

# State CDBG-CV Webinar Implementation

Wednesday, September 9, 2020 from 1:00-2:30 PM



**CDBG**  
**CARES Act**



# Introductions

- Robert Peterson, Director, HUD-States and Small Cities
- Doug Carlson, Senior Consultant, TDA Consulting, Inc.
- Randall Mullen, Vice-President, TDA Consulting, Inc.

# Webinar Objectives

- Summarize key components of the CARES Act
- Summarize overall alternative requirements and flexibilities granted in the CDBG-CV Federal Register Notice
- Identify *state specific* alternative requirements and flexibilities granted in the CDBG-CV Federal Register Notice
- Review current and future state CDBG-CV models, resources and technical assistance

# Agenda

- CARES Act Overview
- Federal Register Notice Overview
- State Specific Waivers and Alternative Requirements
- Scenarios for Implementation
- Forthcoming Policy Guides
- Q & A
- Resources
- Contact Info

# CARES Act Overview

# 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. Formula was based on factors identified in the CARES Act:                             <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> <li>• Remaining \$2B to be announced may be allocated to grantees at the Secretary's discretion giving priority to the factors in the CARES Act, and may be on a rolling basis.</li> </ul>	<ul style="list-style-type: none"> <li>• For jurisdictions that fail to apply for funding, HUD may cancel all or part of the allocation.</li> <li>• 3-year expenditure requirement (80%).</li> <li>• Recaptured funds will be reallocated based on factors identified in the CARES Act, as determined by the Secretary.</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/)



# Duplication of Benefits

	What is DOB?	Grantee Requirements	Recommendations
<ul style="list-style-type: none"> <li>• <b>State CDBG-CV funds</b></li> <li>• <b>State CDBG funds used to Respond to Coronavirus</b></li> </ul>	<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 to evaluate need and the resources available</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>

# Federal Register Notice Overview



# 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 (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</li> <li>• Virtual public hearings for UGLGs that apply to state</li> </ul>		<ul style="list-style-type: none"> <li>• Carry out activities directly</li> <li>• Conduct activities in entitlement, tribal and non-entitlement areas</li> </ul>	<ul style="list-style-type: none"> <li>• Nonentitlement set-aside</li> <li>• Elimination of admin match</li> <li>• State Admin/TA cap (7%)</li> <li>• Recordkeeping</li> <li>• Reviews and Audits</li> </ul>

# 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

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

# Eligible Activities

- All activities must prevent, prepare for, and respond to coronavirus
  - Direct Effect: Costs directly associated with coronavirus prevention, preparation, or response (e.g. rehabilitation of building to create additional quarantine and isolation rooms for recovering COVID-19 patients)
  - Indirect Effect: Economic and housing market disruptions (e.g. small business assistance)
  - Pre-award costs allowable from 1/21/20

# Eligible Activities

- Acquisition of real property
  - Acquire and rehabilitate, or construct, a group living facility that may be used to centralize patients undergoing treatment
- Economic development
  - Avoid job loss caused by business closures related to social distancing by providing short-term working capital assistance to small businesses to enable retention of jobs held by low- and moderate-income persons
- Housing related activities
  - Make interim improvements to private properties to enable an individual patient to remain quarantined on a temporary basis.

# Eligible Activities

- Microenterprise assistance
  - Provide technical assistance, grants, loans, to establish, stabilize, and expand microenterprises that provide medical, food delivery, cleaning, and other services to support home health and quarantine
- Public Facility Improvements
  - Rehabilitate a community facility to establish an infectious disease treatment clinic
- Public Services
  - Provide testing, diagnosis or other services at a fixed or mobile location

# Public Services Cap

- Public Services cap (15%) is waived for State CDBG-CV activities
- Cap is also waived for 2019 and 2020 State CDBG activities when the public service carries out activities to prevent, prepare for, and respond to coronavirus
- States will need to indicate whether the activity is to prevent, prepare for, and respond to the coronavirus during their IDIS activity set-up.
- Users should create new IDIS activities that are coronavirus-related; Do not mix the purpose of activities; Do not change older, ongoing activities to indicate that they are now coronavirus-related; and Do not add CV funds to activities with expenditures that were unrelated to coronavirus.

# Economic Development

- Public Benefits Test

Benefit Test Type	CDBG Requirement	CDBG-CV Requirement *
Aggregate	Aggregate cost/ FTE/ activity does not exceed \$35,000	N/A
Individual	<ol style="list-style-type: none"> <li>Cost/ FTE 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/ FTE 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>

\* Note that CDBG-CV requirements and flexibilities also apply to FY19/20 CDBG funds.



# Economic Development

- Financing Mechanisms
  - Clarifies that assistance can be made through any financing mechanism m (e.g., Qualified Opportunity Funds and New Markets Tax Credit (NMTTC) investment vehicles)
  - Expands 570.204 Entitlement CBDOS and HCD Section 105(a)(15) for states to allow certain nonprofits to pass assistance through financing mechanisms to other entities for community economic development projects.
- Financial Underwriting and Evaluation Requirement
  - Activities by private for-profits under 105(a)(17) of the Act, must be evaluated and selected in accordance with Appendix A to 24 CFR 570 - “Guidelines and Objectives for Evaluating Project Costs and Financial Requirements.”

# 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

# Program Income

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

# State Specific Waivers and Alternative Requirements

# 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 and tribal areas)
- States CDBG-CV funding for activities located in entitlement areas do not require a contribution from the entitlement jurisdiction
- One or more public agencies may be designated by the chief executive officer of a state to undertake activities directly
- The Annual Action Plan's method of distribution must include a list of the use of all funds for activities it will carry out directly, and how the use of the funds will prevent, prepare for, and respond to coronavirus.

# States Acting Directly

- Use of “upper quartile” or “exception criteria” in applicable entitlement areas.
- Use of interagency agreements, subrecipient agreements or contracts does not relieve the state of its overall responsibility for compliance.
- State grantees are responsible for civil rights, labor standards, environmental protection and conflict of interest requirements

# Planning and Administration Costs

	<b>Eligible State CDBG-CV Administrative Costs</b>
<b>CDBG-CV States</b>	<ul style="list-style-type: none"><li>• Elimination of state administrative match</li><li>• 20% cap on 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>

# Recordkeeping and Reporting

- The state must establish and maintain records *as necessary* to facilitate review and audit by HUD of CDBG–CV program delivery
- Content of records maintained by the state shall be sufficient to:
  - (1) Enable HUD to make the applicable determinations described at 24 CFR 570.493;
  - (2) To make compliance determinations for activities carried out directly; and
  - (3) To show how activities funded are consistent with the descriptions of activities proposed for funding in the CDBG-CV application
- State CDBG-CV grantees must provide regular reporting
  - HUD annual reporting
  - CARES Act Quarterly Reporting (Guidance forthcoming)



# Reviews and Audits

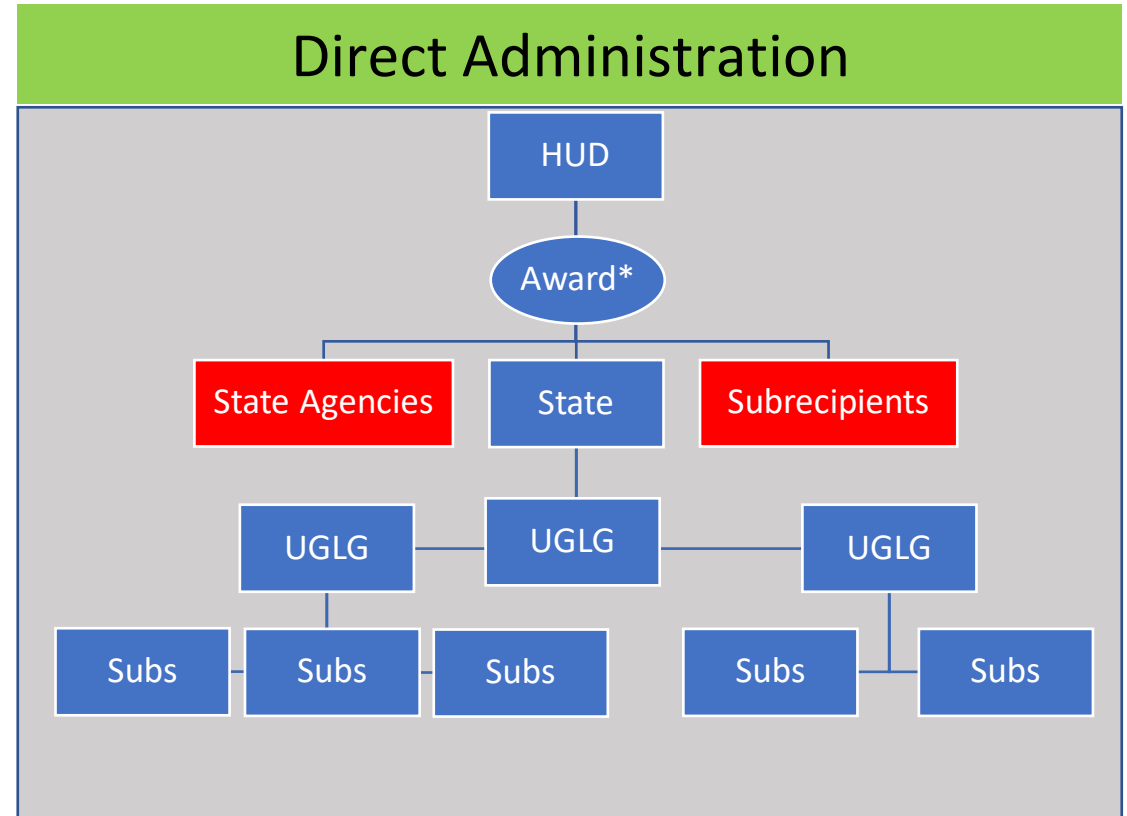
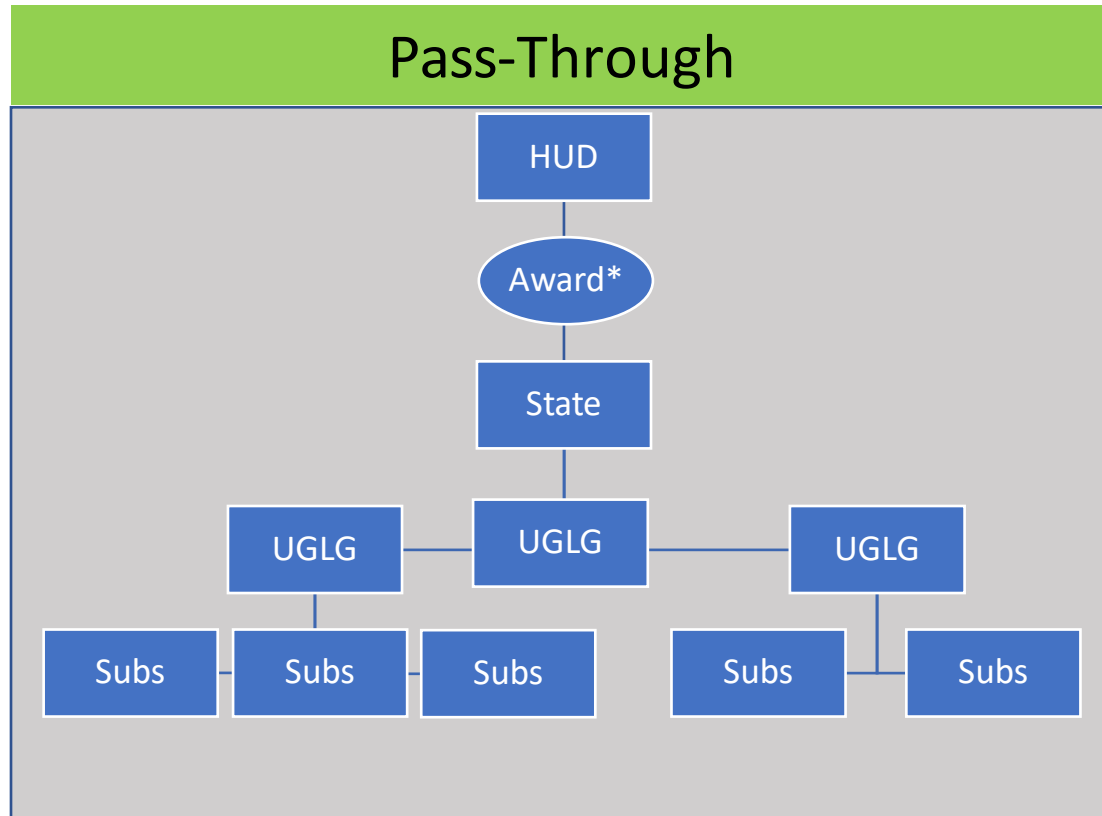
- State CDBG-CV funds are subject to monitoring, audits and other reviews of program activities
- States maintain all responsibility for ensuring program compliance, including DOB
- Alternative requirement to 24 CFR 570.492: State shall review and audit (incl. on-site) subrecipients and local governments as may be necessary or appropriate to meet the (HCD) Act.
  - In the case of noncompliance with these requirements, the state shall take such actions as may be appropriate to prevent a continuance of the deficiency, mitigate any adverse effects or consequences, and prevent a recurrence.

# Scenarios for Implementation

# Preface

- Previous guidance stems from CARES Act and Notice
  - Features certain flexibilities to expedite and facilitate implementation
  - Incorporates provisions of HCD Act and CDBG regulations. e.g. state's "maximum feasible deference" in carrying out program
- HUD is not prescribing models for states to follow in implementing CDBG-CV
- However, there are possible scenarios to consider:
  - Pass-through Model (ex. State CDBG)
  - Direct Administration Model (like Entitlements)

# Possible Scenarios



\* Award = CDBG-CV1 + CDBG-CV2 + CDBG-CV3  
[https://www.hud.gov/program\\_offices/comm\\_planning/budget/fy20/](https://www.hud.gov/program_offices/comm_planning/budget/fy20/)

# Pass-through Model (State CDBG)

- *Allocation*
  - State passes-through its CDBG-CV allocations to units of general local government (UGLGs)
- *Method of Distribution (MOD)*
  - All activities are carried out by UGLGs using the MOD
  - UGLGs use contractors and subrecipients
  - State's use of above entities is limited to general administration
- *Advantages/Disadvantages*
  - Model follows existing structure with established roles/relationships; but approach potentially strains local capacity

# Direct Administration Model (Like Entitlements)

- *Allocation:*
  - State does not pass-through entire allocation of CDBG-CV to units of general local government (UGLGs)
  - State carries out activities directly through state agencies or subrecipients *while also setting aside a portion of the award for UGLGs*
- *Method of Distribution*
  - Amounts for activities state carries out directly are included in MOD (substantial amendment)
  - At a minimum, an amount equal to first CDBG-CV allocation *must be reserved* for non-entitlement UGLGs

# Direct Administration Model – Cont'd

- *Contractors and subrecipients*
  - Use of other entities is not limited; varies broadly; and extends to all areas of state
  - Roles state's agencies or subrecipients could assist in carrying out activities, include:
    - Public services (emergency payments, health-related services, job-training and more)
    - Economic development (assistance to small businesses and microenterprises as well as special financing mechanisms)
  - UGLGs receiving a share of the allocation set-aside for non-entitlement areas, could be allowed to carry out full-range of activities at local level, including local subrecipient activities

# Direct Administration Model – Cont'd

- *Advantages/Disadvantages*
  - Model requires adaptation to different state grantee-subrecipient roles or relationships
  - Administrative burden could strap state capacity
  - However, a state can expand its capacity by incorporating features from related programs (ex. ESG)
    - Compliment existing state program and resources
    - Tap those subrecipients that have effectively responded to coronavirus
    - Align strategic priorities and enhance capacity to carry out program activities
    - Avoid Duplication of Benefits (DOB)
  - Potential exists for more robust, strategic CV response to
    - Public health crisis and
    - Economic recovery



# State's Choice

- Assess current conditions
- Consider capacity, specify MOD and proceed to otherwise:
  - Prevent,
  - Prepare for and
  - Respond to coronavirus
- Recognize each state may choose, within broad guidelines, exact approach to meet present needs and promote recovery

# Question and Answer

---



# Resources

# Additional Resources/ Upcoming Webinars

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

# HUD Links and Resources

- CDBG-CV Federal Register Notice (FR-6218-N-01) 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>
- 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/>
- CDBG-CV Ask a Question: <https://www.hudexchange.info/program-support/my-question/>
- Other Link(s)
  - Environmental Guidance <https://www.hud.gov/sites/dfiles/OCHCO/documents/2020-07cpdn.pdf>

# Contact Info

- Robert Peterson, [Robert.C.Peterson@hud.gov](mailto:Robert.C.Peterson@hud.gov)