

# CHAPTER 21: DISASTER RECOVERY (CDBG-DR)



## CHAPTER PURPOSE & CONTENTS

This chapter provides a general overview of the Community Development Block Grant Disaster Recovery (CDBG-DR) program, including a brief synopsis of the history of the program, a summary of the objectives of the program, the rules and requirements of the program and a summary of the process for implementing Disaster Recovery activities.

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### 21.1 Program History & Primary Objective

✓ This section explains the history of the Disaster Recovery program and its goals.

Key Topics in This Section	<ul style="list-style-type: none"> <li>✓ Reason CDBG Disaster Recovery program was established</li> <li>✓ Program history and objectives</li> </ul>
Regulatory/Statutory Citations	Public Law 93-288, as amended, 42 U.S.C. 5121-5207
Other Reference Materials on This Topic	Not applicable



- ✓ The CDBG Disaster Recovery program or CDBG-DR helps cities, counties, and States recover from some Presidentially-declared disasters, especially in low-income areas. CDBG-DR funds may be awarded months or even a year after the disaster.
- ✓ CDBG-DR funding is appropriated by Congress as a special CDBG appropriation in response to a disaster. The statutory authority for CDBG-DR funding is via individual supplemental appropriations to address specific disasters.
- ✓ Primary statutory authority permitting HUD & other federal agencies to assist State & local governments with their response and recovery responsibilities following major disasters and emergencies is provided as part of the Robert T. Stafford Disaster Relief and Emergency Assistance Act.
- ✓ CDBG can fund a broad range of recovery activities and help communities and neighborhoods that otherwise might not recover due to limited resources.
- ✓ Currently, there are 51 active CDBG-DR grantees including 29 states and 22 local governments receiving a combined total of \$46 billion.
- ✓ Under CDBG-DR, HUD Headquarters has oversight responsibilities for awards over \$500 million, while all other grants are managed by the respective HUD CPD Field Office.
- ✓ CDBG-DR awards are noncompetitive and nonrecurring.
- ✓ To determine awards, HUD uses a formula that considers damage estimates and disaster recovery needs unmet by other Federal disaster assistance programs. This information is generally compiled by the Small Business Administration (SBA) and the Federal Emergency Management Agency (FEMA).

## 21.2 CDBG-DR Regulations and Implementation

- ✓ This section provides an overview of the CDBG-DR regulations and how they are implemented.

Key Topics in This Section	<ul style="list-style-type: none"> <li>✓ Regulatory basis for CDBG-DR</li> <li>✓ Key regulatory requirements</li> </ul>
Regulatory/Statutory Citations	See 21.13
Other Reference Materials on This Topic	Not applicable

- ✓ After Congress appropriates Disaster Recovery funding, HUD determines the awards and contacts the grantees to discuss their recovery plans and determine what, if any, waivers are required.
- ✓ HUD publishes the allocations, waivers, and any alternative requirements in a Federal Register Notice. Typically, most State CDBG regulations apply to state grantees; most Entitlement regulations apply to units of general local government receiving a direct award.
- ✓ Grantees conduct a needs assessment to determine the critical unmet needs for long-term disaster recovery. The goal of the assessment is to enable grantees to better design recovery programs that are responsive to the types and locations of actual needs on the ground and to identify gaps in funding where CDBG-DR may be utilized.



- ✓ Based on the findings of the needs assessment and public comments, grantees draft and submit a disaster recovery action plan to HUD. Grantees generally use one of two methods (or a combination thereof) to administer CDBG-DR funding:
  - The grantee distributes funding to communities based on damage estimates and/or unmet needs; each community determines what types of activities to pursue in compliance with the Notice; or
  - The grantee designs and administers the program directly.
- ✓ Most CDBG rules and principles apply—e.g., activities must be CDBG eligible (or allowed via the Notice) and meet a national objective. In addition, all activities must be located in a Presidentially-declared county and respond to a disaster-related impact.

### 21.3 National Objective

- ✓ This section describes the national objective requirements all CDBG-DR funded activities must meet.

Key Topics in This Section	✓ Three national program national objectives
Regulatory/Statutory Citations	Section 101(c), Section 104(b)(3), 105(c) §570.208
Other Reference Materials on This Topic	Chapter 3: National Objectives

- ✓ The authorizing statute of the CDBG program requires that each activity funded, except for program administration and planning activities, must meet one of three national objectives. This requirement also applies to CDBG-DR funding. The three national objectives are:
  - Benefit to low- and moderate- income (LMI) persons;
  - Aid in the prevention or elimination of slums or blight; and
  - Meet a need having a particular urgency (referred to as urgent need).
- ✓ For more detailed information regarding the national objectives of the program and selecting and documenting the appropriate national objective for activities funded by grantees, refer to Chapter 3 of this manual.

### 21.4 Eligibility

- ✓ This section describes the range of eligible grantees, beneficiaries and activities under CDBG-DR.

Key Topics in This Section	<ul style="list-style-type: none"> <li>✓ Eligible grantees under CDBG-DR</li> <li>✓ Eligible beneficiaries under CDBG-DR</li> <li>✓ Eligible activities under CDBG-DR</li> <li>✓ Typical methods for undertaking CDBG-DR eligible activities</li> </ul>
Regulatory/Statutory Citations	Public Law 93-288, as amended, 42 U.S.C. 5121-5207 24 CFR 570.482



Other Reference Materials on This Topic

Not applicable

### **21.4.1 Eligible Grantees**

- ✓ Under most CDBG-DR appropriations, funds may be made available to States, units of general local government, Indian tribes, or insular areas.
- ✓ Grantees must have significant unmet recovery needs and the capacity to carry out a disaster recovery program.
- ✓ Supplemental appropriations may restrict funding to certain timeframes, or within certain localities.

### **21.4.2 Eligible Beneficiaries**

- ✓ CDBG-DR funds can be used to assist many types of beneficiaries in a variety of ways. Funds can be provided to:
  - Families with housing needs,
  - Non-profits providing public services,
  - Businesses with economic development or revitalization needs, and
  - Local governments with planning or infrastructure needs.
- ✓ Generally, grantees must use 50 percent of their CDBG-DR award for activities that benefit low- and moderate-income persons.

### **21.4.3 Eligible Activities**

- ✓ Most CDBG-DR appropriations require funds to be used for: “...*necessary expenses for activities...related to disaster relief, long-term recovery, restoration of infrastructure and housing, and economic revitalization in the most impacted and distressed areas...*”.)
- ✓ Thus, each activity must:
  - be CDBG eligible (or allowed via a waiver),
  - address a disaster-related impact in a Presidentially-declared county, and
  - meet a national objective.
- ✓ Disaster-related activities are those that demonstrate (1) a logical connection to the disaster, and (2) how the activity will contribute to long-term recovery.
  - Grantees must determine what documentation is sufficient and reasonable to show how activities respond to a disaster-related impact.
- ✓ Activities generally fall into one of the following categories:
  - Housing. E.g., activities that restore and/or improve the housing stock such as new construction (typically allowed via a waiver) or rehabilitation/reconstruction. This includes activities for single family or multifamily housing, either owner-occupied or rental.



- Restoration of infrastructure. E.g., activities that rebuild or replace affected public facilities or improvements. Typical activities include the rehabilitation of schools, health care centers, water or wastewater facilities, drainage improvements, etc.
- Economic Revitalization. E.g., activities that address job losses, and negative effects to tax revenues or businesses. This may include job training and workforce development, loans and grants to businesses, or improvements to commercial/retail districts.
- ✓ Eligible activities include, but are not limited to:
  - Constructing new housing for residents located in a floodplain;
  - Buying severely damaged structures and relocating the affected household or business out of harm’s way;
  - Debris removal (not covered by another source, such as FEMA);
  - Rehabilitation of homes or buildings damaged by the disaster;
  - Constructing or rehabilitating public facilities or improvements (e.g., streets, neighborhood centers, and water/sewer/drainage systems);
  - Code enforcement;
  - Homeownership assistance (e.g., down payment assistance, interest rate subsidies, and loan guarantees);
  - Public services (generally limited to no more than 15 percent of the grant);
  - Helping businesses retain or create jobs; and
  - Planning and administration activities (limited to no more than 20 percent of the grant).

## 21.5 Ineligible Activities

✓ This section describes activities that are not eligible under CDBG-DR.

Key Topics in This Section	✓ Ineligible activities under CDBG-DR
Regulatory/Statutory Citations	Public Law 93-288, as amended, 42 U.S.C. 5121-5207
Other Reference Materials on This Topic	Not applicable

- ✓ An activity is ineligible if it meets any one of the following criteria:
- Is not located in a Presidentially-declared county;
  - Does not respond to a disaster-related impact;
  - Is explicitly prohibited by the appropriation law;
  - Is ineligible under the applicable CDBG regulations (and a waiver has not been granted);  
or
  - Fails to meet a national objective.



- ✓ Activities that are *solely* for mitigation or preparedness are typically ineligible (e.g., construction of new shelters where none previously existed). While these activities may help communities during future disasters, they often fail to demonstrate a connection to the disaster for which funding was appropriated (as required by the CDBG-DR appropriation laws). In addition, other Federal agencies provide funds specifically for mitigation and preparedness (e.g., FEMA's Hazard Mitigation Grant Program).
  - CDBG-DR grantees *are* encouraged to incorporate preparedness and mitigation into their rebuilding practices to ensure structures are safer and stronger.
- ✓ Purchasing equipment is typically ineligible.
  - The following equipment is typically ineligible under CDBG-DR: mobile command centers, radios, or portable lights.
  - Some equipment may be eligible. This includes:
    - Fire protection equipment considered to be an integral part of a public facility,
    - Equipment that constitutes all or part of a public service, or
    - Equipment that is attached to a structure and becomes an integral fixture.

## 21.6 Duplication of Benefits

- ✓ This section describes the Duplication of Benefits (DOB) rules that apply to CDBG-DR under the Robert T. Stafford Disaster Relief and Emergency Assistance Act.

Key Topics in This Section	✓ Duplication of benefits under CDBG-DR
Regulatory/Statutory Citations	§ 312 [42 U.S.C. § 5155]
Other Reference Materials on This Topic	Duplication of Benefits Notice <a href="#">76 FR 71060</a>

- ✓ CDBG-DR funding is subject to the rules of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (“Stafford Act”), PL 100-707, signed into law November 23, 1988, including rules related to the duplication of benefits; amended the Disaster Relief Act of 1974, PL 93-288. This Act constitutes the statutory authority for most Federal disaster response activities.
- ✓ The Stafford Act seeks to guard against fraud and ineligible use of taxpayer funding; it also is designed to ensure that federal assistance (and specifically, CDBG-DR funds) is the last source of recovery funding—made available after all other forms of disaster assistance have been exhausted.
- ✓ The Stafford Act prohibits any person, business, or other entity from receiving financial assistance with respect to any part of a loss resulting from a major disaster as to which he has received financial assistance under any other program or from insurance or any other source.
  - Grantees must ensure that activities provide assistance only to the extent that a disaster recovery need has not been fully met.



- Disaster assistance may come in the form of donations, insurance proceeds, volunteer work, and state or local funds. It also includes assistance received from FEMA, the SBA, or the U.S. Army Corps of Engineers.
- ✓ Examples
  - Assume the cost to rehabilitate a home following a disaster is \$50,000 and the homeowner receives \$50,000 from private insurance. Any CDBG-DR funding provided to the homeowner for rehabilitation would be considered a DOB because the homeowner had already received sufficient assistance to meet the need.
  - Assume FEMA provides \$500 for debris removal but the actual cost is \$850, CDBG-DR funds may be used to cover the difference.
- ✓ Assistance *is* duplicative when two sources exceed need for the same recovery item. Assistance is *not* duplicative when two sources contribute to the same need, but the total assistance did not exceed the total need. Even if a grantee attempts to design disaster relief programs to avoid all potential DOB issues, the grantee cannot deem any recipients categorically exempt from DOB calculations. The grantee must perform case-by-case examinations of available benefits.
- ✓ Grantees may determine the best method for avoiding or identifying potential DOB issues. Grantees should have a process in place to check for all assistance applied for and/or previously received as well as a process for re-examining benefits that may be received over time (e.g. insurance proceeds). Typically, a grantee will require the following information from an applicant:
  - All assistance sought or received, including insurance, loans and grants,
  - A signed affidavit that indicates (1) the applicant acknowledges the DOB requirements and his obligation to report all funding he has received, and (2) the grantee may inquire about other assistance received (e.g. from the insurance company or FEMA), and
  - A signed subrogation agreement.
- ✓ Wherever possible, grantees should seek third party documentation of disaster needs and assistance received.
- ✓ Generally, the agency responsible for duplicating assistance is required to collect the duplication.

## 21.7 Waivers

- ✓ This section describes how statutory waivers may be provided by HUD.

Key Topics in This Section	✓ Statutory waivers under CDBG-DR
Regulatory/Statutory Citations	See Section 21.13
Other Reference Materials on This Topic	Not applicable

- ✓ Via the CDBG-DR appropriation laws, the Secretary may waive, or specify alternative requirements for, any provision of any statute or regulation that the Secretary administers (so



long as the Secretary finds that the waiver would not be inconsistent with the overall purpose of Title I of the Housing and Community Development Act of 1974).

- The Secretary may not waive requirements related to fair housing, nondiscrimination, labor standards, or the environment.
  - Waiver requests should explain why the waiver is necessary for the grantee's recovery. Waiver requests will be reviewed on a case-by-case basis.
- ✓ As is required by each appropriation law, HUD may not waive the requirement that funds be used for necessary expenses related to the disaster.

## 21.8 Other Federal Requirements

- ✓ This section describes how other federal requirements apply under CDBG-DR.

Key Topics in This Section	✓ Other Federal Requirement Waivers under CDBG-DR
Regulatory/Statutory Citations	Public Law 93-288, as amended, 42 U.S.C. 5121-5207
Other Reference Materials on This Topic	Chapter : Other Federal Requirements

### 21.8.1 Valuation

- ✓ Payment of pre-flood values for buyouts may be based on either pre-flood or post-flood values for the acquisition of properties located in a flood way or floodplain.
- ✓ In using CDBG disaster recovery funds for such acquisitions, the grantee must uniformly apply whichever valuation method it chooses.

### 21.8.2 One for one replacement waiver

- ✓ One-for-one replacement requirements are waived for low- and moderate-income dwelling units: (1) damaged by the disaster, (2) for which CDBG funds are used for demolition, and (3) which are not suitable for rehabilitation.
- ✓ This encourages recovery by easing requirements for acquiring, converting, or demolishing disaster- damaged housing.

### 21.8.3 Relocation Assistance Waiver

- ✓ Section 104(d) relocation assistance requirements are waived to the extent they differ from the URA and its regulations at 49 CFR 24 following waivers to buyouts and other activities covered by the URA and related to disaster recovery housing activities assisted by the funds covered by FR-5250-N-01 and included in an approved Action Plan.
- ✓ This simplifies project administration where residential relocation of low-income persons is necessary since only one replacement housing calculation is required (URA) and eliminates potential disparity between persons displaced by projects funded by other federal agencies not subject to 104(d).



## 21.9 Program Reporting and DRGR

Key Topics in This Section	✓ Other Federal Requirement Waivers under CDBG-DR
Regulatory/Statutory Citations	24 CFR 570.490
Other Reference Materials on This Topic	Chapter X: Other Federal Requirements

- ✓ CDBG-DR program reporting is done through the Disaster Recovery Grant Reporting (DRGR) system rather than IDIS.
- ✓ Standard CDBG reporting rules typically apply to CDBG-DR awards (e.g., grantees must retain records for 3 years following grant closeout).
- ✓ DRGR training documents, guides, and materials can be found here:  
<https://www.onecpd.info/drgr>

## 21.10 Disaster Recovery Enhancement Fund (DREF)

- ✓ This section provides an overview of the Disaster Recovery Enhancement Fund (DREF).

Key Topics in This Section	✓ Overview of the Disaster Recovery Enhancement Fund
Regulatory/Statutory Citations	Federal Register Notice 74 FR 41146
Other Reference Materials on This Topic	Allocation Method for CDBG Disaster Recovery Enhancement Fund (P.L. 110-329)

- ✓ Public Law (P.L.) 110-329 appropriated \$6.1 billion for CDBG-DR. After making initial awards, HUD set-aside \$311,602,923 for DREF.
- ✓ P.L. 110-329 grantees could receive additional funding via the DREF if they: (1) demonstrated they still had eligible, unmet disaster recovery needs, and (2) planned to undertake certain types of activities.
- ✓ For more information on DREF:
  - <https://www.onecpd.info/cdbg-dr/cdbg-dr-laws-regulations-and-federal-register-notices/>

## 21.11 Disaster Recovery Resources

The following Disaster Recovery resources are available for CDBG-DR grantees:

- ✓ CDBG Disaster Recovery website:
  - <https://www.onecpd.info/cdbg-dr/>
- ✓ Your peer CDBG-DR grantees



- ✓ Your HUD CPD representative

## 21.12 Previous Appropriations

- ✓ Congress has appropriated the following CDBG Disaster Recovery Funding:
  - **FY 1993** - \$85 million to assist with recovery from Hurricanes Andrew, Iniki, and Typhoon Omar
  - **FY 1994** - \$425 million to assist with recovery from the earthquake in Southern California and Midwest floods
  - **FY 1994** - \$180 million to assist with recovery from Tropical Storm Alberto
  - **FY 1994** - \$225 million for the Northridge Earthquake
  - **FY 1995** - \$39 million to assist with recover from the Oklahoma City bombing
  - **FY 1996** - \$50 million to assist recovery from multiple disasters
  - **FY 1997** - \$500 million to assist recovery from upper Midwest floods
  - **FY 1998** - \$130 million to assist recovery from multiple disasters
  - **FY 1999** - \$20 million to assist recovery from multiple disasters
  - **FY 2001** - \$700 million to assist post-September 11th New York City's recovery efforts
  - **FY 2002** - \$2.783 billion to assist post-September 11th New York City's recovery efforts
  - **FY 2005** - \$150 million to assist recovery from multiple disasters
  - **FY 2006** - \$16.7 billion to assist the victims of Hurricanes Katrina, Rita, and Wilma
  - **FY 2008** - \$3.0 billion to supplement the Louisiana homeowner assistance program
  - **FY 2008** - \$300 million to assist recovery from the Midwest floods
  - **FY 2008** - \$6.1 billion to assist recovery from all 2008 disasters, including Hurricanes Ike, Gustav and Dolly
  - **FY 2010** - \$100 million to assist recovery from 2010 severe storms and flooding
  - **FY 2012** - \$400 million to assist recovery from multiple disasters occurring in 2011
  - **FY 2013** - \$16 billion to assist recovery from Hurricane Sandy. (\$15.18 billion after sequester)



## **21.13 CDBG-DR Public Laws (Supplemental Appropriations) and Related Waivers**

- ✓ Public Laws (Appropriations), Federal Register Notices, and Related Resources can be found here: <https://www.onecpd.info/cdbg-dr/>