



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
OFFICE OF THE DEPUTY SECRETARY
WASHINGTON, DC 20410-0050

March 19, 2025

MEMORANDUM FOR: All CDBG-DR Grantees Subject to the Universal Notice (Allocations announced in the January 2025 Notice); Community Planning and Development Field Office Directors, Deputy Directors, Regional Directors, and Program Managers

FROM: Matthew E. Ammon, Performing the Delegable Duties of the Deputy Secretary, SD **MATTHEW AMMON**

SUBJECT: Revisions made to the Common Application, Waivers, and Alternative Requirements for Community Development Block Grant Disaster Recovery Grantees: The Universal Notice published in the *Federal Register* (90 FR 1754) and Clarifications to the Allocations for Community Development Block Grant Disaster Recovery and Implementation of the CDBG-DR Consolidated Waivers and Alternative Requirements Notice Published in the *Federal Register* (90 FR 4759)

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APPLICABILITY DATE: March 24, 2025

PURPOSE

This memorandum governs Community Development Block Grant Disaster Recovery (CDBG-DR) funds subject to the Universal Notice (90 FR 1754). In January 2025, the Department of Housing and Urban Development (HUD) allocated \$12,070,701,000 in CDBG-DR funds from the Disaster Relief Supplemental Appropriations Act, 2025 (Pub. L. 118-158) (“the 2025 Appropriations Act”) for unmet needs including additional mitigation activities for qualifying disasters occurring in 2023 or 2024. On January 15, 2025 an Allocation Announcement Notice (AAN) was put on public display and then published in the *Federal Register* on January 16, 2025 (90 FR 4759) (“January 2025 Notice”). That AAN made the requirements in the Universal Notice applicable to the funds announced in that notice. This memorandum includes revisions to the Universal Notice to align requirements with the President’s executive orders.

WAIVER AND ALTERNATIVE REQUIREMENT AUTHORITY

The 2025 Appropriations Act, approved December 21, 2024, made available \$12,039,000,000 in CDBG-DR funds. The 2025 Appropriations Act also provided that HUD allocate any unobligated no-year balances remaining from Public Laws 108-324, 109-148, 109-

234, 110–252, 110–329, 111–212, 112–55, and 113–2 (the “Prior Appropriations Acts”). The sum of all unobligated balances from these Prior Appropriations Acts was \$31,701,000, bringing the total available funding for 2023 or 2024 disasters to \$12,070,701,000. These CDBG-DR funds are for necessary expenses for 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 2023 or 2024.

The 2025 Appropriations Act authorizes the Secretary to publish any waiver or alternative requirement provided pursuant to the 2025 Appropriations Act via a *Federal Register* notice or on the Department’s website, no later than 5 days before the effective date of such waiver or alternative requirement. For the alternative requirements included below, HUD is exercising its authority to publish on the Department’s website.

REVISED UNIVERSAL NOTICE PROVISIONS

This memorandum revises several sections of the Universal Notice (90 FR 1754), pursuant to the following executive orders:

- Memorandum for the Heads of Executive Departments and Agencies (90 FR 8245) (“Delivering Emergency Price Relief for American Families and Defeating the Cost-of-Living Crisis”), signed on January 20, 2025;
- Executive Order 14151 (90 FR 8339) (“Ending Radical and Wasteful Government DEI Programs and Preferencing”), signed on January 21, 2025;
- Executive Order 14173 (90 FR 8633) (“Ending Illegal Discrimination and Restoring Merit-Based Opportunity”), signed on January 21, 2025; and
- Executive Order 14224 (90 FR 11363) “Designating English as the Official Language of the United States,” signed on March 1, 2025.

A summary of the revisions to the Universal Notice can be viewed in Appendix A of this memorandum. Additionally, HUD will publish an updated version of the Universal Notice for grantees to download at https://www.hud.gov/program_offices/comm_planning/cdbg-dr/universal_notice_grantees. This version will include all revisions cited in this memo.

CLARIFICATIONS TO THE JANUARY 2025 NOTICE

Section II. of the January 2025 Notice states that funds for disasters occurring in 2023 or 2024 announced in the January 2025 Notice “are subject to the requirements of the Universal Notice, published on January 8, 2025, in the Federal Register at 90 FR 1754” This memorandum clarifies that these funds remain subject to the requirements of the Universal Notice, *as may be amended*, by replacing the quoted phrase with the following alternative requirement: “are subject to the requirements of the Universal Notice, published on January 8, 2025, in the Federal Register at 90 FR 1754, as may be amended”

Appendix A

HUD amends the Universal Notice appearing on pages 90 FR 1754 – 1797 as follows:

1. **The section titled “Summary” at 90 FR 1754 is amended by adding the parenthetical “(AAN)” after the phrase “Allocation Announcement Notice.”**
2. **The section titled “Purpose and Policy Objectives” at 90 FR 1754 is amended by deleting it in its entirety and replacing it with the following:**

HUD has developed this preamble and the Universal Notice, to assist states, local governments, Indian tribes, CDBG-DR subrecipients, and the public in planning for the award of CDBG-DR funds. Because not all the requirements in the Universal Notice are appropriate or applicable to Indian tribes, HUD will publish an Addendum to the Universal Notice at a later date to establish requirements that will apply when Indian tribes receive a CDBG-DR grant directly from HUD. This process will allow HUD to ensure that the requirements imposed are fair and consistent with the Indian Community Development Block Grant (ICDBG) Program.

The Universal Notice has no legal effect on a CDBG-DR grant until funds are appropriated by Congress, the appropriation authorizes the HUD Secretary to waive or specify alternative requirements for the assistance, and an AAN that incorporates appropriate provisions of the Universal Notice is published by the Department and goes into effect. HUD will make the required findings in support of the waivers and alternative requirements incorporated into and made effective through AANs contemporaneously with the publication of each AAN. Because the Universal Notice has no legal effect on its own but rather requires authority provided by Congress through enacting special disaster appropriations and publication of an AAN by HUD, this is being published as a notice and is not a rulemaking.

The Universal Notice is designed to inform potential CDBG-DR grantees and other stakeholders about each phase of the CDBG-DR grant process, including but not limited to, pre-award grantee submissions; grantee steps and timelines; and Action Plan development, submittal, and implementation.

3. **The first paragraph in the section titled “Authority to Grant Waivers” at 90 FR 1755 is amended in its entirety to read:**

CDBG-DR grants are generally subject to CDBG regulations outlined in 24 CFR part

570¹. The appropriations acts (i.e., public laws) that provide CDBG-DR funds typically allow the Secretary to waive requirements or specify alternative requirements for, any provision of any statute or regulation that the Secretary administers in connection with the obligation by the Secretary or the use by the grantee of CDBG-DR funds. Generally, the appropriations acts specify that there are four types of requirements that the Secretary cannot waive under that authority. These requirements include fair housing, nondiscrimination, labor standards, and the environment. However, HUD may also exercise its regulatory waiver authority under 24 CFR 5.110, 91.600, and 570.5.²

4. Paragraph (1)a.iii. in the section titled “Overview of Grant Life Cycle” at 90 FR 1756-1757 is amended in its entirety to read:

iii. Grantee responds to its summary of public comments and incorporates feedback into its Action Plan (I.C.2.c.).

5. The sixth paragraph in the section titled “Community Development Block Grant Disaster Recovery Universal Notice: Waivers and alternative Requirements (the ‘Universal Notice’)” at 90 FR 1757 is amended in its entirety to read:

Each grantee shall administer its award in compliance with all applicable laws and regulations and shall be financially accountable for the use of all awarded funds. CDBG-DR grantees must comply with the recordkeeping requirements of 24 CFR 570.506 or 24 CFR 570.490, as amended by the Universal Notice waivers and alternative requirements. All grantees must follow all cross-cutting requirements, as applicable, for all CDBG-DR funded activities.

6. Section “I.B.5. Admin Action Plan certifications waiver and alternative requirements” at 90 FR 1758 is amended by deleting it in its entirety and replacing it with the following:

Sections 104(b)(4), (c), and (m) of the HCDA (42 U.S.C. 5304(b)(4), (c), and (m)), sections 106(d)(2)(C) and (D) of the HCDA (42 U.S.C. 5306(d)(2)(C) and (D)), and section 106 of the Cranston-Gonzalez National Affordable Housing Act of 1990, as amended (42 U.S.C. 12706) are waived and replaced with the following alternative requirement. Each grantee

¹ View 24 CFR part 570—Community Development Block Grants Regulations here: <https://www.ecfr.gov/current/title-24/subtitle-B/chapter-V/subchapter-C/part-570>.

² View HUD’s policy concerning the procedures that govern the waiver of regulations and directives issued by HUD here: <https://www.govinfo.gov/content/pkg/FR-2024-08-06/pdf/2024-17034.pdf>.

choosing to submit an Admin Action Plan must follow the instructions in Appendix A of the Universal Notice and submit its certifications with the Admin Action Plan.

Additionally, HUD is waiving section 104(a)-(c) and (d)(1) of the HCDA (42 U.S.C. 5304); section 106(c)(1) and (d) of the HCDA (42 U.S.C. 5306); section 210 of the URA (42 U.S.C. 4630); section 305 of the URA (42 U.S.C. 4655); and regulations at 24 CFR 91.225(a)(2), (4), (5), (6), and (7); 91.225(b)(1), (2), (3), (4), and (7); 91.325(a)(2), (4), (5), (6), and (7); 91.325(b)(1), (2), (3), and (4); 49 CFR 24.4(a); and 24 CFR 42.325 only to the extent necessary to allow grantees to receive a portion of their allocation for program administrative costs before submitting other statutorily required certifications.

7. Section “I.C.1. Developing the Action Plan” at 90 FR 1758 is amended by deleting it in its entirety and replacing it with the following:

I.C.1 Developing the Action Plan. The Action Plan must identify the use of all CDBG-DR funding, including eligibility criteria for accessing the funds and how the proposed uses will address long-term recovery needs. At a minimum, the Action Plan must cover the impacts of the qualifying disaster(s), restoration of housing, infrastructure, economic revitalization, and mitigation in the most impacted and distressed (MID) areas. The CDBG-DR allocations are based on the unmet needs of specific communities, which are the least likely to fully recover without additional assistance. Therefore, it is critical that the Action Plan demonstrates the following, as described in the referenced sections:

1. An unmet needs assessment (review section I.C.1.a.).
2. A mitigation needs assessment (review section I.C.1.b.).
3. A connection between proposed programs and projects and unmet needs and mitigation needs (review section I.C.1.c.).
4. Set allocation and award caps (review section I.C.1.d.).
5. Establish funding criteria (review section I.C.1.e.).
6. Establish protocols for substantial amendments (review section I.C.1.f.).

As grantees develop their Action Plan, they must consult with various stakeholders, including the public (i.e., citizen participation) and inform residents about their funding decisions prior to submitting the Action Plan to HUD for review. Grantees will receive specific

instructions for Action Plan submittal in the applicable AAN. Note, the citizen participation requirements to develop the action plan are described in section I.C.2.

8. **Section “I.C.1.a.(i). Unmet needs in the MID areas” at 90 FR 1758 is amended by replacing the cross-reference in the final sentence from “see section I.C.1.g” to “see section I.C.1.f.”**
9. **Section “I.C.1.a.(ii). Unmet needs assessment requirements” at 90 FR 1759 is amended by replacing the cross-reference in the final sentence from “section I.C.1.g” to “section I.C.1.f.”**
10. **The third paragraph in the section titled “I.C.1.b. Mitigation needs assessment” at 90 FR 1759 is amended as follows: (1) by replacing “HMP” with “Hazard Mitigation Plan(s) (HMP);” and (2) by replacing the cross-reference in the final sentence from “section I.C.1.g” to “section I.C.1.f.”**
11. **Section “I.C.1.c. Fair Housing and Civil Rights Assessment” at 90 FR 1759 – 1760 is amended by deleting it in its entirety. (see the list of applicable statutes in the updated section I.C.1.c. below titled “*Connection of proposed programs and projects to unmet needs and mitigation needs.*”)**
12. **Section “I.C.1.d. Connection of proposed programs and projects to unmet needs, mitigation needs, and fair housing and civil rights assessments” at 90 FR 1760 is amended by deleting it in its entirety and replacing it with the following:**

I.C.1.c. *Connection of proposed programs and projects to unmet needs and mitigation needs.* The grantee must describe the connection between identified unmet needs and mitigation needs, and the allocation of CDBG-DR resources within its Action Plan. Additionally, grantees must use their CDBG-DR funds in a manner that complies with applicable statutes, which include:

- Section 109 of the HCDA, 42 U.S.C. 5309;
- Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d *et seq.*;
- Title VII of the Civil Rights Act of 1964, 42 U.S.C. 2000d *et seq.*;
- Title VIII of the Civil Rights Act of 1968 (The Fair Housing Act), 42 U.S.C. 3601 – 19;
- Section 504 and 508 of the Rehabilitation Act of 1973, 29 U.S.C. 794;
- The Americans with Disabilities Act of 1990, 42 U.S.C. 12131 *et seq.*; and

- Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104-193) (PRWORA).

In the Action Plan, at a minimum, the grantee must:

1. Provide a clear connection between a grantee's assessments and its proposed programs and projects in the MID areas (or outside in connection to the MID areas as described in section III.D.2.). Such description must demonstrate a reasonably proportionate allocation of resources relative to areas and categories (i.e., housing, economic revitalization, and infrastructure) of greatest needs identified in the grantee's unmet needs and mitigation needs assessments or provide an acceptable justification for a disproportional allocation.
2. Describe how the grantee is incorporating hazard mitigation measures to reduce the impacts of future disasters and considering all hazard risks, as identified in its mitigation needs assessment.
3. Describe all reasonable efforts the grantee will take to minimize displacement of persons or entities, assist any persons or entities displaced, and ensure accessibility needs of displaced persons with disabilities.

13. Section "I.C.1.e. Allocation and award caps" at 90 FR 1760 is amended by deleting it in its entirety and replacing it with the following:

I.C.1.d. *Allocation and award caps.* It is critical for grantees to demonstrate their planned use of funds through their Action Plan so the public can understand what types of assistance disaster survivors can apply for and what limits there are on possible awards.

Therefore, grantees must create a high-level budget for the full amount of the CDBG-DR allocation so the public can understand how funds will be split among program administration (subject to the five percent cap, plus five percent of program income generated, as described in section III.B.3.), planning (subject to the 15 percent cap, as described in section III.B.4.), housing, infrastructure, and economic revitalization (e.g., by program, subrecipient, grantee-administered activity, or other category).

Grantees are also encouraged to budget for any planned public service activities. The grantee's budget should also be consistent with the requirements to integrate hazard mitigation into all its programs and projects that involve construction, as described in section III.D.3. Finally, grantees must develop an executive summary describing the contents of the Action Plan

and its proposed use of funds so that interested parties will be able to understand and comment on the Action Plan.

For each program it intends to fund, the grantee must include the following in its Action Plan:

1. Provide a description of the disaster recovery program to be funded;
2. Identify the CDBG-DR eligible activity and national objective, including only those allowed under title I of the HCDA or otherwise eligible pursuant to a waiver or alternative requirement;
3. Identify the responsible entity assuming the authority for the decision making and completion of the environmental review per 24 CFR 58.4. State grantees who exercise HUD's environmental review responsibilities must follow the requirements per 24 CFR 58.4(b)(2) and 24 CFR 58.18;
4. Identify which geographic areas (i.e., HUD-identified and/or grantee-identified MID areas) that may benefit from CDGB-DR funds;
5. Explain how the grantee will identify and then reduce impediments that individuals face or may face to access assistance;
6. If the appropriations act that funded the grantee's award includes additional funds for mitigation, the grantee must also identify how the proposed use of CDBG-DR mitigation set-aside funds will meet the definition of mitigation activities (as described in section I.C.1.b.);
7. Describe (1) the maximum amount of assistance (i.e., award cap) available to a beneficiary under each of the grantee's disaster recovery programs and (2) the maximum income (i.e., income cap) of any beneficiary receiving CDBG-DR assistance for direct-benefit activities. Each grantee must also indicate in its Action Plan that it will make exceptions to the maximum award amounts, when necessary, to comply with federal accessibility standards or to reasonably accommodate a person with disabilities. If the maximum amount of assistance is unknown for a specific program or project when the grantee is submitting the initial Action Plan to HUD, the grantee must update the Action Plan through a substantial amendment (as described in section I.C.1.f.) once the information is known. The substantial amendment must be submitted and approved before awarding funds to applicants; and
8. Any other known eligibility criteria established by the grantee for assistance (e.g.,

priority intake).

14. Section “I.C.1.e.(i). Prioritization for allocations less than \$20 million” at 90 FR 1760 amended as follows: (1) by renumbering the section as I.C.d.(i); and (2) by starting the first sentence with “Section 1.C.1.c....”

15. Section “I.C.1.f. Funding criteria” at 90 FR 1760-1761 is amended by deleting it in its entirety and replacing it with the following:

I.C.1.e. *Funding criteria.* The Action Plan must describe how the grantee will distribute its grant funds, which can include the following methodologies:

1. Direct implementation (through employees, contractors, or through subrecipients); or
2. A method of distribution to local governments and Indian tribes (for states, as permitted by III.C.4.); or
3. A combination of a direct implementation model and a method of distribution model.

Because grantees must spend at least 80 percent of the CDBG-DR award to benefit the HUD-identified MID area (see section III.D.2.), they should consider how they will meet this requirement when developing funding criteria. At a minimum, the grantee must establish the following criteria within its Action Plan so the public can clearly understand its funding criteria for funds sub-granted to eligible entities through a method of distribution or for applications that the grantee solicits for programs to be carried out directly:

1. All criteria used to allocate and award the funds, including the relative importance of each criterion and any priorities;
2. Establish the maximum grant size available;
3. Describe how the distribution and selection criteria will address disaster-related unmet needs or mitigation needs in the MID areas; and
4. Describe the steps to be followed to encourage the participation of disaster-impacted persons in the MID areas.

If some required information is unknown when the grantee is submitting its initial Action Plan to HUD, the grantee must update the Action Plan through a substantial amendment once the information is known. Historically, appropriations acts require a grantee to submit a plan detailing the proposed use of all funds before HUD can obligate funding to the grantee. Without all the required information in the initial Action Plan, HUD may obligate only a portion of the

grant funds until the substantial amendment providing the required information is submitted and approved by HUD.

16. Section “I.C.1.g. Protocols for substantial amendments” at 90 FR 1761 is amended as follows: (1) by renumbering the section as I.C.1.f.; and (2) amending the fifth item in the enumerated list to read: “5. An update to the submitted initial Action Plan if the original submission was incomplete as allowed under section I.C.1.d. paragraph 7 and section I.C.1.e.”

17. Section “I.C.2.a. Consultation during Action Plan preparation” at 90 FR 1761 is amended by deleting it in its entirety and replacing it with the following:

I.C.2.a. Consultation during Action Plan preparation. All grantees must consult with states, Indian tribes, and local governments in the surrounding geographic area during Action Plan preparation to ensure consistency of the Action Plan with applicable regional development plans. Grantees must consult with agencies that manage local Continuums of Care³, Public Housing Agencies⁴, and HUD-approved housing counseling agencies⁵, as applicable.

Grantees are encouraged to consult with other relevant Federal government partners and local government agencies, including state and local emergency management agencies that have primary responsibility for the administration of FEMA funds, as well as non-governmental organizations supporting community recovery. Grantees are encouraged to coordinate with State Housing Finance Agencies to verify that all available funding sources and opportunities for leverage are noted in the Action Plan. Given the extensive coordination that may be required to develop a grantee’s Action Plan, HUD recommends that grantees give their partners a clear timeline on receiving feedback and create a consistent process for how feedback will be received from these stakeholders.

18. Section “I.C.2.b. Public comment period and minimum public hearing requirement” at 90 FR 1761-1762 is amended by deleting it in its entirety and replacing it with the following:

³ Find your local Continuum of Care here: <https://www.hudexchange.info/grantees/>.

⁴ Find your local Public Housing Agency on HUD’s website here: https://www.hud.gov/program_offices/public_indian_housing/pha/contacts.

⁵ Find a HUD-approved housing counseling agency on HUD’s website here: https://answers.hud.gov/housingcounseling/s/?language=en_US.

I.C.2.b. *Public comment period and minimum public hearing requirement.* Following the creation of the Action Plan or substantial amendment, the grantee must publish the proposed Action Plan or substantial amendment for public comment. The manner of publication must include prominent posting on the grantee's official disaster recovery website and must afford residents, affected local governments, and other interested parties a reasonable opportunity to review the Action Plan or substantial amendment (i.e., at least 30 calendar days). HUD encourages grantees to identify and redress any potential impediments that may limit or prohibit disaster-impacted individuals from providing public comment on the grantee's Action Plan or substantial amendments. For example, grantees may consider how to address impediments like lack of childcare and/or transportation that can limit individuals from participating in public hearings, providing comments, or other engagement events or techniques.

HUD strongly encourages grantees to hold as many hearings or convenings as may be necessary to ensure they capture all citizen comments to inform the comprehensive development of their Action Plan. However, only those public hearings held following the publication of the Action Plan for public comment will count toward the minimum number of public hearings required (i.e., grantees must publish the Action Plan for public comment prior to meeting the minimum public hearing requirements provided below).

The minimum number of public hearings a grantee must convene on the Action Plan to obtain interested parties' views and to respond to comments and questions shall be determined by the amount of the grantee's CDBG-DR allocation: (1) CDBG-DR grantees with allocations under \$20 million are not required to hold a public hearing; (2) CDBG-DR grantees with allocations equal to or greater than \$20 million but less than \$100 million are required to hold at least one public hearing; (3) CDBG-DR grantees with allocations equal to or greater than \$100 million but less than \$500 million are required to hold at least two public hearings; and (4) CDBG-DR grantees with allocations equal to or greater than \$500 million shall convene at least three public hearings. These are only minimum hearing requirements and the form and structure of the hearings and convenings may vary to effectively solicit meaningful engagement and feedback. Grantees may find they need additional hearings to adequately capture and address all citizen questions, concerns, and comments.

If the grantee is required to hold multiple public hearings, and a grantee holds those hearings in-person, it must hold each hearing in a different location within the HUD-identified

MID area. Specifically, the grantee should select locations that will promote a geographic balance and maximize accessibility for stakeholders to actively participate.

Figure One: Minimum Public Hearing Requirement Based on Grant Size

CDBG-DR Grant Value	Minimum Public Hearing Requirement
< \$20 Million	No public hearing requirement
≥\$20 Million but < \$100 Million	One (1) public hearing required
≥ \$100 Million but < \$500 Million	Two (2) public hearings required
≥\$500 Million	Three (3) public hearings required

Grantees may convene public hearings virtually (alone, or in concert with an in-person hearing). All in-person hearings must be held within HUD-identified MID areas and in facilities that are physically accessible to persons with disabilities. When conducting a virtual hearing, the grantee must allow questions in real time, with answers coming directly from the grantee representatives to all attendees.

A grantee’s citizen participation plan must specify that it will meet the requirements in the previous paragraph and the requirements in section III.B.8.a. of this notice on vital documents. Additionally, for both virtual and in-person hearings, the citizen participation plan must include how the grantee will complete the following: (1) hold hearings at times and locations convenient to potential and actual beneficiaries, (2) provide accommodations for persons with disabilities, and (3) to ensure effective communication for individuals with disabilities, including through the provision of auxiliary aids and services. See 24 CFR 8.6 for HUD’s regulations about effective communication.

In addition, for both virtual or in-person hearings, the grantee shall provide reasonable notification and access for residents in accordance with the grantee’s certifications at section I.C.4., timely responses to all citizen questions and issues, and public access to all questions and responses.

19. Section “I.C.4. Action Plan Certifications waiver and alternative requirement” at 90 FR 1762 is amended by deleting it in its entirety and replacing it with the following:

I.C.4. *Action Plan certifications waiver and alternative requirement.* Sections 104(b)(4), (c), and (m) of the HCDA (42 U.S.C. 5304(b)(4), (c) and (m)), sections 106(d)(2)(C) and (D) of the HCDA (42 U.S.C. 5306(d)(2)(C) and (D)), section 106 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12706), and regulations at 24 CFR 91.225(a)(2), (4), (5), and (6); 91.225(b)(1), (2), (3), and (4); 91.325(a)(2), (4), (5), and (6); and 91.325(b)(1), (2), (3), and (4) are waived and replaced with the following alternative requirement. Each grantee receiving an allocation under an AAN must follow the instructions in Appendix B of the Universal Notice and submit its certifications with the Action Plan.

20. Section “I.C.5.b. Standard of review of an Action Plan” at 90 FR 1763 is amended by deleting it in its entirety and replacing it with the following:

I.C.5.b. *Standard of review of an Action Plan.* HUD may disapprove or return an Action Plan or a portion of an Action Plan if it is inconsistent with the purposes of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12703), if it is substantially incomplete, or if the certifications under section I.C.4. of the Universal Notice are not satisfactory to the Secretary in accordance with 24 CFR 570.304 or 570.485(c), as applicable. The following are examples of an Action Plan that is substantially incomplete:

- An Action Plan that fails to satisfy a required element in the Universal Notice or applicable AAN (for example, an Action Plan that was developed without the required citizen participation or the required consultation); or
- An Action Plan that fails to describe how disaster-impacted renters or homeowners would benefit from CDBG-DR funds in proportion to their needs.

21. Section “I.C.6.a. Substantial amendment” at 90 FR 1763 is amended by replacing the cross-reference in the first sentence from “section I.C.1.g” to “section I.C.1.f.”

22. Section “II.A.1.g.(ii). Staffing analysis” at 90 FR 1765 is amended by deleting it in its entirety and replacing it with the following:

II.A.1.g.(ii). Staffing analysis.

(1) Submit an organizational chart of the department or division and provide a table that clearly indicates which personnel, or organizational unit will be responsible for each of the Financial Management and Grant Compliance Certification Requirements identified in section II.A.1.a. through f. along with staff contact information, if available.

(2) Submit documentation demonstrating that it has assessed staff capacity and identified positions for the purpose of: case management in proportion to the applicant pool; program managers who will be assigned responsibility for each primary recovery area (e.g., housing, infrastructure, and economic revitalization); staff who have demonstrated experience in housing, infrastructure (as applicable), and economic revitalization (as applicable); staff responsible for procurement/contract management, regulations implementing Section 3 of the Housing and Urban Development Act of 1968, as amended (24 CFR 75) (Section 3), URA and its implementing regulations, section 104(d) of the HCDA and its implementing regulations, and CDBG acquisition and relocation requirements, and environmental compliance. Additionally, demonstrate that the internal auditor, if applicable, and responsible audit staff report independently to the chief elected or executive officer or board of the governing body of any designated administering entity.

(3) Describe how it will provide training and technical assistance for any personnel that are not employed by the grantee at the time of Action Plan submission, and how it will fill gaps in knowledge or technical expertise required for successful and timely recovery. Grantees must also include how they will provide training and technical assistance to their subrecipients.

To fully complete the certification process, the grantee must have completed and submitted the certification documentation required in the applicable Certification Checklist. The grantee's documentation must demonstrate that the standards meet the requirements in the Universal Notice and the Certification Checklist.

23. Section "III.A.2. Required policies and procedures for all CDBG-DR funded programs" at 90 FR 1766 is amended by deleting it in its entirety and replacing it with the following:

III.A.2. Required policies and procedures for all CDBG-DR funded programs. This section outlines the specific requirements that grantees must adhere to when developing their policies and procedures. Grantees must ensure their procedures comply with several key requirements, such as minimizing displacement. Additionally, there are program-specific requirements that grantees must meet depending on the type of program (e.g., housing programs). Beyond the requirements described below, each grantee's program-specific policies and procedures must

adhere to the overarching policies and procedures they certified to (refer to Phase Two: Financial Certification and Oversight of Funds of the Universal Notice) including the requirement to build procedures to detect and prevent fraud, waste, and abuse; and any requirements set forth in this notice or the regulations on other cross-cutting requirements. Additionally, the grantee's program-specific policies and procedures must align with the information in the Action Plan (including the grantee's proposed allocations), as amended and approved by HUD.

24. Section “III.A.2.a. Fair housing and civil rights policies and procedure” at 90 FR 1766 is amended by deleting it in its entirety. (see the list of applicable statutes in the updated section I.C.1.c. titled “*Connection of proposed programs and projects to unmet needs and mitigation needs.*”)

25. Section “III.A.2.b. Minimizing displacement and relocation policies and procedures” at 90 FR 1767 is amended by renumbering the section as III.A.2.a.

26. Section “III.A.2.c. Mitigation policies and procedures” at 90 FR 1767 is amended by deleting it in its entirety and replacing it with the following:

III.A.2.b. Mitigation policies and procedures.

Each program-specific policy and procedure must address the following requirements on mitigation and resilience:

(i) how mitigation measures and strategies to reduce natural hazard risks will be integrated into the construction, reconstruction, or rehabilitation of residential or non-residential buildings; and

(ii) how CDBG-DR investments will be designed and constructed to withstand chronic stresses and extreme weather events by identifying and implementing resilience performance measures in DRGR.

27. Section “III.A.2.d. Timeliness policies and procedures” at 90 FR 1767 is amended by renumbering the section as III.A.2.c.

28. Subparagraphs (iii) and (vi) in “Section III.A.3. Required policies and procedures for housing programs” at 90 FR 1767 are amended in their entirety to read as follows:

(iii) a description of the mechanisms to be used by the grantee to assist beneficiaries in responding to contractor fraud, poor quality work, and associated issues. Grantee policies and

procedures must require a warranty period post-construction with a formal notification to beneficiaries on a periodic basis (e.g., one year and one month before expiration date of the warranty);

(vi) a description of the grantee's process for accepting alternative methods for documenting ownership. Grantees may include the following documentation as acceptable: deed, title, mortgage documentation, tax receipts or bills, home insurance, home purchase contracts, will or affidavit of heirship naming them as heir, receipts of major repairs completed prior to the disaster, court documents, letter from a manufactured housing community owner or public official, self-certification, or utility bills; and

29. Section "III.A.4. Required policies and procedures for infrastructure programs" at 90 FR 1758 is amended as follows: (1) by adding the word "and" at the end of subparagraph (iv); (2) by deleting subparagraph (v) in its entirety; and (3) by renumbering subparagraph (vi) as subparagraph (v).

30. Subparagraph (i) in section "III.A.5. Required policies and procedures for economic revitalization programs" at 90 FR 1768 is amended in its entirety to read:

(i) a description of how the grantee will prioritize small businesses that have been impacted by the disaster, as described in section III.D.7.a.;

31. Section "III.A.6.a. Consultation with citizen advisory groups" at 90 FR 1768-1769 is amended by deleting it in its entirety and replacing it with the following:

III.A.6.a. *Consultation with citizen advisory groups.* HUD encourages grantees to gather feedback and recommendations on key program decisions from a citizen advisory group at least annually. A citizen advisory group is a body composed of individuals from a community who volunteer or are appointed to provide input, advice, and recommendations on various issues and policies affecting their community. These groups typically serve as a bridge between the general public and decision-makers, offering insights, perspectives, and expertise to help inform and shape decisions that impact the community's well-being and development. A citizen advisory group will look different in each community because each community is unique. Generally, the individuals who volunteer or are appointed should represent the demographics of the community it is supporting. For example, a citizen advisory group in a community that is predominantly renters should include individuals who are renters. If a grantee chooses to consult with a citizen advisory group, the grantee can determine the cadence of meetings and how the group will

provide feedback to the grantee. As an example, a citizen advisory group may review program-specific policies and procedures to determine if programs are adequately reaching and assisting intended beneficiaries and are achieving intended program outcomes. HUD encourages grantees to describe the process they will follow for the citizen advisory group in their citizen participation plan.

32. Subparagraph 3. in section “III.B.7.a. Procurement alternative requirements” at 90 FR 1770 is amended in its entirety to read:

3. The grantee (or procuring entity) may contract for administrative support, in compliance with 2 CFR 200.459, but may not delegate or contract to any other party any inherently governmental responsibilities related to oversight of the grant, including policy development and financial management.

33. The first paragraph in section “III.B.7.b. Procurement when using CDBG-DR as non-Federal match” at 90 FR 1770 is amended in its entirety to read:

III.B.7.b. *Procurement when using CDBG-DR as non-Federal match.* When using CDBG-DR grant funds as the non-Federal match as explained in section III.D.6.d., grantees can adopt the procurement policies and procedures that satisfy the other Federal agency’s requirements to promote consistency and seamlessly leverage their funding, so long as they meet other cross-cutting requirements that apply to the CDBG-DR funds. Grantees must identify which procurement policies and procedures will apply and keep any decision document in their files. For example, CDBG-DR grants to local governments are subject to the same procurement requirements that apply to procurements by local governments using FEMA Public Assistance (PA) funds. State CDBG-DR grantees (and other CDBG-DR grantees subject to State CDBG rules under a waiver and alternative requirement) should consider including a provision in their procurement requirements that adopts FEMA procurement requirements for activities that will be used to satisfy the non-Federal match. This will eliminate confusion about which procurement rules apply.

34. Section “III.B.8. Public disaster recovery website.” at 90 FR 1770-1771 is amended by deleting it in its entirety and replacing it with the following:

III.B.8. *Public disaster recovery website.* The grantee must maintain a public website that permits individuals and entities awaiting assistance and the general public to see how all grant funds are used and administered. The public website must provide meaningful access in

compliance with Section 504, Title II of the ADA, and Title VI.

35. Section “III.B.8.a. Publication and accessibility of required documents” at 90 FR 1771 is amended by deleting it in its entirety and replacing it with the following:

III.B.8.a. *Publication and accessibility of required documents.* The website must include copies of all relevant procurement documents and, except as noted in the next paragraph, all grantee administrative contracts, details of ongoing procurement processes, and action plans and amendments. To meet this requirement, each grantee must make the following items available on its website: the Admin Action Plan (if applicable) and the Action Plan (including all amendments); each performance report (as created using the DRGR system); citizen participation plan; procurement policies and procedures; program-specific policies and procedures including a projection of expenditures and outcomes (III.A.6.b.); all contracts, as defined in 2 CFR 200.1, that will be paid with CDBG-DR funds (including, but not limited to, subrecipients’ contracts); and a summary including the description and status of services or goods currently being procured by the grantee or the subrecipient (e.g., phase of the procurement, requirements for proposals, etc.). Contracts and procurement actions that do not exceed the micro-purchase threshold, as defined in 2 CFR 200.1, are not required to be posted to a grantee’s website. The grantee must make the required documents available on the grantee’s website in a form accessible to persons with disabilities.

36. Section “III.B.9. Application Status” at 90 FR 1771 is amended by deleting it in its entirety and replacing it with the following:

III.B.9. *Application Status.* The grantee must provide multiple methods of communication, such as websites, dashboards, social media, toll-free numbers, TTY and relay services, email address, fax number, or other means to provide applicants for recovery assistance with timely information to determine the status of their application and when the application period begins. While grantees must identify multiple methods, one of the methods identified must be to include this information on the grantee’s disaster recovery website. This must include specific information on application status, including what quarter the grantee projects it will open application intake for each program. Then, on a monthly basis, the grantee must include information on which specific applications are under review, which applications are approved/disapproved, and any other relevant status update determined by the grantee. Grantees must use unique application number identifiers to ensure personally identifiable information

(PII) is protected. Grantees must also describe how they will use social media in their policies and procedures to announce when applications are open as required by sections III.A.3. and III.A.5.

37. Section “III.B.10.c. Adoption of another Federal agency’s environmental review” at 90 FR 1771-1772 is amended by deleting it in its entirety and replacing it with the following

III.B.10.c. *Adoption of another Federal agency’s environmental review.* Recipients of CDBG-DR funds that supplement other Federal assistance may adopt, without review or public comment, any environmental review, approval, or permit performed by a Federal agency, so long as the actions covered by the existing environmental review, approval, or permit and the actions proposed for the CDBG-DR supplemental funds are substantially the same. Such adoption shall satisfy the responsibilities of the recipient with respect to such environmental review, approval, or permit.

Projects originally funded by another agency that are later supplemented with CDBG-DR do not have to supplement the other agency’s environmental review with any HUD environmental requirements that differ from the originating agency. However, if the activity is modified so the other agency’s environmental review no longer covers the activity, the grantee is required to reevaluate and supplement the other agency’s environmental review to comply with all applicable HUD environmental regulations in 24 CFR part 58. The grantee’s environmental review obligations are considered complete when adopting another agency’s environmental review as outlined in this section. To be adequate:

1. The grantee must obtain a completed electronic or paper copy of the Federal agency’s review and retain a copy of the full file in its environmental review record.
2. The grantee must review the scope of work completed by the Federal agency’s review and verify that the scope of work is substantially the same with a memo to file in its environmental review record.
3. The grantee must notify HUD on the RROF (HUD-Form 7015.15) (or the state, if the state is acting as HUD under 24 CFR 58.18) that another agency review is being used. The grantee must include the name of the other Federal agency, the name of the project, and the date of the project’s review as prepared by the other Federal agency.

When permitted by the applicable appropriations acts, and notwithstanding 42 U.S.C.

5304(g)(2), the Secretary or a state may, upon receipt of a RROF and Certification, immediately approve the release of funds for an activity or project assisted with CDBG-DR funds if the recipient has adopted an environmental review, approval, or permit under this section, or if the activity or project is categorically excluded, see 42 U.S.C. 4336(a)(2).

38. Section “III.B.10.f. Part 55: FFRMS floodplain and elevation” at 90 FR 1772 is amended by deleting it in its entirety.

39. Section “III.B.12.e. Program income—use, close out, and transfer” at 90 FR 1774 is amended by replacing the cross-references in the third sentence and last sentence from “section I.C.1.f.” to “section I.C.1.e.”

40. Section “III.B.15.a. Section 104(d) RARAP” at 90 FR 1775 is amended by replacing the cross-references in the last sentence from “III.A.2.b.(ii)” to “III.A.2.a.(ii).”

41. The last paragraph in section “III.B.15.d. One-for-one replacement requirement” at 90 FR 1776 is amended in its entirety to read:

A grantee may request a waiver of section 104(d) one-for-one replacement requirement and its regulations at section 104(d)(2)(A)(i) and (ii) and 104(d)(3) of the HCDA and 24 CFR 42.375. To request a waiver, a grantee must submit a good cause justification that includes a data-driven analysis that indicates that there is an adequate supply of vacant lower-income dwelling units in standard condition that will be available to meet the housing needs of low- and moderate-income (LMI) owners and tenants in the MID areas or surrounding communities.

42. The first paragraph of section “III.B.15.g. Waiver of Section 414 of the Stafford Act” at 90 FR 1776 is amended in its entirety to read:

III.B.15.g. *Waiver of Section 414 of the Stafford Act.* 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 ...shall be denied such eligibility as a result of [their] being unable, because of a major disaster as determined by the President, to meet the occupancy requirements set by such Act.” Accordingly, homeowner occupants and tenants displaced from their homes as a result of the identified disasters who would otherwise not have 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.

Section 414 of the Stafford Act and its implementing regulation at 49 CFR 24.403(d)(1) are waived to the extent that they would apply to real property acquisition, rehabilitation, or demolition of real property undertaken by a grantee or subrecipient for a CDBG-DR funded project commencing more than one year after the date of the latest applicable Presidentially declared disaster, provided that the project was not planned, approved, or otherwise underway before the disaster.

43. The following section “III.B.18. Interchangeability of disaster funds” is added after Section III.B.17:

III.B.18. *Interchangeability of disaster funds.* The appropriations acts may authorize special treatment that allows for the interchangeability of grant funds. Once authorized by the appropriations acts, grantees receiving funds under the Universal Notice and that have received CDBG-DR grants in the past or from any future acts, may use their disaster funds interchangeably and without limitation for the same activities related to unmet recovery needs in the MID areas resulting from a major disaster. This provision applies when the MID areas of the grantee’s CDBG-DR grants overlap and when the use of the disaster funds will address unmet recovery needs of both disasters.

Expanding the eligible beneficiaries of activities in an action plan funded by any prior or future acts to include those impacted by the specific qualifying disaster(s) in an AAN subject to the Universal Notice requires the submission of a substantial action plan amendment in accordance with section I.C.1.f. 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 the funded activity will address.

44. Section “III.D.2. MID areas” at 90 FR 1778 is amended by replacing the cross-references in the last sentence of the first paragraph from “see section I.C.1.g” to “see section I.C.1.f.”

45. Section “III.D.3. Mitigation measures” at 90 FR 1779 is amended by deleting it in its entirety and replacing it with the following:

III.D.3. *Mitigation measures.* Additionally, HUD is adopting the following alternative requirement to section 105(a) of the HCDA (42 U.S.C. 5305(a)): Grantees may carry out the activities described in section 105(a) of the HCDA, as modified by waivers and alternative requirements, to the extent that the activities comply with the following:

Grantees must incorporate mitigation measures when carrying out activities to construct, reconstruct, or rehabilitate residential or non-residential buildings with CDBG-DR funds as part of activities eligible under 42 U.S.C. 5305(a) (including activities authorized by waiver and alternative requirement). To meet this alternative requirement, grantees must demonstrate that they have incorporated mitigation measures into CDBG-DR activities as a construction standard to create communities that are more resilient to the impacts of recurring natural disasters and the impacts of changing weather patterns. When determining which mitigation measures to incorporate, grantees should design and construct structures to withstand existing and future natural hazards expected to occur over the life of the project. For all mitigation measures adopted, grantees must report resilience performance measures available in DRGR.

46. The first paragraph of Section III.D.5. Housing activities and standards” at 90 FR 1779-1780 is amended by deleting it in its entirety and replacing it with the following:

III.D.5. *Housing activities and standards.* Grantees may use CDBG-DR funds for activities that may include, but are not limited to, new construction, reconstruction, and rehabilitation of single-family or multifamily housing, homeownership assistance, buyouts, and rental assistance. The broadening of eligible CDBG-DR activities related to housing under the HCDA is necessary following major disasters in which housing, including large numbers of affordable housing units, have been damaged or destroyed. Note, CDBG-DR does not have a requirement of “proof of ownership” when grantees are carrying out housing recovery programs. Any decisions about requiring applicants to submit proof of ownership is up to the grantee and its chosen program design. However, grantees may choose to obtain documentation to protect the CDBG-DR investment. In doing so, grantees must include in their program-specific policies and procedures alternative methods for documenting ownership. While grantees have flexibility on what type of documentation they will require to prove ownership, HUD strongly recommends that grantees consider the following documentation options in their required policies and procedures: deed, title, mortgage documentation, tax receipts or bills, home insurance, home purchase contracts, will or affidavit of heirship naming them as heir, receipts of major repairs completed prior to the disaster, court documents, letter from a manufactured housing community owner or public official, self-certification, or utility bills.

47. Sections “III.D.5.b. Standards for new construction, reconstruction, and

rehabilitation,” “III.D.5.b.(i). Standards for new construction and reconstruction of residential buildings,” and “III.D.5.b.(ii). Standards for rehabilitation of non-substantially damaged residential buildings” at 90 FR 1780 are deleted in their entirety.

48. Sections III.D.5.c. through III.D.5.h. at 90 FR 1780-1782 are renumbered as Sections III.D.5.b. through III.D.5.g.

49. Section “III.D.5.i. Buyouts” at 90 FR 1782 is amended by deleting it in its entirety and replacing it with the following:

III.D.5.h. *Buyouts*. CDBG-DR grantees may carry out property acquisition for a variety of purposes, but buyouts are a type of acquisition for the specific purpose of reducing the risk of property damage. HUD has determined that creating a new activity and alternative requirement for buyouts is necessary for consistency with the application of other Federal resources commonly used for this type of activity. Therefore, HUD is waiving 42 U.S.C. 5305(a) and establishing an alternative requirement only to the extent necessary to create a new eligible activity for voluntary buyouts. The term “buyouts” for CDBG-DR purposes means the voluntary acquisition of properties located in a floodway, floodplain, or other Disaster Risk Reduction Area that is intended to reduce risk from future hazards. Requiring buyouts to be voluntary acquisitions will focus the buyout activities on areas where relocation plans are community driven. Grantees may designate a Disaster Risk Reduction Area, as defined below.

Grantees carrying out buyout activities must establish an open space management plan or equivalent, if one has not already been established, before implementation. The open space management plan or equivalent must establish full transparency about the planned use of acquired properties post-buyout, or the process by which the planned use will be determined and enforced.

Buyout activities are subject to all requirements that apply to acquisition activities generally including but not limited to, the URA (42 U.S.C. 4601 *et seq.*) and its implementing regulations at 49 CFR part 24, subpart B, unless waived or modified by alternative requirements. Only acquisitions that meet the definition of a “buyout” are subject to the post-acquisition land use restrictions imposed by the alternative requirement (III.D.5.h.(i). below). The key factor in determining whether the acquisition is a buyout is whether the intent of the purchase is to reduce the risk of property damage from future flooding or other hazards in a floodway, floodplain, or a

Disaster Risk Reduction Area. A grantee that will acquire property for purposes of a buyout in a Disaster Risk Reduction Area must establish criteria in its policies and procedures to designate an area as a Disaster Risk Reduction Area for the buyout, pursuant to the following requirements:

- 1) the area has been impacted by the hazard that has been caused or exacerbated by the disaster for which the grantee received its CDBG-DR allocation or address the current and future risks as identified in the grantee’s mitigation needs assessment;
- 2) the hazard identified must be a predictable environmental threat to the safety and well-being of program beneficiaries, as evidenced by the best available data (e.g., FEMA Repetitive Loss Data, National Risk Index, etc.) and science (such as engineering and structural solutions propounded by FEMA, USACE, other federal agencies, etc.); and
- 3) the area must be clearly delineated so that HUD and the public may easily determine which properties are located within the designated area.

50. **Section “III.D.5.i.(i). Buyout requirements:” at 90 FR 1782-1783 is amended as follows: (1) by renumbering the section as III.D.5.h.(i).; and (2) deleting “FFRMS” in the first requirement in the numbered list.**
51. **Section “III.D.5.i.(ii). National objectives for buyouts.” at 90 FR 1783 is amended as follows: (1) by renumbering the section as III.D.5.h.(ii); and (2) by replacing “III.D.5.i.(i)(6)” in the third clause in the enumerated list with “III.D.5.h.(i)6.”**
52. **Sections III.D.5.j., III.D.5.j.(i), III.D.5.k., and III.D.5.l. at 90 FR 1783-1784 are amended by renumbering the sections as III.D.5.i., III.D.5.i.(i), III.D.5.j., and III.D.5.k., respectively.**
 - a. **Section “III.D.5.i. Safe housing incentives” at 90 FR 1783 is also amended as follows: (1) by replacing “III.A.2.b.” in the final sentence of the first paragraph with “III.A.2.a.” and (2) by replacing “III.D.5.l.” in the last sentence with “III.D.5.k.”**
 - b. **Section “III.D.5.k. Alternative requirement for housing rehabilitation and buyout—assistance for second homes” at 90 FR 1784 is amended by replacing “III.D.5.k.” in the final sentence of with “III.D.5.j.”**
53. **Section “III.D.6. Infrastructure activities and standards” at 90 FR 1784 is amended by deleting it in its entirety and replacing it with the following:**

III.D.6. *Infrastructure activities and standards.* As grantees consider different eligible infrastructure activities including public facilities, states and local governments are encouraged to adopt the recent edition or editions of IBC for public facility construction, particularly when using the CDBG-DR funds as the non-Federal match in FEMA PA projects.

All newly constructed infrastructure that is assisted with CDBG-DR funds must be designed and constructed to withstand the impacts of extreme weather events. To satisfy this requirement, the grantee must identify and implement resilience performance measures as described in section III.D.3.

For purposes of this requirement, an infrastructure activity includes any activity or group of activities (including acquisition or site or other improvements), whether carried out on public or private land, that assists the development of the physical assets that are designed to provide or support services to the general public in the following sectors: surface transportation, including roadways, bridges, railroads, and transit; aviation; ports, including navigational channels; water resources projects; energy production and generation, including from renewable, nuclear, and hydro sources; electricity transmission; broadband; pipelines; stormwater and sewer infrastructure; drinking water infrastructure; schools, hospitals, and housing shelters; and other sectors as may be determined by the Federal Permitting Improvement Steering Council (Permitting Council). For purposes of this requirement, an activity that falls within this definition is an infrastructure activity regardless of whether it is carried out under sections 105(a)(2), 105(a)(4), 105(a)(14), or another section of the HCDA (42 U.S.C. 5305(a)(2), 5305(a)(4), 5305(a)(14)), or pursuant to a waiver or alternative requirement established by HUD. Required policies and procedures related to infrastructure activities are found in section III.A.4. of the Universal Notice.

54. Section “III.D.6.c. FAST-41 project requirements” at 90 FR 1785 is amended by deleting it in its entirety.

55. Sections “III.D.6.d. CDBG-DR funds as non-Federal match” and “III.D.6.d.(i). Alternative requirement when using CDBG-DR funds as the non-Federal match in a FEMA-funded project (building codes and standards)” at 90 FR 1785 are amended as follows: (1) by renumbering section III.D.6.d. as III.D.6.c.; and (2) by deleting III.D.6.d.(i) in its entirety.

56. Section “III.D.6.e. Flood control structure requirements” at 90 FR 1785 is amended as follows: (1) by renumbering section III.D.6.e. as III.D.6.d.; and (2) by deleting the sentence “In addition, a grantee must comply with the requirements outlined above in section III.D.6.c. if the project meets one of the following four criteria for FAST-41 projects, as amended.”

57. Section “III.D.6.f. LMI benefit for infrastructure activities” at 90 FR 1785-1786 is amended by deleting it in its entirety and replacing it with the following:

III.D.6.e. *LMI benefit for infrastructure activities.* CDBG-DR funds represent a significant opportunity for grantees to carry out strategic, high-impact, and innovative infrastructure activities to recover from the applicable disaster, mitigate disaster risks, and reduce future losses. Infrastructure activities assist in the development of physical assets that are designed to provide or support services to the general public. These infrastructure activities often offer unique benefits for communities following a disaster due to the activities’ scale and intersection with other key recovery and mitigation outcomes. For example, an infrastructure activity that repairs damaged roadways connected to a disaster-impacted community may facilitate the redevelopment of housing and expedite economic recovery by making the community more attractive to local businesses.

The far-reaching nature of infrastructure activities’ service areas presents challenges for meeting the low- and moderate-income area benefit (LMA) national objective criteria at 24 CFR 570.208(a)(1) and 24 CFR 570.483(b)(1). Large infrastructure activities with a broad service area may benefit a large population of LMI persons, but because the area that benefits is so large, the LMI population may be less than 51 percent. When this is the case, a grantee may not pursue the implementation of innovative infrastructure activities that would otherwise have positive, compounding effects on LMI persons in the MID areas because the activity would not meet the standard LMA national objective criteria. Since grantees’ infrastructure needs and investments may represent a significant portion of their total CDBG-DR allocations, grantees may not be able to meet the 70 percent overall benefit requirement if their infrastructure activities can only meet the urgent need national objective.

Based on these reasons, HUD is waiving 24 CFR 570.484 and 24 CFR 570.200(a)(3) only to the extent necessary to add this alternative requirement: CDBG-DR grantees funding

infrastructure projects may count funds expended for infrastructure activities towards benefiting LMI persons and meeting the overall benefit requirement by multiplying the total cost (including CDBG-DR and non-CDBG-DR costs) of the infrastructure activity by the percent of LMI persons in the service area, except that the amount counted shall not exceed the amount of CDBG-DR funds provided.

As an example, if the total cost of an infrastructure activity is \$1,000,000, and the percent of LMI persons in the activity's service area is 40 percent, then \$400,000 would count towards benefiting LMI persons when calculating a grantee's overall benefit (assuming this project is only funded with CDBG-DR funds). Generally, grantees should not pursue this alternative requirement if doing so comes at the expense of pursuing an infrastructure project that can meet the original LMA national objective criteria and thus be counted towards the overall benefit requirement.

58. Section "III.D.6.g. Assistance to private utilities" at 90 FR 1786 is amended by renumbering the section as III.D.6.f.

59. Section III.D.7.a. at 90 FR 1786-1787 is amended by deleting it in its entirety and replacing it with the following:

III.D.7.a. *Economic revitalization assistance.* Natural disasters and extreme weather events disproportionately affect LMI persons and small businesses because they are less able to prepare for, respond to, and recover from the impacts of extreme events and natural hazards. Therefore, HUD is imposing the following alternative requirement: When funding activities outlined in 24 CFR 570.203 and 570.204 and sections 105(a)(14), (15), and (17) of the HCDA (42 U.S.C. 5305(a)(14), (15), and (17)), HUD is instituting an alternative requirement to target assistance to small businesses. The alternative requirement will require grantees to prioritize assisting businesses that meet the definition of a small business as defined by SBA at 13 CFR part 121 or, for businesses engaged in "farming operations" as defined at 7 CFR 1400.3, and that meet the United States Department of Agriculture Farm Service Agency (FSA), criteria that are described at 7 CFR 1400.500, which are used by the FSA to determine eligibility for certain assistance programs. With regard to assistance to businesses engaged in "farming operations," grantees are advised that in its allocation methodology HUD does not account for crop loss and other agricultural losses in its determination of unmet economic need. Grantees may further define how they will prioritize small businesses either in the Action Plan or program-specific

policies and procedures.

60. Section “**III.D.7.e Business relocation assistance**” at 90 FR 1787 is amended by replacing “**barrier**” with “**impediment.**”

61. Section “**III.E.1. Prohibition on compensation**” at 90 FR 1788 is amended by replacing the cross-reference at the end of the paragraph from “**III.B.14.a.**” to “**III.B.14.b.**”

62. Section “**III.G.2.a. Maintain grantee records within DRGR**” at 90 FR 1789 is amended by deleting it in its entirety and replacing it with the following:

III.G.2.a. *Maintain grantee records within DRGR.* The information in the DRGR system must contain sufficient detail to permit HUD’s review of grantee performance and to enable remote review of grantee data to allow HUD to assess compliance and risk. Grantees must use the DRGR system to:

- i. Enter projects into the DRGR Action Plan at a level of detail sufficient to allow HUD to determine grantee compliance: 1) appropriate activity type, 2) national objective, and 3) responsible entity;
- ii. Document grantee’s oversight of its disaster recovery projects through project level reporting (e.g., summary information on grantees’ monitoring visits and reports, audits, technical assistance);
- iii. For direct benefit activities only, enter summary data on the number of beneficiaries assisted for each activity each quarter in total and for the following categories: LMI persons and data required at 570.506(g)(2); and
- iv. If applicable, track program income receipts, disbursements, revolving loan funds, and leveraged funds.

63. **Appendix A. APPENDIX A. Certifications Waiver and Alternative Requirement for Admin Action Plan Submission at 90 FR 1789-1790 is amended by deleting it in its entirety and replacing it with the following:**

Sections 104(b)(4), (c), and (m) of the HCDA (42 U.S.C. 5304(b)(4), (c), and (m)); sections 106(d)(2)(C) and (D) of the HCDA (42 U.S.C. 5306(d)(2)(C) and (D)); section 106 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12706); section 104(a)-(c) and (d)(1) of the HCDA (42 U.S.C. 5304); section 106(c)(1) and (d) of the HCDA (42 U.S.C. 5306); section 210 of the Uniform Relocation Assistance and Real Property Acquisition Policies

Act of 1970, as amended (“the Uniform Act”) (42 U.S.C. 4630); section 305 of the Uniform Act (42 U.S.C. 4655); and regulations at 24 CFR 91.225(a)(2), (4), (5), (6), and (7); 91.225(b)(1), (2), (3), (4), and (7); 91.325(a)(2), (4), (5), (6), and (7); 91.325(b)(1), (2), (3), and (4); 49 CFR 24.4(a); and 24 CFR 42.325 only to the extent necessary to allow grantees to receive a portion of their allocation for program administrative costs before submitting other statutorily required certifications.

Each grantee receiving an allocation under an AAN must make the following certifications with its admin action plan, in addition to the certifications at 24 CFR 91.225 and 91.325 that are not waived above:

- a. **Authority of Grantee:** The grantee certifies that the Admin Action Plan for disaster recovery is authorized under state and local law (as applicable) and that the grantee, and any entity or entities designated by the grantee, and any contractor, subrecipient, or designated public agency carrying out an activity with CDBG-DR funds, possess(es) the legal authority to carry out the program for which it is seeking funding, in accordance with applicable HUD regulations as modified by waivers and alternative requirements.
- b. **Consistency with the Action Plan-** The grantee certifies that activities to be undertaken with CDBG-DR funds are consistent with its Admin Action Plan.
- c. **Citizen Participation-**The grantee certifies that it is following a detailed citizen participation plan that satisfies the requirements of 24 CFR 91.115 or 91.105 (except as provided for in waivers and alternative requirements). Also, each local government receiving assistance from a state grantee must follow a detailed citizen participation plan that satisfies the requirements of 24 CFR 570.486 (except as provided for in waivers and alternative requirements).
- d. **Use of Funds-**The grantee certifies that it is complying with each of the following criteria:
 - (1) Purpose of the Funds. Funds will be used solely for necessary expenses related to disaster relief, long-term recovery, restoration of infrastructure and housing, economic revitalization, and mitigation in the most impacted and distressed areas for which the President declared a major disaster pursuant to the Stafford Act (42 U.S.C. 5121 *et seq.*).

- (2) **Maximum Feasibility Priority.** With respect to activities expected to be assisted with CDBG-DR funds, the Admin Action Plan has been developed so as to give the maximum feasible priority to activities that will benefit low- and moderate-income families.
- (3) **Overall benefit.** The aggregate use of CDBG-DR funds shall principally benefit low- and moderate-income families in a manner that ensures that at least 70 percent (or another percentage permitted by HUD in a waiver) of the grant amount is expended for activities that benefit such persons.
- (4) **Special Assessment.** The grantee will not attempt to recover any capital costs of public improvements assisted with CDBG-DR grant funds, by assessing any amount against properties owned and occupied by persons of low- and moderate-income, including any fee charged or assessment made as a condition of obtaining access to such public improvements, unless: (a) the grant funds are used to pay the proportion of such fee or assessment that relates to the capital costs of such public improvements that are financed from revenue sources other than under this title; or (b) for purposes of assessing any amount against properties owned and occupied by persons of moderate income, the grantee certifies to the Secretary that it lacks sufficient CDBG funds (in any form) to comply with the requirements of clause (a).
- e. **Grant Timeliness-** The grantee certifies that it (and any subrecipient or administering entity) currently has or will develop and maintain the capacity to carry out disaster recovery activities in a timely manner and that the grantee has reviewed the requirements applicable to the use of grant funds.

64. Appendix B. Certifications Waiver and Alternative Requirement for Action Plan at 90 FR 1790-1791 is amended by deleting it in its entirety and replacing it with the following:

APPENDIX B. Certifications Waiver and Alternative Requirement for Action Plan Submission

Sections 104(b)(4), (c), and (m) of the HCDA (42 U.S.C. 5304(b)(4), (c) and (m)); sections 106(d)(2)(C) and (D) of the HCDA (42 U.S.C. 5306(d)(2)(C) and (D)); section 106 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12706); regulations at 24 CFR 91.225(a)(2), (4), (5), and (6); 91.225(b)(1), (2), (3), and (4); 91.325(a)(2), (4), (5), and (6);

and 91.325(b)(1), (2), (3), and (4) are waived only to the extent necessary to allow grantees to receive their CDBG-DR allocations. Each grantee receiving an allocation under an AAN must make the following certifications with its action plan, in addition to the certifications at 24 CFR 91.225 and 91.325, as applicable, that are not waived above:

- a. **Uniform Relocation Act and Residential Anti-displacement and Relocation Plan**
 - The grantee certifies that it:
 - (1) will comply with the acquisition and relocation requirements of the Uniform Act, and implementing regulations at 49 CFR part 24, as such requirements may be modified by waivers or alternative requirements;
 - (2) has in effect and is following a RARAP in connection with any activity assisted with CDBG-DR grant funds that fulfills the requirements of Section 104(d), 24 CFR part 42, and 24 CFR part 570, as amended by waivers and alternative requirements.
- b. **Authority of Grantee:** The grantee certifies that the Action Plan for disaster recovery is authorized under state and local law (as applicable) and that the grantee, and any entity or entities designated by the grantee, and any contractor, subrecipient, or designated public agency carrying out an activity with CDBG-DR funds, possess(es) the legal authority to carry out the program for which it is seeking funding, in accordance with applicable HUD regulations as modified by waivers and alternative requirements.
- c. **Consistency with the Action Plan** - The grantee certifies that activities to be undertaken with CDBG-DR funds are consistent with its action plan.
- d. **Citizen Participation**-The grantee certifies that it is following a detailed citizen participation plan that satisfies the requirements of 24 CFR 91.115 or 91.105 (except as provided for in waivers and alternative requirements). Also, each local government receiving assistance from a state grantee must follow a detailed citizen participation plan that satisfies the requirements of 24 CFR 570.486 (except as provided for in waivers and alternative requirements).
- e. **Consultation with Local Governments (STATE ONLY)**-State grantee certifies that it has consulted with all disaster-affected local governments (including any CDBG entitlement grantees), Indian tribes, and any local public housing authorities in determining the use of funds, including the method of distribution of funding, or

- activities carried out directly by the state.
- f. **Use of Funds**-The grantee certifies that it is complying with each of the following criteria:
- (1) Purpose of the funding. Funds will be used solely for necessary expenses related to disaster relief, long-term recovery, restoration of infrastructure and housing, economic revitalization, and mitigation in the most impacted and distressed areas for which the President declared a major disaster pursuant to the Stafford Act (42 U.S.C. 5121 *et seq.*).
 - (2) Maximum Feasibility Priority. With respect to activities expected to be assisted with CDBG-DR funds, the Action Plan has been developed so as to give the maximum feasible priority to activities that will benefit low- and moderate-income families.
 - (3) Overall benefit. The aggregate use of CDBG-DR funds shall principally benefit low- and moderate-income families in a manner that ensures that at least 70 percent (or another percentage permitted by HUD in a waiver) of the grant amount is expended for activities that benefit such persons.
 - (4) Special Assessment. The grantee will not attempt to recover any capital costs of public improvements assisted with CDBG-DR grant funds, by assessing any amount against properties owned and occupied by persons of low- and moderate-income, including any fee charged or assessment made as a condition of obtaining access to such public improvements, unless: (a) disaster recovery grant funds are used to pay the proportion of such fee or assessment that relates to the capital costs of such public improvements that are financed from revenue sources other than under this title; or (b) for purposes of assessing any amount against properties owned and occupied by persons of moderate income, the grantee certifies to the Secretary that it lacks sufficient CDBG funds (in any form) to comply with the requirements of clause (a).
- g. **Grant Timeliness**- The grantee certifies that it (and any subrecipient or administering entity) currently has or will develop and maintain the capacity to carry out disaster recovery activities in a timely manner and that the grantee has reviewed the requirements applicable to the use of grant funds.
- h. **Order of Assistance**-The grantee certifies that it will comply with the statutory order

of assistance listed in Appendix C paragraph 9 and will verify if FEMA or USACE funds are available for an activity, or the costs are reimbursable by FEMA or USACE before awarding CDBG-DR assistance for the costs of carrying out the same activity.

65. Section “12. Agreement to repay” of Appendix C. Duplication of Benefits (DOB) at 90 FR 1795 is amended by deleting the first paragraph and replacing it with the following:

12. *Agreement to repay.* The Stafford Act requires grantees to ensure that applicants agree to repay all duplicative assistance to the agency providing that Federal assistance. As described in this section, each applicant must also enter into an agreement with the CDBG-DR grantee to repay any assistance later received for the same purpose for which the CDBG-DR funds were provided, unless one of the circumstances described in paragraph 13.a. applies. This agreement can be in the form of a subrogation agreement or similar document and must be signed by every applicant before the grantee disburses any CDBG-DR assistance to the applicant.

66. Section “13. Collecting a DOB” of Appendix C. Duplication of Benefits (DOB) at 90 FR 1795 is amended by deleting it in its entirety and replacing it with the following:

13. *Collecting a DOB.* If a potential DOB is discovered after CDBG-DR assistance has been provided, and one of the circumstances in paragraph 13.a does not apply, the grantee must reassess the applicant’s need at that time (see 4.e. above). If additional need is not demonstrated and one of the circumstances described in paragraph/section 13.a does not apply, CDBG-DR funds shall be recaptured to the extent they are in excess of the remaining need and duplicate other assistance received by the applicant for the same purpose. However, this determination may depend on what sources of assistance were last received by the applicant.

If a grantee fails to recapture funds from an applicant, HUD may impose corrective actions pursuant to 24 CFR 570.495, 24 CFR 570.910, and *Federal Register* notices, as applicable. However, as described above in paragraph 9, a grantee that does not collect duplicative CDBG-DR assistance that it provides may resolve this noncompliance by reimbursing its program account with non-Federal funds in the amount of the duplication and reprogramming the use of the funds in accordance with applicable requirements to avoid other corrective or remedial actions.

HUD reminds grantees that the Stafford Act states that “A person receiving Federal

assistance for a major disaster or emergency shall be liable to the United States to the extent that such assistance duplicates benefits available to the person for the same purpose from another source.” A grantee's failure to collect a DOB does not remove an applicant's potential liability to the United States, unless one of the circumstances described in paragraph 13.a. applies.

67. Section “13.a. Not in the best interest of the Federal government to collect” of Appendix C. Duplication of Benefits (DOB) at 90 FR 1795-1796 is amended by deleting it in its entirety and replacing it with the following:

Section 13.a. *Not in the best interest of the Federal government to collect.* Section 312(c) of the Stafford Act states that “the agency which provided the duplicative assistance shall collect it from the recipient . . . when the head of such agency considers it to be in the best interest of the Federal government” 42 U.S.C. 5155(c). There are extraordinary situations where the Secretary may determine that collecting a DOB is not in the best interest of the Federal government. For grants subject to the Universal Notice, HUD is establishing these specific circumstances as situations when collection is not necessary. HUD’s secretary has determined that it is not in the best interest of the Federal government to collect a DOB in the following circumstances:

(1). The duplicative federal assistance was received by low- and moderate-income beneficiaries after the receipt of the CDBG-DR assistance (subject to a cap set by the Secretary); or

(2). The duplicative assistance was received by beneficiaries that, after the receipt of the CDBG-DR assistance, are:

- i. Deceased;
- ii. Subject to a foreclosure action on a property rehabilitated, constructed, or reconstructed with CDBG-DR funds; or
- iii. A debtor in a bankruptcy proceeding or who recently exited a bankruptcy proceeding (or similar proceeding for insolvent debtors under state law, such as an assignment for the benefit of creditors).

Additionally, the grantee may refer to any relevant guidance or the debt collection procedures in place for the state or local government. HUD is available to provide guidance to grantees in establishing or revising the grantee’s DOB policies and procedures.

68. Appendix D. Detailed Table of Contents to the Universal Notice at 90 FR 1796-1797 is deleted in its entirety and replaced with the following:

APPENDIX D. Detailed Table of Contents to the Universal Notice

PREAMBLE

COMMUNITY DEVELOPMENT BLOCK GRANT DISASTER RECOVERY UNIVERSAL NOTICE: WAIVERS AND ALTERNATIVE REQUIREMENTS (THE “UNIVERSAL NOTICE”)

I. Phase One: The Action Plan.

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I.B.2. *Submission and publication of the Admin Action Plan.*

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I.C.1.e. *Funding criteria.*

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I.C.2.b. *Public comment period and minimum public hearing requirement.*

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I.C.5. *HUD Action Plan review process.*

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I.C.5.b. *Standard of review of an Action Plan.*

I.C.5.c. *Written notice of return of an Action Plan.*

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FOR FURTHER INFORMATION CONTACT

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