

**COMMUNITY DEVELOPMENT BLOCK GRANT DISASTER RECOVERY (CDBG-DR)
GRANT AGREEMENT**

Grantee's Name: State of Florida

Tax ID Number: 36-4706134

DUNS Number: 968930664

Unique Federal Award Identification Number (FAIN): B-19-DV-12-0001

Appropriation Account: 86X0162

Program Accounting Code:

This code has been changed to DD3.

Federal Award Date:

Period of Performance Start Date: October 14, 2020

Period of Performance End Date: October 14, 2026

Date Use of Funds May Begin: October 7, 2018

Amount of Federal Funds Obligated by this Action: \$448,023,000.00

Amount of Federal Funds Previously Obligated: N/A

Dates of Prior Obligation (if applicable): N/A

Total Amount of the Federal Award: \$448,023,000.00

Federal awarding agency: Department of Housing and Urban Development

Contact information for HUD: Tennille S. Parker, Director, Disaster Recovery and Special Issues Division, Office of Block Grant Assistance, Community Planning and Development, U.S. Department of Housing and Urban Development, 451 7th Street, S.W., Room 7282, Washington, DC 20410

Assistance Listing: 14.228 Community Development Block Grant/State's program

Indirect Cost Rate for the Grant: See Attachment 1

Statutory and Regulatory Requirements, Grantee Submissions

This grant agreement between the Department of Housing and Urban Development (HUD) and the above-named grantee is made pursuant to the authority of the Supplemental Appropriations for Disaster Relief Act, 2018 (Pub. L. 115-254), approved October 5, 2018, and the Additional Supplemental Appropriations for Disaster Relief Act, 2019 (Pub. L. 116-20) approved June 6, 2019 (together, referred to as “the 2018 and 2019 Appropriations Acts”).

The grantee agrees to use the grant funds, also referred to as Community Development Block Grant Disaster Recovery (CDBG-DR) funds, in accordance with this grant agreement. The requirements of the 2018 and 2019 Appropriations Acts and title I of the Housing and Community Development Act of 1974 (HCDA or HCD Act) (42 USC 5301 et seq.) and implementing regulations at 24 CFR part 570, as now in effect and as may be amended from time to time, and as modified by waivers, alternative requirements, and other requirements described in this agreement and in Federal Register notices published as of the date of this grant agreement or in the future, are hereby incorporated into and made a part of this agreement.

The grantee’s submissions to HUD to obtain the grant – the grantee’s Action Plan for Disaster Recovery (the “action plan”), implementation plan, capacity assessment, and certifications (including documentation submitted in support of certifications) – as may be modified from time to time as required or permitted by the grant requirements, are also incorporated into and made a part of this agreement.

The requirements of the January 27, 2020 Federal Register notice, as of the date of this agreement, are included for convenience as Appendix A. However, the grant requirements may be amended from time to time by future Federal Register notices. Additional or amended grant requirements published in the Federal Register apply even if this grant agreement (including Appendix A) is not updated.

The requirements in the January 2020 notice and of the applicable Federal Register notices include but are not limited to:

1. Combined technical assistance, administrative expenditures, and planning costs cap.

The provisions of 42 U.S.C. 5306(d) and 24 CFR 570.489(a)(1)(i) and (iii) do not apply to the extent that they cap administration and technical assistance expenditures, limit a Grantee’s ability to charge a nominal application fee for grant applications for activities the Grantee carries out directly, and require a dollar-for-dollar match of Grantee funds for administrative costs exceeding \$100,000. HUD waived 42 U.S.C. 5306(d)(5) and (6) and imposed the alternative requirement that the aggregate total for administrative and technical assistance expenditures must not exceed 5 percent of the grant plus program income. Under this alternative requirement, a Grantee is limited to spending a maximum of 15 percent of its total grant amount on planning costs. Planning costs subject to the 15 percent cap are those defined in 42 U.S.C. 5305(a)(12).

2. Staffing, key personnel, organizational structure, and internal audit function.

Implementation Plan and Capacity Assessment. HUD evaluated the grantee's capacity to effectively manage the funds through a review of the grantee's implementation plan and capacity assessment. The grantee shall adhere to the description of its implementation plan and capacity assessment documentation until grant closeout, unless amended with HUD's approval. HUD will undertake an annual risk analysis as well as on-site monitoring of grantee management to further guide oversight of these funds.

Procedures to detect and prevent fraud, waste and abuse. A grantee has adequate procedures to detect and prevent fraud, waste, and abuse if it submits procedures that indicate how the grantee will verify the accuracy of information provided by applicants; if it provides a monitoring policy indicating how and why monitoring is conducted, the frequency of monitoring, and which items are monitored; if it demonstrates that it has an internal auditor that provides both programmatic and financial oversight of grantee activities; and includes a document signed by the internal auditor that describes his or her role in detecting fraud, waste, and abuse.

3. Payment

The grantee's requests for payment, and the Federal Government's payments upon such requests, must comply with 31 CFR part 205. The grantee must use procedures to minimize the time elapsing between the transfer of grant funds and disbursement of funds by the grantee to units of general local government. Grantees must also have procedures in place, and units of general local government must use these procedures to minimize the time elapsing between the transfer of funds by the grantee and disbursement for CDBG activities. 24 CFR 570.489(c).

4. Registration.

The grantee shall comply with requirements established by the Office of Management and Budget (OMB) concerning the Dun and Bradstreet Data Universal Numbering System (DUNS), the System for Award Management (SAM.gov), and the Federal Funding Accountability and Transparency Act as provided in 2 CFR part 25, Universal Identifier and Central Contractor Registration, and 2 CFR part 170, Reporting Subaward and Executive Compensation Information.

5. Subrecipients.

Carrying out activities with subrecipients. Eligible activities may be carried out by a grantee, subject to State law and consistent with the requirement of 24 CFR 570.200(f), through assistance provided under agreements with subrecipients. For a grantee taking advantage of the waiver to carry out activities directly through subrecipients, the requirements at 24 CFR 570.502, 570.503, and 570.500(c) apply, except for procurement requirements as provided for in the February 9, 2018 notice. Specifically, when HUD allows a State grantee the flexibility in section VI.A.1.a.(2) of the February 9, 2018 notice to choose one of three options when developing its procurement policies and procedures, and in paragraph VI.A.26., which requires State grantees to

establish procurement requirements for local governments and subrecipients, those provisions continue to apply and will determine those procurement provisions of 2 CFR part 200 that are applicable to a State's subrecipients..

The grantee continues to be responsible for civil rights, labor standards, and environmental protection requirements, for compliance with 24 CFR 570.489(g) and (h) relating to conflicts of interest and for compliance with 24 CFR 570.489(m) relating to monitoring and management of subrecipients.

The grantee may carry out activities in tribal areas. If the grantee carries out projects in tribal areas, through assistance provided under agreements with subrecipients, the grantee must obtain the consent of the Indian tribe with jurisdiction over the tribal area to allow the grantee to carry out or to fund CDBG-DR projects in the area. Indian tribes that receive CDBG-DR funding from the grantee must comply with the Title II of the Civil Rights Act of 1968 (25 U.S.C. 1301 et seq.) (Indian Civil Rights Act).

Subrecipient monitoring and management. The provisions of 2 CFR 200.330 through 200.332 apply to the grantee's use of subrecipients. 24 CFR §570.489 (m).

Subrecipient Audit: Subrecipients are subject to 24 CFR 570.502 and therefore are required to comply with the audit requirements in 2 CFR part 200, subpart F. The grantee shall develop and administer an audits management system to ensure that audits of units of general local government are conducted in accordance with 2 CFR part 200, subpart F, pursuant to 24 CFR §570.489(n).

Responsibility for review and handling of noncompliance-applicable to State grantees only. The grantee shall make reviews and audits, including onsite reviews of any subrecipients, designated public agencies, and local governments, as may be necessary or appropriate to meet the requirements of section 104(e)(2) of the HCD Act, as amended, as modified by applicable Federal Register notices. In the case of noncompliance with these requirements, the grantee shall take such actions as may be appropriate to prevent a continuance of the deficiency, mitigate any adverse effects or consequences, and prevent a recurrence. The grantee shall establish remedies for noncompliance by any designated subrecipients, public agencies, or local governments.

Administrative Cap Includes Subrecipient Admin Costs. Five percent of the grant (plus program income) may be used for administrative costs by the grantee, units of general local government, or by subrecipients. Thus, the total of all costs classified as administrative for any grantee under this notice must be less than or equal to the five percent cap.

Fraud Related Training for Subrecipients. The grantee shall attend and require subrecipients to attend fraud related training provided by HUD OIG to assist in the proper management of CDBG-DR grant funds. Additional information about this training will be posted on the HUD website.

Change of use of real property rule includes subrecipients. The grantee is subject to the waiver and alternative requirement applicable to the change of use of real property rule. All

references to “unit of general local government” in 24 CFR 570.489(j) shall be read as “State, unit of general local government (UGLG) or State subrecipient.”

Reimbursement for Subrecipient Costs. The provisions of 24 CFR 570.489(b) are applied to permit the grantee to charge to the grant otherwise allowable costs incurred by its recipients or subrecipients (including public housing authorities (PHAs)) on or after the incident date of the covered disaster. The Department requires the grantee to include all preaward activities in its action plans.

Procurement. The grantee shall establish requirements for procurement policies and procedures for local governments and subrecipients based on full and open competition consistent with the requirements of 24 CFR 570.489(g), and shall require an evaluation of the cost or price of the product or service.

A summary of all contracts procured by subrecipients must be made available by the grantee on its public website.

For all contracts procured by subrecipients for contractors used to provide discrete services or deliverables only: a. The subrecipient is required to clearly state the period of performance or date of completion in all contracts; b. The subrecipient must incorporate performance requirements and liquidated damages into each procured contract. Contracts that describe work performed by general management consulting services need not adhere to this requirement; and c. The subrecipient may contract for administrative support but may not delegate or contract to any other party any inherently governmental responsibilities related to management of the grant, such as oversight, policy development, monitoring, internal auditing, and financial management.

Timely Expenditures. To meet the requirement for adequate procedures to determine timely expenditures, the procedures must describe how the grantee will monitor expenditures of its subrecipients.

Flood Insurance. Subrecipients must implement procedures and mechanisms to ensure that assisted property owners comply with all flood insurance requirements.

Implementation Plan and Capacity Assessment. The grantee’s implementation plan and capacity assessment must describe how it will ensure effective communication between its lead agency and subrecipients responsible for implementing the grantee’s action plan.

Subrecipient Program income. Under this agreement, the definition of “program income” includes gross income generated from the use of CDBG–DR funds that are received by a subrecipient, except as provided in the requirements related to Revolving Funds, but does not include the total amount of funds that is less than \$35,000 received in a single year and retained by a subrecipient or amounts generated by activities eligible under section 105(a)(15) of the HCD Act and carried out by an entity under the authority of section 105(a)(15) of the HCD Act (which may include subrecipients).

The grantee may permit a local government or Indian tribe that receives or will receive program income to retain the program income, but are not required to do so. If the grantee permits local governments to retain program income, or the grantee permits subrecipients to retain program income prior to grant closeout, the grantee must establish program income accounts in the DRGR system. In addition to the regulations addressing program income found at 24 CFR 570.489(e) and 570.504, the grantee may transfer program income before close out to any annual CDBG-funded activities carried out by a local government within the State.

Revolving loan funds. Subject to the other requirements on revolving funds that apply to the use of grant funds, the grantee may permit local governments to establish revolving funds to carry out specific, identified activities, and may also establish a revolving fund to distribute funds to local governments to carry out specific, identified activities. However, no revolving fund shall be directly funded or capitalized with CDBG-DR grant funds, pursuant to 24 CFR 570.489(f)(3).

Optional relocation policies of subrecipients. The regulation at 24 CFR 570.606(d), as waived, permits the grantee to establish optional relocation policies or permit their subrecipients to establish separate optional relocation policies.

Cost principles applicable to Subrecipients. As required by the regulation at 24 CFR §570.489(p), the grantee must ensure that costs incurred by its recipients are in conformance with 2 CFR part 200, subpart E. All cost items described in 2 CFR part 200, subpart E, that require Federal agency approval are allowable without prior approval of HUD, to the extent that they otherwise comply with the requirements of 2 CFR part 200, subpart E, and are otherwise eligible, except for the following:

- (1) Depreciation methods for fixed assets shall not be changed without the express approval of the cognizant Federal agency (2 CFR 200.436).
- (2) Fines, penalties, damages, and other settlements are unallowable costs to the CDBG program (2 CFR 200.441).
- (3) Costs of housing (e.g., depreciation, maintenance, utilities, furnishings, rent), housing allowances, and personal living expenses (goods or services for personal use) regardless of whether reported as taxable income to the employees (2 CFR 200.445).
- (4) Organization costs (2 CFR 200.455).

Underwriting. Subrecipients are required to comply with the underwriting guidelines in Appendix A to 24 CFR part 570 if they are using grant funds to provide assistance to a for-profit entity for an economic development project under section 105(a)(17) of the HCDA. The underwriting guidelines are found at Appendix A of Part 570. https://www.ecfr.gov/cgi-bin/text-idx?SID=7d3cce71b6a1bbdc3f81715006fbae37&mc=true&node=pt24.3.570&rgn=div5#ap24.3.570.0000_0nbspnbspnbspnbsp.a

Tracking oversight activities in the DRGR system. The grantee must also enter into the DRGR system summary information on monitoring visits and reports, audits, and technical

assistance it conducts as part of its oversight of its disaster recovery programs. The grantee's Quarterly Performance Report (QPR) will include a summary indicating the number of grantee oversight visits and reports. Any instances of fraud, waste, or abuse identified should be referred to the HUD OIG Fraud Hotline (phone: 1-800-347-3735 or email: hotline@hudoig.gov). No personally identifiable information shall be reported in DRGR.

Certifications. In its application, the grantee certified that any subrecipient carrying out an activity with CDBG-DR funds, possess(es) the legal authority to carry out the program for which it is seeking funding. The grantee also certified in its application submissions that any subrecipient or administering entity currently has or will develop and maintain the capacity to carry out disaster recovery activities in a timely manner.

6. Rehabilitation and Reconstruction Cost-Effectiveness.

In General. HUD required the grantee to establish policies and procedures to assess the cost-effectiveness of each proposed project undertaken to assist a household under any residential rehabilitation or reconstruction program.

The policies and procedures must address criteria for determining when the cost of the rehabilitation or reconstruction of the unit will not be cost-effective relative to other means of assisting the property-owner, such as buyout or acquisition of the property, or the construction of area-wide protective infrastructure, rather than individual building mitigation solutions designed to protect individual structures (such as elevating an existing structure). For example, as the grantee in designing its program, it might choose as comparison criteria the rehabilitation costs derived from the RS Means Residential Cost Data and costs to buyout or acquire the property as a means of determining whether to fund a rehabilitation project.

The grantee may also consider offering different housing alternatives, as appropriate, such as manufactured housing options. The grantee may find it necessary to provide exceptions on a case-by-case basis to the maximum amount of assistance or cost effectiveness criteria and must describe the process it will use to make such exceptions in its policies and procedures. The grantee must adopt policies and procedures that communicate how it will analyze the circumstances under which an exception is needed, how it will demonstrate that the amount of assistance is necessary and reasonable, and how the grantee will make reasonable accommodations to provide accessibility features necessary to accommodate an occupant with a disability.

All CDBG-DR expenditures remain subject to the cost principles in 2 CFR part 200, subpart E—Cost Principles, including the requirement that costs be necessary and reasonable for the performance of the grantee's CDBG-DR grant.

Grantee Controls. The grantee is required to include in its action plan a description of the grantee's controls for assuring that construction costs are reasonable and consistent with market costs at the time and place of construction. The method and degree of analysis may vary dependent upon the circumstances surrounding a particular project (e.g., project type, risk, costs), but the description must address controls for housing projects involving eight or more units

(whether new construction, rehabilitation, or reconstruction), economic revitalization projects (involving, construction, rehabilitation or reconstruction), and infrastructure projects. HUD may issue guidance to grantees and may require the grantee to verify cost reasonableness from an independent and qualified third-party architect, civil engineer, or construction manager.

7. Infrastructure planning and design.

HUD established infrastructure planning and design requirements for grantees. HUD is requiring the grantee to address long-term recovery and hazard mitigation planning in the action plan, as amended. The grantee must include a description of how the grantee plans to:

Promote sound, sustainable long-term recovery planning informed by a post-disaster evaluation of hazard risk, especially land-use decisions that reflect responsible flood plain management and take into account future possible extreme weather events and other natural hazards and long-term risks;

Adhere to the elevation requirements; and

Coordinate with local and regional planning efforts to ensure consistency, including how the grantee will promote community-level and/or regional (e.g., multiple local jurisdictions) post-disaster recovery and mitigation planning.

For infrastructure allocations, the grantee must also describe:

How mitigation measures will be integrated into rebuilding activities and the extent to which infrastructure activities funded through this grant will achieve objectives outlined in regionally or locally established plans and policies that are designed to reduce future risk to the jurisdiction;

How infrastructure activities will be informed by a consideration of the costs and benefits of the project;

How the grantee will seek to ensure that infrastructure activities will avoid disproportionate impact on vulnerable populations and create opportunities to address economic inequities facing local communities;

How the grantee will align investments with other planned state or local capital improvements and infrastructure development efforts, and will work to foster the potential for additional infrastructure funding from multiple sources, including existing state and local capital improvement projects in planning, and the potential for private investment; and

The extent to which the grantee will employ adaptable and reliable technologies to guard against premature obsolescence of infrastructure. The grantee is encouraged to review the additional guidance on predevelopment principles that are described in the Federal Resource Guide for Infrastructure Planning and Design:

(<http://portal.hud.gov/hudportal/documents/huddoc?id=BAInfraResGuideMay2015.pdf>).

Discipline and Accountability in the Environmental Review and Permitting of Infrastructure Projects. Executive Order 13807, signed by the President on August 15, 2017, establishes a coordinated, predictable, and transparent process for the review and permitting of infrastructure projects. In addition, the Federal Permitting Improvement Steering Council has issued a standard operating procedure to coordinate Federal agency reporting on the environmental review and permitting of covered projects pursuant to the Fixing America's Surface Transportation Act (FAST-41) (Pub. L. 114-94). Under FAST-41, a covered project is defined as any activity in the United States that requires authorization or environmental review by a Federal agency involving construction of infrastructure for renewable or conventional energy production, electricity transmission, surface transportation, aviation, ports and waterways, water resource projects, broadband, pipelines, manufacturing, or any other sector as determined by a majority vote of the Council that (1) is subject to National Environmental Policy Act of 1969 (NEPA); is likely to require a total investment of more than \$200,000,000; and does not qualify for abbreviated authorization or environmental review processes under any applicable law; or (2) is subject to NEPA and the size and complexity of which, in the opinion of the Council, make the project likely to benefit from enhanced oversight and coordination, including a project likely to require authorization from or environmental review involving more than two Federal agencies; or the preparation of an environmental impact statement under NEPA. The grantee may choose to participate in reporting on its environmental review and permitting of covered projects under FAST-41.

8. Program Income

HUD waived applicable program income rules at 42 U.S.C. 5304(j) and 24 CFR 570.489(e), 570.500 and 570.504 only to the extent necessary to provide additional flexibility to the grantee as described below. The alternative requirements provide guidance regarding the use of program income received before and after grant close out and address revolving loan funds.

Definition. "Program income" is defined as gross income generated from the use of CDBG-DR funds, except as provided in the requirements related to Revolving Funds, and received by the grantee or a subrecipient of the grantee. When income is generated by an activity that is only partially assisted with CDBG-DR funds, the income shall be prorated to reflect the percentage of CDBG-DR funds used (*e.g.*, a single loan supported by CDBG-DR funds and other funds; a single parcel of land purchased with CDBG funds and other funds).

Program income includes, but is not limited to, the following:

- Proceeds from the disposition by sale or long-term lease of real property purchased or improved with CDBG-DR funds.
- Proceeds from the disposition of equipment purchased with CDBG-DR funds.

- Gross income from the use or rental of real or personal property acquired by the grantee, local government, or subrecipient thereof with CDBG–DR funds, less costs incidental to generation of the income (*i.e.*, net income).
- Net income from the use or rental of real property owned by the grantee, local government, or subrecipient thereof, that was constructed or improved with CDBG–DR funds.
- Payments of principal and interest on loans made using CDBG–DR funds.
- Proceeds from the sale of loans made with CDBG–DR funds.
- Proceeds from the sale of obligations secured by loans made with CDBG–DR funds.
- Interest earned on program income pending disposition of the income, including interest earned on funds held in a revolving fund account.
- Funds collected through special assessments made against nonresidential properties and properties owned and occupied by households not low- and moderate-income, where the special assessments are used to recover all or part of the CDBG–DR portion of a public improvement.
- Gross income paid to the grantee, local government, or a subrecipient thereof, from the ownership interest in a for-profit entity in which the income is in return for the provision of CDBG–DR assistance.

“Program income” does not include the following: The total amount of funds that is less than \$35,000 received in a single year and retained by the grantee, local government, or a subrecipient thereof; Amounts generated by activities eligible under section 105(a)(15) of the HCD Act and carried out by an entity under the authority of section 105(a)(15) of the HCD Act.

Retention of program income. The grantee may permit a local government or Indian tribe that receives or will receive program income to retain the program income, but are not required to do so.

Program income—use, closeout, and transfer. Program income received (and retained, if applicable) before or after closeout of the grant that generated the program income, and used to continue disaster recovery activities, is treated as additional CDBG–DR funds subject to the grant requirements and must be used in accordance with the grantee’s action plan for disaster recovery. To the maximum extent feasible, program income shall be used or distributed before additional withdrawals from the U.S. Treasury are made, except as provided in the Revolving Loan Requirements.

In addition to the regulations addressing program income found at 24 CFR 570.489(e) and 570.504, the following rules apply: The grantee may transfer program income to its annual CDBG program before closeout of the grant that generated the program income. In addition, the grantee may transfer program income before closeout to any annual CDBG-funded activities carried out by a local government within the State. Program income received by the grantee after closeout of

the grant that generated the program income, may also be transferred to a grantee's annual CDBG award. In all cases, any program income received that is *not* used to continue the disaster recovery activity will not be subject to the waivers and alternative requirements that apply to the CDBG-DR grant. Rather, those funds will be subject to the grantee's regular CDBG program rules.

Revolving loan funds. The grantee and local governments may establish revolving funds to carry out specific, identified activities. A revolving fund, for this purpose, is a separate fund (with a set of accounts that are independent of other program accounts) established to carry out specific activities. These activities generate payments used to support similar activities going forward. These payments to the revolving fund are program income and must be substantially disbursed from the revolving fund before additional grant funds are drawn from the U.S. Treasury for payments that could be funded from the revolving fund. Such program income is not required to be disbursed for nonrevolving fund activities.

The grantee may also establish a revolving fund to distribute funds to local governments to carry out specific, identified activities. The same requirements, outlined above, apply to this type of revolving loan fund. Note that no revolving fund shall be directly funded or capitalized with CDBG-DR grant funds, pursuant to 24 CFR 570.489(f)(3).

Tracking program income in the Disaster Recovery Grant Reporting (DRGR) System. The grantee must use the DRGR system to draw grant funds for each activity. The grantee must also use the DRGR system to track program income receipts, disbursements, revolving loan funds, and leveraged funds (if applicable). If the grantee permits local governments to retain program income, or the grantee permits subrecipients to retain program income prior to grant closeout, the grantee must establish program income accounts in the DRGR system. The DRGR system requires grantees to use program income before drawing additional grant funds, and ensures that program income retained by one organization will not affect grant draw requests for other organizations.

9. Environmental and Flood Insurance:

Assumption of Responsibilities for Environmental Review. The Grantee agrees to assume all of the responsibilities for environmental review, decision making, and actions, as specified and required in regulations issued by the Secretary pursuant to section 104(g) of title I and published in 24 CFR part 58.

Flood insurance. The grantee, recipients, and subrecipients must implement procedures and mechanisms to ensure that assisted property owners comply with all flood insurance requirements, including the purchase and notification requirements, prior to providing assistance.

10. Amendments

The streamlined citizen participation requirements include substantial amendment criteria. Before the grantee adopts any substantial amendment to the action plan, the grantee will publish the proposed amendment. The manner of publication must include prominent posting on the

grantee's official website and must afford citizens, affected local governments, and other interested parties a reasonable opportunity to examine the amendment's contents.

Subsequent to publication of the action plan, the grantee must provide a reasonable time frame (again, no less than 30 days) and method(s) (including electronic submission) for receiving comments on the substantial amendment. In its action plan, the grantee must specify criteria for determining what changes in the grantee's plan constitute a substantial amendment to the plan. At a minimum, the following modifications will constitute a substantial amendment: A change in program benefit or eligibility criteria; the addition or deletion of an activity; or the allocation or reallocation of a monetary threshold specified by the grantee in its action plan. The grantee may substantially amend the action plan if it follows the same procedures required for the preparation and submission of an action plan for disaster recovery.

The grantee must notify HUD, but is not required to seek public comment, when it makes any plan amendment that is not substantial. HUD must be notified at least 5 business days before the amendment becomes effective. However, every amendment to the action plan (substantial and nonsubstantial) must be numbered sequentially and posted on the grantee's website. The Department will acknowledge receipt of the notification of nonsubstantial amendments via email within 5 business days.

The grantee must consider all comments, received orally or in writing, on any substantial amendment. A summary of these comments or views, and the grantee's response to each must be submitted to HUD with the substantial amendment.

The grantee must make any substantial amendments available to the public on its website and on request. In addition, the grantee must make these documents available in a form accessible to persons with disabilities and those with limited English proficiency.

11. Procurement

The grantee must comply with the procurement requirements at 24 CFR 570.489(g), which require that when procuring property or services to be paid for in whole or in part with CDBG funds, the grantee shall follow its procurement policies and procedures. The grantee shall establish requirements for procurement policies and procedures for units of general local government and subrecipients, based on full and open competition consistent with the requirements of 24 CFR 570.489(g) and applicable Federal Register notices, and shall require an evaluation of the cost or price of the product or service (including professional services like legal services or case management). Methods of procurement (e.g., small purchase, sealed bids/formal advertising, competitive proposals, and noncompetitive proposals) and their applicability shall be specified by the grantee. Cost plus a percentage of cost and percentage of construction costs methods of contracting shall not be used. The policies and procedures shall also include standards of conduct governing employees engaged in the award or administration of contracts. (Other conflicts of interest are covered by §570.489(h).) The grantee shall ensure that all purchase orders and contracts include any clauses required by Federal statutes, Executive orders, and implementing

regulations. The grantee shall make subrecipient and contractor determinations in accordance with the standards in 2 CFR 200.330.

The grantee shall evaluate or require an evaluation of the cost or price of the product or service.

If the State agency designated as the grant administering agency chooses to provide funding to another State agency, the administering agency may specify in its procurement policies and procedures whether the agency implementing the program must follow the procurement policies and procedures that the administering agency is subject to, or whether the agency must follow the same policies and procedures to which other local governments and subrecipients are subject.

HUD may request periodic updates from the grantee if it uses contractors. A contractor is a third-party person or organization from which the grantee acquires good or services through a procurement process, consistent with the procurement requirements in the CDBG program regulations. HUD is establishing an additional alternative requirement for *all* contracts with contractors used to provide discrete services or deliverables only, as follows:

- The grantee (or procuring entity) is required to clearly state the period of performance or date of completion in all contracts;
- The grantee (or procuring entity) must incorporate performance requirements and liquidated damages into each procured contract. Contracts that describe work performed by general management consulting services need not adhere to this requirement; and
- The grantee (or procuring entity) may contract for administrative support but may not delegate or contract to any other party any inherently governmental responsibilities related to management of the grant, such as oversight, policy development, monitoring, internal auditing, and financial management. Technical assistance resources for procurement are available to grantees either through HUD staff or through technical assistance providers engaged by HUD or the grantee.

Public website. HUD is requiring the grantee to maintain a public website that provides information accounting for how all grant funds are used and managed/administered. The items the grantee must make available on its website include: the action plan (including all amendments); the current approved DRGR action plan; each QPR (as created using the DRGR system); citizen participation requirements; procurement policies and procedures; description of services or goods currently being procured by the grantee; a copy of contracts the grantee has procured directly; and a summary of all procured contracts, including those procured by the grantee, recipients, or subrecipients (*e.g.*, a summary list of procurements, the phase of the procurement, requirements for proposals, and any liquidation of damages associated with a contractor's failure or inability to implement the contract, etc.).

The grantee should post only contracts as defined in 2 CFR 200.22. To assist grantees in preparing the procurement summary, HUD has developed a template (the Contract Reporting Template). The template can be accessed at: <https://www.hudexchange.info/cdbg-dr/cdbg-dr-laws-regulations-and-federal-register-notices/>. The grantee is required to use this template and attach an updated version to the DRGR system each quarter as part of its QPR submissions. Updated summaries must also be posted monthly on the grantee's website.

12. Audits

Audits of the grantee and units of general local government shall be conducted in accordance with 2 CFR part 200, subpart F, which implements the Single Audit Act. The grantee shall develop and administer an audits management system to ensure that audits of units of general local government are conducted in accordance with 2 CFR part 200, subpart F. 24 CFR §570.489(n).

13. Reporting

Performance review. HUD waived the requirements for submission of a performance report pursuant to 42 U.S.C. 12708(a), 24 CFR 91.520, and 24 CFR 1003.506. Alternatively, HUD is requiring that grantees enter information in the *Disaster Recovery Grant Reporting (DRGR) System* in sufficient detail to permit the Department's review of grantee performance on a quarterly basis through the Quarterly Performance Report (QPR) and to enable remote review of grantee data to allow HUD to assess compliance and risk. HUD-issued general and appropriation-specific guidance for DRGR reporting requirements can be found on the HUD exchange at: <https://www.hudexchange.info/programs/drgr/>.

The grantee must submit a QPR through the DRGR system no later than 30 days following the end of each calendar quarter. Within 3 days of submission to HUD, each QPR must be posted on the grantee's official website. In the event the QPR is rejected by HUD, the grantee must post the revised version, as approved by HUD, within 3 days of HUD approval. The grantee's first QPR is due after the first full calendar year quarter after HUD signs the grant agreement. For example, a grant agreement signed in April requires a QPR to be submitted by October 30. QPRs must be submitted on a quarterly basis until all funds have been expended and all expenditures and accomplishments have been reported. If a satisfactory report is not submitted in a timely manner, HUD may suspend access to CDBG-DR funds until a satisfactory report is submitted, or may withdraw and reallocate funding if HUD determines, after notice and opportunity for a hearing, that the jurisdiction did not submit a satisfactory report.

Each QPR will include information about the uses of funds in activities identified in the DRGR action plan during the applicable quarter. This includes, but is not limited to, the project name, activity, location, and national objective; funds budgeted, obligated, drawn down, and expended; the funding source and total amount of any non-CDBG-DR funds to be expended on each activity; beginning and actual completion dates of completed activities; achieved performance outcomes, such as number of housing units completed or number of low- and

moderate-income persons served; and the race and ethnicity of persons assisted under direct-benefit activities. For all housing and economic development activities, the address of each CDBG–DR assisted property must be recorded in the QPR. The grantee must not include such addresses in its public QPR; when entering addresses in the QPR, the grantee must select “Not Visible on PDF” to exclude them from the report required to be posted on its website. The DRGR system will automatically display the amount of program income received, the amount of program income reported as disbursed, and the amount of grant funds disbursed in the QPR. The grantee must include a description of actions taken in that quarter to affirmatively further fair housing, within the section titled “Overall Progress Narrative” in the DRGR system.

Use of DRGR data for HUD review and dissemination. HUD will use data entered into the DRGR action plan and the QPR, transactional data from the DRGR system, and other information provided by the grantee, to provide reports to Congress and the public, as well as to: (1) Monitor for anomalies or performance problems that suggest fraud, abuse of funds, and duplication of benefits; (2) reconcile budgets, obligations, funding draws, and expenditures; (3) calculate expenditures to determine compliance with administrative and public service caps and the overall percentage of funds that benefit low- and moderate-income persons; and (4) analyze the risk of grantee programs to determine priorities for the Department’s monitoring.

14. Recordkeeping.

When the grantee carries out activities directly, 24 CFR 570.490(b) is waived, and the following alternative provision shall apply: The grantee shall establish and maintain such records as may be necessary to facilitate review and audit by HUD of the grantee’s administration of CDBG–DR funds, under 24 CFR 570.493. Consistent with applicable statutes, regulations, waivers and alternative requirements, and other Federal requirements, the content of records maintained by the grantee shall be sufficient to: (1) Enable HUD to make the applicable determinations described at 24 CFR 570.493; (2) make compliance determinations for activities carried out directly by the grantee; and (3) show how activities funded are consistent with the descriptions of activities proposed for funding in the action plan and/or DRGR system.

For fair housing and equal opportunity (FHEO) purposes, as applicable, such records shall include data on the racial, ethnic, and gender characteristics of persons who are applicants for, participants in, or beneficiaries of the program. The grantee must report FHEO data in the DRGR system at the activity level.

15. HUD Review and Remedies for Noncompliance

Review of continuing capacity to carry out CDBG-funded activities in a timely manner. If HUD determines that the grantee has not carried out its CDBG–DR activities and certifications in accordance with the requirements, HUD will undertake a further review to determine whether or not the grantee has the continuing capacity to carry out its activities in a timely manner. In making the determination, the Department will consider the nature and extent of the grantee’s performance

deficiencies, types of corrective actions the grantee has undertaken, and the success or likely success of such actions, and apply corrective and remedial actions.

Corrective and remedial actions. To ensure compliance with the requirements of the 2018 and 2019 Appropriations Acts and to effectively administer the CDBG–DR program in a manner that facilitates recovery, particularly the alternative requirements permitting the grantee to act directly to carry out eligible activities, HUD waived 42 U.S.C. 5304(e) to the extent necessary to establish the following alternative requirement: HUD may undertake corrective and remedial actions for the grantee in accordance with the authorities applicable to entitlement grantees in subpart O (including corrective and remedial actions in 24 CFR 570.910, 570.911, and 570.913) or under subpart I of the CDBG regulations at 24 CFR part 570. In response to a deficiency, HUD may issue a warning letter followed by a corrective action plan that may include a management plan which assigns responsibility for further administration of the grant to specific entities or persons. Failure to comply with a corrective action may result in the termination, reduction or limitation of payments to the grantee.

Reduction, withdrawal, or adjustment of a grant, or other appropriate action. Prior to a reduction, withdrawal, or adjustment of a CDBG–DR grant, or other actions taken pursuant to this section, the grantee shall be notified of the proposed action and be given an opportunity for an informal consultation. Consistent with the procedures described in this agreement, the Department may adjust, reduce, or withdraw the CDBG–DR grant or take other actions as appropriate, except for funds that have been expended for eligible, approved activities.

16. Duration of Funding

The 2018 and 2019 Appropriations Acts make the funds available for obligation by HUD until expended. Grantees are required to expend 100 percent of its CDBG–DR grant on eligible activities within 6 years of HUD’s first obligation of funds under Public Laws 115–254 and 116–20 under this grant agreement. Furthermore, consistent with 31 U.S.C. 1555 and OMB Circular A–11, if the Secretary or the President determines that the purposes for which the appropriation has been made have been carried out and no disbursements have been made against the appropriation for two consecutive fiscal years, any remaining unobligated balance will be made unavailable for obligation or expenditure. The period of performance described in this section applies to the grant that is the subject of this agreement, and does not apply to any other grant funds.

17. Closeout

HUD will close out the grant in accordance with the grant closeout requirements of 2 CFR 200.343, pursuant to 24 CFR 570.489(o).

II. Specific Conditions

Program Risk

Based on the risk posed by the scale and complexity of the grantee's disaster recovery activities and implementation, the following conditions are imposed:

1. The grantee may not draw down funds for an activity in its CDBG-MIT Action Plan until the grantee submits to disasterrecovery@hud.gov final policies and procedures for implementation of the activity. The activity specific policies and procedures must include guidelines to evaluate performance of each contractor, developer, and subrecipient of CDBG-MIT funds along with the steps the grantee will take to address lack of performance. DE 10/12/20 JG 10/14/20
DR
2. For housing activities, the Grantee must establish an applicant tracking system that will, at a minimum, track the following:
 - (a) The number of applications received, by activity/application type, and by county;
 - (b) The number of applications approved, by activity/application type, and by county;
 - (c) The number of applications rejected or found ineligible, by activity/application type, and by county and by basis for rejection;
 - (d) The number of applications withdrawn by the applicant, by activity/application type, and by county;
 - (e) The age of applications from date of intake to approval, in one-week cohorts;
 - (f) The age of applications from approval to the physical start of construction, in one-week cohorts; and
 - (g) The age of applications from the physical start of construction to completion, in one-week cohorts.
3. On a quarterly basis, the grantee must provide a summary of the number and nature of the citizen complaints received for the CDBG-MIT housing activities in the overall narrative of the QPR for the activities, along with a summary of the responses to the citizen complaints. DE 10/12/20 JG 10/14/20
DR

For housing activities conducted by subrecipients, the same data collection and reporting requirements above shall apply.

The data collected in the applicant tracking system and the summary of citizen complaints shall be reported to HUD on a quarterly basis as an attachment to the Quarterly Performance Report (QPR) for 18 months after grant execution. HUD may request background report data and further explanation of specific components of the report.

HUD will review the information submitted at each checkpoint to determine whether the grantee demonstrates capacity to make timely and effective corrective actions to resolve identified deficiencies and noncompliance with grant requirements. If HUD determines that the grantee does not demonstrate such capacity, HUD may take additional corrective actions, such as suspend access to grant funds for some or all activities pending resolution of identified issues.

Community Engagement Risk

Based on the risk posed by the grantee in engaging the community after a major disaster, the grantee must:

1. Within 120 days of execution of this grant agreement, update its Citizen Participation Plan to include specific outreach actions designed to communicate with the public about the status of ongoing disaster recovery activities.


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THE UNDERSIGNED, as authorized officials on behalf of the Grantee or the Secretary, have executed this **COMMUNITY DEVELOPMENT BLOCK GRANT DISASTER RECOVERY (CDBG-DR) GRANT AGREEMENT**, which shall be effective as of the date of execution by the Secretary.

State of Florida

GRANTEE

BY:



(Signature)

Dane Eagle

(Name)

Executive Director

(Title)

(Date)

10/14/20

SECRETARY OF HOUSING AND URBAN DEVELOPMENT

BY:

(Signature)

John Gibbs

(Name)

Acting Assistant Secretary
for Community Planning and Development

(Title)

October 14, 2020

(Date)

Attachment 1

The grantee shall submit a schedule of its indirect cost rate(s) in the format set forth. The grantee shall provide HUD with a revised schedule when any change is made to the rate(s) described in the schedule.

The schedule and any revisions HUD receives from the grantee shall be incorporated and made a part of the grant agreement, provided that the rate(s) described comply with 2 CFR part 200, subpart E.

<u>Administering Department/Agency</u>	<u>Indirect Cost Rate</u>	<u>Direct Cost Base</u>
_____	_____%	_____
_____	_____%	_____
<u>See Attached NICRA</u>	_____%	_____
_____	_____%	_____
_____	_____%	_____
_____	_____%	_____

Instructions: The grantee must identify each agency or department of the grantee that will carry out activities under the grant, the indirect cost rate applicable to each department/agency, and the type of direct cost base to which the rate will be applied. Do not include indirect cost rates for subrecipients. A governmental department or agency unit that receives more than \$35 million in direct Federal funding must submit its indirect cost rate proposal to its cognizant agency for indirect costs.

**NEGOTIATED INDIRECT COST RATE AGREEMENT (NICRA)
STATE DEPARTMENT/AGENCY**

DEPARTMENT/AGENCY: EIN: 36-4706134
State of Florida Department of Economic Opportunity (DEO)
Caldwell Building, 107 East Madison Street
Tallahassee, Florida 32399-4120

DATE: October 5, 2020
FILE REF: This replaces
the agreement dated
September 27, 2019

The indirect cost rate(s) contained herein are for use on grants and contracts with the Federal Government. 2 CFR Part 200, Subpart E applies subject to the limitations contained in Section II, A, below. The rate(s) were negotiated between the State of Florida, Department of Economic Opportunity (DEO) and the U. S. Department of Labor in accordance with the authority contained in 2 CFR Part 200, Appendix VII, D.1.

SECTION I: RATES

<u>TYPE</u>	<u>EFFECTIVE PERIOD</u>		<u>RATE*</u>	<u>LOCATION</u>	<u>APPLICABLE TO</u>
	<u>FROM</u>	<u>TO</u>			
Final	7/1/18	6/30/19	23.6854%	All	WIHP
Final	7/1/18	6/30/19	60.7647%	All	WBSP
Final	7/1/18	6/30/19	6.8654%	All	WJMP
Final	7/1/18	6/30/19	56.0162%	All	CDP
Final	7/1/18	6/30/19	69.5075%	All	SBDP
Final	7/1/18	6/30/19	36.3103%	All	FSP
Final	7/1/19	6/30/20	27.0219%	All	WIHP
Final	7/1/19	6/30/20	48.6198%	All	WBSP
Final	7/1/19	6/30/20	6.5104%	All	WJMP
Final	7/1/19	6/30/20	51.2757%	All	CDP
Final	7/1/19	6/30/20	28.8611%	All	SBDP
Final	7/1/19	6/30/20	32.5342%	All	FSP
Provisional	7/1/20	6/30/22	29.4961%	All	WIHP
Provisional	7/1/20	6/30/22	48.1823%	All	WBSP
Provisional	7/1/20	6/30/22	6.8163%	All	WJMP
Provisional	7/1/20	6/30/22	54.7685%	All	CDP
Provisional	7/1/20	6/30/22	50.8860%	All	SBDP
Provisional	7/1/20	6/30/22	32.9562%	All	FSP

See the Special Remarks section for abbreviation explanations and additional information.

***BASE** Total direct salaries and wages including all applicable fringe benefits.

TREATMENT OF FRINGE BENEFITS: Fringe benefits are specifically identified to each employee and are charged individually as direct costs. The directly claimed fringe benefits are listed in the Special Remarks Section of this Agreement.

TREATMENT OF PAID ABSENCES: Vacation, holiday, sick leave pay and other paid absences are included in salaries and wages and are claimed on grants, contracts and other agreements as part of the normal cost for salaries and wages. Separate claims for the cost of these paid absences are not made.

SECTION II: GENERAL

- A. **LIMITATIONS:** Use of the rate(s) contained in the Agreement is subject to all statutory or administrative limitations and is applicable to a given Federal award or contract only to the extent that funds are available. Acceptance of the rate(s) agreed to herein is predicated upon the following conditions:
- (1) that no costs other than those incurred by the non-Federal entity or contractor were included in its indirect cost pool as finally accepted and that such incurred costs are legal obligations of the non-Federal entity and allowable under the governing cost principles,
 - (2) that the same costs that have been treated as indirect costs have not been claimed as direct costs,
 - (3) that similar types of costs have been accorded consistent treatment, and
 - (4) that the information provided by the non-Federal entity or contractor which was used as a basis for acceptance of the rate(s) agreed to herein is not subsequently found to be materially inaccurate by the Federal government. In such situations, the rate(s) may be subject to renegotiation at the discretion of the Federal government.
 - (5) The rates cited in this Agreement are subject to audit.
- B. **ACCOUNTING CHANGES:** This agreement is based on the accounting system purported by the non-Federal entity or contractor to be in effect during the Agreement period. Changes to the method of accounting for costs which affect the amount of reimbursement resulting from the use of this Agreement require prior approval of the Cost & Price Determination Division (CPDD). Such changes include, but are not limited, changes in the charging of a particular type of cost from indirect to direct. Failure to obtain approval may result in cost disallowances.
- C. **NOTIFICATION TO FEDERAL AGENCIES:** A copy of this document is to be provided by the non-Federal entity or contractor to other Federal funding sources as a means of notifying them of the Agreement contained herein.
- D. **PROVISIONAL-FINAL RATES AND ADJUSTMENTS:** When seeking initial reimbursement of indirect costs using the provisional/rate methodology, provisional rates

must be established within 90 days of receiving a Federal award (financial assistance, grants, cooperative agreements, and cost reimbursable contracts) requiring to account for actual costs incurred. The non-Federal entity or contractor must submit an indirect cost rate proposal within six (6) months after the end of their fiscal year to establish a final rate.

Once a final rate is negotiated, billings and charges to federal awards must be adjusted if the final rate varies from the provisional rate. If the final rate is greater than the provisional rate and there are no funds available to cover the additional indirect costs, the non-Federal entity or contractor may not recover all indirect costs. Conversely, if the final rate is less than the provisional rate, the non-Federal entity or contractor will be required to reimburse the funding agency for the excess billings.

Non-Federal entities or contractors receiving a Federal cost reimbursable contract(s) - Must adhere with FAR 52.216-7(d)(2)(v), to settle final indirect cost rates typically on annual basis:

“The contractor shall update the billings on all contracts to reflect the final settled rates and update the schedule of cumulative direct and indirect costs claimed and billed, as required in paragraph (d)(2)(iii)(I) of this sections, within 60 days after settlement of final indirect cost rates.”

In addition, the contractor shall provide to the Contracting Officer the noted cumulative costs schedule within 60 days of the execution of this agreement.

If the non-Federal entity or contractor has completed performance under any of the contracts covered by this Agreement, a final invoice or voucher must be submitted no later than 120 days from the date on which this Agreement is executed, following guidance from FAR 52.216-7(d)(5) and FAR 52.216-7(h).

Non-Federal entities receiving Federal awards (financial assistance, grants, and cooperative agreements) – Note that even if Federal awards are administratively closed prior to the settlement of final indirect cost rates, non-Federal entities still must comply with the following 2 CFR Part 200 clauses stating, in part:

§200.344 Post-closeout adjustments and continuing responsibilities

(a) The closeout of a Federal award does not affect any of the following:

(1) The right of the Federal awarding agency or pass-through entity to disallow costs and recover funds on the basis of a later audit or other review. The Federal awarding agency or pass-through entity must make any cost disallowance determination and notify the non-Federal entity within the record retention period.

(2) The obligation of the non-Federal entity to return any funds due as a

result of later refunds, corrections, or other transactions including final indirect cost rate adjustments.

§200.345 Collection of amounts due

(a) Any funds paid to the non-Federal entity in excess of the amount to which the non-Federal entity is finally determined to be entitled under the terms of the Federal award constitute a debt to the Federal Government.

(b) Except where otherwise provided by statutes or regulations, the Federal awarding agency will charge interest on an overdue debt in accordance with the Federal Claims Collection Standards (31 CFR parts 900 through 999). The date from which interest is computed is not extended by litigation or the filing of any form of appeal.

E. SPECIAL REMARKS:

1. Indirect costs charged to Federal grants/contracts by means other than the rate(s) cited in the Agreement should be adjusted to the applicable rate cited herein and be applied to the appropriate base to identify the proper amount of indirect costs allocable to the program.
2. Contracts/grants providing for ceilings as to the indirect cost rates(s) or amount(s) which are indicated in Section I above, will be subject to the ceilings stipulated in the contract or grant agreements. The ceiling rate or the rate(s) cited in this Agreement, whichever is lower, will be used to determine the maximum allowable indirect cost on the contract or grant agreement.
3. The indirect cost pool for 2020 final, and 2021 and 2022 provisional rates in Section I above consists of allowable, allocable expenses of the following:

Director's Office	General Counsel
Inspector General	Budget Management
Financial Management	Human Resources Management
General Services	Shared Costs
Information Technology Services	UC Benefits
Financial Monitoring & Accountability	
State-wide Cost Allocation Plan Costs	
Chief Financial Officer/Finance & Admin	

4. Fringe benefits other than paid absences consist of the following:

Retirement	Social Security
Group Health Ins	Life Ins
Senior Mgt. Disab. Ins	Pre-Tax Benefits

5. Explanations of the abbreviations used in Section I above for all rates:

- WIHP = Workforce In House Program
- WBSP = Workforce Board Services Program
- WJMP = Workforce Jointly Managed Program
- CDP = Community Development Program
- SBDP = Strategic Business Development Program
- FSP = Facilities Services Program

ACCEPTANCE

BY THE ORGANIZATION:

State of Florida
 Department of Economic
 Opportunity (DEO)
 Caldwell Building – MSC 120
 107 East Madison Street
 Tallahassee, Florida 32399

(Grantee/Contractor)



(Signature)

Damon Steffens

(Name)

Chief Financial Officer

(Title)

10-6-20

(Date)

**BY THE COGNIZANT AGENCY
ON BEHALF OF THE
FEDERAL GOVERNMENT:**

U.S. DEPARTMENT OF LABOR
 Cost & Price Determination Division (CPDD)
 224 Westbridge Place
 Mount Airy, NC 27030

(Government Agency)

Damon Tomchick Digitally signed by Damon Tomchick
Date: 2020.10.05 12:50:35 -0400

(Signature)

For
Victor M. Lopez

(Name)

Chief
Cost & Price Determination Division (CPDD)

(Title)

October 5, 2020

(Date)

Negotiated By: Damon L Tomchick
Telephone No.: 202-693-4108 or 240-475-2786

Appendix A

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I. Overview

This appendix contains the general requirements previously published in the *Federal Register* for Community Development Block Grant Disaster Recovery (CDBG-DR) grants for the purpose of assisting in long-term recovery from major disasters that occurred in 2017, 2018, and 2019 under the Supplemental Appropriations for Disaster Relief Act, 2018 (P.L. 115-254, approved October 5, 2018) (2018 Appropriations Act) and the Additional Supplemental Appropriations for Disaster Relief Act, 2019 (P.L. 116-20, approved June 6, 2019) (2019 Appropriations Act).

The grant requirements may be amended from time to time by future notices or amended regulations. Additional or amended grant requirements, including those published in the *Federal Register*, apply even if this appendix is not updated.

This appendix does not substantively revise the requirements published in the *Federal Register*. For convenience, this appendix also describes the allocations and overview of the grant process for CDBG-DR grants as described in the notice published on January 27, 2020 titled “Allocations, Common Application, Waivers, and Alternative Requirements for Disaster Community Development Block Grant Disaster Recovery Grantees” (85 FR 4681) (the “January 2020 Notice”). For completeness, this description includes some deadlines that have passed.

Unless otherwise noted, the effective date of the requirements in the January 2020 Notice as described in this appendix is February 3, 2020 (the applicability date of the January 2020 Notice).

II. Allocations

Two public laws have been enacted that provide supplemental CDBG-DR appropriations. The 2018 Appropriations Act made available \$1,680,000,000 in CDBG-DR funds for major disasters declared in 2018. The 2019 Appropriations Act made \$2,431,000,000 in CDBG-DR funds available for major disasters occurring in 2017, 2018, or 2019, of which \$431,000,000 is for grantees that received funds in response to disasters occurring in 2017. Based on the unmet needs allocation methodology outlined in Appendix A of the January 2020 notice, \$3,400,428,000 in CDBG-DR funds was allocated in accordance with the 2018 Appropriations Act and the 2019 Appropriations Act (the “2018 and 2019 Appropriations Acts”), 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.) (HCDA) related to disaster relief, long-term recovery, restoration of infrastructure and housing, economic revitalization, and mitigation in the “most impacted and distressed” areas resulting from a qualifying major disaster in 2018 and 2019, as well as \$431,000,000 for unmet infrastructure needs for 2017 disasters. Qualifying major disasters are those declared by the President pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1974 (42 U.S.C. 5121 et seq.) (Stafford Act) and identified in Table 1.

The January 2020 Notice did not allocate all of the funds made available by the 2018 and 2019 Appropriations Act. That notice provided that when additional data becomes available for other disasters occurring in 2019, the remaining \$272,072,000 from Public Law 116–20 will be allocated for those disasters in a subsequent notice. In Federal Register notices published on February 9, 2018 at 83 FR 5844, August 14, 2018 at 83 FR 40314, February 19, 2019 at 84 FR 4836, and June 20, 2019 at 84 FR 28848 (the “Prior Notices”), HUD described the applicable waivers and alternative requirements, relevant statutory and regulatory requirements, the grant award process, criteria for action plan approval, updates to duplication of benefits requirements, and eligible disaster recovery activities associated with grants for 2017 disasters. This appendix imposes the requirements of the Prior Notices, as amended by provisions in the January 2020 Notice, on the grants announced in the January 2020 Notice.

In accordance with the 2018 and 2019 Appropriations Acts, \$2,500,000 of the amounts these acts made available 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 grants under the 2018 and 2019 Appropriations Acts. Additionally, in accordance with the 2019 Appropriations Act, \$5,000,000 is to be transferred to CPD to provide necessary capacity building and technical assistance to grantees that receive a CDBG-DR grant under the 2018 and 2019 Appropriations Acts or future acts. As mentioned above, the 2019 Appropriations Act requires HUD to allocate \$431,000,000 to address unmet infrastructure needs for grantees that received an allocation for a disaster that occurred in 2017, of which \$331,442,114 shall be allocated to those grantees affected by Hurricane Maria.

The 2018 and 2019 Appropriations Acts provide that grants shall be awarded directly to a State, unit of general local government, or Indian tribe at the discretion of the Secretary. Unless noted otherwise, the term “grantee” refers to the entity receiving a grant from HUD under the January 2020 Notice. To comply with statutory requirements that funds be used for disaster-related expenses in the most impacted and distressed areas, HUD allocates funds using the best available data that covers all the eligible affected areas.

Grantees receiving an allocation of funds under the January 2020 Notice are subject to the requirements of the Prior Notices, as amended by the January 2020 Notice or by subsequent notices. Pursuant to the Prior Notices, each grantee receiving an allocation for a 2018 or 2019 disaster is required to primarily consider and address its unmet housing recovery needs. These grantees may, however, propose the use of funds for unmet economic revitalization and infrastructure needs unrelated to the grantee’s unmet housing needs if the grantee demonstrates in its 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. Grantees receiving funds under the January 2020 Notice for an additional allocation for unmet infrastructure needs arising from a 2017 disaster must use those funds for unmet infrastructure needs.

Table 1 (below) shows the major disasters that grants under the January 2020 Notice may address and the minimum amount of funds from the combined allocations under the 2018 and 2019 Appropriations Acts that must be expended in the HUD-identified most impacted and distressed areas. The information in this table is based on HUD’s review of the impacts from the qualifying disasters and estimates of unmet need. Table 1 in this Appendix updates the Table 1 included in the January 2020 Notice to include the technical correction to the allocations to the State of Wisconsin published in the Federal Register on February 21, 2020, at 85 FR 10182.

TABLE 1—ALLOCATIONS UNDER PUBLIC LAWS 115-254 AND 116-20

Disaster Year	Disaster Number	Grantee	Unmet needs allocation under Public Law 115-254	Unmet needs allocation under Public Law 116-20	Total allocation for unmet needs (P.L. 115-254 and P.L. 116-20)	Minimum amount that must be expended for recovery in the HUD-identified "most impacted and distressed" areas
2017 Disasters (Additional Unmet Infrastructure Needs)	4344 & 4353	State of California	\$0	\$38,057,527	\$38,057,527	(No less than \$30,446,000) Sonoma and Ventura counties; 93108, 94558, 95422, 95470, and 95901 Zip Codes.
	4337 & 4341	State of Florida	\$0	\$38,637,745	\$38,637,745	(No less than \$30,910,000) Brevard, Broward, Clay, Collier, Duval, Hillsborough, Lee, Miami-Dade, Monroe, Orange, Osceola, Palm Beach, Polk, St. Lucie, and Volusia counties; 32084, 32091, 32136, 32143, 32171, 33440, 33523, 33825, 33870, 33925, and 34266 Zip Codes.
	4294, 4397, & 4338	State of Georgia	\$0	\$13,015,596	\$13,015,596	(No less than \$10,412,000) 31520, 31548, and 31705 Zip Codes.
	4317	State of Missouri	\$0	\$9,847,018	\$9,847,018	(No less than \$7,878,000) 63935, 63965, 64850, 65616, and 65775 Zip Codes.
	4336 & 4339	Commonwealth of Puerto Rico	\$0	\$277,853,230	\$277,853,230	(\$277,853,230) All Components of the Commonwealth of Puerto Rico.
	4335 & 4340	U.S. Virgin Islands	\$0	\$53,588,884	\$53,588,884	(\$53,588,884) All components of the U.S. Virgin Islands.
2018 Disasters	4413	State of Alaska	\$0	\$35,856,000	\$35,856,000	(No less than \$28,685,000) Anchorage Borough.
	4357	American Samoa	\$16,539,000	\$6,500,000	\$23,039,000	(\$23,039,000) All components of American Samoa.
	4407 & 4382	State of California	\$491,816,000	\$525,583,000	\$1,017,399,000	(No less than \$813,919,000) Butte, Lake, Los Angeles, and Shasta Counties.
	4399	State of Florida	\$448,023,000	\$287,530,000	\$735,553,000	(No less than \$388,442,000) Bay, Calhoun, Gulf, and Jackson Counties; 32321 (Liberty), 32337 (Wakulla), 32328 (Franklin), 32346 (Wakulla and Franklin), 32351 (Gadsden), and 32428 (Washington) Zip Codes.
	4400	State of Georgia	\$34,884,000	\$6,953,000	\$41,837,000	(No less than \$33,470,000) 39845 (Seminole) Zip Code.
	4366	Hawaii County, HI	\$66,890,000	\$16,951,000	\$83,841,000	(\$83,841,000) Hawaii County.
	4365	Kauai County, HI	\$0	\$9,176,000	\$9,176,000	(No less than \$7,341,000) 96714 (Kauai) Zip Code.
	4393	State of North Carolina	\$336,521,000	\$206,123,000	\$542,644,000	(No less than \$434,115,000) Brunswick, Carteret, Columbus, Craven, Duplin, Jones, New Hanover, Onslow, Pender, and Robeson Counties; 28352 (Scotland), 28390 (Cumberland), 28433 (Bladen), and 28571 (Pamlico) Zip Codes.
	4396 & 4404	The Commonwealth of the Northern Mariana Islands	\$188,652,000	\$55,294,000	\$243,946,000	(No less than \$195,157,000) Saipan and Tinian Municipalities.
	4394	State of South Carolina	\$47,775,000	\$24,300,000	\$72,075,000	(No less than \$57,660,000) Horry and Marion counties; 29536 (Dillon) Zip Code.
	4377	State of Texas	\$46,400,000	\$26,513,000	\$72,913,000	(No less than \$58,330,000) Hidalgo County.
	4402	State of Wisconsin	\$0	\$15,355,000	\$15,355,000	(No less than \$12,284,000) 53560 (Dane) Zip Code.
2019 Disasters	4441	State of Arkansas	\$0	\$8,940,000	\$8,940,000	(No less than \$7,152,000) 71602 (Jefferson) and 72016 (Perry) Zip Codes.
	4421	State of Iowa	\$0	\$96,741,000	\$96,741,000	(No less than \$77,393,000) Mills County; 51640 (Fremont) Zip Code.
	4451	State of Missouri	\$0	\$30,776,000	\$30,776,000	(No less than \$24,621,000) St. Charles County; 64437 (Holt) and 65101 (Cole) Zip Codes.
	4420	State of Nebraska	\$0	\$108,938,000	\$108,938,000	(No less than \$87,150,000) Sarpy County; 68025 (Dodge), 68064 (Douglas), and 68069 (Douglas) Zip Codes.
	4447	State of Ohio	\$0	\$12,305,000	\$12,305,000	(No less than \$9,844,000) 45426 (Montgomery) Zip Code.
	4438	State of Oklahoma	\$0	\$36,353,000	\$36,353,000	(No less than \$29,082,000) Muskogee and Tulsa Counties; 74946 (Sequoyah) Zip Code.
	4454 & 4466	State of Texas	\$0	\$212,741,000	\$212,741,000	(No less than \$170,193,000) Cameron, Chambers, Harris, Jefferson, Liberty, Montgomery, and Orange Counties; 78570 (Hidalgo) Zip Code.
Total			\$1,677,500,000	\$2,163,928,000*	\$3,831,428,000	

Pursuant to the 2018 and 2019 Appropriations Acts, HUD has identified the most impacted and distressed areas based on the best available data for all eligible affected areas. A detailed explanation of HUD's allocation methodology is provided in Appendix A of the January 2020 Notice.

In some instances, HUD identified the entire jurisdiction of a grantee as the most impacted and distressed area. For all other grantees, at least 80 percent of the total funds provided to a grantee under the January 2020 Notice must address unmet disaster needs within the HUD-identified most impacted and distressed areas, as identified in the last column in Table 1. Note that if HUD designates a zip code for 2018 and 2019 disasters as a most impacted and distressed area for purposes of allocating funds, the grantee may expand program operations to the whole county (county is indicated in parentheses next to the zip code) as a most impacted and distressed area. The grantee should indicate the decision to expand eligibility to the whole county in its action plan. A grantee may determine where to use the remaining 20 percent of the allocation, but that portion of the allocation may only be used to address unmet disaster needs in those areas that the grantee determines are "most impacted and distressed" and received a presidential major disaster declaration pursuant to the disaster numbers listed in Table 1. A grantee may use up to 5 percent of the total grant award for grant administration and no more than 15 percent of the total grant award for planning activities. Therefore, HUD will include 80 percent of a grantee's expenditures for grant administration in its determination that 80 percent of the total award has been expended in the most impacted and distressed areas identified in Table 1. Additionally, expenditures for planning activities may be counted towards a grantee's 80 percent expenditure requirement, provided that the grantee describes in its action plan how those planning activities benefit the HUD-identified most impacted and distressed areas.

III. Use of Funds

Funds allocated under the January 2020 Notice are subject to the requirements of the Prior Notices, as amended by the January 2020 Notice or subsequent notices. The January 2020 Notice outlines additional requirements imposed by the 2018 and 2019 Appropriations Acts that apply to funds allocated under the January 2020 Notice.

The 2018 and 2019 Appropriations Acts require that prior to the obligation of CDBG-DR funds a grantee shall submit a plan detailing the proposed use of all funds. The plan must include criteria for eligibility, and how the use of these funds will address long-term recovery and restoration of infrastructure and housing, economic revitalization, and mitigation in the most impacted and distressed areas. Therefore, the action plan submitted in response to the January 2020 Notice must describe uses and activities that: (1) are authorized under title I of the HCDA or allowed by a waiver or alternative requirement; and (2) respond to a disaster-related impact to infrastructure, housing, or economic revitalization in the most impacted and distressed areas, and if the grantee chooses to do so, how mitigation will be incorporated into recovery activities. To inform the plan, each grantee must conduct an assessment of community impacts and unmet needs and guide the development and prioritization of planned recovery activities, pursuant to section VI.A.2.a. of the February 9, 2018 notice (83 FR 5849).

While CDBG-DR funding is a valuable resource for long-term recovery and mitigation in the wake of major disasters, HUD expects that grantees will take steps to set in place substantial state and local governmental policies to enhance the impact of HUD-funded investments and limit damage from future disasters. The *Federal Register* notice published February 9, 2018 (83 FR 5850), requires all grantees to describe how they plan to promote sound, sustainable long-term planning. HUD is encouraging wildfire-impacted grantees in particular to consider land-use plans that address density and quantity of development, as well as emergency access, landscaping, and water supply considerations. Grantees are reminded that they may use CDBG-DR funds for planning activities, including but not limited to developing a Community Wildfire Protection Plan (CWPP). Grantees are encouraged to review U.S. Forest Service's resources on wildland fire (<https://www.fs.fed.us/managing-land/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. To maximize the impact of all available funds, all grantees are encouraged to coordinate and align these funds with other projects funded with CDBG-DR and CDBG-MIT funds, as well as

other disaster recovery activities funded by the Federal Emergency Management Agency (FEMA), the U.S. Army Corps of Engineers (USACE), the U.S. Forest Service, and other agencies as appropriate.

Grantees should note that a subsequent notice published on August 14, 2018 (83 FR 40314), which clarifies and/or modifies requirements in the February 9, 2018 notice, applies to grantees receiving funds under the January 2020 Notice. Specifically, grantees should note the following clarifications and modifications in the August 14, 2018 notice governing the use of these funds: allowing for unmet economic revitalization and infrastructure needs (83 FR 40314) which is addressed in section I in the January 2020 Notice; the use of terminology around an evaluation of the cost or price of a product or service (83 FR 40317); additional requirements for the comprehensive disaster recovery website (83 FR 40317); clarification of working capital to aid in recovery (83 FR 40317); underwriting requirements (83 FR 40317); limitation of use of funds for eminent domain (83 FR 40317); increased public comment period (83 FR 40318); cost verification (83 FR 40318); additional criteria and specific conditions to mitigate risk (83 FR 40318-40319); the waiver of Section 414 of the Stafford Act as amended (83 FR 40319) and addressed in section IV.C.2. in the January 2020 Notice; modification of affordability periods for rental properties (83 FR 40320); clarification of the environmental review requirements (83 FR 40319); CDBG-DR housing assistance and FEMA's permanent and semi-permanent housing programs (83 FR 40320); rehabilitation and reconstruction cost-effectiveness (83 FR 40321); infrastructure planning and design (83 FR 40321); discipline and accountability in the environmental review and permitting of infrastructure projects (83 FR 40321); and CDBG-DR funds as match for FEMA 428 Public Assistance projects (83 FR 40321).

Additionally, HUD published a notice on June 20, 2019 entitled, "Updates to Duplication of Benefits Requirements Under the Stafford Act for Community Development Block Grant (CDBG) Disaster Recovery Grantees" (84 FR 28836) (the "2019 DOB Notice") and a second notice that implemented the 2019 DOB Notice by making corresponding amendments to the Prior Notices (Applicability of Updates to Duplication of Benefits Requirements Under the Stafford Act for Community Development Block Grant (CDBG) Disaster Recovery Grantees, published at 84 FR 28848) (the "Implementation Notice"). Those changes are explained in section IV.B.6. of the January 2020 Notice and in detail in the 2019 DOB Notice (84 FR 28836).

Finally, the February 9, 2018 notice was also amended by the February 19, 2019 notice (84 FR 4836) with a clarification on green building standards (84 FR 4844).

IV. Overview of Grant Process

Each grantee must submit an action plan for disaster recovery per the requirements of section VI.A.2 of the February 9, 2018 notice (83 FR 5849), as modified by the requirements of the August 14, 2018 notice (83 FR 40314), not later than 120 days after the applicability date of the January 2020 Notice (February 3, 2020). All requirements of the Prior Notices related to the action plan submission shall apply, including the public comment period which was extended to not less than 30 calendar days under the August 14, 2018 notice (83 FR 40318), and the manner of publication which must include prominent posting on the grantee's official website (83 FR 40317). Each grantee must publish the action plan in a manner that affords citizens, affected local governments, and other interested parties a reasonable opportunity to examine the contents and provide feedback. Each grantee must also submit the Financial Management and Grant Compliance submission and Pre-Award Implementation Plan per section VI.A.I of the February 9, 2018 notice. All deadlines for these submissions are determined by the applicability date of the January 2020 Notice (February 3, 2020).

In the Prior Notices, the Department included its intention to establish special grant conditions for individual CDBG-DR grants based upon the risks posed by the grantee, including risks related to the grantee's capacity to carry out the specific programs and projects proposed in its action plan. As described in the Prior Notices, these conditions will be designed to provide additional assurances that programs are implemented in a manner to prevent waste, fraud, and abuse and the Department has established specific criteria and conditions for each grant award as provided for at 2 CFR 200.205 and 200.207(a), respectively, to mitigate the risks of the grant.

To begin expending CDBG-DR funds, the grantee must follow the process outlined in the February 9, 2018 notice (83 FR 5846) unless otherwise amended below:

- Within 60 days of the applicability date of the January 2020 Notice (or when the grantee submits its action plan, whichever is earlier), submit documentation for the certification of financial controls and procurement processes and adequate procedures for grant management, as amended in section IV.B.1 of the January 2020 Notice. A grantee that received a certification of its financial controls and procurement processes pursuant to a 2016 or 2017 disaster may request that HUD rely on that certification for purposes of this allocation, provided, however, that grantees shall be required to provide updates to reflect any material changes in the submissions.
- Within 60 days of the applicability date of the January 2020 Notice (or when the grantee submits its action plan, whichever is earlier), submit documentation for the implementation plan and capacity assessment.
- Additionally, all funds must be expended within six years of the date of obligation as described in section V of the January 2020 Notice.

IV.A. Funds for Unmet Infrastructure Needs for Grantees that received Allocations for 2017 Disasters

Each grantee that received an allocation pursuant to Public Law 115-56 or Public Law 115-123 for 2017 disasters and an additional allocation in the January 2020 Notice for unmet infrastructure needs is required to submit a substantial amendment to its current action plan required by the Prior Notices. The substantial amendment must be submitted no later than 90 days after the applicability date of the January 2020 Notice. The substantial amendment must include the additional allocation of funds and address the requirements of the Prior Notices, as amended by the January 2020 Notice. Each grantee must follow the applicable substantial amendment process per section III.B of the August 14, 2018 notice (83 FR 40316). Based on the 2019 Appropriations Act, HUD will condition the availability of these funds for grantees that have entered into alternative procedures under section 428 of the Stafford Act as of the date of enactment of the 2019 Appropriations Act until such grantees have reached a final agreement on all fixed cost estimates within the timeline provided by FEMA.

V. Applicable Rules, Statutes, Waivers, and Alternative Requirements

This section of the appendix describes rules, statutes, waivers, and alternative requirements that apply to each grantee receiving an allocation under the January 2020 Notice. The Secretary has determined that good cause exists to apply each waiver and alternative requirement established in the Prior Notices to grantees receiving funds under the January 2020 Notice and that such waivers and alternative requirements are not inconsistent with the overall purpose of title I of the HCDA. The Secretary's determination of good cause extends to each waiver or alternative requirement as amended by the January 2020 Notice. Grantees are reminded that all fair housing and nondiscrimination requirements, as well as environmental and labor requirements, continue to apply. The following requirements apply only to the CDBG-DR funds appropriated under the 2018 and 2019 Appropriations Acts (unless otherwise noted) and not to funds provided under the annual formula State or Entitlement CDBG programs, the Indian Community Development Block Grant program, or those provided under any other component of the CDBG program, such as the Section 108 Loan Guarantee Program, or any previous CDBG-DR appropriations, unless otherwise noted.

A grantee may request additional waivers and alternative requirements from the Department as needed to address specific needs related to its recovery activities, accompanied by data to support the request. Grantees should work with the assigned Community Planning and Development representatives to request any additional waivers or alternative requirements from HUD. Except where noted, the waivers and alternative requirements described below apply to all grantees under the January 2020 Notice. Pursuant to the requirements of the 2018 and 2019 Appropriations Acts, waivers and alternative requirements are effective five days after they are published in the *Federal Register*.

Except as described in the January 2020 Notice or the Prior Notices, statutory and regulatory provisions governing the State CDBG program shall apply to State grantees receiving a CDBG-DR grant. Except as described in the January 2020 Notice or the Prior Notices, statutory and regulatory provisions governing the entitlement CDBG program shall apply to any local government receiving a CDBG-DR grant. Based on the Prior Notices' treatment of grantees in the CDBG Insular areas program, all references to states and State grantees shall include the Commonwealth of the Northern Mariana Islands and American Samoa. State and Entitlement CDBG regulations can be found at 24 CFR part 570. References to the action plan in these regulations shall refer to the action plan for disaster recovery required by section VI.A.2 of the February 9, 2018 notice. All references in the January 2020 Notice pertaining to timelines and/or deadlines are in terms of calendar days unless otherwise noted. The date of the January 2020 Notice shall mean the applicability date of the January 2020 Notice unless otherwise noted.

V.A. Incorporation of Waivers and Alternative Requirements for Local Governments.

The January 2020 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. Because the Prior Notices only govern grants to states, the January 2020 Notice amends the Prior Notices by adding regulations that apply to units of general local government the waivers previously granted by the Secretary (except in cases such as the timely distribution of funds, the consolidated plan waiver, or reimbursement where the Prior Notices already waive entitlement CDBG program regulations). Where requirements are different for units of general local government than the requirements applicable to states, the January 2020 Notice amends the Prior Notices to add the local government requirement.

V.A.1. The Secretary amends the following sections of the February 9, 2018 notice to expand waivers to include waivers of the regulations that apply to local government grantees: in Section VI.A.2., *Action Plan for Disaster Recovery waiver and alternative requirement*, the Secretary waives 24 CFR 91.220; in section VI.A.4., *Citizen participation waiver and alternative requirement*, the Secretary waives 24 CFR 91.105(b) and (c); and in section VI.A.12, *Use of the urgent need national objective*, the Secretary waives 24 CFR 570.208(c). Grantees are responsible for ensuring that all citizens have equal access to information about the programs, including persons with disabilities and limited English proficiency (LEP). This waiver does not affect the statutory and regulatory obligations of CDBG-DR grantees to affirmatively further fair housing. As part of the CDBG-DR action plan, all grantees must certify that they will affirmatively further fair housing. For CDBG-DR grantees, this means conducting an Analysis of Impediments to Fair Housing Choice (AI), taking appropriate actions to overcome the effects of any impediments identified through that analysis, and keeping records of these actions.

V.A.2. *Procurement*. The January 2020 Notice amends the sections of the February 9, 2018 notice to add additional requirements or to clarify procurement requirements that apply to local governments:

Paragraph V.A.1.a.(2) is modified after the sentence that begins "A State grantee (including the Commonwealth of Puerto Rico and the U.S. Virgin Islands) has proficient procurement policies and processes if..." to add the following sentence: "A local government grantee has proficient procurement policies and processes if it follows procurement requirements in the Uniform Administrative Requirements at 2 CFR 200.318 through 200.326, and imposes these requirements on its subrecipients."

Paragraph VI.A.26 of the February 9, 2018 notice is modified by adding after the first paragraph, "Any local government receiving a CDBG-DR grant is subject to procurement requirements in the Uniform Administrative Requirements at 2 CFR 200.318 through 200.326."

V.B. Grant Administration

V.B.1. *Certification of financial controls and procurement processes, and adequate procedures for proper grant management*. The 2018 and 2019 Appropriations Acts require that the Secretary certify, in advance of signing a grant agreement, that the grantee has in place proficient financial controls and procurement processes and has established adequate procedures to prevent any duplication of benefits as defined by section 312 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act),

42 U.S.C. 5155, 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. To enable the Secretary to make this certification, each grantee must submit to HUD the Financial Management and Grant Compliance certification submission per section VI.A.1.a of the February 9, 2018 notice (83 FR 5847), as amended in this section.

A grantee that received a certification of its financial controls and procurement processes pursuant to a 2016 or 2017 disaster may request that HUD rely on that certification for purposes of this grant, provided, however, that grantees shall be required to provide updates to reflect any material changes in the submissions. This information must be submitted within 60 days of the applicability date of the January 2020 Notice. The grant agreement will not be executed until HUD has approved the grantee's certifications. The grantee must implement the CDBG-DR grant consistent with the controls, processes, and procedures as certified by HUD. HUD is requiring each grantee to submit (or update and resubmit, as applicable) all policies and procedures pertaining to its duplication of benefits procedures as outlined below:

(1) Duplication of benefits procedures. A grantee has adequate procedures to prevent the duplication of benefits if the grantee submits uniform processes that reflect the requirements of the February 9, 2018 notice (83 FR 5860) and the 2019 DOB Notice (84 FR 28836), including: (a) Verifying all sources of assistance received by the grantee or applicant, as applicable, prior to the award of CDBG-DR funds; (b) determining a grantee's or an applicant's remaining funding need(s) for CDBG-DR assistance before committing funds or awarding assistance; and (c) requiring beneficiaries to enter into a signed agreement to repay any duplicative assistance if they later receive additional assistance for the same purpose for which the CDBG-DR award was provided. The grantee must identify a method to monitor compliance with the agreement for a reasonable period and must articulate this method in its written administrative procedures, including the basis for the period in which the grantee will monitor compliance. This agreement must also include the following language: "Warning: Any person who knowingly makes a false claim or statement to HUD may be subject to civil or criminal penalties under 18 U.S.C. §§ 287, 1001 and 31 U.S.C. § 3729."

Policies and procedures of the grantee submitted to support the certification must provide that prior to the award of assistance, the grantee will use the best, most recent available data from FEMA, the Small Business Administration (SBA), insurers, and any other sources of local, state and federal sources of funding to prevent the duplication of benefits. In developing these policies and procedures, grantees are directed to the 2019 DOB Notice (84 FR 28836). To be adequate, a grantee's policies and procedures must reflect the treatment of loans that is consistent with the requirements of the Declined Loans Provision and the section 1210 of the Disaster Recovery Reform Act of 2018 (DRRA) (division D of Pub. L. 115-254), as explained in section IV.B.6 of the January 2020 Notice and in the 2019 DOB Notice.

V.B.2. *Procurement.* Grantees must comply with procurement requirements for states or for local governments, as applicable, in the Prior Notices (as amended).

V.B.3. *Use of administrative funds across multiple grants.* The 2019 Appropriations Act authorizes special treatment of grant administrative funds for grantees that received awards under certain CDBG-DR grants. 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 may use eligible administrative funds (up to 5 percent of each grant award plus up to 5 percent 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. If the grantee chooses to exercise this authority, the grantee must ensure that it has appropriate financial controls to ensure that the amount of grant administration expenditures for each of the aforementioned grants will not exceed 5 percent of the total grant award for each grant (plus 5 percent of program income), review and modify its financial management policies and procedures regarding the tracking and accounting of administration costs, as necessary, and address the adoption of this treatment of administrative costs in the applicable portions of its Financial Management and Grant Compliance submissions as referenced in section VI.A.1 of the February 9, 2018 notice (83 FR 5847-5848). Grantees are reminded that all costs incurred for administration must still qualify as an eligible administration expense.

V.B.4. *Use of funds in response to Hurricane Matthew and Hurricane Florence (State of North Carolina and South Carolina only)*. The 2019 Appropriations Act provides that grantees that received CDBG-DR grant 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. Specifically, these CDBG-DR grants in response to Hurricane Matthew may be used interchangeably and without limitation for the same activities that can be funded by CDBG-DR grants in the most impacted and distressed areas related to Hurricane Florence. Additionally, all CDBG-DR grants under the 2018 and 2019 Appropriations Acts in response to Hurricane Florence may be used interchangeably and without limitation for the same activities in the most impacted and distressed areas related to Hurricane Matthew.

Grantees are reminded that expanding the eligible beneficiaries of their Hurricane Matthew activities or programs to include those impacted by Hurricane Florence requires the submission of a substantial action plan amendment in accordance with section VI.A.2.g of the November 21, 2016 notice (81 FR 83254). Additionally, all waivers and alternative requirements associated with a CDBG-DR grant apply to the use of the funds provided by that grant, regardless of which disaster (Matthew or Florence) the funded activity will address.

V.B.5. *One-for-One Replacement Housing, Relocation, and Real Property Acquisition Requirements*. Grantees that received a CDBG-DR grant for 2018 or 2019 disasters under Public Laws 115-254 or 116-20 (“current requirements”) are currently subject to different requirements with respect to One-for-One Replacement Housing, Relocation, and Real Property Acquisition Requirements, than grantees that received a CDBG-DR grant for previous disasters pursuant to Public Laws 114-113, 114-223, 114-254, and 115-31 (“previous requirements”). To avoid the administrative burden of implementing two different URA waivers and alternative requirements, HUD is authorizing grantees with CDBG-DR grants subject to the previous requirements to carry out its programs under the same URA requirements as is required for its grant(s) under the current requirements.

HUD is authorizing grantees under Public Laws 114–113, 114–223, 114–254, and 115–31 that also received a CDBG-DR grant under Public Law 115-254 or 116-20 to either: (a) 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 (81 FR 83266) for its Public Laws 114–113, 114–223, 114–254, and 115–31 CDBG-DR grants; or (b) follow the requirements of section VI.A.23.a. through e. of the February 9, 2018 notice (83 FR 5858) for its Public Laws 114–113, 114–223, 114–254, and 115–31 CDBG-DR grants. The grantee’s programs under the most recent Public Laws (Public Laws 115-254 or 116-20) are already required to follow the waiver and alternative requirement defined in the February 9, 2018 notice (83 FR 5858). If a grantee chooses to follow option (b) above, then it must identify this approach in its policies and procedures related to that particular activity and consistently apply that option for all displaced persons affected by that activity.

V.B.6. *Duplication of benefits*. The Prior Notices described duplication of benefits (DOB) requirements in Section 312 of the Stafford Act and subjected grantees to the requirements of a notice published in the *Federal Register* on November 16, 2011, at 76 FR 71060 (the “2011 DOB Notice”).

HUD subsequently published the 2019 DOB Notice, which revised the DOB requirements that apply to CDBG-DR grants for disasters declared between January 1, 2015, and December 31, 2021. HUD also published a separate notice that implemented the 2019 DOB Notice (84 FR 28848) (the “Implementation Notice”) by making corresponding amendments to the February 9, 2018 and August 14, 2018 notices. The amendments in the Implementation Notice provide that 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.

Accordingly, grantees must comply with the requirements of the Prior Notices, including amendments in the Implementation Notice. Because the applicability date of the January 2020 Notice is after June 25,

2019, provisions of the Implementation Notice that apply only to grants made before June 25, 2019 do not apply to grants under the 2018 and 2019 Appropriations Acts.

V.B.7. The waiver and alternative requirement in section VI.A.6. of the February 9, 2018 notice is replaced with the following language to include 2018 and 2019 disaster grantees: “HUD is temporarily waiving the requirement for consistency with the consolidated plan (requirements at 42 U.S.C. 12706, 24 CFR 91.325(a)(5) and 91.225(a)(5)), because the effects of a major disaster alter a grantee’s priorities for meeting housing, employment, and infrastructure needs. In conjunction, 42 U.S.C. 5304(e), to the extent that it would require HUD to annually review grantee performance under the consistency criteria, is also waived. Grantees are encouraged to incorporate disaster-recovery needs into their consolidated plan updates as soon as practicable, but any unmet disaster-related needs and associated priorities must be incorporated into the grantee’s next consolidated plan update no later than its Fiscal Year 2020 update for 2017 disasters and Fiscal Year 2022 for 2018 and 2019 disasters.”

V.C. Clarifications and Amendments for Grants under Public Law 115-56, 115-123, 115-254, and 116-20

V.C.1. *Clarification on Affordability Periods and Amended Alternative Requirement.* The *Federal Register* notice published on August 14, 2018 (83 FR 40320) imposed a five-year affordability period on all newly constructed single-family housing units constructed with CDBG-DR funds. HUD intended to impose the affordability period only on single-family units constructed and sold by the grantee or its subrecipient through an affordable homeownership program. It was not intended to impose affordability restrictions where the beneficiary owned and occupied a home that was damaged by the disaster and the grantee then provides the owner-occupant with a newly constructed or reconstructed housing unit rather than rehabilitate the damaged home. HUD’s intent was to impose affordability restrictions when CDBG-DR funds are used to expand housing stock, not to replace damaged units owned and occupied by a beneficiary. Therefore, in the January 2020 notice HUD amended paragraph IV.B.10 of the August 14, 2018 notice by replacing it in its entirety with the following:

“10. *Affordability Period for CDBG-DR funded Homeownership Programs.* Grantees receiving funds under this notice are required to implement a minimum five-year affordability period on all newly constructed single-family housing made available for low- and moderate-income homeownership through a CDBG-DR funded homeownership program. This notice requires any grantee implementing a CDBG-DR funded homeownership program to develop and impose affordability (*i.e.*, resale or recapture) restrictions and to enforce those restrictions through recorded deed restrictions, covenants, or other similar mechanisms, for a period not less than five years. Grantees shall establish resale or recapture requirements for housing funded pursuant to this paragraph and shall describe those requirements in the action plan or substantial amendment in which the activity is proposed. The resale or recapture provisions must clearly describe the terms of the resale or recapture, the specific circumstances under which these provisions will be used, and how the provisions will be enforced. This affordability period does not apply to housing units newly constructed or reconstructed for an owner-occupant to replace an owner-occupied home that was damaged by the disaster.”

V.C.2. *Clarification and Amendment on Section 414 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).* The *Federal Register* notice published on February 19, 2019 (84 FR 4842) provided a waiver and alternative requirement of Section 414 for all grantees receiving a grant for a major disaster occurring in 2015, 2016, and 2017. This waiver and alternative requirements allowed grantees that received a grant(s) under Public Laws 114-113, 114-223, 114-254, and 115-31 to carry out its programs under the same Section 414 requirements as its grant(s) under Public Laws 115-56 or 115-123. To clarify this provision and extend the 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, HUD is amending paragraph IV.2 of the February 19, 2019 notice by replacing it in its entirety with the following:

“2. *Waiver of Section 414 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).* Section 414 of the Stafford Act (42 U.S.C. 5181) provides that “Notwithstanding any other provision of law, no person otherwise eligible for any kind of replacement housing payment under the

Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Pub. L. 91-646) [42 U.S.C. 4601 et seq.] [“URA”] shall be denied such eligibility as a result of his being unable, because of a major disaster as determined by the President, to meet the occupancy requirements set by [the URA].” Accordingly, homeowner occupants and tenants displaced from their homes as a result of the identified disaster and who would have otherwise been displaced, as a direct result of any acquisition, rehabilitation, or demolition of real property for a federally funded program or project, may become eligible for a replacement housing payment, notwithstanding their inability to meet occupancy requirements prescribed in the URA.

Grantees that received a CDBG-DR grant for a major disaster in 2015, 2016, or 2017 under Public Laws 114-113, 114-223, 114-254, or 115-31, and a CDBG-DR grant for a 2017, 2018, or 2019 major disaster under Public Laws 115-56, 115-123, 115-254, or 116-20 are subject to different alternative requirements with respect to protections afforded to tenants and homeowners under Section 414 of the Stafford Act.

To avoid the administrative burden of implementing two different URA alternative requirements, HUD is authorizing grantees under Public Laws 114-113, 114-223, 114-254, and 115-31 that also received a CDBG-DR grant under Public Law 115-56, 115-123, 115-254, or 116-20 to either: (a) Continue to follow Section 414 of the Stafford Act (or any grantee-specific alternative requirement previously authorized by HUD) for its Public Laws 114-113, 114-223, 114-254, and 115-31 CDBG-DR grants; or (b) follow the waiver and alternative requirement described in the following paragraph for its Public Laws 114-113, 114-223, 114-254, and 115-31 CDBG-DR grants. The grantee’s programs under the most recent Public Laws (Public Laws 115-56, 115-123, 115-254, or 116-20) are already required to follow the waiver and alternative requirement defined below. If a grantee chooses to follow option (b) above then it must identify this approach in its policies and procedures related to that particular activity, and consistently apply that option for all displaced persons affected by that activity.

The waiver and alternative requirement is as follows: Section 414 of the Stafford Act (including its implementing regulation at 49 CFR 24.403(d)(1)), is waived to the extent that it would apply to real property acquisition, rehabilitation or demolition of real property for a CDBG-DR funded project, undertaken by the grantee or subrecipient, commencing more than one (1) year after the Presidentially declared disaster, provided that the project was not planned, approved, or otherwise underway prior to the disaster. For purposes of this paragraph, a CDBG-DR funded project shall be determined to have commenced on the earliest of: (1) The date of an approved Release for Request of Funds RROF and certification, or (2) the date of completion of the site-specific review when a program utilizes tiered environmental reviews, or (3) the date of sign-off by the approving official when a project converts to exempt under 24 CFR 58.34(a)(12). The Secretary has the authority to waive provisions of the Stafford Act and its implementing regulations that the Secretary administers in connection with the obligation of CDBG-DR funds covered under this waiver and alternative requirement, or the grantees’ use of these funds. The Department has determined that good cause exists for a waiver and that such waiver is not inconsistent with the overall purposes of title I of the HCDA. The waiver will simplify the administration of the disaster recovery process and reduce the administrative burden associated with the implementation of Stafford Act Section 414 requirements for projects commencing more than one year after the date of the Presidentially declared disaster, considering the majority of such persons displaced by the disaster will have returned to their dwellings or found another place of permanent residence. This waiver does not apply with respect to persons that meet the occupancy requirements to receive a replacement housing payment under the URA nor does it apply to persons displaced or relocated temporarily by other HUD-funded programs or projects. Such persons’ eligibility for relocation assistance and payments under the URA is not impacted by this waiver.”

V.C.3 Clarification on Procurement and Use of Subrecipients for State grantees only. The *Federal Register* notice published on February 9, 2018 (83 FR 5856) included a provision on the use of subrecipients that was applicable to State grantees only. In section VI.A.14. of that notice, HUD made 24 CFR 570.502, 570.503, and 570.500(c) applicable to States exercising their authority under the waiver to carry out activities directly. To eliminate any confusion regarding procurement requirements that are applicable to the State’s

subrecipients, HUD is clarifying 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. Specifically, when HUD allows a State grantee the flexibility in section VI.A.1.a.(2) of the February 9, 2018 notice to choose one of three options when developing its procurement policies and procedures, and in paragraph VI.A.26., which requires State grantees to establish procurement requirements for local governments and subrecipients, those provisions continue to apply and will determine those procurement provisions of 2 CFR part 200 that are applicable to a State's subrecipients.

V.C.4. Clarification on Acquisition of real property; flood and other buyouts to include Wildfire-Impacted Grantees. The *Federal Register* notice published February 9, 2018 (83 FR 5863) describes how grantees may carry out property acquisitions for a variety of purposes and that they may carry out a buyout program in a Disaster Risk Reduction Area. HUD is clarifying this provision so that grantees understand that wildland fire risk areas may also be identified by the grantee as Disaster Risk Reduction areas. Accordingly, HUD is amending paragraph IV.B.37.a. of the February 9, 2018 notice by adding the following language to the end of that section:

“37. Clarification of “Buyout” and “Real Property Acquisition” activities.” Wildland fire risk areas may also be identified by the grantee as Disaster Risk Reduction areas eligible for a buyout to reduce risk from future wildfires. Grantees are encouraged to carry out property acquisitions as a means of acquiring contiguous parcels of land for uses compatible with wildland-urban interface management practices. Grantees are also encouraged to take actions to promote an increase in hazard insurance coverage in the wildland fire risk areas.”

VI. Duration of Funding

The 2018 and 2019 Appropriations Acts make the funds available for obligation by HUD until expended. The January 2020 Notice requires each grantee to expend 100 percent of its CDBG-DR grant on eligible activities within 6 years of HUD's obligation of funds under Public Laws 115-254 and 116-20 pursuant to an executed grant agreement. Furthermore, consistent with 31 U.S.C. 1555 and OMB Circular A-11, if the Secretary or the President determines that the purposes for which the appropriation has been made have been carried out and no disbursements have been made against the appropriation for two consecutive fiscal years, any remaining balance will be made unavailable for obligation or expenditure. In such case, the funds shall not be available for obligation or expenditure for any purpose after the account is closed.

VII. Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance numbers for the disaster recovery grants under the January 2020 Notice are as follows: 14.228 for State CDBG grantees and 14.218 for Entitlement CDBG Grantees.