

CDBG CARES Act Overview of Federal Register Notice, 8/20/20

Jessie Kome: Welcome to the first CDBG coronavirus CDBG-CV technical assistance webinar for all grantees. Thank you for participating in HUD's programs and mission, and thank you for your input. It helps shape the program and HUD needs your continuing input as we move forward.

We have good news. On August 7th, 2020, HUD signed the CDBG-CV notice and it was published today in the Federal Register, which issued new flexibilities that states and local governments can use to apply CDBG-CV funds appropriated by the CARES Act to best support their communities in the wake of the coronavirus outbreak.

To date, HUD has provide over \$3 billion in CDBG-CV funds nationwide to help communities combat coronavirus and alleviate economic hardship. As of August 18th, more than 800 grantees had submitted CARES Act plans or amendments to HUD, and more than \$1.4 billion of CDBG-CV funds within grantees' lines of credit, with more approval every day.

HUD is also providing flexibility to communities who want to use their existing non-CARES Act federal dollars from CDBG, HOME, ESG, and HOPWA, to support their coronavirus recovery efforts.

Grantees submitted a wide range of waiver requests and suggestions for CARES Act implementation. We gave your requests serious consideration and many of the notice provisions respond to state issues, for example.

This webinar will go over details, but I want to highlight that states may act directly to carry out activities if they choose. There are streamlined economic development and urgent need documentation. We extended the period for emergency payments. And there is an expenditure requirement that 80 percent of the grant must be expended in three years following grant agreement execution. We'll talk to you more about that in more details as we go.

And I would also like to highlight that there's a duplication of benefits requirement, which is actually about preventing duplications of benefits, not causing them. Many states have prior experience with duplication of benefits because of CDBG Disaster Recover funds -- or CDBG-DR. But most entitlement cities and counties do not have that experience.

Note that DOB is a little different for CDBG-CV and we'll be providing TA on DOB in coordination with other federal agencies after introducing you to the basic ideas in this webinar.

We are going to continue to support grantees with technical assistance from our HUD field staff, from our technical assistance providers, and of course the hud.gov and HUD Exchange websites. And at the end of this presentation you'll hear more about that planned TA. Please take full advantage of the resources in the webinars. And thank you for the opportunity to talk to you today and for wanting to learn more about CDBG-CV.

Jelani Newton: Thanks so much, Jessie. With that I'll introduce our other presenters for today.

CDBG CARES Act Overview of Federal Register Notice, 8/20/20

Also joining us on our panel are James Hoemann, director of Entitlement Community Division; and Marion McFadden, senior DP for policy at TA provider Enterprise Community Partners. Welcome, James and Marion. I'll hand it to you, Marion, to kick us off.

Marion McFadden: Thanks, Jelani. And welcome, everyone. Thank you for joining today. This is historic moment in our country and I thank you all for your public service and the hard work you've been doing throughout the course of the pandemic to serve your communities.

Today our objectives are to summarize the key components of the CDBG-CV program, to identify alternative requirements and flexibilities granted in the new CDBG-CV Federal Register notice, and to review current and future CDBG-CV resources and technical assistance which will be made available by HUD.

And additionally, of course, a goal today is to provide ample time to answer your questions and clarify components of the notice.

Again, I want to highlight this is the first of many trainings and TA products that will be produced related to the CV program. And this will -- this webinar will be made available on the HUD Exchange. So if you want to go back to it, it's a resource that will be available to you.

(Pause.) Sorry.

Jessie Kome: This looks like my slide.

Marion McFadden: Sorry, Jessie. I'll go ahead. I was just having a technical difficulty here.

Jessie Kome: Oh, OK.

Marion McFadden: So we're going to start by talking about national objectives and an overview of the CDBG and CDBG-CV program. We'll touch on eligible activities, other program requirements. We'll talk about the special flexibilities for existing FY19 and FY20 CDBG grants. We'll talk about additional resources and give you some sense of coming webinars. And again, we'll highlight your Q&A.

Now, Jessie, I'd like to talk -- hand it over to you for a brief overview of allocations and alternative requirements.

Jessie Kome: Great. Thank you, Marion. What would be a webinar if you didn't have a few technical difficulties? We'll work through them together.

OK. So what we have here is you're seeing a slide that's showing you the basic ideas around allocations of CDBG-CV funds. If we walk you through, to-date HUD has allocated \$3 billion of the \$5 billion in CDBG-CV resources made available through the CARES Act.

These funds are allocated using the existing formula CDBG methodology for the first \$2 billion. And as you can see -- and that was announced on April 2nd, 2020. We actually did the formula run on the exact same day as the law passed, March 27th; and we're double-checking it, put it out on the 2nd of April.

CDBG CARES Act Overview of Federal Register Notice, 8/20/20

And then the additional second allocation was on May 11th and it was \$1 billion for states in insular areas and (BCE) to get national coverage.

And then the remaining \$2 billion is going to be allocated in the future using a new formula that are based on factors that are in the CARES Act and more specifically tied to COVID-19.

Given the importance of this money being spent in a manner related to coronavirus, HUD may recapture funds at risk of not being used -- and we'll talk more about the deadlines -- and reallocate that funding to other grantees. And TA will be able to be available to assist grantees as part of their CDBG-CV implementation. Next slide, please.

OK. So let's talk a little bit about the key CDBG-CV flexibilities and alternative requirements. And this slide gives you a nice sort of -- quick and dirty table of contents, almost, for the notice.

So we're going to go into detail on all the flexibilities of the notice. But let's look at these alternative requirements and flexibilities [inaudible] in the CDBG-CV notice at a high level.

So this gives you -- there's components related to the action plan and citizen participation, national objectives, eligible activities, and other program requirements.

So in the action plan we -- the CARES Act expedited the citizen participation procedures. We have a five-day comment period. We allow virtual public hearings during the term of your public health emergency. And the deadline to apply, instead of being August 16th, 2020, is August 16, 2021. And the CARES Act did that statutorily.

For states, there's also some requirements in the action plan that changed that allow them to indicate in their method of distribution. They can include activities there that they're going to carry out directly and they're allowed to do expedited citizen participation for their pass-through units of general local government, for those of you not familiar with one of our favorite terms, UGLGs.

So national objectives, there's -- the overall benefit requirement is still in place at 70 percent. But we did streamline -- drastically streamline the urgent need documentation and we've done a lot with the documentation around LMI jobs and economic development to streamline that and modernize it.

And eligible activities, you have to demonstrate what in Disaster Recovery is called tieback. You have to show that every activity that you fund is preventing, preparing for, or responding to coronavirus. So that's an additional eligibility layer beyond regular CDBG.

The public service cap was removed for CDBG-CV by the CARES Act. We have some additional economic development flexibilities, emergency payments, a time extension, and there's some implications for Section 108 if you have a coronavirus tieback.

For states -- I actually already mentioned they can carry out activities directly. And they also can conduct activities statewide, regardless of entitlement status.

And then on program requirements, there's kind of a -- not exactly a hodgepodge, but things that people -- that grantees ask for or that we knew would be necessary to meet the CARES Act requirements.

So costs are allowable from the [inaudible] date of January 21st, 2020 for reimbursement for the grantee and subrecipients. There's a duplication of benefits requirement. There's additional CARES Act reporting that we're still working on the details of; they'll be similar to what those of you that worked on Recovery Act program saw. Program income is going to be treated slightly differently.

There's a six-year period of performance and an expenditure requirement at a three-year mark. Environmental requirements are unchanged; we don't have waiver authority around environmental requirements. And there's a reminder about citizenship requirements. We got a lot of questions on that.

There is a non-entitlement set-aside on the state side. And we eliminated the state administrative match and extended the admin cap for states for the admin that they spend for themselves as opposed to pass-through.

So we are going to go into a lot more detail on these flexibilities, but this is just to give you a mindset of what this presentation is going to cover. Marion?

Marion McFadden: Thanks very much, Jessie. Now we're going to move to talking about the national objectives and give you a broad overview of where we're heading with the CDBG-CV program.

So as with the regular CDBG program, still we're trying to meet the objectives of the CDBG program through CV, which is the development of viable urban communities by providing decent housing, suitable living environment, and expanding economic opportunities, principally for persons of low and moderate income.

So the CDBG-CV program is built like the regular CDBG program, so we're going to be talking about the differences. But understand that it is truly a version of the CDBG program, not a new creation.

And the core component that we're turning to first is that CDBG-CV grants are subject to the 70 percent overall benefit requirement. However, what's different here versus in your annual grants, the 70 percent is not going to be calculated by program year. It'll be calculated based on a percentage of total -- of your total CDBG-CV grant and separate from your CDBG formula allocation annually. So the CDBG-CV grant will be treated separate from your annual allocation.

There are going to be some different recordkeeping requirements here if you're choosing to use the urgent need national objective. Recordkeeping has to address the following criteria.

Is the activity designed to alleviate existing conditions? So it should be documented by activities to prevent, prepare for, or respond to coronavirus. That's the tieback that Jessie mentioned, and really the touchstone of all of your activities. It must be to prevent, prepare for, or respond to the coronavirus.

The next question is, does the condition pose a serious and immediate threat to the health or welfare of the community that is of recent origin or that recently became urgent? You can document this by an HHS public emergency declaration, federal disaster declaration, or state or local emergency declaration.

And then finally, is the grantee -- the UGLG -- unable to finance the activity on its own? And are there other sources of funds not available to carry out the activity? Again, documented by activities to prevent, prepare for, or respond to coronavirus. Again, looking for that tieback to COVID-19 to satisfy these requirements.

To use the LMI -- or low-mod income -- jobs requirement, there's a location presumption of LMI status for job creation and retention. There is a change here. The location presumption requirements for documenting LMI status for job creation and retention differs. As a refresher, this requirement allows you to potentially use the employee or the business or job address as a basis for determining if a job is held or made available to an LMI person.

The regulations in 24 CFR Part 570 state that employees who live in a census tract in which the share of LMI residents exceeds 75 percent -- sorry, LMI residents exceeds 70 percent, or live in a census tract in which the poverty rate is at least 20 percent -- or for central business districts, 30 percent -- and the tract displays evidence of pervasive poverty and general distress. The poverty rate requirements can also be used if the business and job are located in such a tract.

The notice waives the central business district requirement of 30 percent and all areas must only comply with the 20 percent requirement. So this should be providing some additional flexibilities for activities in central business districts.

And the second change is for documenting income for job creation or retention. The notice provides flexibility in that each individual who fills a created or retained job will be considered a one-person family for income validation. This allows the income validation process to be streamlined by only documenting the job type and annual salary of the position to confirm LMI status, rather than looking at the rest of the jobholder's family.

Now I'd like to turn to James Hoemann to review eligible activities.

James Hoemann: Reimbursement of costs eligible since January 21st, the date of the first confirmed case of coronavirus. Costs can be incurred and [inaudible] before the action plan was prepared and submitted if those costs are eligible in accordance with program requirements in the action plan.

Have said this again, but we'll reiterate. All CDBG-CV activities must be used to prevent, prepare for, or respond to coronavirus. Grantees should consider both direct and indirect effects.

Direct effects include specific costs that were born completely from responding to coronavirus, such as acquiring or rehabilitating [inaudible] individual quarantine -- [inaudible].

Indirect effects, put more broadly, is the overall impacts that coronavirus has had on the local economic and housing markets. This could include providing a short-term rental assistance to households that were adversely impacted by COVID-19.

CDBG CARES Act Overview of Federal Register Notice, 8/20/20

Examples of eligible activities include items such as acquisition of real property, economic development, housing-related activities, microenterprise assistance, public facility improvements, or public services.

It's not an exhaustive list that we have on the screen. Rather, this is more of a starter for you. But of course, as a reminder, costs still must comply with the CDBG program and the flexibilities and alternative requirements include in this CDBG notice.

Given the profound and lasting impact that coronavirus has had on communities across the country, HUD has extended the period of emergency payments from three to six consecutive months. This will allow grantees to more holistically assist individuals in households that were impacted by COVID-19.

Emergency payments can include a range of activities, such as assistance for food, clothing, housing, or utility costs. As a reminder, these must be paid on behalf of the individual or family to the provider. All payments are to be made directly to the provider, again, such as the landlord or the utility company. Next slide.

For economic development, this notice removes the aggregate public benefit test requirement into the individual benefit test. You see now the cost per job is -- the threshold has been raised to \$85,000. And as far as the goods and services to the residents of an area, that has been raised [inaudible] to \$1700. But also, you can document according to assistance to a business because of disruption related to the coronavirus. Next slide.

Additionally, HUD has provided more flexibility to the regulations 24 CFR 570.204 to allow any nonprofit to use financial mechanisms to pass funding to other entities, community, and economic development projects. This will allow grantees to quickly fill financing gaps that cannot be met by other sources and launch economic development projects, particularly in the opportunity zones.

Finally, as a reminder, all economic development projects, except for microenterprise assistance, must be evaluated and undergo financial underwriting. Grantees can use Appendix A of Part 570, or their own format or structure, for basic financial underwriting and evaluation.

Finally, the public service cap has been waived. This holds for formula grants as well, only when those activities associated with coronavirus. Next slide.

Marion McFadden: Thank you, James. Now we're going to turn to Jessie. And she's going to start by talking about some additional program requirements.

Jessie Kome: Really? I didn't get to talk about the cool things like national objectives. But I'm going to come talk to you now about some of the other program requirements that have changed or that apply.

And for those of you not familiar with Disaster Recovery, you may be sitting there wondering what an alternative requirement is. And it's simply -- it's like a waiver, but instead of removing a requirement, we're changing the requirement to one that fits better with the emergency supplemental funding. The law gave us that authority.

CDBG CARES Act Overview of Federal Register Notice, 8/20/20

So some of what I'm talking about is waivers; some of it is alternative requirements; and some of it is the CARES Act just plain through.

So the outline of this section is that we're going to talk about responsible use of CARES Act funds; planning and administrative cost changes; program income; states acting directly; environmental reviews; Section 108; loan guarantees and the implications for them; the period of performance and the timeliness standard and how that's working for CDBG-CV and the regulation program; reporting, to the extent we know what it's going to be now; and duplication of benefits. Save the best for last. OK? Grab the next slide too.

So let's talk about responsible use of CARES Act funds. Like formula CDBG grants, CDBG-CV funds are subject to review and monitoring by HUD staff. In addition, CV funds are going to require quarterly CARES Act reporting, as well as ensuring that duplication of benefits don't occur. And we're going to talk about both of those requirements in more detail in the presentation.

But these are going to be funds that are subject to the normal risk analysis, monitoring, audits, and reviews as we go forward.

OK. On planning and administrative costs we have two different things, one for entitlement cities and counties, and one for states. Entitlements, it's really easy; it's the same as the 20 percent. It's not a set-aside exactly; it's up to 20 percent for planning and administrative activity to be used by the grantee.

For states, we eliminated the state administrative match and -- which simplifies the state admin. And then there is an overall 20 percent allowed -- not set aside -- for planning and administrative activities. But states normally can't retain much; they have to pass through most of that. In this case, states are going to be able to retain up to 7 percent for their general administration and technical assistance.

And within that 7 percent, 5 percent is for general administration and 2 percent is for technical assistance for program participants. That means 13 percent is available -- up to at least 13 percent is available -- if they're doing pass-through grants to units of local government -- for general administration and technical assistance. Or they can use the funds for additional eligible activity.

OK. And then program income. Program income, because we learned from -- again, from NSP -- Neighborhood Stabilization Program -- and CDBG-R, we decided and the notice says that CDBG-CV program income will be treated as formula CDBG program income on receipt by the grantee or subrecipient. Mostly by the grantee.

And the CDBG-CV program income should follow the same protocols and processes used to record, document, and re-program formula CDBG program income. The implication of this is, because program income isn't receded to the CDBG-CV grant, you'll be able to keep expending it without having program income getting in your way. And with the really aggressive three-year 80 percent expenditure requirement, I think this'll help grantees that are going all-in on economic development. OK?

Marion McFadden: Thank you, Jessie. We're going to let you catch your breath for a moment here and turn to HUD's state expert to talk about states carrying out activities directly. James?

James Hoemann: Within the notice there are flexibilities and alternative requirements granted to states. Most importantly, states may use CV funds to directly carry out activities in all areas of the state. This includes carrying out activities in entitlement areas as well as non-entitlement areas. These activities must be consistent with the entitlement program requirements.

As Jessie mentioned [inaudible] administrative cap for states has been changed. The match has been waived and the 20 percent overall is still intact. However, the 3 percent that is in the annual formula grant has been changed to 7 percent, but 5 percent of that being for general admin and 2 percent of that being used for technical assistance.

States cannot use all of their CV funds for direct activities and must set aside a portion no less than the amount of their first CDBG-CV allocation for exclusive use by entitlement units (of?) general government. States must publish the method of distribution [inaudible] it will be carried out directly in the action plan or substantial amendment.

States are able to use the upper quartile or exception criteria if it is applicable to the entitlement grantee in their area. If a state proposes carrying out an activity in a tribal area, they must receive prior consent from the Indian tribe. Next slide.

For Section 108, when calculating the borrowing capacity of a grantee under the Section 108 program, CDBG-CV funds are not factored in that determination. Grantees may use CDBG-CV to make a direct payment on a component of the Section 108 loan, only if the use of funds is to prevent, prepare for, or respond to coronavirus. This should be documented by the grantee or subrecipient that provided that assistance. Next slide.

In regards to environmental review, all grantees must continue to comply with existing environmental rules and regulations. And funds cannot be committed until the environmental compliance review process has been successfully completed. With this in mind, it is critical that grantees complete any environmental requirements as soon as possible.

Part 58 includes two emergency environmental review provisions [inaudible] relevant [inaudible] exemption for certain activities [inaudible] national or locally-declared public health emergency.

Except for the applicable requirements of 24 CFR 58.6, documenting compliance with the six conditions listed in the notice Section [inaudible] a responsible entity does not have to comply with the requirements of Part 58 or undertake any environmental review, consultation, or other action under NEPA; and the other provisions of law or authority cited in 24 CFR 58.5 for exempt activities or projects consisting solely of exempt activities.

Second, streamlined the public notice and comment period for emergency activities. HUD-assisted COVID-19-related projects that are reviewed through September 30th, 2020, can comply with Section 106, the notification and seven-day comment period for state and tribal [inaudible] officers, instead of the usual 30-day consultation and concurrence process. The

CDBG CARES Act Overview of Federal Register Notice, 8/20/20

Advisory Council on Historic Preservation may further extend the emergency consultation period as necessary.

And finally, HUD has published guidance for environmental reviews for activities taken in response to COVID-19 at the available link on the screen.

Marion McFadden: Thank you, James. As you've already heard, CDBG-CV funds have several new requirements associated with the period of performance, timeliness, and closeout processes. We'll discuss those now, as well as a little bit of additional flexibility around existing annual CDBG funds.

So first, given the urgency of addressing the needs created by coronavirus and the impact on communities, the period of performance is shortened to a six-year period. Eighty percent of your CDBG-CV funds must be expended by the end of the third year of the period of performance. Grantees that don't meet the requirement will be at risk of funds being recaptured.

Given the shortened period of performance and the fact that program income converts to formula CDBG dollars, the timeliness compliance requirements of the annual program are waived. However, all program income will be included in calculations for timeliness determinations for the formula CDBG program.

HUD is also waiving the grant closeout requirements at 575.09, and instead requiring that closeout is done in accordance with 2 CFR 200.343. I know this is many years away and it's not top of mind for you all, but it will be important to keep the end in mind as you're designing your programs to think about how to make best use of the funds, including program income that comes in and any remaining funds over the years.

So those requirements are limited to the CDBG-CV program. However, HUD has suspended corrective action, sanctions, and informal consultations around timeliness effective January 21st, 2020, given that grantees are operating under extenuating circumstances.

So let's talk a bit about reporting requirements. For reporting, CDBG-CV grants must meet two requirements. First, grantees must comply with the annual reporting requirements that are included in your CAPER.

And second, grantees will be required to complete a quarterly reporting requirement which was mandated by the CARES Act. This reporting will provide more specific details on the activities that you're carrying out, including the amounts obligated and expended, and details on project activities, as well as your subrecipients and contractors. HUD is still evaluating this quarterly reporting requirement and we'll provide future guidance on how the reports should be prepared and submitted.

Next we're going to turn to duplication of benefits. Those of you who have received CDBG-DR grants for natural disasters will understand that this is a complicated topic. So HUD is working hard to make it clear for you to understand what these new requirements are. And there is going to be a future webinar coming and some future guidance for you, so please just take today to understand a little bit about this concept but not feel that you totally have to master identifying and preventing duplications based on this quick overview.

So this is a new requirement as applied to annual CDBG funds. So let's start with a simple question. What is duplication of benefits? Under federal law, a duplication of benefits occurs when assistance is provided to a person or to an entity to address losses, and that person or entity receives assistance for the very same costs or losses from other funding sources. Inherently it's about ensuring the same cost isn't paid twice.

A DOB can occur -- for example, in the rental assistance world -- if an individual is applying for rental assistance from you as the jurisdiction, but has already received rental assistance from another source. That could be a federal source or it could be something totally private, such as their local church. So it's your responsibility to ensure that when you're providing assistance it's not duplicated, and that the individual is not getting double the rental assistance needed for a month.

However, if the initial money that they got from their local church, in this example, was not enough to cover the entire amount of their rent, you still could pay the additional amount needed. So it's OK to layer sources together; it's just not OK to duplicate and provide more than the amount that is reasonable and necessary.

And so your responsibility is to establish a set of policies and procedures for each program and activity to prevent this duplication of benefits. At a minimum, your policies and procedures must require that anyone who receives CDBG-CV assistance must repay duplicative assistance if and when that should occur.

The procedures must also set -- establish a set of protocols to help make a determination if duplicative financial assistance has already been received by the individual or entity, or is likely to be received by them in the near-term or in the long-term.

As a reminder, order of assistance is treated differently in the CDBG-CV program. So this is going to have meaning to those of you who've been Disaster recipients because there is a law requiring looking who provided the first assistance. You don't have to worry about that here; you just have to ensure that there is no duplication.

So again, HUD's going to continue to issue new guidance on this topic to help you understand and comply with the requirement. Please remember, you should maintain documentation of all the other CARES Act assistance available that could create a duplication, so that you can determine potential risks of duplication. HUD has created a table of federal resources that can be modified to reflect your local assistance.

And second, in doing your program design, target your CDBG-CV resources where you know there are existing gaps and areas of unmet need from other programs available to the entity, so that you can ensure that you are not duplicating benefits already available.

Next we're going to talk about the fiscal year '19 and '20 annual grant flexibilities and waivers. So in addition to the flexibilities that we've been talking about for the CDBG-CV program, there are several alternative requirements and flexibilities for grantees using fiscal year '19 and '20 formula CDBG grants to prevent, prepare for, or respond to coronavirus.

CDBG CARES Act Overview of Federal Register Notice, 8/20/20

This includes the flexibilities related to the accelerated action plan process, the flexibilities around national objectives, and eligible activities, and some program requirements, most importantly the duplication of benefits requirement.

There's a full listing of these requirements in Section 4(b)(3) of the notice. Jessie mentioned several of these earlier, but a few just to remind you. Want to pay attention to, that we know a lot of communities are asking about, the public services cap waiver and the emergency payment extension.

Emergency payments, as you heard earlier, can be used for the payment of rent or other emergency needs that an individual or a household faces. And HUD has waived the limit on payments from three to six months. And again, reminder there, the funding cannot be provided directly to an individual; it should be provided on their behalf to the entity to which the payment is owed.

Now we're going to talk about some of the additional waivers and flexibilities with your CAPERs. Grantees, you're allowed to request CAPER submission extensions to 180 days after the end of your program year. The standard is 90 days and that's doubled here.

For the consolidated plan and the action plan, HUD is temporarily waiving the requirement that action plan activities must be consistent with the consolidated plan for when you're using your 2019 and 2020 CDBG funds for coronavirus-related activities.

And additionally, HUD provided guidance on April 1st with alternative requirements related to public hearings, reasonable notice, and the public comment period. Again, as Jessie mentioned, an alternative requirement is just a simple statement of a new requirement for you. So it has the force of a regulation and it takes the place of the provision that has been waived.

I'm sure the vast majority of you have already seen the Federal Register notice that was signed and now is available. As a reminder, you're able to submit questions on the CDBG program through the AAQ and the HUD -- all of the HUD resources are consolidated and saved on the CDBG-CV website on the HUD Exchange.

Those of you who were around for the NSP program to address the foreclosure crisis will remember that HUD continually updated the site. And that's what we're seeing now with the CDBG-CV resources. So it makes sense to bookmark these links and check on them frequently to see what's new.

(Pause.) As we mentioned, there are going to be multiple upcoming resources and webinars for you. Remember that you can use the CDBG-CV ask a question -- AAQ. There is available on-call technical assistance. And here you see a listing of multiple webinars that are in the queue, and quick guides that are available or going to be made available.

When you have questions and you can't find the answer to them by looking on the website, please turn first to your field representative. So work with your local field office to check on if there are additional resources available that you haven't found or to seek their help. They are trained up on this and happy to work with you so that you can better understand your new flexibilities and the new requirements for CDBG-CV.

With that, we'd like to move to question-and-answer period. And we have some questions that came in advance, so we'll start by working on those. And I would encourage you all to continue to put your questions into the chat box.

So Jessie, I think the first couple of questions are for you. The first is a question from a grantee, "Can a cost be considered coronavirus-related even if we were already planning to do that activity? For example, if we planned to provide a public service grant to a nonprofit serving elders to conduct onsite computer literacy classes, but the organization pivots to bringing food to seniors so that they can shelter in place, is that OK?"

Jessie Kome: Thanks for the question, Marion. In general, CDBG-CV is for funding activities that prepare for, prevent, or respond to the coronavirus. So you can't automatically do activities you previously planned and assume that they meet the new CARES Act requirement.

On the specific activity you asked about, you're serving the same population and the activity type is still public services, but it sounds as if the nature of the specific activity is different. You're running classes versus home delivery of food. For an entitlement, this should be a substantial amendment because citizens should be informed about how they may be affected and how they can benefit and participate.

The new activity is related -- so you're preparing for, preventing, and responding to the pandemic. Public service is the eligible activity. The national objective is presumed LMI benefit under the limited (clientele ?) requirements. So it's very doable, but I think you have five days of citizen participation ahead of you.

Marion McFadden: Great. Thank you. The next question relates to the provision of rental assistance. "If the financial impacts of COVID drag on for many months, will HUD consider extending the six-month period allowed for making rental assistance and other emergency payments on the household's behalf?"

Jessie Kome: Gosh, we just made this waiver. HUD is interested in hearing from grantees and stakeholders. And we will be closely watching as the grantees set up activities and as funds are expended. We encourage grantees strongly to stay in contact with their field offices and share local experiences and need.

On this personally I would ask, has the grantee created a coordinated funding strategy for rental assistance that accounts for available CARES Act and state and local funding sources? It might be helpful to consider where the CDBG-CV funding fits into the range of funding sources that will address rental assistance needs and help set a family up for longer-term resilience.

Marion McFadden: Terrific. The next question is about income eligibility. "When looking at a family's income, do we need to factor in unemployment insurance payments?"

Jessie Kome: Well, HUD's working on responding to this question consistently across programs. The FAQs -- the Q&A for public housing authorities [inaudible] has [inaudible] and been updated. Formula programs on community planning and development [inaudible] and (CDCB ?) are part of that, our Q&A coming.

However, I'd also like to mention that there's a range of low-moderate income benefit documentation options. Presumed benefit, nature and location. And so in the CDBG regulations already that might mean that you don't have to do individual income for every activity. So definitely want to talk to your field office -- read the regs, talk to your field office about that.

But questions -- they're numbered OC-24 and OC-25 on the most recent FAQs posted by public housing on HUD.gov's COVID page. So if you go to HUD's COVID page -- HUD.gov's COVID page, which kind of insists on being paid attention to if you go to HUD.gov. And then jump to "public housing," they have some FAQs posted on that page.

So question 24 says, "Are the new \$1200 stimulus payments considered annual income?" And the answer to that is no because they are temporary and non-recurring.

And then 25 covers the three different kinds of unemployment benefits. And it asks, "Should PHAs cover regular unemployment benefits as income or unemployment for the CARES Act?" And regular unemployment benefits will continue to be considered income. They are considered income now, so that's going to continue.

The Section 2102, which is PUA -- Pandemic Unemployment Assistance -- is included. It's an expanded benefit that is essentially unemployment insurance. Section 2104, which is the FPUC - - Federal Pandemic Unemployment Compensation -- most people know it as the \$600 a week -- that is excluded because it's temporary and at this point non-recurring -- likely non-recurring.

And then the Section 2107, which is the PEUC -- or Pandemic Emergency Unemployment Compensation program -- see, you thought there was just one, but there's all of these. It allows a regular unemployment compensation to receive up to an additional 13 weeks of benefits. And that, because it's regular, is included.

And we'll be getting our Q&A as soon as we can.

Marion McFadden: Great. I'm sure grantees will be looking forward to seeing that in writing since it's such a complex answer to such a simple question.

Jessie Kome: Well, the nice thing is that [inaudible] it is public housing specific. But they do cover all the different kinds of income and the reasoning.

Marion McFadden: Terrific. Thank you. So question about the public service cap. Is it removed only for the use of funds that are directly responding to preparing or preventing the coronavirus? So is it also -- question, to put it another way, is it -- that public service cap available for fiscal year '19 and fiscal year '20 funds that are not coronavirus related?

Jessie Kome: Well, let's look at the other way. They'll just stack the other way. You can build up to 15 percent with activities that are not pandemic related. But anything that is more than 15 percent has to be prepare, prevent, respond in the regular grants for '19 to '20.

Marion McFadden: OK. Thank you.

Jessie Kome: I mean, that's the way I would do it. Marion and I have a running joke about math, guys.

Marion McFadden: OK. So I think we're seeing that we need some clarification around the state use of their funding for entitlement versus non-entitlements. Could you just quick talk through that rule again?

Jessie Kome: Well, what the CARES Act did was it said that the [inaudible] of the second allocation that was just to states could be used throughout the state, regardless of entitlement status. And so that amount -- because grantees are not getting -- just because there's three allocations, they're getting one grant. But the amount of the second and third allocation can be used throughout the state as if the state was an entitlement. And probably the model to think about is an urban county.

Urban counties have a lot of local governments signed up with them. And they sometimes subgrant to the local governments and the local governments carry out activities. And sometimes the urban county just acts directly. For example, if they're building water and sewer and something, or they're doing a service that crosses boundaries, they'll offer it throughout the urban county. And what we did was enable states to act that same way.

So if an urban county [inaudible] to give funds to provide benefit inside an entitlement, they're - and they do it through an amendment instead of an action plan, there's no consultation requirement. Consultation is probably still a smart idea to make sure that there's no duplication of benefits, that the entitlement isn't trying to fund the exact same thing the state is.

Marion McFadden: Thank you. And we do have some duplication of benefit questions we'll get to. But first I wanted to ask about the expedited citizen participation procedures. So we know that the public comment period has been reduced to five days. Does that apply to any fiscal year '19 or fiscal year '20 funds? Or does that only apply if the amendment or substantial amendment - - excuse me, the substantial amendment -- is being used for coronavirus?

Jessie Kome: Give me a second; I've got to cough. Sorry about that. Let James answer it. (Pause.) James, I had to throw you in there. My [inaudible] went off and I started coughing.

The answer is, if the grantee submits with an amendment or an action plan that includes a coronavirus funding component, then that action plan or amendment benefits from the streamlining and can move ahead with the five-day.

Now, there are some other waivers that were granted in April 2nd and the notice talks about it. So there's a great deal of additional streamlining available. For example, the ESG that even goes beyond ours, and it was statutory and came in the CARES Act.

So this is one where, make a phone call -- if you're a grantee, make a phone call to your field office. Let them know what's going to be in your proposed amendment and just -- or plan -- and make sure that you have the right number of days.

Marion McFadden: OK. Thank you, Jessie. A grantee would to confirm that operating costs for homeless shelters are an eligible expense regardless of the program also receiving ESG funding to respond to coronavirus.

Jessie Kome: Well, we're seeing some combination of funding, but you want to make sure, again, that you're not paying for the same things, so you have to [inaudible] benefits between ESG and CDBG-CV or regular. But it's isn't impossible if you have the met need or the identified need -- we don't actually call it "unmet need" on the non-disaster side.

You also need to watch with shelters. Of course, some jurisdictions have FEMA PA funds moving, local assistance funds moving. Some are using some of their Treasury community relief fund. There's a lot of private philanthropy moving around homeless shelters, so it's a thing you have to be really strategic about which funding sources you're using and make sure they don't overlap. But we didn't create a band that they'd use together ever; you just have to meet the program requirements for both programs.

Marion McFadden: Okay. We have a question about duplication of benefits. "Are we required to assure that CDBG-CV is the payer of last resort? We have other programs in the community with rent and mortgage assistance. We are currently referring all applications that meet their income guidelines."

Jessie Kome: You're not required to be the payer of last resort. That's what it means when we're throwing around that term "order of assistance," in that there is no order of assistance requirement.

Because CDBG-CV funds are flexible beyond most of the other funds in play here, you want to try to use -- just strategically, not as a requirement -- you want to try to use single-purpose funds for that single purpose before you put something that could be used for multiple things in there most of the time.

So it sounds like you've picked a good program design; used the single-purpose funds that will pay rental assistance before you move your money that could also be off doing something else like small business assistance.

Marion McFadden: And I know this is an issue that will be explored further when you do your duplication of benefits guidance webinar and what the grantees need to do to ensure that their policies and their procedures are in place to prevent duplication of benefits if they do want to take the chance, if they want to provide funding even knowing that there are other related community programs available, given the scope of the need.

Jessie Kome: Right. And I don't see it as taking a chance, because with a formula block grant like CDBG or with the Treasury funds which are essentially a block grant, those funds aren't for that purpose until you commit them for that purpose. So what you're looking for is our funds committed for the purpose and you're already committed for the purpose that you're diving in for, and that makes them available.

You know, if you have an organization that's committed to cover costs but they haven't raised the funds yet, sometimes the field office will talk to you about that -- but look for the funds that are committed or nailed down some way and are really on their way in. Look for applications that are in that have a good chance of getting -- like FEMA public assistance -- good chance of getting funded, and move around that really carefully.

A lot of the other funding sources seem to have match requirements that we're seeing, and CDBG-CV can be used for match requirements if the activity or the other activity is otherwise eligible. So there's a lot of -- if you do the smart thinking upfront with your program design and steer out of the way of other funds, you're going to have far, far fewer problems on the back end.

Marion McFadden: Okay. I think we have another sort of duplication of benefits question. "For eligible activities and the criteria associated with no other funding available, we've launched a temporary rental housing assistance program and funded it at \$20 million, but we're seeing a greater need than can be addressed by the \$20 million. Can we supplement with CDBG-CV II?"

Jessie Kome: CDBG-CV II is state funding. This is not an unusual question, I guess. We think of it as all one grant, so I'm not thinking of each allocation. You can amend your action plan and add more funds to an activity and go through a quick amendment of your [inaudible] submit it by amendment or amendment of your plan, so long as you still have grant funds.

You have to make those tough local choices as a grantee. I'm not really sure how else to get at that question. But if you've run out of money from the source that was paying and you still have need, that's how you do duplication of benefits. You figure that out; that there's still need.

Marion McFadden: So another question from [inaudible]. "Does CV II have to have its own set-aside for non-entitlements, or can states satisfy their non-entitlement allocation using just CV I?"

Jessie Kome: Once the allocations are made, it's all one grant. HUD isn't separating them. When you get a grant agreement for your CDBG-CV it's just going to show a total amount. It isn't going to say this much for CV I and this much for CV II. What the notice says is of the (total ?) amount you end up getting, you're going to have to set aside an amount equal to the first allocation for non-entitlement. It doesn't tell you that it has to be your first dollar or your last dollar. It just says that out of the total grant funds that you get, I, II, and III, the one grant you get you have to use -- there's a set-aside of it, an amount equal to the first allocation for non-entitlements for their use.

And here's a nuance on that. A non-entitlement could come back to the state and say, you are running a small business program; will you administer my amount for me? We went out to our citizens; we want to do small business but we can't stand a program up that fast, where you're running one already; will you spend this in our jurisdiction? And they can enter into an agreement and do that.

And this is a way of thinking about -- this happens in urban counties all the time. This is the analogy and this is what we're trying to set up, is that states could function that way if non-entitlements come to them.

Marion McFadden: Thank you. "Could you please speak a little bit more about the type of documentation you're looking for to support the urgent need criteria?"

Jessie Kome: Yes. I mean, the notice actually just lists what the criteria are that have to be responded to by the records that you keep, and it tells you what records you have to keep for each of the criteria. You have to document that you have -- Marion, could you slide back to that slide?

Marion McFadden: Yep.

Jessie Kome: That'd be great. (Pause.)

So these are the criteria. You have to have a record that shows that you have an existing condition to respond to and document that your activities are responding to it. We said that you can just document this by the activities to prevent, prepare for, or respond to coronavirus. You have to keep that documentation for every activity anyway, so that one piece of narrative documentation takes care of both requirements -- urgent need and the CARES Act requirement.

Criterion two, you have a condition that poses an immediate threat to the health and welfare of the community; is of recent origin or recently became urgent. And we said just give us your public health emergency declaration, your federal disaster declaration; your state, local, and emergency declaration with a date on it, and that's your documentation. You don't have to create a new piece of paper; you've just got to put that in the file for this activity.

And then the third criterion is are you unable to finance the activity on its own; are other sources of funds not available to carry out the activity? And HUD said that because we can see that local and state governments are straining because of the pandemic everywhere in the country, that we would simply allow -- again, this is documented by the activities being to prevent, prepare for, or respond to coronavirus. So the same paperwork handles criterion three that's handled criterion one, that handles your CARES Act eligibility.

Marion McFadden: Thank you for clarifying.

"Our cities (are the ?) utilities provider. Are the emergency payments of eligible persons utilities still an eligible activity?" So I think that's an arm's length question that's being asked; can we essentially make a payment to the city itself on behalf of an individual.

Jessie Kome: And I have been in webinars saying that I have concerns about that, and I'm sure people are aware about fully publicly-owned utilities and the arm's length issue, and we don't have an answer back on that yet; we are working on a Q&A. But it's very similar, like, policy-wise to can you pay yourself for land acquisition, and the answer is usually no.

So we're going to set the framework for, you know, if you're a private utility and publicly regulated, those are usually fine. If you're quasi-public, that's a case we're still sorting out. But if you're fully publicly owned, I think we're going to have some arm's length issues with making utility payments, and we're still stepping through that.

Marion McFadden: So that's a great example of something you'll want to check back on the website, just look for updates.

So Jessie, I promised you I would answer a couple of the DOB questions -- the duplication of benefits questions -- myself, so I'll take this one. "Is it duplication of benefits if, for example, a church pays for April and May rent and CDBG pays for June and July rent?" No, that does not present a duplication because the total amount of assistance received by the person isn't greater than the cost. That's a clear-cut example of layering of funds rather than creation of a duplication.

Question about reporting. "Do we report CDBG-CV in the 2019 CAPR?"

Jessie Kome: That's a good question. I doubt they'll have any accomplishments yet -- and we've extended the 2019 CAPRs. But we did get some grantees who picked up their grants in May, really fast.

Robert, are you here? Are you able to unmute? We have our IDIS expert but I'm not sure we can get -- we may have to take that question later, Marion.

Marion McFadden: Fair enough. It's a robust list of questions coming in from the attendees.

Jessie Kome: Yep.

Marion McFadden: "For rental assistance programs, what are examples of appropriate forms of documentation to ask for subrecipients or beneficiaries to submit to establish the tieback to coronavirus?"

Jessie Kome: How do you document tieback to coronavirus?

Marion McFadden: Yes, particularly for a rental assistance program, what's the appropriate form of documentation.

Jessie Kome: It's going to vary. It's probably going to be a narrative and you're going to have to also maybe build some stuff into your policies for the program.

In most communities the rental assistance needs kicked in as the emergency declarations happened, and for the kind of rental assistance that we've been talking about today, where you're trying to keep people from getting evicted. They kicked in relatively late. So you would say, what is the sequence of events in your community; what is driving people out; and then you're going to say how you're going to check that each household is having some kind of economic disruption or some kind of issue related to the CARES Act that's causing them not to be able to pay their rent. That's one way to do it.

If the purpose of your public service because you're making emergency payments for a reason -- if the purpose is just to keep people from getting evicted so that they won't be on the streets during a pandemic while you have a health emergency, then you would document that they were at risk, and you could borrow from other programs, that that would be a possibility.

The other kind of rental assistance we're seeing is not related to eviction issues. It is related to overcrowding, where there are essential workers and get exposed and don't have any place to go to quarantine themselves that wouldn't expose their people at home; and there are some rental payment programs that we're getting some questions about. I don't know if any of them [inaudible] to pay for places for those people to go to quarantine themselves rather than taking a potential exposure into an overcrowded situation.

Marion McFadden: Okay. Jessie, really appreciate you taking all these questions; just a few more left before we wrap up.

This is a question from a grantee who has many low-income households whose children are not able to attend school at home because they don't have Wi-Fi, and they're asking whether broadband services could be considered eligible as low-mod area benefit, LMA, provided that the census tract or block would be eligible under the usual formula allocation.

Jessie Kome: Well, it depends in what sense -- I mean, there is the path through to [inaudible]. So if you were, for example, to go hire the truck that usually does broadband Wi-Fi at, say, Burning Man or something; some big concert venue. They don't have any business right now, and park it in the middle of your low-mod neighborhood and blast out broadband to a low-mod neighborhood. You know, go team. It prevents people from losing their jobs and it hooks everybody up -- children, seniors, everybody.

If you are talking about digging in the ground to do broadband, I'm not sure you can go fast enough. If you're talking about paying individual household subscriptions to broadband or providing equipment as part of a public service to connect low- and moderate-income households, that's going to be a little bit tougher on an area benefit basis, so we can talk about it. It's more likely that you would go through an income certification path, household by household, because you're going to be paying subscriptions household by household.

Marion McFadden: Okay, great. "If we are utilizing CDBG-CV funding for economic assistance to micro-enterprise under the LMI national objective but we also want to provide economic assistance to businesses under the urgent need national objective to have more reach, is that acceptable?"

Jessie Kome: Yeah. I mean, I don't think it's a bad idea to set up an activity and say that it could be either low-mod national objective or need and describe the criteria there.

Just remember, you have to hit that 70 percent mark for your grant. Urgent need is available; it's used incredibly rarely in the main program and I think that's why you were getting so many how-do-you-do-it questions. So I think I'm sort of flagging in my mind that we're going to need to provide a little bit of a guide on this or do a little more work around technical assistance on urgent need. But yes, it's possible.

Marion McFadden: Thank you. It's great to have the back and forth and hear about the grantees needs so that you can establish a future guidance.

Jessie Kome: Exactly.

Marion McFadden: Let me just give you one more hard one and after you finish we'll turn it back to Jelani. It's a question about reimbursement. "How can we go back to January for reimbursement of activities if we didn't conduct an environmental review for then? If we have environmental clearance for a public service-type program now, can we request reimbursement for staff salaries back in March?"

Jessie Kome: So what happens is you -- back in January you didn't think you were getting federal funding. So that opens the ability to move forward with this, and then Congress wrote reimbursement into the CARES Act.

The bottom line answer is you cannot commit funding or expend funding -- don't incur the cost, don't commit funding for an activity before you do the environmental review. And then we provided some technical assistance already on how to go forward and the environmental review team is also going to be providing additional TA.

But the big, big thing is don't go paying it or committing it before you complete your environmental review.

Marion McFadden: So you should look for future guidance on environmental flexibilities.

Jessie Kome: Exactly. And then the question raises a different point, and that is you cannot pay general conduct to government expenses and make up your lost general operating revenue with CDBG-CV. That's not eligible and not on the table.

General conduct to government is still -- so to the extent you're paying staff costs when they were working on things that are eligible activities for CDBG-CV or putting together your CDBG-CV amendment or plan or doing this in participation and all those things that are pre-award costs that are maybe outside the timeframe for pre-award and things like that, those are all going to be fine. You just need to get all the way through the environmental review before you commit on CV funds.

Marion McFadden: Okay. Thank you so much, Jessie. I'll turn it back to Jelani.

Jessie Kome: Thank you, Marion.

Jelani Newton: Thanks so much, Marion and thanks to Jessie and James for the great presentation today.

That concludes our webinar. Please remember the slides and the recording of today's session will be available on HUD Exchange in the coming days. Please also remember that if we weren't able to get to your question today, that you can reach out to your field office and also leverage the resources provided by HUD to help you and all other grantees get the information that you need.

Thanks for everyone's participation today and thanks for all the important work that's you're doing in your communities. Have a great day.

(END)