

Community Development Block Grant Mitigation (CDBG-MIT) Federal Register Notice, 9/3/19

Jelani Newton: Good afternoon everyone and thank you for joining us for today's webinar on the Community Development Block Grant Mitigation, or CDBG-MIT Federal Register Notice. My name is Jelani Newton and my colleague, Michelle Granger and I will be your webinar hosts.

This webinar is presented by the Disaster Recovery and Special Issues or DRSI division of the Office of Block Grant Assistance at HUD. This session will provide CDBG-MIT grantees with an overview of the recently released Federal Register notice and will also allow time for presenters to answer grantee's questions.

Before we begin, I'll just quickly mention a few housekeeping notes. First, for the best audio quality, we recommend connecting to the webinar audio through your phone line rather than using the computer audio.

Next, please note that all attendees will be muted throughout the session, but questions can be sent to the speakers via the Q&A panel at the lower right-hand side of your screen. If you look to the lower right, you'll see the letters Q&A with an arrow right next to them.

If you click on the arrow, it'll expand that window so that you can use that to send questions to all of the panelists. Please make sure in the section noted ask that you've selected all panelists to make sure that the question goes to everyone on the panel.

Time will be reserved at the end of the session to answer these questions. Please note that we have a very large audience today and that this session is intended for CDBG-MIT grantees. As such, we will be prioritizing questions from grantees over some questions we may get from other stakeholders.

But if your question was not able to be answered during the webinar, please do feel free to reach out to the presenters using the contact information that will be provided toward the end of the session.

Last note, the webinar is being recorded today and both the slides and the recording will be made available on HUD Exchange after the session. With that, we're excited to begin the presentation and I'll now introduce our presenters.

Deputy director of DRSI, Frank McNally and the DRSI's assistant director of policy, Jen Carpenter. Thanks, Jen and Frank. The floor is yours.

Frank McNally: Good afternoon. Thank you. Or good morning, in some cases, and welcome to our first webinar on HUD's new community development block grant mitigation, or CDBG-MIT initiative.

Our discussion of the associated Federal Register notice that was published in the Federal Register on Friday, August 30th.

Our goal. Our objectives with this session is to learn more about CDBG-MIT action plan requirements and timelines, discuss the mitigation needs assessment that is required by the action plan, be able to determine if an activity is eligible for CDBG-MIT funding, learn about covered projects, which are larger projects that are also discussed in the notice and understand some of the alternative CDBG-MIT national objective criteria.

As has been mentioned, I'm Frank McNally. I'm the deputy director of HUD's Disaster Recovery and Special Issues division and I'm joined by Jen Carpenter, who is our assistant director of policy here in the division.

Our agenda, we're going to provide an overview of the four main components of CDBG-MIT activities. We're going to talk about the pre-ward evaluation process, which should be familiar to all our grantees. We're going to talk a little bit about grant administration and the action plan. We're going to talk about some additional resources and we want to make sure that we leave time for questions.

So though this is HUD's first appropriation in allocation of mitigation only funding, the notice discusses the primary goals of the department as it relates to the initiative. This funding is designed to support data informed investments that focus on repetitive loss and infrastructure.

We want to build the capacity of our grantees and their communities to analyze risks and update your hazard mitigation plans. Support the adoptions that reflect local and regional priorities of the community with a particular focus on community lifelines, which we'll talk a little bit more about in a moment and maximize the impact of this funding by encouraging the leverage of other sources of funding.

Before I go any further, I want to convey on behalf of our division, our thoughts are with our recovery colleagues and all the citizens they serve in Florida, Georgia, South Carolina and North Carolina in the path of Hurricane Dorian.

We know many of those folks have not been able to join us today and we'll make sure that they receive the assistance and information that they need following their response to Dorian so that they too can proceed down this path with our other CDBG-MIT grantees.

So a couple of larger points that we wanted to make, HUD, FEMA and the administration generally have made a concerted effort to align HUD's mitigation initiatives with the other primary source of federal mitigation funding as it's administered by FEMA through the Hazard Mitigation grant program. Principally through the Hazard Mitigation grant program.

We intend, by this slide, just to emphasize that. That you will see heavy emphasis on alignment. You'll see a heavy emphasis on FEMA and FEMA resources and FEMA hazard mitigation plans and you will see that the hazard mitigation plan that is the basis for the Hazard Mitigation grant program at FEMA, partially serves as the foundation for HUD CDBG-MIT effort.

The notice lays out some general parameters for funding of various activities. In order to be eligible for MIT funding, the activity has to meet the definition of a mitigation activity, and we'll touch on that in a bit. It has to address current and future risks as identified by your mitigation needs assessment in the most impacted and distressed areas, and we'll touch on both of those principles in a bit.

It has to be CDBG eligible or otherwise eligible under a waiver alternative requirement that we have authorized in this notice or that individual grantees may seek from us as we move forward with the grants and must meet the national objective, including the additional criteria that has been established in the notice around mitigation activities and covered projects.

There are separate sets of criteria associated with both in the notice. Then the action plan must describe how all these activities -- how the activities that are being proposed to be funded satisfy those requirements.

So what is mitigation? Mitigation in the notice is defined as activities that increase resilience to disasters and reduce or eliminate the long-term risk of life -- loss of life, injury, damage and loss of property and suffering and hardship.

I want to draw your attention to the long-term phrase there. The long-term risk. We'll talk a little bit about what the notice has to say around risk, but there's -- as you work your way through the notice, you'll see a decided emphasis on the long-term -- the expectation of the long-term mitigation impact of the investments. Obviously the goal of the investment is to lesser the impact of future disaster.

So we always have a lot of questions, whether we're talking about CDBG disaster recovery funds or we've already had a fair amount of discussion with some grantees around -- in this context as well, around most impacted and distressed areas.

I know many of the grantees have expressed frustration or questions, at a minimum, around this requirement for driving investments to the most impacted and distressed area and why does HUD do that.

The short answer is because that's what the law requires us to do. So this is an excerpt from the appropriations law that provides the mitigation funding and for those of you who have worked with CDBG disaster recovery of funds before, it will be familiar to you.

But again, you can see detailing the proposed use of all funds and, this is in the context of the action plan, in the most impacted and distressed areas. So that is the basis for HUD's focus on MID-area investments.

In this particular notice, as in CDBG disaster recovery notices, HUD has made provisions for most impacted and distressed areas, two sets of most impacted and distressed areas.

One, our most impacted and distressed areas as identified by HUD and those are the areas that have been previously identified by HUD in the allocation of CDBG disaster recovery funds in response to either 15, 16 or 17 disasters.

The second category of most impacted and distressed areas that the notice acknowledges come from the grantees. Grantees are also authorized to identify most impacted and distressed areas within certain parameters that we're going to talk about right now.

In CDBG disaster recovery notices, HUD has historically required the expenditure of 80 percent of the grant funds, of the disaster recovery funds, in the HUD most impacted and distressed areas.

In this notice, because of the particular nature of mitigation and what that means as opposed to recovery, that threshold for purposes of your CDBG-MIT grant is 50 percent. So at least 50 percent of your grant funds must be identified within the HUD identified MID area.

The notice makes a provision that says 50 percent of your administrative expenses from the grant can be counted toward that expenditure. If, in your action plan, you identify particular planning activities that can be associated with benefitting the MID area, you can count the expenditure of those planning activities towards your MID area expenditure requirement.

Then we want to recognize, and the notice recognizes that it's possible to have investments outside of a MID area that in fact mitigate risk and ultimately benefit low- and moderate-income residents or other residents of the most impacted and distressed area.

If a grantee can document that outside the MID area impact on an investment, you can count -- the grantee may count that expenditure towards 50 percent expenditure requirements.

The balance of the 50 percent of the grant must be used to address risks in the grantee-identified MID area. Many of our grantees on the phone have experience in developing their own MID area using quantifiable and verifiable data and the MID area has to be associated with the disasters that brought you the funding.

So on the mitigation table in the notice, you'll see the particular FEMA disaster declaration numbers listed alongside the allocation and your MID areas have to be arising from those particular disasters.

Again, as I said earlier, as is the case with investments outside of the HUD MID area, investments outside of the grantee MID area that can be documented to show benefit to the area can be counted towards that expenditure requirement.

All of our grantees are familiar with the unmet needs assessment that is required in the context of an action plan for the CDBG disaster recovery fund. In this particular instance, unmet needs is not really -- because we're not in a recovery framework or a recovery context, the notice asks grantees to think about not unmet recovery needs, but a mitigation needs assessment.

We are asking grantees to conduct a risk-based assessment that informs how you're going to use your mitigation funding that looks at both current and future hazards. We've also introduced into this mitigation needs assessment tool what some folks may know as community lifeline.

So in the National Mitigation Investment Strategy that FEMA published on August 13th, FEMA highlights community lifelines as a framework for thinking about your mitigation investment strategy. We'll talk a little bit more about those lifelines and how to think about them in a moment.

So you'll see references in the notice, occasional references to an all-risk strategy. Well, clearly HUD has not allocated enough funds to the grantees to address all risks, so what the Mitigation Needs Assessment is asking grantees to do, is to quantitatively assess the significant potential impacts and risks across seven critical service areas or lifelines and these are the seven critical service areas identified in the National Mitigation Investment strategy.

The idea here is to position those particular sectors to be capable of withstanding severe shock from the next disaster. The next several slides lay out particular aspects of each sector. I don't think I'm going to spend a lot of time on these. They're more to inform your thinking, the grantee's thinking around how you can be aligning your identified risks with these particular sectors.

On the Mitigation Needs Assessment, just as we do with the Unmet Needs Assessment, HUD wants you, the grantee, to cite your data sources as the basis for the risks that you're identifying and most importantly rely on, at a minimum, those risks that have been identified through either state or local FEMA hazard mitigation plans.

There's provision in here for obviously going beyond the hazard mitigation plan to address other risks, but a minimum, the expectation is that grantees will use the hazard mitigation plan and the risks identified in that plan as the basis for its needs assessment.

I'm going to turn now -- turn the conversation over to Jen and she's going to walk you through eligible activities and other aspects of the notice.

Jen Carpenter: Okay. Thanks, Frank. One thing too, as we move through, something I want to just reiterate to folks is as we're going through these topics, we wanted to cover as much as we could in this webinar, but obviously you'll see there are things in the notice that we're not covering today.

Maybe there are things that we're not going as deep in to, just so we can cover as many topics as we can. So as you're listening to us and thinking about the notice, we'd love to hear from you guys on webinars moving forward.

Frank just touched on the Mitigation Needs Assessment and those community lifelines. If that's something you think you'd like a deeper dive on, please let us know and you can submit that into the Q&A box.

You can submit that after we have -- we'll have information about how to contact us. Let us know, as we walk through this, and I'll bring it up occasionally just to kind of pinpoint some of the things we're thinking about doing deeper dive webinars on as we move forward over the next six to eight weeks when we do this.

We're hoping to roll out a whole webinar series on this and we want to hear from you guys. Before we identify the topics, we want to hear from you what you think the topics should be. So that's just something to consider as we're walking through this.

Like, hey, you guys didn't really jump into those lifelines. I really need more information. That's something you can let us know and we can make that a part of the series.

All right, so the next part of what mitigation activities must have is to ensure that it's an eligible activity. So Frank mentioned the mitigation definition that we have in the notice. You're going to make sure that any activity you do meets that definition, but then you're also going to use the same activities, for the most part, that you do in the regular CDBG-DR program.

We've included a couple of them here, just a couple of notes. We have MIT -- you can use your MIT funds as match, just like you do in the regular DR program. You do have caps on your administrative funding and we also have a planning cap that's 15 percent.

Then this time, that comes with a dollar cap as well. So there's actually a \$750 million cap on planning. That only would apply to a few grantees. There is still our priority on low- and moderate-income persons.

We have a different waiver this time than the regular CDBG-DR program that we usually carry. Our 70 percent overall benefit requirement, we have lowered it to 50 percent for this, given the unique nature of the funds.

We have taken out the option to allow reimbursement for direct beneficiaries. Grantees can still be reimbursed for their pre-award costs, but in terms of giving reimbursement direct beneficiaries, that is not allowed in this notice, again, because we're talking about future looking mitigation activities.

We have kept the prohibition on assistance to private utilities in this notice, but you can come to HUD with a waiver. There is information in the notice about that, if you have a project where it is necessary and it meets your goals as outlined in your action plan and your mitigation needs assessment, come and talk to your rep about that -- your HUD representative. Then for economic development activities, we have kept our priority to small businesses.

Also, one note which didn't make it on the slide, but I wanted to add, the prohibition on dams and levees was kept in this notice, just on enlarging existing dams and levees beyond the original footprint. So that language is still in here, so just keep that in mind if your mitigation activities aren't including existing dams and levees. That's in section BC2.

All right, covered projects. So anyone who is familiar with our Hurricane Sandy allocations, this is not a new term to you. If you're not familiar with it, it will be new. These basically cover any infrastructure project that has a total cost of \$100 million or more with at least \$50 million as CDBG funds in it.

That includes CDBG MID fund, CDBG-DR funds, CDBG regular NDR funds, any sort of subset of CDBG funds, if those total more than \$50 million, that sort of triggers a covered project and you really have to -- you have to submit that to HUD for approval.

You're going to do that either through your initial action plan, when you first submit that to HUD, or you're going to do it through a substantial amendment to your action plan.

We know you might not have all of those projects identified at the initial action plan stage, so we anticipate getting those throughout the life of your grant through substantial amendments as those projects come up.

Because these projects are large in nature -- well, before I go into that, we do define infrastructure here. We don't define that in the regular program. I mean, if you think its infrastructure, it's probably infrastructure and on this list, but this is a very specific definition. It is in the notice, so you want to heed to that.

All right, so we're going to talk about the additional requirements on covered projects under the national objectives section. That's why -- we'll hit on that stuff there, but let's just talk about -- first let's talk about this is the fourth requirement of any MIT activity, that it meets the national objective.

We have the same national objectives you have in the regular CDBG program and regular CDBG-DR program. All of our low-mod income person, national objectives, housing, area benefit activities, jobs activities, the limited clientele activities, then our new criteria that we set up for CDBG-DR in August 2017 on buyout activities and housing incentives.

So those are the same, you'll see that in this notice. Those are the same that you've seen in previous DR notices, but there are some new things we want to call out specifically to CDBG-MIT.

We have new national objective criteria when it comes to overall mitigation activity. We have new national objective criteria when it comes to what we're calling urgent need mitigation. In the past, in DR, we've always done -- well, not always, but in the few notices in the last few years, we've done this waiver to urgent need activities.

We've called it the Low Doc Urgent Need. We have that for this notice, but it is a little different, because again, we're talking about forward looking projects. Then we'll also have new national objective criteria for covered projects and I'll spell out those requirements.

One big thing to note. If you know CDBG well, you will see, in this notice we actually are removing the criteria on the elimination of slum and blighting conditions. Again, because we're

forward looking, it didn't really make sense in the context of mitigation activities, but if you have a project that you did not foresee or you feel like you are going to need to use that national object because it doesn't fit in other, again, come to HUD.

Talk to your representative. We can talk about getting you a waiver if it makes sense. All right, let's move on to the next one. All right. This is for all CDBG-MIT activities. You have to meet these two criteria on top of meeting any additional criteria or similar criteria you've always met for national objectives.

These are just two additional things you'll have to start addressing in your activity descriptions, in your policies and procedures, in your action plan to the extent that you get to that level. So we definitely want to call this out.

Also, I noticed when they published the Federal Register Notice, I also just want to call this out. If you look at page 45856 in the Federal Register Notice, in the third column there was some spacing issues and this actually didn't -- this kind of looks like it falls into the next sentence instead of being spaced out as a new paragraph.

I don't want people to miss it because of that, so you might just -- if you've got a highlighter, make that note on your Federal Register Notice, because I don't want folks to miss this. It is a big requirement for all activities.

So first, you've got to demonstrate the ability to operate for the useful life of the project. Specifically we state each grantee has to plan for long term operation and maintenance of infrastructure and public facilities projects.

So we need to question here to ask yourself is the activity I'm doing, does it have operations and maintenance costs in the future? And if it does, I need to have a plan for how I'm going to pay for that and if it doesn't, then you can acknowledge that on this requirement. Not every activity you perform is going to have operation or maintenance costs.

Second, and this was a big one and we just wanted to make sure grantees were keeping this in mind because of the nature of these projects. We want to make sure that you're consistent with all of your mitigation activities, right?

We don't want folks in one part of the state completing a mitigation activity that could affect -- especially when we're talking about flooding, that could affect an activity in another part of the state.

We really want folks to be looking regionally, at the statewide level, and making sure you're being consistent with those activities and one activity doesn't increase the risk of loss of life, of property, to another area.

Just something to think about and you want to call that out in your action plan. You can really do this; I think at the project program level about how you're going to meet these key requirements and then push it down to the activity level.

I think on that housing program you can really make these determinations and then show in your policies and procedures how you've made that justification at the top level to meet this requirement.

If you want to use urgent need in this context, for these funds, we're calling it urgent need mitigation. Because of that, we are -- it's a little bit different than you would use urgent need for your DR funds.

The first criteria for this, it's -- you have to do this anyway, right? You have to address how the current and future risk, as identified in your Mitigation Needs Assessment, of most impacted and distressed areas.

So how are you addressing those risks you identified in your needs assessment? You have to do that anyway as part of your activity eligibility. The four things we called out at the beginning. The good news is you're doing this anyway, but just when you claim this national objective, you want to make sure you restate it.

Then the second part of this is just a little bit narrower than the mitigation definition. So you want to show how this will result in a measurable, verifiable reduction in the risk of life and property. We're talking about urgent need mitigation here, right? So we're specifically calling out the risk of loss of life and property when you're meeting this national objective.

All right, so covered project criteria. In addition to meeting the MIT criteria I discussed on slide 29, if your project falls into this covered project criteria that I described earlier, there are two things you've got to do.

This is specifically called out as being in your action plan that you submit to HUD through a substantial amendment or your initial action plan. You're going to have to address these two items.

One, you're going to demonstrate the long-term efficacy and fiscal sustainability of the project. So what do you need to do specifically? You need to document measurable outcomes and/or how you're reducing risk.

Document how the covered project reflects environmental conditions, including things like sea level rise and then how that project would adapt to those changes. Then establish a plan for the long-term operation and maintenance of the covered project and include a description of that in the plan.

You're going to see that -- I mean, as you've read the notice, I'm sure you've -- we probably should have added that to the word search, operation maintenance is in this a lot, because in our experience we've seen that be a real sticking point for grantees and the successful -- carrying out a project successfully and really being able to ensure that when the MID funds go away, that you can sustain those projects. These are all things you want to document in your [inaudible] amendment when you submit it to HUD.

Second is your benefit cost analysis, right? So you're demonstrably benefiting the MID area and you're doing that through a BCA. The easy way is [inaudible] BCA is greater than one, right? That's the easy, easy in quotations.

But you can do that through the FEMA BCA toolkit, but just to keep in mind, if you use the FEMA BCA toolkit or some other federal agency's BCA criteria, you want to make sure you're accounting for the HUD stuff, right?

So economic development, community development, other social community benefits or costs. You do have to tell us if you already submitted this project to another federal agency, did its BCA and it was rejected, that's something we need to know.

Then also, we've given our grantees the option of adding this qualitative description. So if there are benefits to your project that cannot be quantified and you need to include qualitative description to show the benefits, you can do that.

You can add a narrative that sufficiently demonstrates unique and concrete benefits for the covered project for LMI folks, for other persons that are less able to mitigate risk. We allow that.

When you're doing your BCA for covered project, don't forget that. Don't think, you know, I can't get to a one if there are these other benefits and you can describe them and show that they're unique and concrete.

Okay, so pre-award evaluation. All of you folks have gotten grants in the last -- in 2015 '16, and '17. You know how HUD does our certifications. They have -- it's been changed a little bit for mitigation.

I'm going to call out some of those changes here. Again, this is one of those topics where if you want a deeper dive in the certifications, even though you've already done this once, you do have to do it again for mitigation. If that's something you really want us to do a deeper dive on, let us know. We could plan this as part of the webinar series. We should do a deep dive in the certifications and implementation plan.

Again, you're going to see, it's the same as -- one through six is the same as you've seen through the prior notices other than you now have a mitigation website linked to your disaster recovery website and we just, again, you have to make sure that's transparent and clear and all your citizens can find it.

Something we wanted to call out specifically, changes, is under number six. Procedures to detect and prevent fraud, waste and abuse. This is a lot of money. It's unique. I think it's probably no surprise that we strengthen these certification requirements a little bit.

You'll see some that are the same, that you've done before, but some new ones. So this first criteria to be used to evaluate the capacity of sub-recipients, this is a new part of the certification. This is something you may have addressed in a different section or most likely you probably

already have this for your DR grants and your policies and procedures, but this is something you're going to need to address via our certification process.

Again, the frequency for which you're going to monitor, how you're going to monitor, why you're going to monitor, this is somewhat similar to what was in the last Federal Register Notice, but it is built out a little bit more, so you want to make sure you're addressing all of these things, particularly how you're going to enhance your monitoring of sub-recipients, contractors and other program participants.

You'll see that word a lot through these certifications. We know you've done this once for your DR money, but how are you going to enhance it for mitigation? So it's going to be up to the grantee to make that case to HUD, that these are the steps I've taken to enhance these requirements.

All right, again, how have you enhanced the internal auditor function for your DR grant? So now you've been given -- some folks have -- their mitigation is doubling the amount of DR funds they have.

Can be a lot of money, so how is your internal auditor function going to be enhanced with this additional money? How is it going to be established and resourced? You should all have it as a part of your DR grant, so really it's about this enhancement and you're going to talk about those steps and how you're doing that.

The rest of it is the same. We have added this, just as a side note, that we will be -- we can -- if we see a grantee has unmitigated high risk, one of our grant conditions could be that you're required to submit those internal audit reports or summary of findings, whatever your internal auditor puts together directly to HUD.

Again, this is a new one for -- a conflict of interest policy and a process for promptly identifying and addressing such conflicts. I think all of our grantees have conflict of interest policies, it's just we're addressing that in our certification specifically and you need to respond to it. The rest of this is what you've seen throughout the past notices, prior notices.

All right, the implementation plan. Again, similar things you've seen in your DR grant. We just want to call out one of the changes you'll see on the internal and inter-agency coordination section.

As Frank mentioned at the beginning of the webinar, when you do that word search you see how heavily this notice is towards aligning with the hazard mitigation plan and the grant program and the folks who are working with FEMA.

This is how you're going to address that through your implementation plan. We're going to have you call out specifically how you're going to work with those departments that are developing the hazard mitigation plan.

How the department is responsible for implementing the grant program and making sure that your local and regional planning departments are being consistent in the integration of these MIT activities. So this is new language for your implementation plan. So just calling that out.

All right, so I thought we'd go through timelines. I know that's important for you guys. You guys are sort of in your early planning. I'm sure you've been planning for this money for a long time, but let's talk about specific timelines.

So the first thing is that grantees will be amending their citizen participation plan. We're going to walk through in a second the additional requirements on citizen participation and public hearings.

You're going to consult with your stakeholders and including your required consultation with local governments, Indian tribes and public housing authorities. Then you've got up to 60 days prior to the deadline for your submission to submit your documentation for certifications that we just went over.

I just went ahead and did this for you. I put it in Excel, so if this is wrong, it's Excel's fault. It's not my fault. So these are your action plan submission deadlines and so if your certifications are due 60 days prior to that, that puts our first group would be due at the beginning of December and in January and February.

So just to sort of give yourself those deadlines since even though most of you just went through a certification process. Some of you, it's been awhile, so you definitely want to dig into them. For some of you who just did them, it should be a relatively easy process.

You're just going to make sure that you're addressing the additional requirements we put on for mitigation that we went over. All right, then you're going to publish your action plan on your website for no less than 45 calendar days. So public comment period is 45 calendar days.

All right, this is when things get a little different than your normal DR grants. We have said based on the amount of the funding, we've set additional requirements for public hearings and we went ahead and just spelled them out here.

So for the majority of the 14 grantees that were identified in this first notice, most of them fall into this category of being under \$500 million in funding. For those guys, you have to do at least two public hearings in your HUD identified MID areas.

One of them has to occur prior to the publication for public comment and we want to make sure that all hearings are convened at different locations within the MID area. So the two public hearings you're doing, you want to make sure that those are not happening in the same MID area.

For the next group of folks, if you're awarded \$500 million or more, but then less than a billion, which really is just the state of Florida -- I guess it's just the state of Florida. So the state of Florida falls under this category.

You will convene at least three public hearings instead of two. Again, the same requirements.

Then the next one is for folks with allocations of a billion or more and for this -- for the allocation of these grantees [inaudible] of you, it's the state of Texas and the state of Louisiana that fall into this category where you'll be doing four public hearings, which two of those need to occur prior to your publication of your action plan.

Just a note about public hearings from the notice, we want to make sure grantees are remembering about HUD's implementing regulations for section 504. Public hearings must be held in facilities that are physically accessible to person with disabilities.

Keep this in mind, all the 504 requirements are stated in the notice. Don't want you guys to forget about these. Then you're going to -- over the 45-day comment period, or longer, 45 days is the minimum, you're going to respond to public comment.

Change your action plan if necessary based on those public comments and you're going to submit your action plan to HUD with your implementation plan and your capacity assessment submissions and projections of expenditures and outcomes.

So you're going to submit that to HUD based on your group deadlines. We heard from grantees a lot that you felt like you needed more time for this notice, for these funds. You knew we were going to be adding additional requirements, so we wanted to make sure that we gave you enough time.

If you need additional time, you should request -- yes, of course you can always come in earlier, but if you need more time, you should request that from HUD. We can talk about that, but yeah, the requirement -- this is sort of a target date for everyone.

Make sure you submit it by this date, but yeah, you can come in earlier and we've already heard some folks plan on doing that. There's a lot of this notice to take in, so I would encourage everyone to make sure you're taking it in.

We're going to be doing our webinar series, I would say over the next four to six weeks to do, like I said, a deeper dive into some of these requirements. I don't want everyone rushing to get their action plan out there before we've done that or you could gain some useful information or something to think about.

Again, just walking through this, the process and the timeline. I think all of our grantees already have DRG or access, assuming most grantees will stay the same in terms of the agencies who are doing the regular DR funds.

Once you get that, you will enter -- you can start entering in activities even before you submit the action plan to HUD, but just making sure that once that final action plan has been sent to HUD and its approval, then we have to make sure that those match.

Then HUD has 60 days from the date of receipt of your action plan to either approve or disapprove your plan. If we disapprove the plan, we'll let you know what the deficiencies are so that grantees can then correct those deficiencies and you have 45 days to do that after we notify you of what those deficiencies are.

All right, so after that action plan is approved, HUD will send you an action plan approval letter. Then prior to transmittal of the grant agreement -- so prior to signing a grant agreement on HUD's side or your side, we'll notify the grantee of the certification of financial controls.

So that certification has to happen prior to signing the grant agreement. Remember, you have submitted those 60 days prior to the action plan, it just, from our experience it takes a while. There's a lot of going back and forth on that review to make sure the certification is correct and everything has been addressed.

Then once that certification has been made, HUD signs the grant agreement -- HUD sends the grant agreement to the grantee. The grantee signs it and then returns it to HUD. The grantee always signs first.

Then the grantee can post that final HUD approved action plan on its website. We'll establish a line of credit in LOCs. The grantee then begins or continues to enter activities from its approved action plan into the DRGR system and you'll submit that to HUD.

The grantee then has to publish on its website policies for programs and activities implemented with MID funds and then the grantee can draw down funds from the line of credit after the responsible entity completes the applicable environmental review.

One more timeline to note, the HUD side and your side, any substantial amendments to the action plan have a 30-day public comment. So we have lowered that from the original 45 days and then HUD also has the 60-day review period on substantial action.

Okay. Additional action plan requirements. So just some of the things we called out, again, we could keep going forever, but we do want to leave time for questions. I'm seeing a lot of questions, so hopefully we'll get to those.

But just some things to call out, that -- for requirements for your MID action plans. So this is the first notice -- allocation notice we have released since our 2019 duplication of benefits notice was published.

I want folks to make sure, if you haven't yet, read that notice, because it applies to 2015, 2016 and 2017 grantees. Equivalently, it would apply to you if your MIT allocation is based on a 2015 grant, it's based on a 2016 grant or 2017 grant.

We have a list of resources at the end of the webinar. One of those -- yeah, at the end, on the last slide. One of those is to the DOB webinar, which I apologize, you have to hear my voice again, but I would listen to that.

We're also going to be issuing FAQs on DOB soon. Just keep that in mind. We've also tried to be fairly specific and maybe gone -- there's a lot of information about DOB in here, because we wanted to make it really clear what applies to you and what doesn't.

I'll just hit on those lightly, but you should really go back and look at those resources. All of the grantees for mitigation are subject to the declined loan provision. So if a beneficiary declines a loan, which means that they never sign the loan documents, those are not a DOB.

That applies to 2015, '16 and '17 grantees, so it applies to all MIT grantees. Then we have this other provision on a loan not being a duplication of other forms of financial assistance that just applies to 2016 and 2017 grantees.

That means if your mitigation fund's a result of your '16 and '17 grants, it would apply to you. If you are getting the mitigation because of a 2015 grant, it would not apply to that portion. Apologize for making that so complicated.

Those are laws that were passed and that had all these specific dates and unfortunately don't make it super easy for grantees to carry this out, but we're trying to be very clear with the guidance that we're putting out there and the webinars.

Definitely go back and look at that if you have any questions.

Procurement, I know this has changed a little bit from the 2015 to 2016 to 2017, so I just want to call out what's in the mitigation notice. Specifically, this requirement that state grantees comply and evaluate either the cost or price of the product or service and I just want to encourage grantees, you should have a policy.

State grantees have a policy with when you're going to use cost analysis and when you're going to use price analysis and it really should be based on the complexity of the procurement and you shouldn't be doing -- if you're only doing price analysis all the time for everything, that is a problem.

You should have a policy for when you're also going to dig deeper into that price and really do a cost analysis. So making sure that you're facing everything on full and open competition, right? That's always what we step back to when states are using their own procurement rules and that's what's in the second bullet.

Then local government, it's a lot more black and white. You just have to comply with the specific requirements of part 200.

All right, timely use of funds. Again, something else we heard from you guys, and we were listening, is really wanting enough time to do these big projects. Give yourself enough time on the planning side.

There's a lot of stuff in here, again like I said, about operations and maintenance and how you're going to plan for the future, so we want to give you that time to do that. Because of that, we've pushed out the expenditure deadline.

So in six years, your expenditure deadline is 50 percent of your funds and then in 12 years, it's 100 percent of your funds. That's from the date the HUD signs your grant agreement, so that's your obligation date, if you want to call it that, and then when funds are awarded and then you've got six years from that to spend half and 12 years to spend all.

Okay, so we just provided some resources. These resources are in your mitigation notice and if you read through the certification, you'll see that we're taking it very seriously that you review these resources.

Please make sure that you do, so that you can certify to that. There are different resources about local mitigation and state mitigation from FEMA. Then we've also provided resources based on wildland fires and then I put in the link for the DOB webinar.

All right, so I think we are ready to take questions. All right, I think I'm going to be passing it over to Jelani and you're going to ask questions. Is that the way we're doing this, Jelani?

Jelani Newton: Yep. You got it, Jen. We've been keeping track of the questions that have been coming into the Q&A panel and I'll go ahead and read those out for you and Frank to answer.

Jen Carpenter: Okay.

Jelani Newton: Okay? All right. The first question, "Are the public meeting requirements the same for action plan amendments as they are for action plans?"

Jen Carpenter: No. I think that was just applied to the initial action plan. We'll --

Frank McNally: Right.

Jen Carpenter: Okay, Jelani, I think maybe we'll look at that one. If you could give us the next question in the queue.

Jelani Newton: Yep. Sounds good. Yep. "In the Federal Registrar Notice -- hold on -- it states that the MID must be 50 percent of the allocation. How does that relate to the amount listed in the table for the various grantees?"

Jen Carpenter: Right. So yeah, we had a lot of questions coming in about specific amounts in the MID table and I apologize, I should have just put that in a slide so we could talk about it.

If you're going to the table and doing the math, you'll see that there are two grantees where it doesn't look like they got exactly 50 percent for their MID expenditure requirements. That's because the state of Texas and the state of South Carolina, those states, there are local jurisdictions in those states that received their own MID allocation.

Those jurisdictions would have been part of the state's MID areas. So those were subtracted out of the grant amount to figure out what their MID allocations would be. So the MID allocation listed in the table is your HUD identified MID area requirement that you want to meet.

If you feel like it's -- the state of Texas or South Carolina feels like there's a math problem with their MID numbers, they should definitely let us know, but what we did was we subtracted those local jurisdictions out of their grants and then did the 50 percent calculation that way.

So that's why you'll see some are not exactly 50 percent and then you'll see where others -- a lot of our local jurisdictions, the entire area was considered MID, so you'll see, it's basically 100 percent because the MID is -- they can spend that anywhere.

Jelani Newton: Okay. Next question. "When will the CDBG-MIT action plan checklist be posted?"

Jen Carpenter: When will an action plan checklist be posted?

Frank McNally: So we are focused, at the moment, on getting the financial certification and capacity assessment checklist up and -- so shortly after that. We obviously want to get folks rolling.

I've actually heard from a couple of grantees who were building their own action plan checklists. I would say within the next couple of weeks we should be ready to go with both checklists.

Just circling back on the question about substantial amendment and process. If you go to page 45850 of the notice, in that third column under the discussion of substantial amendment, you'll see the last sentence says, the grantee may substantially amend the action plan if it follows the same procedures required for CDBG-MIT funds for the preparation and submission of the action plan.

Provided, however, that a substantial action plan shall require a 30-day public comment period. So the answer is yes, you would follow the same process with a shorter public comment period.

Jelani Newton: Great. Thanks, guys. Next question. "If a project isn't named in infrastructure lists, can it not be done?"

Jen Carpenter: No. I would not assume that.

Frank McNally: Right. I would say, right, it may not meet the definition of a cover project, but if it's otherwise eligible, it could be done. But by the same token, if you have a \$100 million project on your hands, you should talk to HUD and make sure that we share your assessment, that it's not an infrastructure project.

Jelani Newton: Great. Next question, will operation and maintenance cost be included in the overall project cost?

Frank McNally: For a covered project?

Jen Carpenter: It doesn't --

Frank McNally: So we typically -- so if that relates to -- I can just -- in the context of our implementation of cover projects in the Hurricane Sandy appropriation, the answer has been no. It's planning for the project, engineering, design and capital costs of construction.

It's not the ONM aspect of the project.

Jelani Newton: Okay. Next question, is a benefit cost analysis a requirement?

Jen Carpenter: It was only a covered project requirement. So if your project triggers the covered project threshold, then you do have to do a BCA.

Jelani Newton: Okay, thank you. Next question. Are there sample or template conflict of interest policies and internal audit policies?

Jen Carpenter: Do we have one in the launch toolkit? Know we have --

Frank McNally: You should look in our launch toolkit, particularly for conflict of interest. All of our grantees, right? All of the grantees that are qualifying for these funds have both. I think the aspect of the conflict of interest provision in this notice is that part that says a process for promptly resolving conflicts of interest.

So all of the grantees should have both in place, probably your best resource for those are your peers -- are your fellow grantees for both the internal auditor and the -- and conflict of interest.

Jelani Newton: Great, thank you. Next question, do grantees need a new website for mitigation or can they use an existing recovery website?

Frank McNally: So on page 45845 under -- in that first column under [inaudible] in the discussion of comprehensive mitigation website, it says, comprehensive mitigation website linked to the grantee's disaster recovery website.

So that would read to me as a separate site for mitigation that is linked to your DR website.

Jen Carpenter: Yeah and I think we can talk about like by site -- because you might have a link from recoverytexas.gov that is for mitigation, so it has its own site, but maybe it's just a Flash or, however.

I think we can -- if folks have ideas for how they're going to do this and they're worried it won't meet the requirement, just talk to your [inaudible] rep and we can --

Frank McNally: I mean, the notion here is to have the mitigation distinct from the DR.

Jen Carpenter: Right.

Frank McNally: And to have it all housed in one spot and -- but to have it navigable between your DR line of business, if you will, and your mitigation activities.

Jen Carpenter: Yeah, and just -- I mean, it should just be -- the goal here is to make sure a grantee can clearly find where you talk about your DR money and clearly find where you talk about your MID money.

So just making sure it's transparent.

Jelani Newton: Okay. Great. Next question. "Can the Disaster Recovery office amend a plan to include other projects?"

Jen Carpenter: Yes. So your initial action plan is not -- our grantees, it's probably a non-grantee question. Our grantees know that they submit their initial action plan. That gets approved by HUD. Then that's kind of a living document, right? That they'll amend, they'll follow the substantial amendment criteria or non-substantial amendment criteria in the notice and amend that as they need to. So yeah, and that'll all be posted on their websites and they'll be tracking their amendments accordingly.

Jelani Newton: Okay, great. "Can you please further define groups of projects in the context of covered projects? For example, would \$100 million of flood reduction projects spread across 10 counties count as one covered project?"

Frank McNally: So there's a way -- so again, in the notice under the definition of covered project on page 45851, the notice looks somewhat to the principle of aggregation as it relates to environmental review to figure out whether you have one project or multiple projects on your hands.

So in that section, a grantee must group together and evaluate a single infrastructure project, all individual activities that are related to one another. So I would say if you are appropriately aggregating those for purposes of an environmental review, then it would be one infrastructure project, otherwise no. But I would look to the principle of aggregation as the basis for deciding whether you have one or multiple mitigation projects on your hands.

Jen Carpenter: And talk to your rep, right? Talk to your HUD rep if you have a project where you're not sure if they should -- if they're related and then work that out, because you don't want to assume it's not a covered project, not do the requirements and fund the project and then later we disagree and think it was and then have to work through that.

Frank McNally: Right, but in this particular example, I think it would be hard to land on a single infrastructure project subject to cover project requirements. Based on that one sentence, I think it would be hard to frame it up as a cover project.

Jelani Newton: "Can you define what is meant by, quote-unquote, 'enhancements that must be made to the internal audit function?'"

Frank McNally: As Jen said, I think that is largely -- additional staffing would be an enhancement. Having an auditor function that was dedicated only to mitigation could be an enhancement. Bringing on some additional resources beyond staffing could be framed up as an enhancement. It really depends on what you have in place now.

If you have multiple DR grants and are relying on a single internal audit resource, providing additional resources to the internal audit, setting out some schedule that would provide for enhanced internal auditing activity beyond what transpires now with your DR grant. I would say those all could be framed up to HUD as enhancements.

Jen Carpenter: And I really think it's -- this is one of those things where you the grantee need to tell HUD what you have done to enhance it.

So when we're looking through the certification, we'll want to know how you've answered those questions that Frank just brought up, but you yourself, as the grantee, and thinking about the unique nature of these funds and what's different about them, how are you going to enhance that function to make sure that you're preventing fraud, waste and abuse?

Jelani Newton: Okay. "When will the certification documents be available?"

Jen Carpenter: I think we already said that, right?

Frank McNally: Yeah. In a couple of weeks.

Jelani Newton: Okay. "What resources will HUD accept in order for grantees to quantify data for MID areas?"

Frank McNally: So the notice says verifiable and quantifiable data. If you have data that meets those two criteria, I would talk to us about what you have in mind, but the notice refers to quantifiable and verifiable.

Of course, as you know, HUD itself has a fair amount of data around each disaster, so my guess is that we will take a look at whatever data sources the grantee is proposing and evaluate it against what we happen to have by way of data as well.

Jen Carpenter: And you can find that off of the HUD data, some of that, in the allocation methodology for your notice where your allocation in 2015, 2016 or 2017, right? So while the mitigation notice doesn't have an allocation methodology, that's because it's based on your allocated grants from the prior notices.

Frank McNally: I mean, I think one of the most important aspects of the grantee identified MID area is that you be able to associate it with the disaster that's been identified for your allocation

and most impacted and distressed means just that, right? That somewhere there are areas that are less impacted and distressed than what you're trying to add to your area.

Jelani Newton: Okay. Next question. "Will there be additional requirements for slow spenders who are currently slow spenders on the DR funding?"

Frank McNally: The notice doesn't really contemplate any additional. I mean, we have sort of our standard language in there that if we think you're off pace on your expenditure, which is language we've had in the DR allocation notices as well, we may establish some special grant conditions. But there's nothing specifically -- we have the same language around projections and expenditures for these funds as we've established for the regular DR funds.

Jen Carpenter: But we also -- one thing to remind folks is you'll see a lot of language in here about grant conditions. We have our high-risk tool and identifying unmitigated high risks and how those are going to be addressed via grant conditions. So some of these things, while they might not be spelled out in our notice, we have the authority to add grant conditions to your grant, so that's something to --

Frank McNally: Right. Under part 200 we have the existing authority to establish grant conditions that could address any number of identified unmitigated risks.

Jelani Newton: There's a recurring question as to whether the presentation will be posted after the session and I can answer that. Yes, it will be posted to HUD Exchange after the session.

Next question. "Can you provide some additional clarification to the staffing requirements in the implementation plan? Specifically identified adequate personnel who have documented experience in the timely development and implementation of mitigation programs." It looks like there might be a little more to that question that got cut off.

Frank McNally: So the notion here is that you have folks who have experience in mitigation, right? You have, from a HUD perspective, many grantees have chief resilience officers. They have mitigation.

They do have staff who are dedicated to mitigation and resilience. Other grantees, however, may have staff that have been primarily about housing recovery, for instance, and not necessarily focused on mitigation.

So to some extent, your response to this question is going to depend upon the basket of activities that you're proposing to undertake with your mitigation activities. I think HUD is going to want to see that you've got people with experience to do what you're proposing to do around mitigation.

I think some of that is going to depend on what you're serving up in your action plan or what you're intending to serve up in your action plan for your mitigation activities. I think you want to be able to tell HUD you've got people with experience in doing this in place and ready to go or

you've got a plan for bringing folks who have experience in doing this on board to implement the project.

Jelani Newton: Next question. "If there are not direct beneficiaries with the CDBG-MIT funds, how does the duplication of benefits apply?"

Jen Carpenter: So I think they're taking -- maybe misunderstood the comment I made on reimbursement. So there's no allowable activity for reimbursement. Not that that's an allowable activity, but you cannot -- with DR funds, you've been able to reimburse direct beneficiaries for cost that they incurred after the storm, but before the DR money was out there or before they applied for the DR money and you cannot do that with mitigation funds.

You cannot reimburse direct beneficiaries. But of course with mitigation funds, you will have direct beneficiaries. You might be doing a bio program or a rehab and elevation program or new construction that all meet those mitigation requirements. We absolutely anticipate you will have direct beneficiaries.

Frank McNally: And it's not necessarily a DOB issue, but I don't think we mentioned or highlighted two other provisions that everybody should be thinking about. One is you still can't fund things that are reimbursable by FEMA or the core and two, you can't use that money to supplant other sources of funding. So those provisions aren't really duplication of -- well, they could be duplication of benefits considerations, but we didn't really touch on them in the presentation. But those are provisions that you should be used to working with in the context of your DR funding and they carry over here as well.

Jelani Newton: Next question. "Does the remaining 50 percent of the MIT funds have to be spent in the grantee MID locations?" Meaning the grantee has to prove a risk reduction to the HUD MID locations?

Frank McNally: You could spend your entire grant in the HUD identified MID area. I don't know if that's the question, but to the extent you're not going to spend funding in the HUD identified MID area, it needs to be spent in the grantee identified MID area. But you could spend all of your funds in the HUD -- I don't know if it's the question. Does the remaining 50 percent of the MID funds have to be spent in the grant MID location?

Jen Carpenter: Yeah, so it either has to be in your HUD identified MID areas or the grantee identified MID areas, right? So it's one or the other. If that doesn't answer your question, follow up, just let us know.

Jelani Newton: Okay. All right. "Can you please walk us through what a final product for a risk assessment would look like? I understand we are to use the statewide and local risk assessment as a base, but I am less clear on what the intended outcome should be."

Jen Carpenter: So I think you're -- I mean, you're going to need to describe it, right? Just like you did in your DR grant with an unmet needs assessment, right? The same way you presented

the data and made your case for what those unmet needs are, you would do the same thing in a mitigation needs assessment context.

This is something, again, we'd like to hear from you guys. If you want a deeper dive, we can -- we had folks from FEMA at the clinic. We can also see if we can partner with them again to have a webinar on this and how they've done this in the past. But we're less worried about the form that comes in. It needs to be in your action plan and the requirements, other requirements on documenting resources that Frank talked about at the beginning of the --

Frank McNally: Yeah, and I think leaning heavily on, as the notice requires you to do, leaning heavily on the work that's already been done around hazard mitigation, either at a state or local level, is -- and telling HUD, as the notice says, why the risks that you're framing up in your mitigation needs assessment are consistent with your hazard mitigation plan is really the most important aspect of the needs assessment.

We can do more around the needs assessment. I think we've talked to FEMA about doing another one of these focused around the mitigation needs assessment, if that's something that the grantees express some interest in.

Jen Carpenter: And I think too, just to acknowledge, we know the community lifelines. That's a concept that will not be in the already existing hazard mitigation plans. So that is going to be an extra step where grantees will have to take the identified risk and make sure that they're using those lifelines to explain those risks and how they've been identified. Frank just mentioned, we'll definitely follow up with a webinar on that to help folks with developing it.

Jelani Newton: Okay. I believe this is the last question that we've received. Oh, no, there's a couple more. We're coming down to the last questions, so if you have others or follow ups, please do post them to the Q&A section.

Next question. "Will grantees impacted by a disaster between now and the action plan submission deadline be able to request an extension?"

Frank McNally: Yeah, anyone can request an extension onto the notice. Yes. Yes.

Jen Carpenter: Yes.

Jelani Newton: Okay. All right. Jen, Frank, I think those are all the questions. If there are any that you might have seen that I didn't, please feel free to chime in on those.

For the attendees, if there are questions that you feel were missed, please do send a follow up or you can reach out to Frank and Jen directly with the contact information shown there.

Jen Carpenter: And thanks, Jelani. I just want to point out one -- there was one thing that I want to make sure we're really clear on, because I think there was a little bit of miscommunication if folks attended the clinic as well.

We tried to clear it, but I want to clear up again. The mitigation funds are a separate action plan from your DR funds. They are not linked. You're not going to have one action plan for both. So separate action plan, separate grant number, separate from your DR fund. I just want to -- we had a question on that. I just wanted to make sure that got answered. But thanks everyone and yeah, you have our information if --

Jelani Newton: Sorry Jen, there's one other question that we just got or may have missed. "Do the few direct municipal recipients need to do the full public meetings or do their parent state need to do that?"

Jen Carpenter: So the requirements in the notice applied to all of our direct grantees. So that would mean even if you're a county or city who received funding as a direct grantee, then you would carry out those public meetings yourself -- your public hearings.

Jelani Newton: And one more. "Is an environmental review required for a house purchase using an LMB incentive?"

Jen Carpenter: So we're not going to -- I think we'll skip that one. We're not going to answer specific activity related questions, because there are about a million details we would need to know to start answering environmental review specific questions. It just depends on [inaudible].

Jelani Newton: That was the last question.

Jen Carpenter: All right. Thanks everyone. Then Jelani, do they -- you're going to be following up with an email after this to all the attendees?

Jelani Newton: That's right. All attendees will receive a follow up email from WebEx and then we'll also follow up with notification once the information, the materials are available on HUD Exchange. I'll also just mention briefly that once you disconnect from the webinar, you'll be prompted to take a follow up survey. If you could please respond to that, it's very brief. It'll help us to make sure that we understand how it was received and also what the areas are for focus for additional training and technical assistance.

Jen Carpenter: Great. And if there are questions that we got that we didn't get a chance to answer, we'll make sure we get those out so we can release those questions. Maybe we can do a sort of FAQ on mitigation.

Frank McNally: Yeah. Absolutely.

Jen Carpenter: Just like we're doing for the DOB webinar. We'll make sure to get all those questions. Please, please let us know. I mean, feel free to send me an email if you want to. Let me know what kind of deep dive webinars you're looking for over the next six to eight weeks. We want to make sure we're addressing the needs you guys have based on now that you've read the notice. So thanks everyone.

Jelani Newton: Thank you.