



# Back to Basics – A Review of Fundamental CDBG-DR Requirements

**2023 CDBG-DR Problem Solving Clinic | Chicago, IL**  
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# Presenters



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# Learning Objectives

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- New grantees will be able to identify CDBG requirements and the disaster recovery waivers and alternative requirements which provide flexibility in implementing CDBG-DR grants
- Define unique disaster recovery requirements such as tie-back to the disaster, duplication of benefits, Mitigation set-aside, and Most Impacted and Distressed areas

# Agenda

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- CDBG-DR Program Overview
  - What Sets CDBG-DR Apart
- Tools for Programming Funds
  - CDBG vs CDBG-DR Eligible Activities
  - CDBG-DR Mitigation Set-Aside
  - Duplication of Benefits
- Questions and Answers



# CDBG-DR Program Overview

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# What is CDBG-DR?

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- CDBG-DR is HUD funding provided as a special appropriation by Congress to states, territories, counties, municipalities, and Indian tribes to assist with long term recovery following a Presidentially-declared disaster
- It is a flexible set of funds that allows grantees to deploy funding to carry out a wide range of recovery activities
- The grant prioritizes low-and moderate- income (LMI) persons and geographies (70% of funds)
- The amount of CDBG-DR funding is based on damage estimates and unmet disaster recovery needs
- 80% of funds must address needs within the HUD-identified Most Impacted and Distressed (MID) areas

# CDBG-DR Funding Process

## CONGRESS

1. Approves appropriation

## HUD

1. Calculates and announces allocations
2. Publishes a Notice in the Federal Register (FRN)

## GRANTEE

1. Submits Financial Certifications to HUD
2. Prepares and submits Action Plan based on unmet and Mitigation needs and an Implementation Plan
3. Administers its own programs and/or works with other entities to distribute funds



# Consolidated Notice vs. Past Grants

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- The Consolidated Notice describes the processes, procedures, timelines, waivers, and alternative requirements that HUD has established for CDBG-DR grants and published in the Federal Register at 87 FR 6364, 87 FR 31636, and 88 FR 3198
  - These Notices combine “allocation-specific” requirements in the Allocation Announcement Notice (AAN) and “consolidated requirements” in the CDBG-DR Consolidated Notice
- The Consolidated Notice combines and updates requirements from several FRNs and the CPD Notices that have governed CDBG-DR funds in the past—Creating a, "one-stop-shop" for new grantees



# What Sets CDBG-DR Apart

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# Documenting Tie to the Disaster

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- ALL CDBG-DR activities must be tied to the disaster(s) covered by the CDBG-DR allocation (unless funded with the mitigation set-aside)
- There are various ways to document how the proposed activity ties to the disaster event such as (direct or indirect impacts):
  - Beneficiary's home suffered damage from the disaster
  - Funded project will help to economically revitalize an impacted community
  - Infrastructure repair partially funded by FEMA
- As time goes by, documenting tie-back to the disaster event may become increasingly challenging



# Waiver and Alternative Requirement Requests

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- Identify areas that may need a waiver from HUD as early as possible
- Written requests for a waiver:
  - Must show that ‘good cause’ for the waiver exists supported by data
  - Must not be inconsistent with overall purpose of title I the Housing and Community Development Act (HCDA)
  - Must not conflict with cross-cutting requirements that the Secretary cannot waive:
    - Nondiscrimination
    - Fair Housing
    - Environmental Review
    - Labor Standards (Davis Bacon and Related Acts)



# Tools for Programming Funds

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# Programming Disaster Recovery Funds

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- Grantees should consider the basic CDBG requirements and layered waivers and alternative requirements from the Consolidated Notice as they design their programs
  - Note: The Consolidated Notice currently applies to CDBG-DR grants for disasters occurring in 2020, 2021, and pending 2022
- Each disaster and its recovery is different and unique. Not all general waivers and alternative requirements may meet your recovery needs
  - Grantees may seek additional grantee specific waivers to meet recovery needs
- Consult with your HUD Field Office or Headquarters and gather the data to support your recovery needs!

# Tying unmet needs to CDBG-DR programs

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- Grantees are required by section III.C.1.b. of the Consolidated Notice ([78 FR 6364](#)) to describe the connection between identified unmet needs and the allocation of CDBG-DR resources
- While funding will likely not allow for all needs to be met, grantees should identify how their programming will address the needs
- If you have a 2020, 2021, or 2022 grant, funds from any prior or future appropriations may be used interchangeably for the same activities when the MID areas overlap and when the use of the funds will address unmet recovery needs from both disasters.
  - This needs to be described in an action plan or through a substantial amendment (in both grants).

# National Objectives

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- All CDBG eligible activities must meet one of the following three national objectives (except for planning and administration):

Benefit to low- and moderate- income (LMI) persons

Aid in the prevention or elimination of slum or blight

Meet a need having a particular urgency (urgent need)



# Urgent Need

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- Grantees that use the urgent need national objective must:
  - Describe in the impact and unmet needs assessment why specific needs have a particular urgency, including how the existing conditions pose a serious and immediate threat to the health or welfare of the community;
  - Identify each program or activity in the action plan that will use the urgent need national objective
    - Either through its initial action plan submission or through a substantial amendment submitted by the grantee within **36 months** of the applicability date of the grantee's Allocation Announcement Notice; and
  - Document how each program and/or activity funded under the urgent need national objective in the action plan responds to the urgency, type, scale, and location of the disaster-related impact as described in the grantee's impact and unmet needs assessment.



# LMI Overall Benefit

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- 70% of funds must be used for activities that benefit LMI persons
- A grantee may seek to reduce the overall benefit requirement but must submit a substantial amendment that, at a minimum:
  - Identifies the planned activities that meet the needs of its LMI population;
  - Describes proposed activities and programs that will be affected by the alternative requirement;
  - Demonstrates that LMI persons' disaster related needs have been sufficiently met and that the needs of non-LMI persons or areas are disproportionately greater, and that the jurisdiction lacks other resources to serve non-LMI persons; and
  - Demonstrates a compelling need for HUD to lower the percentage of the grant that must benefit LMI persons.
- **Keep in mind, 36 months for Urgent Need substantial amendment**



# CDBG vs. CDBG-DR Eligible Activities

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# Housing Projects

	CDBG Annual Program	CDBG-DR Consolidated Notice
<b>New Construction</b>	Not allowed	<ul style="list-style-type: none"><li>• New construction is allowed</li></ul>
<b>Elevation</b>	Not allowed	<ul style="list-style-type: none"><li>• All structures located in the one percent annual chance (or 100-year) floodplain, must be elevated with the lowest floor, including the basement, at least two feet above base flood elevation</li><li>• Mixed-use structures with no dwelling units and no residents below two feet above base flood elevation, must be elevated or floodproofed up to at least two feet above base flood elevation</li></ul>
<b>Building Standards</b>	Minimum building code standards	<ul style="list-style-type: none"><li>• Must meet the Green and Resilient Building Standard along with minimum building code standards</li></ul>
<b>Broadband</b>	Eligible cost but not required	Any substantial rehab, as defined for 24 CFR 5.100, reconstruction, or new construction of four or more units <b>must</b> include installation of broadband infrastructure

# Housing Projects Cont.

	CDBG Annual Program	CDBG-DR Consolidated Notice
<b>Homeownership Assistance</b>	<ul style="list-style-type: none"><li>• Pay up to 50% of the down payment required by the mortgagee for the purchase on behalf of the purchaser</li></ul>	<ul style="list-style-type: none"><li>• Allowed for up to 100% of the down payment</li></ul>
<b>Safe Housing Incentive</b>	<ul style="list-style-type: none"><li>• Must observe limitation on eligible activities noted in section 42 U.S.C. 5305(a)</li></ul>	<ul style="list-style-type: none"><li>• Any incentive provided to encourage households to relocate to suitable housing in a lower risk area or in an area promoted by the community's comprehensive recovery plan</li><li>• The grantee may offer safe housing incentives in addition to the relocation assistance that is legally required</li></ul>
<b>Acquisition of Second Homes</b>	<ul style="list-style-type: none"><li>• Not allowed</li></ul>	<ul style="list-style-type: none"><li>• Grantees may acquire second homes at a post disaster fair market value</li></ul>

# Affordability Periods – Rental Housing

- Grantees who are constructing new LMI rental housing (containing five units or more) must at a minimum follow the HOME affordability periods and implement restrictions as outlined in CFR 92.254(a) and the table below:

<b>Rental housing activity</b>	<b>Minimum period of affordability in years</b>
New construction or acquisition of newly constructed housing	20

# Economic Revitalization

## Public Benefit Standard

- **CDBG Annual Program:** For an activity that creates or retains jobs, the use of CDBG funds cannot exceed \$50,000 per full-time equivalent job
- **Waived under the Consolidated Notice**

## LMI Jobs National Objective

- Under the Consolidated Notice documentation requirements are streamlined to allow, for each person employed, documentation of the name of the business, type of job, and the annual wages or salary of the job
- HUD will consider the person income-qualified if the annual wages or salary of the job is at or under the HUD-established income limit for a one-person family



# CDBG-DR Mitigation Set-Aside

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# CDBG-MIT Overview

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- Instead of a separate allocation, the Disaster Relief Supplemental Appropriations Act of 2021 requires a 15% CDBG-MIT set-aside
  - This is also included in the Consolidated Notice
- No tie-back is required (in this way, the 15% is a cap)
- To maximize impacts of all available funds, grantees are encouraged to coordinate and align these funds with other projects funded by CDBG-DR and CDBG-MIT, as well as other disaster recovery activities funded by FEMA, the U.S. Army Corps of Engineers, the U.S. Forest Service, and other agencies as appropriate.
  - **Example:** Use set aside to fund planning activities that complement FEMA's Building Resilient Infrastructure and Communities (BRIC) program to upgrade mapping, data, and other capabilities to better understand evolving disaster risks.



# CDBG-MIT Eligible Activities – Summary

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- To be eligible, the Action Plan must identify how the proposed use of the CDBG-DR mitigation set-aside will:
  - Be CDBG-eligible activities under Title I of the HCDA or otherwise eligible pursuant to a waiver or alternative requirement; and
  - Address the current and future risks as identified in the grantee’s mitigation needs assessment of MID areas; and
  - Meet the definition of mitigation activities
    - Mitigation activities are those that “increase resilience to disasters and reduce or eliminate the long-term risk of loss of life, injury, damage to and loss of property, and suffering and hardship, by lessening the impact of future disasters.”



# Duplication of Benefits

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# Duplication of Benefits (DOB)

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- Prohibitions related to DOB come from multiple sources including:
  - Section 312 (42 U.S.C. 5155) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act
  - Necessary and reasonable requirements (24 CFR part 570 and Uniform Administrative Requirements at 2 CFR part 200)
  - CDBG-DR Appropriations Acts and HUD Federal Register Notices
- Disaster assistance covered under DOB includes:
  - Funds from public agencies (FEMA, SBA, etc.) and
  - Private sources (charitable donations, insurance proceeds, volunteer work and grants)

# DOB Continued

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- Assistance is duplicative when two sources exceed need for the same recovery item:
  - If beneficiary receives duplicative assistance, grantee providing assistance must recover any duplicative assistance provided
- However, DOB requirements do not limit the layering of different forms of assistance to meet recovery needs
- All entities receiving CDBG-DR funds are subject to DOB, including local governments and states



# Disaster Recovery Reform Act (DRRA)

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- Issued June 2019 ([84 FR 28836](#))
- Changes the treatment of loans under the Stafford Act for disasters declared between January 1, 2016 and December 31, 2021, so that when certain conditions are met, the loans are no longer a DOB
  - As a result, DRRA only applies to 2015-2021 grantees
- Sunsets 5 years after enactment (**October 5, 2023**)

# Key Takeaways

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- CDBG-DR activities must:
  - Be CDBG-eligible (or eligible under a waiver or alternative requirement);
  - Meet a national objective; and
  - Meet an unmet recovery need that addresses a direct or indirect impact from an eligible disaster\*
- The Consolidated Notice describes the processes, procedures, timelines, waivers, and alternative requirements that HUD has established for CDBG-DR and will serve as your guide as you decide how to program recovery dollars

\*with the exception of the MIT set-aside activities already covered

# Resources

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- [HUD CDBG-DR Toolkit](#)
- [CDBG-DR Acronym List](#)
- [Federal Register, Vol. 87, No. 23, February 3, 2022 \(87 FR 6364\)](#)
- [HUD Consolidated Notice Guidebook](#)
- [Understanding the Consolidated Notice](#)
- [CDBG-DR Mitigation Set Aside Fact Sheet](#)



# Thank you!

If you have any questions, please feel free to send an email to ODR's Policy Division at [ODRPolicyDivision@hud.gov](mailto:ODRPolicyDivision@hud.gov)

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