividing the total amount of federal cost by the total amount of the grant or award cost for which the property was acquired.

Total Grant Cost	-	\$5,000	100%
Federal Share	-	\$4,000	80%
Local Share	-	\$1,000	20%

For additional guidance regarding property management, contact your program supervisor.

Effective Date: Immediately

Attachments

PMU-1

**ALABAMA DEPARTMENT OF ECONOMIC AND COMMUNITY AFFAIRS
PROPERTY MANAGEMENT UNIT
COMMUNITY MATERIAL RECEIPT**

1. Community _____ 6. Vendor _____
2. Address _____ 7. Address _____

3. Phone Number _____ 8. Date Received _____
4. Contract Number _____
5. Property Location and Address (if different from above) _____

9. Property Description	10. Quantity	11. Serial No.	12. Unit Price	13. Total Price	14. Fed. Share	15. Condition

I hereby certify that I have received and checked the items listed above and that they are of the kind, quantity and condition noted.

16. Received By (type name) _____ 17. Phone Number _____
18. Signature _____ 19. Date _____

PMU-1 Instructions

Alabama Department of Economic and Community Affairs Community Material Receipt

Purpose: This form is to be used by ADECA communities to document the receipt of non-consumable personal property.

Instructions for Completion:

1. Enter legal name of the community receiving property.
2. Enter complete mailing/street address of the community.
3. Enter telephone number of the community.
4. Enter the CDBG project number as appropriate.
5. Enter exact location of the property, to include complete address, if different from address in item #2.
6. Enter name of vendor.
7. Enter complete mailing address of vendor.
8. Enter date the property was received by the community.
9. Enter a description of the property.
10. Enter number of units received.
11. Enter manufacturers serial number (and model number if available).
12. Enter unit price paid for the property.
13. Enter total price paid for the item(s).
14. Enter percentage of Federal participation in the cost of the contract.
15. Enter the condition of the property received.
 - a. Good – Enter G for good condition
 - b. Fair – Enter F for fair condition
 - c. Poor – Enter P for poor condition
16. Enter the typed name/title of individual certifying receipt of the property.
17. Enter telephone number of the individual cited in #16.
18. Enter signature of the individual certifying receipt of the property.
19. Enter date the certifying agent signs the document. (For community only).

This completed form should accompany a paid vendor invoice to the ADECA Division designee.

If the property is a vehicle, a copy of the Title must also accompany this form.

November 14, 1994

ALABAMA CDBG INTERGOVERNMENTAL
POLICY LETTER NUMBER 6

REVISION 4

TO: Persons Interested in State
CDBG Program

FROM: Jackie Mitchell
Chief, Planning and Economic
Development Division

POLICY ON FIDELITY BOND REQUIREMENTS

Effective this date the State of Alabama is rescinding CDBG
Policy Letter Number 6.

The State, however, reserves the right in those instances
where a high risk situation exists to mandate fidelity bond
coverage for persons having direct or indirect access to funds.

Effective Immediately

November 19, 1991

ALABAMA CDBG INTERGOVERNMENTAL
POLICY LETTER NUMBER 7
(Revision 1)

TO: Persons Interested in State
CDBG Program

FROM: Don C. Hines, Ph. D., Chief
Planning and Economic Development

POLICY ON PROGRAM INCOME*

Grantees shall return to the state any interest earned on grant funds advanced by the state except interest on rehabilitation loans or revolving funds.

All other Program Income earned during any period under which the community is assisted by state CDBG funds shall be retained by the community, unless otherwise stated in the Agreement between the community and the state, and used for approved activities in accordance with the following rules:

1. To the maximum extent feasible, Program Income shall be disbursed prior to making additional draws from the state to finance approved community development activities as follows:
 - a. Program Income in the form of repayments to a revolving loan fund established to carry out an activity shall be substantially disbursed from such fund before additional draws are made for the same activity.
 - b. All other Program Income shall be substantially disbursed for any approved activity before additional draws are made.

Included in the category of other Program Income are proceeds from the disposition of real property, payments of principle and interest on rehabilitation loans, interest earned on revolving loan funds.

Recipients shall record the receipt and expenditure of revenue related to the program (such as taxes, special assessments, levies, fines, etc.) as part of grant program transactions.

The disposition of Program Income received after the close-out of a grant shall be governed by the following rules:

Except as may be otherwise provided by the terms of the Grant Agreement or any close-out assessment, Program Income received after grant close-out should be treated by the community as "miscellaneous revenue." However, if the community has another ongoing state funded CDBG program, the Program Income received from the closed-out program shall be treated as Program Income of the active CDBG Program. Additionally, the community must have accounted, at close-out, for any tangible personal property acquired with grant funds in accordance with the Common Rule and State Policy Letter Number 5.

* Loan repayments involved with the Economic Development Fund projects are governed by the specific terms of the Grant Agreement rather than this Policy Letter.

* Liquidated damage proceeds may be considered program income in some cases. They are governed by Policy Letter Number 15.

Effective Date: Immediately

OFFICE OF THE GOVERNOR

BOB RILEY
GOVERNOR



ALABAMA DEPARTMENT OF ECONOMIC
AND COMMUNITY AFFAIRS

Bill JOHNSON
DIRECTOR

STATE OF ALABAMA

October 1, 2008

ALABAMA CDBG INTERGOVERNMENTAL
POLICY LETTER NUMBER 8
(REVISION 3)

TO: Persons Interested in State CDBG Program

FROM: Bill Johnson 
Director

POLICY ON LOCAL CONTRIBUTIONS MATCH

Local match, either in cash or man-hours and equipment usage, is both a rating factor and a contractual requirement of CDBG grant agreements. Unfortunately, grantees sometime fail to utilize all match contributions pledged toward the accomplishment of program objectives.

In an effort to eliminate such occurrences from happening in the future, unless otherwise waived by the Director of ADECA, the following match expenditure requirements will apply:

1. All local cash match allocated to a project must be spent on a proportionate basis to the expenditure of CDBG funds. This local cash match expenditure requirement will not apply to projects with ARC, Rural Development, or other State funds where the participating agency's rules preclude its funds from being spent first.
2. In the case of in-kind contributions, CDBG funds may only be drawn down on a proportionate basis to the percentage of in-kind match that has or will be concurrently utilized for that particular budgetary line item. An exception will apply in the case of in-kind services for street patching at project completion and in-kind services used to install or construct CDBG purchased materials (the grantee shall identify such circumstances in the "remarks" section of the drawdown form when requesting payments).
3. In the case of a cost under-run, the grantee may request an amendment to the project budget to reduce the CDBG funds and the local match proportionately so that the originally approved grant to match ratio is maintained.

If for some reason the required amount of local match still does not materialize, then the State reserves the right to re-rate the project and, if appropriate, reduce the required match amount, disallow any or all of the CDBG monies spent, or impose other sanctions as may be fitting under the circumstances.

Effective Date: Immediately

November 19, 1991

ALABAMA CDBG INTERGOVERNMENTAL
POLICY LETTER NUMBER 9
(Revision 1)

TO: Persons Interested in State
CDBG Program

FROM: Don C. Hines, Ph.D., Chief
Planning and Economic Development

POLICY ON THE APPLICABILITY OF FEDERAL LAWS
ON OTHER PUBLIC FUNDS

Virtually all federal laws and regulations, such as labor standards and environmental procedures, governing the use of CDBG funds also clearly apply to other public funds contributed to the same project. The purpose of this policy letter is to alert grantees to their responsibility to manage their other public funds accordingly.

On those CDBG projects which involve other public funds (including local bond and general revenues, as well as other federal funds), all federal laws and regulations applicable to the CDBG funds are also applicable to the other public funds. Any exception to the applicability of this policy letter must have prior written approval of the state.

Effective Date: Immediately

June 12, 2000

MEMORANDUM

TO: Persons Interested in State CDBG Program

FROM: Nick D. Bailey
Acting Director

SUBJECT: Rescinding of Policy Letter Number 10 (Revision 1)

Effective immediately, the Policy Letter Number 10 (Revision 1) involving drawdowns under the state letter of credit is rescinded. Therefore, the drawdown requests for CDBG funds will no longer be limited to a minimum of \$10,000 nor no more than two drawdowns per month. Due to this change, it no longer will be necessary for grantees to drawdown funds in excess of those necessary for items listed under the state approved Detailed CDBG Budget. This change has become necessary due to the inability of the State to account for funds drawn down as "cash-on-hand" under the HUD's Information Disbursement and Information System (IDIS).

Even though no longer prohibited, it is the State's desire that grantees will limit drawdowns to no more than two per month and drawdown amounts of no less than \$5,000-\$10,000.

Grantees should be aware that the State reserves the right to reduce requested amounts if they appear to exceed allowable amounts for administration or engineering.

NDB:md

September 24, 1997

ALABAMA CDBG INTERGOVERNMENTAL
POLICY LETTER NUMBER 11
Revision 1

TO: Persons Interested in State
CDBG Program

FROM: Jean D. Davis, Chief
Planning and Economic Development Division

POLICY LETTER ON ADMINISTRATIVE COSTS
FOR STATE CDBG PROJECTS

Because of the nature of CDBG projects, it is necessary to devise procedures to provide for timely and efficient closings.

For those CDBG grantees receiving state CDBG administrative monies for the purpose of managing projects, a ceiling of 90 percent is established on approved administrative costs to be drawn until such time as acceptable closeout documents are submitted to, and approved by, ADECA. The minimum draw will be adjusted in those cases where necessary so as to permit drawing administrative monies with a 10 percent retainage by the state.

Effective Date: Immediately

November 19, 1991

ALABAMA CDBG INTERGOVERNMENTAL
POLICY LETTER NUMBER 12

TO: Persons Interested in State
CDBG Program

FROM: Don C. Hines, Ph.D., Chief
Planning and Economic Development

POLICY ON APPLICABILITY OF ADMINISTRATIVE AND ENGINEERING
COSTS WHEN CDBG PROJECTS DO NOT MATERIALIZE

For those grantees who receive CDBG funds from FY 1987 and any other year thereafter, the following policy is established regarding applicability of administrative and engineering expenses;

If for any reason a project does not materialize as funded, and no benefits are achieved, the grantee will not be eligible to receive funds for administrative or engineering costs. Any CDBG funds which may have already been drawn down for these purposes must be reimbursed to the state.

Effective Date: Reissued November 19, 1991

OFFICE OF THE GOVERNOR

BOB RILEY
GOVERNOR



ALABAMA DEPARTMENT OF ECONOMIC
AND COMMUNITY AFFAIRS

Bill JOHNSON
DIRECTOR

STATE OF ALABAMA

June 23, 2008

MEMORANDUM

TO: Persons Interested in the State CDBG Program

FROM: Bill Johnson *dmi*
Director

SUBJECT: Clarification of Policy Letter 12(a) on allowable administrative cost for
Economic Development Projects

This policy applies to all new CDBG Economic Development grants awarded after the date of this letter.

In general, the fee scale in policy letter 12(a) for CDBG project administration costs, i.e., program management, advertisements, audit, and eligible pre-agreement costs does not apply to Economic Development projects. Project administration costs for Economic Development projects will be determined for each project based on the complexity of the project and the extent of the administrative services required to carry out the project.

BJ:MEN:sp

OFFICE OF THE GOVERNOR

BOB RILEY
GOVERNOR



STATE OF ALABAMA

ALABAMA DEPARTMENT OF ECONOMIC
AND COMMUNITY AFFAIRS

Bill JOHNSON
DIRECTOR

October 1, 2008

ALABAMA CDBG INTERGOVERNMENTAL
POLICY LETTER NUMBER 12(a)

(REVISION 2)

TO: Persons Interested in the State CDBG Program
FROM: Bill Johnson 
Director

POLICY ON ALLOWABLE ADMINISTRATIVE COST

This policy applies to all new CDBG grants awarded after the date of this letter.

CDBG project administration costs, i.e., program management, advertisements, audit, and eligible pre-agreement costs for Competitive Fund and Community Enhancement Fund projects, shall not exceed the percentages of total project cost or maximums listed below:

<u>Total Project Cost</u>	<u>Administrative Percentage</u>
Under \$200,000	12% up to \$20,000
\$200,000 - \$400,000	10% up to \$32,000
Over \$400,000	8% up to \$50,000

For the purposes of determining total project cost, the amount will include the CDBG funds awarded in addition to the local matching funds and/or other non-federal/state grant funds up to the amount of the CDBG grant award (i.e., \$400,000 grant award and \$400,000 in local match for a total project cost of \$800,000 is allowed, however \$400,000 grant award and \$500,000 local match would still be considered total project of \$800,000). Any local and/or other funds exceeding the grant amount will not be included in the determination of administrative fees as a percentage of project cost.

Any project of a complex nature which could possibly warrant additional administrative costs in excess of the maximum allowed may be approved by ADECA on a case-by-case basis if sufficiently justified. Conversely, some projects are of a less complex

nature and/or some administrative service agreements have minimal scopes of services and may require less administrative oversight, therefore, maximum fees may not be appropriate. As such, ADECA reserves the right to require a cost analysis for any project when fees do not appear to be appropriate. Further, if costs cannot be justified, ADECA reserves the right to reduce the administrative fees paid for with CDBG funds and/or local matching funds.

Due to the nature of Economic Development and Planning Fund projects, and projects funded due to emergencies or disasters, the fee scale above may not always be appropriate. Therefore, applicants are urged to contact ADECA for guidance regarding administrative fees and cost analyses during the project development phase, prior to application submission.

Costs budgeted for work write-ups and inspections for housing rehabilitation projects should be identified as a separate budget line item, and the amount allocated for this activity must continue to be reasonable and necessary. Also, appraisals, surveys, and legal fees associated with acquisition and/or relocation are considered service delivery costs and should be included in the applicable construction line item.

BJ:MEN:sj

February 27, 2003

ALABAMA CDBG INTERGOVERNMENTAL
POLICY LETTER NUMBER 13
REVISION 1

TO: Persons Interested in State CDBG Rehabilitation Program

FROM: John D. Harrison
Director

POLICY ON HOUSING STANDARDS AND CONDITIONS

For those CDBG grantees who receive housing rehabilitation funds, the state has developed the following definitions and guidelines for housing standards and conditions to be used in conjunction with program activities. These definitions and guidelines will be pertinent for compliance with Section 104 (d) of Title I of the Housing and Community Development Act of 1974, as amended (also known as the Barney Frank Amendment).

1. Substandard but suitable for rehabilitation (occupiable) – A substandard unit is considered suitable for rehabilitation (or occupiable) if the present fair market value of the structure is \$5,000 or more; and the cost of bringing the unit into compliance with local housing codes, or at least (HUD) Section 8 Quality Standards for complete rehabilitation, or equivalent standards for partial rehabilitation, shall not exceed 75 percent of the estimated “after rehabilitation value” of the unit.
2. Standard – A standard housing unit is one which has no structural, electrical, plumbing, or mechanical defects or has only slight defects which can be corrected through maintenance. The unit should meet local housing codes or at a minimum (HUD) Section 8 Housing Quality Standards in the absence of local housing codes. The unit should be capable of providing decent, safe, and sanitary housing.

Effective Date: Projects Funded in FY 2003 Program Year and Thereafter.

August 4, 1995

Alabama CDBG Intergovernmental
Policy Letter Number 14
(Revision 1)

To: Persons Interested in State
CDBG Program

From: Edwin I. Gardner
Chief, Planning & Economic
Development Division

Subject: Policy on Collateralization of CDBG Funds by Cash
Depositories

At the time an account is established by a grantee, the bank should provide a statement that any balance in the account exceeding FDIC coverage shall be collaterally secured. This statement must then be made a part of the grantee's financial management records.

Effective Date: Immediately

EIG:md

November 19, 1991

ALABAMA CDBG INTERGOVERNMENTAL
POLICY LETTER NUMBER 15

TO: Persons Interested in State
CDBG Program

FROM: Don C. Hines, Ph.D., Chief
Planning and Economic Development

LIQUIDATED DAMAGES

Grantees shall treat proceeds from Liquidated damages levied on a contractor to recover damages during construction of a public work or facility as Program Income only to the extent that such funds may be needed to defer "damage" costs paid with state CDBG funds. If, due to contractor fault or default, CDBG grant/project activities are "damaged", jeopardized, incomplete, etc., and Liquidated Damages are levied; the income shall be treated as program income and the ADECA, CDBG office must be notified in writing.

Normally any extra costs incurred because of construction overrun, i.e., additional administrative, engineering, and/or legal fees, etc., should be paid with local funds and then if Liquidated Damages are recovered these costs would be offset by the penalty pay to the grantee. However, if extra costs incurred are CDBG eligible and are paid with CDBG funds, and then later Liquidated Damages are recovered; the CDBG program must be reimbursed for such costs.

To the extent that the CDBG grant activities are completed without damage, other than delay, assessed and recovered Liquidated Damages belong to the grantee.

Effective Date: Immediately

September 18, 2003

ALABAMA CDBG INTERGOVERNMENTAL
POLICY LETTER NUMBER 16

REVISION 1

TO: Persons Interested in State CDBG Program

FROM: John D. Harrison
Director

POLICY ON ADVERTISEMENT FOR COMPLETION OF CONSTRUCTION AND
EFFECT ON CLOSEOUT OF CDBG PROJECTS

Advertisements for Completion of Construction Contracts

Act 97-225 became effective on April 22, 1997. The Act amends the Public Works Law found in Title 39 of the Code of Alabama 1975. All public works contracts in excess of \$50,000 are now subject to the competitive bidding requirements of Title 39 supra.

For our purposes, projects funded under CDBG or CDBG authority, the following interpretation of the Public Works Law shall apply. "The contractor shall immediately after the completion of the contract give notice of the completion by an advertisement in a newspaper of general circulation published within the city or county in which the work has been done, for a period of four successive weeks. A final settlement shall not be made upon the contract until the expiration of 30 days after the completion of the notice."

This does not apply to contractors performing contracts of less than fifty thousand dollars (\$50,000) in amount. In such cases the governing body of the contracting agency, to expedite final payment, shall cause notice of final completion of the contract to be published one time in a newspaper of general circulation, published in the county of the contracting agency and shall post notice of final completion on the agency's bulletin board for one week, and shall require the contractor to certify under oath that all bills have been paid in full. Final settlement with the contractor may be made at any time after the notice has been posted for one entire week."

According to the Public Works Law, "Proof of publication of the notice shall be made by the contractor to the authority by whom the contract was made by affidavit of the publisher and a printed copy of the notice published. **If no newspaper is published in the county where the work is done, the notice may be given by posting at the courthouse for 30 days, and proof of same shall be made by the judge of probate, sheriff, and the contractor.**"

The proof of publication can only be made at the completion of the ad (run for four successive weeks) or at the completion of the posting (posted for 30 days) whichever applies.

The law does not specify what the ad should contain, but it should at a minimum contain the name of the contractor, his business address, name of the project, project location, CDBG project number, and any other identifiers that would allow persons who have provided labor, materials, or equipment for the contract to be aware that this "Notice of Completion" pertains to their labor, materials, or equipment.

Definitions

"Public works" shall mean "the construction, repair, renovation, or maintenance of public buildings, structures, sewers, waterworks, roads, bridges, docks, underpasses, and viaducts as well as any other improvements to be constructed, repaired, renovated, or maintained on public property and to be paid, in whole or in part, with public funds or with financing to be retired with public funds in the form of lease payments or otherwise."

"Immediately" shall mean within one week of completion. "After the completion" shall mean one day after the fourth advertisement runs.

"Completion" shall mean when the grantee/owner is satisfied that all work has been finished in accordance with the terms and conditions of the contract, and that no work within the terms and conditions of the contract remains to be done. Additionally, all non-construction contract conditions have been met. The final inspection form shall not be executed until this point is reached.

Effect on Closeout

Advertisement for Notice of Completion may not start until after the Chief Elected Official and the project Engineer/Architect execute the Final Inspection Certification. The Final Inspection Certification may not be executed until all work, including punch list items, has been completed. Additionally, the closeout public hearing may not be held until after the execution of the Final Inspection Certification.

The Alabama Public Works Law requires that construction retainage be held for 30 days after the last Notice of Completion advertisement appears in the local paper. Additionally, the CDBG Budget/Final Financial Form submitted with closeout documents is designed to reflect actual expenditures. Therefore, closeout documents reflecting settlement of all construction contracts should not be submitted until after the 4-week advertisement period and expiration of the 30-day hold from the last advertisement. Additionally, all funds other than administration retainage should have been drawn prior to the submittal of the closeout documents.

Overmatch should be reflected on the CDBG Budget/Final Financial Form submitted at close out and does not require an amended budget. To ensure timely closeout, amendments should be submitted prior to the closeout. The CDBG Budget/Final Financial submitted at closeout should not include budget adjustments other than deobligation of funds and/or overmatch reporting. A clean up budget should not be submitted.

Effective Date: Immediately

September 17, 2003

ALABAMA CDBG INTERGOVERNMENTAL
POLICY LETTER NUMBER 17

REVISION 3

TO: Persons Interested in State
CDBG Program

FROM: John D. Harrison
Director

POLICY ON TIMELY START UP

Meeting Conditions

Generally speaking, all conditions of a grant as detailed in the Letter of Conditional Commitment (LCC) must be met within seventy-five (75) days of the mailing date of the LCC. For each day over the specified due date, the State will have the option of terminating the grant proposal or taking other actions as determined appropriate, such as reducing the approved administrative budget by \$500.00 per day.

Starting Activity

Construction contracts must be fully executed within one hundred eighty (180) days of the date of the State's letter submitting the grant agreement. Should a community fail to meet this benchmark, the State may terminate the project. At that point, all administrative and engineering costs will become unallowable and have to be reimbursed to the State. The State reserves the right to grant an extension where reasons for not entering a construction contract, within the timeframe, were clearly valid.

With respect to comprehensive projects the one hundred eighty (180) days will apply to one (1) infrastructure activity and the first five (5) houses under rehabilitation contract in a housing rehabilitation project. With respect to in-kind projects, the one hundred eighty (180) days will apply to either materials having been purchased or documented time being spent on the project site.

If the one hundred eighty (180) day start-up deadline cannot be met, a written request should be submitted for an extension prior to the deadline date.

Submission to State

Within **10 days** of the full execution of the prime construction contract(s), a copy of the applicable **wage decision** and the **Notice of Start of Construction** form should be submitted to the State. This action provides the State with evidence of compliance with Policy Letter Number 17, provides the State with evidence of the correct wage decision “lock-in” date, indicates appropriateness of payment, and provides timely information required for HUD and Department of Labor mandated reports.

Effective Date: Immediately

Attachment

This Policy Letter supersedes Policy Letter 17 Revision 2 and Policy Letter 17(a) Revision 1

NOTICE OF START OF CONSTRUCTION

TO: Alabama Department of Economic and Community Affairs

ATTENTION : CDBG Program Supervisor

FROM: _____ / _____
(CITY / COUNTY) (PROJECT #)

A bid opening was held on _____ and the contract for
(DATE)

(PROJECT NAME / DESCRIPTION)

was awarded to _____ on
(NAME OF PRIME CONTRACTOR)

_____ in the amount of _____.
(AWARD DATE) (AMOUNT)

The debarred status of the prime contractor has been verified and the contractor is eligible to participate in federal programs. The contractor will begin construction on

_____. Construction will be completed by _____.
(DATE) (DATE)

The applicable wage decision is _____.
(NUMBER)

The applicable wage decision was checked 10 days prior to the bid opening.

There will be a total of _____ prime contractor(s) on this project.
(NUMBER)

Signature of Mayor / Chairman

Reminder: This form should be submitted to the State within 10 days of the full execution of the prime construction contract(s) along with a copy of the applicable wage decision.

November 20, 2001

ALABAMA CDBG INTERGOVERNMENTAL
POLICY LETTER NUMBER 17 (a)

REVISION 1

TO: CDBG Grantees

FROM: Norman B. Davis, Jr.
Director

POLICY ON ACCEPTANCE OF DRAWDOWNS FOR CONSTRUCTION

Effective January 1, 2002, no request for payment (drawdown) will be processed that includes construction funds unless the State has received a copy of the **applicable wage decision** *and* the **fully executed two-page contract** that indicates the amount of the contract and the parties thereto. This provides the State with evidence of compliance with Policy Letter Number 17, indicates appropriateness of payment, and provides information required for HUD and Department of Labor mandated reports.

We appreciate your cooperation with this requirement and look forward to a continued working relationship. Should you have questions concerning this requirement, please contact your assigned Program Supervisor or Shabbir Olia at 334-242-5468.

NDB:SAO:md

February 27, 2003

ALABAMA CDBG INTERGOVERNMENTAL
POLICY LETTER NUMBER 18

REVISION 4

TO: Persons Interested in State CDBG Program

FROM: John D. Harrison
Director

POLICY ON NEW RESIDENTIAL WATER AND SEWER HOOKUPS
(SERVICE CONNECTIONS) IN CDBG PROJECTS

This notice is issued to clarify and/or amend the provisions of Policy Letter No. 18, Revision. 3, dated February 12, 2002, regarding the State's Rehabilitation Policy on household connections. It is the State's policy to require a CDBG grantee, as a part of new public facilities construction, to hookup (connect) Low and Moderate Income persons' residential structures on to water distribution lines and/or local sewer collection lines. This activity must be done for all verified LMI persons in the approved project area in accordance with the locality's approved Policies on Household Connections. This policy may also establish a reasonable ceiling for hookups. CDBG grant funds may be used for the hookup of low and moderate income households. However, CDBG funds may not be used to hookup high income households.

The units to be connected will not have to meet Section 8 Minimum Housing Quality Standards in order to be eligible to receive this assistance. However, such connections are considered to be housing rehabilitation and must be so designated as a separate activity. In those instances where connections are to be made to sewer collection lines, either a licensed plumber or qualified plumbing inspector must certify that the drain, waste, and venting system for each unit is safe. For all hookups, the necessary legal Right-of-Entry permits, income certification, etc. should be secured prior to construction from the individual property owners.

If a homeowner refuses the hookup, a plumbing inspection, or necessary repairs/connections, that unit cannot be connected. Further, if the cost of hookup exceeds the established ceiling and the homeowner does not wish to contribute the additional funds, the locality is not required to provide the hookup. Whenever a household connection is refused, a written refusal of service will be required. If a signed statement cannot be obtained, a written explanation signed by the chief elected official should be placed in the program files.

Reconnections are not subject to this policy letter. Reconnections are considered a construction activity caused or necessitated by the project's design for existing water and/or sewer projects.

Attachments: Sample Owner Certification
Sample Right of Entry Permit
Sample Refusal of Service
Sample Income Certification

Effective Date: Projects Funded in FY 2003 Program Year and Thereafter.

September 17, 1993

ALABAMA CDBG INTERGOVERNMENTAL
POLICY LETTER NUMBER 19

TO: Interested Parties

FROM: Lynn Greer
Division Chief, Planning and
Economic Development Division

REQUESTS FOR FUNDS AT
CLOSE OF FISCAL YEAR

In order to ensure that requests for payment or drawdowns are processed so that payment can be made during the month of September, a request must be received by the ADECA CDBG staff not later than noon on the last working day of August.

Any request received after that time will be worked up to be processed as quickly as possible after October 1.

Effective Date: Immediately

May 5, 1995

ALABAMA CDBG INTERGOVERNMENTAL
POLICY LETTER NUMBER 20

TO: Persons Interested in State
CDBG Program

FROM: Edwin I. Gardner
Chief, Planning and Economic
Development Division

POLICY ON VOLUNTEER LABOR ON HOUSING REHABILITATION
OR NEW CONSTRUCTION

As it is the desire of ADECA to deliver to residents, as quickly as possible, decent, safe, and sanitary housing, the following policy of this Agency is implemented.

Volunteer labor will only be allowed on housing new construction or rehabilitation in the following circumstances:

1. Volunteers will be under the direct supervision of a contractor licensed by the Alabama Homebuilders Licensure Board.
2. This contractor will be liable for the volunteers and provide liability insurance, workmen's compensation, and a one year warranty on all work performed by the volunteers. Documentation on these requirements must be provided to the State prior to any work being started.
3. Time and attendance records will be kept on all volunteer work.
4. No volunteer can be compensated for work performed, and
5. Prior written approval must be obtained from ADECA.

In no other instance can volunteer labor be a part of either housing rehabilitation or new construction.

This policy is applicable to housing rehabilitation and new construction whether through relocation or other means and is effective immediately.

August 16, 1995

ALABAMA CDBG INTERGOVERNMENTAL
POLICY LETTER NUMBER 21

TO: Persons Interested in State
CDBG Program

FROM: Edwin I. Gardner
Chief, Planning and Economic
Development Division

CLARIFICATION OF POLICY ON CONSTRUCTION CONTRACTING

After careful review the State has determined that a construction contract bid for both labor and materials, wherein a unit of government purchases the materials from a vendor selected by the contractor and wherein the construction contractor only invoices a unit of government for labor, is not consistent with the Common Rule. Consequently, effective this date, a contract awarded using this procedure will result in disallowed costs.

The State will continue to consider solely material bids to be acceptable. Further, materials and labor can be bid together as well as separately.

OFFICE OF THE GOVERNOR

BOB RILEY
GOVERNOR



ALABAMA DEPARTMENT OF ECONOMIC
AND COMMUNITY AFFAIRS

Bill JOHNSON
DIRECTOR

STATE OF ALABAMA

October 24, 2007

TO: Shabbir Olia

FROM: Bill Johnson 
Director

SUBJECT: State CDBG Intergovernmental Policy Letter Number 21

After reviewing a May 24, 1999 Attorney General's opinion (1999-209) and the Common Rule, it appears that Policy Letter 21 is no longer necessary. Therefore, effective immediately, State CDBG Intergovernmental Policy Letter Number 21 is rescinded.

BJ:MEN:sd

February 27, 2003

ALABAMA CDBG INTERGOVERNMENTAL
POLICY LETTER NUMBER 22
Revision 3

TO: Persons Interested in State
CDBG Program

FROM: John D. Harrison
Director

**Establishment of Low- and Moderate-Income (LMI) Benefit
For Area Wide Projects**

With respect to LMI beneficiaries on area wide projects (both jurisdiction-wide and target area), the State will accept data from two sources.

First, LMI benefit may be established through the most recent HUD adjusted Census Data. Data is available specific to entire communities, census tracts, or blocks.

Second, the State will accept LMI benefit as determined through local income surveys so long as the following criteria are met:

Sample size and response rate must, at a minimum, be as outlined below:

<u>Universe</u>	<u>Sample Size</u>	<u>Response Rate</u>
0 - 50	100%	80%
50 - 100	50 + 80% of increase	80%
100 - 200	90 + 50% of increase	80%
200 - 400	140 + 25% of increase	80%
400 - 800	190 + 15% of increase	80%
800 - 1200	250 + 10% of increase	80%
1200 - 2700	290 + 6.5% of increase	80%
2700 +	400 +	80%

2. Households surveyed must be randomly selected with the method of selection detailed for review.
3. Survey instruments must include number of persons per household; number of disabled persons per household; the race, ethnicity, and gender of head of household; income status of household as very low, low, moderate or high by household size. Income limits must be shown on the instrument itself. Surveys must be signed and dated by the person conducting the interview. Each house must be numbered sequentially on the map with the survey instrument bearing the corresponding number. Both the occupant's name and the physical address of each unit must be given on each survey. The name of the person providing the information to the surveyor should also be included. Changes on responses must be initialed and dated by the person making the change. There should be a survey for every unit; occupied, vacant, or nonresidential.
4. In those instances where less than an 80 percent response rate is achieved, then the number of households needed to achieve an 80 percent response rate shall be assumed to be non-LMI and factored in the overall percentage.
5. The total number of beneficiaries and the number and percentage of LMI beneficiaries are calculated as follows:
 - a) Add the total number of beneficiaries from the 80 percent response to the survey. This is accomplished by adding the number of persons per household from each household that responded to the survey.
 - b) Divide the number you obtained from (a) by the number of households surveyed. This gives you the average number of persons per household.
 - c) Multiply the average number of persons per household (b) times the total number of occupied households in the project area. This gives you the total number of beneficiaries.
 - d) Add the very low-income beneficiaries, the low-income beneficiaries and the moderate-income beneficiaries.

- e) Divide the total from (d) by the total from (a) if an 80 percent response was achieved. The result is the percentage of beneficiaries that are LMI. In those instances where less than 80 percent response was achieved, divide the total from (d) by the total from (a) plus the number of households needed to achieve the 80 percent response, times the average number of persons per household (b).
 - f) Multiply the percentage of LMI (e) times the total number of beneficiaries (c). This gives you the number of LMI beneficiaries.
 - g) Ethnicity, race, disabled, and female heads of household beneficiaries are determined in a like manner.
6. In projects that have more than one distinct "stand alone" area, then each area must follow steps one through five with respect to sample size, response rate, and qualification for the 51 percent test.
7. A community which is shown to be less than 51 percent LMI in the most recent Census Data provided by HUD, in the case of a community-wide project, can determine its eligibility as a predominantly LMI community (at least 51 percent LMI) by conducting an income survey of its residents. For this survey to be valid, the survey must, in addition to the 80 percent response rate for the randomly selected sample using the required instrument criteria, also identify each household by name and address.
8. An applicant may utilize surveys conducted up to three years prior to the program year for which funds are being requested. Should your community choose to use a previous year's survey, then the survey area must be re-examined and all changes incorporated. Additionally, new reporting criteria such as race and ethnicity must be provided to ADECA.
9. The race and ethnicity questions must determine if 1) each household is Hispanic *or Latino* or not Hispanic *or Latino*, and 2) the race for each household. The categories for race must be White, Black/African American, Asian, American Indian/Alaskan Native, Native Hawaiian/Other Pacific Islander, American Indian/Native Alaskan and White, Asian and White, Black/African American and White, American Indian/Alaskan Native and Black/African American, and Other Multi-Racial.

Effective Date: This policy is effective beginning with the FY2003 CDBG applications.

ALABAMA CDBG INTERGOVERNMENTAL
POLICY LETTER NUMBER 23

TO: Persons Interested in State
CDBG Program

FROM: Jean D. Davis
Chief, Planning and Economic
Development Division

SUBJECT: Housing Rehabilitation Eligibility

An individual housing unit may only be rehabilitated through the State CDBG Program if the unit has either not been brought to code using CDBG funds or has not been rehabilitated with CDBG funds in the previous ten years. Exceptions may be made for water or sewer hook ups and handicap accessibility. Other corrections not previously required or allowed by the adopted housing code, may be allowed with prior written approval from the State.

This policy is effective with projects funded in accordance with the FY98 CDBG Action Plan. Damage to units as the result of natural disasters are an exception to this policy.

September 22, 1998

ALABAMA CDBG INTERGOVERNMENTAL
POLICY LETTER NUMBER 24

TO: Persons Interested in State
CDBG Program

FROM: Jean D. Davis
Chief, Community and Economic
Development Division

SUBJECT: Payment for Local Government Employee's Time or
Equipment Used with CDBG Funds

Title I of the Housing and Community Development Act of 1974, as amended, Section 101(c)(9) states:

It is the intent of Congress that the Federal assistance made available under this Title not be utilized to reduce substantially the amount of local financial support for community development activities below the level of support prior to the availability of such assistance.

Consequently, it is the State's policy that work performed by local government staff, whether administrative or construction, may not be paid with CDBG funds. Local government staff time, or equipment usage as appropriate, may be counted as local match when properly documented, included in the budget, and approved by the State.

An exception to payment for local government staff time or equipment usage with CDBG funds might be a unit of government with full time community development staff and a cost allocation plan approved by the State. A case by case determination will be required.

This policy is effective immediately.

ALABAMA INTERGOVERNMENTAL
POLICY LETTER NUMBER 25
(Revision 1)

TO: Persons Interested in State CDBG Program

FROM: Norman B. Davis, Jr.
Director

POLICY ON DRAWDOWNS FOR CDBG
ADMINISTRATION, ENGINEERING/ARCHITECTURAL FEES
(INCLUDING INSPECTIONS)

For Total CDBG Project Administration and Engineering/Architectural Fees (including Inspections), the following general payment schedules, unless waived by the Director, will apply.

- A. Total CDBG Project Administration
1. Up to 30 percent of the total project administration costs can be paid when all conditions have been met and the grant agreement is fully executed and delivered to all parties.
 2. Upon the completion of 50 percent of project construction, as certified by the project engineer or housing inspector, an additional 45 percent of total project administration can be paid.
 3. Between the 50 percent project completion stage and the 90 percent stage as certified by the project engineer or housing inspector, an additional 15 percent of total project administration can be paid.
 4. Ten percent of approved CDBG administration costs will be held by ADECA until acceptable close out documents are submitted to and approved by ADECA.
- B. Total CDBG Project Engineering/Architectural Fees (including Inspections)
1. A total of not more than 60 percent of total engineering/architectural costs can be paid for the project design phase of construction.
 2. An additional 30 percent of total project engineering/architectural costs (including inspection fees) can be paid on a proportionate basis during project construction.

3. The remaining 10 percent of total project engineering/architectural costs (including inspection fees) will be retained until documentation that a final project inspection has been performed has been submitted to ADECA.

The above described general payment schedules are for guidance only. In no way is this format to be construed as limiting the review or recovery powers of the State on any CDBG grant fund activity or request for payment.

Effective Date: Immediately

February 27, 2003

ALABAMA CDBG INTERGOVERNMENTAL
POLICY LETTER NUMBER 26

Revision 1

TO: Persons Interested in State CDBG Program

FROM: John D. Harrison
Director

POLICY ON ESTABLISHING A COST ESTIMATE FOR CDBG BUILDING
CONSTRUCTION ACTIVITY AND DAVIS-BACON COMPLIANCE

In order to make a more accurate determination in awarding CDBG grant funds, all applications submitted for CDBG assistance, which involve building construction must include a construction cost estimate prepared by a registered architect, licensed engineer, or licensed contractor.

Furthermore, it will be the responsibility of the successful grantee to notify the architectural/engineering firm of record that all bid packages must include the necessary documents for compliance with the "Davis-Bacon and Related Acts" for construction contracts in excess of two thousand dollars.

Effective Date: Immediately

CITIZEN PARTICIPATION PLAN

STATE OF ALABAMA

**Community Planning and Development Programs
Not Part of the HUD Consolidated Plan**

Effective June 8, 2012

**Alabama Department of Economic and Community Affairs
401 Adams Avenue, Post Office Box 5690
Montgomery, Alabama 36103-5690
(334) 242-0492 ● Fax (334) 353-3527 ● www.adeca.alabama.gov**

**Citizen Participation Plan
State of Alabama
Non-Consolidated Plan Community Planning and Development Programs**

Adoption of Citizen Participation Plan

To permit a more streamlined process for Non-Consolidated Plan programs such as disaster recovery grants and to ensure funds are awarded in a timely manner, the State of Alabama will adhere to the following Citizen Participation process. However, the *Citizen Participation Plan, State of Alabama Consolidated Submission for Community Planning and Development Programs* will remain in effect for all Consolidated Plan programs (CDBG, HOME, ESG, and HOPWA).

Comments on the Citizen Participation Plan and Amendments

Citizen Participation is strongly encouraged in the development of all elements of the action plan, any substantial amendments to the action plan elements, and the performance reports of any Non-Consolidated Plan programs. This shall be accomplished through postings on the Alabama Department of Economic and Community Affairs website. All materials will be accessible to persons with disabilities and persons with Limited English Proficiency, upon request, where practicable.

The Citizen Participation Plan, as well as any amendments to that plan, will be presented for review and comment through posting on the ADECA website. All materials will be accessible to persons with disabilities and persons with Limited English Proficiency, upon request, where practicable.

Development of the Action Plan

For programs subject to this Citizen Participation Plan, public hearings at the state level will be governed by the program specific regulations. In any case, the State will provide a reasonable opportunity for citizen comment and ongoing citizen access to information about the use of grant funds. A reasonable period will be defined by the specific regulations of the program, or if not specified will be defined as not less than 7 days.

The streamlined citizen participation requirements for a grant administered under this plan are:

Before the State of Alabama adopts an action plan for a Non-Consolidated Plan program or any substantial amendment to a Non-Consolidated Plan program, the State of Alabama will publish the proposed plan or amendment (including any information required by the program specific regulations). The manner of publication will include prominent posting on ADECA's web site. Copies of the proposed plan or amendment will be made available at the office of the Alabama Department of Economic and Community Affairs. Citizens, affected local governments, and other interested parties

will be afforded a reasonable opportunity to examine the plan or amendment contents. The topic of the Non-Consolidated Plan program will be navigable by citizens from the Community and Economic Development Programs homepage. All materials will be accessible to persons with disabilities and persons with Limited English Proficiency, upon request, where practicable.

Despite the expedited process, the State of Alabama will ensure that all citizens have equal access to information about the Non-Consolidated Plan programs, including persons with disabilities and Limited English Proficiency. The State of Alabama will post program information in the appropriate languages for the geographic area served by the Non-Consolidated Plan program. For assistance in ensuring that this information is available to LEP populations, the State of Alabama will consult the Final Guidance to Federal Financial Assistance Recipients Regarding Title VI, Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons published on January 22, 2007, in the Federal Register (72 FR 2732).

Subsequent to publication of an action plan or amendment for a Non-Consolidated Plan program, the State of Alabama will provide a reasonable time frame (7 days, unless otherwise specified in the Non-Consolidated Plan program's regulations) for receiving comments on the plan or substantial amendment. Comments will be accepted by mail, facsimile, or email.

Amendments

Each Non-Consolidated Plan program action plan will specify criteria for determining what changes constitute a substantial amendment to the plan. Unless specified by the Non-Consolidated Plan program's regulations, the following modifications will constitute a substantial amendment:

- Add or delete funding categories;
- Change evaluation criteria;
- Change thresholds for eligibility;
- Change grant ceiling or minimums; or
- Shift money from one fund category to another, whereby the shift is greater than 10 percent of the State allocation.

The State of Alabama may substantially amend a Non-Consolidated Plan program's action plan if it follows the same procedures required above for citizen participation pursuant to preparation and submission of an action plan.

The State of Alabama will notify HUD, but is not required to undertake public comment, when it makes any plan amendment that is not substantial. However, every amendment to the action plan of a Non-Consolidated Plan program (substantial and non-substantial) will be numbered sequentially and posted on the ADECA web site.

Amendments not covered above may be made at the discretion of the State and notice will be given through normal programmatic communications to elected officials and other persons having interest in the Non-Consolidated Plan program.

Comments

The State of Alabama will consider all comments received in writing or other means if necessary on an action plan or any substantial amendment to an action plan of a Non-Consolidated Plan program. A summary of these comments or views and the State of Alabama's response to each will be submitted to HUD with the action plan or substantial amendment.

Accessibility

The State of Alabama will post the action plan, any substantial amendments, and all performance reports on the Alabama Department of Economic and Community Affairs' web site and will provide a reasonable number of copies to citizens upon request. In addition, these documents will be posted in English and Spanish. Other languages and other formats will be provided upon request to ensure accessibility to persons with disabilities and Limited English Proficiency.

During the term of the grant, the State of Alabama will provide citizens, affected local governments, and other interested parties with reasonable and timely access to information and records relating to the action plan, any substantial amendments, and to the State's use of grant funds.

Complaints

The State of Alabama will consider all complaints, received in writing or other means if necessary on any Non-Consolidated Plan Program. A written response to the complaint will be provided within 15 business days. A copy of the complaint and the State of Alabama's response will be submitted to HUD prior to program close out.

Citizen Participation Requirements for Local Governments and Sub Grantees

All units of local government sub-grantees must have a written local Citizen Participation Plan and must follow that plan during the planning and implementation phases of their project. The local Citizen Participation Plan adopted for HUD programs covered under the Consolidated Plan may be used during the planning and implementation of proposed projects and funded projects under a Non-Consolidated Plan program as long as the local plan, at a minimum, meets the requirements of the Non-Consolidated Plan Program. All local Citizen Participation Plans should conform to the sample Citizen Participation Plan available on the ADECA website. The grantee must notify ADECA if the locality intends to adopt a plan that deviates from the Sample Plan.

All grantees must conduct a Four-Factor Analysis and, if necessary, develop a Language Access Plan for persons with Limited English Proficiency, prior to advertising for or conducting a public hearing. If the Four-Factor Analysis identifies a group of Limited English Proficient persons, the notices and citizen participation materials must be made accessible through the means identified in the grantee's Language Access Plan.

Grantee Name _____
 Project Number _____
 Preparer _____
 Date Prepared _____
 Follow-up Review Indicated _____

Citizen Participation, National Objective, Eligibility, Progress, and Disclosure Compliance Checklist

I Citizen Participation Plan

		Yes	No	N/A	Notes
A.	Did the grantee have a written Citizen Participation Plan on file?				
B.	Give the date the plan was adopted by the grantee.				
C.	How many public hearings were held prior to application submission?				
D.	Give the date of the public hearings(s)				
E.	Is the number of hearings consistent with the approved plan?				
F.	Was the required public hearing adequately advertised? If yes, was the method of advertisement consistent with the approved plan?				
G.	Was basic CDBG program information made available to the public?				

II National Objective and Eligibility

		Yes	No	N/A	Notes
A	Are there surveys on file?				
	** Does the survey instrument use the correct HUD Section 8 household income limits for the locality?				
	** Does the survey information (methodology, map, number, etc.) on file match the information provided in the application? If no, provide comments as to whether or not further review is required.				
	** Do the randomly reviewed survey forms match the total provided in the application? If no, verify tally in space provided on last page.				
	** Does a sample review of the surveys or character of the area indicate the need for a full and separate review?				
B.	If the project was qualified as limited clientele, does the project appear to be serving the limited clientele identified in the application				
C.	Does the character of the project area appear to match what was stated in the application?				
D.	Does the program activity meet a national objective? State which objective.				
E.	Is the program activity one that is clearly eligible?				
F.	Does the number of beneficiaries appear consistent with those stated in the application?				

III Progress

		Yes	No	N/A	Notes
A.	What percentage of the program activity has been completed? For housing rehabilitation, give total number proposed and total number completed.				
B.	Is the project in compliance with the approved Implementation Schedule, and is the Implementation Schedule up-to-date?				
C.	What percentage of funds has been drawn?				
D.	Are projects using faith-based or community-based organizations in compliance with the plan of actions and timetable submitted at LCC?			X	<i>This project does not use faith-based or community-based organizations in the plan of action or time-table</i>
E.	If more than 50% of grant funds have been drawn, has substantial involvement of the faith-based or community-based organizations been documented?			X	<i>This project does not use faith-based or community-based organizations in the plan of action or time-table</i>

IV Disclosure

		Yes	No	N/A	Notes
A.	Does the grantee maintain an updated Disclosure file?				
B.	From Part IV (Interested Parties) of the Disclosure file, list the names of the persons, firms, etc., with a reportable financial interest in the project.	%			Name
		<i>This part no longer required; This is a CDBG block grant and not required per 24 CFR Section 4.3. However Applicant / Recipient Information and the Certification Signature and Date have been completed</i>			

Complete this tally only if a random check of the surveys indicates irregularities.

Low / Moderate Income

High Income

--	--

Total _____

Total _____

Percent LMI: _____

Environmental Review Guide

ADECA's CED Grants

This document contains information and links to information that can assist in conducting and preparing an Environmental Review Record (ERR) and the required documentation. The information provided here is not intended to be all inclusive and only serves as a possible form of documentation.

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INTRODUCTION

All grants funded by the Department of Housing and Urban Development (HUD) are subject to the provisions of the National Environmental Policy Act of 1969, as amended (NEPA). Grants funded under the Community Development Block Grant (CDBG) Program as subject to additional regulations found at 40 CFR Parts 1500 through 1508. The primary purpose of the laws and authorities governing the environmental process is to establish national policy, goals and procedures to protect, restore and enhance environmental quality. Programs funded or assisted by the State with Federal money (HUD) must consider impacts on the environment and be consistent with Federal programs and policies. An Environmental Review Record (ERR) is required to be established for each project. An ERR is a concise public record containing original documentation related to the environmental review, decision-making, and activities undertaken in a project. The ERR must be available to the public upon request at the Responsible Entity's location; County Courthouse or City/Town offices. It is a legal document and the best, and often only, defense to prove compliance with applicable laws and regulations.

I. LEVELS OF REVIEW

There are five (5) possible Levels of Review and they are all subject to the laws, regulations and authorities located in the Code of Federal Regulations (CFR) Title 24, Part 58.

Those levels are:

- | | |
|--|-------------|
| 1. Exempt | [§58.34] |
| 2. Categorically Excluded Subject to §58.5 | [§58.35(a)] |
| 3. Categorically Excluded Not Subject to §58.5 | [§58.35(b)] |
| 4. Environmental Assessment | [§58.36] |
| 5. Environmental Impact Statement | [§58.37] |

The Level of Review a project is subject to is determined by the activities that are planned for the project. To properly determine what Level of Review the project requires, consult 24 CFR Part 58. The regulation containing the list of activities included in that Level of Review are contained in the brackets listed above. An online version of these regulations can be found [here](#).

The section below contains a sample of the types of activities that generally apply to the given Level of Review (please refer to the regulations listed above for the complete list of activities) and a list of the forms that are required to be completed to complete an environmental review.

1. EXEMPT

A complete list of *Exempt* activities can be found in regulation §58.34. Some of those activities include Environmental Studies, Plan/Strategy Development, Tool Purchases and Engineering Costs. If it has been determined that a project requires an *Exempt* Level of Review, complete the following forms and ensure that the Signature Dates (if required) follow the requirements as given below.

1. [Finding of Exemption form \(ENV-FOE\)](#)
2. [Other Requirements Checklist form \(ENV-ORC\)](#) Date when completed
3. [Level of Review Determination form \(ENV-LRD\)](#) * Date **SAME AS** or **AFTER** the ENV-ORC

*- Required to be submitted to ADECA

Submittal Date **SAME AS** or **AFTER** ENV-LRD

2. CATEGORICALLY EXCLUDED SUBJECT TO §58.5

A complete list of Categorically Excluded Subject to §58.5 (*CEST*) activities can be found in regulation §58.35(a). Some of those activities include Infrastructure Rehabilitation, ADA Barrier Removal, Structure Rehabilitation and Structure Demolition. When a project requires a *CEST* Level of Review the reviewer must complete the Categorically Excluded Subject to §58.5 form (ENV-CEST) first. It cannot be determined if a project converts to *Exempt* without first completing the ENV-CEST form. The two (2) most common outcomes are that: the Review requires public notification through the “*Notice of Intent to Request Release of Funds*” **OR** it converts to *Exempt* status due to checking “NO” for all laws, regulations and authorities found in the Statutory Checklist. If it is determined that public notification is required, complete the requirements listed under 2A below. If it is determined that the project can convert to Exempt, complete the requirements listed under 2B below.

2A. CATEGORICALLY EXCLUDED SUBJECT TO §58.5

If you answered “YES” to *ANY* of the laws, regulations or authorities found on the Statutory Checklist then complete the following forms and ensure that the Signature Dates (if required) follow the requirements as given below.

- | | |
|--|---|
| 1. Categorically Excluded Subject to from (ENV-CEST) | Date when completed |
| 2. Floodplain Notices (if required) * | |
| 3. Other Requirements Checklist form (ENV-ORC) | Date SAME AS or AFTER the ENV-CEST |
| 4. Notice of Intent (ENV-NOI) and affidavits of publication or posting * | Date SAME AS or AFTER the ENV-ORC |
| 5. Request for Release of Funds and Certification form (ENV-RROF) * | Date SAME AS or AFTER what’s in ENV-NOI |
| 6. Level of Review Determination form (ENV-LRD) * | Date SAME AS or AFTER the ENV-RROFC |
- *- Required to be submitted to ADECA Submittal Date **SAME AS** or **AFTER** ENV-LRD

2B. CATEGORICALLY EXCLUDED SUBJECT TO §58.5 CONVERTS TO EXEMPT

If you answered “NO” to *ALL* the laws, regulations or authorities found on the Statutory Checklist then complete the following forms and ensure that the Signature Dates (if required) follow the requirements as given below.

- | | |
|--|--|
| 1. Categorically Excluded Subject to from (ENV-CEST) | Date when completed |
| 2. Other Requirements Checklist form (ENV-ORC) | Date SAME AS or AFTER the ENV-CEST |
| 3. Level of Review Determination form (ENV-LRD) * | Date SAME AS or AFTER the ENV-CEST |
- *- Required to be submitted to ADECA Submittal Date **SAME AS** or **AFTER** ENV-LRD

3. CATEGORICALLY EXCLUDED NOT SUBJECT TO §58.5

A complete list of Categorically Excluded Not Subject to §58.5 (*CENST*) activities can be found in regulation §58.35(b). Some of those activities include Supportive Services, Operating Costs, and Equipment Purchases. If it has been determined that the project requires a *CENST* Level of Review, complete the following forms and ensure that the Signature Dates (if required) follow the requirements as given below.

- | | |
|---|---|
| 1. Categorically Excluded Not Subject to form (ENV-CENST) | Date when completed |
| 2. Other Requirements Checklist form (ENV-ORC) | Date SAME AS or AFTER the ENV-CENST |

3. [Level of Review Determination form \(ENV-LRD\)](#) *

Date SAME AS or AFTER the ENV-CENST

*- Required to be submitted to ADECA

Submittal Date SAME AS or AFTER ENV-LRD

4. **ENVIRONMENTAL ASSESSMENT**

If it has been determined that the project is not “Exempt” or “Categorically Excluded” under §58.34 and §58.35, prepare an Environmental Assessment (EA). Complete the following forms and ensure that the Signature Dates (if required) follow the requirements as given below.

1. [Environmental Assessment form \(ENV-EA\)](#)

Date when completed

2. [Floodplain Notices](#) (if required) *

3. [Other Requirements Checklist form \(ENV-ORC\)](#)

Date SAME AS or AFTER the ENV-EA

4. [Combined Notice \(ENV-CN\)](#) and affidavits of publication/posting * Date SAME AS or AFTER the ENV-ORC

5. [Request for Release of Funds and Certification form \(ENV-RROF\)](#) * Date SAME AS or AFTER what’s in ENV-CN

6. [Level of Review Determination form \(ENV-LRD\)](#) *

Date SAME AS or AFTER the ENV-RROFC

*- Required to be submitted to ADECA

Submittal Date SAME AS or AFTER ENV-LRD

5. **ENVIRONMENTAL IMPACT STATEMENT**

An Environmental Impact Statement (EIS) is required when the project is determined to have a potentially significant impact on the human environment. An EIS is required under any of the following circumstances:

1. The project would provide a site or sites for, or result in the construction of, hospitals or nursing homes containing a total of 2,500 or more beds.
2. The project would remove, demolish, convert or substantially rehabilitate 2,500 or more existing housing units (but not including rehabilitation projects categorically excluded under §58.35), or would result in the construction or installation of 2,500 or more housing units, or would provide sites for 2,500 or more housing units.
3. The project would provide enough additional water and sewer capacity to support 2,500 or more additional housing units. The project does not have to be specifically intended for residential use nor does it have to be totally new construction. If the project is designed to provide upgraded service to existing development as well as to serve new development, only that portion of the increased capacity which is intended to serve new development should be counted.

Since the vast majority of CDBG, ESG and HOPWA projects either do not meet these thresholds or use previously conducted EIS’s from other entities, this level of review is rarely needed. See 24 CFR 58.37 for more information on how and when to conduct an EIS or contact the ADECA Environmental Officer.

II. **OTHER REQUIREMENTS @ 58.6**

Form ENV-ORC

All projects funded through CDBG, ESG and HOME funds are subject to the laws and authorities listed at 24 CFR 58.6. ***Every*** project, regardless of complexity, must comply with the regulations. These laws and authorities can be cleared by completing the Other Requirements Checklist form (ENV-ORC). Below, the *Other Requirements* have been detailed along with guidelines on the simplest method of documentation showing that each item on the list has been cleared environmentally. HUD has provided guidance on the HUD Exchange that gives a detailed introduction to the regulation or authority as well as their method of clearing that regulation or authority and what is considered as proper compliance and documentation.

Flood Insurance

Section 202 of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4106) requires that projects receiving federal assistance and located in an area identified by the Federal Emergency Management Agency (FEMA) as being within a Special Flood Hazard Areas (SFHA) be covered by flood insurance under the National Flood Insurance Program (NFIP). Steps on how to clear this regulation are provided below.

These regulations do not apply to HUD financial assistance in the form of formula grants to states, including financial assistance under the State-administered CDBG Program and Emergency Shelter Grant amounts allocated to States and HOME funds provided to a state under Title II of the Cranston-Gonzalez National Affordable Housing Act per 24 CFR §55.1(b)(1), §58.6(a)(3) and 42 USC 4003(a)(3) and formula based Appalachian Regional Commission (ARC) programs. The required forms should already have this field prepopulated with this information. If not, contact the ADECA Environmental Officer.

Coastal Barrier Resources

The Coastal Barrier Resources Act (CBRA) of 1982 designated relatively undeveloped coastal barriers along the Atlantic and Gulf coasts as part of Coastal Barrier Resources System (CBRS) and made these areas ineligible for most new Federal expenditures and financial assistance. Steps on how to clear this regulation are provided below.

1. Use the map below (or use the website below to create your own map) to determine if the project area is located within a CBRS unit.
2. If the project ***IS NOT*** located in a CBRS unit, ***MARK & LABEL*** your project's location on the map and place a copy in the ERR. Documentation is complete.
3. If the project ***IS*** located in a CBRS unit, contact the U.S. Fish & Wildlife Service for approval. Place all correspondence and concurrence in the ERR. Documentation is complete.

- [CBRS Unit Proximity Map](#)
- [CBRS website](#)

Airport Hazards

It is HUD's policy to apply standards to prevent incompatible development around civil airports and military airfields. The policy can be found at 24 CFR 51, Subpart D. Applicable airports are designated in the National Plan of Integrated Airport Systems. A list of these civilian airports and military airfields can be found below as well as a Google Earth file that contains the locations of both types of airports. Steps on how to clear this regulation are provided below.

1. Determine if the project activities involve the major rehabilitation of, the new construction of, or significantly prolonging the life of, an existing building.
2. If the project ***DOES NOT*** involve any of the activities listed above, document the determination (Memo to File method is preferred) and place in the ERR. Documentation is complete.
3. If the project ***DOES*** involve any of the activities listed above, use the information provided below to determine if the project is within 15,000 feet of a military airport or 2,500 feet of a civilian airport. You can download the .kmz file into Google Earth and create a proximity map to use as documentation.

4. If the project ***IS NOT*** within the proximity of an airport, document the determination and place in the ERR. Documentation is complete.
5. If the project ***IS*** within the proximity of an airport, contact the airport operator to determine if the project is located in the Runway Protection Zone (civilian) or Accident Potential Zone (military).
6. If the project ***IS NOT*** located in the RPZ/APZ, document the correspondence and concurrence in the ERR. Documentation is complete.
7. If the project ***IS*** located in the RPZ/APZ, get approval from the airport operator. Place all correspondence and concurrence in the ERR. Documentation is complete.

If the project consists of down-payment assistance or minor structure rehabilitation, or the sale or purchase of land, the Airport Clear Zone Waiver form must be completed and placed in the ERR.

- [Airport Proximity Map – Example](#)
- [Airport CZ Waiver Form](#)
- [GoogleEarth Airport KMZ](#)

Once the ENV-ORC form has been completed it must be signed and dated by the Certifying Officer of the Responsible Entity. Ensure that the Signature Date complies with the requirements listed in Chapter I for the Level of Review as indicated.

III. **STATUTORY CHECKLIST**

In the process of completing the “Categorically Excluded Subject to” form (ENV-CEST) and the “Environmental Assessment” form (ENV-EA) one must complete the Statutory Checklist. There are a total of fourteen Statutes, Executive Orders and Regulations that must be considered and cleared in order to complete the environmental review. A detailed list can be found at 24 CFR 58.5. Below the Statutory Checklist has been detailed along with guidelines on the simplest method of documentation showing that each item on the list has been cleared environmentally. HUD has provided guidance on the HUD Exchange that gives a detailed introduction to the regulation or authority as well as their method of clearing that regulation or authority and what is considered as proper compliance and documentation.

Historic Preservation

All projects are required to complete a Section 106 review. The Alabama Historical Commission (AHC) and ADECA have entered into a Programmatic Agreement (PA) that allows for an automatic compliance of the regulation when the project activities are those listed in the PA. Steps on how to clear this regulation are provided below.

1. Compare the project activities to those listed in the Programmatic Agreement (PA).
2. If the project’s activities ***ARE*** found in the PA, indicate which exemption activity applies and place a copy of the PA in the ERR. Documentation is complete.
3. If the project’s activities ***ARE NOT*** found in the PA, submit a Project Review Consultation Form (found on the AHC website <https://ahc.alabama.gov/section106.aspx>) electronically only to AHC along with a letter of explanation. (30 Day comment period)

4. Complete any mitigation that AHC may require and document all correspondence. Once concurrence from AHC has been given place all correspondence in the ERR. Documentation is complete.

- [ADECA-AHC PA](#)
- [AHC Review Consultation Form](#)
- [NAE Concurrence Letter - Template](#)

Tribal Historic Preservation

Tribal consultation must be considered with all projects. Steps on how to clear this regulation are provided below.

1. Determine if Tribal consultation is required by completing the “When to Consult with Tribes under Section 106 Checklist”.
2. If it is indicated that consultation with Tribes **SHOULD NOT** be initiated, place the completed checklist in the ERR. Documentation is complete.
3. If it is indicated that consultation with Tribes **SHOULD** be initiated then use the Tribal Directory Assessment Tool (TDAT) to determine which, if any, Tribes have interests in the project area.
4. A request for consultation with the specified Tribe(s) should be sent from the Responsible Entity (RE) and await concurrence. If no response has been received after a thirty (30) day comment period (if emailed) or a thirty-five (35) day comment period (if mailed), consider the concurrence given. If a response letter is received, then comply with any reasonable mitigation requirements that may have been stipulated. In cases where a Tribe has asked for a Cultural Resource Assessment (CRA) be conducted, reference the “Responding to Cultural Resource Assessments” document for assistance in making that determination. Place all correspondence and concurrence in the ERR. Documentation is complete.

A much more detailed process for complying with Tribal consultation is available in notice CPD 12-006 from HUD.

- [Tribal Directory Assessment Tool \(TDAT\)](#)
- [Section 106 Checklist](#)
- [Tribes Consultation Letter – Template](#)
- [HUD Notice CPD 12-006](#)
- [Responding to CRA Requests](#)

Floodplain Management

Executive Order (EO) 11988 requires that projects avoid impacts to floodplains and to avoid direct and indirect support of floodplain development to the extent practicable. Steps on how to clear this regulation are provided below. Exceptions to this regulation found at 24 CFR 55.12(b)(2) and 55.12(c) allow for automatic compliance of this regulation. If any of those exemptions apply, cite the exemption number on the review form and documentation is complete. Additional exceptions can be found at 24 CFR 55.12(a)(1) that allow for the completion of the 5-Step Process instead of the 8-Step Process provided that the locality participates in the National Flood Insurance Program (NFIP). Review the “5-Step Process Determination Assistance” document below for assistance in making this determination.

1. Create a FIRMette by using a Flood Insurance Rate Map (FIRM) from the FEMA website and **outline the project area**. Determine if the project is located in a floodplain.

2. If the project ***IS NOT*** located in a floodplain put a copy of the map in the ERR. Documentation is complete.
 3. If the project ***IS*** located in a floodplain and no exceptions apply (see above for assistance) complete the 8-Step Process. Place the completed 8-Step Process in the ERR. Documentation is complete.
- [FEMA website](#)
 - [Creating a Floodplain Proximity Map](#)
 - [Floodplain Proximity Map - Example](#)
 - [8-Step Process - Example](#)
 - [5-Step Process Determination Assistance](#)

Wetlands Protection

Executive Order (EO) 11990 requires that projects avoid adverse impacts to wetlands where practicable. Steps on how to clear this regulation are provided below. Exceptions to this regulation found at 24 CFR 55.12(a)(3), 55.12(a)(4), 55.12(c)(3), 55.12(c)(7), 55.12(c)(10) allow for automatic compliance of this regulation. If any of those exemptions apply, cite the exemption number on the review form and documentation is complete. Additional exceptions can be found at 24 CFR 55.12(a)(1) that allow for the completion of the 5-Step Process instead of the 8-Step Process provided that the locality participates in the National Flood Insurance Program (NFIP). Review the “5-Step Process Determination Assistance” document for assistance in making this determination.

1. Create a wetland map by using the U.S. Fish and Wildlife Wetlands Mapper and **outline the project area**. Determine if the project is located in a wetland.
 2. If the project ***IS NOT*** located in a wetland put a copy of the map in the ERR. Documentation is complete.
 3. If the project ***IS*** located in a wetland and no exceptions apply (see above for assistance), complete the 8-Step Process and request concurrence from U.S. Army Corps of Engineers **if, and only if, your project disturbs more than ¼ acre of wetland area**. Complete any mitigation requirements. Place the completed 8-Step Process and all correspondence with the Corps in the ERR. Documentation is complete.
- [U.S. Fish and Wildlife Wetland Mapper website](#)
 - [Creating a Wetland Proximity Map](#)
 - [Wetland Proximity Map – Example](#)

Coastal Zone Management

Projects that can affect the coastal zone must be carried out in a manner consistent with the state Coastal Zone Management Program (CZMP) under Section 307(c) and (d) of the Coastal Zone Management Act (CZMA) of 1972 (16 U.S.C. 1451 et seq). Steps on how to clear this regulation are provided below.

1. Use the Coastal Zone Management (CZM) Map (below) to determine if the project is located in the Coastal Zone Management Area (CZMA).
2. If the project ***IS NOT*** located in the CZMA, **mark the project location** on the CZM Map and place it in the ERR. Documentation is complete.

3. If the project ***IS*** located in the CZMA, contact the [State CZM Agency](#) to ensure the project is consistent with the CZM plan. Place all correspondence and concurrences in the ERR. Documentation is complete.

The Google Earth file below can be used to create a map showing that the project is not within the CZMA for projects located along the coast in Alabama.

- [CZM Proximity Map](#)
- [GoogleEarth CZM KMZ](#)

Sole Source Aquifers

The Safe Drinking Water Act of 1974 requires the protection of drinking water systems that are the sole or principle drinking water source for an area and which, if contaminated, would create a significant hazard to public health. Steps on how to clear this regulation are provided below.

1. No Sole Source Aquifers in Alabama. Place a copy of the Sole Source Aquifer map in the ERR. Documentation is complete.
- [SSA Proximity Map](#)

Endangered Species

The Endangered Species Act (ESA) of 1973, as amended, and its implementing regulations were designed to protect and recover species in danger of extinction and the ecosystems that they depend on. Steps on how to clear this regulation are provided below.

1. Determine if the project will consist of any of the following types of activities: ground disturbance, vegetation removal, an increase in impervious area, or generation of atypical noise levels (post-construction).
 2. If the project ***DOES NOT*** consist of one of the listed activities, document this determination and place it in the ERR. Documentation is complete. (Example – minor rehabilitation of an existing structure)
 3. If the project ***DOES*** consist of one of the listed activities, consult with the U.S. Fish & Wildlife Service (FWS) and ask for their concurrence on the project. Use the sample letter below as a guide. Place all correspondence and concurrence in the ERR. Documentation is complete.
- [FWS Office List](#)
 - [FWS Consultation Letter - Template](#)

Wild and Scenic Rivers

The Wild and Scenic Rivers Act provides federal protection for the National Wild and Scenic Rivers System (NWSRS). There are **three (3)** types of rivers that have to be cleared. Steps on how to clear this regulation are provided below.

- **Wild & Scenic:** Use the Wild & Scenic River map below to determine if the project is located within ¼ mile of a Wild & Scenic River. Place the documentation in the ERR.
 1. If the project ***IS NOT*** located within ¼ mile of a Wild & Scenic River, **mark the project area on the map** and put a copy in the ERR.
 2. If the project ***IS*** located within ¼ mile of a Wild & Scenic River, **mark the project area on the map** and contact the U.S. Fish & Wildlife Services to get concurrence on the project. Place all correspondence and concurrences in the ERR.

AND
- **Study Rivers:** Use the Study River map below to determine if the project is located within ¼ mile of any Study Rivers. (Currently there is only one Study River, the Escatawpa River in Washington and Mobile Counties) Place the documentation in the ERR.
 1. If the project ***IS NOT*** located within ¼ mile of a Study River, **mark the project area on the map** and put a copy in the ERR.
 2. If the project location ***IS*** within a ¼ mile radius of a Study River, **mark the project area on the map** and then contact the U.S. Fish & Wildlife Services to get concurrence on the project. Place all correspondence and concurrences in the ERR.

AND
- **Nationwide Rivers Inventory (NRI):** Use the NRI Proximity Map to determine if the project is located within ¼ mile of a river on the NRI list. Place the documentation in the ERR.
 1. If the project ***IS NOT*** located within ¼ mile of an NRI River, then **mark the project area on the map** and put a copy in the ERR.
 2. If the project location ***IS*** within a ¼ mile radius of a NRI River, **mark the project area on the map** and contact the U.S. Fish & Wildlife Services to get concurrence on the project. Place all correspondence and concurrences in the ERR.

Documentation is only completed when all **three (3)** types of rivers have been cleared and the appropriate documentation is in the ERR. Use the provided GoogleEarth files (kmz) below if a better scale is needed.

- [Wild & Scenic River Proximity Map](#)
- [Study River Proximity Map](#)
- [NRI Proximity Map](#)
- [GoogleEarth NRI KMZ](#)

Air Quality

The Clean Air Act was implemented to remedy the damaging effects that bad air quality can have on human health and the environment. Steps on how to clear this regulation are provided below.

1. Determine if the project is located in a nonattainment area. [Check the EPA Green Book on Nonattainment Areas for Criteria Pollutants](#) for those locations.
2. If the project area ***IS NOT*** in a nonattainment area, document the determination and place it in the ERR. Documentation is complete. ([Air Quality Documentation - Example](#))

3. If the project area ***IS*** in a nonattainment area, determine if project will generate more than the de Minimis level of emissions. (Contact ADECA if for assistance in making the determination)
 - a. If the project ***WILL NOT*** generate more than the de Minimis level of emissions, document the determination and place it in the ERR. Documentation is complete.
 - b. If the project ***WILL*** generate more than the de Minimis level of emissions, contact the State Implementation Plan (SIP) agency (Alabama Department of Environmental Management [ADEM]). Place all correspondence and concurrence in the ERR. Documentation is complete.

Farmlands Protection

The purpose of the Farmland Protection Policy Act (7 U.S.C. 4201 et seq, implementing regulations 7 CFR Part 658, of the Agriculture and Food Act of 1981, as amended) is to minimize the effect of Federal programs on the unnecessary and irreversible conversion of farmland to nonagricultural uses. Steps on how to clear this regulation are provided below.

1. Determine if the project will result in the conversion (farmland to non-agricultural use) of prime, unique or state/locally important farmland.
2. If the project ***DOES NOT*** result in land conversion, document the determination and place it in the ERR. Documentation is complete.
3. If the project ***DOES*** result in land conversion, complete Form AD-1006 and submit it to the proper USDA office found on the website. Place all correspondence and concurrence in the ERR. Documentation is complete.
 - [USDA NRCS website](#)
 - [Form AD-1006](#)
 - [7 CFR Part 658 link](#)

Noise Abatement and Control

HUD's noise standards may be found in 24 CFR Part 51, Subpart B and apply to "noise sensitive activities", including projects that generate noise (other than during construction). Steps on how to clear this regulation are provided below.

1. Determine if the project involves a "noise sensitive activity". (i.e. senior/community centers, residential structures...)
2. If the project ***DOES NOT*** involve a noise sensitive activity, document the determination and place it in the ERR. Documentation is complete.
3. If the project ***DOES*** involve a noise sensitive activity, **mark the project area on a map** and determine if the project is located within 1,000 feet of a major roadway, 3,000 feet of a railroad, 15 miles of a military or FAA-regulated airport.
4. If the project ***IS NOT*** located within the vicinities given above, document the determination with a proximity map, **mark the project area on the map** and place it in the ERR. Documentation is complete.

5. If the project ***IS*** located within the vicinities give above, contact the Environmental Officer for assistance as well as refer to the HUD website to complete a noise assessment. Place all documents used to conduct the noise assessment along with the determination in the ERR. Documentation is complete.

- [HUD Noise Assessment Guidance](#)

Explosive and Flammable Facilities

HUD requires that projects located near hazardous facilities which store, handle or process hazardous substances of a flammable or explosive nature include measures to reduce if not eliminate potential risk of injury in the event of an explosion to occupants or end-users of the project. Steps on how to clear this regulation are provided below. You must complete the documentation for both items below.

Aboveground Stationary Storage Tanks (AST)

1. Determine if the project activities include development, construction or rehabilitation that will increase residential densities, or conversion.
2. If the project ***DOES NOT*** include the activities above, document the determination and place it in the ERR. Documentation is complete.
3. If the project ***DOES*** include the activities above provide:
 - a. evidence that there are no current or planned aboveground storage containers with a 100+ gallon capacity within 1 mile of the project location or
 - b. that the Acceptable Separation Distance (ASD) is sufficient for the containers found or
 - c. that existing or planned barriers would serve as sufficient mitigation, including correspondence with a licensed Engineer.

Place all documentation used to make the determination in the ERR. Compliance is complete.

Hazardous Facilities

1. Determine if the project includes a hazardous facility (one that mainly stores, handles or processes flammable or combustible chemicals such as bulk fuel storage facilities or refineries).
2. If the project ***DOES NOT*** involve a hazardous facility, document the determination and place it in the ERR. Documentation is complete.
3. If the project ***DOES*** involve a hazardous facility show that:
 - a. the Acceptable Separation Distance (ASD) is sufficient with respect to residences and other facilities where people may congregate or be present or
 - b. that existing or planned barriers would serve as sufficient mitigation, including correspondence with a licensed Engineer.

Place all documentation used to make the determination in the ERR. Compliance is complete.

- [ASD Guidebook](#)
- [ASD Assessment Tool](#)
- [Barrier Design Guide](#)
- [HUD Explosive & Hazardous Facilities Guidance](#)

Site Contamination

Guidance on HUD's policy concerning Site Contamination can be found at 24 CFR Part 50.3(i) and 24 CFR 58.5(i)(2). A basic summation of the policy is that project sites that are funded by HUD must be free from hazardous materials, contamination, toxic chemicals and gases, and radioactive substances. Steps on how to clear this regulation are provided below.

1. Use the ***Site Contamination Checklist*** to assist you in conducting your required "due diligence". At a minimum, the following steps should be taken:
 - a. Conduct a Field Inspection
 - b. Investigate project area for Historic uses
 - c. Conduct a Records search (Use the How-to Guide to determine if the project is located within a 3,000 feet radius of a site listed on the Superfund (CERCLIS), Brownfields (ACRES) and Hazardous Waste (RCRAInfo) databases.

Multifamily housing with five (5) or more dwelling units and sites to be used as gathering places (community/senior centers, etc.) should have a Phase I Environmental Site Assessment conducted to search for possible contaminants.

- [NEPAssist website](#)
- [Site Contamination Checklist](#)
- [Creating Site Contamination Proximity Maps](#)
- [Site Contamination Proximity Map - Example](#)

Environmental Justice

Environmental justice means ensuring that the environment and human health are protected fairly for all people regardless of race, color, national origin, or income. Since CDBG only funds projects that assist those residents in low to moderate income areas, it could be said that all projects fall under this provision and therefore are exempt from this regulation. The required forms should already have this field prepopulated with this information. If not, contact the ADECA Environmental Officer.

IV. NOTICES

After completing the forms ENV-CEST and ENV-EA a “Notice to the Public” is required to be made (except in the case of the ENV-CEST converting to “Exempt”). Below you will find the required notices as well as the distribution lists for those notices. Using the incorrect type of notice, not adhering to the correct time frame for the notice and not distributing the notice to the required agencies are all infractions that will result in a Finding at the time of the Environmental Monitoring. The forms are listed in order of publication/posting. Note – not all notices are required. Affidavits of Publishing/Posting are required for all Notices. When a Notice is Posted, regulations require that the Notice be prominently displayed in public buildings (3 minimum) as well as the project area.

Categorically Excluded Subject to (Form ENV-CEST):

- Early Notice and Public Review of a Proposed Activity in a Floodplain/Wetland (Early Floodplain/Wetland Notice) (if required)
 - Must be **PUBLISHED** (needs to be published for **1 day** only)
 - Must have a **15-day** minimum Public Comment period
- Final Notice and Public Explanation of a Proposed Activity in a Floodplain/Wetland (Final Floodplain/Wetland Notice) (if required)
 - Must be **PUBLISHED** (needs to be published for **1 day** only)
 - Must have a **7-day** minimum Public Comment period
- Notice of Intent to Request Release of Funds (NOI/RROF)
 - Can be published or posted (remains posted **throughout** comment period)
 - Must have a **7-day** minimum Public Comment period if published
 - Must have a **10-day** minimum Public Comment period if posted

The NOI/RROF and the Final Floodplain/Wetland Notice may be disseminated simultaneously.

Environmental Assessment (Form ENV-EA):

- Early Notice and Public Review of a Proposed Activity in a Floodplain/Wetland (Early Floodplain/Wetland Notice) (if required)
 - Must be **PUBLISHED** (needs to be published for **1 day** only)
 - Must have a **15-day** minimum Public Comment period
- Final Notice and Public Explanation of a Proposed Activity in a Floodplain/Wetland (Final Floodplain/Wetland Notice) (if required)
 - Must be **PUBLISHED** (needs to be published for **1 day** only)
 - Must have a **7-day** minimum Public Comment period
- Finding of No Significant Impact and Notice of Intent to Request Release of Funds (Combined Notice)
 - Can be published or posted (remains posted **throughout** comment period)
 - Must have a **15-day** minimum Public Comment period if published
 - Must have an **18-day** minimum Public Comment period if posted

The Combined Notice and the Final Floodplain/Wetland Notice may be disseminated simultaneously. In addition to notifying the public through the methods listed above, appropriate Federal and State agencies must also be notified. Consult the Distribution Lists below to determine which Notices must be sent to Federal and State agencies and when they are required to be sent. Use the included form letters as a guide for notifying the agencies.

- [Public Notice Distribution Lists](#)

V. **MONITORING**

All projects are subject to monitoring. After submitting the required information to ADECA, a “desk review” will be conducted in order to determine if the submittal meets the minimum requirements. A copy of the form that is used for this review can be found below. Once it has been determined that the submittal has been made successfully a “Notice of Removal of Grant Conditions” will be issued. A copy will be forwarded along in the Grant Agreement Package.

At some point beyond the 30% fund expenditure point an “onsite review” will be conducted. This review is conducted during the monitoring visit. A copy of the form that is used for this review can be found below. A successful review is conducted when all appropriate fields of the form have been completely filled in and proper documentation has been included in the ERR.

- [Desk Environmental Review Monitoring Checklist](#)
- [On-site Environmental Review Monitoring Checklist](#)

On-Site Environmental Review Monitoring Checklist

Grantee Name: _____

Project No: _____

Preparer: _____

Date Prepared: _____

Follow-Up Review Indicated: YES NO

Environmental Review Summary of Dates

1. If the Grantee mailed letters to organizations seeking concurrence with the project, record below the dates those letters were sent and the dates that any concurrence was received:

	Date Sent	Date Received
State Historic Preservation Office (SHPO) (Min 30 Days):	_____	_____
Tribal Historic Preservation Office (THPO) (Min 30 Days):	_____	_____
U.S. Fish & Wildlife Service (FWS):	_____	_____
U.S. Army Corps of Engineers (ACE):	_____	_____
(Other) _____:	_____	_____
(Other) _____:	_____	_____

2. Did any of the concurrences require any mitigation measures? Yes No

a. If "Yes", list the date that the mitigation measures were completed or cleared: _____

3. Were any comments received by the Grantee during the Public Comment Period? Yes No

a. If "Yes", were they addressed by the Grantee in writing? Yes No N/A

4. List the date that the Notice was published/posted: _____

CEST - Notice of Intent to Request Release of Funds (NOI/RRF)

EA & EIS - Finding of No Significant Impact **AND** Notice of Intent to Request Release of Funds (Combined Notice)

-No Notices required for the following categories: 1, 2B, and 3.

5. Record the date that the Level of Review Determination Form (ENV-LRD) was signed by the Certifying Officer and which level of review is indicated:

- 1. Exempt Date Signed: _____
- 2A. Categorically Excluded Subject to (CEST) Date Signed: _____
- 2B. Categorically Excluded Subject to Converts to Exempt Date Signed: _____
- 3. Categorically Excluded Not Subject to (CENST) Date Signed: _____
- 4. Environmental Assessment (EA) Date Signed: _____
- 5. Environmental Impact Statement (EIS) Date Signed: _____

6. List the release date on the Notice of Removal of Grant Conditions (ENV-NRGC): _____

7. List the date that construction began on the project: _____

Part A: Level of Review Determination (Only one portion of Part A must be completed)

NOTE: Questions highlighted in Gray only apply to projects funded in 2015 or later

1. For Exempt activities, (which include administration, environmental studies, planning, engineering and design costs, temporary assistance for imminent threats, etc....) ensure that the Environmental Review Record (ERR) contains <u>EACH</u> of the following:		
	Yes	No
a. A Level of Review Determination Form (ENV-LRD) completed and signed	<input type="checkbox"/>	<input type="checkbox"/>
b. A Finding of Exemption Form (ENV-FOE) completed and signed	<input type="checkbox"/>	<input type="checkbox"/>
c. An Other Requirements Checklist Form (ENV-ORC) completed and signed	<input type="checkbox"/>	<input type="checkbox"/>
d. A copy of the Notice of Removal of Grant Conditions (ENV-NRGC)	<input type="checkbox"/>	<input type="checkbox"/>

2A. For Categorically Excluded Subject to activities, (which include rehabilitation of water and sewer lines, streets, drainage structures, senior centers, housing, etc....) ensure that the Environmental Review Record (ERR) contains <u>EACH</u> of the following:		
	Yes	No
a. A Level of Review Determination Form (ENV-LRD) completed and signed	<input type="checkbox"/>	<input type="checkbox"/>
b. A Categorically Excluded Subject to Form (ENV-CEST) completed and signed	<input type="checkbox"/>	<input type="checkbox"/>
i. the ENV-CEST signed after all concurrences were received (if applicable)?	<input type="checkbox"/>	<input type="checkbox"/>
c. An Other Requirements Checklist Form (ENV-ORC) completed and signed	<input type="checkbox"/>	<input type="checkbox"/>
d. A copy of the Notice of Intent to Request Release of Funds (NOI)	<input type="checkbox"/>	<input type="checkbox"/>
i. Was the Notice published/posted after the ENV-CEST was signed?	<input type="checkbox"/>	<input type="checkbox"/>
ii. Was the Notice disseminated to the following:		
1. Interested Individuals and groups (if applicable)	<input type="checkbox"/>	<input type="checkbox"/>
2. All appropriate Tribal, Local State & Federal Agencies	<input type="checkbox"/>	<input type="checkbox"/>
3. Local Media	<input type="checkbox"/>	<input type="checkbox"/>
iii. Did the 4-Factor Analysis indicate that a Language Access Plan was required?	<input type="checkbox"/>	<input type="checkbox"/>
iv. Was a Language Access Plan initiated? (if required)	<input type="checkbox"/>	<input type="checkbox"/>
e. A Request for Release of Funds & Certification Form (ENV-RROFC)	<input type="checkbox"/>	<input type="checkbox"/>
f. A copy of the Notice of Removal of Grant Conditions (ENV-NRGC)	<input type="checkbox"/>	<input type="checkbox"/>

2B. For Categorically Excluded Subject to activities that <u>CONVERT</u> to Exempt, (which can include rehabilitation of water and sewer lines, streets, drainage structures, senior centers, housing, etc....) ensure that the Environmental Review Record (ERR) contains <u>EACH</u> of the following:		
	Yes	No
a. A Level of Review Determination Form (ENV-LRD) completed and signed	<input type="checkbox"/>	<input type="checkbox"/>
b. A Categorically Excluded Subject to Form (ENV-CEST) completed and signed	<input type="checkbox"/>	<input type="checkbox"/>
i. Was the ENV-CEST signed after all concurrences were received (if applicable)?	<input type="checkbox"/>	<input type="checkbox"/>
c. An Other Requirements Checklist Form (ENV-ORC) completed and signed	<input type="checkbox"/>	<input type="checkbox"/>
d. A copy of the Notice of Removal of Grant Conditions (ENV-NRGC)	<input type="checkbox"/>	<input type="checkbox"/>

3. For Categorically Excluded Not Subject to activities, (which include economic development (non-construction), supportive services, utilities, supplies, etc....) ensure that the Environmental Review Record (ERR) contains <u>EACH</u> of the following:		
	Yes	No
a. A Level of Review Determination Form (ENV-LRD) completed and signed	<input type="checkbox"/>	<input type="checkbox"/>
b. A Categorically Excluded Not Subject to Form (ENV-CENST) completed and signed	<input type="checkbox"/>	<input type="checkbox"/>
c. An Other Requirements Checklist Form (ENV-ORC) completed and signed	<input type="checkbox"/>	<input type="checkbox"/>
d. A copy of the Notice of Removal of Grant Conditions (ENV-NRGC)	<input type="checkbox"/>	<input type="checkbox"/>

4. For Environmental Assessments , (which can include new construction: new water & sewer lines, water tanks, pump stations, senior centers, etc....) ensure that the Environmental Review Record (ERR) contains <i>EACH</i> of the following:		
	Yes	No
a. A Level of Review Determination Form (ENV-LRD) completed and signed	<input type="checkbox"/>	<input type="checkbox"/>
b. An Environmental Assessment Form (ENV-EA) completed and signed	<input type="checkbox"/>	<input type="checkbox"/>
i. Was the Statutory Checklist Section of the Form completed along with documentation?	<input type="checkbox"/>	<input type="checkbox"/>
ii. Were the following sections completed on the form:		
1. Existing Conditions & Trends?	<input type="checkbox"/>	<input type="checkbox"/>
2. Environmental Assessment Factors (Chart)?	<input type="checkbox"/>	<input type="checkbox"/>
3. Alternatives/No Action Alternative?	<input type="checkbox"/>	<input type="checkbox"/>
4. Determination?	<input type="checkbox"/>	<input type="checkbox"/>
iii. Was the Environmental Assessment Factors section completed properly allowing for the reasonable determination of the Finding of No Significant Impact (FONSI)?	<input type="checkbox"/>	<input type="checkbox"/>
iv. Was a Finding of No Significant Impact indicated in the Determination section?	<input type="checkbox"/>	<input type="checkbox"/>
1. Was the form signed and dated after all concurrences had been received?	<input type="checkbox"/>	<input type="checkbox"/>
c. An Other Requirements Checklist (ENV-ORC) completed and signed?	<input type="checkbox"/>	<input type="checkbox"/>
d. A copy of the Combined Notice (FONSI and NOI to Request Release of Funds) (CN)	<input type="checkbox"/>	<input type="checkbox"/>
i. Was the Combined Notice published/posted after the ENV-EA was signed?	<input type="checkbox"/>	<input type="checkbox"/>
ii. Was the Combined Notice disseminated to the following:		
1. Interested Individuals and groups (if applicable)	<input type="checkbox"/>	<input type="checkbox"/>
2. All appropriate Tribal, Local, State & Federal Agencies	<input type="checkbox"/>	<input type="checkbox"/>
3. Local Media	<input type="checkbox"/>	<input type="checkbox"/>
iii. Did the 4-Factor Analysis indicate that a Language Access Plan was required?	<input type="checkbox"/>	<input type="checkbox"/>
iv. Was a Language Access Plan initiated? (if required)	<input type="checkbox"/>	<input type="checkbox"/>
e. A Request for Release of Funds & Certification (ENV-RROFC)	<input type="checkbox"/>	<input type="checkbox"/>
f. A Notice of Removal of Grant Conditions (ENV-NRGC)	<input type="checkbox"/>	<input type="checkbox"/>

5. For Environmental Impact Statements (EIS) , (which is required when a project is determined to have a potentially significant impact on the human environment) a specialized visit is required.		
	Yes	No
a. Is there an indication that an Environmental Impact Statement is required? (If "Yes" contact the ADECA Environmental Officer for further assistance)	<input type="checkbox"/>	<input type="checkbox"/>

Part B: Other Requirements Checklist Documentation (Applies to all projects)

	Comments/Documentation
<p>1. Floodplain Insurance (24 CFR 58.6(a) & (b)) – The Environmental Review Record (ERR) should contain <u>ONE</u> of the following types of documentation (please select which documentation was in the ERR):</p> <p><input checked="" type="checkbox"/> Documentation supporting the determination that the project does not require flood insurance or is excepted from flood insurance.</p>	<p>CDBG, ESG & HOPWA funded projects are exempt from Flood Insurance Requirements per 42 USC 4003(a)(3), 24 CFR 58.6(a)(3) & 55.1(b)(1)</p>
<p>2. Coastal Barrier Resources (24 CFR 58.6(c)) – The Environmental Review Record (ERR) should contain <u>ONE</u> of the following types of documentation (please select which documentation was in the ERR):</p> <p><input type="checkbox"/> A map that establishes the Coastal Barrier Resource System Units location in relation to the project location.</p> <p><input type="checkbox"/> A map issued by the FWS or FEMA (or from their website) showing that the proposed project is not located within a designated Coastal Barrier Resource System Unit. The FEMA map panel number must be cited within the ERR.</p> <p><input type="checkbox"/> Approval of the project from the FWS, including all prior correspondence.</p>	
<p>3. Runway Clear Zones & Clear Zones (24 CFR 58.6(d)) - The Environmental Review Record (ERR) should contain <u>ONE</u> of the following types of documentation (please select which documentation was in the ERR):</p> <p><input type="checkbox"/> Documentation that the activities do not include new construction; substantial rehabilitation; acquisition of undeveloped land; activities that would significantly prolong the physical or economic life of existing facilities or change the use of the facility to a use that is not consistent with the recommendations of the Department of Defense (DOD)'s Land Use Compatibility Guidelines; activities that would significantly increase the density or number of people at the site; or activities that would introduce explosive, flammable, or toxic materials to the area.</p> <p><input type="checkbox"/> A map showing the site is not within 15,000 feet of a military airport or within 2,500 feet of a civilian airport.</p> <p><input type="checkbox"/> If within 15,000 feet of a military airport, a map showing the site is not within a designated APZ (Accident Potential Zone) or a letter from the airport operator stating so.</p> <p><input type="checkbox"/> If within 2,500 feet of a civilian airport, a map showing the site is not within a designated RPZ/CZ (Runway Protection Zone/Clear Zone) or a letter from the airport operator stating so.</p> <p><input type="checkbox"/> If the site is in a designated APZ, documentation of consistency with DOD (Department of Defense) Land Use Compatibility Guidelines.</p> <p><input type="checkbox"/> If the site is in a designated RPZ/CZ and the project does not involve any facilities that will be frequently used or occupied by people, and a determination of such and a written assurance from the airport operator that there are no plans to purchase the land as part of a RPZ/CZ program.</p> <p><input type="checkbox"/> If the site is in a designated RPZ/CZ and the project involves the acquisition or sale of an existing property that will be frequently used or occupied by people, a copy of the notice to prospective buyers signed by the prospective buyer.</p>	

Part C: Statutory Checklist – Related Federal Laws & Authorities at 24 CFR 58.5 (*Applies to Levels of Review 2A, 2B, & 4*)

1. Historic Preservation [36 CFR Part 800] – The Environmental Review Record (ERR) must indicate which <u>ONE</u> of the three following findings has been selected <u>AND</u> the type of documentation that was provided:	Comments/ Documentation
<input type="checkbox"/> No Historic Properties Affected: <input type="checkbox"/> Documentation of the Programmatic Agreement (PA) between SHPO and ADECA confirming the activities are covered by the PA. <input type="checkbox"/> Letter from SHPO (or THPO on tribal lands) that concurs with HUD’s or the Responsible Entity’s determination of “no historic properties affected.” <input type="checkbox"/> With documentation on 1) the undertaking and the Area of Potential Effect (APE) (including photographs, maps, and drawings, as necessary), 2) steps taken to identify historic properties, 3) the basis for determining that no historic properties are present or affected, 4) evidence of tribal consultation if required; and 5) copies or summaries of any views provided by consulting parties and the public. <input type="checkbox"/> If the SHPO has not responded to a properly documented request for concurrence within 30 days of receipt of the request, document the request and lack of response as part of the record.	
<input type="checkbox"/> No Adverse Effect: <input type="checkbox"/> Letter from SHPO (or THPO on tribal lands) that concurs with HUD’S or the Responsible Entity’s finding of “no adverse effect.” <input type="checkbox"/> With documentation on 1) the undertaking and the APE (including photographs, maps, and drawings, as necessary), 2) steps taken to identify historic properties, 3) affected historic properties (including characteristics qualifying them for the NR), 4) the undertaking’s effects on historic properties, 5) why the criteria of adverse effect were not applicable (§800.5), 6) evidence of tribal consultation if required, and 7) copies or summaries of any views provided by consulting parties and the public. <input type="checkbox"/> If the SHPO has not responded to a properly documented request for concurrence within 30 days of receipt of the request, document the request and lack of response as part of the record.	
<input type="checkbox"/> Adverse Effect: <input type="checkbox"/> Notification of adverse effect sent to Advisory Council on Historic Preservation. <input type="checkbox"/> Letter from SHPO (or THPO on tribal lands) that concurs with a finding of “adverse effect.” <input type="checkbox"/> With documentation on 1) the undertaking and the APE (including photographs, maps, and drawings, as necessary), 2) steps taken to identify historic properties, 3) affected historic properties (including characteristics qualifying them for the NR), 4) the undertaking’s effects on historic properties, 5) why the criteria of adverse effect are applicable (§ 800.5), 6) evidence of tribal consultation if required, and 7) copies or summaries of any views provided by consulting parties and the public. <input type="checkbox"/> A Memorandum of Agreement (MOA) or a Programmatic Agreement (PA) signed by the HUD official or Responsible Entity, SHPO/THPO, the Advisory Council on Historic Preservation if participating, and other signatory and concurring parties. <input type="checkbox"/> If resolution is not reached in an MOA or PA, provide correspondence and comments between the Advisory Council on Historic Preservation and HUD Secretary (for Part 50 projects) or Responsible Entity’s chief elected local official (for Part 58 projects).	
2. Tribal Consultation [Notice CPD-12-006, issued June 15, 2012] – The Environmental Review Record (ERR) must contain evidence that Tribal Consultation was considered or completed and must contain <u>ONE</u> of the following types of documentation:	Comments/ Documentation
<input type="checkbox"/> A completed Section 106 “When to Consult with Tribes” Checklist (found in the appendix of HUD Notice CPD-12-006) <input type="checkbox"/> A letter from Tribal Historic Preservation Officer (THPO) concurring with the project or a letter documenting that “No Response” was received from THPO.	

3. Floodplain Management [24 CFR Part 55, EO 11988] – The Environmental Review Record (ERR) should contain evidence whether or not a project is located in a Floodplain or could have an effect on a Floodplain. Indicate the project’s location and <u>ONE</u> of the types of documentation provided:	Comments/ Documentation
<input type="checkbox"/> Documentation supporting the determination that an exception at 55.12(c) applies.	
<input type="checkbox"/> The project <i>IS NOT</i> located in or <i>DOES NOT</i> impact a Floodplain:	
<input type="checkbox"/> A FEMA map showing the project is not located in a Special Flood Hazard Area.	
<input type="checkbox"/> The project <i>IS</i> located in or <i>DOES</i> impact a Floodplain:	
<input type="checkbox"/> A FEMA map showing the project is located in a Special Flood Hazard Area along with documentation of the 8/5-Step Process and required notices. [55.20]	

4. Wetlands Protection [24 CFR Part 55, EO 11990] – The Environmental Review Record (ERR) must contain evidence whether or not a project is located in a Wetland or could have an effect on a Wetland. Indicate the project’s location and <u>ONE</u> of the types of documentation provided:	Comments/ Documentation
<input type="checkbox"/> Documentation supporting the determination that an exception at 55.12(a)(3), 55.12(a)(4), 55.12(c)(3), 55.12(c)(7), or 55.12(c)(10) applies or that the project does not involve “new construction”.	
<input type="checkbox"/> The project <i>IS NOT</i> located in and <i>DOES NOT</i> impact a Wetland:	
<input type="checkbox"/> A map or other relevant documentation (i.e., concurrence with Fish & Wildlife Service, USDA/NRCS National Soils Survey and/or U.S. Army Corp of Engineers) supporting the determination that the project does not impact an on- or off-site wetland.	
<input type="checkbox"/> The project <i>IS</i> located in or <i>DOES</i> impact a Wetland:	
<input type="checkbox"/> A completed 8/5-Step Process, including a map and the early and final public notices.	
<input type="checkbox"/> Documentation supporting the determination that the project does not involve new construction (as defined in Executive Order 11990), expansion of a building’s footprint, or ground disturbance.	

5. Coastal Zone Management [16 U.S.C. 1451, 307(c) & (d)] – The Environmental Review Record (ERR) must contain evidence that the project’s location, in relation to the Coastal Zone Management Area, was considered. Indicate which <u>ONE</u> of the types of documentation was provided:	Comments/ Documentation
<input type="checkbox"/> A map indicating that the project is not located in the CZMA.	
<input type="checkbox"/> A Federal consistency determination from the state coastal commission, including a description of any necessary mitigation.	

6. Sole Source Aquifers [40 CFR Part 149] – The Environmental Review Record (ERR) must contain evidence that the project’s location, in relation to Sole Source Aquifers, was considered. Indicate which <u>ONE</u> of the types of documentation was provided:	Comments/ Documentation
<input checked="" type="checkbox"/> Documentation, including a map, showing that the project site is not on a sole source aquifer.	There are NO Sole Source Aquifers located in the state of Alabama. Map must be included in ERR.
<input type="checkbox"/> A determination that the project consists solely of acquisition, leasing, or rehabilitation of existing buildings.	
<input type="checkbox"/> Documentation showing that a Memorandum of Understanding (MOU) or agreement with the EPA excludes your project from further review.	
<input type="checkbox"/> Documentation that EPA has reviewed and commented on the proposed action within an SSA and a description of any mitigation measures, if necessary.	

<p>7. Endangered Species [50 CFR 402] – The Environmental Review Record (ERR) must contain evidence that <u>ONE</u> of the following determinations has been made the documentation supporting the decision:</p>	Comments/ Documentation
<p><input type="checkbox"/> No Effect, including a determination that the project does not involve any activities that have a potential to affect species or habitats, evidence that there are no federally listed species in the area, a concurrence letter from U.S. Fish & Wildlife Service or other analysis supporting a No Effect finding.</p> <p><input type="checkbox"/> May Affect, Unlikely to Adversely Affect, including all correspondence with the Fish and Wildlife Service or the National Marine Fisheries Service.</p> <p><input type="checkbox"/> Likely to Adversely Affect, including all correspondence with the Fish and Wildlife Service or the National Marine Fisheries Service.</p>	
<p>8. Wild and Scenic Rivers [36 CFR 297] – The Environmental Review Record (ERR) must contain evidence that the project is not located within ¼ mile of a river on the National Wild and Scenic River System (NWSRS) list. Which <u>ONE</u> of the following types of documentation is provided as support:</p>	Comments/ Documentation
<p><input type="checkbox"/> Evidence the proposed action is not within ¼ mile of a river in the NWSRS listed below: <u>EACH</u> type of river must be cleared (indicate that each was considered):</p> <ul style="list-style-type: none"> <input type="checkbox"/> Wild & Scenic Rivers <input type="checkbox"/> Study Rivers <input type="checkbox"/> Nationwide Rivers Inventory (NRI) <p><input type="checkbox"/> Documentation that contact was made with the Federal (or State) agency that has administrative responsibility for management of the river and that the proposed action will not affect river designation or is not inconsistent with the management and land use plan for the designated river area.</p>	
<p>9. Air Quality [40 CFR Parts 6, 51, 93] – The Environmental Review Record (ERR) must contain evidence that the project is in compliance with Air Quality standards. Indicate which <u>ONE</u> of the types of documentation was provided:</p>	Comments/ Documentation
<p><input type="checkbox"/> A determination that the project does not include new construction or conversion of land use facilitating the development of public, commercial, or industrial facilities OR five or more dwelling units.</p> <p><input type="checkbox"/> Documentation that the project’s county or air quality management district is not in nonattainment or maintenance status for any criteria pollutants.</p> <p><input type="checkbox"/> Evidence that estimated emissions levels for the project do not exceed de minimis emissions levels for the nonattainment or maintenance level pollutants.</p> <p><input type="checkbox"/> A determination that the project can be brought into compliance with the State Implementation Plan (SIP) through modification or mitigation, including documentation on how the project can be brought into compliance.</p>	
<p>10. Farmlands Protection [7 CFR Part 658] – The Environmental Review Record (ERR) must contain evidence that the project does not adversely affect Farmlands. Indicate which <u>ONE</u> of the types of documentation was provided:</p>	Comments/ Documentation
<p><input type="checkbox"/> A determination that the project does not include any activities, including new construction, acquisition of undeveloped land, or conversion that could potentially convert one land use to another.</p> <p><input type="checkbox"/> Evidence that the exemption applies, including all applicable maps.</p> <p><input type="checkbox"/> Evidence supporting the determination that “Important Farmland,” including prime farmland, unique farmland, or farmland of statewide or local importance regulated under the FPPA does not occur on the project site.</p> <p><input type="checkbox"/> Documentation of all correspondence with NRCS, including the completed AD-1006 and a description of the consideration of alternatives and means to avoid impacts to Important Farmland.</p>	

<p>11. Noise Abatement & Control [24 CFR 58.5(i)(2)] – The Environmental Review Record (ERR) must contain evidence that the project does not adversely affect existing noise conditions and/or does not involve a noise sensitive activity. Indicate which <u>ONE</u> of the types of documentation was provided:</p>	<p>Comments/ Documentation</p>
<p><input type="checkbox"/> Documentation that the proposed action does not involve new construction for residential use, rehabilitation of an existing residential property, a research demonstration project which does not result in new construction or reconstruction, interstate, land sales registration, or any timely emergency assistance under disaster assistance provisions or appropriations which are provided to save lives, protect property, protect public health and safety, remove debris and wreckage, or assistance that has the effect of restoring facilities substantially as they existed prior to the disaster.</p> <p><input type="checkbox"/> Documentation the proposed action is not within 1000 feet of a major roadway, 3,000 feet of a railroad, or 15 miles of a military or FAA-regulated civil airfield.</p> <p><input type="checkbox"/> If within those distances, documentation showing the noise level is Acceptable (at or below 65 DNL).</p> <p><input type="checkbox"/> If within those distances, documentation showing that there's an effective noise barrier (i.e., that provides sufficient protection).</p> <p><input type="checkbox"/> Documentation showing the noise generated by the noise source(s) is Normally Unacceptable (66 – 75 DNL) and identifying noise attenuation requirements that will bring the interior noise level to 45 DNL and/or exterior noise level to 65 DNL.</p>	
<p>12. Explosive & Flammable Facilities [24 CFR 51c] – The Environmental Review Record (ERR) must contain evidence that the proximity to both aboveground storage tanks and hazardous facilities has been analyzed. For <u>EACH</u> of the categories below, mark which type of documentation was provided:</p>	<p>Comments/ Documentation</p>
<p>Indicate which <u>ONE</u> of the following types of documentation was included for aboveground storage tanks:</p> <p><input type="checkbox"/> A determination that the project does not include development, construction, rehabilitation that will increase residential densities, or conversion.</p> <p><input type="checkbox"/> Evidence that within one mile of the project site there are no current or planned stationary aboveground storage containers of more than 100-gallon capacity containing common liquid industrial fuels or of any capacity containing hazardous liquids or gases that are not common liquid industrial fuels.</p> <p><input type="checkbox"/> A determination along with all supporting documentation that the separation distance of such containers from the project is acceptable.</p> <p><input type="checkbox"/> Documentation of the existing or planned barrier that would serve as sufficient mitigation, including correspondence with a licensed engineer.</p>	
<p>Indicate which <u>ONE</u> of the following types of documentation was included for hazardous facilities:</p> <p><input type="checkbox"/> A determination that the project does not include a hazardous facility.</p> <p><input type="checkbox"/> A determination along with all supporting documentation that the hazardous facility is located at an acceptable separation distance from residences and any other facility or area where people may congregate or be present.</p> <p><input type="checkbox"/> Documentation of the existing or planned barrier that would serve as sufficient mitigation, including correspondence with a licensed engineer.</p>	

<p>13. Site Contamination [24 CFR 58.5(i)(2)] – The Environmental Review Record (ERR) must contain evidence that the project site is not contaminated or has been cleared of contaminations. Indicate which <u>ONE</u> of the types of documentation was provided:</p>	<p>Comments/ Documentation</p>
<p><input type="checkbox"/> Evidence the site is not contaminated (for multifamily housing projects this includes on site and off site contamination and previous uses of the site); a Phase I Environmental Site Assessment is strongly encouraged for multifamily and non-residential projects.</p> <p><input type="checkbox"/> Evidence supporting a determination the hazard will not affect health and safety of the occupants or conflict with the intended use of the site, including any mitigation measures used.</p> <p><input type="checkbox"/> Documentation the site has been cleaned up according to EPA or state standards for residential properties, which requires a letter of “No Further Action” (NFA) required from the appropriate state department/agency, or a RAO (Response Action Outcome) letter from the LSRP (Licensed Site Remediation Professional).</p>	

<p>14. Environmental Justice [EO 12898] – The Environmental Review Record (ERR) must contain evidence that the project protects the environment and human health fairly regardless of race, color, national origin or income. Indicate which <u>ONE</u> of the types of documentation was provided:</p>	<p>Comments/ Documentation</p>
<p><input type="checkbox"/> Evidence that the site or surrounding neighborhood does not suffer from adverse environmental conditions and evidence that the proposed action will not create an adverse and disproportionate environmental impact or aggravate an existing impact. (Describe how the proposed action will not have a disproportionate adverse impact on minority or low-income populations.)</p> <p><input checked="" type="checkbox"/> Evidence that the project is not in an environmental justice community of concern (demographics, income, etc.) or evidence that the project does not disproportionately affect a low-income or minority population.</p> <p><input type="checkbox"/> If there are adverse effects on low-income or minority populations, documentation that that the affected community residents have been meaningfully informed and involved in a participatory planning process to address (remove, minimize, or mitigate) the adverse effect from the project and the resulting changes.</p>	<p>ADECA’s Community & Economic Development Programs only fund low- to moderate- income level Communities improving/eliminating any Environmental Injustice that may exist in the Community.</p>

Part D: Environmental Review Record (ERR) [58.38]

Answer the following questions about the ERR:	Yes	No	N/A	Comments/ Documentation
1. Has the Grantee established an ERR? [58.38]	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
2. Briefly describe the Grantee's system for carrying out its environmental review responsibilities (e.g. staff, consultant)				
3. Does it appear that the Reviewer possesses adequate knowledge and training on environmental review requirements for ADECA programs?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
4. Is there a separate ERR for each project?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	ADECA funds only one project at a time.
5. Does the ERR contain project descriptions, including geographic boundaries (where applicable) and reference all activities included as part of the overall project? [58.38]	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
6. Did ADECA receive any objections raising noncompliance issues?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
a. If "Yes", were the objections addressed by the Grantee after ADECA forwarded them? [58.75]	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
7. Floodplain/Wetland Management: Where projects were located in floodplains/wetlands, does the ERR contain <i>EACH</i> of the following:				
a. A copy of the 8/5-step process? [55.20]	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
b. Copies of the <i>PUBLISHED</i> Notices below:				
i. An Early Notice and Public Review of a Proposed Activity in a 100-year Floodplain	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
ii. A Final Notice and Public Review of a Proposed Activity in a 100-year Floodplain	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
8. For the records reviewed, do the Grantee records show that no grant funds were obligated or spent (other than activities under 24 CFR 58.22(f), 58.34, or 58.35(b)) prior to receipt of the ADECA's "Notice of Removal of Grant Conditions". [58.22]	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
9. For the records reviewed, do the Grantee records show that no physical development activities (e.g. construction) began prior to receipt of the ADECA's "Notice of Removal of Grant Conditions". [58.22]	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
10. If there were projects over a one or more year period, were environmental reviews conducted on the full scope of multi-year activities?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	ADECA does not fund multi-year projects even though a project's length can span multiple years.
11. If projects or activities were a continuation of a previously approved project, was a written decision supporting the continued applicability of the previous environmental review and clearance included in the ERR? (Re-evaluation of a previous Environmental Review)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
12. If mitigation measures were required were they included in the ERR as part of the actions pertaining to the environmental review?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

Civil Rights, Equal Opportunity and Fair Housing

I. INTRODUCTION

CDBG grant recipients must administer their programs in a nondiscriminatory manner without regard to race, color, national origin, sex, age, religion, handicap, or familial status. The five major areas where CDBG Civil Rights compliance is mandatory are:

- * Equal provision of services, benefits, facilities, and improvements;
- * Equal employment opportunity;
- * Equal access to CDBG contract and business opportunities;
- * Section 504 handicapped requirements; and
- * Compliance with Federal Fair Housing legislation.

Each applicant and recipient of Community Development funds is expected to carry out the various equal opportunity provisions of the Housing and Community Development Act and other applicable Civil Rights laws and regulations. When you submit your grant application to the ADECA, your Chief Elected Official must sign a general assurances statement to that effect. Furthermore, grantee responsibilities in the area of equal opportunity, handicapped accessibility, and fair housing are specifically identified in the subject "Grant Agreement," and acceptance thereof binds your community's compliance.

This chapter identifies the various Civil Rights requirements of the CDBG program, along with a number of suggested measures or actions that can be undertaken at the local government level to assure compliance with each. The following tasks have been identified to assist you in that endeavor:

- TASKS A: Designate Equal Opportunity Official.
- B: Maintain Local Government Employment Records.
- C: Maintain Project Benefit Records.
- D: Meet Equal Opportunity Contracting Requirements.
- E: Provide Equal Access to CDBG Related Business Opportunities.
- F: Affirmatively Further the Concept of Fair Housing.
- G: Assess Handicapped Accessibility to Recipient Programs, Facilities and Employment.
- H: Refer Civil Rights Complaints to the Appropriate Enforcement Agency.

II. COMPLIANCE MONITORING

Although the ADECA is required to monitor for Civil Rights violations, the U.S. Department of Housing and Urban Development has retained ultimate responsibility for compliance in this area. As such, they have the authority to visit and monitor your community's performance and recordkeeping. Also, they may require corrective actions or impose economic sanctions for infractions. To avoid the imposition of any such corrective actions, please refer to this manual and contact the ADECA Equal Opportunity Specialist for any additional resource information and technical assistance.

III. REGULATORY REFERENCES

Listed below are brief summaries of the Civil Rights provisions that apply to the CDBG program. You may refer to each source for a more in-depth understanding of the nondiscrimination requirements contained therein.

- * Title VI of the Civil Rights Act of 1964 provides that no person shall be excluded from participation, be denied program benefits, or subjected to discrimination on the basis of race, color, or national origin under any program or activity receiving Federal financial assistance.
- * Title VIII of the Civil Rights Act of 1968 (Federal Fair Housing Act) prohibits discrimination in the sale, rental, advertisement, and financing of residential real estate on the basis of race, color, religion, sex, or national origin. The Fair Housing Amendments Act of 1988 extended this protective coverage to handicapped individuals and families with children as well. Furthermore, Title VIII requires the U.S. Department of Housing and Urban Development to administer its programs in a manner that will affirmatively promote fair housing.
- * Section 109 of the Housing and Urban Development Act of 1974, as amended, provides that no person shall be excluded from participation, including employment; denied program benefits; or subject to discrimination on the basis of race, color, national origin, sex, age, or handicap under any program or activity funded in whole or in part under Title I of the Act (CDBG).
- * Section 3 of the Housing and Urban Development Act of 1968, as amended, provides that, to the greatest extent feasible, opportunities for training and employment that arise through CDBG financed projects shall be given to lower-income residents of the project area. Section 3 also provides that, to the greatest extent feasible, contracts awarded in connection with such projects be awarded to businesses located in the project area, or businesses owned, in substantial part, by residents of the project area.
- * Section 504 of the Rehabilitation Act of 1973, as amended, provides that no otherwise qualified individual shall, solely by reason of his or her handicap, be excluded from participation, including employment; be

denied program benefits; or be subjected to discrimination under any program or activity receiving Federal funds. The Americans with Disabilities Act (ADA) extends Section 504 accessibility standards to all state and local government facilities, services, and communications.

- * The Age Discrimination Act of 1975, as amended, provides that no person shall be excluded from participation, denied program benefits, or subjected to discrimination on the basis of age under any program or activity receiving Federal funds.
- * Executive Order 10063 provides that no person shall, on the basis of race, color, religion, sex, or national origin, be discriminated against in housing and related facilities provided with Federal assistance, and lending practices with respect to residential property when such practices are connected with loans insured or guaranteed by the Federal Government.
- * Executive Order 11246, as amended, provides that no person shall be discriminated against on the basis of race, color, religion, sex or national origin in any phase of employment during the performance of Federal or Federally assisted contracts in excess of \$10,000.
- * Section .36 of the Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments (Common Rule) includes requirements to maximize the use of small, minority and female- owned businesses in procurement and contracting with Federal funds.

IV. GRANTEE RESPONSIBILITIES

This section highlights strategies, procedures and required actions for complying with the laws and regulations outlined above. You are responsible for developing ways to affirmatively further equal opportunity, handicapped accessibility, and fair housing in your community. The following tasks will provide information to assist you with fulfilling your community's Civil Rights responsibilities. These tasks identify areas that must be addressed by each recipient of CDBG funds, and provides suggested and/or required actions that are necessary to meet that particular requirement of the program. The activities identified are designed to satisfy all applicable CDBG Civil Rights requirements. However, from time to time you may find it necessary to modify one or more of them to address the special needs and demands of your community.

TASK A: DESIGNATE EQUAL OPPORTUNITY OFFICIAL

As required by the "Letter of Conditional Commitment" process:

1. Designate an Equal Opportunity Official who will be responsible for Civil Rights compliance and recordkeeping for your community development program.

2. Send the "Designation of Responsible Officials" form to the ADECA to identify the individual selected (Exhibit 1-6).

TASK B: MAINTAIN LOCAL GOVERNMENT EMPLOYMENT RECORDS

As a CDBG recipient, your local government is required to affirmatively further and promote equal opportunity in employment. As such, the following policies and procedures should be in place and documented:

1. Maintain personnel records sufficiently detailed to identify and monitor workforce composition by race, sex, and handicapped status.
2. Make sure local government hiring practices adhere to equal opportunity guidelines:
 - * Identify the local government as an equal opportunity employer in all job announcements.
 - * Post all job openings in places frequented by the general public.
 - * Advertise job vacancies in the local newspaper and/or utilize the services of the State of Alabama Employment Service.
3. Develop written personnel policies and procedures sufficient to guarantee equal opportunity with respect to hiring, firing, advancement and compensation.
4. Document the circumstances surrounding any employment discrimination complaint filed against the grantee.

TASK C: MAINTAIN PROJECT BENEFIT RECORDS

All activities funded, in whole or in part, by the grant must be implemented in a way that does not exclude from participation, deny the benefits of, or discriminate against persons on the basis of race, religion, color, national origin, handicap, age, marital status or sex. It is your community's responsibility to take whatever actions are necessary to prevent discrimination providing CDBG funded services, facilities and improvements.

To document compliance with this requirement of the CDBG program, the following data must be accurately collected and maintained:

1. A total count of direct project beneficiaries (customers served, recipients of housing rehabilitation grants, employees hired or retained, etc.).

2. A breakdown of beneficiaries by race, income level, handicap and female head of household status.
3. A statistical analysis of program beneficiaries, by activity, to be submitted to the ADECA in the grant closeout documents (Small Cities Performance Assessment Report).

TASK D: MEET EQUAL OPPORTUNITY CONTRACTING REQUIREMENTS

Your community must undertake the following measures to satisfy CDBG equal opportunity contractual requirements:

1. For all CDBG related contract opportunities, construction and otherwise, seek to maximize the utilization of minority firms, female-owned businesses, and other small business enterprises in the project area (see TASK E).
2. Require contractors and subcontractors to develop and submit a Section 3 Affirmative Action Plan for contracts totaling more than \$10,000.
3. Obtain goals for minority/female participation, and include all required equal opportunity clauses and certifications in bid and contract documents (see sample contract documents in Exhibit IV-1 for an example of the necessary language to be included in the equal opportunity provisions listed below).
 - * Title VI, Civil Rights Act of 1964.
 - * Certification of Non-Segregated Facilities.
 - * Section 109, Housing and Community Development Act of 1974.
 - * Section 3, Housing and Urban Development Act of 1968.
 - * Section 504, Rehabilitation Act of 1973.
 - * Age Discrimination Act of 1975.
4. Conduct a preconstruction conference to apprise contractors and subcontractors of their civil rights responsibilities, along with other contract requirements.
5. Make sure an equal employment opportunity poster is placed on the job site for convenient inspection (see Exhibit VI-5).

TASK E: PROVIDE EQUAL ACCESS TO CDBG RELATED BUSINESS OPPORTUNITIES

All grantees, to the maximum extent possible, are required to involve minority and female-owned firms, along with other small businesses in the project area, in the procurement of CDBG related contract opportunities. To fulfill this responsibility, grant recipients must implement the measures listed below:

1. Develop a solicitation list of qualified contractors and professional service providers, including minority/female firms, in and around the project area. Suggested sources for compiling this list include:
 - * The local Chamber of Commerce.
 - * Telephone and local business directories.
 - * Local civic and educational organizations.
 - * The Alabama Department of Transportation's list of "Certified Disadvantaged Business Enterprises."
2. Solicit proposals and bids from qualified minority/female firms whenever CDBG related contract opportunities arise. Suggested solicitation methods include:
 - * Contact contractors and professional service providers on the above-referenced solicitation list by mail or telephone.
 - * Advertise invitations for bid and requests for proposals in newspapers of general circulation.
 - * Utilize the services of the Alabama Small Business Procurement System (use form shown in Exhibit V-1).
 - * Notify the Alabama Office of Minority Business Enterprise of bid opportunities (keep copy of letter in files for documentation).
3. Document and provide data on CDBG related contracts and subcontracts entered into with minority and female-owned businesses:
 - * Collect data on the type of business, contract amount, and race/gender of all contractors and professional service providers participating in the CDBG program.
 - * Complete and submit two copies of the ADECA Form 2516 "Contract and Subcontract Activity" semi-annually in April and October of each year during the life of the grant (Exhibit V-2).

4. Ensure that contractor/subcontractors fulfill their Section 3 responsibilities. Section 3 of the Housing and Urban Development Act of 1968 requires recipients of HUD funding, to the greatest extent feasible, to award contracts to businesses that contribute to the economic advancement of low or very low-income persons. Section 3 business concerns are defined as those that meet at least one of the following conditions:

- * Majority ownership is held by Section 3 residents (contact the ADECA Civil Rights Specialist for the definition of a Section 3 resident in your community).
- * At least 30 percent of the employees are Section 3 residents or were within the first 3 years of their employment.
- * More than 25 percent of their work is subcontracted to businesses that meet either of the first two conditions.

Section 3 preference requirements are triggered by the need for new hires (whether employees of the recipient, contractor or subcontractor). As such, CDBG grantee Section 3 responsibilities include:

- * Incorporate specific Section 3 language in all solicitations (Requests for Proposals and bids) and all "covered" contracts.
- * Require statement of workforce needs from contractors, and obtain a Section 3 Affirmative Action Plan for all contracts of more than \$10,000.
- * Implement procedures to notify Section 3 residents of training and employment opportunities and to notify Section 3 businesses of contracting opportunities generated by Section 3 projects.
- * Provide training, employment, and contracting opportunities to Section 3 residents and businesses "to the greatest extent feasible", and document such efforts.
- * Collect data on the number of employment opportunities generated by such projects and the number of opportunities made available to Section 3 residents. This information should be provided annually to the ADECA for the duration of your grant (see HUD Form 60002 at Exhibit V-5).
- * Attempt to meet the numerical goals as currently required by Section 3.

- * Cooperate with HUD in obtaining compliance from contractors and subcontractors.

Each grantee is also responsible for compliance with Section 3 in its own operations, as well as ensuring compliance by its contractors and subcontractors. This responsibility includes, but is not limited to, the following:

- * Implementing procedures for notifying Section 3 residents about training and employment opportunities and Section 3 businesses about contracting opportunities.
- * Notifying all potential contractors of Section 3 requirements and incorporating the Section 3 clause into all solicitations and contracts.
- * Facilitation training, employment and contract awards pertaining to Section 3.
- * Ensuring Section 3 compliance by contractors and subcontractors, and refraining from contracting with those contractors found in violation of Section 3 regulations.
- * Documenting actions taken to comply with Section 3 requirements, as well as results of those actions and any impediments.
- * If appropriate, providing Section 3 information in languages other than English.
- * Collecting data and submitting reports as required.

Contact the ADECA Civil Rights Specialist if questions arise concerning required actions needed to guarantee equal access to CDBG related employment and business opportunities.

TASK F: AFFIRMATIVELY FURTHER THE CONCEPT OF FAIR HOUSING

The U.S. Department of Housing and Urban Development (DHUD) requires that each State's CDBG program conduct an analysis to identify impediments to Fair Housing choice. The State also must take appropriate actions to overcome the effects of any impediments identified through that analysis. The State of Alabama's CDBG program will require all grantees receiving state administered CDBG funds to submit a Fair Housing Analysis to ADECA. This means that all grantees must conduct an analysis to identify impediments to Fair Housing choice within their communities, take appropriate actions to overcome the effects of the impediments, and develop a timetable or schedule of action to resolve the identified problems.

In an effort to assist you in preparing a brief survey/guide to analyze the needs necessary in identifying impediments to Fair Housing choice, below is a suggested guide that should be used in conducting your analysis which should accomplish the following:

1. Identify the existing conditions that limit Fair Housing choice for owners and renters (i.e., private sector, financial institutions, and governmental actions impacting Fair Housing choice).
2. Determine changes needed in governmental policies, real estate, and lending practices to correct the impediments identified.
3. Develop a timetable or schedule for the resolution of the problems of impediments to Fair Housing choice.

TASK G: ASSESS HANDICAPPED ACCESSIBILITY TO RECIPIENT PROGRAMS, FACILITIES AND EMPLOYMENT

Section 504 of the Rehabilitation Act of 1973 provides that no qualified person shall, solely on the basis of handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. As such, all CDBG grantees must review their entire operations of local government (public facilities, employment practices, communications systems, programs, services, etc.) to determine the extent to which they are accessible to handicapped individuals.

1. Each CDBG grantee, with the assistance of interested disabled persons and/or organizations representing individuals with handicaps, must develop and make available for public inspection a written Self-Evaluation to assess its current efforts to comply with applicable Section 504 requirements. In fulfilling this requirement, you are encouraged to use the Self-Evaluation/Transition Plan Guide shown in Exhibit V-4.
2. Public buildings and facilities (parking areas, entrances, interior doorways, restrooms, water fountains, elevators, etc.) must not contain physical obstructions to the handicapped. If during the Self-Evaluation process any of the grantee's facilities are found to be not fully accessible, then a written Transition Plan must be prepared (see Exhibit V-4 referenced above) which identifies all physical impediments that need to be eliminated; a schedule for correcting each deficiency, if feasible; and the person(s) responsible for implementation.
3. Grant recipients must take the special needs of the handicapped into consideration in the design and construction of CDBG financed improvements, and data must be collected and maintained in the

project files showing to what extent handicapped individuals are beneficiaries of the program (see TASK C, above).

4. All grantees must develop an information dissemination process that will provide program information to interested beneficiaries and members of the general public who are handicapped.
 - * Make the locations of all public hearings accessible to the handicapped, and provide a sign language interpreter whenever there is reason to believe deaf persons will be in attendance.
 - * Utilize a telecommunications device for the deaf (TDD) should the grantee have to converse with hearing impaired applicants or beneficiaries over the telephone. Hearing impaired applicants or beneficiaries may be referred to the Alabama Relay Service if the grantee includes the Alabama Relay Service number and an explanation of its purpose in all public notices, as well as posting the same information in public places. Contact the ADECA Equal Opportunity Specialist for information on TDD's or utilization of the Alabama Relay Service.
5. Each grantee must insure that its employment and personnel practices do not discriminate against qualified disabled job applicants and employees, and that employment opportunities are not denied or restricted for handicapped workers based on the need to make reasonable accommodations to the workplace (see Self-Evaluation/Transition Plan Guide for more detail).
6. Unless it can be clearly demonstrated that to do so would pose an undue administrative or financial hardship, handicapped individuals must be given access to, or be eligible to participate in, any program, service or activity of general local government (public transportation, recreation/cultural activities, nutrition/senior citizen programs, etc.) provided by a recipient of a CDBG grant or loan.
7. Additionally, grantees with 15 or more employees must undertake the following actions to further satisfy Section 504 requirements:
 - * Designate a Section 504 Coordinator.
 - * Establish a grievance procedure that provides for the prompt and equitable resolution of complaints alleging violations of Section 504 requirements.

- * Provide continuing notice to employees, program beneficiaries, and the general public of the local government's policy of nondiscrimination on the basis of handicap (public notice, newspaper ads, media announcements, etc.).
- * Maintain the written Self-Evaluation on file for a period of three years after its completion.

TASK H: REFER CIVIL RIGHTS COMPLAINTS TO THE APPROPRIATE ENFORCEMENT AGENCY

If any individual, group, or organization has a Civil Rights complaint about your community's program, the U.S. Department of Housing and Urban Development requires you to advise them to contact the Regional Director of Fair Housing and Equal Opportunity at:

U.S. Department of Housing and
Urban Development
Birmingham Field Office
Fair Housing and Equal Opportunity
600 Beacon Parkway West
Birmingham, Alabama 35209

The Field Office of Fair Housing and Equal Opportunity will investigate the complaint and advise the community of its findings, recommendations, and if necessary, any required corrective actions.

V. REQUIRED RECORDKEEPING

It is very important that the project files contain information necessary to fully document your community's compliance with all applicable Civil Rights mandates. At a minimum the following data, records, forms, etc., should be maintained and made readily available for review:

1. "Designation of Responsible Officials" form.
2. Analysis of local government workforce by race, sex, and handicap.
3. Written personnel policies and procedures.
4. Correspondence concerning the status or resolution of any citizen complaints involving minority individuals.
5. Data and records documenting the race, income, handicap, and female head of household status of all persons benefiting from CDBG funded activities.
6. Civil rights clauses and certifications in bid and contract documents.

7. Evidence to document attempts to solicit the participation of minority/female-owned firms and other small businesses in CDBG related bid and contract opportunities.
8. Complete ADECA Form 2516, "Contract and Subcontract Activity."
9. Complete HUD Form 60002, "Economic Opportunities for Low-and Very Low-Income Persons in Connection with Assisted Projects."
10. Documentation of all actions (correspondence, resolutions, studies, promotional material, etc.) to further fair housing initiatives in the community.
11. Section 504 Self-Evaluation and Transition Plan.

VI. REPORTING

The documents, reports, and forms listed below must be submitted to the ADECA as indicated:

1. "Designation of Responsible Officials" form (Exhibit 1-6). Submit as required by the "Letter of Conditional Commitment."
2. ADECA Form 2516, "Contract and Subcontract Activity." Submit two (2) copies semi-annually in April and October of each year (Exhibit V-2).
3. HUD Form 60002, "Economic Opportunities for Low-and Very Low-Income Persons in Connection with Assisted Projects" (Exhibit V-5). Submit annually.
4. Small Cities Performance Assessment Report, "Program Benefit" and "Direct Benefit" forms (Exhibit XI-1). Submit at project closeout.

VII. COMMON PROBLEMS/DEFICIENCIES

- * Failure to document efforts and actions that satisfy compliance.
- * Failure to keep accurate records and statistical data on persons benefiting from the CDBG program.
- * Equal opportunity provisions and documents are not included in bid and contract documents.
- * Failure to implement actions to promote fair housing in the community.
- * Failure to remedy impediments to accessibility for handicapped beneficiaries, employees, and members of the general public.

VIII. TECHNICAL ASSISTANCE

Contact the ADECA Equal Opportunity Specialist for advice or technical assistance in developing all policies, procedures, reports, etc. required for CDBG compliance.

Grantee Name _____
Project No: _____
Preparer _____
Date Prepared _____
Follow-up review Indicate _____

Civil Rights Compliance Checklist

Part A: EQUAL EMPLOYMENT OPPORTUNITY

Does the grantee Maintain a separate file on Equal Opportunity?

Yes No

If "No", explain

Part B: SECTION 3/CONTRACT MANAGEMENT

1. Does the Grantee seek female and minority-owned business in CDBG funded contracts and subcontracts by:

a) Notifying the Alabama Office of minority Business Enterprise (OMBE),

Yes No N/A

b) Submitting a bid notification to the Alabama Small Business Development Center,

Yes No N/A

c) Direct solicitation to contractors listed on the ALDOT DBE certified listing,

Yes No N/A

d) Other activities

Yes No N/A

Please describe all actions taken and list documents checked for verification. If the answer to a, b, or c above was "No", please explain.

2. Does the grantee seek Section 3 Businesses in CDBG funded contracts and subcontracts by:

a) Direct solicitation to local contractors

Yes No N/A

b) Locally advertising and/or posting in public places any CDBG contracting or job opportunities,

Yes No N/A

c) Coordination with the local housing authority or other community group in the project area,

Yes No N/A

d) Other activities

Yes No N/A

Please describe all actions taken and list documents checked for verification. If the answer to a or b above was "No", please explain.

3. Has the grantee documented to ADECA the participating of Minority and Female owned businesses and low-and very low-income persons in the CDBG program (Form 2516 - Contract/Subcontract Activity and Form 60002 - Section 3 Summary Report Economic Opportunities for Low-and Very Low-Income Persons)

Yes No

If "No", explain

PROCUREMENT POLICY

ADECA fully adopts 24 CFR 200.317-327 in full.

[§ 200.317 Procurements by states.](#)

When procuring property and services under a Federal award, a state must follow the same policies and procedures it uses for procurements from its non-Federal funds. The state will comply with [§ 200.322](#) Procurement of recovered *materials* and ensure that every purchase order or other contract includes any clauses required by section [§ 200.326](#) Contract provisions. All other non-Federal entities, including subrecipients of a state, will follow [§§ 200.318](#) General procurement standards through 200.326 Contract provisions.

[§ 200.318 General procurement standards.](#)

- (a) The non-Federal entity must use its own documented procurement procedures which reflect applicable State, local, and tribal laws and regulations, provided that the procurements conform to applicable Federal law and the standards identified in this part.
- (b) Non-Federal entities must maintain oversight to ensure that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders.
- (c)
 - (1) The non-Federal entity must maintain written standards of conduct covering conflicts of interest and governing the actions of its employees engaged in the selection, award and administration of contracts. No employee, officer, or agent may participate in the selection, award, or administration of a contract supported by a Federal award if he or she has a real or apparent conflict of interest. Such a conflict of interest would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract. The officers, employees, and agents of the non-Federal entity may neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts. However, non-Federal entities may set standards for situations in which the financial interest is not substantial or the gift is an unsolicited item of nominal value. The standards of conduct must provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents of the non-Federal entity.
 - (2) If the non-Federal entity has a parent, affiliate, or subsidiary organization that is not a state, local government, or Indian tribe, the non-Federal entity must also maintain written standards of conduct covering organizational conflicts of interest. Organizational conflicts of interest means that because of relationships with a parent company, affiliate, or subsidiary organization, the non-Federal entity is unable or appears to be unable to be impartial in conducting a procurement action involving a related organization.

(d) The non-Federal entity's procedures must avoid acquisition of unnecessary or duplicative items. Consideration should be given to consolidating or breaking out procurements to obtain a more economical purchase. Where appropriate, an analysis will be made of lease versus purchase alternatives, and any other appropriate analysis to determine the most economical approach.

(e) To foster greater economy and efficiency, and in accordance with efforts to promote cost-effective use of shared services across the Federal Government, the non-Federal entity is encouraged to enter into state and local intergovernmental agreements or inter-entity agreements where appropriate for procurement or use of common or shared goods and services.

(f) The non-Federal entity is encouraged to use Federal excess and surplus property in lieu of purchasing new equipment and property whenever such use is feasible and reduces project costs.

(g) The non-Federal entity is encouraged to use value engineering clauses in contracts for construction projects of sufficient size to offer reasonable opportunities for cost reductions. Value engineering is a systematic and creative analysis of each contract item or task to ensure that its essential function is provided at the overall lower cost.

(h) The non-Federal entity must award contracts only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement. Consideration will be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources. See also [§ 200.213](#) Suspension and debarment.

(i) The non-Federal entity must maintain records sufficient to detail the history of procurement. These records will include, but are not necessarily limited to the following: rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price.

(j)

(1) The non-Federal entity may use a time and materials type contract only after a determination that no other contract is suitable and if the contract includes a ceiling price that the contractor exceeds at its own risk. Time and materials type contract means a contract whose cost to a non-Federal entity is the sum of:

(i) The actual cost of materials; and

(ii) Direct labor hours charged at fixed hourly rates that reflect wages, general and administrative expenses, and profit.

(2) Since this formula generates an open-ended contract price, a time-and-materials contract provides no positive profit incentive to the contractor for cost control or labor efficiency. Therefore, each contract must set a ceiling price that the contractor exceeds at its own risk. Further, the non-Federal entity awarding such a contract must assert a high degree of oversight in order to obtain reasonable assurance that the contractor is using efficient methods and effective cost controls.

(k) The non-Federal entity alone must be responsible, in accordance with good administrative practice and sound business judgment, for the settlement of all contractual and administrative issues arising out of procurements. These issues include, but are not limited to, source evaluation, protests, disputes, and claims. These standards do not relieve the non-Federal entity of any contractual responsibilities under its contracts. The Federal awarding agency will not substitute its judgment for that of the non-Federal entity unless the matter is primarily a Federal concern. Violations of law will be referred to the local, state, or Federal authority having proper jurisdiction.

[[78 FR 78608](#), Dec. 26, 2013, as amended at [79 FR 75885](#), Dec. 19, 2014; [80 FR 43309](#), July 22, 2015]

§ 200.319 Competition.

(a) All procurement transactions must be conducted in a manner providing full and open competition consistent with the standards of this section. In order to ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work, or invitations for bids or requests for proposals must be excluded from competing for such procurements. Some of the situations considered to be restrictive of competition include but are not limited to:

- (1) Placing unreasonable requirements on firms in order for them to qualify to do business;
- (2) Requiring unnecessary experience and excessive bonding;
- (3) Noncompetitive pricing practices between firms or between affiliated companies;
- (4) Noncompetitive contracts to consultants that are on retainer contracts;
- (5) Organizational conflicts of interest;
- (6) Specifying only a “brand name” product instead of allowing “an equal” product to be offered and describing the performance or other relevant requirements of the procurement; and
- (7) Any arbitrary action in the procurement process.

(b) The non-Federal entity must conduct procurements in a manner that prohibits the use of statutorily or administratively imposed state, local, or tribal geographical preferences in the evaluation of bids or proposals, except in those cases where applicable Federal statutes expressly mandate or encourage geographic preference. Nothing in this section preempts state licensing laws. When contracting for architectural and engineering (A/E) services, geographic location may be a selection criterion provided its application leaves an appropriate number of qualified firms, given the nature and size of the project, to compete for the contract.

(c) The non-Federal entity must have written procedures for procurement transactions. These procedures must ensure that all solicitations:

- (1) Incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description must not, in competitive procurements, contain

features which unduly restrict competition. The description may include a statement of the qualitative nature of the material, product or service to be procured and, when necessary, must set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use. Detailed product specifications should be avoided if at all possible. When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a “brand name or equivalent” description may be used as a means to define the performance or other salient requirements of procurement. The specific features of the named brand which must be met by offers must be clearly stated; and

(2) Identify all requirements which the offerors must fulfill and all other factors to be used in evaluating bids or proposals.

(d) The non-Federal entity must ensure that all prequalified lists of persons, firms, or products which are used in acquiring goods and services are current and include enough qualified sources to ensure maximum open and free competition. Also, the non-Federal entity must not preclude potential bidders from qualifying during the solicitation period.

[[78 FR 78608](#), Dec. 26, 2013, as amended at [79 FR 75885](#), Dec. 19, 2014]

[§ 200.320 Methods of procurement to be followed.](#)

The non-Federal entity must use one of the following methods of procurement.

(a) Procurement by micro-purchases. Procurement by micro-purchase is the acquisition of supplies or services, the aggregate dollar amount of which does not exceed the micro-purchase threshold ([§ 200.67](#) Micro-purchase). To the extent practicable, the non-Federal entity must distribute micro-purchases equitably among qualified suppliers. Micro-purchases may be awarded without soliciting competitive quotations if the non-Federal entity considers the price to be reasonable.

(b) Procurement by small purchase procedures. Small purchase procedures are those relatively simple and informal procurement methods for securing services, supplies, or other property that do not cost more than the Simplified Acquisition Threshold. If small purchase procedures are used, price or rate quotations must be obtained from an adequate number of qualified sources.

(c) Procurement by sealed bids (formal advertising). Bids are publicly solicited and a firm fixed price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming with all the material terms and conditions of the invitation for bids, is the lowest in price. The sealed bid method is the preferred method for procuring construction, if the conditions in [paragraph \(c\)\(1\)](#) of this section apply.

(1) In order for sealed bidding to be feasible, the following conditions should be present:

(i) A complete, adequate, and realistic specification or purchase description is available;

(ii) Two or more responsible bidders are willing and able to compete effectively for the business;
and

(iii) The procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally on the basis of price.

(2) If sealed bids are used, the following requirements apply:

(i) Bids must be solicited from an adequate number of known suppliers, providing them sufficient response time prior to the date set for opening the bids, for local, and tribal governments, the invitation for bids must be publicly advertised;

(ii) The invitation for bids, which will include any specifications and pertinent attachments, must define the items or services in order for the bidder to properly respond;

(iii) All bids will be opened at the time and place prescribed in the invitation for bids, and for local and tribal governments, the bids must be opened publicly;

(iv) A firm fixed price contract award will be made in writing to the lowest responsive and responsible bidder. Where specified in bidding documents, factors such as discounts, transportation cost, and life cycle costs must be considered in determining which bid is lowest. Payment discounts will only be used to determine the low bid when prior experience indicates that such discounts are usually taken advantage of; and

(v) Any or all bids may be rejected if there is a sound documented reason.

(d) Procurement by competitive proposals. The technique of competitive proposals is normally conducted with more than one source submitting an offer, and either a fixed price or cost-reimbursement type contract is awarded. It is generally used when conditions are not appropriate for the use of sealed bids. If this method is used, the following requirements apply:

(1) Requests for proposals must be publicized and identify all evaluation factors and their relative importance. Any response to publicized requests for proposals must be considered to the maximum extent practical;

(2) Proposals must be solicited from an adequate number of qualified sources;

(3) The non-Federal entity must have a written method for conducting technical evaluations of the proposals received and for selecting recipients;

(4) Contracts must be awarded to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered; and

(5) The non-Federal entity may use competitive proposal procedures for qualifications-based procurement of architectural/engineering (A/E) professional services whereby competitors' qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation. The method, where price is not used as a selection factor, can only be used in procurement of A/E professional services. It cannot be used to purchase other types of services though A/E firms are a potential source to perform the proposed effort.

(e) [Reserved]

(f) Procurement by noncompetitive proposals. Procurement by noncompetitive proposals is procurement through solicitation of a proposal from only one source and may be used only when one or more of the following circumstances apply:

- (1) The item is available only from a single source;
- (2) The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation;
- (3) The Federal awarding agency or pass-through entity expressly authorizes noncompetitive proposals in response to a written request from the non-Federal entity; or
- (4) After solicitation of a number of sources, competition is determined inadequate.

[[78 FR 78608](#), Dec. 26, 2013, as amended at [79 FR 75885](#), Dec. 19, 2014; [80 FR 54409](#), Sept. 10, 2015]

[§ 200.321 Contracting with small and minority businesses, women's business enterprises, and labor surplus area firms.](#)

(a) The non-Federal entity must take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible.

(b) Affirmative steps must include:

- (1) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
- (2) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
- (3) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;
- (4) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises;
- (5) Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and
- (6) Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in [paragraphs \(1\)](#) through [\(5\)](#) of this section.

§ 200.322 Procurement of recovered materials.

A non-Federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at [40 CFR part 247](#) that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

[[78 FR 78608](#), Dec. 26, 2013, as amended at [79 FR 75885](#), Dec. 19, 2014]

§ 200.323 Contract cost and price.

(a) The non-Federal entity must perform a cost or price analysis in connection with every procurement action in excess of the Simplified Acquisition Threshold including contract modifications. The method and degree of analysis is dependent on the facts surrounding the particular procurement situation, but as a starting point, the non-Federal entity must make independent estimates before receiving bids or proposals.

(b) The non-Federal entity must negotiate profit as a separate element of the price for each contract in which there is no price competition and in all cases where cost analysis is performed. To establish a fair and reasonable profit, consideration must be given to the complexity of the work to be performed, the risk borne by the contractor, the contractor's investment, the amount of subcontracting, the quality of its record of past performance, and industry profit rates in the surrounding geographical area for similar work.

(c) Costs or prices based on estimated costs for contracts under the Federal award are allowable only to the extent that costs incurred or cost estimates included in negotiated prices would be allowable for the non-Federal entity under Subpart E - Cost Principles of this part. The non-Federal entity may reference its own cost principles that comply with the Federal cost principles.

(d) The cost plus a percentage of cost and percentage of construction cost methods of contracting must not be used.

§ 200.324 Federal awarding agency or pass-through entity review.

(a) The non-Federal entity must make available, upon request of the Federal awarding agency or pass-through entity, technical specifications on proposed procurements where the Federal awarding agency or pass-through entity believes such review is needed to ensure that the item or service specified is the one being proposed for acquisition. This review generally will take place prior to the time the specification is incorporated into a solicitation document. However, if the non-Federal entity desires to have the review accomplished after a solicitation has been developed, the Federal awarding

agency or pass-through entity may still review the specifications, with such review usually limited to the technical aspects of the proposed purchase.

(b) The non-Federal entity must make available upon request, for the Federal awarding agency or pass-through entity pre-procurement review, procurement documents, such as requests for proposals or invitations for bids, or independent cost estimates, when:

(1) The non-Federal entity's procurement procedures or operation fails to comply with the procurement standards in this part;

(2) The procurement is expected to exceed the Simplified Acquisition Threshold and is to be awarded without competition or only one bid or offer is received in response to a solicitation;

(3) The procurement, which is expected to exceed the Simplified Acquisition Threshold, specifies a "brand name" product;

(4) The proposed contract is more than the Simplified Acquisition Threshold and is to be awarded to other than the apparent low bidder under a sealed bid procurement; or

(5) A proposed contract modification changes the scope of a contract or increases the contract amount by more than the Simplified Acquisition Threshold.

(c) The non-Federal entity is exempt from the pre-procurement review in [paragraph \(b\)](#) of this section if the Federal awarding agency or pass-through entity determines that its procurement systems comply with the standards of this part.

(1) The non-Federal entity may request that its procurement system be reviewed by the Federal awarding agency or pass-through entity to determine whether its system meets these standards in order for its system to be certified. Generally, these reviews must occur where there is continuous high-dollar funding, and third party contracts are awarded on a regular basis;

(2) The non-Federal entity may self-certify its procurement system. Such self-certification must not limit the Federal awarding agency's right to survey the system. Under a self-certification procedure, the Federal awarding agency may rely on written assurances from the non-Federal entity that it is complying with these standards. The non-Federal entity must cite specific policies, procedures, regulations, or standards as being in compliance with these requirements and have its system available for review.

[§ 200.325 Bonding requirements.](#)

For construction or facility improvement contracts or subcontracts exceeding the Simplified Acquisition Threshold, the Federal awarding agency or pass-through entity may accept the bonding policy and requirements of the non-Federal entity provided that the Federal awarding agency or pass-through entity has made a determination that the Federal interest is adequately protected. If such a determination has not been made, the minimum requirements must be as follows:

(a) A bid guarantee from each bidder equivalent to five percent of the bid price. The “bid guarantee” must consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of the bid, execute such contractual documents as may be required within the time specified.

(b) A performance bond on the part of the contractor for 100 percent of the contract price. A “performance bond” is one executed in connection with a contract to secure fulfillment of all the contractor's obligations under such contract.

(c) A payment bond on the part of the contractor for 100 percent of the contract price. A “payment bond” is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.

§ 200.326 Contract provisions.

The non-Federal entity's contracts must contain the applicable provisions described in Appendix II to Part 200 - Contract Provisions for non-Federal Entity Contracts Under Federal Awards.

Performance and Financial Monitoring and Reporting

§ 200.327 Financial reporting.

Unless otherwise approved by OMB, the Federal awarding agency may solicit only the standard, OMB-approved governmentwide data elements for collection of financial information (at time of publication the Federal Financial Report or such future collections as may be approved by OMB and listed on the OMB Web site). This information must be collected with the frequency required by the terms and conditions of the Federal award, but no less frequently than annually nor more frequently than quarterly except in unusual circumstances, for example where more frequent reporting is necessary for the effective monitoring of the Federal award or could significantly affect program outcomes, and preferably in coordination with performance reporting.

Grantee Name _____
 Project Number _____
 Preparer _____
 Date Prepared _____
 Follow-up Review Indicated _____

Professional Services Contracts Compliance Checklist
Administration/Engineering

I Pre-agreement Costs

		Yes	No	N/A	Notes
A.	Were pre-agreement costs identified in the application and approved budget? If so, list each cost item and the amount paid from grant/match funds:				
B.	Was a separate procurement process used (RFP or small purchase procedures) and contract awarded for application preparation?			X	
C.	Were all payments associated with approved pre-agreement costs properly documented and invoiced?			X	

II Post-Award Professional Services

		Yes	No	N/A	Notes
A.	Were all contracts properly executed?				
B.	Were all services properly procured? (Request for Proposals or small purchases procedures if less than or equal to \$100,000)				
	** Do services provided in contracts coincide with those advertised?				
	** Were services advertised and solicited from an adequate number of providers?				
	** Were RFP's evaluated consistently with published system?				
C.	Was price part of RFP? If no, is there a cost/price analysis and/or do costs fall within accepted industry standards?				
D.	Was debarred status verified?				
E.	Are contracts dated after the effective date of the State's Grant Agreement?				<i>State Agreement Dated:</i> <i>Contracts Dated:</i>

F.	Are contract services provided on a fixed fee basis rather than a percentage?				
G.	Do contracts include required CDBG clauses?				
	** Termination for cause / Breach of contract?				
	** Termination for convenience				
	** Audits and inspection, access to records, and five year records retention clause.				
	** Title VI, Civil Rights Act of 1964				
	** Section 109, H&CD Act of 1974				
	** Conflict of interest				
	** Section 504 Rehabilitation Act of 1973				
	** Age Discrimination Act of 1975				
	** "Section 3" Compliance				
	** Section 3 Plan				
	** Executive Order 11246 and E.O. clause (for contractors with more than 50 employees and contracts over \$10,000).				
	** Section 402 of the 1974 Vietnam Veterans Act (\$10,000 or more).				
H.	Was the Beason-Hammon Clause included in each of the contracts?				
I.	Did the grantee maintain a copy of the Certification of Compliance with the Beason-Hammon Act and the E-Verify MOU for each of the contracts in the CDBG Program files?				

Grantee Name _____
 Project Number _____
 Preparer _____
 Date Prepared _____
 Follow-up Review Indicated _____

Bidding and Contracting Construction Compliance Checklist

I. Bidding Procedures

		Yes	No	N/A	Notes
A.	Did grantee use competitive sealed bids for projects exceeding \$50,000? If no, please see the Other Procurement Methods checklist				
	Was a Pre-Bid Meeting held?				
	** Was project advertised?				
	<i>If by county, once a week for 3 weeks in a newspaper of general circulation published in that county.</i>				
	<i>If by municipality, once in a newspaper of general circulation published in that municipality (can be posted if no local newspaper).</i>				
	<i>If over \$500,000, was it advertised additionally in 3 newspapers of general circulation throughout the State?</i>				
	** The project was not advertised; If yes, please see the Other Procurement Methods checklist;				
	** Did all bids on the projects over \$50,000 include a State License number on the outside of the bid?				
	** Were bids opened publicly?				
	** Are there minutes to the bid opening?				
	** Was the lowest bid accepted?				
	** If not, was the rejection based on sound reasons?				
	** Did the grantee utilize a local preference zone? (Not allowed with federal funds)				

II. Bonding, Insurance, and Contract Requirements

		Yes	No	N/A	Notes
A.	Were contracts properly executed?				
B.	Were contracts entered into after the Removal of Grant Conditions?				<i>Removal Dated:</i> <i>Contracts Dated:</i>
C.	How was the contract price determined (lump sum, unit price, etc.)				
D.	For construction contracts for public works projects has the grantee obtained:				
	** A bid guarantee of 5%				
	** A performance bond from the contractor for 100% of the contract price?				
	** A payment bond from the contractor? * 50% of the contract price				
	** Evidence of insurance as required by bid documents?				
E.	For contracts \$100,000 or over, were the bid documents and contract awards processes certified by the grantee's attorney?				
F.	Was the Beason-Hammon clause included in the contract?				
G.	Did the grantee maintain a copy of the Certification of Compliance with the Beason-Hammon Act and the E-Verify MOU in the CDBG Program Files?				
H.	Did the grantee verify the debarred status of the contractor as required by Federal Executive Order (E.O.) 12549 "Debarment".				

III General Conditions

		Yes	No	N/A	Notes
A.	Does the contract require the contractors to keep all records for five years and to provide access to records?				
B.	Does the contract provide for legal remedies for breach of contract by the contractor?				
C.	Does the contract provide a termination clause for the grantee stating conditions under which this can happen in contracts over \$10,000?				
D.	Is there any evidence of conflict of interest between the parties involved?				
E.	Were all required labor standards provisions included in bid specifications and contracts? (HUD 4010 or comparable language.)				

IV. Supplemental General Conditions

A.	Did the contract include clauses for compliance with Executive order 11246 or E.O. clause?				
B.	Were goals for minority and female participation stated?				<u> </u> % <i>Minority</i> <u>6.9%</u> <i>Female</i>
C.	Did the contract include a Certification of Non-segregated Facilities?				
D.	Did contract include clauses for compliance with Title VI, Civil Rights Act of 1964 and Section 109 of the H&S Act of 1974?				
E.	Was certification to "Section 3" compliance included?				
F.	Was there a clause for compliance to Section 504 of the Rehabilitation Act of 1973 (\$2,500 or more)?				
G.	Is there a clause for compliance with Section 402 of the 1974 Vietnam Veterans Act (\$10,000 or more)?				
H.	Is there a clause for compliance with the Age Discrimination Act of 1975 (\$2,000 or more)?				
I.	Is there a clause for compliance with the Clean Air Act, Clean Water Act, and EPA regulations in all contracts over \$100,000?				
J.	Were wage rates included in the solicitation of bid specifications?				

V Change Orders

		Yes	No	N/A	Notes
A.	Is the final contract amount different from the award price due to change orders?				
	** Do cumulative changes result in less than a ten percent increase in the contract award price?				
	** Do change orders pertain to minor changes consistent with the general scope of the original project?				
	** If cumulative changes exceed ten percent, are contract items and unit costs consistent with the original contract?				
	** If the answers to all of the above are no, then are the changes necessitated by extraordinary circumstances that have been documented by the architect and/or engineer?				
B.	Have all contract change orders been approved by the local governing body?				
C.	For projects from 2009 or later, were all change orders approved by ADECA's Engineer?				

VI Hook Ups

A.	If hookups were a requirement of the project, is there a construction contract with the community to provide all documented hookups, or are there individual rehabilitation contracts for all documented hookups?				
B.	Is there sufficient documentation for all LMI households not being hooked up?				
C.	Does number being hooked up correspond to approved application and contracts? If so, how many have been completed to date?				
D.	Are there temporary easements / rights of entry for each household that is being hooked up?				
E.	How is household income documented for households being hooked up?				
F.	Did a Licensed Plumber or Certified Inspector approve the connections?				

Grantee Name _____
 Project Number _____
 Preparer _____
 Date Prepared _____
 Follow-up Review Indicated _____

Bidding and Contracting -- Other Procurement Methods

I. Small Purchase Procedures

		Yes	No	N/A	Notes
A.	Did grantee use procurement by small purchase procedures?				
	** Was the purchase amount \$15,000 or less for purchases covered by the Alabama Bid Law, or \$50,000 or less for purchases covered by the Alabama Public Works Law?				
	** Did the grantee follow their written procurement procedures?				
	** Were price or rate quotations obtained from an adequate number of qualified sources?				
* List sources					
	** Was the low bidder selected?				
	** Was a purchase order issued? If no, please see Part III below.				

II. Sole Source Procurement and/or Emergency Procurement

		Yes	No	N/A	Notes
A.	Did grantee use procurement by noncompetitive proposals (sole source)?				
	** Did the grantee follow their written procurement procedures?				
	** Was the award of the contract infeasible under small purchase procedures, sealed bids?				
	<i>Is there adequate documentation that the item or service was only available from a single source?</i>				
	<i>Is there adequate documentation that the public exigency or emergency was such that the requirement would not permit a delay resulting from competitive solicitation?</i>				

	<i>Is there adequate documentation that competition was considered inadequate after solicitation of a number of sources?</i>				
**	In the case of a negotiated price, was the price negotiated lower than any previously received bids?				
**	Was a purchase order issued? If no, please see Part III below.				

III. Bonding, Insurance, and Contract Requirements

		Yes	No	N/A	Notes
A.	Were contracts properly executed?				
B.	Were contracts entered into after the Removal of Grant Conditions?				
C.	How was the contract price determined (lump sum, unit price, etc.)				
D.	For construction contracts for public works projects has the grantee obtained:				
**	A bid guarantee of 5%				
**	A performance bond from the contractor for 100% of the contract price?				
**	A payment bond from the contractor? * 50% of the contract price				
**	Evidence of insurance as required by bid documents?				
E.	For contracts \$100,000 or over, were the bid documents and contract awards processes certified by the grantee's attorney?				
F.	Was the Beason-Hammon clause included in the contract?				
G.	Did the grantee maintain a copy of the Certification of Compliance with the Beason-Hammon Act and the E-Verify MOU in the CDBG Program Files?				
H.	Did the grantee verify the debarred status of the contractor as required by Federal Executive Order (E.O.) 12549 "Debarment".				

IV General Conditions

		Yes	No	N/A	Notes
A.	Does the contract require the contractors to keep all records for five years and to provide access to records?				
B.	Does the contract provide for legal remedies for breach of contract by the contractor?				
C.	Does the contract provide a termination clause for the grantee stating conditions under which this can happen in contracts over \$10,000?				
D.	Is there any evidence of conflict of interest between the parties involved?				
E.	Were all required labor standards provisions included in bid specifications and contracts? (HUD 4010 or comparable language.)				

V. Supplemental General Conditions

		Yes	No	N/A	Notes
A.	Did the contract include clauses for compliance with Executive order 11246 or E.O. clause?				
B.	Were goals for minority and female participation stated?				<u> </u> % <i>Minority</i> <u>6.9%</u> <i>Female</i>
C.	Did the contract include a Certification of Non-segregated Facilities?				
D.	Did contract include clauses for compliance with Title VI, Civil Rights Act of 1964 and Section 109 of the H&S Act of 1974?				
E.	Was certification to "Section 3" compliance included?				
F.	Was there a clause for compliance to Section 504 of the Rehabilitation Act of 1973 (\$2,500 or more)?				
G.	Is there a clause for compliance with Section 402 of the 1974 Vietnam Veterans Act (\$10,000 or more)?				
H.	Is there a clause for compliance with the Age Discrimination Act of 1975 (\$2,000 or more)?				
I.	Is there a clause for compliance with the Clean Air Act, Clean Water Act, and EPA regulations in all contracts over \$100,000?				
J.	Were wage rates included in the solicitation of bid specifications?				

V Change Orders

		Yes	No	N/A	Notes
A.	Is the final contract amount different from the award price due to change orders?				
	** Do cumulative changes result in less than a ten percent increase in the contract award price?				
	** Do change orders pertain to minor changes consistent with the general scope of the original project?				
	** If cumulative changes exceed ten percent, are contract items and unit costs consistent with the original contract?				
	** If the answers to all of the above are no, then are the changes necessitated by extraordinary circumstances that have been documented by the architect and/or engineer?				
B.	Have all contract change orders been approved by the local governing body?				
C.	For projects from 2009 or later, were all change orders approved by ADECA's Engineer?				

Grantee Name _____
 Project Number _____
 Preparer _____
 Date Prepared _____
 Follow-up Review Indicated _____

Bidding Equipment Compliance Checklist

I. Bidding Procedures

		Yes	No	N/A	Notes
A.	Did grantee use competitive sealed bids for purchases exceeding \$15,000 covered by the Alabama Bid Law? If no, please see the Other Procurement Methods checklist				
	Was a Pre-Bid Meeting held?				
	** Was project advertised?				
	<i>If by county, once a week for 3 weeks in a newspaper of general circulation published in that county.</i>				
	<i>If by municipality, once in a newspaper of general circulation published in that municipality (can be posted if no local newspaper).</i>				
	<i>If over \$500,000, was it advertised additionally in 3 newspapers of general circulation throughout the State?</i>				
	** The project was not advertised; If yes, please see the Other Procurement Methods checklist;				
	** Did all bids on the projects over \$15,000 include a State License number on the outside of the bid?				
	** Were bids opened publicly?				
	** Are there minutes to the bid opening?				
	** Was the lowest bid accepted?				
	** If not, was the rejection based on sound reasons?				
	** Did the grantee utilize a local preference zone? (Not allowed with federal funds)				

Grantee Name _____
 Project Number _____
 Preparer _____
 Date Prepared _____
 Follow-up Review Indicated _____

Other Procurement Methods - Equipment

I. Small Purchase Procedures

		Yes	No	N/A	Notes	
A.	Did grantee use procurement by small purchase procedures?					
	** Was the purchase amount \$15,000 or less for purchases covered by the Alabama Bid Law, or \$50,000 or less for purchases covered by the Alabama Public Works Law?					
	** Did the grantee follow their written procurement procedures?					
	** Were price or rate quotations obtained from an adequate number of qualified sources?					
	* List sources					
	** Was the low bidder selected?					
	** Was a purchase order issued?					

II. Sole Source Procurement and/or Emergency Procurement

		Yes	No	N/A	Notes
A.	Did grantee use procurement by noncompetitive proposals (sole source)?				
	** Did the grantee follow their written procurement procedures?				
	** Was the award of the contract infeasible under small purchase procedures, sealed bids?				
	<i>Is there adequate documentation that the item or service was only available from a single source?</i>				
	<i>Is there adequate documentation that the public exigency or emergency was such that the requirement would not permit a delay resulting from competitive solicitation?</i>				

<i>Is there adequate documentation that competition was considered inadequate after solicitation of a number of sources?</i>				
** In the case of a negotiated price, was the price negotiated lower than any previously received bids?				
** Was a purchase order issued?				

Labor Standards – Contract Administration

I. INTRODUCTION

Implementing a construction project involves many major tasks from preliminary design to payment of retainage to the construction contractor. Labor Standards and Contract Administration are very important parts of this process.

Many procedures required for proper labor standards and contract implementation and administration overlap other sections of this manual. The following tasks must be completed prior to contract bid and award, but if they have been overlooked, stop and complete them now.

- TASKS
- A: Designate a Labor Standards Officer
 - B: Obtain wage rates and contractor's debarred status from the ADECA website

Once the construction contract has been awarded, the following tasks are necessary:

- C: Coordinate with the ADECA Engineer
- D: Conduct Pre-Construction Conference
- E: Issue Notice to Proceed
- F: Send Notice of Start of Construction to ADECA
- G: Establish Labor Standards Enforcement File
- H: Receive and Review Weekly Payrolls
- I: Inspect Construction Site and Conduct Employee Interviews
- J: Review and Approve Requests for Payment
- K: Approve Change Orders, if any
- L: Initiate Final Inspection
- M: Accept Work
- N: Complete and Forward Final Wage Compliance Report
- O: Obtain and Submit Newspaper Advertisement of Notice of Completion

II. REFERENCES

- Code of Alabama, Title 39, Public Works, provides requirements for bonding and contract execution for public works projects.
- Section 110, Title I, Housing and Community Development Act of 1974, as amended, (42 USC 5301) provides that “All laborers and mechanics employed by contractors or subcontractors in the performance of construction work financed in whole or in part with grants received under this title shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis—Bacon Act, as amended, (40 USC 276a - et seq.): Provided that this section shall apply to the rehabilitation of residential property only if such property is designed for residential use for eight or more families...” (emphasis added).
- Davis-Bacon Act (40 USC 276a - 276a - 7) requires that workers receive no less than the prevailing wages being paid for similar work in their locality. Prevailing wages are computed by the Department of Labor and are issued in the form of federal wage decisions for each classification of work. The law applies to most construction, alteration, or repair contracts over \$2,000. (Residential rehabilitation contracts involving single structures designed for less than eight units are exempt.)
- Copeland “Anti-Kickback” Act (18 USC 874(c)) requires that workers be paid at least once a week without any deductions or rebates except permissible deductions. Permissible deductions include taxes, deductions the worker authorizes in writing, and deductions required by court processes. The Act also requires contractors to submit payroll records weekly along with Statements of Compliance to the contracting agency. The Copeland Act applies to all contracts covered by Davis-Bacon.
- Contract Work House and Safety Standards Act – CWHSSA (40 USC 327 - 330, Sections 103 and 107) requires that workers receive “overtime” compensation at a rate of 1-1/2 times their regular hourly wage after they have worked 40 hours in one week. This provision applies to all construction contracts using State CDBG funds.
- Title 29, Code of Federal Regulations, Subtitle A, Parts 1, 3 and 5 detail regulations and procedures as issued by the Secretary of Labor for the administration and enforcement of the Davis—Bacon Act, as amended, by the various Federal contracting agencies.
- Title 41, Code of Federal Regulations, Chapter 60, provides compliance responsibility for equal employment opportunity.

Contact the ADECA for reference materials not found in this manual.

III. GRANTEE RESPONSIBILITIES

Construction contracts must be monitored to make sure contractors and subcontractors comply with technical specifications, and State and Federal requirements. Contract administration involves monitoring labor standards and equal opportunity requirements, as well as general inspection and supervision of construction work.

Supervision of construction work is the responsibility of a qualified individual such as the Project Engineer. The Equal Opportunity Officer is responsible for equal opportunity compliance. Labor standards compliance is reviewed by the Labor Standards Officer. In small communities, labor standards and equal opportunity compliance are often assigned to the same individual such as a Contract Compliance Officer. Regardless of the assignment of responsibility, your community must ensure compliance.

The tasks are not difficult, they just require your time, persistence and attention to detail. These tasks begin once the construction contract has been awarded.

For information, technical assistance, or for any questions you may have contact the ADECA:

- Grantee Program Supervisor for general contract compliance issues
- Labor Relations Specialist for labor standards and enforcement administration
- Civil Rights Specialist for equal opportunity compliance
- ADECA Engineer for contracting assistance

TASK A: DESIGNATE A LABOR STANDARDS OFFICER

A Labor Standards Officer should be designated as part of program management within the requirements of the Letter of Conditional Commitment. This person is responsible for administration and enforcement of labor standards. Duties begin with making sure bid and contract documents contain required provisions, continue through contract award, and end with the final stage - Labor Standards and Contract Administration and the following tasks.

Federal Labor Standards Compliance in Housing and Community Development Programs, July 1987, HUD Handbook 1344.1, Rev. 1, Chg. 1, is an essential resource for the Labor Standards Officer. It provides policies and procedures to use in carrying out statutory and regulatory mandates for construction labor standards enforcement. The ADECA Labor Relations Specialist is available for technical assistance and information.

TASK B: OBTAIN WAGE RATES

1. As soon as possible upon completion of the final plans and specifications, obtain wage rates from <http://www.wdol.gov/> at least 30 working days prior to bid advertising
2. Check wage rate to verify that it is applicable to your county and appears to be appropriate for your construction needs
3. Revisit <http://www.wdol.gov/> and obtain updated wage rates ten (10) days prior to bid opening to verify that the wage decision has not changed (if changes have been made, you may need to include such changes in the bid documents and the bid opening may need to be postponed)

TASK C: COORDINATION WITH THE ADECA ENGINEER

1. Submit plans, specifications, and contract documents to the ADECA Engineer for review and concurrence
2. Once concurrence is received, the project may be bid. However, prior to bid award, bid documents must be submitted to the ADECA Engineer for concurrence

TASK D: CONDUCT PRE-CONSTRUCTION CONFERENCE

1. Send notice to prime contractor verifying date and requesting that he/she have all subcontractors attend (allow sufficient time for contractor to arrange for all subcontractors to attend)
2. Advise your ADECA Program Supervisor of the date at least ten working days in advance by sending a copy of the above notice (EXCEPT that on all joint CDBG/RD projects, the date of the conference must be coordinated with your CDBG Program Supervisor)
3. Conduct a pre-construction conference to apprise the contractor and his/her subcontractors of their labor standards, equal opportunity and other contract obligations and responsibilities (it also allows an opportunity to obtain any outstanding contract documents and provide the contractor with posters for the construction site - "Notice to Employees" (WH 1321), "Equal Employment Opportunity is The Law" posters and a copy of the applicable Wage Decision are required to be posted at the construction site)

NOTE: A pre-construction conference is required by HUD to satisfy equal opportunity requirements of Executive Order 11246.

4. Keep attendance roster and minutes of the conference
5. Review wage decision with all contractors and subcontractors to determine if additional classifications are needed. If required, use HUD Form 4230A, Report of Additional Classification and Rate
6. Obtain from the contractor his general scheduling time for the subcontractors to begin their work (require contractors to notify the Labor Standards Officer, who will be completing HUD 11, Employee Interview Forms, one week prior to subcontractor(s) beginning work at job site
7. Prepare pre-construction conference minutes, the minutes must contain:
 - Project name, location and description
 - Contractor and known subcontractor's names
 - Date, time and place of conference
 - Conference attendees
 - Summary of items covered
8. File minutes of pre-construction conference in the Labor Standards Enforcement File and cross reference in the Civil Rights Enforcement File

TASK E: ISSUE NOTICE TO PROCEED

Following execution of contract documents and completion of the pre-construction conference:

1. Issue a Notice to Proceed to each prime contractor
 - Notice to Proceed should establish the construction start date and scheduled completion date (submit copy of Notice to Proceed to the ADECA Engineer)

TASK F: SEND NOTICE OF START OF CONSTRUCTION AND THE APPLICABLE WAGE DECISIONS TO THE ADECA

Send the Notice of Start of Construction and the wage decision to the ADECA Labor Relations Specialist to verify the correct wage decision was used and that construction was underway within the required 180 day timeframe.

1. The Notification and Wage Decision must be sent to the ADECA within 10 days of contract execution.

TASK G: ESTABLISH LABOR STANDARDS ENFORCEMENT FILE

The Labor Standards Officer should immediately establish a comprehensive Labor Standards Enforcement File. This file is in addition to the contract administration files discussed in Chapter IV, Task I.

TASK H: RECEIVE AND REVIEW WEEKLY PAYROLLS

Submission Requirements - Each contractor, subcontractor and any lower tier subcontractor is required to (payrolls from subcontractor(s) should be submitted first to the prime contractor for review):

1. Complete and submit payrolls no later than seven work days following the completion of the workweek
 - You must date stamp payrolls as they are received
2. Submit weekly payrolls from the time he/she starts work on the project and for each work week thereafter until he/she completes work
3. Weekly payrolls must be numbered consecutively beginning with Number 1 and the last payroll must be marked "FINAL"
4. The payroll should be signed by an officer of the company or an employee whose name appears on the "Certification from Contractor/Subcontractor Designating Officer or Employee to Supervise Payment of Employee and Sign Payrolls" form (this form designates the individual authorized to sign the payroll "Statement of Compliance" found on back of the payroll, should the appointee be changed, a new certificate must accompany the next payroll)
5. Submit Payroll Form WH-347; or a form providing the same information as the WH-347, including a "Statement of Compliance" Form WH-347 for each payroll (to assist contractors and subcontractors in submitting complete and accurate payrolls, you may want to provide them with a copy of the Instructions for Completing Payroll Form WH-347, the Payroll Checklist, and the "Contractor's Guide to Davis Bacon")
6. "Other Deductions" authorization(s) must be submitted with the first payroll for which deductions are made and must authorize any and all deductions except taxes and those required by court

Review of Payrolls

1. Insist on prompt submission of all payrolls and do not make

progress payments unless all payrolls have been submitted for the period covered in the invoice or request for payment

2. Examine all payrolls upon receipt and check them against the wage decision (prompt review will allow you to initiate corrective action before the problem multiplies and while the workmen are still available - PROMPT examination of payrolls is absolutely necessary)
 - Check payroll deductions, review the list of Permissible Payroll Deductions, and obtain "Authorization to Make Other Deductions" from the employee in question
 - A contractor and subcontractor can pay trainee or apprenticeship rates only if his/her training program is certified by and registered with the Office of Apprentices and Training, Department of Labor (obtain proof of certification/registration)
 - To assist with reviewing payrolls, refer to the Payroll Checklist, Instructions for Completing Payroll Form (WH-347), Contractor's Guide to Davis Bacon or Basically CDBG, Chapter 16
3. When any violation of labor standards requirements results in an underpayment of wages to employees, the recipient shall take necessary action to ensure restitution is made to each affected employee
 - Consult the HUD Handbook 1344.1, Rev. 1 Chg. 1, Section 3, "Violations," and Section 5, "Sanctions," for procedures
 - Consult State CDBG Intergovernmental Policy Letter Number 4, "Liquidated Damages" for additional information
 - Contact the ADECA Labor Relations Specialist when violations occur and for assistance
4. Check information on Form HUD-11, "Record of Employee Interview" against weekly payrolls (payroll examiner must sign the HUD-11's)

TASK I: INSPECT CONSTRUCTION SITE AND CONDUCT EMPLOYEE INTERVIEWS

1. Architect/Engineer must conduct inspections of contractor's work

for compliance with specifications, drawings, and conditions of the contract

2. Equal Opportunity Officer must conduct site visits to see if equal opportunity poster is posted and to ensure compliance
3. Labor Standards Officer must conduct on site employee interviews and inspections to see that the applicable wage decision and the "Notice to Employees" poster is posted at the construction site
 - Interviewer should observe duties of workmen before initiating interviews
 - Use HUD Form 11, "Record of Employee Interview" to document interviews
 - "HUD 11 Job Site Interviews," should be reviewed and followed
 - Employee interviews should be sufficient in number to establish the degree of accuracy of records and payrolls
 - Employee interviews should be representative of all classifications of employees working on the project (at least one interview for each classification)
 - Employee interviews must be representative of the subcontractor's workers and in the same degree and number as stated above
 - The employee interviewed must be informed that information given is confidential and that the identity will be disclosed to the employer only with the employee's written permission
 - Payroll examiner must check information on HUD-11, "Record of Employee Interview" form, against payrolls and the Payroll examiner must sign the HUD-11's
 - Conduct interviews according to "Instructions for Completing Employee Interviews" and use the HUD 11 checklist

TASK J: REVIEW AND APPROVE REQUEST FOR PAYMENT

Prior to payment make sure:

1. All work is completed as stated

2. All payrolls and "Statements of Compliance" have been submitted and are accurate and complete
3. Wage violations are corrected and any restitution paid (A Restitution Report should be completed and submitted to the ADECA Labor Specialist)
4. Charges are allowable

The contractor may be paid the invoice amount minus the retainage

TASK K: APPROVE CHANGE ORDERS, IF ANY

1. Change orders should be kept to an absolute minimum
2. Contact your ADECA Program Supervisor and the ADECA Engineer regarding any change order request
3. Change orders may be permissible where the cumulative cost of all such orders do not exceed ten percent (10%) of the original contract price (additional guidance is required if change orders exceed 10 percent, in such cases, coordinate with the ADECA Engineer as soon as possible)
4. Each change order must be coordinated with the ADECA Engineer and accompanied by a supporting statement which describes why the change is necessary, cost estimates, and any needed change in plans and specifications (changes which materially or substantially alter or extend the scope of the contract are not allowable except in an emergency and through proper amendment procedures)
5. Change orders must be prepared by the construction architect/engineer
6. The city/county must approve and authorize change orders in writing before they are given to the contractor

TASK L: INITIATE FINAL INSPECTION

When construction work has been completed, the contractor must certify completion of work to the city/county and submit a final request for payment.

The final inspection of the last construction contract of a public works grant also initiates the grant program closeout activities.

1. The engineer/architect initiates the final inspection
2. Representatives of your program, the contractor, and the engineering/architectural firm should all be present during the final inspection
3. Notify your ADECA Program Supervisor of the date ten (10) working days in advance
4. File the Final Quantities Change Order, the As Built Drawings, and the "Final Inspection Certification" (showing warranty date) with the ADECA Engineer (the Final Inspection Certification should also be submitted to the ADECA Program Supervisor at closeout)
 - If your grant program involves more than one prime construction contract, complete and retain all "Final Inspection Certifications" and file all at closeout

TASK M: ACCEPT WORK

Before you accept work and make final payment of retainage, verify that:

1. All payrolls have been received and checked, any necessary restitution has been made, and a Restitution Report has been completed and submitted to the ADECA Labor Specialist
2. All other required Equal Opportunity and Labor Standards provisions have been satisfied
3. All contract submissions have been received
4. All claims and disputes involving the contractor have been resolved
5. Files are complete
6. As-built plans have been filed with the city/county, if applicable and with the ADECA Engineer

TASK N: COMPLETE AND FORWARD FINAL WAGE COMPLIANCE REPORTS

The Davis-Bacon Act requires a "Final Wage Compliance Report" on each construction contract.

1. After approval of all "FINAL" payrolls, complete the "Final Wage Compliance Report". Ensure information previously submitted on

Restitution Report is the same.

2. Submit the report to your ADECA Program Supervisor at closeout
 - If your grant program involves more than one prime construction contract, retain the reports and file them all at closeout

TASK O: OBTAIN AND SUBMIT NEWSPAPER ADVERTISEMENT OF NOTICE OF COMPLETION; MAKE FINAL PAYMENT

The Alabama "Public Works" law requires the construction contractor to give public "Notice of Completion" of a construction. It is your responsibility to:

1. Make sure the "Notice of Completion" met State requirements:
 - Did the contractor place the advertisement in a newspaper of local distribution where the project is located?
 - If there is no newspaper published or circulated in the county where the project is located, the notice must be given by posting at the courthouse for 30 days and proof of posting must be made by the probate judge or sheriff and the contractor
 - Did the "Notice of Completion" include the identity of the completed project, project number and the name of the person (usually project engineer) to contact if anyone has a claim against the project?
 - Was the "Notice" published a minimum of once a week for four (4) consecutive weeks?
2. Hold the retainage until the contractor fulfills the "Notice of Completion" requirements
3. Obtain from the contractor the newspaper "Affidavit of Publication" for the "Notice of Completion" or proof from the probate judge or sheriff and the contractor.
 - Forward to your ADECA Program Supervisor at closeout
 - If your grant program involves more than one prime construction contract retain all "Notice of Completion" advertisements and submit at closeout

4. Settle claims, if any
5. Make final payment

IV. REQUIRED RECORDKEEPING AND FILES

Comprehensive Labor Standards Compliance files must be established for each construction job. The file must contain, at a minimum, the following:

- A copy of "Designation of Responsible Officials" form
- Applicable Wage Decision(s) obtained 30 days prior to bid advertisement, and a copy ten (10) days prior to bid opening
- Verification of contractor eligibility/debarred and license
- Notice to Proceed
- Pre-Construction Conference Minutes
- Additional Classifications, if any
- Notice of Start of Construction
- Apprenticeship/Training Certifications, if any
- Employee Authorization of Deductions (if applicable)
- Equal Opportunity certifications and documents (cross reference in the Civil Rights file)
- Certification from Contractor/Subcontractor Designating Officer or Employee to Supervise Payment of Employee and Sign Payrolls
- Weekly payrolls, Statements of Compliance, and evidence that payrolls were checked against the wage decision
- Employee interviews - HUD 11's
- Evidence that the on-site interview records were checked against payrolls and the applicable wage rate decision
- Evidence of restitution/resolution of identified discrepancies
- Complaints from workers, if any, and actions taken

- Liquidated damages assessed, appeals, if any, and outcome
- Final Wage Compliance Report, cross-referenced in Closeout File
- Final Inspection Certification, cross-referenced in Closeout File
- Notice of Completion, cross-referenced in Closeout File
- Correspondence

V. REPORTING

- Designation of Labor Standards Officer; send within ten (10) days of execution of Grant Agreement to your ADECA Program Supervisor
- Plans, specifications, and contract, and bid documentation to ADECA Engineer
- Notice of Pre-construction Conference- send to the contractor and to your ADECA Program Supervisor and schedule the conference immediately after contract award (your ADECA Program Supervisor and the Labor Relations Specialist must be given advance notice and meeting coordinated with those persons on CDBG/RD projects)
- Pre-construction Conference Minutes - place in appropriate file and distribute to pertinent pre-construction conference attendee
- Notice to Proceed – submit to ADECA Engineer
- Notice of Start of Construction - submit to your ADECA Program Supervisor
- Final Inspection of Construction Project - notify your ADECA Program Supervisor of the date and submit the “Final Inspection Certification,” at closeout (the Final Inspection Certification with warranty date, As Built drawing, and Final Quantities Change order must also be submitted to the ADECA Engineer prior to closeout)
- Notice of Completion - submit at closeout to your ADECA Program Supervisor the proof of publication, or “Affidavit of Publication”
 - Comprehensive Public Works grants - retain and submit all at closeout

- Final Wage Compliance Report - transmit at closeout after approval of all "Final" payrolls
 - Comprehensive Public Works grants -retain and submit all at closeout

VI. COMMON PROBLEMS/DEFICIENCIES

- Failure to check if additional classifications are needed
- Failure to make sure that payrolls have actual working classifications listed
- Use of incorrect or superseded wage rate decisions
- Labor Standard File not established
- Weekly payrolls and Statement of Compliance not obtained
- Weekly payrolls not checked
- On-site interviews not conducted
- On-site interviews not checked against payroll
- Failure to establish administrative compliance responsibility
- Wage rate and posters - Equal Opportunity and Labor not posted at job site
- Written Section 3 plan not obtained where applicable
- Contractor Section 3 Certification not obtained
- Contractor Equal Employment certification not obtained
- Notice of Start of Construction not sent to the ADECA in a timely manner (within 10 days of execution of the prime contract)
- Plans, specifications, contracts, and bid documents not coordinated with the ADECA Engineer, and Notice to Proceed not submitted to the ADECA Engineer
- Notice Pre-construction Conference not sent to the ADECA
- Civil Rights Compliance File not cross-referenced

- Pre-construction minutes not in files
- Project Construction File inadequate
- No construction monitoring responsibility assigned
- Contractor's failure to submit cost breakdown
- Schedule of payments not established
- Construction inspection inadequate
- Delays in processing requests for progress payments
- Failure to obtain prior written approval of change orders
- Change orders in excess of 10 percent
- Failure to notify the ADECA of the date of final inspection
- Failure to provide timely Final Wage Compliance Report and/or Restitution Report

VII SUPPORT MATERIALS

Support Materials may be accessed at the below website.

<http://adeca.alabama.gov/Divisions/ced/cdp/Pages/CDBG-Management-and-Implementation.aspx#CVI>

Grantee Name: _____
 Project No.: _____
 Preparer : _____
 Date Prepared: _____
 Follow-up Review Indicated: _____

Labor Standards Compliance Checklist

(All applicable items apply both to prime and sub-contractor)

Part A. Desk Review

		Yes	No	N/A	(Circle one) Prime 1 or Sub	(Circle one) Prime 2 or Sub
A.	Who is the Designated Labor Standards Officer?					
B.	Has the Mayor or Chairman signed a completed Notice of Start of Construction?					
C.	Give name of contractor(s) and the contract amount(s), if over \$2,000.					
D.	When was the bid opening date?					
E.	When was the contract award date?					
F.	Was the contract awarded within 90 days of the bid opening?					
	<input type="checkbox"/> If not, is there evidence that the wage decision was rechecked?					
G.	Give the wage decision number(s), type(s), and date(s).					
H.	Is there evidence of the required check on wage determination(s) status 10 days prior to bid opening?					
I.	Give a description of the project including major construction work (i.e., water, sewer, drainage, streets, water tank, building, etc.).					
J.	Does the wage decision appear to match the construction work? If no, explain.					

Part B. On-Site Review

		Yes	No	N/A	(Circle one) Prime 1 or Sub	(Circle one) Prime 2 or Sub
A.	Was a pre-construction conference held prior to start of construction with all necessary persons attending?					
	<input type="checkbox"/> Do minutes indicate legal (Davis Bacon, etc.) as well as local (permits, etc.) concerns were covered?					
B.	Is there evidence of verification of the prime contractor's debarred status?					
C.	Has a copy of the Certificate From Contractor/Subcontractor Designating Officer or Employee to Supervise Payment of Employees (Signature Appointee Form) been executed for the prime contractor(s) and any subcontractors?					
D.	Have weekly statements of compliance been completed on the back of the payroll (Form WH-347), or on Form WH-348, and signed by the person on the Signature Appointee form or by an owner or officer of the company?					
E.	Is there evidence that payrolls were submitted and received on a weekly basis, within 7 days of the completion of the work week?					
	<input type="checkbox"/> If more than 7 days, were steps taken by grantee to correct this problem?					
F.	Are payrolls numbered #1, consecutively through, till the last and marked "Final"?					
G.	Is all payroll information complete (at least on the first payroll) containing each worker's name and the last 4 digits of the social security number?					

		Yes	No	N/A	(Circle one) Prime 1 or Sub	(Circle one) Prime 2 or Sub
H.	Were workers paid on a weekly basis?					
I.	Do all workers' classifications conform to the classification(s) listed on the wage determination?					
	<input type="checkbox"/> If not, is there a record of a HUD 4230A requesting and granting additional classification(s) and rates; or a record of conformance with the ADECA Labor Specialist?					
J.	Do the wage rates shown on the payrolls equal or exceed those shown on the wage decision(s)?					
K.	Were apprentices used?					
	<input type="checkbox"/> If so, are there copies of the apprentice registration forms showing required ratios and pay rates?					
L.	Are there deductions on the payrolls other than those required by law (Income taxes, FICA, etc.) or court-ordered processes?					
	<input type="checkbox"/> If so, is there a statement on file from the worker authorizing such 'Other' deduction(s)?					
M.	Have workers worked in excess of 40 hours a week?					
	<input type="checkbox"/> If so, has time and one-half for all overtime been paid?					
N.	If workers have worked in more than one classification (split classifications), have daily time records been kept for all hours worked in each classification and signed by the workers? (If not, use the higher rate on wage decision)					
O.	Do payrolls show evidence of having been checked by the payroll examiner?					

		Yes	No	N/A	(Circle one) Prime 1 or Sub	(Circle one) Prime 2 or Sub
P.	Does a spot check of the payrolls indicate mathematical accuracy?					
Q.	Is there documentation for any errors/problems on payrolls that have been corrected?					
R.	Has a reasonable representation of HUD-11 interviews been conducted? (give number)					
S.	Is there reason to be concerned that the contractor may be deliberately falsifying payrolls?					
	<input type="checkbox"/> If so, have HUD-11 Employee Interviews been utilized to target areas of suspicion/concern?					
T.	Are HUD 11s signed by the interviewer, and the payroll examiner?					
U.	Do payrolls and HUD 11s show evidence of having been compared?					
V.	Has restitution (back payments) been deemed necessary?					
	<input type="checkbox"/> If so, has the ADECA Labor Specialist been notified?					
	<input type="checkbox"/> If so, is there a Certified Correction Payroll on hand which shows the additional pay and dates for which restitution was necessary?					
	<input type="checkbox"/> If so, is there an explanation of the reason(s) for the restitution?					
W.	Are the DOL "Notice to Employees" poster and applicable wage decision(s) posted at the work site(s)?					

Land Acquisition

I. INTRODUCTION

Any real property, including permanent easements, acquired by a public agency for an activity assisted with CDBG and/or local matching funds is subject to the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (The Uniform Act). The Uniform Act provides for uniform and equitable treatment of persons displaced from their homes, businesses, or farms by Federal and Federally assisted programs (Chapter IX). It also establishes uniform and equitable land acquisition procedures as described herein.

Acquisition is an intricate, time-consuming, step-by-step process. A copy of the HUD 1378, Relocation and Real Property Acquisition Handbook, updated April 1997 is available upon request from ADECA's CDBG Section. Also, pertinent excerpts of the Uniform Relocation and Real Property Acquisition Policies Act of 1970, as amended, are included as Exhibit VIII-1 of this manual.

Failure to acquire properties subject to the Uniform Act in accordance with regulations can cause HUD to require the State to:

- * Have you undertake the entire acquisition process again even if you have already acquired the property by deed; or
- * Withdraw funding for CDBG activities related to the acquisition.

Since acquisition of real property is so complex and does not pertain to all recipients, contact the ADECA Acquisition/Relocation Specialist for technical assistance and information. Upon request, the Acquisition/Relocation Specialist can provide copies of the HUD 1378, Relocation and Real Property Acquisition Handbook, and other brochures and documents required to administer acquisition.

This chapter will only list the tasks, references, common problems and deficiencies related to acquisition. More detailed information necessary to implement the Uniform Act is found in the HUD 1378 Handbook.

Acquiring property subject to the Uniform Act involves the following tasks:

- TASKS A: Determine Properties to be Acquired.
- B: Issue Preliminary Acquisition Notice and Brochure "When a Public Agency Acquires Your Property."
- C: Obtain Preliminary Title Evidence, Boundary Survey, and Legal Description.

- D: Where Necessary Select Appraiser, Including Review Appraiser, and Contract for Appraisals; Invite Owner to Accompany Appraiser (s).
- E: Appraisal(s) Performed, Completed and Submitted to Your Agency. Appraisal C(s) Reviewed by Your Agency. (SEE: para 5-2, Part C. (1) of the HUD 1378 Acquisition Relocation Handbook for exceptions to appraisal requirement.)
- F: Establish Just Compensation.
- G: Provide Written Purchase Offer and Furnish Summary Statement.
- H: Negotiate with Owner; Explain Acquisition Procedures.
- I: Resolve Negotiations.
- J: Complete Project Acquisition File.
- K: Use Special Proceedings:
 - 1. Not to Acquire.
 - 2. Donations.
 - 3. Voluntary Acquisition.

II. REFERENCES

- * Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, P.L. 91-646, as amended (The Uniform Act).
- * HUD 1378, Relocation and Real Property Acquisition Handbook, as updated April 1997.
- * Title VI, Civil Rights Act of 1964.
- * Title VIII, Civil Rights Act of 1968.

Contact the ADECA Acquisition/Relocation Specialist regarding these references.

III. GRANTEE RESPONSIBILITIES

It is the grantee's responsibility to implement the tasks in accordance with the regulations when carrying out land acquisitions for a CDBG project. If assistance is needed in this area, you are advised to contact the ADECA Acquisition Specialist. Please do not assume that the real property needed

is already in the public domain. You should verify this fact by your attorney. For example, activities such as street widening, relocation of utility lines, and sidewalk or sewer line construction do not always indicate an obvious property acquisition requirement, but there is often a need to acquire easements and/or rights-of-way in a CDBG assisted project. Please remember that the basic purpose of the Uniform Act is to assure consistent and equitable treatment of all property owners by the public body in the acquisition process. The tasks outlined below are designed to ensure that the intent of the Uniform Act is followed.

TASK A: DETERMINE PROPERTIES TO BE ACQUIRED

Project planning is a must where there is anticipated land acquisition activities. In collaboration with the Project Engineer, the locality must make efforts early in the planning stage of the project to accurately identify the number of parcels to be acquired and obtain a cost estimate for the property. The locality should decide on a workable plan of action, including staffing needs necessary to accomplish the land acquisitions in a timely and cost-effective manner. Hopefully, these planning actions will prevent unnecessary project construction delays.

TASK B: ISSUE PRELIMINARY ACQUISITION NOTICE AND BROCHURE "WHEN A PUBLIC AGENCY ACQUIRES YOUR PROPERTY"

After all project conditions have been met by the locality, the property owner(s) shall be notified in writing of the locality's interest in acquiring the real property. The locality must have evidence in its files that the notices were personally delivered. The notice of intent to acquire and land acquisition informational brochure should explain to the owner (s) his or her basic rights under the Uniform Act such as the right to an appraisal of the property. (See Exhibit VIII-3 for copy of the acquisition brochure (Paragraph 5-2(b).)

TASK C: OBTAIN PRELIMINARY TITLE EVIDENCE, BOUNDARY SURVEY AND LEGAL DESCRIPTION

Although not addressed in the HUD acquisition regulations, we strongly recommend that evidence of title to the real property to be acquired be secured from a qualified source such as an attorney. An accurate legal description of the parcel and/or part to be acquired is necessary to adequately locate the property, as well as for other legal purposes such as the conveyance instrument.

TASK D: WHERE NECESSARY SELECT APPRAISER, INCLUDING REVIEW APPRAISER, AND CONTRACT FOR APPRAISALS; INVITE OWNER TO ACCOMPANY APPRAISER

A qualified independent real estate appraiser shall be properly selected in accordance with the procurement procedures outlined in the Common

Rule, including the review appraiser to appraise (or review) each parcel to be acquired by the locality for the project. The property owner shall be given an opportunity to accompany the appraiser during the appraiser's inspection of the property. Evidence of the invitation must be adequately documented by the locality.

TASK E: UNLESS EXCLUDED BY PARA 5-2, PART. C(1) OF THE HUD 1378 HANDBOOK, APPRAISAL(S) PERFORMED, COMPLETED, AND SUBMITTED TO YOUR AGENCY. APPRAISAL(S) REVIEWED BY YOUR AGENCY

The appraiser's written appraisal report must contain sufficient documentation, including valuation data and the appraiser's analysis of that data, to support his or her opinion of value. Also, where applicable the locality must have an appraisal review process to ensure that all appraisal reports are reviewed by a qualified review appraiser. A written report is submitted by the review appraiser to the locality which recommends a value for the property and assures that the appraisal(s) meet acceptable standards and are properly documented. This is necessary to clearly demonstrate the soundness of the appraiser's opinion of value. In no event can the review appraiser recommend to the locality a Fair Market Value which is less than the amount established by the acquisition appraiser unless the review appraiser is authorized to do an appraisal himself or herself (Paragraph 5-3 and 5-4 of the HUD 1378 Handbook).

TASK F: ESTABLISH JUST COMPENSATION

Before the initiation of negotiations, the locality must officially establish an amount which it believes is just compensation for the real property to be acquired. This is usually accomplished by a resolution of the governing body of the locality. Where applicable, this amount shall not be less than the review appraiser's recommended Fair Market Value. Although not encouraged by this office, the review appraiser may recommend a Fair Market Value amount greater than the appraised value, provided that the review appraiser soundly documents the basis for such action in a written report (Paragraph 5-2(d) of the HUD 1378 Handbook).

TASK G: PROVIDE WRITTEN PURCHASE OFFER AND FURNISH SUMMARY STATEMENT

A written purchase offer for the full amount of the established Fair Market Value must be presented to the property owner(s) promptly after the locality officially establishes the price. Along with the initial written offer, the owner(s) shall be given a written statement explaining the basis for the purchase offer.

This statement should include such items as a delineation of any damages to the remaining property, a legal description of the part to be acquired, and an identification of any real property improvements which are to be acquired and are included in the appraisal report or value determination (Paragraph 5-2 (d)

and 5-2(e) of the HUD 1378 Handbook).

TASK H: NEGOTIATE WITH OWNER: EXPLAIN ACQUISITION PROCEDURES

The locality must make personal contact with the property owner(s) to discuss the offer to purchase the real property. Upon contact, the locality's representative must be prepared to explain the basic land acquisition policies and procedures that apply, as required by the Uniform Act. The property owner must not be coerced in any way to accept the locality's offer and the owner should be given adequate time to consider the offer. Also, an owner may present evidence to show that the price offered by the locality is too low. This evidence, such as an appraisal report, must be taken into consideration by the locality in determining if a price change is justified. If the parcel or part to be acquired would leave the owner with an uneconomic remnant, the locality must, in addition, offer to acquire the "whole" parcel. Before the locality can require the owner to surrender possession of the real property to be acquired, the locality shall have paid the agreed purchase price, or in the case of condemnation, deposited with the court the full amount of the court awarded just compensation for the property (Paragraph 5-2 (f-m) of the handbook).

TASK I: RESOLVE NEGOTIATIONS

We suggest that you refer to the flow chart at Appendix 19 of the HUD 1378, Relocation and Real Property Acquisition Handbook. A clear outline is shown of the complete acquisition process from start to finish on a parcel of real property to be acquired. This chart identifies the procession of steps which are necessary for the locality to take in cases where the negotiations are successful, as well as unsuccessful negotiations, which result in the filing of a condemnation suit to acquire title to the property.

If negotiations are successful the purchase agreement is signed, the deed is executed, the Settlement Cost Statement is completed and payment of closing costs is made. If negotiations are unsuccessful and the Final Offer Letter has been sent, the locality's attorney then files the suit to condemn. Unless the case is settled "out of court," the trial is held and the award of just compensation is made by jury. Either party has the right to appeal the decision of the court. As stated earlier in this chapter, prior to the locality being legally able to take possession of the property, the full amount of the just compensation due the property owner must be deposited in court for the benefit of the owner.

TASK J: COMPLETE PROJECT ACQUISITION FILE

For each parcel acquired, the locality's case file(s) must include such items as:

- * Identification of property and property owner(s);

- * Evidence that the owner was informed on a timely basis about the acquisition and his or her rights under the Uniform Act;
- * Copy of the appraisal report, including the review appraisal and evidence or value determination data, when applicable. Also needed is verification that the owner was personally invited to accompany the appraiser on the property inspection;
- * Copy of the written purchase offer letter, summary statement and date of delivery to the owner;
- * Copy of the purchase contract and documents of conveyance, including evidence that the deed was recorded;
- * Copy of the Closing Cost Settlement Statement and evidence to show that the owner received the net amount due from the sale; and
- * Copy of any appeal or complaint filed and the locality's response.

The acquisition case files must be retained by the locality in safekeeping for a period of not less than three (3) years after project close out.

TASK K: USING SPECIAL PROCEEDINGS

1. Not to Acquire: Prior to acceptance of the locality's offer to purchase by both parties, the locality may in some instances determine to withdraw from the purchase of the parcel. If this be the case, the locality must inform the property owner in writing of its intent "not to acquire" the real property. This notice must explain the reason for the locality's change of plans and indicate that the parcel is no longer needed for the project to be successfully completed.
2. Donations: An owner may, after being fully informed by the locality of his or her right to receive payment for the property, donate the property or any part thereof, or any compensation paid thereof, to the locality. The locality must obtain an appraisal of the real property unless the owner indicates in writing that he or she releases the locality from such obligation, or as provided in Para 5-2, Part C. (1) (b) of the HUD 1378 Handbook, the valuation problem is uncomplicated and the fair market value does not exceed \$2,500. See sample Acquisition Waiver form located at Exhibit VIII-4. In short, whenever a locality acquires real property by donation, it must have written consent (Acquisition Waiver) from the owner. Such consent must indicate that the owner understands that according to the Uniform Act he or she cannot be required to sell the real property to the locality for

less than its appraised Fair Market Value (Paragraph 5-8, HUD 1378 Handbook).

3. Voluntary Acquisition: The requirements of the Uniform Act do not apply to a locality with the power of condemnation if the acquisition is clearly a voluntary, arm's length transaction. Solicitation by the locality of potential property sellers in the geographic area of the project is generally done via public notice in the local newspaper. Such voluntary transactions must meet, at a minimum, the following conditions:
 - a. No specific site or particular piece of property is or has been designated for acquisition by the locality; and,
 - b. All interested property owners are informed in writing that the locality will not acquire the property by condemnation if negotiations fail; and,
 - c. Once a potentially feasible site is identified, the locality must inform the property owner in writing of its estimate of the Fair Market Value of the property. Even though an appraisal is not required, the estimate must be prepared by a person familiar with real estate values in the area (Paragraph 5-1(a-(1)), HUD 1378 Handbook).

IV. REQUIRED RECORDKEEPING AND FILES

Complete and accurate records and files must be kept.

- * The HUD 1378, Relocation and Real Property Acquisition Handbook as updated April 1997, provides information about required records and files.
- * Separate files must be maintained on each acquisition.
- * The ADECA Acquisition/Relocation Specialist will assist in this critical area.

V. REPORTING

You may be required to report annually the acquisition activity for all open CDBG projects in your locality. A notice will be sent by this office to you with the required forms to complete at the appropriate times when this data is needed.

VI. COMMON PROBLEMS/DEFICIENCIES

- * Acquisition of property without following acquisition policies.

- * Absence of written statement of Intent to Acquire and HUD Brochure "When a Public Agency Acquires Your Property."
- * Securing appraisals or doing preliminary negotiations prior to providing Preliminary Acquisition Notice.
- * Failure to secure an independent appraisal and a review appraisal.
- * Failure to invite property owner to accompany appraiser(s) during property inspection.
- * Failure to send acquisition notices on a return receipt requested basis or to secure documentation of receipt, if hand delivered.
- * Failure to provide a written statement of settlement costs.
- * Failure to provide a written Notice of Intent Not to Acquire.
- * Failure to secure written Waiver of Acquisition Compensation for donation.
- * Failure to publicly list all conditions of acquisition in a voluntary acquisition.
- * Leaving property owner with an uneconomical remnant.
- * Failure to properly document a voluntary acquisition.

VII. SUPPORT MATERIALS

Contact the ADECA for the following:

- * HUD 1378, Relocation and Real Property Acquisition Handbook
- * "When a Public Agency Acquires Your Property"
- * Other supporting material such as forms, sample notices, appraisal services contract, etc. will be identified in the HUD 1378 Handbook.
- * ADECA Land Acquisition Kit

Grantee Name _____
 Project Number _____
 Preparer _____
 Date Prepared _____
 Follow-up Review Indicated _____

Uniform Act Land Acquisition Compliance Checklist

I. Records and Reports

		Yes	No	N/A	Notes
A.	Number of parcels acquired to date.				
B.	Number of parcels scheduled to be acquired.				
C.	Is there an inventory of parcels?				
D.	Is there a separate file for each parcel?				

II Informing Property Owners

A.	Were property owners informed in writing of the local government's interest in acquiring their property.				
B.	Were the property owners given a copy of "When a Public Agency Acquires your Property"?				

III Appraisals

A.	Were parcels valued at \$10,000 or less?				
	** If so, what method was used to determine the fair market value?				
B.	Were appraisers licensed?				
C.	Were minimum appraisal report standards established?				
D.	Was owner invited to accompany appraiser?				
E.	Do the data appear to indicate soundness of appraiser's conclusion of fair market value?				

IV. Offer to Purchase

A.	Did the grantee provide a written offer of fair market value to property owners?				
	** Did it include all terms and conditons of the sale?				
	** Did it include a written explanatiion of the determination of just compensation?				
B.	Did grantee discuss purchase offer with property owner and respond to concerns?				
C.	Did grantee coordinate relocatioin activities, if any, as part of the purchase offer?				

V. Settlement

A.	Did the owner receive at least the appraised value?				
B.	Did grantee pay incidental acquisition cost (mortgage prepayment penalties mortgage releases, prorated property taxes)?				
C.	If owner donated all or part of his/her property is an executed waiver of rights on file?				
D.	Is there a copy of a properly executed and recorded deed on file?				
E.	If grantee allowed property to bne temporarily occupied after acquisition, how was the rent established?				

VI. Appeals

A.	Did the grantee receive any writtten acquisition appeals or complaints?				
B.	Have complaints and appeals beren adequately resolved?				
	** If not, have property owners been informed of their rights to appeal to the State?				

VI. Appeals

A.	Was there an executed temporary easement?				
B.	Was there an executed right of entry permit?				

VII. Comments:

Economic Development Fund

The Economic Development Fund (ED fund) is a special set aside of CDBG funds established to enhance the economic growth of the state and create permanent jobs for persons of low and moderate income households. The fund is designed to finance public and private activities necessary for industrial and other significant economic development projects.

ED projects are funded under three distinct categories. They are:

1. ED Infrastructure Grants for improvements such as extension of water and sewer lines and access roads.
2. ED Loans for private activities such as purchase of land, buildings and equipment, or construction or renovation of buildings.

ED INFRASTRUCTURE GRANTS

I. INTRODUCTION

The purpose of an ED Infrastructure grant is to create jobs for persons of low and moderate income by providing funds for the construction of public infrastructure such as water lines, sewer lines, or an access road to facilitate location or expansion of any industry or other business having a prospect of significant economic impact. The infrastructure grants are governed by specific grant ceilings as well as general and specific thresholds listed in each year's Action Plan. applications for an ED Infrastructure grant are accepted anytime during the program year and applications are funded on an "as needed" basis.

To assist in implementing your ED Infrastructure grant, the following tasks are presented in this chapter. Please note that these tasks are, for the most part, no different than the tasks involved in implementing a regular CDBG public improvements grant.

- | | | |
|-------|----|--|
| TASKS | A: | Receive Governor's Letter of Award |
| | B: | Receive Letter of Conditional Commitment and Satisfy Start-Up Requirements. |
| | C: | Execute Grant Agreement. |
| | D: | Identify Laws and Regulations Binding the Use of Your CDBG Infrastructure Grant. |
| | E: | Establish Program and Project Files. |
| | F: | Establish Citizen Participation File and Adopt Written Grievance Procedure. |
| | G: | Establish Financial Management Procedures. |
| | H: | Establish General Procurement and Contracting Procedures. |

- I: Comply with Civil Rights Requirements.
- J: Determine Applicability of Labor Standards for Construction Projects.
- K: Determine Properties to be Acquired Subject to the Uniform Act.
- L: Determine if Relocation of Persons, Businesses or Nonprofit Organizations is Subject to the Uniform Act.
- M: Determine Procedures to Secure Employee Certifications.
- N: Monitoring and Reporting.
- O: Comply with Audit Requirements.
- P: Close Out Grant.

III. GRANTEE RESPONSIBILITIES

The recipient, regardless of the amount of grant or activity, must comply with specific program requirements such as environmental review, equal opportunity, financial management, etc. It shall be the recipient's responsibility to identify and comply with all requirements applicable to the recipient's specific program.

TASK A: RECEIVE GOVERNOR'S LETTER OF AWARD

The CDBG infrastructure grant award officially takes place when a grant award letter is issued by the Governor. The date of the governor's letter established the grant award date and this date becomes the effective date of the Agreement between the recipient and the ADECA.

TASK B: RECEIVE LETTER OF CONDITIONAL COMMITMENT AND SATISFY START-UP REQUIREMENTS TO INCLUDE ENVIRONMENTAL CLEARANCE

The recipient shall satisfy the conditions listed in the Letter of Conditional Commitment within the time period specified, or seek extension if requirements or conditions warrant such extension. For additional detail on this task, see Chapter I, TASK B.

TASK C: EXECUTE GRANT AGREEMENT

TASK D: IDENTIFY LAWS AND REGULATIONS BINDING THE USE OF YOUR CDBG INFRASTRUCTURE GRANT

TASK E: ESTABLISH PROGRAM AND PROJECT FILES

TASK F: ESTABLISH CITIZEN PARTICIPATION FILE AND ADOPT WRITTEN GRIEVANCE PROCEDURE

TASK G: ESTABLISH FINANCIAL MANAGEMENT PROCEDURES

TASK H: ESTABLISH GENERAL PROCUREMENT AND CONTRACTING PROCEDURES

TASK I: COMPLY WITH CIVIL RIGHTS REQUIREMENTS

TASK J: DETERMINE APPLICABILITY OF LABOR STANDARDS FOR CONSTRUCTION PROJECTS

TASK K: DETERMINE PROPERTIES TO BE ACQUIRED SUBJECT TO THE UNIFORM ACT

TASK L: DETERMINE IF RELOCATION OF PERSONS, BUSINESSES, OR NONPROFIT ORGANIZATIONS IS SUBJECT TO THE UNIFORM ACT

TASK M: DETERMINE PROCEDURES TO SECURE EMPLOYEE INCOME CERTIFICATES

The creation of jobs, primarily for persons of low and moderate income, is the basis for the funding of ED Infrastructure projects. Hence, to ensure that the national objective is met, the recipient shall secure certifications from new (or retained) employees showing their income in relation to their household site. The employees from low and moderate income households shall account for at least 51 percent (51%) of the new (or retained) jobs. It is strongly recommended that recipients secure these certifications at the time the job applications are accepted. This system allows the business to continuously monitor its hiring and undertake whatever extra steps necessary if it appears anytime during hiring that LMI employees may not account for 51 percent (51%) of the total beneficiaries. Please see Exhibit XII-7 for an Employee Income Certification. The recipient should verify household income for an appropriate percent of employees using such means as tax returns and such other documents showing incomes for the household.

TASK N: MONITORING AND REPORTING

TASK O: COMPLY WITH AUDIT REQUIREMENTS

TASK P: CLOSE OUT GRANT

IV. COMMON PROBLEMS/DEFICIENCIES

- Failure on the part of the private sector to carry out the expansion.
- Failure on the part of the private business to understand the seriousness of its commitment to create jobs, especially for persons of low and moderate income.
- Failure on the part of the recipient/business to secure employee certifications and income verifications.

V. SUPPORT MATERIALS

Support Materials may be accessed at the below website.

<http://adeca.alabama.gov/Divisions/ced/cdp/Pages/CDBG-Management-and-Implementation.aspx#CXII>



CDBG-CV Program: Economic Development Quick Guide

INTRODUCTION

This Quick Guide provides resources to help grantees design and administer economic development programs that help to prevent, prepare for, and respond to the disruption and impacts of the coronavirus pandemic using CDBG-CV and 2019 and 2020 CDBG entitlement funds. This Quick Guide provides key questions and considerations to help position your CDBG-CV funded special economic development and microenterprise assistance programs ([24 CFR 570.203](#), [570.209](#) and [Appendix A & 570.201\(o\)](#) for Entitlements or [42 U.S.C. 5305\(a\)\(14\)](#) and [\(17\)](#) (or section 105(a)(14) and (17) of the HCDA) and [42 U.S.C. 5305\(a\)\(22\)](#) (or section 105(a)(22) of the HCDA) for States) for successful compliance, underwriting and community impact.

As grantees develop CDBG-CV economic development programs, it is helpful to review the existing CDBG regulations referenced above and the [CDBG Economic Development Toolkit](#), as well as recent HUD guidance from the CDBG-CV [Federal Register Notice](#), FAQs and resources found at [CDBG Resources](#).

ECONOMIC DEVELOPMENT

Grantees may use CDBG-CV funds only for activities that prevent, prepare for, and respond to coronavirus. It is likely that most CDBG-CV Economic Development activities will be funded under special economic development and microenterprise assistance categories.

A. Special Economic Development

The key consideration for special economic development is that CDBG funds may be used to provide direct assistance to for-profit businesses so long as the activity meets a National Objective and, as stated in [§570.203](#), satisfies a two-part test:

- **Eligibility:** Financial assistance to private for-profit businesses to (for example) acquire property; clear structures; build, expand or rehabilitate a building; purchase equipment; and/or provide operating capital. Forms of assistance include loans, loan guarantees, and grants; *and*
- **Public Benefit:** Assistance must be underwritten and provide either (1) jobs or (2) goods and services to a low- and moderate-income area (see below for details).

B. Microenterprise

HUD defines a “[microenterprise](#)” as a commercial enterprise that has five (5) or fewer employees, one (1) or more of whom is the owner. (Note: The SBA definition of a microenterprise as a business employing fewer than ten (10) employees is frequently used in declared disasters; however, grantees must use the HUD definition when determining if microenterprise activities are an eligible use of CDBG-CV funds.) Eligible microenterprise activities include providing:

- Credit, including but not limited to grants, loans, loan guarantees, Individual Development Accounts (IDAs), and other forms of financial support for the establishment, stabilization, and expansion of microenterprises;
- Technical assistance, advice, and business services to owners of microenterprises and persons developing microenterprises;
- General support to owners of microenterprises and persons developing microenterprises. General support may include such activities as peer support programs, counseling, childcare, or transportation; and
- Training, technical assistance, or other support services to increase the capacity of recipients or subrecipients to carry out microenterprise activities.

Unlike special economic development, CDBG microenterprise activities do not require a public benefit test. Also, microenterprise activities have more options for meeting a National Objective, as the limited clientele criteria for LMI benefit can be applied to activities if the business owner is LMI.

See the [Microenterprise Assistance Toolkit](#) for more details and remember the defining differences of how SBA defines microenterprise.

C. Community-Based Development Organizations (CBDOs)

HUD provides CBDOs with flexibilities to undertake CDBG-funded community and economic development activities as part of a neighborhood revitalization plan within a specific target area. For more information, see [§570.204](#) and/or [Basically CDBG Chapter 2.2.5](#).

CARES ACT REQUIREMENTS AND FLEXIBILITIES

The [FR-6218-N-01: Notice of Program Rules, Waivers, and Alternative Requirements Under the CARES Act for CDBG-CV Grants, FY 2019 and 2020 CDBG Grants, and for Other Formula Programs](#) provides the following Waivers and Alternative Requirements that are relevant to Economic Development:

A. National Objective and Overall Benefit

(III.B.5. (d) National Objectives, page 30)

Overall Benefit to LMI Persons. (III.B.5. (d)(iv) Overall Benefit to LMI Persons, Page 35)

Grantees must invest at least 70% of CDBG-CV grant funds for activities that benefit LMI persons. Grantees should track expenditure of CDBG-CV funds to meet the 70% LMI benefit separately from the 2019 and 2020 CDBG entitlement funds, which are tracked on a program year basis. To facilitate compliance with the 70% “overall benefit” criteria, grantees should give first consideration to LMI benefit activities such as LMI jobs, limited clientele, or area benefit *before* urgent need.

1. Low- And Moderate-Income Jobs Created or Retained (LMJ)

The LMJ National Objective can be applied to activities that involve the employment of persons, the majority of whom are LMI persons. An LMJ activity is one which creates or retains permanent jobs, at least 51% of which, on a full time equivalent (FTE) basis, are either held by LMI persons or considered to be available to LMI persons.

The CDBG-CV Notice provides two important flexibilities for documenting LMJ compliance:

- a. **Location-Based Presumption of LMI Benefit.** *(III.B.5. (d)(ii) Modification of Location-Based Presumption of LMI Benefit for Job Creation and Retention National Objective Criteria, Page 32)*

When documenting LMI jobs, CDBG regulations allow grantees to presume a person is LMI if the census tract where they live or where the assisted business and job is located:

- Has a poverty rate of at least 20%;
- Does not include a central business district unless it has a poverty rate of at least 30%; and
- Has evidence of pervasive poverty and general distress.

The CDBG-CV Notice standardizes the minimum poverty rate at 20% by eliminating the higher percentage for central business districts.

b. Income Documentation *(III.B.5. (d)(iii) LMI Job Creation and Retention Records, Page 33)*

The CDBG-CV Notice:

- Allows grantees to consider individuals that apply for/hold jobs to be “households of one” for purposes of meeting income eligibility requirements, rather than considering the individual’s total family size and income; and
- Allows grantees to substitute records showing the type of job and the annual wages/salary of the job, instead of the individual’s income.

2. Urgent Need *(III.B.5. (d)(i) Use of Urgent Need National Objective, Page 30)*

([§570.208\(c\)](#) for Entitlements and [§570.483\(d\)](#) for States) – Documentation must identify that the urgent need is to prevent, prepare for, and/or respond to coronavirus and address the following criteria:

- Criterion 1: Is the activity designed to alleviate existing conditions?
 - Documented by activities to prevent, prepare for, or respond to coronavirus.
- Criterion 2: Does the condition pose a serious and immediate threat to the health or welfare of the community that is of recent origin or that recently became urgent?
 - Documented by HHS Public Emergency Declaration, Federal Disaster Declaration, or State/local emergency declaration.
- Criterion 3: Is the grantee or UGLG unable to finance the activity on its own, and are other sources of funds not available to carry out the activity?
 - Documented by activities to prevent, prepare for, or respond to coronavirus.

B. Underwriting Criteria for Special Economic Development Activities

(III.B.5. (c)(iv). Mandatory Evaluation of Special Economic Development Activities, Page 29)

Underwriting Criteria for Special Economic Development Activities must be developed and utilized consistently in the evaluation of projects to ensure:

- Activities prevent, prepare for, and/or respond to coronavirus;
- Project costs are eligible, reasonable, clearly identified, and committed;
- The project is financially feasible;
- The return on the owner’s equity investment will not be unreasonably high; and
- CDBG funds are disbursed on a pro rata basis with other finances provided to the project and not being substituted for non-Federal financial support.

C. Public Benefit Standards That Apply to Special Economic Development

Activities (III.B.5. (e)(i) Elimination of Aggregate Public Benefit Test, Page 36 and III.B.5. (e)(ii) Modification of Individual Public Benefit Standards, Page 37)

HUD waived the standard for aggregate public benefit ([§570.209\(b\)\(1\) and \(2\)](#)) *and* revised the individual standard ([§570.209\(b\)\(3\) and \(4\)](#)) for CDBG-CV eligible projects.

1. Aggregate Standard

- Aggregate standard is waived.

2. Individual Standard

- Activity must create or retain at least one (1) full-time permanent job per \$85,000 of CDBG-CV funds invested, up from \$35,000 per job; or
- Activity must provide goods and services to residents of an area such that the number of LMI persons residing in the area served by the assisted businesses amounts to at least one (1) LMI person per \$1,700 of CDBG-CV funds invested, up from one (1) LMI person per \$1,000.
- HUD is also providing an alternative individual public benefit standard to allow grantees to demonstrate that CDBG assistance was provided due to business disruption related to coronavirus (in which case, no monetary standard applies).

D. Opportunity Zones, Non-Profits, and Financing Mechanisms

(III.B.5. (f)(ii) Opportunity Zones and Related Flexibilities for Economic Development, Page 40)

This Waiver and Alternative Requirement:

1. Clarifies that assistance can be made through any financing mechanism (not just New Markets Tax Credits).
2. Expands [§570.204](#) to allow nonprofits to pass assistance through financing mechanisms to other entities for community economic development projects, especially in Opportunity Zones.

E. Float Funded Activities

(III.B.6(a)(ii) Inapplicability of float-funded activities, Page 45)

Grantees may *not* use CDBG-CV funds for float-funded activities. Many businesses during a period of economic distress may be better served with a grant rather than an amortizing loan and/or more complicated guaranteed loan pools, until the crisis ends and recovery begins.

F. Section 108 Loan Guarantees

(III.B.6(f) Relationship to Section 108 Loan Guarantees, Page 56)

1. CDBG-CV funds may not be factored into a grantee's Section 108 borrowing authority.
2. Grantees can use CDBG-CV funds to make a direct payment of principal, interest, or any fees due under a Section 108 note to prevent, prepare for, and respond to coronavirus.
3. Grantees must document that direct payment is related to the disruption and/or losses due to coronavirus (e.g., the revenue intended to be used to repay the Section 108 loan is insufficient due to reductions in revenue due to coronavirus).
4. Grantees can supplement assistance to businesses initially provided with Section 108 funds by using CDBG-CV funds when necessary to prevent, prepare for, and respond to coronavirus (e.g., financing working capital); the documentation that the original assisted activity satisfies National Objective criteria shall be sufficient to demonstrate that the use of the guaranteed loan funds and the additional CDBG-CV assistance meet a CDBG national objective.

See Section 108 Q&A related to coronavirus, [Section 108 Q&A for Borrowers Seeking Relief as a Result of Coronavirus](#).

G. Eligible Activities Must Have Tie-Back to Coronavirus

(III.B.5. (f) Eligible Activities, Page 38)

Grantees have flexibility to invest CDBG-CV funds to address a range of needs within CDBG special economic development and microenterprise-eligible uses. *However*, grantees must provide evidence of how such CDBG-CV activities help prevent, prepare for, and respond to coronavirus.

Tie-back does not mean that each assisted business or LMI person must have been negatively affected by the pandemic. The grantee may choose to design its activity to drive economic recovery as a response to the coronavirus recession in many sectors of the economy. For example, a grantee may choose to assist a business that will hire persons who became unemployed during 2020. Or a grantee may choose to assist start-up businesses or to restart businesses closed since January 2020 to offset business closures due to the economic effects of the coronavirus.

H. Duplication of Benefits (DOB)

(III.B.9. Duplication of Benefits, page 61)

Grantees must develop and maintain adequate procedures to prevent a duplication of benefits that address each activity or program. Grantee policies and procedures must, at a minimum, require that:

1. Grantees must assess whether CDBG-CV funds will duplicate financial assistance already received for related unmet need and period of performance.
2. Any person or entity receiving CDBG-CV assistance (including subrecipients and direct beneficiaries) must agree to repay assistance that is determined to be duplicative (this is typically addressed through a subrogation clause in the assistance agreement); and
3. Grantees providing CDBG-CV funded economic development assistance should incorporate their DOB review process into their program design, application intake, and verification procedures, and underwriting procedures should demonstrate the following:
 - a. How due diligence is conducted by grantee, subrecipient and/or contractor;
 - b. How grantee and its subrecipients, contractors and/or partners assess and become familiar with other assistance sources. This must also include assessment of the timing of those federal, state, and/or local government sources that may be available to pay for coronavirus-related needs;
 - c. Working capital assistance needs to document that the grant or loan performance period in relation to the amount of assistance being provided is reasonable and whether a business has access to SBA or other funding during the same term;
 - d. That monitoring includes a re-verification or calculation of the need at the end of the grant or loan performance period.

See Duplication of Benefits (DOB) Guidance, [CDBG-CV Duplication of Benefits Resources](#).

PROGRAM DESIGN AND DELIVERY CONSIDERATIONS

WHAT PROBLEM DO YOU SEEK TO SOLVE WITH THE PROPOSED ECONOMIC DEVELOPMENT AND/OR SMALL BUSINESS ASSISTANCE INTERVENTION?

- **Market Adaptation:** Financing and retooling small businesses/microenterprises to provide working capital for operations and modifications, new market niches arising during the pandemic (such as filling supply chain gaps with manufacturing in the U.S.) to comply with CDC distancing guidelines and other support for business and job retention.
- **Community Interventions** to help improve safety for commercial corridors; office and workspace; and retail, food, and leisure locations.

- **Workforce Development** training and placement assistance for workers in coronavirus relief and recovery service delivery.
- **Safety Improvements to Business Facilities for Customers and Workforce:** Provision of fixtures, equipment, systems, and personal protective equipment services to prevent, prepare for, and respond to coronavirus.
- **Stabilizing commercial property** to respond to coronavirus-driven economic shifts by identifying and adapting newly empty or underused office and commercial spaces into mixed-use developments or other purposes.

Factors to Consider:

1. Determine the optimal form of assistance based on identified needs: grants, loans, due on sale or forgivable loans and/or service contracts.
2. Recognize that in a crisis, a grant or forgivable loan may be more prudent than an amortizing loan. As the pandemic transitions from crisis to recovery, there may be opportunities for loans.
3. Determine the underwriting criteria that makes most sense for the type of assistance being offered. For example, underwriting for small loans may focus on the basic CDBG underwriting criteria, with an emphasis on determining that the business is in good standing and has a plan for repayment and that proposed costs to be supported by the loan are reasonable.
4. For loan programs, consider the mechanisms that should be used to assure that the loan maintains leverage if the business does not perform. For larger loans, this could mean security instruments and for smaller loans, a basic promissory note.
5. Consider the three (3) year deadline to expend 80% of CDBG-CV grant funds when planning for the size and complexity of the program and types of activities that the program will support.

WHAT IS THE IDENTIFIED NEED IN COMMUNITY AND MARKET?

- What data is available to support the needs assessment for proposed program design?
- What funding and services already exist? What works well? Where are the gaps to justify investment of CDBG-CV funds?

WHICH ENTITIES ARE BEST SUITED TO DO THE WORK?

- CDBG-CV Grantees – Entitlement or State
- Subrecipients (CBDOs, Nonprofits, Small Business Development Corporations, CDFIs)
- Private For-Profit Service Firms
- Intergovernmental Agencies

In addition to financial assistance, CDBG-CV affords grantees the opportunity to provide businesses technical services in connection with eligible economic development activities to address:

1. Market adaptation, e.g., outreach efforts to market goods or services through provision of curbside delivery
2. How to review and underwrite applications for assistance
3. Training of work force and implementation of subsequent health and safety measures

WHAT ARE THE MANAGEMENT REQUIREMENTS OF THE PROPOSED PROGRAM?

- Project / program, compliance, and financial management
- Marketing, outreach, and application process
- Technical services through the grant or loan performance period

- Dissemination of information and training
- Compliance and monitoring during loan or grant term, loan servicing and closeout
- reporting

WHAT OTHER FEDERAL CROSS-CUTTING REGULATIONS APPLY?

- Environmental Review Part 58
- Section 3
- Labor Standards
- Procurement
- Uniform Relocation Act
- Fair Housing and Equal Opportunity

USEFUL RESOURCES

HUD CDBG CORONAVIRUS-19 Resources on HUD Exchange Landing Page:

- [Ask-A-Question](#): *Link to AAQ desk for additional information or support*
- CDBG-CV regulatory Notice: [FR-6218-N-01: Notice of Program Rules, Waivers, and Alternative Requirements Under the CARES Act for CDBG-CV Grants, FY 2019 and 2020 CDBG Grants, and for Other Formula Programs](#)
- Frequently Asked Questions (FAQ): [COVID-19 FAQs](#)
- Duplication of Benefits (DOB) Guidance: [CDBG-CV Duplication of Benefits Resources](#)
- Section 108 Q&A related to Coronavirus: [Section 108 Q&A for Borrowers Seeking Relief as a Result of Coronavirus](#)

HUD CDBG Economic Development Toolkit on HUD Exchange Landing Page:

- [Economic Development Toolkit Manual](#)
- [Microenterprise Assistance Toolkit](#)
- [Economic Development Toolkit Slides](#)
- [24 CFR Part 570 \(HTML\)](#) - 570.201(o), 570.203, 570.209
- [Appendix A to Part 570 Guidelines and Objective for Evaluating Project Costs and Financial Requirements](#)
- [CDBG Economic Development Activities Matrix](#)
- [CDBG Economic Development Flow Chart](#)
- [Memo: Counting Jobs for Economic Development Activities](#)



	ECONOMIC IMPACT / CHALLENGE (UNMET NEED)	DEVELOPMENT TREATMENT / SOLUTION (ELIGIBLE ACTIVITIES)	ELIGIBLE RECIPIENTS	TYPES OF ASSISTANCE
<p>Direct Assistance to For-Profit Businesses 24 CFR 570.203(b) or 42 USC 5305(a)(17) CDBG Matrix Code 18A</p>	<ul style="list-style-type: none"> ▪ Liquidity to cover working capital expenses ▪ Capital to adapt to new market conditions and to mitigate risk in terms of business facilities, equipment, systems, and staffing 	<ul style="list-style-type: none"> ▪ Working capital ▪ Acquire property ▪ Clear structures ▪ Build, expand or rehabilitate a building ▪ Purchase equipment or provide operating capital 	<ul style="list-style-type: none"> ▪ Private For-Profit Businesses classified as Direct Beneficiaries 	<ul style="list-style-type: none"> ▪ Grants ▪ Amortizing Loans ▪ Forgivable Loans
<p>Economic Development Technical Assistance Services to For-Profit Businesses 24 CFR 570.203(c) or 42 USC 5305(a)(17) CDBG Matrix Code 18B</p>	<ul style="list-style-type: none"> ▪ Technical assistance and/or case management services to build capacity to prevent, prepare for, and respond to coronavirus 	<ul style="list-style-type: none"> ▪ Workshops ▪ Assistance in developing business plans ▪ Marketing ▪ Referrals to lenders or technical resources ▪ Also use 18B for activity delivery costs eligible under 24 CFR 570.203(c) 	<ul style="list-style-type: none"> ▪ Private For-Profit Businesses as Direct Beneficiaries 	<ul style="list-style-type: none"> ▪ Direct Assistance via grantee or subrecipient
<p>Economic Development: Microenterprise Assistance 24 CFR 570.201(o) or 42 USC 5305(a)(22) & 24 CFR 570.482(c) CDBG Matrix Code 18C</p>	<ul style="list-style-type: none"> ▪ Expanded financial assistance and services to help microenterprises to prevent, prepare for, and respond to coronavirus 	<ul style="list-style-type: none"> ▪ Financial assistance ▪ Technical assistance ▪ General services to owners and developers of microenterprises such as training or daycare costs ▪ The activity must be designed to exclusively serve microenterprises 	<ul style="list-style-type: none"> ▪ Microenterprises 	<ul style="list-style-type: none"> ▪ Grants ▪ Amortizing Loans ▪ Forgivable Loans

Grantee Name _____
 Project Number _____
 Preparer _____
 Date Prepared _____
 Follow-up Review Indicated _____

Economic Development - Jobs for Low/Moderate Income Persons Compliance Checklist

		Yes	No	N/A	Notes
A.	Is there documentation that funds were needed for the business to prevent, prepare for, or respond to the spread of infectious diseases such as COVID-19?				
B.	Is there documentation that a Business Analysis was done?				
C.	Is there evidence to document the total number of jobs created or retained?				
	** If answer is NO, when do you expect the jobs will be in place? Explain:				
D.	Was the company an existing business?				
E.	How many total jobs were created?				
F.	If applicable, how many jobs were retained by the company?				
G.	Does this match the employment goals stated in the application?				
H.	How many and what percentage of the jobs are taken by, or made available to: L/M Income persons?				<i>(number of jobs)</i> <i>(% of jobs)</i>
	** If low-moderate percentage is less than 51%, explain what efforts the company undertook to hire L/M people				
I	L/M Tally Sheet				

LOW / MODERATE TALLY SHEET

Low / Moderate	Higher Income

Financial Management

I. INTRODUCTION

Effective financial management is the heart of grant management. It must accomplish complete, effective control over and accountability for all funds, property and other assets of the CDBG program. Financial management is critical to the locality's ability to properly administer Federal funds. The locality should meet Federal and State requirements with its existing management and financial systems. However, a need to augment your present system by developing special procedures for grant administration may exist.

Prior to implementing the grant, your community must review its financial systems to see if they meet the requirements discussed in this chapter and required by Federal and State law. Effective financial management includes the following tasks:

- TASKS A: Designate One Individual to Coordinate the Financial Transactions Related to the CDBG Program.
- B: Establish Standards for Grantee Financial Management System.
- C: Address Procedures and Criteria Regarding Matching Share (If Applicable).
- D: Address Program Income.
- E: Identify State and Federal Bonding and Insurance Requirements.
- F: Determine Costs Applicable to Grants and Contracts.
- G: Set Up Accounting System.
- H: Draw Down Funds.
- I: Develop Property Management Standards.
- J: Establish Retention and Custodial Requirements for Records.
- K: Address Budget Revisions, Program Amendments, and Grant Terminations.

Other important responsibilities of financial management are discussed in other chapters or are the subject of a chapter. For example, procurement and contracting procedures is the subject of Chapter IV; assignment of grant management responsibilities, filing systems, and monitoring and reporting are tasks in Chapter I; and audits are discussed in Chapter X. Remember, financial management is the heart of grant management.

II. REFERENCES

- * Title I, Housing and Community Development Act of 1974, as amended, 1990.
- ** Section 104 provides that financial records must allow for reviews and audits.
- ** Section 105 provides that accounting principles and procedures are established to demonstrate that funds are used for eligible activities.
- * CDBG Regulations, 24 CFR 570.489(e) addresses program income.
- * Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments, or the Common Rule, as adopted by the ADECA.
- * OMB Circular A-87, Cost Principles for State and Local Governments provides requirements for determining the allowable costs of programs administered by State and local governments under grants and contracts with or from the Federal government.

Contact your ADECA Program Supervisor for references not included in the Management and Implementation Manual.

III. GRANTEE RESPONSIBILITIES

Effective financial controls are essential to grant management. Make sure your community's present system conforms to Federal and State requirements. The following tasks will assist in meeting this responsibility.

TASK A: DESIGNATE ONE INDIVIDUAL TO COORDINATE THE FINANCIAL TRANSACTIONS RELATED TO THE CDBG PROGRAM

This individual should serve as fiscal coordinator and approve all purchase documents, contract invoices, payroll actions, etc. related to your CDBG funds. However, this person should not perform the disbursing and recording functions associated with accounting documents and the accounting department. This approval process should be incorporated as a part of the agency's internal controls, Task B.3.

This person might be a member of your local finance or accounting department, or a member of the county commissioner's/mayor's or city manager's staff. Where a Community Development Department has been established, a Fiscal Coordinator may be designated within the department to perform these duties.

TASK B: ESTABLISH STANDARDS FOR GRANTEE FINANCIAL MANAGEMENT SYSTEM

The Common Rule, Subpart C prescribes standards for financial management systems for grant supported activities (Exhibit III-9). Review your community's financial management systems to make sure they provide the following:

1. Accurate, current and complete disclosure of the financial results of each grant program according to reporting requirements established in Subpart C, .20.

Accrual basis reporting is prescribed; however, your locality is not required to establish an accrual accounting system. Instead, develop such accrual data for required reports by analyzing accounting records on hand.

2. Records that identify adequately the source and application of funds for grant supported activities. These records must contain information pertaining to grant awards and authorizations, obligations, unobligated balances, assets, liabilities, outlays, and income. Task G, "Set up Accounting System," provides further discussion on preserving the audit trail.
3. Effective control over and accountability for all funds, property, and other assets. Your systems must adequately safeguard all such assets and assure they are used solely for authorized purposes. The "Internal Control Questionnaire" is an excellent checklist for internal accounting controls of an organization. It is highly recommended that you use this questionnaire to analyze the effectiveness of your local internal accounting controls (Exhibit III-1). Task G, "Set up Accounting System," provides information about proper accounting systems, ledgers, etc.
4. Comparison of actual outlays with budgeted amounts for each grant. Also, relation of financial information with performance or productivity data, including the production of unit cost information whenever appropriate and required. Budgetary controls are discussed in Task G, below.
5. Procedures to make drawdowns by the letter of credit from the ADECA. The State CDBG Intergovernmental Policy Letter Number 10, revised, "Policy on State Letter of Credit Drawdowns," establishes drawdown procedures. These procedures are presented in Task H, below.
6. Procedures for determining reasonableness, allowability, and allocability of costs according to the provisions of OMB Circular A-87. Task F, below, identifies costs applicable to grants and contracts.
7. Accounting records supported by source documentation. Refer to Task G, below, and "Source Documentation Guide" for additional information (Exhibit III-2).
8. A systematic method to assure timely and appropriate resolution of audit findings and recommendations. OMB Circular A-128, and Chapter X, "Audit", as well as the ADECA audit policy discuss audit procedures.

As a recipient of CDBG funds, you must require subgrantees to adopt the standards of the Common Rule as adopted by the ADECA.

TASK C: ADDRESS PROCEDURES AND THE CRITERIA REGARDING MATCHING SHARE (IF APPLICABLE)

If your community agreed to a grant "Matching Share" the following applies:

The Common Rule, Subpart C.24, "Matching or Cost Sharing," establishes criteria and procedures for allowing matching (Exhibit III-9).

When the grant application was submitted and your Chief Executive Officer executed the "Grant Agreement," your community agreed to match the expenditures incurred in executing activities through expenditures of local funds, or the value of third party contributions.

The ADECA has established uniform policies governing the use and recordkeeping for local contributions (See Exhibit PL-3, State CDBG Intergovernmental Policy Letter Number 3, "Policy on the Use of Match in the Community Development Block Grant Program as Related to Local Man Hours and Use of Equipment").

Failure to Meet Local Contributions

If the cash or local contributions cannot be met, your Program Supervisor should be notified immediately. The ADECA may reduce the CDBG grant so that the original local match/CDBG ratio is maintained. The grantee will also be considered to have serious program performance problems. Future eligibility for funds may be jeopardized.

Recordkeeping

State CDBG Intergovernmental Policy Letter Number 3 specifies requirements for local man hours and equipment usage (labor and use of equipment). Refer to Exhibit PL-3 for detail as well as Exhibit III-6, Equipment Rental Rates Request form.

The Common Rule as adopted by the ADECA and OMB Circular A-87 recordkeeping requirements must be kept. All CDBG records must be retained for five years past notification by the State that the grant has been closed or all audit findings have been resolved, whichever is longer.

TASK D: ADDRESS PROGRAM INCOME

Program income is gross income earned by a grant recipient from grant supported activities other than interest earned on advances. Such earnings include, but are not limited to:

- * Proceeds from the disposition of real property.
- * Payments of principle *and* interest on rehabilitation loans.
- * Reimbursements to and interest from revolving loan funds.
- * Proceeds from special assessments levied to recover the cost of constructing a public work or facility to the extent such cost was paid with State CDBG funds.
- * Usage or rental fees.

The Common Rule Subpart C.25, "Program Income" and State CDBG Intergovernmental Policy Letter Number 7 establish standards and policies that govern program income (Exhibits III-9 and PL-7, respectively).

Your community must return to the State any interest earned on grant funds advanced by the State.

Exception: interest on housing rehabilitation loans and revolving loan funds, or accumulated interest less than \$100.00 per twelve-month period as defined by ADECA. A unit of local government may keep up to \$100.00 per fiscal year for administrative costs.

Unless otherwise stated in the "Grant Agreement" or close out assessment, your community shall retain program income and use it for approved activities according to the following rules:

Program Income Received During the Grant Period

- * Accumulated program income less than \$25,000 per twelve month period as defined by the ADECA may be treated as miscellaneous income. If \$25,000 or over, all such income must be returned to the State.
- * Program income in the form of repayments to a revolving fund established to carry out an activity must be substantially disbursed from such fund before additional draws are made from the letter of credit for the same activity.
- * All other program income must be substantially disbursed for any approved activity before additional draws are made from the letter of credit.
- * Program income should be recorded as part of the grant program transactions.

TASK E: IDENTIFY STATE AND FEDERAL BONDING AND INSURANCE REQUIREMENTS

State CDBG Intergovernmental Policy Letter Number 6, "Policy of Fidelity Bond Requirements" and State Intergovernmental Policy Letter No. 14, provide standards and requirements for bonding and insurance (Exhibits PL—6 and PL-14, respectively). The following must be met:

Fidelity Bond

- * State policy reserves the right to require a fidelity bond for positions of trust having direct or indirect access to CDBG cash, securities, or other assets convertible to cash.
- * The cost of a fidelity bond is an eligible CDBG expenditure. However, if bonding is obtained for the entire workforce of the community only a pro rata share is allowable for CDBG.

Insurance Requirements for Cash Depositories

- * CDBG funds must be deposited in a bank with Federal Deposit Insurance Corporation (FDIC) insurance coverage. (State Policy Letter No. 14, Exhibit PL-14.)
- * Any balance of CDBG funds deposited in a bank with FDIC coverage which exceeds \$100,000 must be collaterally secured.

Bonding and Insurance Requirements for Contracts

- * Chapter IV, "Procurement and Contracting Procedures," Task B, outlines bonding and insurance requirements for contracts.

TASK F: DETERMINE COSTS APPLICABLE TO GRANTS AND CONTRACTS

Establish a system to review and determine the reasonableness, allowability and allocability of expenditures under the CDBG program. To assist with this task follow the principles and standards established in OMB Circular A-87. This task will only highlight and list A-87's contents. Refer to Exhibit III-11 for details.

Allowable Costs

An allowable cost must meet the following general criteria:

- * Be necessary and reasonable for the proper and efficient administration of grant activities.
- * Be allocable to the grant.
- * Be authorized under State or local law.
- * Conform to any limitations or exclusions of Federal laws and regulations.
- * Be accorded consistent treatment.

Allocable Costs

- * A cost is allocable to a particular cost objective to the extent of benefits received by such objective.

For example: An individual spends 75% of his/her time on a FY1999 grant and 25% on FY2000. The FY99 grant is charged with 100% of the time. Salaries are allowable costs but only in the percent (%) allocable. Proper charges should be 75% for FY99 and 25% for FY00.

- * Costs allocable to a particular grant or cost objective may not be shifted to other Federal grant programs to overcome fund deficiencies or to avoid restrictions of the law or grant agreements.
- * Where an allocation of joint cost results in charges to a grant program a cost allocation plan is required.

Applicable Credits

- * Applicable credits refer to those receipts or reduction of expenditure type transactions which offset or reduce expense items allocable to grants as direct or indirect costs. Examples are purchase discounts, rebates or allowances, sale of equipment, adjustments of overpayments or erroneous charges, etc.

Composition of Costs

- * The total cost of a grant program is comprised of allowable direct costs incident to its performance, plus its allocable portion of allowable indirect costs less applicable credits.

Direct Costs

- * Direct costs are those identified specifically with a particular cost objective.
Examples: Labor and materials, etc.

Indirect Costs

- * Indirect costs are those:
 - ** Incurred for a common or joint purpose benefiting more than one cost objective, and
 - ** Not readily assignable to the cost objectives specifically benefited, without effort disproportionate to the results achieved.
- * Indirect costs may include costs originating in the Community Development Department and/or those incurred by other departments in supplying goods, services, or facilities to the Community Development Department or grant program. Indirect costs must be supported by an Indirect Cost Plan which must be available for review.

Cost Allocation Plan

- * A plan for allocation of costs is required to support the distribution of any joint costs of the grant program. Formal accounting records must support these costs.
- * For specific cost allocation plan requirements refer to Circular A-87, Attachment A, Section J. Contact your ADECA Program Supervisor assigned to your program for assistance.

Allowable Costs

Attachment B of Circular A-87 provides standards for determining the allowability of selected items of costs (Items listed below). The standards apply whether the item of cost is a direct or indirect cost. Failure to list a particular item of cost does not imply that it is either allowable or unallowable. Base the determination of allowability on the treatment of standards provided in the OMB Circular A-87.

For Example: Accounting. The cost of establishing and maintaining accounting and other informal systems required for the management of the grant program is allowable. The cost of maintaining central accounting records required for overall government purposes, such as appropriation and fund accounts by the Treasurer, Comptroller, or similar officials, is considered to be a general expense of government and is not allowable.

TASK G: SET UP ACCOUNTING SYSTEM

Accounting systems provide a means for measuring and reporting resources that flow into and out of a jurisdiction, resources controlled by the jurisdiction, and claims against those resources. Your local accounting procedures should systematize the collection, processing, evaluation, and reporting of CDBG transactions. Grant transactions should

be recorded in your existing system; however, some adjustments may be required to comply with Federal standards.

Federal standards for CDBG accounting are described in two principle documents:

- * The Common Rule as adopted by the ADECA.
- * OMB Circular A-87.

Maintain a financial accounting system for the CDBG program that provides accurate, current and complete disclosure of the financial status of each activity. This system may serve many purposes. Among these are to:

- * Record all project transactions (CDBG, local, third party in kind);
- * Generate regular financial status reports;
- * Measure periodic results of operation against budget; and
- * Report results of operations to the ADECA, local officials and the public.

Procedures must be in place to make sure that:

- * Sound internal accounting and administrative controls are maintained over financial transactions; and
- * Effective control is maintained to safeguard physical assets.

The "Internal Control Questionnaire" is a useful tool to help assess your locality's internal controls (see Exhibit III-1).

Accounting Procedures to Address

1. Establish the CDBG Fund (a special revenue fund) to account for all project monies within the fund, including program income, local contributions, CDBG and other sources of revenue.
 - * Maintain a complete set of general ledger and subsidiary accounts for the fund.
 - * Conduct double entry bookkeeping where the Debit (DR) or Credit (CR) balances are maintained on each general ledger account and the sum of all debits equals the sum of all credits.
 - * Record all project transactions whether funded from CDBG or other resources.
2. Create a complete chart of accounts for the CDBG fund. Exhibit III-3 presents a sample set of general ledger accounts.

- * Maintain supporting records to summarize expenditures and revenues by the following categories:
 - ** Activity.
 - ** Project.
 - ** Objects of expenditure.
 - ** Revenue source.
3. Assign standard coding to each element in the chart of accounts. As much as possible, this coding should be consistent with the coding structure already in use by your community.
- * Apply coding on all source documents.

CDBG Accounting Records

Accounting records make it possible to identify the financial position and operations of the CDBG funded project. These records must identify the source and application of all funds committed to the project. Records must identify the results of project operations by fiscal year and by contract.

Books of original and final entry are essential to an accounting system. Books of original entry are the accounting records into which information is first posted. Books of final entry are the summary records used to accumulate accounting information for financial reporting. You must maintain the following books of original and final entry:

Books of Original Entry

1. Cash Receipts Journal - This register maintains a record of all cash received and deposited into the CDBG fund. The record should include:
 - * The date the funds are received,
 - * The document number,
 - * The source of funds (State, local, program income, etc.),
 - * Amount,
 - * Account to which funds were assigned.

2. Cash Disbursement Journal - This register records all expenditures. This record should include the:
 - * Date of payment,
 - * Name of payee,
 - * Check Number,

- * Amount,
 - * Account for which disbursement was made.
3. General Journal — This journal records all noncash transactions. This book of original entry shows:
- * The account and amount to be debited,
 - * The account and amount to be credited,
 - * A description of the transaction (For example — sale of equipment on account).

Books of Final Entry

1. General Ledger - This ledger summarizes the status of each account in the CDBG accounting system. One ledger should be designated for each account listed in the chart of accounts.
2. CDBG Cash Control Worksheet-This important document:
 - * Summarizes the status of Federal cash on hand,
 - * Assists in determining subsequent cash requests,
 - * Provides the ADECA with a review document for analyzing CDBG cash on hand,
 - * Is more effective when completed on a daily basis.

The ADECA developed this document to use in lieu of the ‘Federal Cash Control Register’ with which many of you may be familiar. You may use either document. The “CDBG Cash Control Worksheet” is not a required record to maintain; however, it is strongly recommended (see Exhibit III-4).

Additional Accounting Records

To enhance CDBG financial reporting and control you may use many other accounting records. Some examples follow:

1. Fixed Asset Ledger - This ledger book of final entry provides a listing of all fixed assets acquired with CDBG funds. It may be used in conjunction with the “ADECA Property Management Inventory of Nonconsumable Personal Property” (Task I, below, Exhibit PL—5A).
2. CDBG Expenditure Summary Report - This report provides details by activity and project on the status of expenditures in relation to budgeted amounts. This book of final entry:

- * Allows you to track the status of each budget item as well as provide a method to avoid exceeding appropriations, and
- * Serves as a cross-check to certain general ledger accounts.

The total of all appropriations, expenditures, and encumbrances summarized on this report should equal the total appropriations, expenditures, and encumbrances in the general ledger.

3. Receivable and Payable Subsidiary Ledger - This is a book of final entry. A separate account is maintained in this record for each individual or vendor that owes money to (Receivable) or is owed money from (Payable) the CDBG program. Such a subsidiary ledger might also be used to record travel advances to employees.

Source Documents

Accounting records must be supported by source documentation. Source documents include internally and externally generated forms such as:

- * Purchase requisitions,
- * Purchase orders,
- * Contracts,
- * Contract invoices,
- * Payment vouchers or check requests,
- * Employee time and equipment usage report (Exhibit III—5),
- * Travel reimbursement vouchers,
- * Journal vouchers.

The Sample "Source Documentation Guide" provides additional examples (see Exhibit III-2).

Source documents initiate accounting transactions. Payment must never be made without delivery of goods and services and without vouchers and invoices physically in hand. You must secure and retain these documents for three years from the date of close out or until any litigation or audit findings are resolved, whichever time period is greater.

For technical assistance and information regarding accounting records contact your ADECA Program Supervisor.

TASK H: DRAW DOWN FUNDS

State CDBG Intergovernmental Policy Letter Number 10, "Policy on State Letter of Credit Drawdowns," establishes procedures for drawdowns of CDBG funds (Exhibit PL10). The policy is:

- * A limit of two (2) draws per month. (Exception: To meet unexpected cash needs vital to program progress. Grantee must obtain your ADECA Program Supervisor's prior approval.)
- * "immediate cash needs" is interpreted as not to exceed 14-16 days depending on the month.

A "CDBG Cash Control Worksheet" has been designed to help minimize CDBG cash on hand by providing a daily analysis of cash receipts and disbursements. Exhibit III-4 will assist you with determining subsequent drawdowns and provides the ADECA with a review document to analyze CDBG cash on hand.

You are encouraged to complete the worksheet on a daily basis and retain one copy in the project's financial records. This document is not required, but is highly recommended.

To request cash:

1. Determine cash needs.
2. Prepare "Request for Payment" Form 001 State CDBG (Exhibit III-8, REQUIRED). The "Request for Payment" must contain one of the three signatures on the "Certification" submitted as required by the "Letter of Conditional Commitment" (Exhibit 1-7).
3. Make sure the above report is complete, accurate and executed by authorized officials.
4. Submit the report to your ADECA Program Supervisor. Allow 14 days for processing.
5. After receipt of the State warrant, disburse cash on hand as soon as possible, but no later than 16 days.

TASK I: DEVELOP PROPERTY MANAGEMENT STANDARDS

State CDBG Intergovernmental Policy Letter Number 5, "Policy on Grantee Property Management Procedures," and the Common Rule, Subpart C.31 and the ADECA Subgrantee Property Manual provide uniform standards and procedures governing the use and disposition of property acquired in whole or in part with Federal funds. Please refer and adhere to these three (3) documents for uniform guidance (Exhibits PL-5 and III-9, respectively). The ADECA Subgrantee Property Manual can be obtained by contacting your ADECA Program Supervisor.

TASK J: ESTABLISH RETENTION AND CUSTODIAL REQUIREMENTS FOR RECORDS

The Common Rule, Subpart C.20 and .42, requires you to maintain accurate and complete CDBG records concerning management, financial transactions, supporting documents, statistical documents, contracts, etc., of the CDBG program. You must also retain these records and allow access as noted below:

1. Financial records, supporting documents, statistical records, and all other records pertinent to the grant program must be retained for a period of three years from the date of close out, except as follows:
 - * If any litigation, claim or audit is started before the expiration of the 3-year period the records must be retained until all litigations, claims, or audit findings are resolved. If resolved prior to the end of the 3-year period, records must be maintained for the entire three years.
 - * Records for nonconsumable personal property acquired with CDBG funds must be retained for three years after its final disposition.
2. Authorized representatives of the State of Alabama, the U.S. Department of Housing and Urban Development and the Comptroller General of the U.S., or any of their duly authorized representatives, shall have access to any pertinent books, documents, papers, or records of grantees and subgrantees to make audits, examinations, excerpts, and transcripts.

The above requirements regarding access to and retention of records must be included in agreements or contracts for goods, services, or labor.

TASK K: ADDRESS BUDGET REVISIONS, PROGRAM AMENDMENTS, AND GRANT TERMINATIONS

Budget Revisions

- * Budget revisions as a result of grant reduction or elimination identified in the "Letter of Conditional Commitment" are discussed in Chapter I, Task B.
- * Budget revisions due to changes in the approved program or any activity are discussed in State CDBG Intergovernmental Policy Letter Number 2 (Exhibit PL-2).

Amendments

Amendments to CDBG programs are changes to the approved program or activities which alter any of the following:

- * Dollar amounts spent on any activity.
- * Beneficiaries of any activity.
- * Geographic location(s) of any activity.

- * Design nature of an activity. (Example: increasing size of water lines or drainage pipes, etc.)
- * Policies and procedures of the approved Housing Rehabilitation Program.

State CDBG Intergovernmental Policy Letter Number 2, "Policy on Program Changes, Amendments, and Cost Underruns (Revised)" provides guidance to localities on the types of changes which require State approval (Formal Amendments) and the types which do not (Local Amendments). Exhibit PL-2 provides detailed requirements.

Terminations

- * The "Grant Agreement" between the recipient and the State provides two sections, "E" and "F", for termination, thus revoking grant funds. Refer to the "Grant Agreement" for provisions.
- * The ADECA has prepared a document "Termination of Grant Agreement." It addresses reasons for termination initiated by the grantee as well as the State and provides detailed procedures and responsibilities. Contact your ADECA Program Supervisor concerning this information.

IV. RECORDKEEPING AND FILES

Recordkeeping and files for financial management must be complete, accurate, and in compliance with Federal and State law. Auditable records are essential to a CDBG program. The following records and files must be physically located on the premises of the locality, not with a consultant:

- * Designation of Fiscal Coordinator.
- * Accounting books of original and final entry and additional records maintained on the CDBG program.
- * Letter of Credit documents.
 - ** Certification of Signatures. (Exhibit I-7 and Form 001 State CDBG, "Requests for Payment" for ARC projects).
 - ** Copies of drawdown request.
 - ** Cash Control Worksheet. (optional)
- * Source documents.
- * Canceled checks, deposit slips, bank statements, etc.
- * Property inventory, reports, certifications, and other property records.
- * Correspondence to and from the ADECA regarding any required waivers or prior approvals.
- * Grant Agreement, Letter of Conditional Commitment, etc.

- * Amendments and budget revisions, if any.
- * Evidence of fidelity bond, if appropriate.
- * Cost Allocation Plan, if any (including indirect cost rate proposal).
- * System to value and record matching expenditures.
- * Evidence of safeguarding assets and retention of records.

V. REPORTING

If appropriate, the following approvals and notifications must be obtained from the ADECA:

- * Request to substitute local man hours and equipment usage for cash contributions or vice versa when originally approved contribution cannot be met (Task C).
- * Notify immediately the ADECA if local match cannot be met (Task C).
- * Return interest earned on CDBG grant funds (Task D).
- * Prior approval to purchase nonconsumable personal property with a unit cost of \$1,500 or more (Task I).
- * Approval of formal amendments to the CDBG approved grant program (Task K).

VI. COMMON PROBLEMS/DEFICIENCIES

- * Failure to designate a Fiscal Coordinator.
- * Fiscal Coordinator approving purchase documents and performing disbursing and recording functions.
- * Inadequate procedures for financial management.
- * Failure to meet local contributions as required.
- * Inadequate financial records.
- * Inadequate accounting source documentation.
- * Inadequate procedures for verification of cost allowability.
- * Unreasonable delays between drawdown and expenditure of funds.
- * Inadequate accounting and use of program income.
- * Untimely or inadequate financial reports.

- * Failure to obtain required waivers or approvals from the State.
- * Letter of Credit Drawdown requests not completed properly.
- * Failure to follow proper amendment procedures.
- * Failure to safeguard assets.

VII. SUPPORT MATERIALS

Support Materials may be accessed at the below website.

<http://adeca.alabama.gov/Divisions/ced/cdp/Pages/CDBG-Management-and-Implementation.aspx>

- * State CDBG Intergovernmental Policy Letter Number 2, "Policy on Program Changes, Amendments, and Cost Underruns (Revised)" (Exhibit PL-2).
- * State CDBG Intergovernmental Policy Letter Number 3, "Policy on the Use of Match in the Community Development Block Grant Program as Related to Local Man Hours and Use of Equipment" (Exhibit PL-3).
- * State CDBG Intergovernmental Policy Letter Number 5, "Policy on Grantee Property Management Procedures" (Exhibit PL-5).
- * State CDBG Intergovernmental Policy Letter Number 6, "Policy on Fidelity Bond Requirements" (Exhibit PL-6).
- * State CDBG Intergovernmental Policy Letter Number 7, "Policy on Program Income" (Exhibit PL-7).
- * State CDBG Intergovernmental Policy Letter Number 10, "Policy on State Letter of Credit Drawdowns" (Exhibit PL-10).
- * State CDBG Intergovernmental Policy Letter Number 14, "Insurance Requirements for Cash Depositories" (Exhibit PL-14).
- * Signature Certification (Exhibit I-7).
- * Internal Control Questionnaire (Exhibit III-1).
- * Source Documentation Guide (Exhibit III-2).
- * Chart of Accounts (Exhibit III-3).
- * CDBG Cash Control Worksheet (Exhibit III-4).
- * Time and Equipment Usage Report (Exhibit III-5).
- * Request for Payment, Form 001 State CDBG, (Exhibit III-8).
- * Financial Status Report (Exhibit XI-2).
- * Alabama County Finance Manual (1990).
- * Alabama Municipal Finance Manual (1990).

Grantee Name _____
 Project Number _____
 Preparer _____
 Date Prepared _____
 Follow-up Review Indicated _____

Common Rule Compliance Checklist

I. Standards for Grantee Financial management System

		Yes	No	N/A	Notes
A.	Records to identify the source and application of funds: (including the local matching share and private investment)				
**	Is there a cash receipts journal ? If so, is it current? Record date and amount of most recent transaction				<i>Date</i> <i>Amount</i>
**	Is there a cash disbursement journal ? If so, is it current? Record date and amount of most recent				<i>Date</i> <i>Amount</i>
**	Is there a general ledger ? If so, is it current? Record most recent date and balance.				<i>Current Date</i> <i>Current Balance</i>
**	Are all CDBG related transactions recorded in the grantee's general ledger?				
**	Are audit trails provided that permit tracing of any transactions back to the original source document and forward to summary records?				
**	What is the total amount of CDBG funds deposited?				
**	What is the total amount of local match deposited?				
**	Do Deposits equal expenditures				<i>Yes / No</i>
		Total CDBG	\$	-	
		Total Local:	\$	-	
		Total Checks:	\$	-	
		Balance:	\$	-	
**	If there is a difference, Please explain				
**	Were CDBG or ARC funds held for more than 14 - 16 days? If so, why?				

B.	The effective control over and accountability for all funds, property and asset:				
	** Are there dual signatures on checks?				
	** Are signature stamps used?				
	** If yes, does one person have access to both signatures?				
	** Are signature stamps locked up securely?				
	** Are checks numbered consecutively and all accounted for?				
	** Are blank checks unsigned?				
	** Are unused checks kept in a secure area?				
	** Are voided checks defaced?				
C.	Proper supporting documentation of accounting records:				
	** Is there prior approval of invoices before payment, as evidenced by initial of grantee staff on invoice?				
	** Are invoices coded with the grant name and number or the general ledger account code?				
	** Do invoices include a description of the service being performed or the goods purchased, identification of the vendor, the unit price where appropriate, and the total cost to be charged to the CDBG program?				
	** For professional services contracts, do invoices make detailed references to contract's scope of services and do invoices specify what percentage of each project task has been accomplished?				
	** Are there any unresolved audit or monitoring findings? If so, why?				
	** Are bank statements reconciled monthly by grantee staff? If not, why?				
	** On projects involving private funds, is there evidence of private expenditure?				

II. Matching Share

A.	Is matching share required?				
	** Does match requirement include cash?				
	** Does match requirement include in-kind?				
	** Were both cash and in-kind match posted to the general ledger on a monthly basis?				
B.	Are in-kind contributions valued in the following way:				
	** Is the value of donated property being properly charged to the grant?				
	** Was the value properly determined? <i>(For space, the value may not exceed fair market value of comparable space in the same locality. For non-expendable personal property, the value may no exceed the fair market for equipment of the same age and condition. For loaned equipment, the value may not exceed the fair rental value.)</i>				
C.	Are volunteer services recorded to show:				
	** The same information kept for volunteer services as is kept for grantee employees?				
	** The basis for valuation of personal services, material, equipment, buildings, and land?				

III. Program Income

A.	Does grantee have any program income? If so, is it properly documented and recorded?				
B.	If program income is designated for a grant project, are the receipt and expenditure of receipts part of grant project transactions?				
C.	Is program income recorded in accounting records?				
D.	Does program income exceed \$25,000 in any one fiscal year? If so, have funds been remitted to the state?				
E.	What is the total amount of interest earned on CDBG funds?				<i>\$0.00</i>
	If this amount is over \$100, has it been returned to the State?				

IV Amendments

A.	If applicable, were local amendments done in accordance with state criteria?				
B.	If applicable, were formal amendments approved by the state as required?				

V Property Management

A.	If CDBG funds were used to acquire non-expendable personal property, is a copy of the completed PMU1 form on file in the community and has an executed copy been submitted to ADECA? (\$5,000)				
B.	Is grantee aware that any property acquired with CDBG funds may not be sold or otherwise disposed of without prior written approval from ADECA?				

VI Procurement Standards

A.	Does grantee have written and adopted procurement policies which include the state bid law, the public works law, and purchases not subject to the state bid law,				
B.	Do procurement policies specify who has the authority to initiate purchase requests and enter into contracts?				

VII Records Retention

A.	Is the grantee aware that all CDBG records must be retained for five years past notification by the State that the State's grant from HUD through which the project was funded has been closed out or all audit findings have been resolved, whichever is longer?				
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VII Special Assessments

A.	Are CDBG funds used to pay the special assessment on behalf of the low and moderate income property owners?				
B.	Does the grantee collect funds through special assessments made against low and moderate income owner occupants where the special assessments are used to recover all or part of the non CDBG, non-match portion of the public improvement? <i>(These assessments do not constitute program income.)</i>				
C.	Are assessments of high income households not used in construction costs recorded as program income (water and sewer authority records)? If so, have they exceeded \$25,000?				
D.	Does the grantee collect funds through special assessments made against low and moderate income owner occupants where the special assessments are used to recover all or part of the CDBG, portion of the public improvement? <i>(These assessments do no constitute program income.)</i>				
E.	What is the total amount of program income collected through special assessments in a single year?	<u>\$0.00</u>			
F.	If this amount was \$25,000 or more and received in a single year, has it been returned to the State?				

RENTAL AND UTILITY ASSISTANCE

Funds provided for rental assistance payable directly to the landlord and utility assistance payable directly to the utility company to prevent dislocation and eviction of families due to the loss of income caused by business shutdown or other valid reasons will require the following from the applicant:

1. Documentation of need and that need is COVID-related.
2. Documented evidence of income from any source earned or received. Acceptable documentation includes, but is not limited to: W-2 form, tax statement, paystub, Social Security Administration letter of benefits, bank statement showing income electronically deposited. A "Self-Declaration of Income" must also be signed and submitted by applicant.
3. Copy of current lease or utility bill.

Using Annual Formula CDBG, FY 2019 and 2020 CDBG to prevent, prepare for, and respond to coronavirus, and CDBG-CV Funds for Rent or Mortgage and Arrearages Subsistence-Type Payments

March 30, 2021

Subsistence-Type Payments of Rent or Mortgage and Arrearages

- Q. May annual formula CDBG funds be used to make rent or mortgage payments?
- A. In accordance with 24 CFR 570.207(b)(4), CDBG funds may **only** be used to make subsistence-type payments such as rent or mortgage directly to a service provider, such as a landlord or lender, on behalf of an individual or family, and these emergency payments may be made for a period of no more than three consecutive months. The regulation states that CDBG funds may not be used for income payments but provides an exception for emergency grant payments. Under the exception, emergency grant payments are eligible as a public service under the authority of 24 CFR 570.201(e).
- Q. What effect will providing this assistance have on a grantee's annual formula CDBG program?
- A. Providing rent or mortgage payments for up to three consecutive months is costly. Public services carried out with annual formula CDBG funds are subject to the 15 percent public services cap. This may mean that the grantee may not be able to continue to provide other public services at the level it was doing so previously.
- Q. Is this also the case if CDBG-CV funds and annual formula CDBG 2019 and 2020 funds used to prevent, prepare for, and respond to coronavirus are used to pay emergency rent/mortgage payments on behalf of individuals and families?
- A. No. The Coronavirus Aid, Relief, and Economic Security Act (Public Law 116-136) (CARES Act) suspended the 15 percent public services cap for public services carried out with Fiscal Year 2019 and 2020 annual formula CDBG funds and CDBG-CV funds that are used for activities that prevent, prepare for, and respond to coronavirus.
- Q. Does the requirement that the emergency payments continue for no more than three consecutive months apply to annual formula CDBG 2019 and 2020 and CDBG-CV funds used to prevent, prepare for, and respond to coronavirus?
- A. No. The CDBG-CV Federal Register Notice (FR-6218-N-01, effective August 7, 2020), states that emergency payments may be made on behalf of individuals and families for a period of no more than **six** consecutive months to prevent, prepare for, and respond to coronavirus.
- Q. May CDBG funds be used to pay arrearages?
- A. Yes. In the annual formula CDBG program, CDBG funds may be used to pay rent or mortgage arrearages on behalf of individuals and families for up to three consecutive months.
- When using FY 2019 and 2020 funds to prevent, prepare for, or respond to coronavirus, or CDBG -CV funds, the period for emergency payments has been extended from three consecutive to six consecutive months in the CDBG-CV Federal Register Notice. Moreover, to use the extended period of six consecutive months for expenditures for FY 2019 and 2020 funds, the use of funds requirement for prevent, prepare for, or respond to coronavirus and the guidance on the period is applicable.
- Q. Are there any issues or concerns that a grantee should take into consideration if it decides to use CDBG /CDBG-CV funds to pay rent or mortgage payments on behalf of individuals and families?

- A. Yes. As a major concern, this type of funding can be used to assist individuals/families who without this assistance may become homeless, a grantee should ensure that if rent/mortgage payments are made to bring them current that the individual/family also has the financial means to pay subsequent rent or mortgage payments. If the individual/family does not have the means, they could potentially be homeless in the immediate future, suggesting the need for a different program design.

A concern for annual formula CDBG funds if this activity is assisted using 2018 or earlier, or using 2019 or 2020 funds that do not prevent, prepare for, or respond to coronavirus, is compliance with the 15 percent public services cap. The 15 percent public services cap is statutory and cannot be waived. Exceeding the public services cap will result in the grantee being required to repay the amount spent over the cap with non-federal funds.

Grantees should also be aware that providing rental assistance beyond 100 days will trigger the lead-based paint visual inspection requirements. The last two Q&As in this document provide more detailed information on how this requirement is triggered.

- Q. May the grantee impose additional requirements on individuals and families seeking CDBG assistance for rent/mortgage payments?
- A. Yes. Although HUD advises simplicity, the grantee should create and implement policies and procedures for emergency grant payments. Beyond what is necessary to document the CDBG eligibility of the activity and national objective, the grantee may also impose requirements for documentation such as proof of seeking or loss of employment or credit counseling. The grantee should assist applicants in fulfilling the requirements outlined in its policies and procedures and any additional requirements must not contradict the CDBG programmatic requirements, including program-related civil rights and equal opportunity requirements.
- Q. May a grantee use annual formula CDBG or CDBG-CV funds to make rent/mortgage payments to anyone that requests such assistance?
- A. No. Each CDBG-assisted activity must meet a national objective, and the CARES Act and CDBG-CV Federal Register Notice did not suspend this requirement. Emergency payments are usually carried out under the low- and moderate-income national objective, so the grantee must include documentation covering each individual or family requesting assistance with rent/mortgage payments demonstrating they are income-eligible. According to 24 CFR 570.506(b), the grantee may document income in several ways, including collecting a verifiable certification from the assisted person that his or her family income does not exceed the applicable income limit established in accordance with the regulations.
- Q. What CDBG national objective does the provision of emergency, subsistence-type payments generally meet?
- A. This activity usually meets the low- and moderate-income limited clientele national objective provision at 24 CFR 570.208(a)(2) An activity which benefits a limited clientele, at least 51 percent of whom are low- or moderate-income persons. This can be accomplished by exclusively serving “presumed benefit” persons such as elderly, homeless, or severely disabled persons. Another way to qualify a limited clientele activity is to require information on family size and income so that it is evident that at least 51 percent of the clientele are persons whose family income does not exceed the low- and moderate-income limit, or for the grantee’s policies to limit the activity exclusively to low- and moderate-income persons.
- Q. When does the emergency payments’ covered period begin?
- A. For each assisted individual or family, the three-month period (for CDBG) or six-month period (for CDBG-CV and FY19-20 CDBG funds used to prevent, prepare for, and respond to coronavirus) begins on the date the first payment is made to a provider on behalf of an individual or family.

- Q. Does the covered period of either up to three or six consecutive months cover all arrearages or just those within the timeframe?
- A. The emergency payments period begins when the payment is made, not when the individual's or family's arrearage began. The start of the period of three consecutive months for annual CDBG that is not being used in response to the coronavirus or of up to six consecutive months for 2019, 2020, and CDBG-CV funds used in response to the coronavirus is related to when payments are made from the grant, not the date of arrearages. If an individual or family is one or more months in arrears, a grantee may cover some or all the amount in arrears within the first month of assistance and continue through the applicable consecutive period of assistance. For example, for an individual four months in arrears on rent who applied for emergency payment assistance under CDBG-CV, the covered period may include the four months they are in arrears within the payment for the first month of assistance then continue for up to five more months to fulfill the up-to-six-consecutive-month-period allowance. The grantee must base the assistance on a need (for CARES Act, the need must be related to coronavirus preparation, response, and recovery) and cover necessary and reasonable costs. If a grantee chooses to implement subsistence payments covering arrears, the grantee's policies and procedures for the program should set clear parameters for the types, amounts, and timing for assistance for each individual or family.
- Q. What if the individual or family needs assistance with amounts they are in arrears to become current, though they may be able to skip a month within the period, would they still receive assistance for up to six consecutive months?
- A. Yes. The assistance is based on need and if CDBG funds are needed to cover the arrears within the first month of assistance and the individual or family may be able to cover the second month then need assistance for the third month, that is an acceptable method because it is within the period of up to three or six consecutive months (based on funding source and use). Also, this demonstrates that the assistance is based on need and covers necessary and reasonable costs. If a grantee chooses to implement subsistence payments using this method the policies and procedures for the program should outline clear parameters.
- Q. When does the requirement for a lead-based paint visual inspection come in?
- A. The 100-day emergency grace period begins at the time of payment going forward. Once the assistance period reaches 100 days, a visual lead-based paint inspection is required. If assistance is being provided to an individual or family that covers three months of arrears within the first month of assistance, the 100 days begins at the time of payment going forward. As an emergency payments assistance period approaches the end of the 100-day grace period, the grantee must undertake visual inspection if it wishes to continue FY2019 or FY2020 CDBG or CDBG-CV assistance.
- Q. Given the coronavirus, is it acceptable to do a remote visual lead-based paint inspection?
- A. For assistance to continue past 100 days, a visual inspection is required. Because of the coronavirus it may not be possible for an onsite visual inspection to occur. If the situation does not allow for an onsite visual inspection, the owner(s) or a surrogate may perform a remote visual inspection. Grantees are encouraged to develop policies and procedures that allow this method and the necessary documentation required for it.

Resources

The Department has technical assistance providers that may be available to assist grantees in their implementation of CDBG Funds for activities to prevent or respond to the spread of infectious disease. Please contact your local CPD Field Office Director to request technical assistance from HUD staff or a TA provider.

- CDBG-CV Federal Register Notice: https://www.hud.gov/sites/dfiles/CPD/documents/CDBG-CV_Note_Federal_Register_Publication_2002-08.pdf
- Submit your questions to: CPDQuestionsAnswered@hud.gov
- COVID-19 (“Coronavirus”) Information and Resources: <https://www.hud.gov/coronavirus>
- CPD Program Guidance and Training: <https://www.hudexchange.info/program-support/>

USING CDBG EMERGENCY PAYMENTS FOR RENTAL ASSISTANCE IN CORONAVIRUS RESPONSES

The COVID-19 pandemic has led to economic, health, and social hardships—including increased housing instability and the threat of homelessness—for millions of people. The Coronavirus Aid, Relief, and Economic Security (CARES) Act created new one-time programs and waived several regulatory requirements of other existing programs to help communities prevent, prepare for, and respond to the pandemic. Many of these programs enable families¹ and individuals to remain in their homes and avoid homelessness during the pandemic. Along with other federal programs, the Community Development Block Grant (CDBG) can support housing stability and homeless prevention efforts such as the provision of emergency assistance and services.

This document explains how to target limited CDBG resources efficiently and effectively through a coordinated strategy to stabilize individuals and families at risk of becoming homeless. This guidance applies to both annual entitlement allocations of CDBG as well as supplemental CARES Act CDBG (CDBG-CV) funds. An understanding of the broad array of available programs will help grantees to target CDBG funds to “fill gaps” in a comprehensive housing stability and targeted homeless prevention strategy. This document provides general guidance on:

- Strategic planning, coordination, and program design.
- Rental assistance resources.
- CARES Act flexibilities and using CDBG for rental assistance programs.
- Other useful resources.

While this guide does not specifically address the needs of homeowners at risk of losing their housing due to the economic impact of the pandemic, many of the concepts found here can also be applied when developing a mortgage assistance program.

STRATEGIC PLANNING AND COORDINATION

CDBG is only one among many resources that can fund rental assistance and homelessness prevention activities. Grantees should consider other ongoing and one-time resources for rental assistance including the much larger CARES Act appropriations such as the Coronavirus Relief Fund (\$150 billion) and the Federal Emergency Management Agency (FEMA) Disaster Relief Fund (\$45 billion), as well as smaller allocations through existing U.S. Department of Housing and Urban Development (HUD) programs such as Emergency Solutions Grants (ESG), Housing Opportunities for Persons With AIDS (HOPWA), or public housing. CDBG grantees choosing to provide rental assistance to address community needs should work with other public, private, and nonprofit partners across funding sources to create a strategic and integrated emergency rental assistance program portfolio of federal and non-federal resources. A goal is to identify the best use of CDBG funds to fill gaps or support activities that are more difficult to support through other sources.

¹ CDBG and other programs use the term “families” as defined in 24 CFR 5.403. The definition includes a group of persons residing together, regardless of actual or perceived sexual orientation, gender identity, or marital status. For reporting purposes in CDBG and other programs, the term household may be used.



Step 1: Conduct a Rapid Needs Assessment

Identify who is (or is most likely to be) at risk of losing their housing due to COVID-19 and to what extent.

A rapid needs assessment will help grantees target limited resources. Grantees will need to select data sources that reflect the recent and rapid health, economic, and social impacts of COVID-19. Given the disproportionate impact of COVID-19 on people of color and other vulnerable populations, grantees are advised to select measures that can be disaggregated by race, ethnicity, and other household characteristics to offer insight into which groups need financial support to maintain their current housing.

Data sources that can be used to rapidly assess current needs include:

- Unemployment data—available by county, updated monthly.
- Applications for food assistance—available by county, updated monthly.
- Public health data regarding COVID-19 infections and deaths—available daily.
- Rental delinquency data—available from property owner associations, reported monthly.

Another helpful resource is the U.S. Census Bureau’s Household Pulse Survey. Updated weekly, the survey provides insight into how household experiences have changed during the pandemic and includes information on employment status, spending patterns, food security, housing, physical and mental health, access to health care, and educational disruption.

HUD’s [COVID-19 Homeless System Response: Estimating Future Homelessness](#) contains additional guidance.

Key informant interviews can provide information about developing trends, the needs of different populations, and barriers to housing stability created or aggravated by the pandemic as well as potential strategies for overcoming these barriers. These interviews can also help identify potential partners who are receiving and allocating CARES Act dollars or other resources to respond to the needs of at-risk renters.

Consolidated plans and fair housing plans can provide important baseline information by identifying populations and geographic areas that are already financially distressed or impacted by housing discrimination and could be vulnerable to the economic impact of the pandemic.

Step 2: Inventory Available Resources

Inventory federal, state, local, or private programs available for rental assistance and homelessness prevention.

Potential Consultation Partners

- Continuum of Care grantees
- Affordable housing providers and public housing agencies
- Social service and public health agencies
- Agencies working with communities of color and other protected classes
- Schools and McKinney Vento liaisons
- Private landlords or rental owner associations
- Chambers of Commerce or other business associations
- Financial institutions and/or community development financial institutions
- Utility companies

What other programs are available in your region that can support both direct financial assistance and other services that promote housing stability? What are the available funding amounts, targeted

populations, income restrictions, types of assistance, duration of assistance, administrative requirements, expenditure deadlines, and other characteristics of each program?

Tables 1–3 in the *Overview of Rental Assistance Resources* section provide some of this information.

Step 3: Identify Key Partners and a Coordinating Body

Collaborate with other local jurisdictions and nonprofit organizations to develop a coordinated strategy to allocate resources and facilitate the implementation of your rental assistance program.

Evaluate the capacity of existing and potential partners to determine whether they have the knowledge, experience, and resources needed to implement the program. Consider whether they:

- Have administered similar assistance programs.
- Understand the regulatory requirements that will apply to your program.
- Have administrative and financial policies and procedures in place to comply with these requirements.
- Are staffed sufficiently to respond to the anticipated demand.

Technical assistance may be needed for those entities with the organizational capacity to administer a rental assistance program but have limited experience administering CDBG and other federal grants. Some organizations without the capacity to be a CDBG subrecipient can help with marketing or outreach to specific populations.

Step 4: Prioritize Needs and Match with Funding Sources

Investigate the use of other resources to fund your rental assistance program to maximize its impact. Match your priority needs with appropriate resources.

Using the information about other available resources collected in Step 2, identify the role of CDBG funds in filling gaps remaining by the other rental assistance and homeless prevention programs. Questions to consider include:

- Are CDBG funds needed to keep families with higher income (including above-moderate income) in their homes that other programs cannot fund?
- What is the order of assistance for each resource based on availability? Are there expenditure time limits that push forward the use of some funding sources?
- Will CDBG emergency rental assistance funds be used to bridge funding for an individual or family?
- Should the funds also be targeted to facilitating discussions between renters and a landlord or safer childcare so parents can remain employed and pay rent on their own?
- Are the administrative requirements for some programs more burdensome than others for certain types of rental assistance?

Entities with knowledge of other funding resources may include:

- Continuum of Care grantees
- Continuum of Care organizations
- Other cities, counties, and states
- Public Housing Authorities
- Philanthropic institutions
- Social service organizations



CDBG funds can be used for a wide range of services that can complement direct rent assistance available through other sources. For example, CDBG funds can be used for less expensive interventions such as housing navigation and housing search services, job referrals, foreclosure prevention counseling, landlord-tenant assistance, and legal services. CDBG funds can also be used to target a specific population that may not be served through another funding source.

Up to 20 percent of CDBG funds may be used for planning and administrative activities, including providing fair housing information. Grantees can expand existing services and/or provide new ones to address impediments to fair housing related to COVID-19. Examples include fair housing education, tenant-landlord counseling, complaint services, and consumer hotlines.

Information on the eligible uses of CDBG funds, including CDBG CARES Act flexibilities, and other resources for matching identified needs to available funding sources can be found in the tables located in the *Overview of Rental Assistance Resources* section.

PROGRAM DESIGN AND IMPLEMENTATION

Design and implement your rental assistance program in collaboration with identified partners.

Design Process

Recommended actions for designing your rental assistance program, including the development of qualifying planned expenditures, program parameters, and implementation procedures, are identified below.

Qualify the activity

- Determine CDBG eligibility.
- Link to the prevention, preparation for, or response to coronavirus.
- Identify the national objective.

Design the program

- Develop roles and responsibilities for funding and implementation partners.
- Establish program and financial policies and procedures.
- Identify performance measures and methods for collecting beneficiary data.
- Select program partner(s) or subrecipient(s).

Implement the program

- Conduct outreach and market to targeted populations.
- Coordinate the application process and provide assistance.
- Monitor performance and complete quarterly reporting.
- Evaluate impacts.

Selecting a Program Partner

Consider working with a single entity to manage and deploy resources on behalf of multiple funding partners. For example, by designating a local nonprofit or a jurisdiction that may also be distributing rent assistance resources as a CDBG subrecipient, you can effectively align CDBG-CV funds with other grant resources. This will ensure coordination of the implementation process and prevent the duplication of benefits. An alternative is to identify multiple agencies with a history of working with targeted populations and/or geographic areas. This model may work better for larger geographic areas and for grantees with the management capacity to oversee the deployment of rent assistance resources through multiple organizations.

Marketing and Outreach

The design of your outreach and marketing is important. Be strategic and focused to ensure equal access to the program for at-risk and historically underserved populations. Underserved populations may include ethnic minorities, refugees and recent immigrants, individuals with disabilities, families with children, or seniors. Consider the capacity of the organization when assigning program roles. Some organizations may have the capacity to assist with referrals and outreach activities, but not to administer a federal grant program.

Program Compliance

Consider specific CDBG and CARES Act requirements regardless of how you structure your rental assistance program. If you contract with another agency to run your program on your behalf, they must meet CDBG subrecipient requirements (see [2 CFR 200.330](#) and [24 CFR 570](#) for additional guidance). You must also take steps during the strategic planning, program development, and implementation stages to prevent a duplication of benefits. Finally, document how your program prevents, prepares for, and responds to the coronavirus. These requirements are described more fully later in this document.

OVERVIEW OF RENTAL ASSISTANCE RESOURCES

Designing an effective rental assistance and homeless prevention response requires first developing an inventory of the resources available, then matching each program to a need based on factors such as the timing of the funds, eligible activities, targeted beneficiaries, income restrictions, and regulatory requirements (see Steps 2 and 4 above). The tables below summarize these characteristics for several federal programs. **For all tables, some limitations may apply.** Please reference the applicable program regulations and waivers for any limitations or conditions on the use of funds for these activities.

Table 1: General Funding Options for Rental Housing Assistance and Supportive Services Programs

Provides a brief overview of eligible activities—including both direct financial assistance and related supportive services—across several programs allocated through HUD and other federal agencies.

Table 2: Rental Assistance Resources

Provides additional details including targeted population, income requirements, duration of assistance, eligible activities, allocation amount, and expenditure deadlines. This table helps match programs with target populations and the type and duration of assistance needed.

Table 3: Rental Assistance Limitations and Housing Standards

While keeping most programmatic regulations in place, the CARES Act temporarily waives certain regulatory requirements of many federal programs, streamlining administrative processes. The scope and extent of these waivers vary by program, program year, and activity. Regulations that are not specifically suspended or waived remain in full effect. For more detailed information view the [program rules, statutory and regulatory waivers, and alternative requirements applicable to CDBG and CDBG-CV funds](#).

Grantees must amend their Consolidated Plan and/or Action Plan if the use of funds for a rental assistance program was not specifically included in the plan previously.

Table 1: GENERAL FUNDING OPTIONS FOR RENTAL HOUSING ASSISTANCE AND SUPPORTIVE SERVICES PROGRAMS Check program regulations and waivers for specific limitations or conditions on the use of funds for these activities.	Rent	Rent arrears	Utilities	Rental fees or deposits	Cash assistance	Mediation	Legal services	Financial counseling	Childcare	Case management	Housing search
Community Planning and Development (CPD) programs											
CDBG, CDBG-CV	✓	✓	✓	✓		✓	✓	✓	✓	✓	✓
CARES Act—Coronavirus Relief Funds (CRF)	✓	✓		✓						✓	✓
ESG, CARES Act ESG (ESG-CV)	✓	✓	✓	✓		✓	✓	✓		✓	✓
HOME Tenant-Based Rental Assistance (TBRA)	✓		✓	✓							
HOPWA, CARES Act HOPWA (HOPWA-CV)	✓	✓	✓	✓		✓	✓	✓	✓	✓	✓
Sampling of other funding options											
Community Services Block Grant (CSBG)									✓	✓	
Low-Income Home Energy Assistance (LIHEAP-CARES Act)			✓								
Promoting Safe and Stable Families (PSSF)	✓		✓								
Social Services Block Grant (SSBG)	✓		✓						✓	✓	
Temporary Assistance to Needy Families (TANF)	✓	✓			✓				✓	✓	

Table 2: RENTAL ASSISTANCE RESOURCES Check program regulations and waivers for specific limitations or conditions on the use of funds.	<u>CDBG-CV</u>	<u>CDBG</u>	<u>CRF</u>	<u>ESG-CV</u>	<u>HOME TBRA</u>	<u>HOPWA STRMU, STRMU-CV, and STRMU Waiver</u>	<u>HOPWA TBRA</u>	<u>HOPWA Permanent Housing Placement (PHP)</u>
CARES Act allocation	\$5 Billion		\$150 Billion	\$4 Billion		\$65 Million	\$65 Million	\$65 Million
Program summary	Flexible funding to prevent, prepare for, and respond to coronavirus	Flexible programming to address a range of critical community needs and fill funding gaps	Flexible funding to prevent, prepare for, and respond to coronavirus	Short-/medium-term rental assistance to prevent, prepare for, and respond to coronavirus or mitigate the economic impacts of coronavirus	Flexible medium-term rental assistance to individual households to help pay the housing costs of market-rate units	Needs-based rental assistance to maintain housing (a)	Rental assistance to improve housing stability (a)	Housing placement services to help establish permanent residence (a)
Population served (b)	Low- and moderate-income (LMI) individuals and families impacted by coronavirus	LMI individuals and families	Local option	Individuals and families experiencing homelessness or at risk of homelessness	Low-income households seeking housing and households that have housing	Individuals with HIV/AIDS and their families	Individuals with HIV/AIDS and their families	Individuals with HIV/AIDS and their families
LMI requirements	At least 51% at or below 80% area median income (AMI) for each activity; 70% of overall grant funds	At least 51% at or below 80% AMI for each activity; 70% of overall grant funds	Local option	At or below 50% AMI at initial evaluation for homelessness prevention	At or below 80% AMI; at least 90% at or below 60% AMI	At or below 80% AMI	At or below 80% AMI	At or below 80% AMI

Table 2: RENTAL ASSISTANCE RESOURCES Check program regulations and waivers for specific limitations or conditions on the use of funds.	<u>CDBG-CV</u>	<u>CDBG</u>	<u>CRF</u>	<u>ESG-CV</u>	<u>HOME TBRA</u>	<u>HOPWA STRMU, STRMU-CV, and STRMU Waiver</u>	<u>HOPWA TBRA</u>	<u>HOPWA Permanent Housing Placement (PHP)</u>
General eligible activity								
Rent payments	✓ (c)	✓ (c)	✓	✓	✓	✓	✓	✓
Rent arrears	✓ (c)	✓ (c)	✓	✓	✓	✓		✓
Security deposits	✓ (c)	✓ (c)	✓	✓	✓			✓
Utility deposits	✓ (d)	✓ (d)	✓	✓	✓			✓
Utility payments	✓ (d)	✓ (d)	✓	✓	✓ (e)	✓		✓

KEY - See full program regulations and applicable waivers and guidance for full conditions and limitations.

Assistance for this purpose can be provided, subject to any pre-award restrictions. See [CDBG-CV](#), [ESG-CV](#), [HOME COVID-19](#), and [HOPWA CARES Act](#) notices for details.

Additional guidance is available in the [HOPWA Rental Assistance Guidebook](#).

Family is defined in 24 CFR 5.403 and includes one or more eligible persons living with another person or persons, regardless of actual or perceived sexual orientation, gender identity, or marital status. For HOPWA programs, family includes individuals who are determined to be important to the eligible person or person's care or well-being, and the surviving member or members of any family described in this definition who were living in a unit assisted under the HOPWA program with the person with AIDS at the time of his or her death. For reporting purposes in CDBG and other programs, the term *household* may be used.

Additional guidance is available in [Using Annual Formula CDBG, FY 2019 and 2020 CDBG to Prevent, Prepare for, and Respond to Coronavirus, and CDBG-CV Funds for Rent or Mortgage and Arrearages Subsistence-Type Payments](#) (March 30, 2021)

Additional guidance is available in [Using CDBG-CV Funds for Emergency Payments to a Public Utility Q&A](#) (December 2020)

Utility costs are included in the calculation of overall assistance provided to the household

Table 3: RENTAL ASSISTANCE LIMITATIONS AND HOUSING STANDARDS Check program regulations and waivers for specific limitations or conditions on the use of funds.	<u>CDBG-CV**</u>	<u>CRF</u>	<u>ESG-CV</u>	<u>HOME TBRA</u>	<u>HOPWA STRMU, STRMU-CV, and STRMU Waiver</u>	<u>HOPWA TBRA</u>	<u>HOPWA PHP</u>
Level of assistance	Necessary and reasonable	Local option	Maximum 100% of housing costs	Max. 100% of housing costs	Max. 100% of housing costs	(a)	(b)
Length of assistance	No more than 6 consecutive months	Local option	Maximum of 12 or 24 months depending on applicability of ESG-CV Notice limitations	Maximum of 24 months (renewable)	Varies by program: STRMU 21 weeks w/ STRMU waiver 52 weeks STRMU-CV 24 months	Permanent Housing	Move-in and up-front costs
Physical housing quality standard inspection	(c)	Local option	Habitability standards apply (e)	(f)		Apply (e)	
Fair market rent analysis	(c)	Local option	Waived	(f)		Apply	
Rent reasonableness analysis	(c)	Local option	Apply	(f)		Apply	
Lead-based paint requirements	(d)	Local option	(e)	(e)	(e)	(e)	
Utility costs	(c)	Local option	N/A	(f)		Apply	

KEY: (**) also applies when FY2019 or FY2020 CDBG funds are used to prevent, prepare for, or respond to COVID-19.

- a) HOPWA TBRA: Rent is the higher of 1) 30% of adjusted monthly household income, 2) 10% of gross monthly household income, or 3) housing costs-portion of welfare rent.
- b) HOPWA PHP: The total of payments associated with the rental security deposit or first/last month's rent should not exceed the value of 2 months' rent.
- c) CDBG program regulations are silent on this topic. Grantees must develop policies and procedures that are consistently applied, promote safe and decent housing conditions, and ensure that expenditures are based on actual costs that are necessary and reasonable.
- d) Lead-based paint requirements ([24 CFR Part 35](#)) apply when provided rental assistance exceeds 100 consecutive days from the point assistance is provided. Virtual inspections are permitted by waiver. Additional guidance is provided in [CDBG-CV Funds for Rent or Mortgage and Arrearages Subsistence-Type Payments](#) (March 30, 2021).
- e) See notices issued for specific programs for further guidance on lead-based paint requirements and when a physical inspection is required.
- f) See CPD memo on the [Availability of Waivers and Suspensions of the HOME Program Requirements in Response to COVID-19 Pandemic](#) for further guidance.

CARES ACT FLEXIBILITIES AND CONSIDERATIONS FOR CDBG EMERGENCY PAYMENTS PROGRAMS

In addition to allocating supplemental CDBG-CV grants, the CARES Act provides additional flexibilities for the use of FY2019 and FY2020 CDBG entitlement funds when used to prevent, prepare for, or respond to the coronavirus. Specifically, it removes limitations on the use of funds for public services so long as activities can meet the additional requirements described below. This section highlights CARES Act flexibilities and requirements relevant to administering a CDBG emergency rental assistance program.

Emergency Payments for Rent and Utilities as a Public Service Activity

Emergency payments, as well as other services provided to keep individuals and families housed, are considered eligible public service activities under CDBG. CDBG funds can be used to provide emergency payments for current and unpaid rent and utilities as a public service activity on behalf of an individual or family for a period of up to three consecutive months ([24 CFR 570.207\(b\)\(4\)](#)). By waiver, HUD has extended the assistance term to a period of no more than six consecutive months when using CDBG-CV funds and FY2019 and FY2020 formula CDBG funds that prevent, prepare for, or respond to coronavirus.

The emergency payments period begins when the first payment is made, not when the individual's or family's arrearage began. Intermittent assistance may be provided during the emergency assistance period. For example, funds may be used to cover rent or utility arrears incurred by an individual or family. A family may be able to pay their rent or utilities for the following month but need further assistance for subsequent months. This additional assistance is permitted as long as it is within a three- or six-month emergency payments period.

Making an advance payment of rent that is not due until a future month is not an eligible activity as grantees are unlikely to have appropriate documentation in hand demonstrating that the cost is allowable, necessary, and reasonable at the time of advance payment.

Payments must be made to the landlord or utility provider on behalf of an individual or family. Payments *cannot* be made directly to an individual or family in the form of income payments, debit cards, or similar direct income payments.

Income Documentation

For the purposes of income qualification, income must be based on projected income at the time assistance is provided rather than the past 12 months. Records documenting the impact of the coronavirus on an individual requesting assistance can include, for example:

- Verification that the tenant was unable to work due to illness or required dependent care.
- Termination or furlough notice.
- Pay stubs reflecting reduced hours.
- Bank statement reflecting reduced income.
- A late rent notice or eviction notice.

Emergency Rental Assistance Payments

Your rental assistance program can include emergency payments for expenses incurred after the declaration of the national health emergency on January 21, 2020. Eligible rental assistance payments include:

- Past due rent and utilities.*
- Current and future rent and utilities.*
- Security and utility deposits.*
- Similar unpaid expenses.

There is no CDBG or CDBG-CV requirement that an eviction notice be issued to individuals or families to qualify for these payments.

*Under specific conditions, payments may be made to a utility owned by the grantee.

Grantees must have policies and procedures in place to determine that the amount of assistance provided is necessary and reasonable, and must maintain documentation to ensure that all costs incurred are eligible.

Public Services Spending Cap

Typically, the amount of CDBG funds spent on public services each program year may not exceed 15 percent of the current year award plus 15 percent of the prior year’s program income. This annual public services spending cap has been [waived](#) for both CDBG-CV and FY2019 and FY2020 CDBG entitlement grants used for activities that prevent, prepare for, and respond to coronavirus.

Prevent, Prepare for, and Respond to Coronavirus

The purpose of the CARES Act is to help communities address the social, health, and economic impacts of the COVID-19 pandemic. Grantees must document how the activity prevents, prepares for, or responds to coronavirus when using CDBG-CV or when using FY2019 and FY2020 annual CDBG funds for which they want to use waiver flexibility. Documentation should be included at the program level (including the selection of households and eligibility criteria) and at the client level.

For rental assistance, the requirement that the funds must prevent, prepare for, or respond to coronavirus must be met for each assisted family. A family may be eligible for assistance to “respond to” COVID-19 if the family has experienced income loss due to coronavirus, resulting in the inability to pay rent. Alternatively, assistance may be provided to “prevent” or “prepare for” coronavirus if the assistance is necessary for a family to maintain its housing and stay safe and healthy, thereby reducing the risk of exposure to and further spread of the virus. Consideration should be given to whether other safeguards such as eviction moratoriums are in effect in the community.

Individuals and families receiving rental assistance are required to repay any payment made on their behalf to their landlord that is in excess of their identified need due to a duplication of benefits.

Grantees are encouraged to ask about other forms of assistance when families apply for assistance and to include a statement acknowledging the tenant’s understanding of the duplication of benefits prohibition and agreeing to repay any assistance that was duplicated in their rental assistance application forms.

See [Using CDBG and CDBG-CV to Support Pandemic Recovery](#) for additional guidance.

National Objective

- Each CDBG activity must meet a CDBG national objective. Most CDBG grantees will qualify an emergency payment program for rental assistance by demonstrating that at least 51 percent of beneficiaries are LMI under the limited clientele national objective category. Recipients of emergency payments must be qualified at the family level.
- A minimum of 70 percent of a grantee’s total allocated CDBG-CV funds must be spent on activities that meet the CDBG national objective of benefitting LMI people.
- In some cases, emergency payment activities for rental assistance may qualify as addressing an urgent need. Grantees must certify that they are unable to finance the activity on their own and that other funding sources are not available. Additional guidance can be found in Section III of [Notice of Program Rules, Waivers, and Alternative Requirements under the CARES Act](#).

The [Guide to National Objectives and Eligible Activities for CDBG Entitlement Communities](#) provides additional information on determining national objectives.

Duplication of Benefits

The Stafford Disaster Relief and Emergency Assistance Act, as amended, prohibits the duplication of benefits when providing financial assistance on behalf of an individual or family using federal funds when other assistance has already been provided or will be provided for the same purpose, regardless of the funding source. The CARES Act includes a similar provision for CDBG-CV funds.

This is a significant requirement to consider when selecting funding sources and designing and implementing your program. You must have procedures in place to ensure that program funds are not distributed for activities financed by another public or private source. See [CDBG-CV Duplication of Benefits Quick Guide](#) and [CDBG Coronavirus Response Grantee Resources Related to Preventing Duplication of Benefits](#) for further details.

Program Timing

Regulations governing the amount and timing of pre-award costs have been modified to allow up to the entire allocation of your CDBG-CV funds to be used for pre-award costs and to allow pre-award costs to be reimbursed back to January 21, 2020, if needed. However, note that other federal pre-award requirements remain, including but not limited to the need to complete an environmental assessment and release funds prior to disbursing funds, which can impact the timing of the implementation of your rental assistance activities. Detailed information about the waived pre-award cost regulations are included in Section III.B.5.(b) of the [Notice of Program Rules, Waivers, and Alternative Requirements](#).

Grantees have up to six years from the date of the grant agreement for the first allocation of CDBG-CV funds to expend their full CDBG-CV allocation. Eighty percent of CDBG-CV grant funds must be expended within three years of the initial grant agreement date.

Lead-Based Paint (LBP) Regulations

The [Lead Safe Housing Rule \(LSHR\)](#) requirements apply to CDBG-funded rental assistance payments for pre-1978 units where children under age six or pregnant women reside. The requirements of subpart K (visual assessment, paint stabilization, and maintenance) do not apply for emergency rental assistance limited to 100 days.

The 100-day emergency grace period starts at the time of the first payment. If the emergency assistance period is expected to exceed 100 days, a visual lead-based paint inspection is required. Further guidance on the calculation of the 100-day grace period is provided in [CDBG-CV Funds for Rent or Mortgage and Arrearages Subsistence-Type Payments](#).

Due to coronavirus, it may not be possible to do an onsite visual inspection. In this case, the owner(s) or a surrogate may perform a remote visual inspection. Grantees are encouraged to develop policies and procedures that describe how their program will meet these requirements and provide the necessary documentation. Additional guidance has been issued by the [Office of Lead Hazard Control and Healthy Homes \(OLHCHH\)](#). Free [visual assessment training](#) for grantees is available online.

Regardless of any applicable exemptions, tenants must always be provided the pamphlet [“Protect Your Family from Lead in Your Home”](#) and the required [disclosure form](#).

Documentation and Reporting

HUD encourages reporting on beneficiaries and performance in the Integrated Disbursement and Information System (IDIS) quarterly (at the same time as the required SF425 financial submission). Public services beneficiary data must be reported at least annually for each CDBG and CDBG-CV activity. Select “yes” next to the “Is this activity to prevent, prepare for, and respond to coronavirus?” field when setting up the activity. Emergency payments accomplishments may be reported under a single IDIS activity for each eligible activity category (matrix code).

IDIS Activity Matrix Codes and Reporting

Emergency assistance payment activities should be set up using the Subsistence Payments (05Q) matrix code—a one-time or short-term emergency payment made on behalf of an individual or family for the purpose of preventing homelessness.

Matrix codes for other supportive rental assistance service activities include:

- Security Deposits (05T)
- Tenant/Landlord Counseling (05K)
- Fair Housing Activities (05J)
- Housing Information/Referral Services (05X)

For subsistence payments qualified under a limited clientele (LMC) national objective, report the number of individual family members benefiting in IDIS.

CARES Act-funded activities will require a quarterly report submission and other reporting requirements as described in Section III.B.8. of [Program Rules, Waivers, and Alternative Requirements Under the CARES Act for CDBG-CV Grants, FY 2019 and 2020 CDBG Grants, and for Other Formula Programs](#).

Clarifying Guidance on Regulatory Waivers and Alternative Requirements

To ensure compliance with federal regulations, review both the requirements and the waivers issued for a specific program before finalizing your emergency payments program. Links to general program resources and the notices issued by HUD are included below.

OTHER USEFUL RESOURCES

- [CARES Act—Coronavirus Relief Fund](#)
- [FR-6218-N-01: Notice and FAQs: Program Rules, Waivers, and Alternative Requirements Under the CARES Act for CDBG-CV Grants, FY 2019 and 2020 CDBG Grants, and for Other Formula Programs](#)
- [COVID-19 Administrative Relief and the Coronavirus Aid, Relief, and Economic Security \(CARES\) Act](#)
- [COVID-19 Information and Resources](#)
- [Homelessness Prevention and Rapid Rehousing Program](#)
- [Homeless System Response: Homelessness Prevention: Effective and Efficient Prevention Programs](#)
- [CPD Flexibilities/Waivers Granted by the CARES Act + Mega Waiver and Guidance](#)
- [Federal Funding Priority Order for Noncongregate Shelter During COVID-19 \(June 23, 2020\)](#)
- [CDBG-CV Funds for Rent or Mortgage and Arrearages Subsistence-Type Payments](#)
- [Using CDBG-CV Funds for Emergency Payments to a Public Utility Q&A](#)

QUESTIONS

Specific questions about how the CDBG-CV program can be used to assist individuals and households should be directed to your CDBG field representative or HUD Exchange Ask A Question.

ACKNOWLEDGEMENT OF SUPPORT AND DISCLAIMER

This material is based upon work supported by funding under an award with the U.S. Department of Housing and Urban Development. The substance and findings of the work are dedicated to the public. Neither the U.S. Government, nor any of its employees, makes any warranty, express or implied, or assumes any legal liability or responsibility for the accuracy, completeness, or usefulness of any information, apparatus, product, or process disclosed, or represents that its use would not infringe privately owned rights. Reference herein to any specific commercial product, process, or service by trade name, trademark, manufacturer, or otherwise does not necessarily constitute or imply its endorsement, recommendation, or favoring by the U.S. Government or any agency thereof. Opinions expressed in this document are those of the authors and do not necessarily reflect the official position of, or a position that is endorsed by, HUD or by any HUD program.



Eviction Prevention for At Risk Tenants: A Message to HUD Program Grantees

The CARES Act **Eviction Moratorium ended on July 24, 2020**. States, localities, and nonprofit organizations that administer HUD grant programs can play a crucial role in promoting housing stability during this difficult time. HUD strongly encourages its grantees to take action to keep as many families stably housed as possible. Grantees are advised that tenant-landlord relationships are governed by state and local law and landlords must comply with applicable laws, including any state or local eviction moratoria that may remain in effect.

HUD recognizes that many low income residents are also facing new challenges due to COVID-19, such as job loss, reduced hours and income, loss of childcare, limited access to healthcare, illness, death of loved ones, increased incidents of domestic violence, rising costs for basic needs, among possible other concerns resulting from further uncertainty. The process of evicting residents can be costly to landlords, from court and legal fees to unit turnover costs and an eviction can adversely affect the housing and financial stability of an individual or household for many years to come.

HUD strongly encourages all grantees and owners of HUD-assisted housing to work with tenants at-risk of eviction to negotiate **rent repayment plans** to help them stay housed. To this end, HUD is providing the following tools to help grantees and project owners to help identify and engage at-risk tenants, as well as to inform and guide tenants seeking a rent repayment plan:

[Tools for Landlords with Tenants Impacted by COVID-19](#) – This document will help landlords to engage with at-risk tenants while remaining in compliance with fair housing laws and understand the key elements of a repayment plan. The document provides links to sample rent repayment agreements.

[Tenant Guidance: Rent Repayment Plans](#) – This document will assist at-risk tenants in understanding and pursuing rent repayment agreements with their landlords. The document includes links to helpful resources and a sample script for requesting a repayment agreement from a landlord. Use of this guidance is optional and grantees and tenants are strongly cautioned to review their state and local laws as under some laws, a tenant notifying an owner of the inability to pay rent is sufficient for the owner to initiate eviction proceedings.

For more information about HUD's response to the COVID-19 pandemic, visit <https://www.hud.gov/coronavirus>

Perdew, Tammy

From: The Low Income Housing Coalition of Alabama <rachel@collaborative-solutions.net>
Sent: Friday, September 4, 2020 10:17 AM
To: Perdew, Tammy
Subject: National Eviction Moratorium Takes Effect Today



National Eviction Moratorium Takes Effect Today

Today, the Centers for Disease Control (CDC) issued a federal eviction moratorium that protects renters from being evicted for nonpayment of rent during the ongoing COVID-19 pandemic. To be protected, qualified renters facing eviction should immediately provide a signed declaration to their landlords. Please see the resources below from the National Low Income Housing Coalition with details on the moratorium, what this means for renters, and a sample declaration that renters can use.

Overview of National Eviction Moratorium

National Eviction Moratorium: FAQ for Renters

Please share information with renters about the federal eviction moratorium and the steps they must take to be protected! Additionally, we must continue to demand that Congress and the White House restart negotiations and pass a COVID-19 relief bill that includes emergency rental assistance so that renters remain stably housed during and after the pandemic.

Please share this message with your network!

For questions, contact rachel@collaborative-solutions.net.

Low Income Housing Coalition of Alabama
P.O. Box 130159 | Birmingham, AL 35213-0159
Phone (205) 939-0411 ext. 207
www.lihca.org

Q and A on Using CDBG-CV funds for emergency payments to a public utility

Q: May CDBG-CV be used to provide assistance to a household by paying a public utility provider on the household's behalf?

Emergency payments are an eligible CDBG/CDBG-CV public services activity type and must be made to the provider (e.g., landlord, lender or utility company) of rent, mortgage, or utility payments on behalf of an individual or family, and not directly to an individual or family in the form of income payments, debit cards, or similar direct income payments. Grantees must ensure that proper documentation is maintained to ensure that all costs incurred are eligible. Grantees must document, in their policies and procedures, how they will determine the amount of assistance to be provided is necessary and reasonable and how the activity meets a CDBG national objective. For CDBG-CV, the grantee must also document how the activity prepares for, prevents, or responds to the coronavirus and does not duplicate other benefits.

There are some specific requirements a grantee must consider in making an emergency payment to a public utility on behalf of an individual or family, and these include:

1. The costs a grantee-owned utility incurs in providing services are allowable to the extent they are consistent with cost principles at 2 CFR Part 200, Subpart E. The costs typically incurred by a grantee-owned utility include depreciation, payments to external suppliers (e.g., of electricity or natural gas), operating and maintenance, etc. However, the grantee must ensure that the costs to be allocated to individuals/families do not include depreciation of assets whose cost was borne by the Federal Government (including assets acquired or improved with CDBG funds).
2. The cost principles cited above also do not permit a grantee to earn a profit on charges to grant programs. Therefore, the grantee must ensure that the "per unit" cost of delivering the utility service to an individual/family is reasonable. If the grantee wishes to base its charge to the grant on the fee billed to the individual/family, it must ensure that the amount of the utility fee is reasonable. One test of the reasonableness of the utility fee billed to the individual/family is whether the operations of the utility are budgeted so as to realize an excess of revenue over expenses (i.e., a "profit") for the budget period. If the utility's operations are budgeted and accounted for in a separate enterprise fund, as is likely for most grantees, the grantee should evaluate the fund's budget and/or financial statements to ascertain whether its operations will generate a profit. If a profit is not indicated, the billed fee may be used to support the reasonableness of the charge to the grant for the emergency payment.
3. If the utility is operated so as to earn a profit, the grantee must calculate the per unit cost for residential customers based on the actual costs of providing the service and an allocation base that results in an equitable allocation to the grant.

If the grantee operates a public utility that is not budgeted or accounted for in a separate fund, the grantee is strongly advised to discuss options with its assigned HUD field office.

Grantee Name _____
 Project Number _____
 Preparer _____
 Date Prepared _____
 Follow-up Review Indicated _____

Subsistence Assistance Compliance Checklist *Circle One:* **Rental** - **Mortgage** - **Utilities**

		Yes	No	N/A	Notes
A.	Is there documentation on file that assistance was needed due to the impact of COVID-19 or other infectious diseases?				
B.	Is there a Subrogation Agreement on file for Grantee and Third Parties?				
	** For rental assistance, is there one on file for both the tenant and landlord?				
	** For mortgage assistance, is there one on file for the mortgagor?				
	** For utility assistance, is there one on file for the utility customer?				
C.	Is there a Self Certification of No Duplication of Benefit on file for Grantee and Third Parties?				
	** For rental assistance, is there one on file for both the tenant and landlord?				
	** For mortgage assistance, is there one on file for the mortgagor?				
	** For utility assistance, is there one on file for the utility customer?				
D.	Is there documentation of income? (<i>pay stub, W-2, income tax return, self declaration form, etc.</i>)				
E.	Does assistance have 3rd party documentation? (<i>lease, rental agreement, mortgage, utility bill, etc.</i>)				
F.	Was amount of assistance needed verified? (<i>bill, notice, letter, etc.</i>)				
G.	Was assistance less than or equal to 6 consecutive months (including one time payment of arrears with 1st month of assistance)?				

H.	Was assistance paid directly to landlord, mortgagee, or service provider?				
I.	After 100 consecutive days of assistance, was lead-based paint visual inspection performed on units/houses constructed before 1978?				
J.	Does documentation of case files indicate that <u>no</u> duplication of benefits has occurred?				

CDBG CLOSE OUT CHECK LIST
(FOR ADECA USE ONLY)

Subgrantee: _____ Project No: _____

Project Description:

Contact Person: _____ Phone No: _____

- I. Have these documents been received by ADECA's Engineer: Yes No N/A
1. Final Summary Change Order: _____ Yes No
2. Final Inspection for project / date: _____ Yes No
3. As-Built Certification: _____ Yes No

Comments (not required for Demo, Rehab or Planning grants):

- II. Newspaper Advertisement for Notice of Completion: Yes No N/A

(For all prime contractors): Close-out documents should not be submitted until after the 4-week advertisement period and expiration of the 30-day hold from the last advertisement. Additionally, all funds other than administration retainage should be drawn prior to submittal of close-out documents. Contracts for less than \$50,000 have different rules. For more, review Policy Letter 16, rev 1. Date of first ad must not be prior to the date of Final Inspection Certification.

Comments (places and dates):

- III. Final Wage Compliance Report (from all Prime Contractors): Yes No N/A

Was Restitution required? If yes, explain: Yes No

Comments:

IV. Final Disclosure Statement: Yes No

Comments:

V. Section 3 and Minority Contracting Reports: The Form 2516 and Form 60002 are now reported by Fiscal Year (October – September). **These forms are due at closeout with both a cumulative reporting of, and a periodic reporting of CDBG Dollars Only for ALL activities, including Planning Grants.**

1. Is the final Form 2516 (Contracts and Subcontracts) included? Yes No

2. Is the final Form 60002 (Section 3 Summary Report) included? Yes No

3. Has a copy of both periodic forms been provided to the FH&EO program's assistant? Yes No

If not, why? _____

VI. Close Out Public Hearing: N/A (explain below if N/A)

1. Newspaper advertisement / Posting: Yes No

If required, give places and dates:

2. Date of hearing: _____

(Not to be held prior to the date on the Final Inspection Certification)

3. Minutes of hearing: Yes No

4. List of attendees / No of Attendees: _____ Yes No

Comments:

VII. List of Applicants Form for Housing or ED projects: Yes No N/A

Is the number created consistent with the application? Yes No

Comments:

VIII. Households Assisted Form (housing projects only): Yes No N/A

Comments:

IX. Hook-up Certification (water and sewer projects only) N/A

1. Is there a Hook-up Certification signed by chief elected official? Yes No

Comments:

2. Is the number of hookups consistent with the application? Yes No

Comments:

X. Performance Assessment Report

1. Cover sheet (pg 1): Yes No

2. Direct benefit activities sheet (pg 2): Yes No

Comments:

3. Performance Measures Summary sheets (pgs 3-6): Yes No

Pg 5 (economic development) - N/A

Comments: Pg 6 (housing/demo-clearance/acquisition) - N/A

XI. Project Narrative/Photographs Yes No

Is there a detailed narrative of project accomplishments and are there photographs of the project and/or beneficiaries (note if electronic, please print and include in closeout package):

Comments:

XII. CDBG Budget/Final Financial Form

1. Is the Financial Form properly completed? Yes No
2. Is final draw submitted with the close out? Yes No

If yes and acceptable, note in comments section of the draw: "Acceptable close out documents have been received."

Comments:

XIII. Internal Close Out Forms and Procedures

1. Has the project been monitored? Yes No
2. Have all monitoring findings been resolved? Yes No N/A
3. Have input forms for monitoring/close out been completed? Yes No
4. Is Implementation Schedule Current? Yes No
5. CDBG Budget/Final Financial Report signed by ADECA? Yes No
6. Has Close out letter been written? Yes No

Comments:

XIV. Audit Certification Form

1. Has an Audit Certification been properly completed? Yes No
2. Which Block was completed? Block 1 Block 2

Comments:

XV. Other Comments (formal amendment, etc.)

Comments:

Program Supervisor's Signature _____ Date: _____

USING CDBG FOR PUBLIC FACILITIES IN CORONAVIRUS RESPONSE

The COVID-19 pandemic has led to economic, health, and social hardships for millions of people and a new awareness of the changes needed to reduce pandemic impacts in the future. The CDBG Coronavirus (CDBG-CV) response grants, provided as supplemental funding to CDBG grantees under the CARES act, can fund a wide range of community development activities to help communities prevent, prepare for, and respond to the direct and indirect effects of the current COVID-19 pandemic and to mitigate future risks. The CARES Act also waived certain regulatory requirements for CDBG and other Federal programs. Both CDBG and CDBG-CV funds can be used by grantees to create, expand, or enhance public facilities that may provide medical care, social services, and emergency housing in response to the current pandemic while increasing their long-term resiliency and ability to mitigate future coronavirus outbreaks. It is important to note that, with few exceptions, the expansion or enhancement of buildings for the general conduct of government is ineligible.

Existing public facility structures can be modified to prevent the transmission of the coronavirus and allow for adequate social distancing or remote access. Public infrastructure improvements can also help alleviate the immediate or long-term social, economic, and public health impacts of the current COVID-19 pandemic and prevent the coronavirus's future spread.

When deciding the best approach to respond to the coronavirus' extraordinary local impact, grantees will find an array of resources to draw upon and a diversity of approaches. Building, acquiring, or improving public facilities is one such approach.

Other Federal, state, and local resources available to acquire or improve public facilities include the CARES Act Coronavirus Relief Fund; the Coronavirus Recovery Funds in the American Rescue Plan; the Federal Emergency Management Agency (FEMA) Disaster Relief Fund; Emergency Solutions Grants (ESG); and public housing, Housing Opportunities for Persons with AIDS (HOPWA), and United States Department of Agriculture (USDA) Rural Housing Service programs. These other funding sources may not meet every need and may not be available to every community. This guide discusses how CDBG-CV funds can fill in the gaps left by other funding programs. It provides examples of how grantees may use CDBG-CV funds to improve public facilities to prevent, prepare for, and respond to the coronavirus now and in the future. It is intended to help grantees select and implement CDBG-CV-funded public facility projects.

PUBLIC FACILITY projects can include, for example:

- Medical facilities,
- Non-congregate shelters,
- Childcare facilities, and
- Day-use centers.

PUBLIC INFRASTRUCTURE projects can include, for example:

- Installation of broadband to enable remote access, and
- Redesign of public sidewalks in front of local businesses to encourage social distancing.

USING CDBG-CV FUNDS FOR PUBLIC FACILITIES

The term "public facilities" is broadly interpreted under CDBG to include publicly accessible facilities that are owned by public entities or nonprofit organizations such as libraries, community centers, and places

where people receive services. Public facilities also include places that provide temporary or specialized shelter such as emergency shelter, nonprofit or publicly owned nursing homes or residential medical facilities, or other types of short-term or transitional shelter. The public facilities activity category is generally intended to address the physical costs of improving the facility rather than provide support for operating costs or services that may be provided within the facility. Grantees may, however, also fund the operation of some public facilities as a public service using CDBG-CV or CDBG.

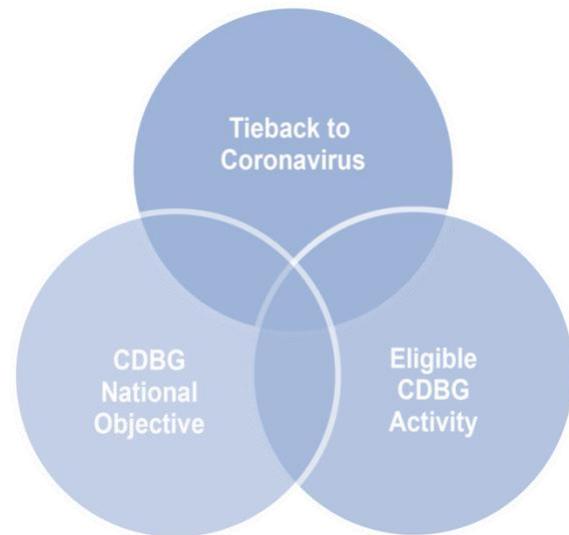
Each CDBG-CV-assisted public facility activity must meet the following three criteria. Additional CDBG-CV requirements also apply and are described in subsequent sections.

1. Eligible Costs

Acquisition, rehabilitation, construction, and reconstruction are all eligible public facility costs. Grantees may, in some cases, also support the operation of a public facility as a public service activity separate from or in concert with a capital investment. For instance, CDBG-CV funds can be used to pay the operation costs of a non-congregate homeless shelter.

Grantees must evaluate if the activity will meet duplication of benefit requirements for use of CDBG-CV funds.

Grantees must have documented policies and procedures for preventing duplication of benefits. Additional information is available below and in [CDBG Coronavirus Response Grantee Resources Related to Preventing Duplication of Benefits](#).



2. Tieback to Coronavirus

The proposed project must be designed to *prevent, prepare for, or respond to* the coronavirus. Grantees must document this relationship, often referred to as the "tieback," by documenting a logical relationship between the benefits of the assisted activity and the effects of the coronavirus. This tieback may relate to the current pandemic and may also relate to mitigating potential future coronavirus pandemic impacts. A grantee may also undertake activities to address the indirect effects of the virus, such as the economic and housing market disruptions caused by social distancing measures and stay-at-home orders implemented to prevent the spread of coronavirus.

3. CDBG National Objective

The project must meet one of the three CDBG national objectives:

- Benefit low- and moderate-income persons.
- Meet community development needs having a particular urgency (urgent need).
- Aid in the prevention or elimination of slums or blight.

Benefit low and moderate (L/M)-Income Persons: Public facilities that serve the public at large can meet the L/M income benefit national objective on an area basis (LMA). These public facilities must have:

- A service area that is primarily residential.
- At least 51 percent of households in the service area that are L/M-income.

Public facilities that serve a specific L/M-income population may meet L/M-income benefit on a limited clientele basis (LMC). These public facilities activities must either:

- Benefit a specific group presumed to be L/M income within CDBG regulations.
- Be able to document that 51 percent or more of persons they serve are L/M-income.
- Have, due to their nature and location, clientele who are primarily L/M-income.

*Urgent Need*¹: Public facility and public infrastructure improvements may qualify by meeting the Urgent Need national objective if they alleviate emergency conditions that pose a serious and immediate threat to the health or welfare of the community. Grantees must document that they are unable to finance the activity on their own and that other funding sources are not available.

Slums or Blight: The requirement that CDBG-CV funds be used to prevent, prepare for, and respond to the coronavirus makes it unlikely that a public facilities activity would also be able to meet the Slums or Blight requirement that the activity address specific conditions that lead to slums or blight.

Please see the [Guide to National Objectives and Eligible Activities for CDBG Entitlement Communities](#) for additional information on how to select an appropriate national objective.

Regardless of the national objective met, at least 70 percent of a grantee's CDBG-CV funds must be spent on activities that meet the CDBG national objective of benefitting low- and moderate-income people.

PUBLIC FACILITY AND INFRASTRUCTURE IMPROVEMENTS THAT RESPOND TO CORONAVIRUS

Grantees are encouraged to undertake public facility and infrastructure projects that both address immediate community needs and mitigate the effects of future coronavirus occurrences. Public rights-of-way and outdoor recreational facility improvements, for example, can be an effective way of addressing the immediate indirect impacts of the current COVID-19 pandemic while creating long-term spaces designed to reduce the transmission of future coronaviruses.

The following table provides examples of public facility and infrastructure projects that can be financed with CDBG-CV funds. In addition to common public-facility-eligible activity categories, the table also identifies improvements that promote remote access, which includes a range of technology improvements that promote social distancing and measures to reduce the transmission of the virus in enclosed spaces. Eligible costs under public facilities include permanent physical changes to facilities rather than temporary changes or portable equipment.

¹ The CDBG-CV notice, 85 Fed Reg 51457, provides waivers that streamline the documentation for activities that are designed to meet the urgent need national objective.

Table 1: Potential Public Facility and Infrastructure Projects

POTENTIAL PUBLIC FACILITY AND INFRASTRUCTURE PROJECTS	PREVENT	PREPARE	RESPOND	LAND ACQUISITION	BUILDING ACQUISITION	CONVERSION	CONSTRUCTION/ REHAB	SITE IMPROVEMENTS	REMOTE ACCESS
	CORONAVIRUS TIEBACK			CDBG-CV ELIGIBLE USE					
Medical Facilities and Clinics		X	X	X	X	X	X	X	X
Creation or modification of buildings to provide medical facilities for testing, treatment, recovery, or isolation; or to establish separated areas or remote access to appropriately treat people who have been diagnosed or exposed to the coronavirus. Creation or modification of residential facilities for people recovering from COVID-19.									
Emergency Shelters	X	X		X	X	X	X		
Creation, expansion, or modification of emergency shelters, auxiliary congregate shelter space, and non-congregate facilities for people experiencing homelessness to provide shelter options that allow for physical distancing within the shelter system and prevent the current and future spread of the coronavirus.									
Non-Congregate Shelter	X	X	X	X	X	X	X	X	
Acquisition and modification of underutilized structures such as motels and schools to create shelter for people experiencing homelessness and for individuals and households unable to practice social distancing due to overcrowding or shared living spaces. This model could also be used to support the development of related short-term shelter for medical workers or vulnerable populations who need to be isolated to avoid contracting the virus. Residential uses that provide permanent housing may be eligible as a CDBG housing activity rather than as a public facility activity.									
Day-Access Centers	X	X		X	X	X	X	X	
Creation, expansion, or modification of day-access centers to meet social distancing requirements and prevent the spread of the coronavirus. Such facilities include centers for people experiencing homelessness, neighborhood centers, senior centers, or other places that serve low- and moderate-income households or people who are presumed to be low-income.									
Social Service Facilities	X	X		X	X	X	X		X
Expansion or modification of social service facilities to meet social distancing requirements and to enable remote access that would make these facilities safe for both clients and employees. Examples include reconfiguration of reception areas and meeting rooms; conversion of open office spaces; improving heating, ventilation, and air conditioning (HVAC) to reduce transmission risks; and technology upgrades to provide services remotely.									

POTENTIAL PUBLIC FACILITY AND INFRASTRUCTURE PROJECTS	PREVENT	PREPARE	RESPOND	LAND ACQUISITION	BUILDING ACQUISITION	CONVERSION	CONSTRUCTION/ REHAB	SITE IMPROVEMENTS	REMOTE ACCESS
	CORONAVIRUS TIEBACK			CDBG-CV ELIGIBLE USE					
Childcare Facilities	X	X	X	X	X	X	X	X	
Creation, expansion, or modification of childcare facilities to encourage social distancing and reduce the transmission of the virus. Activities that address the effects of the current pandemic and mitigate the future spread of a coronavirus could include HVAC improvements, plumbing upgrades to improve sanitation, and the creation or improvement of outdoor spaces for childcare programs.									
Crisis Call Centers		X	X	X	X	X	X		X
Expansion, modification, or upgrade of existing call-in centers in response to the growing number of people in danger from suicide, substance abuse, domestic violence, and neglect and abuse of children due to social isolation measures enacted to prevent the spread of the coronavirus. Building renovations designed to improve interior air quality and ensure social distancing as well as permanently affixed technology upgrades to buildings to enable remote access are eligible public facility activities. Moveable equipment would not be an eligible public facility cost.									
Internet Access		X	X				X		X
Extension of reliable, high-speed internet access to underserved low- and moderate-income areas to enable or improve remote access to schools, jobs, and healthcare and thereby reduce the transmission of the virus. Infrastructure improvements include the installation of permanent high-capacity fiber-optics, fixed wireless, digital subscriber line (DSL), or cable in publicly assessable areas. Moveable equipment is not an eligible public facility cost.									
Public Rights-of-Way	X	X	X				X	X	X
Creation of outdoor space that allows safe, socially distanced activity in areas where pedestrian volume is likely to be high and pedestrian space is limited. CDBG-CV funds can be used to close lanes of traffic and repurpose on-street parking or underused parking by constructing permanent barriers such as railings, fences, or planter boxes; by constructing permanent canopies or awnings; by establishing appropriately spaced seating; and by improving lighting.									
Outdoor Recreational Facilities	X	X					X	X	X
Transformation of local streets into "neighborhood greenways" that welcome pedestrians and bicyclists while limiting vehicles to local traffic, providing additional space for outdoor activity, and encouraging physical distancing. CDBG-CV funds can be used for the purchase and installation of new gates, for removing architectural barriers that restrict the accessibility or mobility of elderly or disabled persons, for realigning and									

POTENTIAL PUBLIC FACILITY AND INFRASTRUCTURE PROJECTS	PREVENT	PREPARE	RESPOND	LAND ACQUISITION	BUILDING ACQUISITION	CONVERSION	CONSTRUCTION/ REHAB	SITE IMPROVEMENTS	REMOTE ACCESS
	CORONAVIRUS TIEBACK			CDBG-CV ELIGIBLE USE					
narrowing roadways, for expanding existing trail systems, and for repurposing surplus parking areas to allow outdoor recreational activity.									
Improvements to Buildings for Accessibility and Remote Access to Public Meetings	X	X					X	X	X
Physical modifications to improve access to buildings for people with disabilities is an allowed use of CDBG funds. Improvements such as automatic doors, touchless water fountains, and accessible bathrooms also reduce coronavirus transmission. Permanent improvements to enable remote video access to public and community meetings for public participation also increase access for persons with disabilities and mitigates coronavirus risks.									

These example projects may require the acquisition and renovation of land or buildings to repurpose them as public facilities or the modification of existing public facilities through various technology, structural, or site upgrades including:

- Reconfiguration of interior space to reinforce social distancing recommendations.
- Interior physical barriers such as clear plexiglass in public areas.
- Ventilation systems (i.e., high-efficiency particulate air [HEPA] filters, air purifiers, dehumidifiers).
- Temperature, humidity, and air quality sensors to reduce airborne transmission.
- Stand-alone sinks or handwashing areas.
- Replacement of fixed windows with operable windows.
- Accessibility improvements for persons with disabilities that reduce contact.
- Installation of drive-through or walk-up windows.
- Technology improvements, such as fiber-optic lines and ethernet cabling to support remote access.
- Modification of roadways and sidewalks to allow for social distancing.
- Creation of outdoor areas with shade covers and seating that ensure physical distancing.
- Exterior physical barriers such as fencing or planters.

PROJECT SELECTION CONSIDERATIONS

There are several factors for the grantee to consider after it has been determined that a project is an eligible activity; that it prevents, prepares for, or responds to the impacts of the pandemic; and that it meets a CDBG national objective. These include:

- **Community Need:** Does the project address an identified housing, economic, or community development need? Is it a priority need? Are there gaps in the availability of and accessibility to facilities and improvements when compared to a larger area? How does the project compare to other potential uses of funds? Consider how effective it will be in:
 - Reducing the risk of individuals contracting or further spreading the coronavirus (prevent).
 - Keeping people healthy by reducing their risk of exposure to the virus or avoiding or slowing the spread of disease (prepare for).
 - Mitigating the social, economic, and public health impacts of the pandemic (respond to).
- **Cost Reasonableness:** Is the cost of the project reasonable? Are CDBG-CV funds being used efficiently and effectively? Can CDBG-CV funds be used to leverage other public and private resources? Can the resources be expended within the time limitations for CDBG-CV funds?
- **Timing of the Project:** The development of public facilities can be complicated, often requiring multiple funding sources, competitive bidding, detailed architectural plans, extensive public review, and lengthy permitting processes. Depending upon the scale, it can take years to complete some projects. Given these challenges, can the project be completed in time to address the intended purpose? How will the timing enable the grantee to meet the requirement to expend 80 percent of CDBG-CV grant funds within three years?
- **Ongoing Use of the Facility:** Once completed, how long will the facility be used for its intended purpose? If converted for another purpose once it is no longer used for its specific purpose, will the new use remain in compliance with CDBG regulations? Additional information on the potential reuse of public facilities financed with CDBG-CV funds is included below in the "Use of the Public Facility after the Pandemic" section.
- **Duplication of Benefits:** The Robert T. Stafford Disaster Relief and Emergency Assistance Act, PL 100-70, as amended, prohibits the duplication of benefits when using federal funds where other financial assistance has already been provided or will be provided for the same purpose, regardless of the funding source. As federal disaster assistance, the Stafford Act applies to the use of CDBG-CV funds.



This is a significant requirement that should be considered when developing a project budget. Grantees must have documented policies and procedures for preventing duplication of benefits.

Additional information is available in [CDBG Coronavirus Response Grantee Resources Related to Preventing Duplication of Benefits](#).

- **Operational Capacity:** Does the grantee or its subrecipient have the organizational capacity and funding needed to operate the facility once the project is completed? Will additional funds (often an eligible public service activity) be required?

ACQUISITION, CONSTRUCTION, AND REHABILITATION ACTIVITIES

Public facilities projects will involve the grantee acquiring or improving real property. Improvements may include a variety of construction or rehabilitation of existing structures as described in the previous section. While some grantees have extensive experience implementing public facility projects, the process may be new to others. Grantees with limited experience should start with simple physical improvement or acquisition projects rather than complex projects involving substantial rehabilitation and/or new construction. When another entity such as a subrecipient, another public entity, or even another division within the grantee's own organization is completing the project, it is critical for the grantee to be in close coordination from beginning to end. This section outlines the major steps necessary for successful implementation of a public facilities project. It also describes some of the "cross-cutting" requirements of federal grants and HUD programs, and lists additional US Department of Housing and Urban Development (HUD) resources.

Acquisition

CDBG-CV funds are well suited to support the acquisition of existing buildings that can be used as facilities to address the impacts of the coronavirus. Acquisition of real property requires a significant investment of time and a good deal of expertise. It is critical that grantees are diligent in managing the high-risk nature of acquiring real property.



- **Project Scope and Property Identification:** Grantees should have a clear sense of the end use of the property first and identify a suitable site second. A site search should be informed by the stated need. Clear criteria should be developed for the property.
- **Early Due Diligence:** Once a property and its potential use have been identified (and the property owner has expressed a willingness to sell), grantees should assess the condition of the property, evaluate the financial feasibility of acquiring and improving the property, document any potentially displaced residential or commercial tenants, and develop a scope of necessary rehabilitation.
- **Option Agreement and Predevelopment Activity:** Grantees are encouraged to execute a non-binding option agreement which establishes a period of further due diligence, the acquisition process, environmental review requirements, the prohibition of site-limiting activities, and limitations on the removal of tenants.
- **Property Acquisition:** Grantees must finalize the purchase of the property, [relocate displaced tenants](#), and complete required building and site improvements or—if it is to be transferred to a nonprofit service provider or subrecipient—finalize the sale or lease of the property. In the event the use of the facility changes after the pandemic ends, grantees must re-evaluate the CDBG

eligibility of the new use as detailed later in this guide. It is important to note that if a grantee directly acquires property, that property will be identified as CDBG-assisted and must meet a national objective as long as the grantee owns the property, or the grantee may be required to reimburse its CDBG program for the fair market value of the property. As properties appreciate over time, this can become a significant financial risk to the grantee. Subrecipients acquiring property with CDBG assistance can have a shorter compliance period. Additional information about changes in use of a property can be found later in the guide.

Construction and Rehabilitation

CDBG-CV funds can also be used for new construction, substantial rehabilitation or conversion, and minor structural rehabilitation as they relate to public facilities. While several CDBG-CV waivers have been authorized by the CARES Act, many of the general requirements of the CDBG program remain in place.



- **Project Selection and Scoping:** While a broad array of improvements are eligible uses of CDBG funds and could meet a national objective, grantees must tie any improvements using CDBG-CV to the prevention of, preparation for, or response to the coronavirus requirements of the CARES Act. Project scoping—the identification of project goals, deliverables, tasks, costs, and deadlines—is a critical step given the multiple regulatory requirements associated with the use of CDBG.
- **Planning and Design:** Further develop a detailed scope of work and specifications prior to seeking construction proposals. These services are typically provided by a licensed architect with experience in the type of project that is planned. This will help grantees ensure they include the entire scope of work in the environmental review that must be completed prior to moving forward. The level of substantial rehabilitation or a change of use can trigger a higher level of environmental review.
- **Procurement:** The grantee is typically responsible for procurement of the contractor. When grantees are working with a subrecipient organization, that organization may be responsible for contractor procurement. Specific Federal and local procurement must be followed and incorporated into bidding processes and agreements, and grantees must incorporate all [labor standards](#) and [Section 3](#) requirements. No waivers related to CDBG procurement requirements are available.
- **Construction:** Once a contractor is selected and work is underway, it is critical to monitor progress and meet labor requirements. Grantees will need to consider how to incorporate social distancing requirements for construction workers, inspections, and other labor requirements.

See the HUD video series on [How to Use CDBG for Public Facilities and Improvements](#) for more information.

OTHER PROGRAM AND FEDERAL REQUIREMENTS

There are many Federal requirements that must be applied when developing a public facility project. Several of the more significant are noted below to provide general guidance to grantees unfamiliar with the process.

- Environmental Review: The appropriate level of environmental review must be conducted prior to any site-limiting action or the execution of any binding agreement with a property seller, partner agency, or contractor. The [HUD COVID-19 environmental review memo](#) (issued on August 6, 2020) provides specific information and examples of the levels of environmental review required for different types of projects. Grantees are encouraged to work with their HUD field office and environmental review specialist to ensure they are conducting the correct level of review for their projects.
- Acquisition and Relocation: All URA Acquisition and Relocation requirements apply to CDBG-CV projects. In addition, grantees should consider any additional Federal or state protections that may be in place to reduce displacement related to the coronavirus. See the [Tenant Assistance, Relocation, and Real Property Acquisition Handbook \(1378.0\)](#) for specific requirements.
- Fair Housing and Equal Opportunity: The grantee must assure that all CDBG-funded activities undertaken as part of the project are conducted in a manner which will not cause discrimination on the basis of race, color, religion, sex, disability, familial status, or national origin. See [Basically CDBG – Chapter 19: Fair Housing, Accessibility, and Equal Employment](#) for guidance.
- Labor Requirements: All Davis-Bacon, Section 3, and other labor requirements apply to CDBG-CV projects. See the [Federal Labor Standards Requirements in Housing and Urban Development Programs Guide \(1344.1\)](#) for specific requirements.
- Habitability Standards: Public facilities are considered shelter rather than housing under CDBG regulations. Any shelter must meet lead-based paint requirements and as well as [Section 504](#) accessibility standards that are required for both residential and commercial projects. For shelter and transitional housing, there may be other state or local habitability standards required.

The Guide for Review of CDBG-Funded Public Facilities/Improvements (Exhibit 3-25), and other exhibits included in the [CPD Monitoring Handbook](#), is an excellent resource for grantees developing a public facility or infrastructure project. Grantees are strongly encouraged to review the relevant sections of the Handbook to understand required project documentation.

USE OF A PUBLIC FACILITY AFTER THE PANDEMIC

Grantees should consider that the use of a public facility may change after the pandemic is over and the facility may no longer be needed for its intended use.

The Uniform Administrative Requirements ([24 CFR 200.311](#)) state that real property acquired or improved with Federal funds must continue to be used "for the originally authorized purpose as long as needed for that purpose, during which time the non-Federal entity must not dispose of or encumber its title or other interests." Often referred to as the **change of use standard**, the standard applies when more than \$25,000 in CDBG-CV funds are used to acquire or improve real property.

- If the property was acquired or improved by a grantee, the change of use standard applies from the date CDBG-CV funds are first spent for the property until five years after closeout of the grantee's participation in the CDBG entitlement program. ([25 CFR 570.505](#))
- In the case of property acquired or improved by a subrecipient, the standard applies for a minimum period of five years after the expiration of the subrecipient agreement. ([24 CFR 570.503\(b\)\(7\)](#))

Grantees are required to provide adequate public notice and an opportunity for the public to comment on the proposed change of use and determine if the acquired or improved property continues to meet a national objective.

- If, after consultation with the public, the grantee determines that the change of use is appropriate and that the new use continues to meet a CDBG national objective, the standard would be met, and no further action required.
- If the change of use does not meet a CDBG national objective, the grantee will need to reimburse the CDBG program if it decides to proceed as proposed. The amount required to be reimbursed to the CDBG program is based on the fair market value of the property at the time of the change of use, not the initial expenditure of CDBG-CV funds. That reimbursement is considered to be program income. Program income generated from CDBG-CV funds is treated as CDBG program income.

A change in use from the initial use to a later non-coronavirus-related use would not necessarily impact the determination of whether or not the new use meets a CDBG national objective.

Additional information can be found in [Basically CDBG - Chapter 6: Public Facilities, Special Assessments, and Privately-Owned Utilities](#).

OTHER USEFUL RESOURCES

Several helpful online resources have been developed by HUD:

- [Quick Guide to CDBG Eligible Activities to Support Coronavirus and Other Infectious Disease Response](#)
- [Primary Activities That Can Be Used to Prevent, Prepare for, and Respond to Coronavirus in the CDBG Program](#)
- [Using CDBG and CDBG-CV to Support Pandemic Recovery](#)
- [Federal Funding Priority Order for Non-Congregate Shelter During COVID-19](#)
- [Basically CDBG—Chapter 6](#)
- [How to Use CDBG for Public Facilities and Improvements](#)
- [Guide to National Objectives and Eligible Activities for CDBG Entitlement Communities](#)
- [Guidance on Options and Conditional Contracts for Purchase of Real Property for Environmental Reviews](#)

QUESTIONS

Specific questions about how the CDBG-CV program can be used to fund public facilities and infrastructure that prevent, prepare for, or respond to the coronavirus pandemic should be submitted to HUD's CDBG-CV [Ask A Question](#) helpdesk or directed to your CDBG field representative.

USING CDBG-CV TO SUPPORT BROADBAND ACCESS

This quick guide will summarize some of the ways CDBG-CV grantees can help narrow the digital divide through the provision of broadband infrastructure and services to communities in need due to coronavirus. Broadband access refers to an always-on, high-speed Internet connection. Broadband connectivity provides access to a wide variety of resources, services, and products and closes the gap in education, services and employment opportunities that exists in many low-and-moderate income communities.

BACKGROUND

Significant gaps in Internet connectivity and speed continue to exist for elderly households and persons with income and education disparities. The increase in work at home options due to the coronavirus requires enhanced broadband infrastructure, equipment, and access. Many low-and-moderate-income households lack the resources needed to access the equipment and broadband services needed for remote work. Similarly, lower-income children may not have access to a computer or a home Internet connection to attend virtual classes during the pandemic. This lack of connectivity prevents students from conducting research, completing classwork, or communicating with teachers, other students, and friends. Gaps in both equipment and broadband access also limit students access to technology-enhanced education and widens the gap in achievement. Seniors and other medically vulnerable populations who lack adequate equipment or broadband access are isolated from family, friends, and social activities during shelter in place orders and other recommendations for social distancing issued by local public health departments. Finally, many rural areas also lack broadband access due to a lack of infrastructure, consumer choices or financial subsidies to expand the number of Internet Service Providers (ISPs) in low-and-moderate communities and neighborhoods.

APPLICABILITY

Broadband related activities can be part of a grantee's overall strategy to prevent, prepare for or respond to the coronavirus using CDBG-CV resources from the CARES Act. This guide will provide an overview of the potential uses of CDBG-CV for broadband access under the criteria for eligible activities and national objectives in the [CDBG regulations](#) at 24 CFR 570, as well as Federal Register Notice [FR 6218-N-01](#), which describes the program rules, statutory and regulatory waivers, and alternative requirements applicable to CDBG-CV funds and to annual formula CDBG grants awarded in fiscal years 2019 and 2020.

The CARES Act requires grantees to ensure that there are adequate procedures in place to prevent any Duplication of Benefits. The [Duplication of Benefits](#) requirement applies to all CDBG-CV funds and 2019 and 2020 State CDBG funds used to prevent, prepare for, and respond to coronavirus. Grantees should gather information about all other resources, including other CARES Act assistance, to help determine potential risks of duplication and to target CDBG-CV resources where there are existing gaps or areas of unmet need.

States and localities should also consider the Consolidated Plan criteria outlined in Federal Register Notice [FR 5891-F-02](#): "Modernizing HUD's Consolidated Planning Process To Narrow the Digital Divide and Increase Resilience to Natural Hazards." This rule requires States and local governments to consult with public and private organizations, including broadband internet service providers, and organizations engaged in narrowing the digital divide (e.g., schools,

digital literacy organizations), and to encourage the participation of these entities in implementing relevant components of the plan. The rule also requires each jurisdiction to describe the broadband needs in housing occupied by low- and moderate-income households including broadband wiring, service, and competition by broadband ISPs.

ELIGIBILITY OF CDBG-CV ACTIVITIES TO SUPPORT BROADBAND ACCESS

CDBG-CV funds can be used to enhance broadband access in many ways, including but not limited to, infrastructure development, installation of wired and wireless connections, hardware and software purchases, construction of computer rooms for after-school programs that also incorporate appropriate health and safety precautions, training and digital literacy classes, and economic development assistance to businesses.

CDBG-CV grantees should fully examine the scope of their activities to ensure that they are both an eligible activity and are able to demonstrate compliance with the appropriate national objective. Grantees should maintain adequate documentation of their determination for each assisted activity. In some cases, grantees may also want to consider the costs and benefits of providing CDBG-CV funds for broadband assistance. The costs of installing broadband infrastructure will vary within different geographic areas. Jurisdictions with a strong broadband infrastructure may reduce the cost of a CDBG-CV supported activity. Wireless broadband assistance involves equipment that could vary greatly by the design and size of the project, and the cost per unit.

Broadband Infrastructure

CDBG funds may be used to install wiring, fiber optic cables, and permanently affixed equipment such as receivers for areas to receive broadband access. The acquisition, construction, reconstruction, rehabilitation, or installation of public facilities and improvements, including infrastructure improvements, are eligible under 24 CFR 570.201(c) and 42 USC 5305(a)(2). The acquisition, construction, reconstruction, rehabilitation, or installation of distribution lines and facilities of privately-owned utilities, which includes the placing underground of new or existing distribution facilities and lines, are eligible under 24 CFR 570.201(l) and 42 USC 5305(a)(4).

When using CDBG-CV funds for broadband infrastructure, grantees should consider operating and maintenance costs in addition to the costs of installation when deciding which form of broadband infrastructure to install.

Emergency Payments

CDBG funds may be used to make “emergency payments” for items such as rent and utilities - including Internet service - for up to three consecutive months (24 CFR 570.207(b)(4)). By waiver, HUD has extended the emergency payments to a six-month period (six consecutive months beginning at the time assistance is first provided) when using CDBG-CV funds and grant year 2019 and 2020 formula CDBG funds to prevent, prepare for, or respond to coronavirus.

As detailed in the March 30, 2021 CDBG-CV [Q&A](#) on “Arrearages Subsistence-Type Payments,” the emergency payments period begins when the payment is made, not when the individual’s or family’s arrearage began. If an individual or family is one or more months in arrears, a grantee may cover some or all the amount in arrears within the first month of assistance and continue through the applicable consecutive period of assistance. Emergency

payments for Internet service must be made directly to the ISP on behalf of the low-and-moderate income household. Payments may be made to a utility owned by the grantee, with some limitations. Grantees can also view the following Q and A for more information:

<https://www.hud.gov/sites/dfiles/CPD/documents/CDBG-CV-Q-and-A-on-Public-Utilities.pdf>.

Housing Activities

HUD defines broadband infrastructure for housing as, “cables, fiber optics, wiring, or other permanent (integral to the structure) infrastructure—including wireless infrastructure—as long as the installation results in broadband infrastructure in each dwelling unit meeting the Federal Communications Commission's (FCC's) definition in effect at the time the pre-construction estimates are generated.”

Housing activities that improve broadband infrastructure provides access to high-speed Internet to lower income tenants, whether they choose to or can afford to use the service or not. Enhancing broadband access also allows non-profit and other public social agencies that provide free or reduced-cost Internet service to assist eligible tenants more easily. CDBG-CV funds may be used for the rehabilitation of single and multi-unit housing privately owned buildings for residential purposes and non-profit owned, non-residential buildings and improvements not eligible under 24 CFR 570.202(a) and 42 USC 5305(a)(2), provided the grantee is able to document how such rehabilitation prevents, prepares for, or responds to coronavirus. The regulation at 24 CFR 570.202(g) *requires* installation of broadband infrastructure in a building with more than four rental units if it is substantially rehabilitated as defined by 24 CFR 5.100. This includes the labor, materials, and other costs of installation that allows tenants to receive broadband access.

New housing construction that is carried out by a qualified Community Based Development Organization under 24 CFR 570.204(a) and 42 USC 5305(a)(15) may also include the installation of wiring, fiber optic cables, and equipment that allows tenants to receive access to broadband.

Economic Development

CDBG-CV funds may be used to provide grants or loans to for-profit businesses, including businesses that focus on broadband/Internet access and technology under 24 CFR 570.203(b) and 42 USC 5305(a)(2). Grantees should note that underwriting standards must be applied to all special economic development activities. CDBG-CV assisted economic development projects must also comply with the public benefit standards outlined in FR 6218-N-01. Additional waivers and flexibilities granted in F.R. Notice 6218-N-01 for CDBG-CV assisted economic development activities include the elimination of the Aggregate Public Benefit test, and the use of for-profit and non-profit entities that pass funds through a financing mechanism (e.g. Opportunity Funds or New Markets Tax Credits). CDBG-CV funds can also support payments on Section 108 notes for activities that prevent, prepare for, and respond to coronavirus.

Public Services

Federal Register Notice FR 6218-N-01 waived the 15% cap for CDBG-CV, and for 2019 and 2020 CDBG Public Service activities that prevent, prepare for, or respond to coronavirus.

Grantees may use CDBG-CV funds for public service activities under 24 CFR 570.201(e) and 42 USC 5305(a)(2), such as digital literacy classes, technical training, after-school programs, telehealth services and other digital programs and services that expand the knowledge and use

of Internet products, services, and resources by low-and-moderate income households. The purchase of equipment or other personal property that is not an integral structural fixture is also eligible when such items are necessary to carry out a public service. Grantees should follow the equipment management and disposition requirements at 2 CFR 200.310, 200.313 and 200.316. Items of equipment with a current per unit fair market value of \$5,000 or less may be retained, sold or otherwise disposed of with no further obligation to HUD.

An example of a CDBG-CV supported public service is the purchase of laptops and hotspots to be provided for use by children from low-and-moderate income families so that these children may access virtual classes provided by schools. At the end of the school year, the grantee can determine the appropriate disposition of equipment under \$5000 in value. For example, a grantee could collect the laptops and hotspots and provide them again for use by children if social distancing requirements remain in place or recur, and schools are providing virtual instruction.

Digital Training and Education Support

Digital training and education that is provided as a CDBG-CV assisted public service to prevent, prepare or respond to coronavirus can help increase digital fluency, proficiency, and confidence. Digital training can improve the technical skills needed to access information and services on the Internet and allow low-and moderate-income households to make the most of their digital equipment and devices. As described in the ConnectHOME [playbook](#), examples of digital literacy skills training include:

BASIC	INTERMEDIATE	ADVANCED
Using devices	Internet safety	File management
Internet connections	Online services	Office applications
Instant messaging	Social networking	Email communication

Educational support can assist low-and-moderate income students impacted by school closures due to coronavirus. Providing access to online instructional materials and classes allows students to attend virtual classes and bridge the “homework gap” that occurs when broadband access is not available. Educational resources can also help students to prepare for college and apply for financial aid.

Planning/Administration

Broadband planning, resource mapping, financing strategies, utility plans and other related planning activities may be supported with CDBG-CV funds under 24 CFR 570.205 and 42 USC 5305(a)(2). To use CDBG-CV funds for this activity, the grantee must be able to document how these activities address coronavirus.

DETERMINING A NATIONAL OBJECTIVE FOR CDBG-CV ACTIVITIES IN SUPPORT OF BROADBAND ACCESS

CDBG-CV funds can only be spent on eligible activities that meet a national objective. As previously described, there are several potentially eligible broadband activities that can be assisted, though most activities will fall under public improvements, housing, or public services.

The installation of broadband infrastructure may meet the national objective of benefit to low- and moderate-income persons on an area basis under 24 CFR 570.208(a)(1). To qualify, the activity's service area must be a primarily residential area where not less than 51 percent of the persons residing in the area are low and moderate income. The service area is defined as the geographic area where the houses to be served by the broadband are located. Infrastructure-related improvements to private property that increase broadband access (e.g. equipment, connections, cabling) may meet the "housing activities" national objective under 24 CFR 570.208(3).

The mapping tool component of the "Low-Moderate Income Summary Data for CDBG, NSP, and CDBG-DR Area-Benefit Activities" website allows grantees to draw service area boundaries on a digital map. The tool then shows the user the LMA percentage of the service area, based on Census geography and data. The tool can be found at [Low- and Moderate-Income Summary Data, based on 2011-2015 ACS \(arcgis.com\)](https://arcgis.com).

Providing broadband service directly to households, such as in the Tucson program described below, may meet the low- and moderate-income limited clientele national objective under 24 CFR 570.208(a)(2). In this case, at least 51 percent of the households benefitting from a service must be low-moderate income. In the Tucson example, income information was required for every assisted household. As noted above, increasing connectivity on private property may also meet the low-and-moderate income housing national objective at 24 CFR 570.208(3).

Some programs may be structured in a way where the service benefits persons who are presumed to be principally low-and-moderate income persons. As described under 24 CFR 570.208(a)(2)(A), activities that exclusively serve a group of persons in any one or a combination of the following categories may be presumed to benefit persons, 51 percent of whom are low- and moderate-income: abused children, battered spouses, elderly persons, adults meeting the Bureau of the Census' Current Population Reports definition of "severely disabled," homeless persons, illiterate adults, persons living with AIDS, and migrant farm workers.

To support the three components of the urgent need national objective criteria at 24 CFR 570.208(c), grantees may use the same documentation that demonstrates the activity prevents, prepares for, or responds to coronavirus to demonstrate that CDBG-CV broadband activities alleviate existing conditions, are unable to be financed their own (DOB documentation also supports this criteria), and causes a serious and immediate threat to health and safety. The criteria can be documented via federal, state or local emergency declarations.

Broadband Models

The [Emergency Broadband Benefit Program](#) is a new, Federal Communications Commission (FCC) program that provides a temporary discount on monthly broadband bills for qualifying low-income households. Eligible households can receive:

- Up to a \$50/month discount on broadband service and associated equipment rentals
- Up to a \$75/month discount if your household is on qualifying Tribal lands

- A one-time discount of up to \$100 for a laptop, tablet, or desktop computer (with a co-payment of more than \$10 but less than \$50)

In 2015, HUD launched its Digital Opportunity Demonstration, known as “[ConnectHome](#),” which provided a platform for collaboration among local governments, public housing agencies, Internet service providers, philanthropic foundations, nonprofit organizations and other relevant stakeholders to work together to produce local solutions for narrowing the digital divide in communities across the nation served by HUD. ConnectHOME uses a “three-legged stool” approach that combines connectivity strategies to increase Internet service with access to Internet-ready computers and tablets and digital literacy training that allows low-and moderate-income households to successfully use information and communication technologies.

HUD is also collaborating with [EveryoneOn](#) and [US Ignite](#) to build local partnerships and gather commitments that will increase access to the Internet for low-income Americans. These partnerships will bring broadband, technical assistance, and digital literacy training to students living in public and assisted housing across America.

INFRASTRUCTURE

The state of West Virginia is using its state CDBG funds to expand broadband to underserved areas like [McDowell County](#), where over a third of the residents live in poverty and only 66% of the residents have broadband access according to the U.S. Census. CDBG program funds are being used to install 20 miles of aerial fiber lines that will improve internet service to over 300 homes and businesses in the county. Since there are no medical facilities in the service area, the project will also significantly improve access to telehealth services. McDowell County has more than 51% low-and-moderate income persons, so the activity meets the Low Mod Area benefit national objective.

PUBLIC SERVICES

In Tucson, AZ an estimated 150,000 residents do not subscribe to broadband. To provide these households with access to remote learning and telehealth, the city partnered with a private sector technology company to erect towers on fiber-connected municipal buildings and city-owned property at strategic locations across the city and install converter devices inside eligible low-and-moderate income households. The work began in January 2021 and by mid-February 2021, 80 percent of the network was complete with 300 households connected. By mid-March 2021 that number is expected to reach 1000. Households must apply and be income eligible. The service is scheduled to be offered through the end of December 2021.

Useful Resources

[Federal Register Notice FR 5890-F-02](#) – “Narrowing the Digital Divide Through Installation of Broadband Infrastructure in HUD-Funded New Construction and Substantial Rehabilitation of Multifamily Rental Housing.”

Broadband Map:

<https://broadbandmap.fcc.gov/#/>

ConnectHOME Playbook

<https://connecthome.hud.gov/playbook>

FCC Initiative - Bridging the Digital Divide for All Americans

<https://www.fcc.gov/about-fcc/fcc-initiatives/bridging-digital-divide-all-americans>

Council of Economic Advisers Report “Mapping the Digital Divide”

https://obamawhitehouse.archives.gov/sites/default/files/wh_digital_divide_issue_brief.pdf

CDBG-CV Federal Register Notice

<https://www.hud.gov/sites/dfiles/CPD/documents/FR-6218-N-01-CDBG-CV-clean-8-7-20-header-for-posting.pdf>

CDBG-CV Resources

https://www.hud.gov/program_offices/comm_planning/cdbg_programs_covid-19

<https://www.hudexchange.info/programs/cdbg-cv/>

UPCOMING WEBINARS, TOOLS AND GUIDES

Webinars

CDBG-CV Virtual Launch Conference

Economic Development Models

Housing Models

National Objectives

Quick Guides

CDBG-CV Launch Toolkit

Financial Management

Public Facility Improvements with CV

Rental Assistance

CDBG-CV ASK-A-QUESTION

<https://www.hudexchange.info/program-support/my-question/>

CDBG-CV ON-CALL TA

<https://www.hudexchange.info/hudexchange-portal/ta-Request/?taportalaction=tarequest%3Amain.requestta>

INVESTIGATION OF FRAUD, ABUSE, AND MITIGATION

ADECA will make every effort to prevent fraud and program abuse, and will work very closely with representatives of the HUD Office of Inspector General (OIG), the FBI, Department of Justice, and U.S. Attorney's Office when necessary to monitor and investigate instances of fraud.

ADECA will not tolerate program fraud or duplication of benefits. In order to limit the chances for abuse, very specific documentation will be required.

AUDIT REQUIREMENTS

In the event an aggregate of \$750,000 or more of Federal funds was expended by the grantee during any fiscal year, the grantee will be required to submit an audit within nine months of the fiscal year end in which the funds were spent, or upon completion by the State Examiners. Should the final audit indicate disallowed costs, the State reserves the right to issue sanctions which may include the repayment of funds.

RETENTION OF RECORDS

Grantees are required to keep all records for five years from the date an activity closes or from the date all audit findings have been resolved, whichever is longer.



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

9 April 2020

ASSISTANT SECRETARY FOR
COMMUNITY PLANNING AND DEVELOPMENT

MEMORANDUM FOR: All Fiscal Year 2020 and 2019 CDBG and CDBG-CV Grantees and All CPD Field Office Directors

FROM:  John Gibbs, Acting Assistant Secretary for Community Planning and Development

SUBJECT: CARES Act Flexibilities for CDBG Funds Used to Support Coronavirus Response and plan amendment waiver

The Coronavirus Aid, Relief and Economic Security Act (CARES Act) (Public Law 116-136) makes available \$5 billion in supplemental Community Development Block Grant (CDBG) funding for grants to prevent, prepare for, and respond to coronavirus (CDBG-CV grants). Additionally, the CARES Act provides CDBG grantees with flexibilities that make it easier to use CDBG-CV grants and fiscal years 2019 and 2020 CDBG Grants for coronavirus response and authorizes HUD to grant waivers and alternative requirements.

The Department has announced the allocations of the first \$2 billion in CARES Act funding for CDBG grantees, as well as \$1 billion for Emergency Solutions Grants (ESG) and \$53.7 million for Housing Opportunities for Persons With AIDS (HOPWA). You can find the allocations at www.hud.gov/program_offices/comm_planning/budget/fy20/.

This memorandum transmits the attached *CARES Act Flexibilities for CDBG Funds Used to Support Coronavirus Response Guide (Guide)*. The Guide describes the immediate availability of a 5-day public comment period for amendments and new plan submissions, uncaps the percentage of CDBG funding for public services to prevent, prepare for, and respond to coronavirus, as well as other flexibilities. Please note that these new provisions are not only applicable to the \$5 billion in CDBG funding from the CARES Act but many of the new provisions are also applicable to FY2019 and FY2020 CDBG funding. This broad applicability provides grantees with flexibility to help address the challenges facing our nation.

Grantees are advised to amend or prepare their plans as soon as possible and not to wait for the pending Federal Register notice, which may provide additional waivers and alternative requirements. Similarly, grantees should not wait for HUD to allocate the remaining nearly \$3 billion of the \$5 billion provided by the CARES Act for the CDBG program. Upon publication of the Federal Register notice and subsequent allocations, grantees receiving allocations will then amend plans accordingly.

Grantees should proceed with all amendments and plans under these new provisions by adding the CDBG-CV allocation in their plans as an available resource for the year. The CARES Act permits HUD to waive, or specify alternative requirements for, any provision of any statute or regulation that the Secretary administers in connection with the CDBG-CV funds, FY2019 and FY2020 CDBG funds (except for requirements related to fair housing, nondiscrimination, labor standards, and the environment), upon a finding by the Secretary that any such waivers or

alternative requirements are necessary to expedite or facilitate the use of such amounts to prevent, prepare for, and respond to coronavirus.

To expedite grantees' use of CDBG-CV funds, HUD is waiving the requirements at 42 U.S.C. 12705(a)(2) to the extent it requires updates to the housing and homeless needs assessment, housing market analysis, and strategic plan and 24 CFR 91.220 and 91.320 to the extent the action plan is limited to a specific program year to permit grantees to prepare substantial amendments to their most recent annual action plan, including their 2019 annual action plan. Grantees must identify the proposed use of all funds and how the funds will be used to prevent, prepare for, and respond to coronavirus.

The Department is also waiving 24 CFR 91.505 to facilitate the use of the CDBG-CV funds to the extent necessary to require submission of the substantial amendment to HUD for review in accordance with 24 CFR 91.500. To receive a CDBG-CV grant, a grantee must also submit a SF-424, SF-424D and the certifications at 24 CFR 91.225(a) and (b) or 24 CFR 91.325(a) and (b).

The Guide addresses many of the Field's initial questions. Email inquiries to CPDQuestionsAnswered@hud.gov will continue to receive individual replies and guidance. HUD will also be batching questions and responses and periodically making them available as FAQs. Additional resources will continue to be posted to www.hudexchange.info/programs/cdbg/disease/.

Thank you for the work you and your staff do with our communities in the fight against the coronavirus.

CARES Act Flexibilities for CDBG Funds Used to Support Coronavirus Response

April 9, 2020

President Trump has signed *The Coronavirus Aid, Relief and Economic Security Act* (CARES Act). The CARES Act:

- Makes available \$5 billion in supplemental Community Development Block Grant (CDBG) funding for grants to prevent, prepare for, and respond to coronavirus (CDBG-CV grants);
- Provides flexibilities for CDBG grantees to make it easier to use CDBG-CV grants and fiscal years 2019 and 2020 CDBG grants for coronavirus response and authorizes HUD to grant waivers and alternative requirements;
- Requires CDBG-CV grantees to prevent the duplication of benefits, which means grant funds may not be used to pay costs if another source of financial assistance is available to pay that cost.

HUD will publish a Federal Register notice describing the requirements for CDBG-CV grants. The notice will also include waivers and alternative requirements for CDBG-CV and fiscal year 2019 and 2020 CDBG grants. A grantee may submit a CDBG-CV action plan substantial amendment to its most recent accepted CDBG action plan for the first CDBG-CV allocation before the notice is published. To apply for CDBG-CV grants, grantees may follow existing regulatory requirements for a substantial amendment to the grantee's action plan that describes the amount of CDBG-CV funds available in the first allocation and planned use of funds, in accordance with existing requirements and the flexibilities in the CARES Act, summarized below. HUD will publish a Q&A document with further information on this process.

Grantees may use CDBG-CV and CDBG funds for a range of activities to prevent, prepare for, and respond to coronavirus. For examples, see the [Quick Guide to CDBG Activities for Infectious Disease Response](#).

Summary of CARES Act Provisions for Coronavirus Response With CDBG-CV and CDBG Grants

<i>For more information, refer to applicable sections of the CARES Act, Housing and Community Development Act of 1974 (for State CDBG Grantees) and CDBG regulations (for Entitlement CDBG grantees).</i>			
<i>Description of Program Flexibility</i>	<i>Applicability to CDBG-CV and CDBG Grants</i>		
Public Service Activities			
Eliminates the 15 percent cap ¹ on the amount of grant funds that can be used for public services activities. <i>Following enactment, the cap in section 105(a)(8) of the HCD Act and 24 CFR 570.201(e) has no effect on CDBG-CV grants and no effect on FY 2019 and 2020 CDBG grant funds used for coronavirus efforts.</i>	CDBG-CV	Immediately Available	✓
	CDBG FY 19 and FY 20 Grants	Immediately Available	✓
	CDBG Grants before FY 19		Not Available ✗
Reimbursement of Costs			
Provides that grantees may use CDBG-CV grant funds to cover or reimburse costs to prevent, prepare for, and respond to coronavirus incurred by a State or locality, regardless of the date on which such costs were incurred, when those costs comply with CDBG requirements. <i>For other grants, pre-agreement and pre-award cost authority is available under 24 CFR 570.489(b) (states) and 570.200(h) (entitlements).</i>	CDBG-CV	Immediately Available	✓
	CDBG FY 19 and FY 20 Grants		See current regulations. ✗
	CDBG Grants before FY 19		See current regulations. ✗

¹ Section 105(a)(8) of the Housing and Community Development Act of 1974, provides a different percentage cap for some grantees.

<i>Description of Program Flexibility</i>	<i>Applicability to CDBG-CV and CDBG Grants</i>		
Citizen Participation and Public Hearings for Consolidated Plans (including Action Plans)			
<p>Provides that grantees may amend citizen participation plans to establish expedited procedures to draft, propose, or amend consolidated plans. Expedited procedures must include notice and reasonable opportunity to comment of no less than 5 days. The 5-day period can run concurrently for comments on the action plan amendment and amended citizen participation plans.</p> <p>In-person public hearings are not required. Grantees may meet public hearing requirements with virtual public hearings if: 1) national/local health authorities recommend social distancing and limiting public gatherings for public health reasons; and 2) virtual hearings provide reasonable notification and access for citizens in accordance with the grantee's certifications, timely responses from local officials to all citizen questions and issues, and public access to all questions and responses.</p>	CDBG-CV	Immediately Available ✓	
	CDBG FY 19 and FY 20 Grants	Immediately Available ✓	
	CDBG Grants before FY 19		Not Available ✗
Deadline to Submit Consolidated Plans (including Annual Action Plans)			
<p>Extends the deadline for grantees to submit action plans and other updates to their consolidated plans submissions for fiscal years 2019* and 2020 to August 16, 2021.</p> <p><i>Without extension, the deadline for fiscal year 2020 grants would be August 16, 2020, in accordance with section 116(b) of the HCD Act and 24 CFR 91.15.</i></p> <p><i>*The deadline for fiscal year 2019 passed on August 16, 2019 (plans due then have been submitted).</i></p>	CDBG-CV	Immediately Available ✓	
	CDBG FY 19* and FY 20 Grants	Immediately Available. ✓	
	CDBG Grants before FY 19		Not applicable. ✗
Waiver and Alternative Requirement Authority			
<p>Authorizes the Secretary to issue statutory and regulatory waivers/alternative requirements for CDBG-CV and some CDBG funds when necessary to expedite or facilitate the use of grant funds to prevent, prepare for, and respond to coronavirus.</p> <p>Prohibits waivers/alternative requirements related to fair housing, nondiscrimination, labor standards, and the environment.</p> <p><i>HUD has additional regulatory waiver and statutory suspension authorities that it may use for CDBG Grants before fiscal year 2019 if necessary.</i></p>	CDBG-CV	Immediately Available ✓	
	CDBG FY 19 and FY 20 Grants	Immediately Available. ✓	
	CDBG Grants before FY 19		Not applicable. ✗

Submit your questions to: CPDQuestionsAnswered@hud.gov

Internal Revenue Service (IRS) – The bill provides \$250 million in additional funding to the IRS to administer the new tax credits for paid leave. This funding will also address IRS costs associated with delaying the filing season and expanded telework.

Judiciary – The bill provides \$7.5 million for three accounts in the Judicial Branch. For the Supreme Court, it provides \$500,000 to continue mission critical activities. For the Courts of Appeals, District Courts, and other Judicial Services, the bill provides \$6 million for funding for increased treatment and drug testing costs, and provides funding to expand capacity for staff to continue mission critical activities at appellate, district, and bankruptcy courts, and in probation and pretrial services offices. For Defender Services, it provides \$1 million to continue representing clients without disruption.

Title VI – Department Of Homeland Security

Includes a total of \$45.873 billion in funding with a focus on helping people, communities, and frontline personnel prepare for and recover from COVID-19. Highlights include:

Disaster Relief Fund– \$45 billion to provide for the immediate needs of state, local, tribal, and territorial governments to protect citizens and help them recovery from the overwhelming effects of COVID-19. Reimbursable activities may include medical response, personal protective equipment, National Guard deployment, coordination of logistics, safety measures, and community services nationwide.

Emergency Food and Shelter Program – \$200 million for shelter, food and supportive services to individuals and families in sudden economic crisis.

Assistance to Firefighter Grants – \$100 million for personal protective equipment for our nation’s first responders.

Emergency Management Performance Grants – \$100 million for state, local, territorial, and tribal governments to support coordination, communications, and logistics.

Personal Protective Equipment – \$178 million for the Department of Homeland Security to ensure front line federal employees have personal protective equipment.

Transportation Security Administration – \$100 million for enhanced sanitation at airport security checkpoints, overtime and travel costs, and the purchase of explosives trace detection swabs.

Coast Guard – \$141 million to activate Coast Guard Reserve personnel and for building capacity and capability for information technology systems and infrastructure to support telework and remote access.

Federal Emergency Management Agency – \$45 million to expand information technology and communications capabilities and to build capacity in response coordination efforts.

Cybersecurity and Infrastructure Security Agency – \$9 million for supply chain and information analysis and for impacted critical infrastructure coordination.

Extends REAL ID Deadline for States – Extends the deadline for states to meet the requirements of the REAL ID Act to not earlier than September 30, 2021.

Chemical Facility Anti-Terrorism Standards – Extends the program through July 23, 2020.

FEMA Personnel Pay – Allows FEMA to continue paying personnel who reach normal overtime and premium pay caps while working on the coronavirus response.

Transfer Limitation – A general provision is included limiting the use of funds provided in this title from being used for any other purposes.

Title VII – Department Of The Interior

Includes \$2 billion in funding to provide necessary resources to assist Native communities and tribal governments in preparing for and responding to the threat of coronavirus; increase funding for health care services, equipment and staffing at tribal health care facilities; support tribal schools, colleges and universities; enhance response capacity for U.S. territories and Freely Associated States; provide response resources for Federal land management agencies; and assist the nation's arts and cultural institutions in weathering this public health crisis. Highlights include:

Indian Health Service (IHS) – Provides \$1.032 billion in critically needed resources to support the tribal health system during the pandemic, including expanded support for medical services, equipment, supplies and public health education for IHS direct service, tribally operated and urban Indian health care facilities; expanded funding for purchased/referred care; and new investments for telehealth services, electronic health records improvement, and expanded disease surveillance by tribal epidemiology centers.

Bureau of Indian Affairs (BIA) – Includes \$453 million to provide aid to tribal governments; support welfare assistance and social service programs, including assistance to tribal members affected by the coronavirus crisis; expand public safety and emergency response capabilities; increase BIA capacity for teleworking so the agency is better prepared to assist tribes; and meet increased staffing and overtime costs.

Bureau of Indian Education (BIE) – Provides \$69 million for response needs at BIE-funded schools, including staffing, transportation, telework, and cleaning activities and assistance for tribal colleges and universities across the country to help respond to the crisis.

Department of the Interior, Office of the Secretary – Provides \$158.4 million in centralized, flexible resources to allow the Secretary of the Interior to allocate resources to address coronavirus response needs for national parks, wildlife refuges, and other public lands and other bureaus. Includes funding for equipment and supplies for cleaning buildings and public areas; support for law enforcement and emergency personnel deployed to critical areas; support for

scientific needs; increased telework capacity; and other prevention, mitigation, or recovery activities associated with the coronavirus outbreak.

Office of Insular Affairs – Includes \$55 million to assist U.S. Territories and Freely Associated States with needs related to prevention and mitigation of the coronavirus outbreak, including medical supplies and equipment, healthcare services, and facilities.

Environmental Protection Agency (EPA) – Provides \$7.2 million to support research efforts regarding coronavirus; staffing and associated costs for expediting registrations and other actions related to addressing coronavirus; cleaning and disinfecting of EPA’s facilities; and enhancing EPA’s telework infrastructure.

Forest Service – Includes a total of \$70 million across Forest Service programs for prevention, mitigation, or recovery activities associated with the coronavirus outbreak, including funding for equipment and supplies for cleaning buildings and public areas; support for law enforcement and emergency personnel deployed to critical areas; support for scientific needs; and increased telework capacity.

Agency for Toxic Substance and Disease Registry – Includes a total of \$12.5 million for critical research and disease surveillance activities associated with coronavirus.

Smithsonian Institution – Provides \$7.5 million to help the Institution respond to the coronavirus outbreak, including funds to clean and disinfect museums and facilities and to expand medical staff and animal care.

John F. Kennedy Center for the Performing Arts – Includes \$25 million to provide operating support to the national cultural center and Presidential memorial during the coronavirus crisis. Funding ensures that the Center, which employed more than 3,000 people last year, will be able to reopen its doors to the public once the crisis is over. The Center is currently closed until May.

National Endowment for the Art and Humanities – Provides \$150 million to state arts and humanities agencies to provide grants and support arts organizations, museums, libraries, and other organizations during the coronavirus crisis. The bill includes \$75 million for the National Endowment for the Arts and \$75 million for the National Endowment of the Humanities.

Title VIII – Departments OF Labor, Health and Human Services, Education And Related Agencies

Includes \$172.1 billion to ensure that people on the front lines of the pandemic have the resources to prepare for, prevent and respond to the crisis, including funding that builds off of the initial Coronavirus Preparedness and Response Supplemental Appropriations Act by making additional investments in healthcare, vaccine development, support for state and local governments’ prevention and response efforts, and the purchase of critical medical supplies. It also includes a substantial investment in education, child care and other social services programs to support schools and communities during the economic crisis resulting from the pandemic. Highlights include:

Centers for Disease Control and Prevention – \$4.3 billion to support federal, state, and local public health agencies to prevent, prepare for, and respond to the coronavirus, including:

- \$1.5 billion to support States, locals, territories, and tribes in their efforts to conduct public health activities, including:
 - Purchase of personal protective equipment;
 - surveillance for coronavirus;
 - laboratory testing to detect positive cases;
 - contact tracing to identify additional cases;
 - infection control and mitigation at the local level to prevent the spread of the virus; and
 - other public health preparedness and response activities.
- \$1.5 billion in flexible funding to support CDC’s continuing efforts to contain and combat the virus, including repatriation and quarantine efforts, purchase and distribution of diagnostic test kits (including for state and local public health agencies) and support for laboratory testing, workforce training programs, combating antimicrobial resistance and antibiotic resistant bacteria as a result of secondary infections related to COVID-19, and communicating with and informing public, state, local, and tribal governments and healthcare institutions.
- \$500 million for global disease detection and emergency response;
- \$500 million for public health data surveillance and analytics infrastructure modernization; and
- \$300 million for the Infectious Diseases Rapid Response Reserve Fund, which supports immediate response activities during outbreaks.

National Institutes of Health – The bill includes \$945 million to support research to expand on prior research plans, including developing an improved understanding of the prevalence of COVID-19, its transmission and the natural history of infection, and novel approaches to diagnosing the disease and past infection, and developing countermeasures for the prevention and treatment of its various stages.

Assistant Secretary for Preparedness and Response – \$127 billion for medical response efforts, including:

- \$100 billion for a new program to provide grants to hospitals, public entities, not-for-profit entities, and Medicare and Medicaid enrolled suppliers and institutional providers to cover unreimbursed health care related expenses or lost revenues attributable to the public health emergency resulting from the coronavirus.
- More than \$27 billion for the Biomedical Advanced Research and Development Authority (BARDA) to support research and development of vaccines, therapeutics, and diagnostics to prevent or treat the effects of coronavirus, including:
 - \$16 billion for the Strategic National Stockpile for critical medical supplies, personal protective equipment, and life-saving medicine;
 - At least \$3.5 billion to advance construction, manufacturing, and purchase of vaccines and therapeutics to the American people. This is in addition to the major investments provided for these activities in the first supplemental.

- At least \$250 million for the Hospital Preparedness Program, including the National Ebola and Special Pathogens Training and Education Center (NETEC), regional, State and local special pathogens treatment centers, and hospital preparedness cooperative agreements;
- Funding for innovations in manufacturing platforms to support a U.S.-sourced supply chain of vaccines, therapeutics, and small molecule active pharmaceutical ingredients;
- Funding to support U.S.-based next generation manufacturing facilities;
- Increased medical surge capacity at additional health facilities;
- Enhancements to the U.S. Commissioned Corps;
- Funding to support research related to antibiotic resistant secondary infections associated with coronavirus; and
- Workforce modernization and increased telehealth access and infrastructure to increase access to digital healthcare delivery.

Health Resources and Services Administration (HRSA) – The bill includes \$275 million for HRSA, including \$90 million for Ryan White HIV/AIDS programs and \$185 to support rural critical access hospitals, rural tribal health and telehealth programs, and poison control centers.

Administration for Community Living (ACL) – The bill includes \$955 million for ACL to support nutrition programs, home and community based services, support for family caregivers, and expand oversight and protections for seniors and individuals with disabilities.

Centers for Medicare & Medicaid Services (CMS) – The bill includes \$200 million for CMS to assist nursing homes with infection control and support states’ efforts to prevent the spread of coronavirus in nursing homes.

Department of Education – The bill includes \$30.750 billion for an Education Stabilization Fund for states, school districts and institutions of higher education for costs related to coronavirus. With most elementary and secondary schools closed across the nation, states and school districts are facing increased costs as they deal with the safety and health issues related to coronavirus. At the same time, they must continue to help address the basic needs of students and develop plans for providing online learning for all students, including students with disabilities, English language learners and homeless students. In addition, college students facing closed campuses and the transition to distance education are dealing with increased costs and challenges meeting basic needs like housing and food. These flexible funds will be available to help address these needs. They include:

- For **elementary and secondary education**, \$13.5 billion is available for formula-grants to States, which will then distribute 90 percent of funds to local educational agencies to use for coronavirus-response activities, such as planning for and coordinating during long-term school closures; purchasing educational technology to support online learning for all students served by the local educational agency; and additional activities authorized by federal elementary and secondary education laws.

- **Governors** in each state will receive a share of \$3 billion to allocate at their discretion for emergency support grants to local educational agencies that the State educational agency deems have been most significantly impacted by coronavirus. These funds will support the ability of such local educational agencies to continue to provide educational services to their students and to support the on-going operations of the local educational agency; and provide emergency support through grants to institutions of higher education serving students within the State.
- \$14.250 billion will be available for **higher education emergency relief** for institutions of higher education to prevent, prepare for, and respond to coronavirus. Funds may be used to defray expenses for institutions of higher education, such as lost revenue, technology costs associated with a transition to distance education, and grants to students for food, housing, course materials, technology, health care, and child care.

Department of Labor – The bill includes \$360 million for the Department of Labor to invest in programs that provide training and supportive services for dislocated workers, seniors, migrant farmworkers, and homeless veterans. This also includes funding for DOL agencies to ensure new Paid Leave and UI benefits are implemented swiftly and effectively.

Child Care Development Block Grant – The bill supports child care and early education programs by including \$3.5 billion for the Child Care Development Block Grant. This funding will allow child care programs to maintain critical operations, including meeting emergency staffing needs and ensuring first responders and health care workers can access child care while they respond to the pandemic.

Head Start – The bill includes \$750 million for Head Start to meet emergency staffing needs.

Community Services Block Grant (CSBG) – The bill includes \$1 billion for CSBG to help communities address the consequences of increasing unemployment and economic disruption.

Low Income Home Energy Assistance Program (LIHEAP) – The bill includes \$900 million to help lower income households heat and cool their homes.

Family Violence Prevention Services – The bill provides \$45 million to support families during this uncertain time, and to prevent and respond to family and domestic violence, including offering shelter and supportive services to those who need it.

Substance Abuse and Mental Health Services Administration – The bill provides \$425 million for SAMHSA to increase access to mental health services in our communities through Community Behavioral Health Clinics, suicide prevention programs, and emergency response spending that can target support where it is most needed, such as outreach to those experiencing homelessness.

Social Security Administration – The bill includes \$300 million to support essential telework, communication needs, and salaries and benefits of Federal employees impacted by office

closures. This funding also provides the resources necessary for processing disability and retirement workloads and backlogs when SSA offices reopen to the public.

Institute for Museum and Library Services – The bill includes \$50 million for the Institute of Museum and Library Services to expand digital network access in areas of the country where such access is lacking, including the purchase of internet-enable devices and provisions for technical support services in response to the disruption of schooling and other community services during the COVID-19 emergency.

Corporation for Public Broadcasting – The bill includes \$75 million for the Corporation for Public Broadcasting to make fiscal stabilization grants to public television and radio stations facing declines in non-Federal revenues. These funds will help maintain programming and preserve small and rural stations threatened by declines in non-Federal revenues.

Title IX – Legislative Branch

Includes \$93.1 million in critical funding to support the health, safety, and work capabilities of Legislative Branch agencies, including the United States Congress, Architect of the Capitol (AOC), Capitol Police, Government Accountability Office (GAO), and Office of the Attending Physician (OAP), during this public health crisis. Highlights include:

Senate – The bill provides \$10 million to support the Senate Sergeant at Arms to cover technology costs associated with teleworking and to support Senate offices and Committees, and for the Senate to cover costs associated with emergency needs related to coronavirus. Funding is also provided for reimbursement costs for the staff of the Senate Employees Child Care Center.

House of Representatives – The bill provides \$25 million to support the House’s capability to telework, including for purchase of equipment and improvements to the network. Funding is also provided for the reimbursement costs for the staff of the House Child Care Center and covers costs for the House restaurant contracts.

Architect of the Capitol (AOC) – The bill provides \$25 million and gives the AOC authority to purchase in bulk and distribute cleaning supplies and provide access to its technical cleaning contracts across the Capitol campus. It also allows the AOC to continue service contract payments, such as for the contract costs for salaries of Senate and Capitol Visitor Center Restaurant Associates employees, should they be furloughed or face a reduction in contract hours due to facility closures.

U.S. Capitol Police – The bill provides \$12 million to maintain staffing levels to protect the Capitol complex. It also provides funding to cover expenses related to increased teleworking and contract support for a reduced on-site workforce.

Government Accountability Office – The bill provides \$20 million for GAO to conduct oversight of funding provided to federal departments and agencies for coronavirus response and recovery efforts. Funding is also provided for the reimbursement costs for the staff of GAO’s child care center.

Library of Congress – The bill provides \$700,000 for the reimbursement costs for the staff of the Library of Congress’ child care center.

Office of the Attending Physician (OAP) – The bill provides \$400,000 for OAP to purchase medical supplies and protective equipment.

Title X – Veterans Affairs and Related Agencies

Includes \$19.57 billion in funding to ensure the Department of Veterans Affairs (VA) has the equipment, tests, and support services necessary to provide veterans with the additional care they need at facilities nationwide. Highlights include:

Direct Medical Care – The bill provides \$15.85 billion in order to support an increase in demand for VA services specific to coronavirus. This covers treatment of veterans nationwide for coronavirus within VA hospitals as well as in community urgent care clinics and emergency rooms. These funds allow VA to cover overtime for their clinical staff, the purchase of personal protective equipment, test kits, and other necessary equipment to manage the impacts of this pandemic among the veteran population.

Vulnerable Veterans – The bill provides \$590 million for VA to devote to supporting veterans at an increased risk of contracting coronavirus. It includes funding for the Health Care for Homeless Veterans program, the Supportive Services for Veterans Families program, and the Grant and Per Diem program. This funding will help veterans get treatment, and provide support for those who are homeless or at risk of eviction. Funding is also included for keeping veterans within VA-run nursing homes and community living centers safe from coronavirus.

Facilities and IT Support for Telemedicine – The bill provides \$3.1 billion for VA to purchase, staff, and equip temporary sites of care and mobile treatment centers to deal with this pandemic. It allows for remodeling to VA facilities and state run veterans homes to address the needs of veterans being treated for coronavirus. The bill includes funding for VA to expand the capacity on existing IT networks to address the demand in services, and broadens VA’s tele-ICU and teleradiology capabilities. It further enhances the capability for telehealth visits, allowing more veterans to receive care from home, and for providers at home to continue to treat patients through technology. Additionally, it facilitates VA employees working from home to ensure benefits can still be processed.

Armed Forces Retirement Homes (AFRH) – The bill includes \$2.8 million to provide staff treating veterans living at the AFRH with the personal protective equipment they need. The funding provides this and other necessary equipment and staffing support, which will help minimize the spread of coronavirus among residents.

Expanded Authorities – To strengthen VA’s response to the coronavirus pandemic and enable them to best treat veterans across the country, the bill includes provisions which allow VA to:

- Pay providers for every hour they work in support of this pandemic, even if it means they go over salary caps;

- Consider veterans and their families eligible for pensions and other income-dependent benefits, even if an emergency benefit paid by the government would have put them over the threshold;
- Ensure that home health care workers have personal protective equipment and necessary equipment to protect veterans and themselves;
- Continue providing payment to State Veterans Homes when residents are transferred to acute care due to COVID-19, regardless of their occupancy rate; and allow VA to provide any available personal protective equipment to state homes;
- Provide flexibility for the Veteran Directed Care program, including telephone enrollment and renewals, and waivers for late paperwork and other limitations;
- Enhance health and housing initiatives for homeless veterans, including increased use of telehealth for programs with VA case managers, temporarily eliminating funding limits for programs providing direct support services to homeless veterans, and providing flexibility to veterans in these programs;
- Support veterans with limb loss seeking prosthetic assistance at community providers rather than going to VA facilities during a pandemic; and
- Enter into agreements with telecommunications companies to provide broadband for veterans in support of providing telemental health care.

Title XI – Department Of State

Includes \$1.115 billion for the Department of State, U.S. Agency for International Development (USAID), and the Peace Corps, to support the repatriation of U.S. Government personnel and American citizens stranded overseas, strengthen the response at U.S. diplomatic facilities domestically and abroad, including by providing additional medical and personal protective equipment, and to prevent and respond to growing international humanitarian needs, among other purposes. In addition, the bill provides authorities for ongoing operations of the Department of State, USAID, and other agencies, including for U.S. participation in the replenishments of the international financial institutions to shore up the fragile economies of countries impacted by the coronavirus. Highlights include:

Department of State – \$674 million for the Department of State, including:

- **Diplomatic Programs**: The bill provides \$324 million for Diplomatic Programs to support the voluntary departure and curtailment on a global basis of vulnerable Department of State employees, evacuate American citizens overseas, ensure the ongoing operation of other consular and American citizen services amidst significant declines in visa revenue, and bolster the Bureau of Medical Services to respond to the coronavirus at diplomatic facilities domestically and abroad.
- **Migration and Refugee Assistance**: The bill provides \$350 million for the Department of State to contribute to pending appeals from the UN High Commissioner for Refugees, International Committee of the Red Cross, and other partners to prepare for, and respond to, coronavirus among vulnerable refugee populations abroad.

United States Agency for International Development – The bill provides \$353 million for USAID, including:

- **Operating Expenses:** The bill provides \$95 million for operational needs of USAID, including support for evacuations and ordered departures of overseas staff, surge support, increased technical support for remote functions, and other needs.
- **International Disaster Assistance:** The bill provides \$258 million for USAID to respond to the extraordinary needs in other countries that are under-equipped to respond to the pandemic. The funding will prioritize populations affected by ongoing humanitarian crises, particularly displaced people, because of their heightened vulnerability, the elevated risk of severe outbreaks in camps and informal settlements, and anticipated disproportionate mortality in these populations.

Peace Corps – The bill provides \$88 million for Peace Corps to support evacuations of all overseas volunteers, relocation of U.S. direct hires on authorized or ordered departure, and certain benefits for returned volunteers, including health care.

Department of the Treasury, International Affairs – The bill authorizes U.S. participation in the recapitalization and replenishment of international financial institutions, and extends and increases U.S. participation in the International Monetary Fund’s New Arrangements to Borrow, which will help shore up the fragile economies of developing countries ravaged by coronavirus.

Other Authorities – The bill includes several authorities to facilitate the operations of the Department of State and USAID, including to permit additional paid leave, provide medical services to private U.S. citizens, enhance certain hiring authorities, and increases the amount the Millennium Challenge Corporation can spend to cover additional costs due to staff evacuations.

Title XII – Departments Of Transportation and Housing

The bill includes a total of \$48.5 billion for transportation and housing activities to address this unprecedented global public health pandemic. Targeted resources are directed to communities to help the 11 million low-income Americans living one paycheck away from homelessness by providing assistance to prevent eviction during what is likely to be the most severe economic crisis in nearly a century. The funding in this bill will also be used to help the over half a million homeless individuals living on the streets find shelter or temporary housing, and for the most vulnerable, to self-quarantine and gain access to supportive services in order to diminish the risk of exposure. For our transportation systems, massive Federal investment is provided to protect the livelihoods of the specialized transportation workforce in order to mitigate the potential furlough of 1.6 million employees, provide safe conditions for workers, and preserve these mobility assets for essential commuters, as well as the traveling public. Highlights include:

Airports – \$10 billion in Federal assistance is directed to help publically-owned, commercial airports to address the COVID-19 crisis as the aviation sector grapples with the most steep and potentially sustained decline in air travel in history. These funds will help airport operators meet ongoing needs and to manage current construction projects as operating expenses increase and revenues plummet. The magnitude of these challenges are significant given the aviation industry

is experiencing an 80 percent system-wide decline in passenger traffic, while airports are expected to face even more severe operational and financial impacts in the months ahead.

Amtrak and Rail Safety – \$1.018 billion is available to Amtrak to meet its changing operational needs as a result of significantly reduced passenger rail service and ridership on the Northeast Corridor, state-supported, and long-distance routes related to COVID-19. This includes direct assistance to states to help them meet their obligations under the FAST Act in order to minimize service impacts on state-supported routes. The bill also provides \$250,000 to the Federal Railroad Administration for safety equipment and assistance to inspectors to help them to rapidly respond to COVID-19 related demands.

Transit Systems – \$25 billion is provided to public transit operators to protect public health and safety while ensuring transportation access to jobs, medical treatment, food, and other essential services remain available during the COVID-19 response. As the revenues that sustain this essential service are severely impacted due to a reduction in fare box revenue and dedicated sales taxes, this increased Federal investment will help to sustain over 430,000 transit jobs and preserve access to our public service and critical workforce that are the backbone of our COVID-19 prevention, response, and recovery efforts.

Community Development Block Grant – \$5 billion is provided for the Community Development Block Grant (CDBG) program to enable nearly 1,240 states, counties, and cities to rapidly respond to COVID-19 and the economic and housing impacts caused by it, including the expansion of community health facilities, child care centers, food banks, and senior services. Of the amounts provided, \$2 billion will be allocated to states and units of local governments that received an allocation under the fiscal year 2020 CDBG formula, \$1 billion will go directly to states to support a coordinated response across entitlement and non-entitlement communities, and \$2 billion will be allocated to states and units of local government, cities and counties based on the prevalence and risk of COVID-19 and related economic and housing disruption.

In order to ensure resources are quickly deployed and meet the unique response needs to COVID-19, the bill eliminates the cap on the amount of funds a grantee can spend on public services, removes the requirement to hold in-person public hearings in order to comply with national and local social gathering requirements, and allows grantees to be reimbursed for COVID-19 response activities regardless of the date the costs were incurred. This funding builds on \$6.7 billion provided in fiscal years 2019 and 2020 by allowing grantees to combine prior year funds with new funding in order to prevent, prepare for, and respond to COVID-19.

Emergency Solutions Grants – \$4 billion is included to address the impact of COVID-19 among individuals and families who are homeless or at risk of homelessness, and to support additional homeless assistance, prevention, and eviction prevention assistance. Eviction prevention activities including rapid rehousing, housing counseling, and rental deposit assistance will mitigate the adverse impacts of the pandemic on working families.

Rental Assistance Protections for Low-Income Americans – \$3 billion is included for housing providers to help more than 4.5 million low-income households made up of more than 9.6 million individuals currently assisted by HUD to safely remain in their homes or access temporary housing assistance in response to economic and housing disruptions caused by COVID-19.

This funding will help low-income and working class Americans avoid evictions and minimize any impacts caused by loss of employment, and child care, or other unforeseen circumstances related to COVID-19. This includes:

- \$1.935 billion to allow public housing agencies (PHAs) to keep over 3.2 million Section 8 voucher and public housing households stably housed;
- \$1 billion to allow the continuation of housing assistance contracts with private landlords for over 1.2 million Project-Based Section 8 households;
- \$65 million for housing for the elderly and persons with disabilities for rental assistance, service coordinators, and support services for the more than 114,000 affordable households for the elderly and over 30,000 affordable households for low-income persons with disabilities; and
- \$65 million for Housing Opportunities for Persons with AIDS in order to maintain rental assistance and expand operational and administrative flexibilities for housing and supportive service providers to assist nearly 61,000 households. Given that this population is particularly vulnerable, the bill includes temporary relocation services to contain and prevent the spread of COVID-19 for these at-risk households.

Indian Housing – \$300 million is secured for Native American Programs, which includes \$200 million for the Indian Housing Block Grant program and \$100 million for imminent threats to health and safety as a result of COVID-19.

#####

Governor Ivey Awards \$30 Million of CARES Act Money For COVID-19 Testing, Safety Development Programs



PRESS RELEASE

Governor Kay Ivey

*Awards \$30 Million of CARES Act Money For
COVID-19 Testing, Safety Development Programs*

Kay Ivey  OFFICE OF THE GOVERNOR

June 29, 2020
[Press Releases](#)

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MONTGOMERY – Governor Kay Ivey on Monday awarded \$30 million of federal Coronavirus Aid, Relief, and Economic Security Act (CARES Act) money to be used to establish COVID-19 testing and safety development programs. The state of Alabama will provide the \$30 million to support two programs, Testing for Alabama and Stay Safe Together. The programs will be implemented by a coalition led by the Alabama Department of Public Health and the University of Alabama at Birmingham.

Alabama received approximately \$1.9 billion of CARES Act funding to respond to and mitigate the coronavirus pandemic. Alabama Act 2020-199 designated up to \$250 million of the Coronavirus Relief Fund to be used to support the delivery of health care and related services to citizens of Alabama.

“The agreement between the state of Alabama, the Alabama Department of Public Health and UAB is exactly the type of public-private partnership that is needed to adequately respond to the COVID-19 crisis,” said Governor Kay Ivey. “We will only be able to acquire critical, life-saving resources by working together. Living with the coronavirus is our ‘new normal,’ and I appreciate the combined efforts to ensure that as we get back to our daily routines, we can do so safely as well as helping our valued researchers gain new information to combat this disease.”

Testing for Alabama will create a consortium of entities, led by UAB, that will work with the Alabama Department of Public Health, to establish and support a broad, robust re-entry testing platform focused primarily of Alabama’s public institutions of higher education and two-year colleges. This will give all universities in the state a chance to set a baseline as students return, enabling institutions to better identify hotspots and potential COVID-19 problems on campuses through sentinel testing throughout the 2020-2021 school year.

Additional targeted testing will be implemented in certain underserved regions and locations in Alabama with identified health care disparities. Protocols for how testing will be administered are in progress with a nasal swab (not the nasopharyngeal swab) or a saline gargle test under development at UAB are eyed as potential options. Testing out-of-state students before they arrive on campuses is also a goal of the Testing for Alabama program.

“Our ability to test every student returning to campus will go a long way in helping us maintain a safe environment,” said UAB President Ray L. Watts. “We are excited that, through this partnership with Governor Ivey and the state of Alabama, we will have the ability to make testing available across our System and to public colleges and universities throughout the state. On behalf of UAB and the UA System, we thank Gov. Ivey for investing in this important program that will promote health across the state.”

Stay Safe Together is a COVID-19 notification app currently being developed by UAB. The platform includes a COVID-19 assessment tool that allows individuals to log their coronavirus related health status and symptoms that is backed by Google and Apple technology that can anonymously alert someone if they are at risk from being in proximity to someone who tested positive for COVID-19. This platform will be potentially available to all public institutions of higher education in the state, as well as all public K-12 schools in the state.

“The COVID-19 pandemic is going to continue at least into the fall and early winter, and the Alabama Department of Public Health wants to ensure we are doing everything we can to give our state the best opportunity to navigate the crisis as safely and effectively as possible,” said Scott Harris, state health officer and co-chair of Testing for Alabama. “This free testing opportunity for all public college students will enable our state universities to have their finger on the pulse of what the prevalence of this infection is among their student body as they return and, over time, gives them the ability to monitor any change.”

The exposure notification smartphone app is in development and anticipated to be ready in time for the fall semester.

Governor Ivey Announces \$50 Million Grant Program for Nonprofit and Faith-Based Organizations



July 30, 2020
[Press Releases](#)

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MONTGOMERY – Governor Kay Ivey on Thursday announced a \$50 million grant program to support nonprofit and faith-based organizations who have been financially impacted by the COVID-19 pandemic. The Alabama Nonprofit Grant Program and the Alabama Faith-Based Grant Program will be awarded to eligible applicants on a first-come-first-served basis up to a \$25 million aggregate cap in each program.

“Nonprofits and faith-based organizations are truly the backbone of our great state,” Governor Kay Ivey said. “Alabama relies on these entities to be equipped to serve our communities in ways where the state is either unable or incapable of doing so. Unfortunately, many of these groups often have a hard time keeping critical funds flowing in normal circumstances, and the pandemic has exponentially increased their struggle to remain operational. It is simply the right thing to do for our state to ensure Alabama nonprofits and faith-based organizations can recover in order to benefit the citizens they serve.”

Administered through the Department of Finance, the state of Alabama will offer cash grants in an amount up to \$15,000 per Alabama-based nonprofit and faith-based entity that meet eligibility requirements.

Alabama received approximately \$1.9 billion of federal Coronavirus Aid, Relief, and Economic Security Act (CARES Act) to respond to and mitigate COVID-19. Alabama Act 2020-199 designated up to \$300 million of the Coronavirus Relief Fund to be used to support citizens, businesses, and non-profit and faith-based organizations of the state directly impacted by the coronavirus pandemic.

[Coronavirus Relief Fund Information](#)

[Nonprofit Eligibility](#)

[Selection of Grants](#)

[Frequently Asked Questions](#)

[Faith-Based Eligibility](#)

[Selection of Grants](#)

[Frequently Asked Questions](#)

For other questions, please contact the Coronavirus Relief Funds Office at 334-242-7063 or submissions@finance.alabama.gov.

###

Governor Ivey Allocates \$100 Million for Alabama Broadband Connectivity for Students



PRESS RELEASE

Governor Kay Ivey

*Allocates \$100 Million for Alabama Broadband
Connectivity for Students*

Kay Ivey  OFFICE OF THE GOVERNOR

July 31, 2020
[Press Releases](#)

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MONTGOMERY — Governor Kay Ivey has allocated \$100 million in CARES Act funding for a public-private partnership to increase access to internet for K-12 students attending school in the fall who may need internet service for distance learning.

The program, called Alabama Broadband Connectivity (ABC) for Students, will provide vouchers for families of students currently eligible for free and reduced-price school meals, or other income criteria. The vouchers will help cover equipment and service costs for high-speed internet service from the fall through Dec. 31, 2020. Providers will contract with the state to provide the service using existing lines and technologies.

The funding from the Coronavirus Aid, Relief, and Economic Security (CARES) Act will be used to expand internet access by providing equipment and service for broadband, wireless hot spots, satellite, fixed wireless, DSL, and cellular-on-wheels. The type of internet service for an area will depend on the closest available infrastructure that is already in place.

In response to the COVID-19 pandemic, the Alabama State Department of Education and local school systems have received a total of \$435.8 million in federal funds to support safe, in-person instruction and remote learning.

“Despite the upheavals in our lives during the past few months and at least into the near future, children must be able to continue their classroom instruction,” Governor Ivey said. “This funding will expand internet access to allow more students to access distance learning while creating smaller classes in schools that provide those options and will also ensure their safety during the pandemic. While I respect those districts that have elected to use remote learning, I fear that a slide will come by keeping our kids at home. These funds will bridge the gap until all students can get back into the classroom as soon as possible.”

Families with children who receive free or reduced school lunch will be notified via a mailed letter in August with the program expected to run August through Dec. 30, 2020, in accordance with CARES Act guidelines. A program website to assist Alabamians with questions as the program nears its launch can be found [here](#).

“Once again, we are appreciative of the leadership and resources provided by Governor Ivey during this unprecedented time in our country’s history. More than ever before, the immediate need for broadband infrastructure, devices, and connectivity are an integral part of providing Alabama students with a quality education,” Dr. Eric Mackey, Alabama superintendent of education, said. “A huge part of evening the playing field to provide greater equity in educational services will come from closing the digital divide between varying Alabama communities. We still have a lot of work to do, but because of the resources provided by Gov. Ivey, we can head into what we know will be a challenging school year with greater optimism.”

The Alabama Department of Economic and Community Affairs is administering the federal CARES Act funding for this program. ADECA has partnered with CTC Technology & Energy to administer the ABC for Students program in Alabama. CTC is already assisting the state with broadband planning needs.

ADECA also administers the Alabama Broadband Accessibility Fund, which provides grant funding to expand broadband service in the state.

“We have learned in the past several months that internet connectivity is a necessity for everything from education to healthcare and working remotely. I am pleased that Alabama is going to enter into this private-public partnership to make internet access available to those low-income households who cannot currently afford it. Economic status should not be a determining factor in receiving quality education, and it should not bar anyone from the ability to access vital online services,” Sen. Del Marsh, President Pro Tempore of the Alabama Senate, said. “Although this is only a temporary solution, I am confident that it will be a bridge to a time when fiber is put in the ground and access to the internet and devices will become standard across Alabama.”

The plan was formulated with the input of the Broadband Working Group, which includes legislators as well as industry experts, organized to gather input and guidance on allocation of CARES Act monies.

“I appreciate the opportunity to be a part of Governor Ivey’s working group to utilize federal funds in the CARES Act to provide broadband access to all Alabama students regardless of income. I think Governor Ivey has a good plan,” Rep. Randall Shedd said, who is a member of the working group and a leader of the Rural Caucus as well as a supporter of broadband expansion efforts in the state.

[Memorandum of Understanding](#)

###

Governor Ivey Announces Reallocation of \$12.3 Million in CARES Act Funds for COVID-19 Nursing Shortage



PRESS RELEASE

Governor Kay Ivey

Announces Reallocation of \$12.3 Million in CARES Act Funds for COVID-19 Nursing Shortage

Kay Ivey  OFFICE OF THE GOVERNOR

September 3, 2021

[Press Releases](#)

Share

MONTGOMERY – Governor Kay Ivey on Friday reallocated \$12.3 million of the Coronavirus Relief Fund to secure qualified, out-of-state, travel nurses to work in Alabama hospitals in a temporary capacity.

“I’m pleased to see more folks getting vaccinated, but we are still in the thick of COVID-19 and our hospitals are overwhelmed,” Governor Ivey said. “In consideration of the current surge of the virus and the strain on our dedicated healthcare professionals, I have directed the \$12.3 million of CARES Act funding be reallocated to recruit more trained staff to our nursing corps. Until our vaccination rates rise and our COVID-19 hospitalization rates fall, we will need the extra support these nurses provide.”

In consultation with the Alabama Department of Public Health (ADPH), State Health Officer Dr. Scott Harris designated the nursing shortage Alabama’s most urgent need. ADPH will work with the Alabama Hospital Association to develop a process to recruit these travel nurses.

“ADPH would like to express its gratitude to Governor Ivey and State Finance Director Poole for providing this support to Alabama hospitals, which are seeing unprecedented numbers of patients infected with Covid-19” Dr. Harris said. “This funding comes at a crucial time and will make a tremendous difference in increasing the nursing workforce in our state.”

The \$12.3 million reallocation is from CARES Act funds that were previously obligated but not reimbursed among the various approved expenditures.

The Alabama Legislative Leadership, House Speaker Mac McCutcheon and Senate President Pro Tempore Greg Reed, also support Alabama hospitals thru the reallocation of CARES Act funding.

“The on-going coronavirus pandemic has presented struggles for many across the state, but perhaps no group has faced as many challenges or stood taller than the frontline medical workers in hospitals, clinics, and physicians’ offices across the state,” Speaker Mac McCutcheon said. “Our nurses are forced to set aside concerns and worries about their own health as they tend to the patients who are fighting a highly-contagious virus that has already taken so many from us. It seems altogether fitting that Alabama is devoting a portion of its CARES Act dollars to a group that has demonstrated it cares the most – the nurses who provide aid to the sick and injured in the most remote rural communities and the largest urban centers alike.”

“The coronavirus pandemic has created an unprecedented need for quality nurses at hospitals across our state. Alabama’s nurses, working on the front lines to save lives and care for those struggling with this virus, have been nothing short of heroic throughout this pandemic,” Sen. Reed said. “I have heard from leaders across our state – especially from those in harder hit areas – that this is a critical, much-needed resource. I am glad that these relief dollars will go towards alleviating some of the stress put on our hospital system and provide hospitalized Alabamians with the care they need.”

Alabama received approximately \$1.9 billion of federal Coronavirus Aid, Relief, and Economic Security Act (CARES Act) funding to respond to and mitigate COVID-19. Alabama Act 2020-199 designated:

\$300 million to reimburse state agencies for expenses directly related to the coronavirus outbreak;

\$250 million to reimburse counties and cities for coronavirus expenses;

\$250 million to deliver health care and related services to residents;

\$300 to support citizens, businesses, and non-profit and faith-based organizations impacted by the coronavirus pandemic.

\$53 million for remote work and public access expenses incurred by state government, including the Legislature.

\$300 million for technology and infrastructure expenses related to remote learning;

\$200 million for reimbursement of costs to the Department of Corrections incurred because of the outbreak;

\$10 million to the reimbursement of costs to ensure access to courts during the pandemic;

\$5 million to reimburse the State General Fund for supplemental appropriations to the Alabama Department of Public Health.

###

Governor Ivey Announces \$300 Million in CARES Act Funds to be Allocated to the Unemployment Insurance Trust Fund to Prevent Business Closures and Layoffs



PRESS RELEASE

Governor Kay Ivey

Announces \$300 Million in CARES Act Funds to be Allocated to the Unemployment Insurance Trust

Kay Ivey  OFFICE OF THE GOVERNOR

September 10, 2020

[Press Releases](#)

Share

MONTGOMERY – Governor Kay Ivey on Thursday announced that Alabama will be re-allocating \$300 million in CARES Act funds to Alabama’s Unemployment Insurance Trust Fund. The funds will be used to offset “shared costs,” which are costs that are equally distributed to all tax-paying employers and can significantly increase employers’ unemployment insurance tax rates.

“Since the \$1.9 billion in CARES Act funds were allocated to Alabama, I have worked to get those funds into the hands of those Alabamians who need it,” Governor Ivey said. “My Administration anticipated shifting in the allocation of this money, and we will continue evaluating our options as we move forward. As we are nearing a place where we must devote these funds to ensure that we protect our businesses, especially our small businesses, we acted on this so as to not create a burden for our employers that could result in business closures and layoffs of hard-working Alabamians.”

“I agree with Governor Ivey that this is a necessary allocation of CARES Act funds in order to mitigate the impact of increased taxes on Alabama’s businesses,” said Alabama Department of Labor Secretary Fitzgerald Washington. “Without this infusion, employers could be facing an unemployment insurance tax increase of more than 500%, which could very well force many businesses to close their doors forever, resulting in even more job losses in Alabama.”

[Based on preliminary calculations](#), without the transfer of the money, unemployment insurance tax rates for employers would increase by 508%, representing a rise in the “shared costs” tax rate from 0.65% to 3.95%. By adding the \$300 million, this increase will be reduced to 200%, representing a new tax rate of 1.95%.

“Small businesses are the lifeblood of our state,” Business Council of Alabama President Katie Boyd Britt said. “The reallocation of these critical funds is vital in keeping unemployment taxes low, allowing Alabama businesses every opportunity to remain open as they return to business as usual. I commend Governor Ivey for looking out for our state’s small businesses and for taking this important step to ensure our employers are in place to overcome this pandemic and be successful down the road.”

Additionally, beginning October 1, 2020, the Alabama Department of Labor will reinstate temporarily waived employer costs associated with COVID-19 related claims.

“Alabama, like nearly every other state in the nation, waived employer costs associated with COVID-19 related claims at the beginning of the pandemic,” said Washington. “This was a needed adjustment in order to ease the burden on employers facing unexpected mass layoffs and industry shutdowns. Now, as employment is rising, and nearly all businesses are open, we will no longer waive those costs.”

The waiting week, which refers to the holding of the first compensable week of unemployment benefits, and the job search requirement, will continue to be waived through the end of the year.

Governor Ivey Awards \$35 Million in CARES Act Funds for Alabama Health Care and Emergency Response Providers Grant Program



PRESS RELEASE

Governor Kay Ivey

*Awards \$35 Million in CARES Act Funds for
Alabama Health Care and Emergency Response
Providers Grant Program*

Kay Ivey  OFFICE OF THE GOVERNOR

September 24, 2020

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MONTGOMERY – Governor Kay Ivey on Thursday awarded \$35 million in Coronavirus Aid, Relief and Economic Security Act (CARES Act) funds to establish the Alabama Health Care and Emergency Response Providers grant program. The grants will support providers who have been financially impacted by the COVID-19 pandemic.

“The health crisis we continue to face has had significant impact on many fronts. Certainly, individuals, groups and different industries have felt a financial toll, which is why I am proud to continue getting the CARES Act money into the hands of Alabamians who need it,” Governor Ivey said. “The state of Alabama was awarded \$1.9 billion in CARES Act money, and my team and I will continue working hard to get it directly to those individuals and groups who have been impacted.”

On a first-come-first serve basis, the state of Alabama will offer cash grants in an amount up to \$15,000 for Alabama health care and emergency response providers that meet eligibility requirements. The application period for the Alabama Health Care and Emergency Response Provider grant program will be open from noon on October 5, 2020 through noon on October 16, 2020.

Eligible providers for this grant program include:

Health Care Providers

- Primary Care Clinics
- Other Clinics (*Will need to specify*)
- Ambulance/EMS Service Providers
- Pharmacies
- Physician Offices
- Dentist Offices
- Other Health Practitioner Offices (*Will need to specify*)
- Outpatient Care Centers
- Medical and Diagnostic Laboratories
- Home Health Care Businesses
- Assisted Living Facilities
- Physical Therapy Offices
- Other (*Will need to specify*)

Emergency Response Providers

- Rescue Squad Organizations
- Volunteer Fire Departments
- 911 Boards
- Other (*Will need to specify*)

“Like many professions, Alabama physicians have been severely impacted by the pandemic but have continued to provide care to Alabama citizens throughout the crisis. In fact, a recent COVID-19 impact survey revealed that more than 70% of Alabama physicians have experienced a severe financial impact on their practice, causing a disruption in their business operations, and limiting access to care,” Executive Director of the Alabama Medical Association Mark Jackson said. “We applaud Governor Ivey for making these funds available and believe that they will be critical to ensuring that physicians can continue to provide services to those who are in need of medical care.”

Alabama received approximately \$1.9 billion of federal Coronavirus Aid, Relief, and Economic Security Act (CARES Act) funding to respond to and mitigate COVID-19. Alabama Act 2020-199 designated up to \$300 million of the Coronavirus Relief Fund to be used to support citizens, businesses and non-profit and faith-based organizations of the state directly impacted by the coronavirus pandemic.

[Coronavirus Relief Fund Information](#)

[Provider Grant Program Overview and Eligibility](#)

[Frequently Asked Questions](#)

[COVID-19 Relief Grant Program Website](#)

For questions, please contact the Coronavirus Relief Funds Office at 334-242-7063 or submissions@finance.alabama.gov (Please include ‘Provider Grant Program’ in the subject line of the email)

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