

# CDBG CARES Act Overview of Federal Register Notice (FR-6218-N-01)

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Tuesday, September 1, 2020

3:30 PM EDT



# Welcome to the Webinar

- All attendees will be muted throughout the session
- Please use the Q&A panel to ask questions
- Time for Q&A is limited, but various resources are available to grantees with additional questions
- This session will be recorded, and materials will be posted to HUD Exchange

# Opening Remarks



Janet Golrick, HUD, Acting Deputy Assistant Secretary for Grant Programs

# Presenters

- Jessie Handforth Kome, HUD, Director, Office of Block Grant Assistance
- James Höemann, HUD, Director, Entitlement Communities Division
- Marion McFadden, HUD TA, Enterprise Community Partners

# Webinar Objectives

- Summarize key components of the CDBG-CV program
- Identify alternative requirements and flexibilities granted in the CDBG-CV Federal Register Notice
- Review current and future CDBG-CV resources and technical assistance

# Webinar Outline

- National Objectives and Overview
- Eligible Activities
- Other Program Requirements
- Fiscal Year 2019 and Fiscal Year 2020 CDBG Grants
- Additional Resources / Future Webinars
- Q&A

# Allocations of CDBG-CV Funds\*

Overall Allocation	First Allocation	Additional Allocations	Reallocation
<ul style="list-style-type: none"> <li>• \$5b available for CDBG-CV to prevent, prepare for, and respond to coronavirus</li> </ul>	<ul style="list-style-type: none"> <li>• \$2b announced on 4/2/20; using formula CDBG allocation methodology</li> </ul>	<ul style="list-style-type: none"> <li>• \$1b announced on 5/11/20 for states and insular areas</li> <li>• Remaining \$2b to be announced on rolling basis using a formula prioritizing factors such as:                             <ul style="list-style-type: none"> <li>• Risk of transmission</li> <li>• Relative share of cases</li> <li>• Housing disruptions</li> <li>• Economic disruptions</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Jurisdictions that fail to apply for funding or HUD is unable to distribute funds, HUD may cancel all or part of the allocation</li> <li>• 3-year expenditure requirement (80%)</li> <li>• Recaptured funds will be reallocated in accordance with the CDBG-CV allocation formula</li> </ul>

\*Allocations and methodology are available at:  
[https://www.hud.gov/program\\_offices/comm\\_planning/budget/fy20/](https://www.hud.gov/program_offices/comm_planning/budget/fy20/)



# Key CDBG-CV Flexibilities/ Alternative Requirements

	Action Plan and Citizen Participation	National Objectives	Eligible Activities	Program Requirements
<b>CDBG-CV Funds (All)</b>	<ul style="list-style-type: none"> <li>• Expedited citizen participation procedures via 5-day comment period</li> <li>• Virtual public hearing</li> <li>• Deadline to apply extended to August 2021</li> </ul>	<ul style="list-style-type: none"> <li>• Overall Benefit requirement</li> <li>• Urgent Need documentation</li> <li>• LMI job location assumptions</li> <li>• Job creation/retention records</li> </ul>	<ul style="list-style-type: none"> <li>• Coronavirus tieback</li> <li>• Public Services cap waiver</li> <li>• Economic development flexibilities</li> <li>• Emergency payments extension (6 months)</li> <li>• Section 108 (coronavirus tieback)</li> </ul>	<ul style="list-style-type: none"> <li>• Costs allowable from 1/21/20</li> <li>• Duplication of Benefits</li> <li>• CARES Act reporting</li> <li>• Program income</li> <li>• 6-year period of performance</li> <li>• Environmental requirements unchanged</li> <li>• Citizenship requirements</li> </ul>
<b>CDBG-CV Funds (State Only)</b>	<ul style="list-style-type: none"> <li>• Submit description of Method of Distribution; including activities carried out directly and expedited citizen participation procedures for UGLGs</li> </ul>		<ul style="list-style-type: none"> <li>• Carry out activities directly</li> <li>• Conduct activities in entitlement, tribal and nonentitlement areas</li> </ul>	<ul style="list-style-type: none"> <li>• Nonentitlement set-aside</li> <li>• Elimination of state administrative match</li> <li>• State Admin/ TA cap (7%)</li> </ul>



# National Objectives and Overview



# National Objectives – Overall Benefit

*“Development of viable urban communities, by providing decent housing and suitable living environment and expanding economic opportunities, principally for persons of low and moderate income.”*

Section 101(c) of HCD Act

- CDBG-CV grants are subject to 70% overall benefit requirement
  - Not calculated by program year
  - Calculated based on percentage of total CDBG-CV grant and separate from formula CDBG allocation

# National Objectives – Urgent Need

Recordkeeping must address the following criteria:

- *Criterion 1: Is the activity designed to alleviate existing conditions?*
  - Documented by activities to prevent, prepare for, and respond to coronavirus
- *Criterion 2: Does the condition pose a serious and immediate threat to the health or welfare of the community that is of recent origin or that recently became urgent?*
  - Documented by HHS Public Emergency Declaration, Federal Disaster Declaration, or State/local emergency declaration
- *Criterion 3: Is the grantee or UGLG unable to finance the activity on its own, and are other sources of funds not available to carry out the activity?*
  - Documented by activities to prevent, prepare for, and respond to coronavirus

# National Objectives – Low-Mod-Income Jobs

- Location Presumption of LMI status for job creation/ retention
  - The higher poverty rate for Central Business Districts is removed
  - Qualifying Census tracts must meet either the 70% LMI requirement or 20% Poverty Rate and evidence of poverty and general distress
- LMI Job Creation/ Retention Income Documentation
  - Individuals who fill created or retained jobs will be treated as a one-person family for purposes of income validation
  - Alternative Recordkeeping: Document job type and annual salary of position

# Eligible Activities



# Reimbursements

- Costs incurred on or after January 21, 2020 that prevent, prepare for, and respond to coronavirus can be reimbursed without a waiver.

# Eligible Activities

- All activities must prevent, prepare for, and respond to coronavirus
  - Direct Effect: Costs directly associated with COVID-19 prevention or response (e.g. rehabilitation of building to create additional quarantine and isolation rooms)
  - Indirect Effect: Economic and housing market disruptions (e.g. small business assistance)
- Eligible Activities include:
  - Acquisition of real property
  - Economic development
  - Housing related activities
  - Microenterprise assistance
  - Public facility improvements
  - Public services

# Emergency Payments

CDBG Requirement	CDBG-CV Requirement
Provide emergency payments on behalf of individual or family for up to <b>three</b> consecutive months	Provide emergency payments on behalf of the individual or family for up to <b>six</b> consecutive months

- Emergency payments may include items such as food, clothing, housing (rent or mortgage) and utilities
- Payments must be made to the provider on behalf of the individual or family



# Economic Development

- Public Benefits Test

Benefit Test Type	CDBG Requirement	CDBG-CV Requirement
Aggregate	Average cost/ job/ activity does not exceed \$35,000	N/A
Individual	<ol style="list-style-type: none"> <li>Cost/ job does not exceed \$50,000</li> <li>Activity will provide goods or services to LMI residents where cost &lt; \$1,000/ LMI resident</li> </ol>	<ol style="list-style-type: none"> <li>Cost/ job does not exceed \$85,000</li> <li>Activity will provide goods or services to residents of an area where cost &lt; \$1,700/ LMI resident</li> <li>Assistance due to business disruption related to coronavirus</li> </ol>

# Economic Development

- Financing Mechanisms
  - Clarifies that assistance can be made through any financing mechanism (not just NMTC)
  - Expands 570.204 to allow any nonprofit to pass assistance through financing mechanisms to other entities for community economic development projects, especially in Opportunity Zones
- Financial Underwriting and Evaluation Requirement
  - All economic development projects must undergo evaluation and underwriting prior to funding
  - Use Appendix A to Part 570 or similar methodology

# Public Services Cap

- Public Services cap (15%) is waived for CDBG-CV activities
- Cap is also waived for 2019 and 2020 CDBG activities when the public service carries out activities to prevent, prepare for, and respond to coronavirus

# Other Program Requirements



# Other Program Requirements and Flexibilities

- Responsible Use of CARES Act Funds
- Planning and Administration Costs
- Program Income
- States Acting Directly
- Environmental Reviews
- Section 108
- Period of Performance and Timeliness
- Reporting
- Duplication of Benefits

# Responsible Use of CARES Act Funds

- CDBG-CV funds are subject monitoring, audits and other reviews of program activities
- CDBG-CV grantees must provide regular reporting
  - HUD annual reporting
  - CARES Act Quarterly Reporting
- CDBG-CV grantees must ensure funds do not result in a duplication of benefits

# Planning and Administration Costs

	Eligible CDBG-CV Administrative Costs
<b>CDBG-CV - Entitlements</b>	<ul style="list-style-type: none"> <li>• 20% cap for planning and administration activities</li> </ul>
<b>CDBG-CV - States</b>	<ul style="list-style-type: none"> <li>• Elimination of state administrative match</li> <li>• 20% cap for planning and administration activities                             <ul style="list-style-type: none"> <li>• 7% State general administration and technical assistance                                     <ul style="list-style-type: none"> <li>• 5% General administration</li> <li>• 2% Technical assistance</li> </ul> </li> <li>• 13% available to units of local government for general administration and technical assistance</li> </ul> </li> </ul>

# Program Income

- CDBG-CV program income will be treated as formula CDBG program income upon receipt
- CDBG-CV program income should follow the same protocols and processes used to record, document, and re-program formula CDBG program income



# States Acting Directly

- States may use CDBG-CV funds to directly carry out activities through staff, contractors, or subrecipients in all areas of the jurisdiction (including entitlement areas)
  - States must set aside **no less than the State's first CDBG-CV allocation** for use by nonentitlement units of local government
  - States must include direct activities in the Method of Distribution in a Substantial Amendment or Action Plan and make available for public comment
  - Use of “upper quartile” or “exception criteria”
  - States may directly act in tribal areas with prior consent from the Indian tribe
- States maintain all responsibility for ensuring program compliance

# Section 108

- CDBG-CV funds shall not be factored into a grantee's borrowing authority
- CDBG-CV funds may only be used to pay the principal, interest or fees of Section 108 loan **if** the use of the funds is to prevent, prepare for, or respond to coronavirus
  - Grantees must document tieback to coronavirus

# Environmental Review

- CDBG-CV grantees must comply with existing environmental rules and regulations
- Emergency ER Provisions
  - Emergency exempt activities (24 CFR 58.34(a)(10))
  - Streamlined public notice and comment period (24 CFR 58.33)
  - Expedited Section 106 review for emergencies:  
[https://www.achp.gov/sites/default/files/2020-07/Emergency%20Blanket%20Extension%207-22-20\\_0.pdf](https://www.achp.gov/sites/default/files/2020-07/Emergency%20Blanket%20Extension%207-22-20_0.pdf)
- HUD Guidance: Guidance on Conducting Environmental Review pursuant to 24 Part 58 for Activities undertaken in Response to the Public Health Emergency as a result of COVID-19:  
<https://www.hud.gov/sites/dfiles/OCHCO/documents/2020-07cpdn.pdf>

# Period of Performance, Timeliness and Closeout

	Period of Performance	Timeliness	Alternative Closeout
<b>CDBG-CV Funds</b>	<ul style="list-style-type: none"> <li>• Six-year period of performance</li> <li>• 80% of CDBG-CV funds must be expended by end of third year</li> </ul>	<ul style="list-style-type: none"> <li>• Timely expenditure requirements of 24 CFR 570.494 and 570.902 are waived</li> <li>• Program income will be treated as formula CDBG for timeliness compliance determinations</li> </ul>	<ul style="list-style-type: none"> <li>• Grants will be closed out in accordance with grant closeout requirements of 2 CFR 200.343</li> </ul>
<b>CDBG Funds FY 2019 &amp; 2020</b>	No changes	<ul style="list-style-type: none"> <li>• Corrective actions, sanctions, and informal consultations for timeliness are suspended for FY2020</li> </ul>	No changes

# Reporting

	HUD Reporting Requirements	CARES Act Reporting Requirements*
<b>CDBG-CV Funds</b>	<b>Annual Reporting</b> <ul style="list-style-type: none"> <li>• Timely manner</li> <li>• Activities are completed in accordance with laws and program requirements</li> <li>• Grantee capacity</li> </ul>	<b>Quarterly Reporting</b> <ul style="list-style-type: none"> <li>• Amount of funds received</li> <li>• Amount of funds obligated/ expended by activity</li> <li>• Description of all projects/ activities</li> <li>• Description of any subcontracts or subgrants</li> </ul>
<b>CDBG Funds FY 2019 &amp; 2020</b>		<ul style="list-style-type: none"> <li>• Not applicable</li> </ul>

\*CARES Act reporting process to be determined by HUD



# Duplication of Benefits

	What is DOB?	Grantee Requirements	Recommendations
<p><b>CDBG-CV Funds and CDBG funds used to Respond to Coronavirus</b></p>	<p>Duplication of Benefits occurs when assistance is provided to a person/ entity to address losses and that person/ entity receives assistance for the same costs/ losses from other funding sources</p>	<ul style="list-style-type: none"> <li>• Develop and maintain adequate procedures to prevent a duplication of benefits that address (individually or collectively) each activity or program</li> <li>• Procedures must include:                             <ul style="list-style-type: none"> <li>• Requirement that persons/ entities receiving CDBG-CV assistance must repay duplicative assistance</li> <li>• Method to assess whether CDBG-CV funds will duplicate financial assistance that is already received or likely to be received by acting reasonably</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Maintain documentation of other CARES Act assistance, including eligible activities and availability of assistance to determine risk of duplication</li> <li>• Use CDBG-CV assistance to address unmet needs or provide unduplicated assistance, with special attention to needs of low- and moderate-income persons</li> </ul>

# FY2019 and 2020 CDBG Grant Flexibilities and Waivers



# Flexibilities for FY2019/ 2020 CDBG Funds\*

	Action Plan and Citizen Participation	National Objectives	Eligible Activities	Program Requirements
<b>2019 &amp; 2020 CDBG Formula Grants</b>	<ul style="list-style-type: none"> <li>• Expedited citizen participation procedures via 5-day comment period</li> <li>• Virtual public hearing</li> <li>• Action Plan deadline extended to 8/2021</li> </ul>	<ul style="list-style-type: none"> <li>• Use of Urgent Need flexibilities</li> <li>• LMI job location assumptions</li> <li>• Job creation/ retention records</li> </ul>	<ul style="list-style-type: none"> <li>• Waiver of Public Services cap</li> <li>• Economic development flexibilities</li> <li>• Emergency payment extension (6 months)</li> </ul>	<ul style="list-style-type: none"> <li>• Reimbursement of allowable costs incurred since 1/21/20</li> <li>• Duplication of Benefits</li> <li>• Environmental requirements not waived</li> </ul>

\*Applicable only when FY2019 or 2020 CDBG funds are used to prevent, prepare for, and respond to coronavirus; see Section IV.B.3 of FRN (page 67) for complete list



# Waivers and Flexibilities

- CAPER Waiver
  - Grantees may request CAPER submission extension to 180 days after end of program year
- Consolidated Plan and Action Plan Waivers
  - Consistency with the Consolidated Plan when funds are used to prevent, prepare for, and respond to coronavirus
  - Flexibilities within the citizen participation process, consistency with the Citizen Participation Plan, and public comment period as summarized in 4/1/2020 waiver memo: <https://www.hudexchange.info/resource/6007/availability-of-waivers-of-community-cpd-grant-program-and-consolidated-plan-requirements-to-prevent-the-spread-of-covid19-and-mitigate-economic-impacts-caused-by-covid19/>
  - Expedited citizen participation and virtual hearings apply to all formula grants

# HUD Links and Resources

- CDBG-CV Federal Register Notice (FR-6218-N-01) was published on 8/7/20
  - Federal Register Notice: <https://www.hud.gov/sites/dfiles/CPD/documents/FR-6218-N-01-CDBG-CV-clean-8-7-20-header-for-posting.pdf>
- Questions:
  - CDBG-CV Ask a Question: <https://www.hudexchange.info/program-support/my-question/>
- CDBG-CV Resources
  - [https://www.hud.gov/program\\_offices/comm\\_planning/cdbg\\_programs\\_covid-19](https://www.hud.gov/program_offices/comm_planning/cdbg_programs_covid-19)
  - <https://www.hudexchange.info/programs/cdbg-cv/>



# Additional Resources/ Upcoming Webinars

- CDBG-CV Ask a Question
- CDBG-CV On-Call TA
- Webinars
  - CDBG-CV Launch
  - Duplication of Benefits
  - Economic Development Models
  - Housing Models
  - National Objectives
  - State CDBG-CV Implementation
- Quick Guides
  - Broadband
  - CDBG-CV Launch Toolkit
  - Duplication of Benefits
  - Economic Development
  - Financial Management
  - Public Facility Improvements with CV
  - Rental Assistance
  - State CV Implementation

# Question & Answer

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