



White Paper

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# HUD just put out a new allocation notice for CDBG-DR grantees. Here's what you need to know.

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Your guide to the **85 FR 4681** allocation breakdown, expenditure requirements, initial Action Plan submission, and changes from prior Federal Register notices.

On January 19, 2020, HUD published a [Federal Register notice](#) allocating \$3.8 billion of CDBG-DR funds appropriated by the Supplemental Appropriations for Disaster Relief Act (2018) and the Additional Supplemental Appropriations for Disaster Relief Act (2019). The purpose of these funds is to assist CDBG-DR grantees in the long-term recovery from major disasters that occurred in 2017, 2018, and 2019.

Federal Register notices are complex. In this paper, I summarize the key elements of FR-6182-N-01 to help CDBG-DR grantees understand what is required to access these funds. I answer common questions about 1.) the breakdown of the allocation; 2.) the expenditure requirements for the grant; 3.) the steps for the initial Action Plan submission; and 4.) the changes to requirements from prior Federal Register notices. Let's dig in.

## HUD appropriation and CDBG-DR allocation

Disaster Relief Act	Public Law	Appropriation
2018 Declared Disasters	P.L. 115-254	\$1,680,000,000
2017/18/19 Declared Disasters	P.L. 116-20	\$2,431,000,000
<i>HUD Appropriation - Subtotal</i>		<i>\$4,111,000,000</i>

Table continued on page 2.

Description	Allocation
CPD program costs (administration)	\$2,500,000
CPD costs for capacity building and TA	\$5,000,000
CDBG-DR funds allocated	\$3,831,428,000
<i>CDBG-DR Allocation - Subtotal</i>	<i>\$3,838,928,000</i>
<b>Remaining Funds for HUD to Allocate</b>	<b>\$272,072,000</b>

Note: This notice allocates \$3,400,428,000 in CDBG-DR funds for qualifying major disasters in 2018 and 2019 and \$431,000,000 for unmet infrastructure needs for 2017 disasters.

## What needs can be addressed with this allocation of CDBG-DR funding?

For a 2018 or 2019 disaster, grantees need to address **unmet housing recovery needs**. But you may propose using funds for **unmet economic revitalization and infrastructure needs** if you demonstrate in your needs assessment that there is no remaining unmet housing need or that the remaining unmet housing need will be addressed by other sources of funds. If you're receiving funds for a 2017 disaster, you must use those funds for unmet infrastructure needs.

### 85 FR 4681 expenditure requirements

#### Expenditure requirement

2019 CDBG-DR Grantees	HUD MID Expenditure Requirement	State MID Expenditure Requirement	LMI Expenditure Requirement	Deadline for Expenditures
State of California; State of Florida; State of Georgia; State of Missouri; State of Alaska; State of California; State of Florida; State of Georgia; Kauai County, HI; Commonwealth of the Northern Mariana Islands; State of North Carolina; State of South Carolina; State of Texas; State of Wisconsin; State of Arkansas; State of Iowa; State of Missouri; State of Nebraska; State of Ohio; State of Oklahoma; State of Texas	80%	20%	70%	6 years from Grant Agreement
Commonwealth of Puerto Rico; U.S. Virgin Islands; American Samoa; and Hawaii County, HI	100%	0%	70%	6 years from Grant Agreement

#### What is a HUD MID area?

A HUD "MID" area is defined as a Most-Impacted and Distressed area. HUD analyzes available data from FEMA, SBA, and insurance to identify areas with the greatest levels of impact and damage from a given disaster or set of



disasters, depending on the situation. HUD typically designates these MID areas at the county level or in a specific ZIP code.

### How much of the allocated funding needs to be spent on HUD MID areas?

At least **80% of the total funds** provided to a grantee under this notice must address unmet disaster needs within the HUD-identified most impacted and distressed areas. Puerto Rico, US Virgin Islands, American Samoa, and Hawaii County are exceptions where the entire jurisdiction is identified as the most impacted and distressed area.

### What is a state MID? What is needed to satisfy requirements for state MID designation?

After HUD has identified the most impacted and distressed areas, HUD allows the grantee to determine where to use the remaining 20% of the allocation. That portion of the allocation may only be used to address unmet disaster needs in those areas that either HUD or the state determines are "most impacted and distressed" and received a presidential major disaster declaration pursuant to the disaster numbers listed in the notice. This is a geographic designation, and the Action Plan and program policies and procedures should clearly define which geographic areas are eligible and prioritized in each program's method of distribution.

### What are the ways grantees can meet the LMI expenditure requirements?

Grantees have **many paths for delivering programs** that benefit low- and moderate-income households. Some programs that will allow you to meet these national objectives include:

- **Low-moderate income housing:** Single-family homeowner, affordable rental, and homeownership programs.
- **Low-moderate income job creation or retention:** Small business loan and/or grant programs.
- **Low-moderate income area benefit:** Public facilities and infrastructure programs.
- **Low-moderate income limited clientele:** Homelessness prevention, rapid rehousing, and other public services programs that are limited to low- and moderate-income households.
- **Low-moderate income buyout and low-moderate income housing incentive:** Buyout programs that provide pre-storm value and additional housing incentives to LMI homeowners to move from high-risk locations to lower-risk locations.



### What is the overall benefit requirement for meeting a low- and moderate-income (LMI) national objective?

Generally, grantees are required to meet a [70% low- and moderate-income \(LMI\) persons benefit requirement](#). You may seek to reduce the overall benefit requirement below 70% of the total grant, but must submit a justification for the reason—and must demonstrate how the unmet recovery needs of LMI populations have been met.

### How can grantees spend the remaining 30% of the funds?

Grantees can spend the funds on activities that meet the national objectives of reducing or eliminating slums and blight or that address an urgent need. Funds allocated in this Federal Register notice should follow the urgent need requirements in [83 FR 5844](#), as well as the additional provisions related to accessibility and affirmatively furthering fair housing. The CDBG-DR alternative requirements for meeting the national objective of urgent need include:

- Only spending funds for the benefit of areas that received a presidential disaster declaration.
- Documenting how the urgent need activity responds to a disaster-related impact.
- Taking additional steps within your Action Plan to identify unmet needs that present an urgent need for the jurisdiction:
  - Reference the type, scale, and location of the disaster impacts.
  - Document how the urgent need activity or program is designed to address the disaster impacts detailed in the grantee's unmet needs section of the Action Plan.
- Grantees should try to use an LMI national objective wherever possible.

### What is the duration of funding under this allocation?

Grantees must expend 100% of their CDBG-DR grants on eligible activities within 6 years of HUD's obligation of funds under Public Laws 115-254 and 116-20 or 6 years from the date of the executed grant agreement between HUD and the grantee.



## 2018/2019 Grantee action plan submission process

Applicability date of the notice (February 3, 2020)

60 days after applicability date (April 3, 2020)

- Submit documentation for the certification of financial controls and procurement processes and adequate procedures for grant management
- Submit documentation for the implementation plan and capacity assessment

90 days after applicability date (May 3, 2020)

- For 2017 Disasters, substantial amendment to its Action Plan must be submitted

120 days after applicability date (June 2, 2020)

- Submit an Action Plan

### What must grantees include in their Action Plans prior to the obligation of CDBG-DR funds?

Your Action Plan must include the following:

- **Analysis of Unmet Needs** - After all damages and other funding sources are considered, what is the remaining need?
- **Basis for Allocations** - Why are the limited funds addressing certain community recovery needs, and perhaps not addressing other community recovery needs?
- **Criteria to determine Method of Distribution** - Who and which entities will be responsible for administering the programs and projects?
- **Eligible Programs** - What are the programs and the eligible activities within those programs? How will the programs address long-term recovery and restoration of infrastructure and housing, economic revitalization, and mitigation in the most impacted and distressed (MID) areas? What is the maximum assistance allowable under the program? What are the eligibility criteria – who can participate and who cannot? What are the eligible costs – what will the program pay for and what will it not cover? How will the grantee prioritize low- and moderate-income persons within the program?
- **Citizen Participation Plan** - How will the grantee make sure it is compliant with CPP requirements and make information publicly available to impacted communities?
- **Certain Certifications** – What systems or plan does the grantee have in place to ensure it has the capacity, controls, and systems in place to effectively manage the CDBG-DR allocation?

### Any special recommendations for grantees dealing with wildfires?

With CDBG-DR funding, HUD is encouraging wildfire-impacted grantees to consider land-use plans that address density and quantity of development, as



well as emergency access, landscaping, and water supply considerations. You should also review the [U.S. Forest Service](#) resources on wildland fire and work with federal and state forestry and fire agencies that carry out activities related to fire risk reduction—including upgrading mapping, data, and other capabilities to better manage wildland fire risk areas.

### What is the Catalog of Federal Domestic Assistance number under this allocation?

For state CDBG grantees, the CFDA is 14.228 and for entitlement CDBG grantees, it is 14.218.

### Applicable rules, statutes, waivers, and alternative requirements

### Changes to requirements from prior Federal Register notices

Grantee(s)	Summary	Descriptions	Page
All grantees	Certification of financial controls and procurement processes, and adequate procedures for proper grant management.	Must have in place proficient financial controls and procurement processes and have established adequate procedures to prevent any duplication of benefits, to ensure timely expenditure of funds, maintain a comprehensive website regarding all activities assisted with these funds, and detect and prevent waste, fraud, and abuse of funds.  Grantees that have received a financial controls and procurement processes certification for a 2016 or 2017 disaster may request that HUD rely on that certification for this allocation. Grantees should still update the certification to reflect any material changes	Page 4686
All grantees	Procurement Requirements	Must comply with procurement requirements for states or for local governments.	Page 4686
Grantees that received awards under Public Laws 114-113, 114-223, 114-254, 115-31, 115-56, 115-123, and 115-254, or any future act	Use of administrative funds across multiple grants.	May use eligible administrative funds (up to 5% of each grant award plus up to 5% of program income generated by the grant) appropriated by these acts for the cost of administering any of these grants without regard to the particular disaster appropriation from which such funds originated.	Page 4686
State of North Carolina and South Carolina	Use of funds in response to Hurricane Matthew and Hurricane Florence.	Grantees that received CDBG-DR grants under Public Laws 114-223, 114-254, and 115-31 in response to Hurricane Matthew, may use those funds interchangeably for the same activities that can be funded by CDBG-DR grants in the most impacted and distressed areas related to Hurricane Florence.	Page 4686
Grantees under P.L. 114-113, 114-223, 114-254, and 115-31	One-for-One Replacement Housing, Relocation, and Real Property Acquisition Requirements.	Can continue to follow One-for-One Replacement Housing, Relocation, and Real Property Acquisition Requirements as provided in section VI.A.19. of the November 21, 2016 notice or follow the requirements of section VI.A.23.a. through e. of the February 9, 2018 notice.	Page 4686



Grantee(s)	Summary	Descriptions	Page
All grantees	Duplication of benefits.	The 2019 DOB Notice shall supersede the 2011 DOB Notice for any new programs or activities submitted in an Action Plan or Action Plan amendment on or after June 25, 2019.	Page 4687
Grantees under Public Laws 115-56, 115-123, and 115-254, or 116-20	Clarification on Affordability Periods and Amended Alternative Requirement.	Imposes affordability restrictions when CDBG-DR funds are used to expand housing stock, not to replace damaged units owned and occupied by a beneficiary.	Page 4687
Grantees under P.L. 114-113, 114-223, 114-254, and 115-31	Clarification and Amendment on Section 414 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act.	Clarifies and extends Section 414 waiver and alternative requirement to include grantees under those older Public Laws that are now receiving a grant under the 2018 and 2019 Appropriations Acts for a major disaster in 2018 or 2019.	Page 4687
All grantees	Clarification on Procurement and Use of Subrecipients for State grantees only.	Clarifies that 24 CFR 570.502, 570.503, and 570.500(c) apply to states carrying out activities directly, except for procurement requirements as provided for in the February 9, 2018 notice.	Page 4688
All grantees	Clarification on Acquisition of real property, flood, and other buyouts to include Wildfire-Impacted Grantees.	Clarifies the February 9, 2018 notice (83 FR 5863) so that grantees understand that wildland fire risk areas may also be identified by the grantee as Disaster Risk Reduction areas.	Page 4688

### Any changes to waivers and alternative requirements?

This notice extends the waivers and alternative requirements in the prior notices to states and local governments receiving grants under the 2018 and 2019 Appropriations Acts. For a comprehensive summary of all the CDBG-DR FRN waivers and alternative requirements, take a look at ICF's [Quick Guide to the FRNs](#).

### What if I've already done a certification for prior disasters related to this allocation?

Grantees that have received a certification for financial controls and procurement processes for a 2016 or 2017 disaster may request that HUD rely on that certification for this allocation. You should still update the certification to reflect any material changes that have occurred since those certifications were approved.

### Which procurement requirements am I required to follow?

- This notice states that grantees should comply with requirements in the prior notices. Adequate procurement processes ensure full and open competition and make use of independent cost estimates to evaluate products and services. In prior notices, HUD gives three options for how states can comply with 2 CFR 200 with regard to procurement.
  - State and local governments explicitly follow 2 CFR 200; or
  - The state follows its own procurement process and directs its local



governments to follow those same processes, ensuring full and open competition under [24 CFR 570.489\(g\)](#); or

- The state follows its own procurement but local governments must follow 2 CFR 200.

### Are grantees able to use admin funds from an eligible grant to cover administrative expenses on another grant?

YES! As of this notice, grantees may use 5% of a grant award and up to 5% of program income generated by the grant to cover eligible administrative costs on eligible grants listed in the notice and on future grant awards. This change will be super helpful for grantees in that they can reduce some of the burden of having to track administrative expenses to the specific grant.

### This process feels overwhelming. What can I do to make it easier?

I get it. ICF has been on the ground for some of the most significant natural disasters in U.S. history (Katrina, Sandy, Maria, Harvey...) and we know how complicated the recovery process can be. Our experts spend their days immersed in CDBG-DR details to help grantees navigate these requirements quickly and compliantly—and rebuild resilient communities after a natural disaster. This particular HUD Federal Register notice is 37 pages long, and I hope my summary helps you understand the key elements so that you can embark on your recovery journey with confidence. If you have any questions, please reach out.

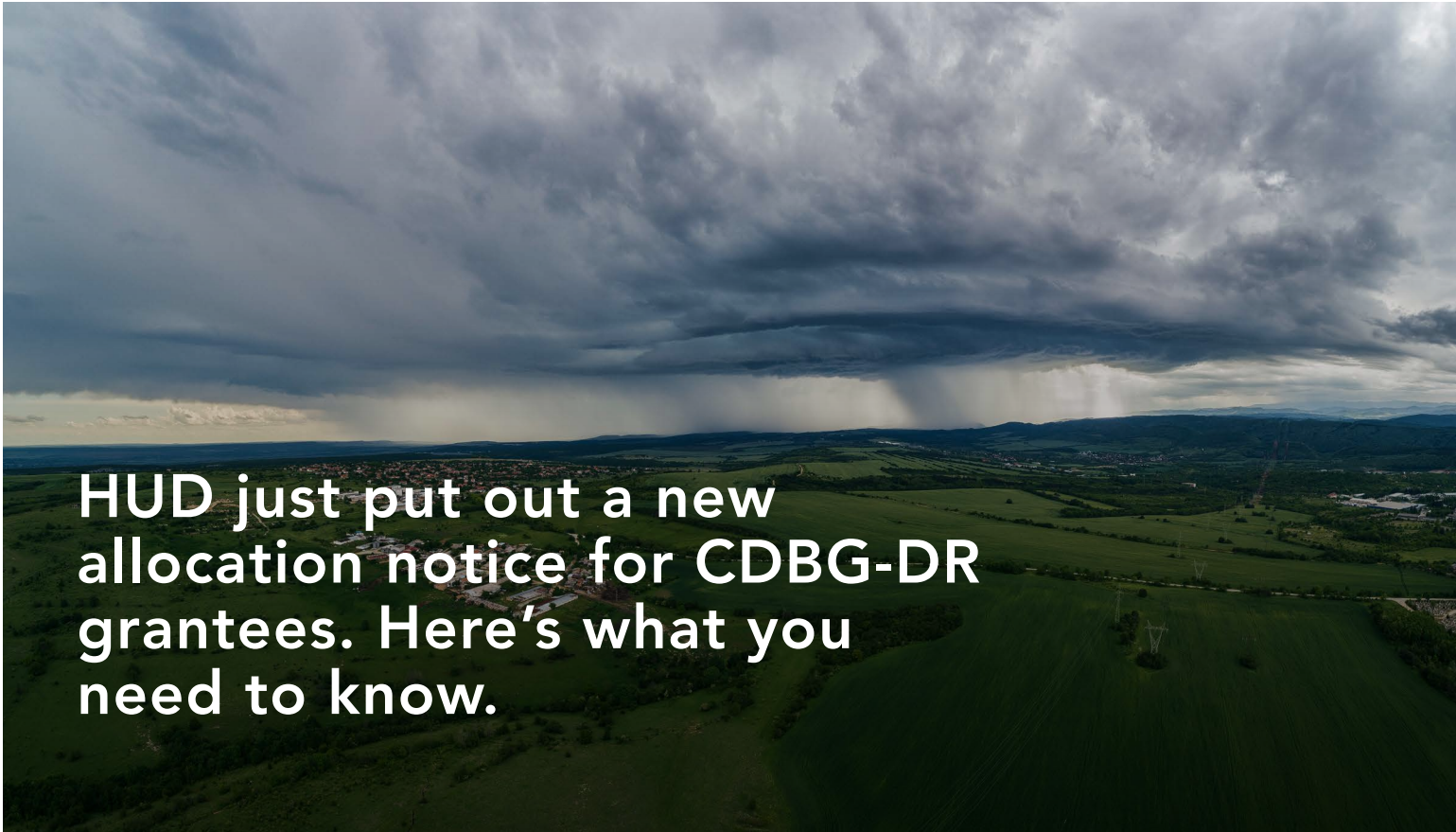
### About the author



Onye has 6 years of experience working in local government organizations on disaster recovery initiatives. He has worked extensively with the Department of Housing and Urban Development (HUD) on a variety of issues that have touched on financial management, grants management, infrastructure coordination, matching on FEMA-funded programs, and CDBG-DR policy.

Onye is currently one of ICF's Infrastructure and Finance Leads, developing financial management tools and supporting ICF's work with the Texas General Land Office (\$5 billion CDBG-DR effort to carry out economic revitalization programs and provide funding to coastal communities recovering from the impacts of Hurricane Harvey). Previously, Onye was one of the founding members of the City of New York's CDBG-DR team after Hurricane Sandy, assisting with the development of the City's local match strategy and spearheading the process for properly accounting for costs associated with the disaster.





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