

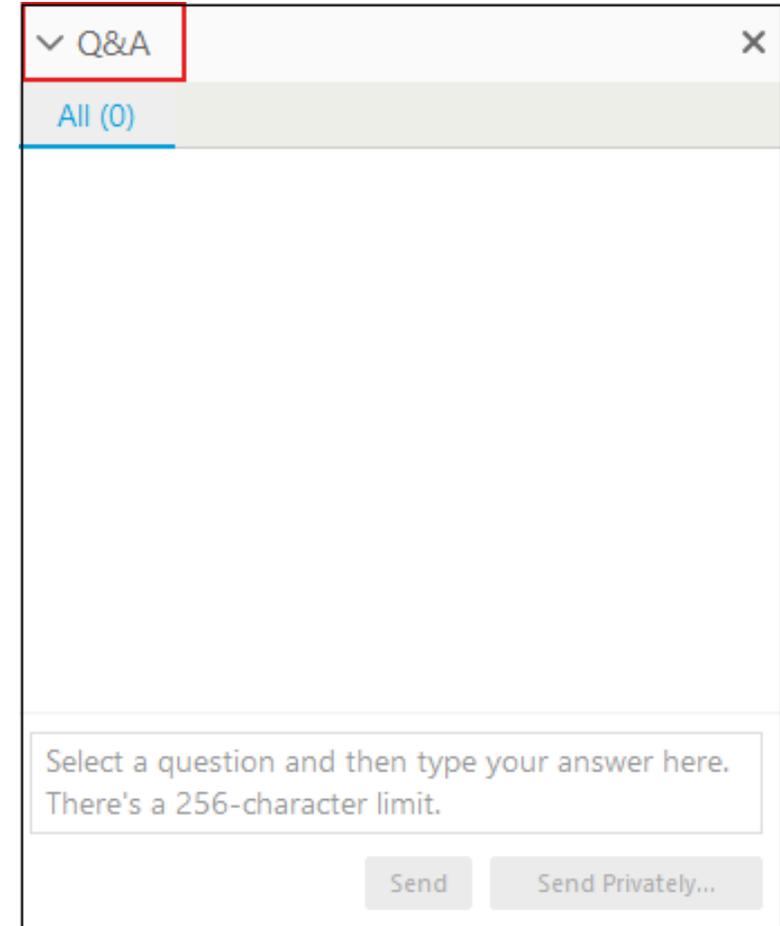
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Q&A

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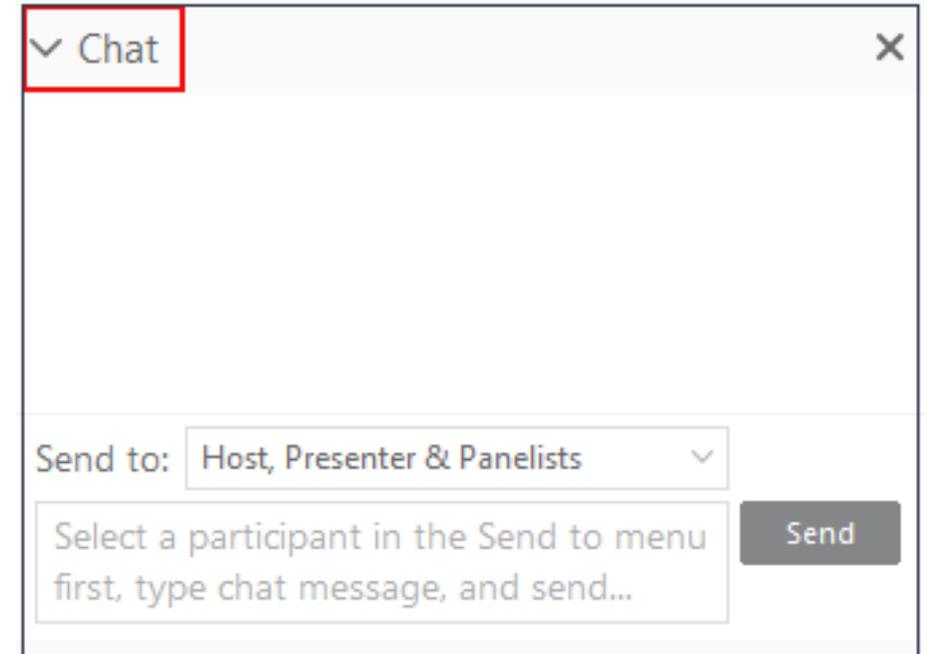
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# Fair Housing and Equal Opportunity Review Requirements on CDBG-MIT Action Plans

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2020 CDBG-MIT Webinar Series

# Introductions



# Introductions

- Celia Y. Carpentier, U.S. Department of Housing and Urban Development
- Jen Carpenter, U.S. Department of Housing and Urban Development
- Jefferson (Seth) McIntyre, U.S. Department of Housing and Urban Development
- Bonnie L. Newcomb, U.S. Department of Housing and Urban Development
- Roosevelt Grant, U.S. Department of Homeland Security, Federal Emergency Management Agency



# Presentation Agenda

1. Background--HUD's CDBG-MIT Purpose and Goals
2. Overview of FHEO Requirements
3. Overview of FHEO in CDBG-MIT Federal Register Notice
4. Additional Requirements
5. Summary
6. Resources
7. Question and Answer



# Background-HUD's CDBG Mitigation Purpose and Goals

*Bonnie Newcomb*



# CDBG-MIT Purpose:

The CDBG Program provides Grantees funds to develop viable communities by providing **decent housing** and a **suitable living environment**, and by **expanding economic opportunities**, principally for low- and moderate-income persons.

CDBG-MIT funds may be used to:

- Support infrastructure projects, housing activities, public services, economic development, disaster preparedness, and planning efforts.
- Increase resilience and reduce or eliminate risk, per HUD's definition of mitigation.
- 50% of CDBG-MIT funds must also be used to benefit low-to-moderate income (LMI) persons.

*HUD's Federal Register Notice:*

*1. Meet the definition of a mitigation activity; 2. Address current and future risks as identified in the grantee's mitigation needs assessment of most impacted and distressed (MID) areas; 3. Be CDBG-eligible activities or otherwise eligible pursuant to a waiver or alternative requirement; and 4. Meet a national objective, including additional criteria for mitigation activities and covered projects*



# HUD's goals with CDBG-MIT

1. Support data-informed investments, focusing on repetitive loss of property and critical infrastructure
2. Build capacity to comprehensively analyze disaster risks and update hazard mitigation plans
3. Support the adoption of policies that reflect local and regional priorities that will have long-lasting effects on community risk reduction, including risk reduction to community lifelines and decreasing future disaster costs
4. Maximize the impact of funds by encouraging leverage, private/ public partnerships, and coordination w/other federal dollars



# Mitigation Needs Assessment:



Multi-Jurisdictional Hazard Mitigation Plan  
Mecklenburg County, North Carolina

June 2015



Mitigation Needs Assessment should include:

- A risk-based assessment to inform the use of CDBG-MIT funds to meet mitigation needs, considering identified current and future hazards.
- Grantees must assess their mitigation needs in a manner that effectively addresses risks to indispensable services that enable continuous operation of
  - critical business and government functions, and
  - are critical to human health and safety, or economic security.



# Overview of FHEO Requirements

*Celia Carpentier*



# Fair Housing and Civil Rights Laws

- Title VI of the Civil Rights Act of 1964
- Title VIII of the Civil Rights Act of 1968 (the “Fair Housing Act”)
- Section 109 of the Housing and Community Development Act of 1974
- Section 504 of the Rehabilitation Act of 1973
- Titles II and III of the Americans with Disabilities Act of 1990
- Age Discrimination Act of 1975

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# Fair Housing and Civil Rights Laws

- Prohibit recipients from discriminating based on a protected class (e.g., race, national origin, disability).
- Prohibit recipients from engaging in activities that create, increase, reinforce, or perpetuate segregation.
- Require recipients to take any necessary steps to overcome the effects of past discrimination in their programs and activities. In the absence of prior discrimination, recipients may take any steps necessary to overcome the effects of conditions that resulted in limiting participation by persons based on a protected class.
  - Require recipients to ensure that their programs and activities are accessible to persons with disabilities.



# Overview of FHEO in CDBG-MIT Federal Register Notice

Celia Carpentier and Seth McIntyre



# CDBG-MIT (FRN)

Section V.A.2.a.(4) of the *Federal Register* notice (84 FR at 45847) provides language on the use of CDBG-MIT allocations to grantees recovering from qualifying 2015, 2016, and 2017 disasters.

the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

**Authority:** Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

**Dated:** August 8, 2018.

**Inez C. Downs,**

*Department Reports Management Officer,  
Office of the Chief Information Officer.*

[FR Doc. 2018-17445 Filed 8-13-18; 8:45 am]

**BILLING CODE 4210-67-P**

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-6109-N-01]

### Allocations, Common Application, Waivers, and Alternative Requirements for Community Development Block Grant Disaster Recovery Grantees

**AGENCY:** Office of the Assistant Secretary for Community Planning and Development, HUD.

**ACTION:** Notice.

**SUMMARY:** On April 10, 2018, HUD allocated nearly \$28 billion in Community Development Block Grant disaster recovery (CDBG-DR) funds appropriated by the Further Additional Supplemental Appropriations for Disaster Relief Requirements Act, 2018. HUD allocated \$10.03 billion for the purpose of assisting in addressing unmet needs from disasters that occurred in 2017; \$2 billion for improved electrical power systems in areas impacted by Hurricane Maria; and \$15.9 billion for mitigation activities. This notice applies only to the \$10.03 billion allocated for long-term recovery from disasters that occurred in 2017. A future notice will specify the requirements and process for the electrical power systems funding and the mitigation funds.

This \$10.03 billion allocation for addressing unmet recovery needs supplements the \$7.4 billion in CDBG-DR funds appropriated by the Supplemental Appropriations for Disaster Relief Requirements Act, 2017

action plan approval, and eligible disaster recovery activities.

**DATES:** *Applicability Date:* August 20, 2018.

**FOR FURTHER INFORMATION CONTACT:** Jessie Handforth Kome, Acting Director, Office of Block Grant Assistance, Department of Housing and Urban Development, 451 7th Street SW, Room 10166, Washington, DC 20410, telephone number 202-708-3587. Persons with hearing or speech impairments may access this number via TTY by calling the Federal Relay Service at 800-877-8339. Facsimile inquiries may be sent to Ms. Kome at 202-708-0033. (Except for the "800" number, these telephone numbers are not toll-free.) Email inquiries may be sent to [disaster\\_recovery@hud.gov](mailto:disaster_recovery@hud.gov).

#### SUPPLEMENTARY INFORMATION:

##### Table of Contents

- I. Allocations
  - II. Use of Funds
  - III. Overview of Grant Process
    - A. Appropriations Act (Pub. L. 115-123) Initial Action Plan Process
    - B. Prior Appropriation (Pub. L. 115-56) Substantial Action Plan Amendment Process
  - IV. Applicable Rules, Statutes, Waivers, and Alternative Requirements
    - A. Grant Administration
    - B. Housing
    - C. Infrastructure
    - D. Economic Revitalization
  - V. Duration of Funding
  - VI. Catalog of Federal Domestic Assistance
  - VII. Finding of No Significant Impact
- Appendix A: Allocation Methodology

#### I. Allocations

The Further Additional Supplemental Appropriations for Disaster Relief Requirements Act, 2018 (Division B, Subdivision 1 of the Bipartisan Budget Act of 2018), approved February 9, 2018 (Pub. L. 115-123) (the "Appropriations Act"), appropriated nearly \$28 billion in CDBG-DR funds. Of this amount, up to \$16 billion is available to address unmet disaster recovery needs through activities authorized under title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 *et seq.*) (HCD Act) related to disaster relief, long-term recovery, restoration of infrastructure and housing, economic revitalization, and mitigation in the

(the "Prior Appropriation"). HUD allocated the first \$7.4 billion in the Prior Notice (83 FR 5844, February 9, 2018). This notice amends the Prior Notice to ensure consistency across allocations for the same qualifying disasters, and to give effect to requirements of the Appropriations Act, including that funds allocated under the Prior Notice are subject to the terms and conditions applicable to CDBG-DR funds under the Appropriations Act.

Based on the remaining unmet needs allocation methodology outlined in Appendix A, this notice allocates \$10,030,484,000 for unmet disaster recovery needs under the Appropriations Act. The allocation amounts for unmet recovery needs included in Table 1 exclude the \$2 billion set-aside for Puerto Rico and the Virgin Islands for electrical system improvements. The Appropriations Act further provided that of the nearly \$28 billion, HUD must allocate not less than \$12 billion for mitigation activities undertaken by grantees receiving an allocation of CDBG-DR funds for recovery from 2015, 2016, or 2017 disasters. On April 10, 2018, HUD announced that after addressing remaining 2017 unmet needs, HUD would allocate an additional \$3.9 billion for mitigation, bringing the amount designated for mitigation to \$15.9 billion. A subsequent notice will govern the allocations for mitigation and the allocations for electrical power system enhancements and improvements.

In accordance with the Appropriations Act, \$10,000,000 of the total amounts appropriated under the Act will be transferred to the Department's Office of Community Planning and Development (CPD), Program Office Salaries and Expenses, for necessary costs of administering and overseeing CDBG-DR funds made available under the Appropriations Act and \$15,000,000 is to be transferred to the CPD office to provide necessary capacity building and technical assistance to grantees. The Appropriations Act also provides \$10,000,000 to the Department's Office of the Inspector General for oversight of the appropriated CDBG-DR funds.

Although the Prior Notice requires

# 1. CDBG-MIT Federal Register Notice Requirements

- **84 FR 45847:**

*“Grantees must also assess how the use of CDBG–MIT funds may affect members of protected classes under fair housing and civil rights laws, racially and ethnically concentrated areas, as well as concentrated areas of poverty;”*



# Recommendations to meet CDBG-MIT Requirement

## STEP 1:

HUD recommends the grantee first collect data on the HUD-identified and grantee-identified most impacted and distressed areas (MID) to identify the following:

- Racial and ethnic minorities,
- Limited English proficiency (LEP) populations,
- Persons with disabilities, and
- Other protected classes (The federally protected classes under the Fair Housing Act are race, color, national origin, religion, sex, familial status, and disability), and
- Racially and ethnically concentrated areas and concentrated areas of poverty.



# Recommendations to meet CDBG-MIT Requirement

## STEP 2:

- Utilizing the information gathered from Step 1, a grantee can then complete a demographic analysis and would be able to identify if racially and ethnically concentrated areas or concentrated areas of poverty are in the MID areas and may more accurately assess how the use of CDBG–MIT funds may affect those areas in Step 3.
- Grantees may want to evaluate the potential impact of natural hazards on minority and/or low-income communities as this may assist grantees to determine how CDBG-MIT funds can be used to promote more resilient affordable housing.



# Recommendation to meet CDBG-MIT Requirement

## STEP 3:

- Utilizing the information gathered from Step 1, a grantee can then complete a demographic analysis, and is better positioned to now assess how its proposed use of CDBG-MIT funds may affect members of protected classes.



# Recommendations to meet CDBG-MIT Requirement

- Grantees may want to consider providing the following information in their CDBG-MIT action plans:
  - How the use of CDBG-MIT funds may affect members of protected classes, racially and ethnically concentrated areas, and concentrated areas of poverty.
  - How activities will be prioritized: 1) in a way that will not disadvantage members of protected classes, including residents of racially and ethnically concentrated areas, and 2) to help overcome the effects of prior discrimination based on protected class or, in the absence of prior discrimination, help overcome the effects of conditions that resulted in limiting the participation.
  - Documentation of grantee efforts to engage members of protected classes and to specifically identify their mitigation needs as part of its citizen participation efforts.



# Examples

1. If a locality is prone to wildfires, a grantee may consider how protected classes are best protected from future events.
  - Emergency planning and mitigation strategies could be prioritized for these areas to ensure their protection in the future.
2. Where housing is at risk to repetitive flood and erosion, a grantee may prioritize funding for an eligible stormwater drainage study and prepare to adopt an eligible stormwater drainage plan and ordinance.
3. A grantee using CDBG-MIT funds to mitigate the disaster risks to single-family homes and multifamily rental developments may assess whether CDBG-MIT funds are being invested equitably to benefit members of protected classes, racially and ethnically concentrated areas, or concentrated areas of poverty.



## 2. CDBG-MIT Federal Register Notice Requirements

### **84 FR 45848:**

*“Plans to minimize displacement and ensure accessibility.*

*Each grantee must describe how it plans to minimize displacement of persons or entities, and assist any persons or entities displaced through its mitigation activities (except for mitigation through voluntary buyout activities that are designed to move households out of harm’s way).*

*This description shall focus on proposed activities that may directly or indirectly result in displacement and the assistance that shall be required for those displaced. Grantees are reminded that they must take into consideration the functional needs of persons with disabilities in the relocation process.”*



# Recommendations to meet CDBG-MIT Requirement

- During the early stages of development, a grantee shall plan programs or projects in a manner that recognizes problems associated with the displacement of individuals, families, businesses, farms, and nonprofit organizations and develop solutions to minimize the adverse impacts of displacement.
- Generally, displaced persons are eligible for relocation assistance and payments under the Uniform Relocation Assistance and Real Property Acquisitions Act of 1970 (URA), as amended. A grantee will want to adopt policies and procedures that ensure applicable requirements are satisfied and include the steps a grantee will take to minimize displacement.
- Grantees are encouraged to engage the potentially displaced populations as part of their citizen participation efforts to determine alternatives that would mitigate the identified risks from disasters without causing displacement.



# Tips

- HUD recommends that a grantee describe in its action plan how it considered the impact of the CDBG-MIT-funded activities on displacing LMI persons, persons with disabilities, and minority communities and the steps that it took to minimize displacement of these communities.
- Grantees are encouraged to describe the assistance that it will provide displaced persons with disabilities to ensure that they are able to relocate to housing that meets their accessibility needs with access to supportive services.

*Grantees are reminded of the Section 504 and ADA requirements to ensure that their communications with persons with vision, hearing, and/or speech disabilities are as effective as communication with nondisabled persons.*



### 3. CDBG-MIT Federal Register Notice Requirements

#### **84 FR 45848:**

*“For each mitigation program providing a direct benefit to a person, household or business, the action plan must specify the maximum amount of assistance available to a beneficiary under each of the grantee’s mitigation programs.*

*A grantee may find it necessary to provide exceptions on a case-by-case basis to the maximum amount of assistance and must describe the process it will use to make such exceptions in its action plan....*

*Each grantee must also indicate that it will make exceptions to the maximum award amounts when necessary to comply with federal accessibility standards or to reasonably accommodate a person with disabilities.”*



# Recommendations to meet CDBG-MIT Requirement

- While grantees are required to include information addressing the requirement in their action plan, as a best practice a grantee will adopt policies and procedures governing maximum award amounts.
- At a minimum, a grantee should adopt policies and procedures that:
  - Govern maximum award amounts
  - Communicate the maximum amounts and any exceptions
  - Determine the circumstances when an exception is needed, including when necessary to comply with federal accessibility standards or reasonably accommodate a person with disabilities.
  - Demonstrate that costs are necessary and reasonable
- HUD recommends that grantees work with their subrecipients to make exceptions to the maximum award amounts when necessary to comply with federal accessibility standards or to reasonably accommodate a person with disabilities.



# Examples

- The grantee may be looking to increase the resilience of critical small businesses in the MID area.
  - The grantee must make exceptions, if necessary, to the maximum award amount to ensure that the business complies with applicable federal accessibility requirements, including Title III of the Americans with Disabilities Act.

The grantee may be looking to provide funds to homeowners in flood-prone areas to elevate their homes.

- The grantee must make exceptions to the maximum award amount, if necessary, to allow a household that includes a person with a mobility impairment to include a structural feature when necessary to meet Federal, state, or local requirements.



# CDBG-MIT Federal Register Notice Additional Requirements

*Bonnie Newcomb and Jen Carpenter*



## 4. CDBG-MIT Federal Register Notice Requirements

### **84 FR 45847:**

*“Proposed mitigation programs and projects must prioritize the protection of low-and-moderate income (LMI) individuals. Each grantee must describe in its action plan how it will prioritize programs and projects that will protect LMI persons in order to meet the overall benefit requirement pursuant to this notice.”*



# Recommendations to meet CDBG-MIT Requirement

- A grantee should describe in their CDBG-MIT action plan how it will meet the overall benefit requirement that at least 50 percent of the funds must benefit LMI persons.
- For competitive CDBG–MIT awards, grantees must publish on their website all criteria that will be used by the grantee in its selection of applications for funding.
- While States are required to do this, HUD recommends that all grantees include in their action plans descriptions of eligibility requirements, threshold factors, and all criteria used to select applications for funding, including the relative importance of each of those criteria.



# Examples

- A State grantee can highlight a program or project that prioritizes the protection of LMI persons over a program or project that does not prioritize the protection of LMI persons.
- A grantee can do this by applying a selection criterion or threshold factors with greater importance or weight for an activity that benefits or protects LMI persons.
- Any selection criteria utilized by the grantee must be included in its action plan.



## 5. CDBG-MIT Federal Register Notice Requirements

**84 FR 45847:** *“Additionally, if the grantee’s programs or projects will increase the resiliency of housing, the grantee must describe how the programs or projects will do so for housing that typically serves vulnerable populations, including the following housing: Transitional housing, permanent supportive housing, permanent housing serving individuals and families (including subpopulations) that are homeless and at-risk of homelessness, and public housing developments.”*

**84 FR 45847:** *“will promote more resilient affordable housing and will respond to natural hazard-related impacts.”*



# Recommendations to meet CDBG-MIT Requirement

- Grantees can promote more resilient affordable housing by describing steps they will take to identify affordable housing and what measures they could implement to promote resiliency in those affordable housing units.
- Grantees may first consider identifying the types of housing that typically serve vulnerable populations and then identify what resiliency measures could be taken to address the identified disaster impacts to that housing.



# Examples

1. In the case of housing structures that are at risk to floods, a grantee may use CDBG-MIT funds to serve vulnerable populations.
  - The CDBG-MIT funds can be used to promote more resilient affordable housing, via a voluntary buyout program.
  - This effort also can include financial incentives, including funds to cover moving expenses, or other types of renter and homeowner assistance to affected households.
2. A grantee has identified public housing in an area that is at risk of experiencing damage from future disasters, such as its location in a floodplain, near environmental hazards, or near a hazardous materials facility. To mitigate this risk, a grantee may elevate or otherwise protect the housing or its utilities, in accordance with the CDBG-MIT requirements.



# Summary

*Roosevelt Grant*



# Aligning FHEO with Action Plans: Meeting CDBG-MIT's Goals

- ❖ **HUD Goal 1:** Support data-informed investments, focusing on repetitive loss of property and critical infrastructure
  - ✓ **Example:** Grantees are required to assess the characteristics and impacts of current and future hazards.
- ❖ **HUD Goal 2:** Build capacity to comprehensively analyze disaster risks and update hazard mitigation plans
  - ✓ **Example:** Critical elements of the hazard mitigation plan can be incorporated into the Mitigation Needs Assessment of the CDBG-MIT action plan.
- ❖ **HUD Goal 3:** Support the adoption of policies that reflect local and regional priorities that will have long-lasting effects on community risk reduction, including risk reduction to community lifelines and decreasing future disaster costs
  - ✓ **Example:** Aligning a Grantee's long-term resilience strategy with the risks faced by protected classes will yield important results.
- ❖ **HUD Goal 4:** Maximize the impact of funds by encouraging private/ public partnerships, and coordination w/other federal dollars
  - ✓ **Example:** Leveraging public and private partnerships is key to maximizing the impact of your mitigation funds.



# Resources



# HUD Resources

- Community Development Block Grant Mitigation Program:  
<https://www.hudexchange.info/programs/cdbg-mit/>
- HUD CDBG-Mitigation Notice:  
<https://files.hudexchange.info/resources/documents/FR-6109-N-02-CDBG-Mitigation-Notice.pdf>
- HUD CDBG-Mitigation 2019 Webinar series:  
<https://www.hudexchange.info/news/cdbg-mit-webinar-series/>
- HUD Fair Housing and Equal Opportunity Website  
[https://www.hud.gov/program\\_offices/fair\\_housing\\_equal\\_opp](https://www.hud.gov/program_offices/fair_housing_equal_opp)





# Thank you!

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- Additional Contact Info
  - HUD Policy Unit, [DRSIPolicyUnit@hud.gov](mailto:DRSIPolicyUnit@hud.gov)

## Questions????