Overview of CDBG-DR, 3-15-16

Tennille Parker: Good afternoon, and welcome to the first of a series of webinars for the community development block grant disaster recovery program. My name is Tennille Parker and I am the director for the disaster recovery and special issues division here at HUD headquarters. Also joining me on this call are staff from the division, Sandra Donaldson, based in Missouri, and Marty Horwath, based in Florida.

During this webinar you will have the opportunity to learn more about the CDBG-DR program and its requirements as well as highlights of examples of how the funds have been used. I'd like to make a note for the audience. We see that very many grantees have signed up and we're very pleased with that. We also note that there are partners on the line including contract firms, some nonprofit entities as well. You are certainly welcome to listen in.

We would note that the primary audience are those grantees that are receiving direct assistance from the department. We want to be sure that they have the key lessons to be picked up from this and we will give them priority for asking questions and making sure they have that feedback, but our goal is to make sure the broader community also understands how CDBG-DR funds, in this context, work. And so welcome to our webinar and we hope you will continue to join us for the series of webinars that will take place.

With that, I'd like to turn it over to our host for this afternoon, ICF and the Community Building Collaborative and turning it over to Marsha Tonkovich.

Marsha Tonkovich: Thank you, Tennille, and welcome everybody. Glad to have you with us today. My name is Marsha Tonkovich. I know many of you. I recognize a lot of the names who signed in. I am the president of the Community Building Collaborative and we are a contractor to ICF and I have been working on disaster recovery for quite a number of years, including some recent work on the Sandy recovery with New Jersey and a little bit with New York and also some work on the NDRC recent application process.

So I'm glad to be with all of you today and I encourage you all to ask questions and we'll also share some real life experiences as we've been doing all of this work. So as Tennille mentioned, this is the first webinar in a series and you'll see those listed here. In case your screen is cut off at the bottom, I do want to make sure you know that these PowerPoints will be posted. In fact, are already there on both the disaster recovery part of the HUD exchange as well as on the class page. So if you're interested and you haven't yet printed these out, you're welcome to do so and take notes or use them for the future.

By the way, the recording of this webinar will also be available probably in about two days on the same part of the HUD exchange. If you have folks who are subrecipients, you or partners or staff who could not join us today, we encourage you to go ahead and use these training materials to train those partners and feel free to intersperse them with discussions and conversations that you might have locally. So again, you'll see that there's a series of webinars. They'll come back and talk about some of these topics and how they fit together in just a few minutes.

So the way we're going to take questions on this webinar, because we do have a relatively large group, we have almost 300 people who registered for the webinar, so we're going to go ahead and take questions written into your questions box. And you'll see on the lower right hand corner of your screen in the go to webinar panel, there's a box that says questions. We encourage you to go ahead and write any questions that you might have. Those questions could be technical in nature, like if you're having a hard time with the audio or you can't see the screen or whatever that might be.

Or, perhaps more importantly, if you have any technical questions or if we've said something that doesn't make sense to you or you want further clarification, feel free to write in. Again, if you ask one of those technical questions, please add as much context and as much clarification as you can. If we don't quite understand your question, we'll write back.

So use the questions box to ask questions. We are going to also have a couple of polls throughout the webinar just to give you a chance to kind of weigh in. Some of them won't have any one right or wrong answer, but it'll be a chance to see where the audience, particularly very experienced audience members feedback. We're also going to have a brief discussion session at the end where you'll have a chance to practice a lot of what we talk about today.

So our agenda for today, we are going to go over the basic CDBG and CDBG-DR backgrounds and how the regular CDBG program transforms into DR. We're then going to talk about the key phases or steps in the DR process, so you can kind of see how an application would move through the system and then the main purpose of our webinar today is to focus on the basic foundation of CDBG-DR. So that's what's eligible, how do we connect it back to the disaster for which we are funded and addressing the tie back of statutes, which is the national objective. And so we'll cover all of those in some detail.

For those of you who are experienced in CDBG who have done regular CDBG, but perhaps not DR, or if you have done DR, many of these topics will probably be a refresher for you. If you're new to CDBG or if you have disaster recovery experience, but perhaps not with CDBG dollars, some of this is probably going to be new. There are a lot of really great resources out there and we'll reference those as we go so that you can feel free to get more information as we go along.

So let's get into our first poll, Chantel.

Chantel Key: Yes. Okay, so for our first poll today, we pretty much want to know what is your experience with CDBG? Is it less than a year? Up to five? Six to 10 or over 10? And I'm opening the polls right now. The polls are now open.

Marsha Tonkovich: So please, if you haven't had a chance, go ahead and click whichever button is most appropriate for you.

Chantel Key: And we have about 75 percent of our participants have voted so far.

Marsha Tonkovich: Okay. Well, that's probably close enough, Chantel, so why don't we go ahead and do our results.

Chantel Key: Okay. I'm sharing the results now. We have 25 percent voted less than one year, 41 percent voted one to five, 15 percent voted six to ten and 18 percent at over ten.

Marsha Tonkovich: Great. Thank you, Chantel. So we obviously have a diverse group of folks who are with us today and I think the key point about that is if you're new to CDBG, don't worry about it. It's got some fairly clear rules and folks have, over many years, over 40 years of CDBG have learned this and gotten it under their belts, so don't be worried about that. We have about 60, 65 percent of our audience has between a year and five years and then for those of you guys who are expert, who have been doing CDBG for many, many years, the DR overlay may be new to you and so you'll have to translate regular CDBG into DR.

But we also encourage you, if you are one of those experienced folks, share what you've learned not only with your peers offline, but also feel free to write that into the questions box and share with us what's worked and what hasn't. So our second poll, Chantel.

Chantel Key: Okay. This one we want to know what exactly is your experience with disaster recovery? Have you managed CDBG-DR grants before? Worked with FEMA or SVA funds, but not CDBG-DR? Only emergency management and preparedness? Maybe only experienced with regular CDBG or none of the above? The polls are now open.

Marsha Tonkovich: And again guys, maybe none of these are applicable to you, so choose the one that's best.

Chantel Key: About 75 have presented so far.

Marsha Tonkovich: Okay. Well, let's call that close enough, Chantel.

Chantel Key: Okay. Closing and now sharing the results. We have 39 percent voted managed CDBG-DR grants in the past, 10 percent voted have worked with FEMA or SVA funds, but not DR, 2 percent voted have experience in emergency management and preparedness, but not federal funds, 22 percent voted have experience with regular CDBG but not disaster recovery and 26 percent voted none of the above.

Marsha Tonkovich: Okay. So it sounds like we have a good diversity of folks who are on the call or on the webinar, which is great, and again whichever -- whether you know CDBG, but not DR or you know SVA and FEMA, but not CDBG again, working as a team with your partners and with your HUD staff, this is something that lots of grantees before you have been able to put together. So not to worry, there's lots of tools and resources to help you.

So let's go ahead and jump in then to the details of why we do DR under CDBG and the very basics of what CDBG is. So for those of you, I think there was a good third of you or so who were new to CDBG, for those of you who are new to CDBG, what is its background? So before we get into DR, just three minutes on what is the basic of CDBG.

The Community Development Block Program was authorized under the Housing and Community Development Act in 1974 and what happened at that point was there used to be a large number of categorical grant programs, each of which did a very specific thing. So there were categorical grant programs for water and sewer. There were some for community facilities. There were some for housing. There were some for economic development and so forth.

And so in the 1970s, Congress decided that having people have to compete for each of those individual block grants or each of those individual competitive grants was not only time consuming for those grantees, but awarded local flexibility. And so Congress went in and they took all those categorical grants and they split them together into an annual grant and because they did that, because the history of CDBG came from all those categorical programs, all those eligible activities that used to be under each of those individual programs got assumed under CDBG.

And so you see in CDBG -- and we'll talk more about this a little later -- but there are 25 different eligible things that you can do. Virtually anything you might want to do on community development you can do with CDBG in general and we'll talk about the specifics. So we get this great flexibility that comes from having done all these individual categorical grant programs. Also with Congress enacted it, because they were putting it all together and they were going to create this local flexibility in how to use the funds, they wanted to have an overarching purpose for the program. And in CDBG, that's called the primary objective.

Basically what it says is that we're going to develop communities through housing, living and economic opportunities. So the idea is you're going to have to tie back to one of those objectives and it further goes on to say principally to benefit low and moderate income. And you will see that all of that together then becomes kind of the core of how we do CDBG.

The funds, as I said, were provided or are provided 40 years later as an annual block grant. Originally, as I said, the cities and counties as entitlements and later on states were added as well. So we have cities and urban counties who get an annual block grant and states that get an annual block to use within this construct.

So then comes the question, well, why would we use that construct? That existing federal program, going on for 40 years, why would we use that as the tool to then do disaster recovery? The reason goes back to that very flexibility, which is if CDBG has that whole myriad of eligible activities that one might want to do as part of recovering from a storm. And because it has [inaudible], grantees are allowed to choose which ones make sense given the nature of what occurred in their community. So it gives a lot of flexibility for how people can respond to disasters. So it became the primary federal resource as it relates to community rebuilding, community recovery post-disaster. And we will compare that in a few minutes to immediate response and to preparedness, which is not what CDBG does.

The key thing about all of that under CDBG, when we take the regular program and we turn it into DR is that we carry forward that focus and that important focus of the program on low and moderate income persons. And so you'll see throughout CDBG there is a focus on meeting the needs of low and moderate income persons in the disaster recovery area. Now, we know that we have other federal resources that also work on recovery, right? So we have some FEMA assistance. We certainly have SBA assistance. The Army Corps might be rebuilding infrastructure. And we also occasionally, depending on the particular disaster, also see funds going through the EPA to things like water and sewer and other kinds of infrastructure and the Department of Transportation around highways and roads and bridges as well as sometimes around things like train systems and that kind of thing.

So all those federal programs are out there and they key thing is to understand that CDBG is not meant to take the place of those programs. It is meant as sort of the last line of defense to fill the gap in the places where those other federal programs are not already addressing the recovery. So teaching on CDBG-DR and a question to ask yourself every time you're looking at finding a particular activity is what is that gap that's not already covered? Because we cannot supplant those other federal funds -- we can't swap out those other federal funds, but rather we supplement and we fill that gap.

Now, the key thing on DR that's going to be true for everybody on the phone is there isn't an annual CDBG-DR appropriation. You know, unlike the regular CDBG program where there's an annual appropriation and states and cities and counties can decide how to use, DR is a special appropriation that happens in response to a particular disaster or grouping of disasters during that. When Congress does that appropriation, they decide what tags and what requirements they might want to add in to that particular disaster's funding.

And so you'll see if you look at the appropriations across the years and across successors, they're not the same. If you look at Katrina as compared to Sandy, what Congress put in the appropriation is not exactly the same. Generally, Congress gives the right to waive certain parts of regular CDBG in order to make it more responsive to disaster and we'll talk about the waivers a little bit later. But there are some things that Congress usually says cannot be waived by HUD. And so a couple of examples of things HUD doesn't have the power to waive are the environmental review or the fair housing requirement or often times the labor stance. Again, it'll be particular to the disaster, but generally speaking there's a set of those types of things that aren't open to be [inaudible].

Now, let's talk about what it means to do DR under CDBG, because it's important to understand this in order to be able to kind of apply the program. So the benefits of it are we've already discussed. It's very flexible. You have a lot of choices. These 25 different activities plus in general HUD can waive on some of those activity requirements and can allow you to do other kinds of activities and in addition, you can grow and change as your recovery progresses. And so as you get more into the recovery and you know you need to change from housing to economic development or do a different kind of infrastructure, you can amend your plans and you can move forward with different kinds of activities. I will say for the NDRC grantees on the phone, it might be slightly different because you were a competitive application process, so you certainly want to talk to your HUD staff about that if this issue comes up.

Another benefit of CDBG-DR is there is this very long history of having been used for recovery and so we've learned a lot of lessons and there are a lot of other peers out there that you can reach out to, to learn what they've learned the hard way as well as great HUD staff and a lot of really good tools. Most of it is on the HUD Resource Exchange and so if you go there, you'll see a lot of models. You'll see some [inaudible]. You'll see some notices. So we do want to encourage you to really rely upon your peers and not try to reinvent the wheel. We'll talk more about that as we get into eligible activity.

The challenge, of course, of CDBG-DR is it is a CDBG program. It's not a grant that is just intended for disaster recovery. It has the CDBG history that comes with it. And so what that means is, all of the CDBG infrastructure and all of the CDBG requirements, unless they've been waived by HUD explicitly, also flow through to DR.

And so some examples -- and I won't go through all of these -- are the low-mod targeting threshold that we talked about. You're going to have to spend a specific portion of your money addressing the needs of low-mod income individuals. The environmental review that that will, even though you're in a rush to address the needs of your recovery, you are going to have to do an environmental review. There are some ways to make it faster and a future webinar will talk about that. But nonetheless, you can't just skip it.

Resiliency has to be tied in to other eligible activities. It cannot stand alone. And there are requirements in there for housing regulations around how you reach out and how you do your intake for your application to ensure that everybody has an opportunity to participate and that you're reaching out in different languages, which, again, is an important thing to do, but something that you have to think about as you're trying to simply get through your response.

So let's jump into the CDBG-DR process very quickly. So how does the money get flowing? So Congress, as I mentioned, approved the appropriation for that particular disaster or group of disasters. HUD then issues a Federal Register notice. So for those of you guys who are new grantees for 2016 or are anticipating being new grantees, you're awaiting your Federal Register notice, that HUD register notice will give you all the particulars or at least the initial particulars about what Congress did and didn't waive and what you can and can't do specific to that particular appropriation. Once you've done that, you're then going to enact an action plan and we'll talk a little bit more about that in a few minutes and HUD will execute a grant agreement with you, which will be your official point at which you'll actually be able to begin drawing down funds.

Now, life cycle of CDBG-DR. One of the things that's very important to note is that this has evolved over time. So if you're an older grantee who's had funds over the last 10 or 20 years, there wasn't as much focus on timeliness. In the most recent appropriations, and again, we don't know exactly what it's going to say yet for the 2016 appropriation, but in the most recent there have been Congressional requirements as it relates to the timeliness of how quickly you have to obligate the funds and how quickly you have to spend the funds. And that has had a wholesale effect on how we do DR because it has meant having to get things moving very quickly and having to think thoughtfully about getting all the money obligated in fairly large chunks.

So as an example of this, and again, we have to go back and look at your particular appropriation, but as an example of this, how it's worked for Sandy the Sandy appropriation requires all obligations by September 2017. That is the last date at which you could obligate funds and HUD defines obligation different than you might have seen obligation in other federal programs or in other HUD programs. Here, obligation is defined as the grant agreement between the state or the city or the county and HUD. Not for a specific project, but the grant agreement for a chunk of funds between HUD and the grantee.

Because this timeline is actually in the nature of recovery and [inaudible] scope of what some of you are dealing with, that actually happens fairly quickly -- there's a fairly quick timeline. HUD has allowed folks to do it in chunks. So let's say that your original DR award was -- just to make it simple, let's call it $5 million. Instead of having to obligate all $5 million on the first day when you very first get your grant agreement, what they will allow you to do is say, okay, I want to obligate a $1 million now and start the clock on that $1 million and then I'm going to do another $1 million six months from now and another $1 million a year from now. As long as all of those obligations, in the case of Sandy, have occurred by September 2017 or in your case, whatever your date is.

So you can have that kind of rolling obligation process and why that matters is the second requirement, which is that from the date of obligation, you then have two years to spend the money. And so you have to be thoughtful about when you sort of begin the obligation clock, because you have that two years in order to get the money spent. And for some projects, two years is probably plenty of time. Housing rehab, most of economic development, a lot of the services programs, that's probably okay. But if you think about the big infrastructure projects and particularly some of the projects we're going to see under NDRC, two years to get the money spent is pretty tight.

Now, HUD has said we can provide an extension, and there's a limit. Congress has set an outside limit in most of the appropriations on when the last date that you can extend is. So HUD can't extend forever, but they can extend that two-year clock and there's lots of documentation of why you need that extended -- so key thing to know here that again, a shaping and evolving part of DR is this overlying clock.

So basic CDBG-DR lifecycle and I won't go through all the steps, but the idea is that at the front end you're going to look at your needs and you're going to determine what it is that's happened in your communities and how you're going to address it and here's where you're going to do your program design work and if you're NDRC, you've already done a lot of that kind of thought as you did your application.

You're then going to do an action plan and that action plan will tell the public and tell HUD what programs you are in fact going to undertake. While that action plan is at HUD being reviewed and approved, you have to put into place policies, procedures, organizational information depending on the size of your grantee and the size of your grant, you may actually be setting up new divisions of staff to have to be able to undertake this. So we're going to talk about that in a later webinar, so I won't delve into the details here, but I want to encourage you to think very carefully about this step. A lot of folks glossed over it or used their old CDBG procedures without putting it in a DR context and that's led to some issues.

You are going to have to engage the community and particularly as we see more recent appropriations, there's been a lot of Congressional and HUD focus on transparency and community involvement and program design and keeping the community informed and so not only -- that will start at the beginning with the program design, but it actually will flow through the entire process. You'll have to decide how it is you're going to award the funds. You know, is it going to go to subrecipients? Is it going to go to applicants? And you'll do your application process, however that's going to work, and move on through the construction process. Again, I won't go through the details of all of that, because these are all the subject of future webinars.

Once you go through the construction, you'll then have a close out process where you document everything that happened and one of the key things that will happen with disaster recovery perhaps more than regular CDBG, you will have to have an internal in-house monitoring process, fraud review process to make sure that you're being both compliant as well as a good steward of the federal funds. One of the things that we've seen in recent disasters is an increased involvement in the OIG Inspector General as part of the monitoring of these funds. So it's very important to have that kind of fraud protection compliance component.

And then finally when you've gotten and expended all of your funds and you've met all of your requirements, you'll go ahead and close out your DR grant. So that's the basic lifecycle. We're going to focus today on the front end part, sort of the eligibility side.

So let's jump into our third poll. Chantel?

Chantel Key: Yes. So for our polls, our third poll, what do you anticipate to be the most challenging task of disaster recovery? Is it balancing the need to comply with needing to move quickly? Complying with cross cutting federal requirements? Is it getting internal data systems, partners and procedures, getting all that organized or maybe for obligation and expenditure deadlines? Or dealing with expectations from households, businesses and political leaders? I'm going to open the poll now. The polls are now open.

Shawna LaRue Moraille: And Marsha, this is Shawna. We have a couple of questions in the queue for after this.

Marsha Tonkovich: Yeah. Actually, Shawna, we're going to do that in just a few moments.

Chantel Key: Okay, about 55 percent of our participants have voted.

Marsha Tonkovich: Okay. Let's just give it one more minute, Chantel.

Chantel Key: Okay.

Marsha Tonkovich: All right, so let's go ahead and read out our poll results.

Chantel Key: Okay. The polls are now closed and I'm sharing the results. We have 29 percent at balancing the need to comply with needing to move quickly. Thirteen percent voted complying with cross cutting federal requirements. Seventeen percent voted getting data systems, staffing partners and procedures organized, 20 percent voted the obligation and expenditure deadlines and 21 percent voted dealing with expectations from impacted households, businesses, media and political leaders.

Marsha Tonkovich: Thanks, Chantel. So I think the key thing on this, guys, is there's obviously no right answer here. That all of these are challenges and there are, of course, many others as you move into disaster recovery.

The first one is particularly a challenge for those of us who have done this many times is you have a disaster and it ties back to the letter E, which is the expectations of those who were impacted by the disaster, but things happen quickly and yet you have to balance that against the requirements that we talk about on Section B and others about environmental review, Davis-Bacon, lead-based paint, historic preservation, all of those while trying to set up a new system and trying to do it all quickly under the deadline.

So all of these will be some of the challenges, and again, there are lots of folks who have gone this path before you and I encourage you to collaborate with your peers, to talk to others who have been through this. You know, one of the challenges for folks, and there's a temptation to want to kind of either reinvent the wheel and do something brand-spanking-new or just take my regular CDBG program, put a DR label on it and our experience has been that neither one of those is usually the right way to go and we encourage you to talk to colleagues about really kind of what has worked and what hasn't in the DR context.

Okay. So what we're going to focus on today is how then to take, at the context that we've just shared and put it into how to show that it's eligible, what is eligible under CDBG, what you can and can't do. And in order to do that, there's a series of questions that you need to ask yourself and these are shown on the screen and again, these slides are all available for download. I recommend you might want to think about printing out this particular slide and making it kind of a poster or putting it on your wall, because the intent is that it helps you to think about both activities you might want to fund and specific applicants or projects. These are the questions you have to ask yourself in order to decide is this activity and is this project or applicant eligible to get funding?

Not how much, not where, not when, but are they eligible? Can they get through that first hurdle? So is it in your action plan? In other words, have you described that as something that you intend to do? If it's not a program that you have laid out in your action plan, you're going to have to amend your action plan before you could do it, even if it's eligible.

Does the activity fit into one of the 25 categories that I talked about or has it already been covered by HUD with a waiver so it's eligible? If not, is it something that you could get a waiver on? And again, you're going to want to talk to your HUD folks about that.

Does the project address either damage to the community or does it revitalize damaged communities and is it located in a place that's part of your presidentially declared disaster area? Does it address [inaudible] targeting? We talked about that earlier. How does it affect your overall grant targeting? And we'll cover that in a minute. Does it meet a national objective, which is that tie back to the statute? Is there a gap? We talked about the fact that CDBG is a gap filler. Has the need for that household, that business already been filled? Is the project going to meet all of those overlaid requirements that we talked about, environmental, the flood requirements that they maintain their flood insurance if they were required to have done so, all of the other federal requirements. And finally, are the kinds of costs they're asking me to pay for necessary, reasonable, appropriate, eligible, all of those.

So those are the key questions. We're going to dive into the front part of this. Later webinars are going to pick up on starting with the duplication of benefits and going forward. So let's go ahead and take those questions now, Shawna.

Shawna LaRue Moraille: Okay, great. One person wanted to know, is there an audit guide for CDBG-DR or a checklist available?

Marsha Tonkovich: Okay. That's a great question. There is. If you go onto the HUD website, I wouldn't necessarily call it an audit guide. But there's a monitoring checklist and I guess it's partially a guide that HUD uses when HUD comes out to monitor you. I would say it's mostly about the DR specific requirements.

It doesn't quite dive down very deeply into the eligible activity sites and so usually that HUD staff and I know what they do is they combine the DR part of the checklist with the regular CDBG checklist on particular types of eligible activities -- economic development, housing, whatever it might be. So that HUD monitoring checklist I believe is available on the HUD Resource Exchange. We'll have the website links in a moment at the back of the webinar and I would encourage you to go ahead and download those checklists and then use them as an internal resource. And be sure to both download the DR components as well as the ones related to CDBG and you might also want to look at the ones on financial management as well.

Next question, Shawna?

Shawna LaRue Moraille: Is there an anticipated date for the Federal Register to be published?

Marsha Tonkovich: Okay. That one I think I need to turn over to the folks at HUD. So Tennille, do you guys want to answer that?

Tennille Parker: Sure. I believe the question is being raised from one of the grantees who was recently named for an appropriation under Public Law 114 and 113 for disasters that occurred in 2015 in Texas and South Carolina. A HUD anticipates that it will be several weeks before that Federal Register notice is published on the website. So you're welcome to keep checking in, but we're not anticipating it for the next several weeks.

Marsha Tonkovich: And would it be fair to say that if folks wanted to get prepared for what it might look like, they could at least begin to look at the ones from Sandy as at least kind of initial guidance on what it might look like?

Tennille Parker: Correct. And in fact, we have given that very guidance to any grantee who is anticipating a CDBG-DR allocation. The March 5, 2013 Federal Register notice that was published for communities that were hit by hurricane Sandy is available on the CDBG-DR website that's on the resource exchange. It is a good model for the types of things HUD would be looking for going forward. It will be modified for the South Carolina Texas appropriation, but it is definitely a good model for where to start. And if, after reviewing that, a grantee has a question, certainly field that question to your designated CPD representative and we can assist you with what guidance or what requirements meant in that notice.

Marsha Tonkovich: Great. Thank you.

Shawna LaRue Moraille: Coupled with that is a question about anticipating any changes prior to prior waivers for CDBG-DR citizen participation requirements.

Marsha Tonkovich: Sounds like the question, Tennille, is about do you anticipate any waivers around -- I'm guessing they're probably asking about the public comment period for citizen participation, but they may also be asking about the public outreach components of it or the new notice.

Tennille Parker: HUD is contemplating revising the citizen participation section. What will certainly be something that remains is the need to do an abbreviated citizen participation process in terms of public comment so that the funds can move quickly, but the Federal Register will speak specifically to whether or not HUD will be reinstituting, if you will, the public hearing requirement.

Marsha Tonkovich: Okay.

Tennille Parker: But we're not at liberty to speak to forthcoming guidance until it's released publically.

Shawna LaRue Moraille: Sure.

Marsha Tonkovich: Any other questions, Shawna?

Shawna LaRue Moraille: Yeah. There's like three more in the queue.

Marsha Tonkovich: Okay, let's try to get through.

Shawna LaRue Moraille: So one person's question is about if it's going to be several weeks for the updated regs, should we anticipate a delay in action plan formulation until the regs are released?

Marsha Tonkovich: Yeah, so usually -- so the question has to do with the timing of your action plan as compared to the release of the Federal Register notice. So indeed, usually grantees do not submit their action plan until after the Federal Register is published, probably because you don't know what's going to happen with the public comment that Tennille just talked about as well as what kind of waivers will be incorporated as automatic within that Federal Register notice. However, I want to caveat that by saying -- so that means you will delay your submission of your action plan until you see that Federal Register notice.

That said, there is a lot of program design work and a lot of up front policies and procedures and needs assessments and all of those sorts of things that have to happen in order to have a good action plan and given -- you look at some of those old Federal Register notices, it probably gives you enough guidance that you can begin that process; might not quite be able to finish it. You might have to tweak it. You probably don't want to yet go out for public comment, because you don't yet know what the rules are going to say, but you could certainly be doing a lot of that program design, that analysis.

You know you're going to have to do a needs assessment as part of your action plan amendment. So I think you can be doing a lot of the work, and other grantees I've worked with have been kind of 90 percent of the way done when the Federal Register notice came out. They then tweaked it or adjusted it and did that public outreach and public comments once they knew what the rules were. So that would be my recommendation. Tennille, would you add anything to that?

Tennille Parker: I would. I would note, as Marsha highlighted, there's certainly things that grantees can do now. One of the things I'd like to emphasize, particularly with respect to citizen participation, certainly you can begin working with citizens and organizations now to understand needs. But don't preclude the opportunity for their valuable input by designing all of your programs and processes and procedures prior to formally putting together your action plan.

Marsha Tonkovich: Good point. Yeah. We certainly want -- we don't just want the public comment to be a rubber stamp. We want them to have input into how those look and some of that will be dictated by the notice.

Tennille Parker: For those questions related to the citizen participation plan and the action plan, I just call your attention to our next webinar is actually on action plan and citizen participation, so encourage those with questions related to that to definitely check out the next webinar.

Marsha Tonkovich: Thanks, Tennille. Okay. Next question, Shawna?

Shawna LaRue Moraille: I just wanted to know -- I just wanted to clarify the September 2017 date for NDR.

Tennille Parker: For grantees who are receiving any funds under public law 113-2, all funds must be obligated by September 30, 2017. That does mean, even for NDR grantees, that all of the funds that they will ask for must be requested. Must be part of a signed grant agreement between the grantee and HUD by September 30, 2017. That is different than all the funds must be expended by September 30, 2017.

Marsha Tonkovich: Exactly right. And again, there's the two year period to extend and then HUD can issue additional flexibility. All right. Last question, Shawna?

Shawna LaRue Moraille: Go ahead.

Marsha Tonkovich: Okay. All right. So let's jump in then to the details of the eligible activities. And again, we're going to have some time to continue to take questions, so if you didn't get your question answered, please write in. We're going to be going for another hour and 20 minutes or so.

As I mentioned, there are 25 different types of eligible activities just straight out under the CDBG statutes and then waivers have added additional eligible activities as well. As I said, they cover kind of everything you could think of doing related to recovery. They have lots of flexibility there. One of the things I want to encourage you, if you're not familiar with it, if you haven't used it as a resource, I have to say I think it's one of the best things HUD has ever published.

It's the guide to National Objectives and Eligible Activities. There's on for state and there's one for entitlement communities, which is the cities and counties. It's for regular CDBG, but as I said, we're built on that foundation and so virtually all that is in there will be applicable to CDBG-DR with some overlaid flexibility and waivers which will have to kind of build on top of the guidebook.

But if you haven't downloaded it, it's on the resource exchange. At the end of these slides, you'll have the actual links to get there. You know, something that I've printed out, put in a three ring binder and I reference every day because it's got great guidance about both what's eligible and how it fits into the statutes as well as the national objectives and how they overlay on top and kind of some of the tweaks about how we use the national objectives. If you want to try to tie your eligible activities, particularly back to the statutes, even if you are an entitlement program, you might want to look at the state version of the guidebook, because it is organized by the statutory section. So I find that a particularly useful resource.

So let's get into each of the eligible activity types and dig into them just a little bit in more detail. So housing is a very typical CDBG-DR response activity. We often see a lot of housing which has been damaged by the storm and so obviously what we typically see in housing is either reconstruction, rehabilitation or new construction of housing. It's a very typical CDBG-DR activity. If you're used to CDBG, you know that new construction of housing is not normally allowed, however most of the waivers that HUD has issued as a part of the Federal Register notice, these sort of standing waivers that come out under every Federal Register notice, almost always have permitted new housing construction.

And so again, you're going to want to go back and look at your waivers to be sure for your particular disaster, but it is likely that new housing construction will be an eligible activity. Key things to know on CDBG is the distinction between new construction and reconstruction. New construction is happening on a different site in a different location. Reconstruction in CDBG is where we had a unit that was on that particular location and we're going to tear down that unit or it's been demolished because of the storm and we're going to rebuild somewhere on that same site. So not necessarily on the same foundation -- might have zoning or setback issues which dictate a different location, but somewhere on that same site you're going to rebuild basically the same kind of unit or the same type of development as was torn down. So that's reconstruction. And in CDBG, reconstruction is a form of rehabilitation. It's under the rehabilitation eligible activity.

There are some environmental things that are slightly different. Environmental review preaches that a little bit differently than CDBG does, so you'll want to give a heads-up to your environmental people, but generally speaking reconstruction is rehab in CDBG.

We can do lots of different kinds of units. We can do single family. Those single family can be for rent. They can be owner units. They can be for sale units. They can be multiple family units. So we have lots of flexibility in terms of the type of units that we can actually rehabilitate or reconstruct or construct. Most typically, as I said, what we see is rehabilitation of damaged homeowner or rental units. A rental rehab kind of a program is a very typical CDBG as the homeowner rehab program.

One of the key things, however, the questions that you're going to get -- I think it's come up in every disaster I have certainly worked on, is the timing of what you're going to pay for. Because your disaster occurs, immediate response happens, right, you deal with immediate issues of the aftermath of the event and then some months later, Congress enacts and funds the recovery fund. HUD then has to put it out, you have to do your action plan, and so a number of months elapse between when your disaster occurred and when the funding is actually available.

And so the question that comes up is, well, what about homeowners or rental property owners who began the rehabilitation immediately after the storm and prior to when they applied for assistance? And so with the Sandy fund, HUD, for the first time, actually allowed some pre-award costs, meaning prior to when you signed the grant agreement, with that rental property owner or with the homeowner. Some, and under certain very specific conditions, allowed some of those pre-award costs to actually be reimbursed.

Now, that won't necessarily happen for your disaster. It's not a guarantee, and as I said, it was a new thing with Sandy. And so you want to look at the Federal Register notice that comes out. Look at what it says about those pre-award costs. Look at what HUD has allowed. If it's not clear, you want to talk to your HUD field office. I would be cautious about promising people that you can do that or making commitments to do that until you see what comes out of your Federal Register notice. But in the recent past, there has been a way to pay for some but not all of those costs that are incurred prior to environmental review and prior to signing of the grant agreement with the homeowner or the rental owner.

Okay. Now, what about new housing? So we talked about rehab. What about housing where it wasn't damaged by the disaster, but I want to do new construction? And that actually has been a significant part. It was a significant part of the Katrina recovery. It was a significant part of the Sandy recovery and others as well. The reason for that sometimes has to do with the fact that when the storm comes through, not only does it damage existing structures, but takes them out of the stock. You know, it demolishes some or damages them to the point that they can't be habitable anymore and so what often happens is we see prices of units going way up because the supply has gone way down. We see the quality units that are decent, safe and sanitary [inaudible] available.

And so there becomes a pressure on the housing market and a great demand for new housing to help the people who were displaced by those damaged structures or who are getting priced out because supply has come down. So HUD has allowed for new construction of housing where you're not reconstructing. It's not housing that was damaged by the disaster, but you're going to build new housing in a community which was hit by the disaster and where you can prove that there's a need for that new housing having just tied back to the storm.

So the storm caused displacement. The storm caused damage to units. The storm caused prices to rise or supply or vacancy rates to go down such that there's threat on the housing market. There's worry about people becoming homeless or people who are homeless. So if you can document all of those types of needs and tie it back to having been caused by your disaster, then as a part of your action plan process HUD can allow you to build new housing not directly having been damaged. Not rebuilding something having been damaged by the storm.

Let's move on from housing then to infrastructure. So infrastructure is, perhaps, the most common activity we see after a storm or one of the most common activities we see after a storm, very common things like rehabilitating public facilities, things like healthcare centers and schools and community centers, senior centers. We also see a lot of infrastructure like water -- waste water, drainage improvements, things like that.

Typically when we look at all of these, they're what we think of when we think of infrastructure in its broadest sense. Key thing about all of these, and this is an important distinction of what we're going to talk about later on economic development. In order to be a public facility, it has to be owned by the public or owned by a nonprofit and it has to be available for services to the public.

So we're not talking about things which are on private land, which are privately owned by a developer or privately owned by a business. That is not public facility. So public facilities are what we think of when we think of community kinds of facilities. These facilities can serve lots of purposes. Some of them are the physical infrastructure rebuilding, but some of them are about the revitalization of a town. So you can think about a town which has been damaged by a storm where what you have to put back is things like sidewalks and streetlamps and those sorts of things -- kind of a main street sort of program, which, if you can tie it back to recovery from the storm, could be an eligible activity. So we have a wide range of infrastructure that we can do, but the key is it has to be public- or nonprofit-owned.

Now, one of the things that we get a lot of questions about is the kinds of infrastructure, and I use that word loosely, that people might want to fund, whether it's in preparation for a disaster or whether it's right after the disaster. It's the kinds of cost that people might want to incur.

We're going to take a quick little diversion here and talk about the phases of the disaster and what CDBG can and can't fund. So if you think about kind of how disasters happen, we start with planning and preparedness. So in advance of having a disaster, you do drills and you have policies and you have procedures and you have equipment and you have things that get you ready in case such a thing should occur.

If an actual disaster occurs, then there's the immediate response for the health and safety and getting people in temporary housing and getting roads opened up and all those sorts of things to happen immediately thereafter. And then finally you move into long term recovery where you talk about the rebuilding. You talk about getting the economic aspects of the community back on solid footing.

CDBG's purpose is that last blue box. CDBG is primarily focused on recovery and so you will see that there are kinds of things you might want to pay for with CDBG, but you actually can't. I've had a lot of debates with HUD, HUD has a lot of debates with grantees about some of these kinds of costs. So, for example, we hear a lot of questions about things which HUD would put in the box called response. So things like emergency radios, portable generators that are not affixed to the site. Things like the immediate costs right after the storm for your police patrols and those sorts of things which are not the ongoing. It's not part of long-term community revitalization, but sort of immediate things. Most of those kinds of immediate response costs are not eligible under CDBG. They're not part of recovery.

Now, that's a general statement and again, there's lots of particulars so I would encourage you to talk to your HUD staff about it, but you need to make a distinction between response and long term recovery.

Similarly, the front end of preparedness and all of that and resilience, HUD and for those of you who are NDRC grantees know HUD is placing increasing focus on resilience and rebuilding and mitigating so that future storms do not have a great impact. And thinking about planning and thinking about how we ensure that we plan for better disaster recovery. Those are important. The way HUD approaches this is that those things are eligible if they are tied into a cost or tied into an activity which is about recovery. So you can't have an activity which is just mitigation or just resilience standing alone. It has to have a tieback to the recovery of the community.

And so for those of you who are NDRC grantees on the call, that's why you had to write that appendix B that you did in your application where you had to talk about the tiebacks of the storm and you had to show that there was an unmet need and all of that because you're tying all of the resilience activities you are doing to the recovery, the unmet recovery of those impacted communities and that's what I'm talking about here. The same is true of preparedness. We can't just be preparedness, but we can tie it into planning and we can do things like zoning and other kinds of things which might help us as a planning activity. So it's not that these things aren't eligible. It's that they are fit together as a part of a recovery action.

One last point now on infrastructure, and this is one where we often see a lot of questions which have to do with match. And so what you'll see, if you look at the CDBG statute is a category called other federal match or federal match and what we're saying when we say match is you have another federal program. It could be EPA. It could be FEMA. It could be Army Corps and they are putting that federal funding into some sort of infrastructure activity and usually those other federal programs require a local or a state match. Meaning they won't fund 100 percent of the cost. So they might fund 80 percent of the cost of rebuilding your dunes, let's say, and there's a 20 percent gap that you are intended to fill with local or state or other kinds of funds.

CDBG can fill that gap, that 20 percent or 10 percent or whatever the gap is that is not funded by that other federal program, but the key thing to know about that is when you fill that gap with CDBG, you make it a CDBG-DR project. So it's not like matched with its own eligible activity somehow separate and different from infrastructure. All they're saying in the match section of the statute is you are allowed to do infrastructure while you are matching somebody else's funds, but you're really doing infrastructure.

And so what that means is, when you put your match funds into a project, all of the CDBG rules come along. So the environmental review that we talked about, all the labor standards rules when they are applicable, the fair housing rules, the national objective, the tieback to the storm, the duplication of benefits that we haven't yet covered. All of those things that come with CDBG funds come to -- you now attach to the project when you have matched it.

The key is, when you want to match something, you have to make sure that that underlying project is eligible under CDBG and would meet all of our rules and then document accordingly. One of the things that we see people doing and where we've had some pretty big monitoring findings is you simply defer to FEMA. So you got FEMA and FEMA is required to match and you're going to do FEMA match and you say, okay, well, FEMA has done all the work so therefore it must be good enough and you just put the funds in there. Sometimes the FEMA projects do meet CDBG, but a lot of times they don't, so they don't have the same documentation. For example, they don't have the low-mod focus that we have to have; they don't have a national objective. So it's important that you actually look at each of these projects and say, okay, this is eligible for CDBG.

Now, there is one exception to this that HUD has allowed in the past, and again, look at your Federal Register notice to see whether it is allowed for yours, but they have allowed the environmental review when done by FEMA for the same project, same scope and all of that. They've allowed the CDBG grantee to use that FEMA environmental review. But that is the only exception to this, and again, it's because they've done the federal environmental review. And again, look for your notice to make sure that that's allowed for yours.

All right. So that's it on infrastructure. Let's move on to economic development. So revitalization -- very, very broad category on your CDBG. Really you can do a lot of different kinds of things in order to support job creation, economic revitalization, job retention, spurring of new businesses in a damaged community. All of it is related to sort of improving the economic situation of a community which has been harmed by the storm. The idea here is to tie it back to addressing that economic standard, be it job loss, be it business loss, whatever it is, that your activity is tied back to that.

One of the things that folks who are not familiar with CDBG are often surprised by is under this particular eligibility category of CDBG, we are allowed to fund for profit businesses. We can give CDBG-DR funds directly to a for profit business to enable them to rehabilitate from storm damage, to get working capital, things like that. So we are allowed here to fund for profits. We can also fun nonprofit businesses, so we have things like farmer's markets and things like that. You know, co-op grocery stores and things like that, that also are possible to get physical rehabilitation types of assistance.

Let's just give you some examples, because again, it's a very common CDBG-DR activity, so one of the most common we see is loans and grants to businesses who have been harmed by the storm where they had some physical damage or economic losses -- significant economic losses due to their water being turned off, their power being turned off, that kind of thing. You can give them both renovation assistance to rebuild their damaged commercial structure as well as working capital if that's what they need in order to get back up on their feet, retain their employees, hire new employees.

Another key point to make about this is while our primary focus is usually on businesses with sustained damage from the storm, because those communities were impacted by the storm and if you can demonstrate that their economy was harmed, you are also allowed to fund new businesses or expansion of businesses because the idea is if I bring new businesses into this community or expand existing businesses in this community, you're creating job. And so by creating jobs and tax revenue for that town, you're helping it to economically revitalize.

It doesn't have to be just focused on rebuilding existing; it can also be new. You can also do job training programs. If you want to think about this, I would encourage you to marry it with other programs that you are doing. But, for example, you could fund businesses and then also fund job training programs for the employees in those instances or to bring new people in to take those jobs and to train them how to take those jobs. There's also a special section in CDBG about micro enterprise systems, which are small existing businesses -- micro businesses or small start-ups. Some grantees have done these kinds of small start-up programs as a way of not only bringing more jobs in, but actually giving economic opportunity to low income owners and other owners of businesses.

You can also work through a nonprofit. Most of our parts of our country have community development financial institutions, which are nonprofit lenders and developers. You could work through one of them or other community based nonprofit organizations to do economic development. Whether it's small business lending, whether it's actually physically doing kinds of development activities, and if you dig into this section of the statute when you look at that guide that I mentioned, you'll see there are some very special flexibilities for working these kinds of organizations. So I encourage you to take a look at that for economic development.

Okay. So in return for getting to do all of that flexibility with for-profit businesses, we have some extra rules that come along. So the first thing is that we have to show that the activity that we are doing is directly addressing an economic impact of the disaster. And that economic impact could be job loss. It could be the need to retain, maybe they haven't lost jobs but they're going to if they're not propped up.

It could also be the physical loss where they lost all their inventory or they as I said, they had an economic impact to the business where they had to shut down for a couple of weeks. Or it could be to the community. It could be that because a lot of the businesses had to go out of business, now the community has lost tax revenues, the community has lost jobs.

So you have to make a tieback, because you're not just funding economic development for the sake of it, but you're funding it for the purpose of revitalizing [inaudible]. You need to then lay all of that out in your action plan. So in your action plan, as I mentioned, you're going to describe the need for economic development. You're going to describe what kinds of things are needed, where it's needed and make that connection back to the storm.

There are some both requirements that come with this kind of funding as well as some flexibility that HUD has allowed and these have been particular to the disaster again. So what I'm going to give you here is what the most recent notices have said. We don't yet know what it will say for 2016. But what the most recent notices have said is you are only allowed to fund small businesses and that definition of what a small business is tied to the SBA definition.

Now, if you've done a lot of economic development work, you know that the SBA definition of a small business is actually very big. It's not really what we in the HUD world would typically think of small. So it'll depend upon the number of employees or the revenues of the business and which one it is, whether it's revenues or whether it's employees, depends upon the type of business it is or the -- what's called the NAICS code, the delineation of types of businesses.

And if you haven't worked with this before, you go onto the SBA website and you search on small business definition. You will find that there's a spreadsheet as well as some guidance that SBA has published that goes through each of those NAICS codes and it gives you what the small business limitations are by industry sector. And so if you're interested in doing economic development and it's indeed a small business, requirement is put in place for your funding, you want to go back and get that spreadsheet and use it to decide who is small business-specific. As I said, it's generally pretty flexible.

On the positive side, as those of us in economic development know, there's normally a requirement in CDBG that's called public benefit, which basically says we're doing economic development and it only applies to economic development. You are required to show, because you're funding for profit businesses, you are required to show that you're getting a sufficient public outcome for having invested CDBG funds; what we call the "bang for the buck" factor. In other words, a certain number of jobs, how much CDBG money we put in for a certain community impact the amount of CDBG [inaudible].

That can be constraining [inaudible] situation. So in most past disasters, HUD has waived those requirements but instituted an alternate requirement, and that alternate requirement is generally around reporting on the types of businesses you are creating; by sort of sector and by type and how many jobs and so forth. It's generally not very onerous and it can be done while you're [inaudible] as part of that reporting. It is easy to [inaudible] bang for the buck factor [inaudible] but you do have to report.

So again, make sure you look in your Federal Register notice for what's happened to public benefits standards if you're going to do any economic development.

Okay, so that's economic development. Let's move on to social services. So when we think of disaster recovery, we often don't think of social services, but CDBG's definition of a public service is actually quite broad and it includes things that many of us would think of as housing, but in CDBG world they're really not. It also includes a lot of the kinds of counseling that you might want to think about post-disaster. So in addition to the sort of physical construction activities like housing and economic development, what I encourage you to think about post-disaster, I would also encourage you to think about these services and how -- what is needed in your community.

So one of the most common ones, as you can probably guess, is housing counseling. As you are beginning to build new, particularly new rental units, but perhaps even other kinds of units, you want to be referring people to those available units. People who have been displaced. People who are in a situation where they can't afford their rent, their rent burden, whatever it is or people who are in that kind of situation in society. And so housing counseling can be an integral part of having a physical construction program. It can be a very important part.

In addition, oftentimes people either are displaced or because the rents have gone up, they can't afford it anymore or maybe they're a homeowner who has to be out of their house while their house is being renovated. HUD, in the past, has allowed waivers and we'll talk about that waiver in just a moment, to enable you to pay either tenant based rental assistance where you're paying for someone's temporary rent or a particular period of time or paying for a part of that rent and they're paying a part of it, to enable them to afford their monthly housing cost. That can also include utilities.

Similarly, HUD in the past has allowed waivers where if a homeowner has to be out of their house or if they're in their house, but because they're having to pay for their rehab and the other things that have happened during the storm, they need help with their mortgage, they've also allowed for ongoing mortgage payments as well. So both an ongoing rental payment and an ongoing mortgage payment are possible for a limited period of time and, again, with a HUD waiver that we'll talk about.

You might also want to think about homelessness prevention services. So looking at people who are at risk of homelessness and how do we help them to prevent that homelessness, whether it's counseling or housing referrals or other kinds of services and then finally you can do things like temporary relocation where I pay for the moving expenses and the other costs related to that to help people to get into a new [inaudible] -- back to a safe and sanitary house or back to their home or whatever it might be. Again, there are many, many other kinds of services. If you think about the job training, as I earlier mentioned, you think about other kinds of counseling services. It's a fairly broad category here.

First key is you're limited, however. It is 15 percent of your total award. So whatever your total grant is, up to 15 percent is the max that you can spend on social services, public services. You can ask for a HUD waiver and there are people who have gotten HUD waivers to go a little bit higher than that. The second thing is, because CDBG is primarily about construction and it's primary focus is on construction, things that are called income payments, which are basically ongoing subsidies to the individual household, right, so ongoing tenant based rental assistance, ongoing mortgage assistance, ongoing utility assistance, anything like that where it's got an ongoing nature to it, in the CDBG rules are tapped at three months.

So if you wanted to do an ongoing program while someone is out for rehabilitation, let's say, while their rental unit or their homeowner unit is being rehabilitated, you're probably going to need to do more than three months. And so that will require a HUD waiver, so you'll have to explain to HUD why that is necessary that you have this ongoing subsidy payment to a household and assuming you get that HUD waiver, you could then do that for whatever that period is that HUD allows.

Key thing on this again, making sure that you're not duplicating what other federal programs are doing -- sometimes when disasters happen, there's actually a special Section 8 appropriation of [inaudible] assistance or ongoing tenant subsidy. You need to make sure you're not duplicating that, but you're filling the gap.

Okay. Admin and planning. So the next general group of eligible activities are around how you manage your programs and how you help people to plan for their recovery and to plan for how the community is going to address what's happened to them. So we're going to have a lot more detail. There's a later webinar I'll be teaching on these topics, so I'm just going to give you the overview here. But if you have questions about this, I do encourage you to join us for that later webinar.

There are two different kinds of planning and people often get these confused. The first is project planning. So if you're doing things like usability assessments, market assessments, site assessments the design, the architecture, all the stuff that goes around a particular site, that's actually a project cost. [Inaudible] what HUD would call a planning cost. When we say planning, what we're talking about is sort of more community planning. Things like zoning requirements and doing mapping of the community and figuring out how to implement the new FEMA maps for flood requirements or zoning and land use to address resiliency. You know, all those resiliency standards for rebuilding.

All those sorts of things are a planning kind of expense. They're community wide, they're about helping the community to address the disaster or plan for the disaster and together those kinds of plans -- and as an aside, you can either do those costs as a grantee yourself or if you have subrecipients, you might also allow them for some planning expenses. If you're a state, perhaps giving money to a locality so you can have a planning kind of activity. However, those [inaudible] costs together with your administrative costs in total across the entire award, across your whole state or your whole city, the total is capped at 20 percent of your grant and of that, five percent typically can go to [inaudible].

Again, that might be different for your disaster, so [inaudible] particular notice, but generally it's five percent. So that's the kind of process for admin, and again, we'll get into that in more detail at a later date.

Okay, so with that, Shawna, I'm going to take a break and ask for questions.

Shawna LaRue Moraille: Okay, great. Thanks for your patience, everyone. We have a bunch of questions, Marsha. So just to be clear, because a waiver was granted underneath a previous notice, it does not mean that the same waiver will be granted for another disaster. That jurisdiction must still request a specific waiver, correct?

Marsha Tonkovich: That's correct. So as I said, you have to look at the particular Federal Register notice for your disaster. So, for example, past Federal Register notices have allowed new housing construction. I don't know whether it will be included in the 2016 notice, but if it's not, let's say, then you would not be able to do new housing construction without having requested it from HUD and having gotten that waiver in the Federal Register from HUD. So it is not true that all past waivers necessarily carry forward, only those that are actually in the Federal Register notice or notices over time for your particular disaster.

Shawna LaRue Moraille: Okay. Speaking of new construction, if the affected area is an entire region or county, can new construction units be built in any area of the region or county?

Marsha Tonkovich: Okay. So if the entire county is a federally declared disaster area, could the new construction be built anywhere in the county? And again, the answer would be yes, but of course as I mentioned earlier, you would have to be able to show that there's a need for that. Let's assume you got the new construction waivers, so let's put that aside. Let's assume you got that waiver. You would have to be able to show that there's a need for that new construction and why we need to do new as compared to rehabilitating those that were damaged and we talked about the economic kinds of impacts that [inaudible] can have and showing why you have it.

Once you've done that, you could do it anywhere within the affected area. Anywhere in the affected disaster declared county. But again, as you do your action plan and as you do your program design, you're going to want to think about the location as being convenient for those tenants. Is it on a bus line? Is it a place where people can get to work? Is it a place where people want to live? Is it likely to pass the environmental review requirements because it's not going to flood again? You know, whatever those other rules might be. So while, yes, technically you could probably put it anywhere in the county, you do want to think about whether that's the right place to build.

Shawna LaRue Moraille: Next one, just pausing in case HUD wanted to add anything. In terms of -- this is when you did economic development, the question is, do you have to show that the businesses employed a certain percentage of employees that are low and moderate income?

Marsha Tonkovich: Okay. So what you're really asking -- what you're asking about there is about what we call the national objective and we haven't quite gotten there yet. It's going to come up in the slides in just a few minutes. Not necessarily. It depends upon which national objective you use. So any business, regardless of the nature of their employee mix, low-mod, not low-mod, can be eligible for CDBG-DR under eligibility. But when we get to the national objectives, if they don't have a proportion of their employees as low-mod, we're going to have to meet a different national objective and so we'll talk about what those other options might be.

So yes, it is possible to fund businesses that don't just have low-mod employees or a particular proportion of low-mod employees, but then we have to meet a different national objective.

Shawna LaRue Moraille: Okay. This is on public drainage -- public drainage improvements in a business park area that resulted in business shut downs. Would that be considered infrastructure or economic revitalization?

Marsha Tonkovich: Okay. It depends upon who owns the drainage. You can envision an industrial park of some sort where the streets and the drainage systems and the water sewer and all that are publically owned and yes, they benefit the businesses, but the title, if you will, to that infrastructure lies with either the public agency or a nonprofit kind of quasi redevelopment authority or something like that. That would be infrastructure.

If, however, and assuming again it's open to the public, it's a street, like I'm not talking about things that are private now. I'm talking about things that are -- the public can walk down the sidewalk, the public can drive down the road. If, however, that infrastructure is owned by the business or the group of businesses or the park or the business park owner, let's say, then it's not infrastructure, because it's not publically owned. It's not necessarily available to the public. It's the nature of those businesses and that would then be economic development. It doesn't mean you can't do it, it just means you have to do it as economic development rather than doing it as a public facility or infrastructure.

Now, there is one more category, which is publically owned economic development infrastructure. We could have a situation where we have roads [inaudible] other kinds of infrastructure, which are publically owned but only used by those businesses. Not really opened by the public. And again, that can also be done -- so that's done as economic development that is undertaken by a public or nonprofit. So you know, it would be a category of economic development.

The key is, is it open to the public? Is it owned by the public? Is it available to the public? If yes, it's infrastructure. Does it serve the public? If it is owned by a for-profit business, then its economic development. If it's owned by the public, but only serves those businesses, again, it's economic development, but it's economic development done by a public entity.

Shawna LaRue Moraille: Okay. So kind of related to that, so their question is, is there an occasion where a company and a disaster area or region that is not impacted? In other words, does there have to be a proof of impact?

Marsha Tonkovich: Yeah. So that's actually what we're going to get to next. That's called the tieback to the storm. And if you have a business which is outside of your declared disaster area or an activity which is not directly benefiting that disaster area, you're going to have a very difficult time funding that. Possibly there's some sort of situation where maybe you could show that the business is located outside of the impact area, but all of its low-mod employees come from within the disaster area and so you're somehow benefiting the disaster area by keeping those jobs or something. You can envision something sort of convoluted like that, but in general, we have to be able to show a tieback to the disaster in the particular communities where that disaster occurred.

Now, how we do that tieback, we have lots of different ways of doing it, but generally speaking we have to have a connection back to the disaster. I will say that in some of the recent disasters, HUD has been allowed to have -- you know, there have been some counties where the majority of the money had to go and then other counties you had kind of a portion of the money could go to other counties. But it all depends on how your Federal Register notice works. The bottom line is, even if you're in kind of those other counties that HUD allows you to spend money in, you still have to show a tieback with the storm.

Shawna LaRue Moraille: Okay. A few more, Marsha. Did you state the income program such as tenant rental assistance, mortgage assistance of payment cannot exceed three months?

Marsha Tonkovich: They cannot exceed three months without a waiver. So if you just wanted to do sort of a short term boot strap kind of a program where you're going to help people for two months and then cut off the assistance and assume that was enough to kind of get them on their feet, then you could do that as a public service without a waiver for the tenant based assistance. However, if you want to do something on an ongoing basis where you help people, whether it's through mortgages or through rental assistance for an ongoing period of time of longer than three months, you need a HUD waiver. Now, the waivers have been granted, so it's not that those cannot be done. They have been done, but they've been done under HUD waivers.

Shawna LaRue Moraille: Okay. As preparation of the action plan considered planning or admin?

Marsha Tonkovich: Preparation of the admin plan, that's a good question. I believe I would call that planning. Tennille, what do you think?

Tennille Parker: In our guidance, we have said it's a planning cost. I know someone pointed out that the CPD guidance on activity delivery costs, etcetera, says something slightly different, but one thing that DR grantees have to remember is we had to modify that because we have states and entitlement cities and counties acting directly. So that's why we allow that to be a planning cost.

Marsha Tonkovich: Thanks, Tennille.

Shawna LaRue Moraille: Okay, and last one. There's a couple we'll hold for a little bit if folks don't mind. There was a question just about procurement and some of those other cross cutting requirements because things are moving so quickly. I believe the question is just how best to plan and the example that they provided was procurement and making sure that their subgrantees are following the requirements in part 85.

Marsha Tonkovich: Okay. So we are going to talk a little bit more about procurement in that other webinar I mentioned, which I think is two from now, on admin and planning and all that kind of stuff, but just a quick answer. So yeah, procurement is actually a big deal in disaster recovery, because those are not [inaudible]. There sometimes are certain flexibilities that you're allowed and if you look at your notice, you'll see that HUD has sometimes allowed certain things to be done. But generally the procurement requirements are not waived and as the question is asked, it doesn't just apply to the grantee, but it actually flows on down to your subrecipients, other nonprofit or public agencies whom you fund to administer on your behalf. They also have to follow the procurement roles.

So a couple things I would recommend doing in advance of when the notice comes out or if you already have your notice and you're working on your action plan. First and foremost is you want to look at your policies and procedures around procurement. You probably have existing ones for your jurisdiction that are sort of city-wide and hopefully you also have them for your regular CDBG program. You want to go and take those and adapt them with whatever flexibilities HUD has given you on procurement and also to the disaster to the current situation that you are in.

But that said, in general, you still have to follow all the federal rules or if you're the state and you've opted to follow state rules, the state rule related to procurement. So what you want to do first is look at your policies and procedures. Make sure that those are actually shaped up and in the context of what you have to do here. Then I would suggest that what you do is look at doing some sort of training session, some sort of webinar, some sort of group meeting for those subrecipients that you're going to have and go over with them whatever those procurement requirements are going to be.

Whether you're following the federal rules of you're an entitlement or if you're a state, if you decided to follow state law or the federal rules or whatever combination you're doing as state. Go over what those requirements are with those folks so that they know to get them into their contract. What often happens and where we get in trouble is the subrecipient is moving quickly. They go out. They hire a planner or they procure a planner or an engineering firm or whatever they might do and they don't follow procurement and then they come into you for funding.

And so you don't know that they actually violated procurement before they came into you and now you can't fund them or you can't fund that part of the project because they haven't procured it properly or they have to re-procure. So you want to get out there early with kind of what your state requirements or your local requirements are, the federal requirements around procurement, get those procedures out to them, share it with them so they don't make that mistake early on and then get that into your grant agreement with them once you've got your award from HUD and then execute your subrecipient agreement, make sure those procurement requirements are clearly called out.

Bottom line is that procurement, unfortunately, is one of those things that will slow down your CDBG-DR process because you will have to follow it. But that's why it's important to get it out there early and get people involved. I will also say that one of the things your subrecipients might not be aware of [inaudible] recent disaster appropriation is also the transparency procurement, which is having to post your fees that you have issued, the winning proposals, letting the public know about your procurement process. So you need to make sure your subrecipients are aware of that, again, assuming that gets carried forward, which I would imagine it probably will be. With that, Shawna, it sounds like that was our last question. Can we move on to tiebacks?

Okay. Hearing none. All right, so we mentioned this earlier, but I think it's an important thing that we dive in to here. Every single disaster that you're going to -- or every single activity that you're going to fund, every project, every applicant, every program, has to have a tie back to the recovery from the disaster for which you have been funded. So it is not sufficient to just say, well, it's located in the county or it's in an area that was harmed. We have to show that that particular applicant has a tieback to the disaster or that particular project has a tieback to the disaster that we were funded to address.

Now, that tieback can have a lot of different flavors. So the easiest one to understand is the applicant or the project had physical damage or economic damage from the storm. So their physical structure was harmed in some way and there could be a lot of damage, could be a small amount of damage, but there was some damage to the physical structure from the storm. Oh, and that can be commercial, it can be residential, it could be infrastructure, but some sort of damage. Or you can show economic damage like I said, the business lost however much in revenue because they had to be shut down for a period of time because they had no water. That's physical direct damage. So you can show all of that as sort of damage from the disaster.

The second way that you can document tieback, and it's a little bit more squishy, is economic revitalization or economic impact. The idea here is you're doing some type of activity, generally economic development, but not always, where the nature of that activity will revitalize a damaged community. So, for example, I talked earlier about being able to fund new businesses that might be moving into an impacted county or an impacted city. If you can demonstrate that by bringing in that new business they're going to create 100 jobs in that town, that has an economic revitalization impact on that damaged economy if you can show that they lost jobs because of the storm or they had business shut downs because of the storm, you can then show that you're economically revitalizing that community.

And so you can see that there's lots of different ways that you could do economic revitalization, but the idea is that you are in an impacted community that has some sort of something has happened to them because of the storm and by your having investing in this particular project, it's contributing to the revitalization of that community.

The third way to do it is you had an applicant. So now we have a subrecipient. We have a community. We have a town, whatever it is, who had a disaster impact and they're coming in for assistance to address that disaster impact. So we're talking about -- let's look at some of the NDRC grantees, for example, where we had communities that had significant flooding throughout the community and now we're coming in for assistance as a community, as a subrecipient, as a grantee to the state or to the county or city to address those flooding impacts.

Those are the kinds of things we're talking about here. We have to have a tieback to the storm. It is not sufficient to just be located in a place where disaster recovery declaration has been issued. We have to actually have [inaudible] have some tieback to the storm. It's key when you document your files not just to document eligibility or national objectives, but actually to document the tiebacks. You should have a folder or some sort of file that is titled tiebacks and shows how this particular activity ties back to the storm.

This is not the same as duplication of benefits. You look at this and the national objectives [inaudible]. So duplication of benefits, which we'll talk about in a later webinar, is looking at that gap in funding. Right? It's not saying do you have a tieback to the storm? It's not trying to say are we [inaudible] an impacted county. What it's saying is, okay, they do have a tieback, but now how much money do they need? That's duplication of benefit. Tied to the storm is can you link it back to the original storm?

For those of you guys who are NDRC grantees, you did a lot of this as part of your application process. So again, in your section B where you had to meet the threshold, you had to make that connection back to a storm. Remember, you had to show that there was an unmet need from your [inaudible] to storm, if you will. So that was exactly doing what we're talking about here. You have to have that tieback.

Okay. The documentation of this, very important, easy to understand if it's a physical damage or even an economic damage, right? You're going to have physical inspections. You might have economic profits and loss statements from the business or something like that, but the idea is that you've got physical documentation of that damage.

More complicated is this sort of economic impact ID. One of the things that we have recommended to folks is to think about coming up with a good checklist that says here are the things which could contribute to the economic harm to a particular community. So job loss, job retention physical loss of businesses in the community, closures of businesses, whatever it might be that would have an economic impact on that revitalization.

Create a checklist of those. What are those criteria? And in the past, [inaudible] to have quantified them out, 10 percent increase, 10 percent reduction, whatever. Go over that with your HUD rep and show them your approach to how you're going to do community revitalization. In the case of New Jersey, they actually came up with a really nice checklist that they got HUD to approve. You might want to think about something like that so that you're all on the same page about how to document that when particular projects come in the door.

Again, as I mentioned earlier, it's not enough just to say, well, this project is in an impacted county. You have to have that tieback to the storm, and obviously as you can tell, the farther we get from the storm, as we get three, four, five years out, we're still in the expenditure timeframe, but applicants who come in later in the process it's going to be harder and harder to show that they still have a storm related impact.

Okay. The next thing we need to talk about is the low-mod targeting. I mentioned earlier that the key sort of foundation of CDBG is the benefiting of low and moderate income households. In normal CDBG, that means that 70 percent of your money, all of your money for the entire recipient has to go toward benefiting low-mod. In the case of disaster recovery, that number is reduced to 50. What this means is 50 percent of all of your funds that you expend have to go to benefit people who are 80 percent of LMI and below.

So low-mod and HUD definition is 80 percent of LMI and what you're going to actually track is not the people, but you're going to track the money. So you're going to track that of the money you spend, 50 percent of that money that you spend at the end of the day, across your entire grant, across all your subrecipients, everybody added together, 50 percent of that money went to benefit low-mod.

The way that we show that, the way that we prove that, is through the national objective that we're going to cover in just a moment. The national objective is the way we document whether we're low-mod or not low-mod. Now, the 50 percent, there have been waivers in the past where HUD has allowed people to go below 50. You know, 20-something is the lowest one that I've seen.

You can go lower than 50 percent, but that requires a waiver and I will tell you, that's a difficult waiver to get. The reason why is because, as I said, low-mod benefits is a foundation objective It's an essential, fundamental part of it and if you think about who gets harmed by disasters, low-mod people often have the most difficulty recovering and are often among those who are most hardest hit by storms.

In order to get a lower threshold than 50 percent, you're going to have to document to HUD the nature of where your storm occurred and why it is that it's not practical or feasible to hit the 50 percent.

Let's jump into national objectives and let's talk about how we then talk -- how we focus on that low-mod targeting. So there are three national objectives. Low mod is one of the three. [Inaudible] and blight, which we'll see doesn't really have a very big role in CDBG-DR and then urgent need, which is actually the big one in CDBG-DR.

Just like we talked about for earlier requirements, every single project, every one, has to have a part of its documentation that shows that you met one of these national objectives. The national objective is not usually met on the entire program. It is met for the specific project by project by project. Now, one of the exceptions to that is admin and planning, which actually doesn't have to meet a national objective. It's kind of taken off the top.

Okay. So there you'll see your three national objectives -- low-mod, [inaudible] blight and urgent need. We're going to jump into the first group, which is low-mod. One of the most common ones that we see is low-mod area. You'll hear those of us doing this a long time calling it LMA. That's an activity which benefits everybody in a service area. So something which everybody in a service area could partake of, could choose to benefit from. It's not that I actually do. I might not choose to go into the community center, but I could. So it's something that everybody in a service area can partake of. It's a good or service that is provided or a facility that is provided to the people of that service area and we look at the demographics of that service area and we say that of the people who live in that service area, 51 percent of that is low-mod income.

What we do is we get the census data. We draw the service area of the activity and we then get the census data for the block group or the track, whichever makes sense given the nature of the service area and we prove that 51 percent of that population is LMI. We only have two ways of proving that. We can either do that census data, which is by far the easiest way to go, or if our census data which is by far the easiest way to go, or if your census data, if we're a very rural community or other community where we think census is undercounted, we could do an actual survey, but obviously that can be time-consuming and [inaudible] that time [inaudible].

So those are our only two data options. I do want to encourage you, if you're looking to do it low-mod area and you probably will be, there is something call [inaudible] maps. There's a link to it, back of this presentation, on the HUD website. It has all the census data loaded as well as all sorts of guidance about how you actually use the census data and you can actually put in block groups and tracks and it will allow you to map kind of the low-mod percentage. So want to encourage you to use that [inaudible] mapping tool. It really helps and makes this a lot easier than it might otherwise be.

The other thing to know about LMA is there are things, and you'll hear people talk about something called an upper quartile or an exception community. Those are communities where HUD will actually allow you to go less than 51 percent. They'll set a lower threshold for your community. That has to do with demographics of your particular location. It's not something you apply for. It's not something you can change. It's totally based upon your demographics so you either are or you're not an exception community and if you don't know if you are, give your HUD rep a call and they can tell you whether you are or not and if you are one, what your threshold is.

So if you're not 51, maybe your 39 or you're 37 or whatever. It'll tell you what your number is. All that means is instead of having the area have to be 51 percent, if you were an exception community and let's say your number was [inaudible] then you would have to give me 37 percent LMI. It would depend upon your particular member.

So if you don't know if you are or not, ask HUD. They can tell you. For states, you are not normally. These criteria are not normally applied to states. However, at least in Sandy, HUD elected to allow states to let the upper quartile communities within the state, so not the whole state, but if you had upper quartile communities or counties or cities within the state, to let you use that flexibility for each of those areas. Again, you have to look at your Federal Register notice and make sure it's allowed this time, but if you're a state, this is something you'll want to look at and get your list of upper quartile communities within your state, in your disaster impacted area.

So the key thing on doing LMA is make sure you get the service area of the [inaudible]. That's the hardest part. You have to figure out what is that service area? What are the boundaries of that service area? It is not based upon who uses these facilities. It's not based upon the actual use. You don't stand outside the library and take income verification. It is actually based upon the service area. You know, who is likely to use this library? Is it a small regional or local library that just serves this particular neighborhood? Is it a big city wide library that everybody goes to? What are the sort of programmatic boundaries? What are the physical boundaries of how you get there? Where's the next library?

So there's some really good guidance in the guide eligible activities and national objectives from HUD that actually gives you some good suggestions about how to go about figuring out the service area. You're going to want to map that. Finally, in order to be a low-mod area, that area has to be primarily residential. Remember I said we're serving good and services to a low-mod community. So it's not your downtown that is just commercial and doesn't actually serve, although if you're a small town, your downtown might actually serve the town. That might be okay. It is certainly not an industrial area that doesn't actually provide a good or service to the community.

You have to look at the demographic or look at the data on the service area and whether we are in fact serving the community and if that community is primarily residential. How do we know if it's residential? People typically use things like zoning or land use as a way of documenting.

Our next poll, please?

Chantel Key: Okay. So for our fourth poll today, our final poll, which of the following activities could not use the LMI national objective? We have A, a project where you are repairing a damaged library, B, working capital to a grocery store located in a neighborhood that's 52 percent LMI. We have C, money to rebuild a county office building, D, assistance to rebuild sidewalks or E, all of the above are okay under LMA. The polls are now open.

Shawna LaRue Moraille: Marsha, while we're waiting on the results, can you just clarify the 70 percent that you covered earlier and the 51 percent, please?

Marsha Tonkovich: Sure. So there's two different criteria here and this is a very confusing part of CDBG. There is an overarching requirement that says how much of our entire pot of money, not project by project, not subrecipient by recipient, but all the money that we get under CDBG-DR, how much of all of that added together has to go to benefit low-mod income. That number is actually 50 percent. Normally in CDBG it's 70, but in disaster recovery it's 50. So half of your money all together, all added together, has to go to benefit low-mod.

Now, how do I know what counts and doesn't count toward that 50 percent. What I do is I use the national objective and in order to meet a national objective, we were just talking about low-mod area. That area would have to be 51 percent. So if my area has 51 percent of its population being low-mod, all the dollars spent on that activity. Let's take a library. I spent $5 million to rebuild a damaged library and that library, I'm going to foreshadow one of these answers. That library serves a low-mod income community and I spent $5 million to rehab that library. All $5 million would get to count toward my 50 percent low-mod targeting because that project counted as a low-mod area project. We'll have an exception for that on housing, but that's generally the way that it works.

How is our poll, Chantel?

Chantel Key: We have about 57 percent voted so far.

Marsha Tonkovich: So let's call it good. Why don't you read the results?

Chantel Key: Okay. I'm closing it now; sharing the results. We have one percent that voted a project to repair a damaged library. Six percent voted working capital to a small corner grocery store. Thirty two percent voted funds to rebuild a damaged county back office building. Thirty percent voted assistance to rebuild sidewalks and 32 percent voted all of the above.

Marsha Tonkovich: Okay. Let's go into each of them. So I did foreshadow the one on libraries. The library would be okay. It provides a good or service to a community. It's serving -- we gave you the evidence that it's serving a low-mod community. We would presume it's a residential. We'd have to document that, but that would be an okay low-mod area activity. The second one, and this one often trips people up. People think you can't do economic development as a low-mod area activity. That's incorrect. You can.

If it is an economic development activity which is providing goods and services to the community, that they might partake of. I'm not talking about a Tiffany's store, but we're talking about a grocery store. We're talking about a pharmacy. We're talking about a dry cleaner. Those sorts of things that provide retail kinds of things and is located in a low-mod area.

This one might also be able to do low-mod jobs that we haven't gotten to yet, but this could be a low-mod area activity.

The next one about rebuilding the damaged county back office building; here's the issue with this one. And I know a lot of people did vote for this one as being ineligible and generally it probably is. The key reason why it's not allowed as a low-mod area, although it could be done under a different national objective, but the reason why it's probably not a low-mod area has to do with it being a back office building. It said it's not a service center. Remember, I said in order to be a low-mod area, it has to be providing goods and services to the service area. If it's just a back office building that doesn't benefit anybody, maybe they're just processing paperwork or something like that, probably going to be hard to make the connection back to providing goods and services.

Now, if it was a service center, if you went in there to pay your water bill and get your dog licensed and everything else, then yes, this would be okay. It depends upon the nature of the building. The next one on the sidewalk says the same sort of thing. We said it has to be a primarily residential area, but this is actually serving just a business district and industrial areas. Again, we'd have to know the nature of the service area and say, well, who really uses those sidewalks? Right? Is that actually used by the resident? Is it a broader residential area? Probably not, given this description. And so this one, given it's in an industrial area, probably not okay as a low-mod activity, but probably will use a different national objective.

Okay, let's keep going -- limited clientele. I'm going to do this one fairly quickly, because it's not all that common under disaster recovery, but basically what it is, is you're doing a service based kind of program. It's [inaudible] counseling services and others that we talked about. Here what you're going to do is document the income of the individual household. Who is benefiting from the activity? You're going to show that 51 percent of those households or it's a presumed kind of clientele where the particular activity is benefiting just that subset of the population that HUD presumes to be low-mod and you're going to document that population. This is only used with services and special needs facilities kinds of activities. It cannot be used for housing and it cannot be used for jobs.

Low mod housing. So this is one that you will commonly use. This is the only low-mod national objective. Again, the one that counts toward the 50 percent low-mod targeting, the only one that you can use for housing, and what it basically says is if it's a single unit, like an owner occupied unit, that one owner has to be low-mod in order to count under low-mod housing. If it's a duplex, one of the two and if it's multi-family housing, 51 percent of the units have to be occupied by low and moderate income people. Okay?

If you want to count your expenditure on the housing toward your 50 percent targeting, this is the national objective that you could use. This is the only one where you're going to count toward the 50 percent targeting a portion of the money that you spend on low-mod. So if you spend a $1 million on this and there's 60 percent low-mod in this building it's a 60 percent rental property with 60 percent low-mod, 60 percent of your money, 60 percent of your $1 million can go towards the low-mod targeting.

Now, there have been occasions at which HUD has actually, in order to facilitate mixed income housing, HUD has actually allowed, through waiver, sometimes people to go on rental housing lower than 51 percent, down to 30 or 40 or whatever it might be. Usually it's proportional, so say if you put 40 percent of the money in, you can have 40 percent of the units and so forth.

If you want to try mixed income housing, I encourage you to talk to HUD about whether you want to get this waiver to go lower than 51.

All right, job creation and retention. Obviously this is the one you typically use with economic development and here what you are proving is that you are creating or retaining jobs and of those jobs that you have created or retained, 51 percent of them are typically held by or they're made available to some sort of first source hiring process that shows that the jobs or the FTE, the full time equivalent if they count the jobs, were held by low-mod income people. So you fund a business. That business creates 100 jobs. At least 51 percent of those or 51 FTEs were taken by or retained by low-mod income people.

HUD has allowed some flexibility in the past about how you count whether that job taker is low-mode or not, and again, look to your Federal Register notice to see whether you've got that flexibility.

Those are all the low-mods; the four that we just covered. If you meet any one of those four national objectives, low-mod area, limited clientele, low-mod housing or job creation and retention, if you meet any of those that expenditure counts toward your 50 percent low-mod target. Everything from here on forward is eligible. It'll meet a national objective, but it will not count toward your 50 percent low-mod target.

So the next one is on blight. These are activities which are actually addressing physical blight in a community and you are doing something to address the blight. I will tell you, you do not see slum and blight very often in CDBG-DR, so I'm going to go through it quickly. The reason why you don't is because if you're not going to count toward the low-mod, most people just use urgent need, which is the one that's coming up.

Basically for slum and blight area, you have an area which is designated as blighted and you are addressing the underlying causes of that blight. You have to meet the state and local definition as well as the HUD definition of what is considered to be blight. Again, in the interest of time, I won't dive into this in detail, because you'll see that when we get to urgent need it covers all of this and more, and so there really isn't a lot of reason to use this.

Slum and blight spots is instead of being a blighted community, it's a blighted building. Again, you're going to address particular causes of the blight. And again, because it does not count toward the low-mod targeting, usually easier to use the urgent need national objective than to use it. But if you're going to use it, it has a very limited use, which is that the kind of thing that you are funding in this blighted building is acquisition clearance relocation and the other activities you see listed at the bottom of the page there. So you can only do these limited kinds of activities and only in a particular building which has been designated as blight.

All right, so that's slum and blight -- again, as I said, not a common national objective for DR. In regular CDBG, it's fairly commonly used. Now we get to urgent need. And so urgent need is specifically designed for addressing disasters and it's where virtually all of your activities are going to go. Again, the activity has already [inaudible] eligible. We already tied it back to the storm. All that stuff already happened.

Now we have to meet the national objective. These are for activities where you can't count them as low-mod. The owner of the housing is over the low-mod limit. The business doesn't have 51 percent low-mod employees. The service area is not 51 percent low-mod. So any activity which is eligible -- this doesn't get you around the eligibility, but you can't -- it doesn't sufficiently benefit low-mod. And so you're going to spend the money here under urgent need for disaster recovery, again, this is anything you count here does not count towards the 50 percent low-mod target, but it still can be eligible.

Under regular CDBG, we have a requirement that says we have some sort of condition that's urgent and has an immediate threat to the community, that it recently occurred, that we have no other money to pay for it and there's no other funding sources available. Normally in CDBG we have to document all of that stuff. For disaster recovery, in order to use urgent need there typically is a waiver and what you see here is the waiver for the Sandy. This would be 113-2 grantees, the Sandy grantees.

How it's worded for your particular appropriation might be different, so again, you'll want to zero in on what they say about urgent need. But what they did for Sandy and which I would presume some version of it will probably carry forward is instead of having to document -- so normally what you have to do is you have to certify that you've complied with all of these conditions in order to actually be able to fund something that's urgent need in regular CDBG.

In DR, they typically give you more flexibility and say instead of all that stuff that we previously just talked about, here. Instead of all of these criteria and certifying compliance with these criteria, instead what you show, what you document is that the activity I am funding is addressing a disaster related impact that I have identified. So I have identified that the physical rehabilitation of buildings is a need in my community given what I have expressed in my action plan and this particular project is going to rehabilitate a damaged building, be it commercial or residential or I have identified that we've had economic losses in this community and we had job losses and that was the impact of the storm and this activity is going to create job. So we are -- what we document is that the activity is going to address a specific storm related impact which I have described in my action plan.

Very broad. You can see that virtually anything which is an appropriate, eligible disaster recovery activity which met all the other criteria we've already talked about, most of them will be able to use urgent need. So my recommendation to folks is try to meet low-mod first, because again, 50 percent of your money has to go there and you're going to have lots of activities that you just won't be able to make work and only use urgent need where you can't make a low-mod activity work. So that you try to make sure you get to your 50 percent targeting. This is very flexible and it will enable you to do most of what you want to do for disaster recovery, again, presuming it was eligible, you had a tieback to the storm and specifically that you have documented that you are addressing that form related impact.

So in the file for urgent need, for national objective for a project, we are going to use urgent need as that national objective. You're going to want to describe what was the disaster related impact? [Inaudible] you need to identify it in your action plan and then describe how this specific project, this specific applicant, is going to address that need. Address that disaster impact. Not hard to do, and again, for most of what you're going to be doing, it will be physical repairs and that's fairly easy to document here. Like you have to tie it back to addressing that impact.

Again, this is for 13-2. We don't know for sure whether it will be the same going forward, but likely that it would be, and again for those of you guys who are NDRC grantees, you've probably got this exact need. You've probably got this exact same kind of documentation [inaudible]. You probably indicated which national objectives you're going to need.

Shawna LaRue Moraille: Marsha, we have a couple of questions in the queue.

Marsha Tonkovich: Okay. Well, that's it on national objectives, so let's go ahead and take some questions and then we do have a quick discussion session we want to do at the end.

Shawna LaRue Moraille: The first one is, will HUD define indirect impact?

Marsha Tonkovich: I'm going to turn that one over to Tennille. Tennille, do you want to talk about indirect impact?

Tennille Parker: Marsha, did I hear an opportunity for me to chime in?

Marsha Tonkovich: Yes, I did. They asked if HUD would define indirect impact.

Tennille Parker: All right. So the example that we often use during our trainings is this. So during a disaster event, it is often the case that there is damage to housing. Not just owner occupied housing, but multi-family housing as well. When the housing is damaged, it is taken offline. You can't have occupants until it's repaired.

However, as part of the recovery, you're not only, if you will, putting back what was there because you could perhaps be trying to relocate housing to other safe areas, but there's an acknowledgement that your post-disaster affordable housing needs could have changed as a result of the change or decrease, if you will, in your housing stock. And thus, this is how grantees, to use the indirect impact example, often get to new construction.

So they're saying, well, yes, we have a rehab program and we have a repair program for multi-family buildings, but we also now just have fewer units. We have a different change in our population, more people have moved to this area versus that area and we have to accommodate them post disaster with affordable housing as well. And so grantees have used that to point to an indirect impact from the disaster. The reason why we use that example with indirect is most people don't associate new construction in a disaster context and that's exactly why we use that as an example.

Marsha Tonkovich: I do think it's important -- I'm sure where the question is coming from here is just because you're using indirect impact doesn't get you around having to have a tie to the storm. It isn't like an indirect impact to somehow, somewhere else in the state. Let's say, for example, that you know, most of your disaster was flooding along a particular river and you have something that happened somewhere else that's [inaudible].

Maybe they were economically hurt or something. That's not really what we're talking about here. We need to be very clear that we still have to have a direct tieback to the storm, but that direct tieback to the storm is the example Tennille gave, can be by way of the community with harm or -- and we're addressing that community harm such as a new construction example that she gave.

Tennille Parker: The key point here is, and we often get this question too, everything about recovery isn't just repairing damage and that's also where the indirect question or the indirect impact comes from. It's not just that you're repairing things that were damaged. There were other things that weren't damaged, if you will, in quotes, that were a result, a negative impact resulted as a result of the storm or tornado, etc. and that's where this indirect question comes from.

But Marsha is key pointing out this is not the opportunity to address things that aren't related to the disaster and I will throw caution to all grantees. Do not serve up five and ten year projects that you've always wanted to get to and just put it in the disaster recovery context because you now have this money available. There is always a requirement to demonstrate the tieback to the disaster.

Marsha Tonkovich: Perfect. Thanks, Tennille.

Shawna LaRue Moraille: Two more quick questions. These are priority. Do you subtract admin and planning?

Marsha Tonkovich: From before you to the 50 percent?

Shawna LaRue Moraille: From the LMI -- I'm sorry, my computer flipped. From the LMI benefit calculation?

Marsha Tonkovich: Yes. You do. So the way that it works is you take your total grant award. You take your 20 percent admin and planning or whatever you have budgeted for admin and planning, max 20 percent but it could be lower. You take that off the top and then 50 percent of what is left has to go toward LMI.

Shawna LaRue Moraille: Okay. Three more questions that came in right together. Will a buyout or an acquisition of a home to a low income household count toward the LMI total?

Marsha Tonkovich: Okay. So buyout programs can count toward the LMI activity depending on the national objective that you use. People have used -- and I won't get into the details, because there's actually some specific things you have to do to prove it, but generally people have used low-mod area to do buyout programs, because the idea is that, as a result of the buyout you've created green space which prevents flooding and that benefits an area, but don't just do it. You have to talk to HUD because it's actually got some more criteria than that. So it's possible for a buyout program to count toward the LMI targeting, but not necessarily.

Tennille Parker: I would refer the questions as well to our notice that were -- two of the -- if you go to our website, CDBG-DR Resource Exchange, the last two notices address this question, actually two notices ago addresses this question that provides additional guidance on how, in a buyout scenario, grantees are expected to demonstrate whether or not the activity benefits low and moderate income households. There's two ways spelled out in there. The key I would also emphasize in the last question, just one point, there is a difference between buyout and acquisition and pay attention to the notice language on that. It's not going to change in terms of the definition that's noted in the March 5 notice.

Marsha Tonkovich: Thanks, Tennille. All right, next question, Shawna?

Shawna LaRue Moraille: Indirectly, impact of businesses or project is still subject to compliance requirements of LMI or any other national objective?

Marsha Tonkovich: Well, if you're going to get the money, yes. So the question is, if you have an indirect impact [inaudible] business and they're just going to get FEMA money, they're going to get whatever insurance money they have and you're not going to affect them, then no. They don't have to follow our rules.

But if we have a business where -- and I don't want to use indirect impact; I want to say that we're going to contribute to the economic revitalization. They may not have had physical damage, but we're going to hire people and others to benefit the community and they're going to get CDBG money to do that. They're going to get money for expansion and they're going to get money for working capital or whatever it might be. If they're getting our money, they have to follow all of our rules.

Tennille Parker: And Marsha, I think the question is also asking, you can assist businesses under multiple national objectives. For some businesses, depending on the nature of the business and the goods and services they provide, it may fall under the low and moderate income benefit national objective. For others, it may be a different national objective depending on where and what the business does. But as with any expenditure of CDBG-DR funds, remember that 70 percent or 50 percent requirement, depending on your allocation language, is applicable to the entire amount of funds. It's not per activity and that's where it's key.

Marsha Tonkovich: Perfect. Let's do the last question and then we're going to quickly do the discussion questions and give you guys some resources. The last question, Shawna?

Shawna LaRue Moraille: Hard to make a choice here, and I'm sorry folks if we didn't quite get to you. This person said it was said that environmental review is not covered under CDBG-DR. Are there any funds available for any environmental remediation needed from the cause of the disaster?

Marsha Tonkovich: Okay. So let me be clear. No, that's not what I was saying. CDBG-DR can be used for environmental remediation, cleanup and some of those sorts of things as long as it meets the CDBG eligibility criteria.

What it can't be used for is the immediate post-disaster sort of getting people in health and safety kinds of things immediately post-disaster but in terms of cleaning up debris, that's [inaudible] in terms of if you had a damaged levee and you had to rebuild that levee, that kind of an environmental thing. So it's not true that you can't do environmental. You absolutely can. You just have to tie it back to one of the CDBG eligible activities.

With that, Shawna, I'd like to quickly do our discussion questions and I think what we'll do is we'll just give you guys kind of a recap and then a quick answer and then we'll give you guys the resources at the closeout.

Tennille Parker: Marsha, if we can -- I see that it looks like we may have one or two more grantee questions that come from our newest portfolio of grantees. Can we queue those up first while we have them on the line?

Marsha Tonkovich: Sure. Let's do. Let's do the next one, so what was the next one?

Shawna LaRue Moraille: I did not hear any compliance requirement for public benefit.

Marsha Tonkovich: Okay. So public benefit depends upon the particular disaster and how HUD has waived it. If you're doing it -- first of all, it only applies to economic development. We're here -- when we say public benefit, we're talking specifically about economic development. If you are funding economic development, then the public benefit requirement again will depend upon what HUD has waived, but most recently what HUD has allowed is a waiver of the normal public benefit dollar per job kind of a test and instead a series of reporting you have to do on the types of jobs you have created or retained and the nature of those jobs and accounting of those jobs. It's not waived in its entirety, it's modified to make it easier to comply. Next one, Shawna?

Shawna LaRue Moraille: How do you fund a disaster recovery? Do you fund invoices or disperse a lump sum total?

Marsha Tonkovich: That's a good question. Typically speaking, and there are some exceptions to this, typically what you're doing is reimbursing eligible costs. So what will happen is you'll have a grant agreement or a loan agreement with a particular entity you're going to fund. So whether it's a subrecipient or whether it's a business or a homeowner or a rental property owner, you'll have an agreement with them.

They will undertake eligible activities. That may or may not be inspected, depending on whether its instruction and then they will send you an invoice for that cost. You'll look, you'll review it for eligibility and you will pay it. That's the normal, and quite frankly, the safest way to do it. You don't front the money. Normally what is done is they incur the cost, you reimburse.

Now, there are certain circumstances in which HUD has actually allowed you under very limited sections, to front the money to pay for sort of an upfront deposit or an upfront cost when absolutely necessary and when you've actually worked it out with HUD. So as an example of that, in Sandy, HUD has allowed selected grantees with a lot of documentation in a very detailed process, to give a portion of a homeowner rehab grant up front prior to when the rehab has begun because construction contractors were not willing to get started on doing the work without having an upfront deposit and the homeowner might not have had enough funds to be able to do that. Again, it had to do with what other funds they're getting from insurance and that kind of thing.

You're not fronting the entirety of the amount of the grant. You're not advancing the funds. There are some very strict rules about how you do it and again, I would not do that without a conversation with HUD because it's not necessarily true they will allow it in every instance. If you do, do that, you have to be very cautious about monitoring the use of how that advance was used, because the risk of course, and it has happened to some grantees, is that whoever was advanced the funds, the construction contractor most specifically, takes off with the funds and now you have an ineligible use that has to get repaid. You have to be very, very cautious, and again, work with HUD before you do. Tennille, would you add anything to that?

Tennille Parker: No. That was fine. Thank you.

Shawna LaRue Moraille: What if most of the businesses are already back? Can you build back bigger?

Marsha Tonkovich: Yeah. So remember I said you could expand. So if the businesses are already back, you can still help them to build back bigger to expand or to revitalize, but you have to have that tieback to the storm, right? You're going to have to show that by building back bigger, you're having community revitalization. If they've already dealt with the damage, if the damage is no longer an issue, then you're going to have to show that by building back bigger you're going to hire more people. It's going to have a bigger tax impact on the community, whatever it is, it's got to tie back to the storm.

And again, you're also going to have to look at making sure that they have an unmet need. Right? The [inaudible] class that we're going to do, we'll talk in more detail about this, but you need to make sure that building back, building back bigger, that it's not already being paid for by their insurance or by some other SBA grant or whatever it might be. You do need to make sure that you've done an analysis of whether they really need that money to do it. But yes, you can help for people to expand and grow if you can tie it back to the storm.

Shawna LaRue Moraille: I believe this is the last question. Can DR funds be used to assist properties that were only tenant occupied at the time of the disaster?

Marsha Tonkovich: Yes. Absolutely. In fact, that's one of the most common activities. So it could be a rental property. Right? You can envision a property where it's just a big rental building. You could absolutely rehab those units or you could have a single family structure where the homeowner has a tenant who's living there. The issue is whether you treat it as an owner occupied unit or whether you treat it as a tenant occupied unit and in the case of a rental property, you would see it as a tenant occupied unit. No, you can absolutely rehab properties that are tenant occupied as long as you treat it as a rental property. There are some relocation rules and things like that, that will come up that we won't get in to here, but it can be done.

Okay, so with that, let's quickly look at these group discussions and then we'll close out for today. We wanted to wrap everything up and just make sure you understood kind of how this all applies, so we have a couple of quick examples for you.

The first one is we're concerned about rising sea levels. Our governor wants to actually raise levies everywhere statewide, but only three of the counties where we want to work are actually disaster areas. What do you guys think about that one? Tennille?

Tennille Parker: Hi Marsha. I'm sorry, I'm looking at the time and I see we are actually five minutes past our projected end time. I know we were pressed for staying to the specific time, so what I would suggest is that if we are sending out a confirmation to our folks who have participated or were doing any follow ups that we either include it there or raise this as one of our upcoming scenarios. But I do see that we're over our time.

Marsha Tonkovich: Okay. Why don't we do that?

Tennille Parker: The HUD team actually has to get off too.

Marsha Tonkovich: Okay. So why don't we go ahead then, what we'll do, guys, is we'll make sure that we post these answers when we post the recording from the webinar in case you're interested in these and do feel free to work with your HUD staff. Your HUD staff can also help you through these.

Just very quickly, there are a series of resources that are listed here. I want to encourage you to download these resources. They're all on the HUD resource exchange and again the PowerPoints are all posted on the website if you want to find these links. I think they're all great tools.

With that, I want to thank you for your participation. Glad that you were able to join us. I hope this was useful to you. Please work with your HUD staff if you have any follow up questions and we urge you to join the subsequent webinars. Thanks, everybody. Bye-bye.

(END)