Billing Code: 4210-67

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-5696-N-13]

Third Allocation, Waivers, and Alternative Requirements for Grantees Receiving Community Development Block Grant Disaster Recovery (CDBG-DR) Funds in Response to Disasters Occurring in 2013

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice advises the public of a third allocation of Community Development Block Grant disaster recovery (CDBG-DR) funds for the purpose of assisting recovery in the most impacted and distressed areas identified in major disaster declarations in calendar year 2013. This is the seventh allocation of CDBG-DR funds under the Disaster Relief Appropriations Act, 2013 (Pub. L. 113-2). In addition to an initial allocation for disasters occurring in 2013, prior allocations addressed the areas most impacted by Hurricane Sandy, as well as the areas most impacted by disasters occurring in 2011 or 2012. In prior Federal Register notices, the Department described the allocations, relevant statutory provisions, the grant award process, criteria for Action Plan approval, eligible disaster recovery activities, and applicable waivers and alternative requirements. This Notice builds upon the requirements of those notices, and specifies that funds allocated through this notice are subject to all requirements in the notice published on June 3, 2014 (79 FR 31964).

DATES: Effective Date: **[Insert date 5 days from date of publication in the FEDERAL REGISTER.]**

FOR FURTHER INFORMATION CONTACT: Stan Gimont, Director, Office of Block Grant Assistance, Department of Housing and Urban Development, 451 7th Street, SW, Room

7286, Washington, DC 20410, telephone number 202-708-3587. Persons with hearing or speech impairments may access this number via TTY by calling the Federal Relay Service at 800-877-8339. Facsimile inquiries may be sent to 202-401-2044. (Except for the "800" number, these telephone numbers are not toll-free.) E-mail inquiries may be sent to disaster_recovery@hud.gov.

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I. Allocation

The Disaster Relief Appropriations Act, 2013 (Public Law 113-2, approved January 29, 2013) (Appropriations Act) made available $16 billion in Community Development Block Grant disaster recovery (CDBG-DR) funds for necessary expenses related to disaster relief, long-term recovery, restoration of infrastructure and housing, and economic revitalization in the most impacted and distressed areas resulting from a major disaster declared pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1974 (42 U.S.C. 5121 *et seq*.) (Stafford Act), due to Hurricane Sandy and other eligible events in calendar years 2011, 2012, and 2013.

On March 1, 2013, the President issued a sequestration order pursuant to section 251A of the Balanced Budget and Emergency Deficit Control Act, as amended (2 U.S.C. 901a), and reduced funding for CDBG-DR grants under the Appropriations Act to $15.18 billion. To date, a total of $15.1 billion has been allocated or set aside: $13 billion in response to Hurricane Sandy, $514 million in response to disasters occurring in 2011 or 2012, $565 million in response to 2013 disasters, and $1 billion set aside for the National Disaster Resilience Competition. This Notice advises the public of a third allocation for 2013 disasters – $89.8 million is provided for the purpose of assisting recovery in the most impacted and distressed areas in Colorado, the city of Chicago, Illinois, Cook County, Illinois, and Du Page County, Illinois. As the Appropriations Act requires funds to be awarded directly to a state or unit of general local government (hereinafter, local government), the term "grantee" refers to any jurisdiction receiving a direct award from HUD under this Notice.

To comply with statutory direction that funds be used for disaster-related expenses in the most impacted and distressed areas, HUD computes allocations based on the best available data that cover all the eligible affected areas. Based on further review of the impacts from Presidentially-declared disasters that occurred in 2013, and estimates of remaining unmet need, this Notice provides the following awards:

TABLE 1— ALLOCATIONS FOR DISASTERS OCCURRING IN 2013

Grantee	**This Allocation**	**Second Allocation**	**First Allocation**	**Total**
State of Colorado…………..	$58,246,000	$199,300,000	$62,800,000	$320,346,000
State of Illinois……………..	-	$6,800,000	$3,600,000	$10,400,000
City of Chicago, IL………..	$11,075,000	$47,700,000	$4,300,000	$63,075,000
Cook County, IL…………..	$14,816,000	$54,900,000	$13,900,000	$83,616,000
Du Page County, IL……….	$5,626,000	$18,900,000	$7,000,000	$31,526,000
State of Oklahoma…………	-	$83,100,000	$10,600,000	$93,700,000
City of Moore, OK………..	-	$25,900,000	$26,300,000	$52,200,000
Total	**$89,763,000**	**$436,600,000**	**$128,500,000**	**$654,863,000**

As outlined in Table 2, to ensure funds provided under this Notice address unmet needs within the ‘‘most impacted and distressed’’ counties, each local government receiving a direct award under this Notice must expend its entire CDBG–DR award within its jurisdiction (e.g., Cook County must expend all funds within Cook County, excluding the city of Chicago; the city of Chicago must expend all funds in the city of Chicago, including the portions of Cook and Du Page counties located within the city’s jurisdiction). The State of Colorado must expend at least 80 percent of its funds in the most impacted counties of Boulder, Weld, and Larimer but may expend 20 percent (approximately $64 million from the combined first, second, and third allocations) in other State-identified most impacted and distressed area within counties having a declared major disaster in 2011, 2012 or 2013. The following link provides access to maps showing declared disasters in each state, by year: http://www.fema.gov/disasters/grid/state-tribal-government. The opportunity for certain grantees to expend a portion of their allocations outside the most impacted and distressed counties identified by HUD enables those grantees to respond to highly localized distress identified via their own data. A detailed explanation of HUD’s allocation methodology is provided at Appendix A.

TABLE 2 – MOST IMPACTED AND DISTRESSED COUNTIES
WITHIN WHICH FUNDS MAY BE EXPENDED

Grantee	Most Impacted and Distressed Counties	Minimum percentage that must be expended in most impacted and distressed counties
State of Colorado	Boulder, Weld and Larimer	80
City of Chicago	City of Chicago; portions of the city in Cook and Du Page	100
Cook County	Cook	100

Du Page County	Du Page	100

II. Use of Funds

This Notice builds upon the requirements of the Federal Register Notices published by the Department on March 5, 2013 (78 FR 14329), April 19, 2013 (78 FR 23578), December 16, 2013 (76 FR 76154), June 3, 2014 (79 FR 31964), and July 11, 2014 (79 FR40133) referred to collectively in this Notice as the "Prior Notices". The Prior Notices can be accessed through the HUD Exchange web site at https://www.hudexchange.info/cdbg-dr/cdbg-dr-laws-regulations-and-federal-register-notices/. In addition, the following links provide direct access to the Prior Notices:
http://www.gpo.gov/fdsys/pkg/FR-2013-03-05/pdf/2013-05170.pdf,
http://www.gpo.gov/fdsys/pkg/FR-2013-04-19/pdf/2013-09228.pdf
http://www.gpo.gov/fdsys/pkg/FR-2013-12-16/pdf/2013-29834.pdf,
http://www.gpo.gov/fdsys/pkg/FR-2014-06-03/pdf/2014-12709.pdf, and
http://www.gpo.gov/fdsys/pkg/FR-2014-07-11/pdf/2014-16316.pdf.

The requirements of this Notice parallel those established for other grantees receiving funds under the Appropriations Act in a Federal Register Notice published by the Department on November 18, 2013 (78 FR 69104) and located at: http://www.gpo.gov/fdsys/pkg/FR-2013-11-18/pdf/2013-27506.pdf. Additionally, the funds allocated in this Notice are bound by all of the same requirements as those found in the Federal Register Notice published by the Department on June 3, 2014 (79 FR 31964), including the two year expenditure deadline located at: http://www.gpo.gov/fdsys/pkg/FR-2014-06-03/pdf/2014-12709.pdf.

As a reminder, the Appropriations Act requires funds to be used only for specific disaster-recovery related purposes. T his allocation provides additional funds to areas impacted by disasters in 2013 for recovery, including mitigation and resilience as part of the recovery effort and directs grantees to undertake comprehensive planning to promote resilience as part of that effort. The law also requires that prior to the obligation of CDBG-DR funds, a grantee shall submit a plan detailing the proposed use of funds, including criteria for eligibility and how the use of these funds will address disaster relief, long-term recovery, restoration of infrastructure and housing, and economic revitalization in the most impacted and distressed areas. To access funds provided by the prior allocations, HUD approved an Action Plan and Action Plan amendments for each of the grantees identified as receiving funds under this Notice. Grantees are now directed to submit a substantial Action Plan Amendment in order to access funds provided in this Notice. For more guidance on requirements for substantial Action Plan Amendments, please see section III of this Notice.

Note that, as provided by the HCD Act, funds may be used as a matching requirement, share, or contribution for any other federal program when used to carry out an eligible CDBG-DR activity. However, pursuant to the requirements of the Appropriations Act, CDBG-DR funds may not be used for expenses reimbursable by, or for which funds are made available by FEMA or the United States Army Corps of Engineers (USACE).

IV. Grant Amendment Process

To access funds allocated by this Notice grantees must submit a substantial Action Plan Amendment to their approved Action Plan. Any substantial Action Plan Amendment submitted after the effective date of this Notice is subject to the following requirements:

- Grantee consults with affected citizens, stakeholders, local governments and public housing authorities to determine updates to its needs assessment; in addition, grantee prepares a comprehensive risk analysis (see section V.3.d. of the June 3, 2014 Notice);
- Grantee amends its citizen participation plan to reflect the requirements of the June 3, 2014 Notice (e.g., new requirement for a public hearing);
- Grantee publishes a substantial amendment to its previously approved Action Plan for Disaster Recovery on the grantee's official web site for no less than 30 calendar days and holds at least one public hearing to solicit public comment;
- Grantee responds to public comment and submits its substantial Action Plan Amendment to HUD (with any additional certifications required by this Notice or Prior Notices) no later than 120 days after the effective date of this Notice;
- HUD reviews the substantial Action Plan Amendment within 60 days from date of receipt and approves the Amendment according to criteria identified in the Prior Notices;
- HUD sends an Action Plan Amendment approval letter, revised grant conditions (may not be applicable to all grantees), and an amended unsigned grant agreement to the grantee. If the substantial Amendment is not approved, a letter will be sent identifying its deficiencies; the grantee must then re-submit the Amendment within 45 days of the notification letter;
- Grantee ensures that the HUD-approved substantial Action Plan Amendment (and updated Action Plan) is posted on its official web site;
- Grantee signs and returns the grant agreement;
- HUD signs the grant agreement and revises the grantee's line of credit amount;

- If it has not already done so, grantee enters the activities from its published Action Plan Amendment into the Disaster Recovery Grant Reporting (DRGR) system and submits it to HUD within the system;
- The grantee may draw down funds from the line of credit after the Responsible Entity completes applicable environmental review(s) pursuant to 24 CFR part 58 (or paragraph A.20 under section VI of the March 5, 2013 Notice) and, as applicable, receives from HUD or the state an approved Request for Release of Funds and certification;
- Grantee amends its published Action Plan to include its projection of expenditures and outcomes within 90 days of the Action Plan Amendment approval as provided for in paragraph 4.f. of section V of the June 3, 2014 Notice; and
- If not already completed, grantee updates its full consolidated plan to reflect disaster-related needs no later than its Fiscal Year 2015 consolidated plan update.

VIII.Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance number for the disaster recovery grants under this Notice is as follows: 14.269.

Finding of No Significant Impact

A Finding of No Significant Impact (FONSI) with respect to the environment has been made in accordance with HUD regulations at 24 CFR part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)). The FONSI is available for public inspection between 8 a.m. and 5 p.m. weekdays in the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street SW., Room 10276, Washington, DC 20410–0500. Due to security measures at the HUD Headquarters building, an advance appointment to review the docket file must be scheduled by calling the Regulations Division at 202–708–3055 (this is not a toll-free number). Hearing or speech-impaired individuals may access this number through TTY by calling the toll-free Federal Relay Service at 800–877–8339.

Dated: December 31, 2014.

Clifford Taffett,
General Deputy Assistant Secretary for
Community Planning and Development.

[FR-5696-N-13]

CDBG-DR Allocation Methodology – 2013 Disasters Third Tranche

HUD calculates the cost to rebuild the most impacted and distressed homes, businesses, and infrastructure back to pre-disaster conditions. From this base calculation, HUD calculates both the amount not covered by insurance and other federal sources to rebuild back to pre-disaster conditions as well as a ''resiliency'' amount which is calculated at 30 percent of the total basic cost to rebuild back the most distressed flooded homes, businesses, and infrastructure to pre-disaster conditions; 10 percent for other disaster types (ie. tornadoes, severe storms, fires). The estimated cost to repair unmet needs are combined with the resiliency needs to calculate the total severe unmet needs estimated to achieve long-term recovery. This calculation of housing, business, and infrastructure needs is used to determine the relative share of funding among eligible disasters.

Statutory Language for the Allocation

Public Law 113-2 (January 29, 2013) provides the following language on how the Secretary shall allocate the funds: "For an additional amount for ''Community Development Fund'', $16,000,000,000[1], to remain available until September 30, 2017, for necessary expenses related to disaster relief, long-term recovery, restoration of infrastructure and housing, and economic revitalization in the most impacted and distressed areas resulting from a major disaster declared pursuant to the Robert T. Stafford Dis- aster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) due to Hurricane Sandy and other eligible events in calendar years 2011, 2012, and 2013, for activities authorized under title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.): *Provided,* That funds shall be awarded directly to the State or unit of general local government as a grantee at the discretion of the Secretary of Housing and Urban Development: *Provided further,* That the Secretary shall allocate to grantees not less than 33 percent of the funds provided under this heading within 60 days after the enactment of this division based on the best available data:"

Available Data

The ''best available'' data HUD staff have identified as being available to calculate unmet needs at this time for all disasters in 2011, 2012, and 2013 meeting HUD's Most Impacted and Distressed threshold comes from the following data sources:

- FEMA Individual Assistance program data on housing unit damage;
- SBA for management of its disaster assistance loan program for housing repair and replacement;
- SBA for management of its disaster assistance loan program for business real estate repair and replacement as well as content loss; and

[1] $15.2 billion after sequestration

- FEMA Public Assistance, Department of Transportation Federal Transit Administration and Federal Highway Administration, Corps of Engineers, and US Department of Agriculture Emergency Watershed Restoration data on infrastructure

These funds are only allocated toward disasters in 2011, 2012, and 2013 determined by HUD to be most impacted and distressed disasters.[2]

Calculating Unmet Housing Needs

The core data on housing damage for both the unmet housing needs calculation and the concentrated damage are based on home inspection data for FEMA's Individual Assistance program (extracted January 2014). For unmet housing needs, the FEMA data are supplemented by Small Business Administration data from its Disaster Loan Program (extracted January 2014). HUD calculates ''unmet housing needs'' as the number of housing units with unmet needs times the estimated cost to repair those units less repair funds already provided by FEMA, where:

- Each of the FEMA inspected owner units are categorized by HUD into one of five categories:
    - Minor-Low: Less than $3,000 of FEMA inspected real property damage.
    - Minor-High: $3,000 to $7,999 of FEMA inspected real property damage.
    - Major-Low: $8,000 to $14,999 of FEMA inspected real property damage (if basement flooding only, damage categorization is capped at major-low).
    - Major-High: $15,000 to $28,800 of FEMA inspected real property damage and/or 4 to 6 feet of flooding on the first floor.
    - Severe: Greater than $28,800 of FEMA inspected real property damage or determined destroyed and/or 6 or more feet of flooding on the first floor.

  To meet the statutory requirement of ''most impacted and distressed'' in this legislative language, homes are determined to have a high level of damage if they have damage of ''major-low'' or higher. That is, they have a real property FEMA inspected damage of $8,000 or flooding over 4 foot. Furthermore, a homeowner is determined to have unmet needs if they have received a FEMA grant to make home repairs. For homeowners with a FEMA grant and insurance for the covered event, HUD assumes that the unmet need ''gap'' is 20 percent of the difference between total damage and the FEMA grant.

- FEMA does not inspect rental units for real property damage so personal property damage is used as a proxy for unit damage. Each of the FEMA inspected renter units are categorized by HUD into one of five categories:
    - Minor-Low: Less than $1,000 of FEMA inspected personal property damage.

[2] A Most Impacted disaster for non-Sandy disasters is a disaster where the severe housing and business unmet needs (excluding resiliency) exceed $25 million from counties with greater than $10 million in unmet housing and business severe needs (excluding resiliency and area construction cost adjustment).

  - Minor-High: $1,000 to $1,999 of FEMA inspected personal property damage.
  - Major-Low: $2,000 to $3,499 of FEMA inspected personal property damage (if basement flooding only, damage categorization is capped at major-low).
  - Major-High: $3,500 to $7,499 of FEMA inspected personal property damage or 4 to 6 feet of flooding on the first floor.
  - Severe: Greater than $7,500 of FEMA inspected personal property damage or determined destroyed and/or 6 or more feet of flooding on the first floor.

  For rental properties, to meet the statutory requirement of ‘‘most impacted and distressed’’ in this legislative language, homes are determined to have a high level of damage if they have damage of ‘‘major-low’’ or higher. That is, they have a FEMA personal property damage assessment of $2,000 or greater or flooding over 4 foot. Furthermore, landlords are presumed to have adequate insurance coverage unless the unit is occupied by a renter with income of $30,000 or less. Units are occupied by a tenant with income less than $30,000 are used to calculate likely unmet needs for affordable rental housing. For those units occupied by tenants with incomes under $30,000, HUD estimates unmet needs as 75 percent of the estimated repair cost.

- The median cost to fully repair a home for a specific disaster to code within each of the damage categories noted above is calculated using the average real property damage repair costs determined by the Small Business Administration for its disaster loan program for the subset of homes inspected by both SBA and FEMA. Because SBA is inspecting for full repair costs, it is presumed to reflect the full cost to repair the home, which is generally more than the FEMA estimates on the cost to make the home habitable. If fewer than 100 SBA inspections are made for homes within a FEMA damage category, the estimated damage amount in the category for that disaster has a cap applied at the 75th percentile of all damaged units for that category for all disasters and has a floor applied at the 25th percentile.

<u>Calculating Unmet Infrastructure Needs</u>

- To proxy unmet infrastructure needs, HUD uses data from FEMA’s Public Assistance program on the state match requirement (extracted January 2014). This allocation uses only a subset of the Public Assistance damage estimates reflecting the categories of activities most likely to require CDBG-DR funding above the Public Assistance and state match requirement. Those activities are categories: C-Roads and Bridges; D-Water Control Facilities; E-Public Buildings; F- Public Utilities; and G-Recreational-Other. Categories A (Debris Removal) and B (Protective Measures) are largely expended immediately after a disaster and reflect interim recovery measures rather than the long-term recovery measures for which CDBG-DR funds are generally used.

  For the third round of CDBG–DR funding for Sandy recovery, HUD also includes data from the USDA Emergency Watershed Repair Program (extracted May 2014). For most impacted disasters in 2011, 2012, and 2013 that have not received supplemental funding to address watershed repairs, HUD includes the estimated unmet repair costs calculated by USDA in the unmet repair needs calculation.

<u>Calculating Economic Revitalization (Small Business) Needs</u>

- Based on SBA disaster loans to businesses (extracted January 2014), HUD used the sum of real property and real content loss of small businesses not receiving an SBA disaster loan. This is adjusted upward by the proportion of applications that were received for a disaster that content and real property loss were not calculated because the applicant had inadequate credit or income. For example, if a state had 160 applications for assistance, 150 had calculated needs and 10 were denied in the pre-processing stage for not enough income or poor credit, the estimated unmet need calculation would be increased as (1 + 10/160) * calculated unmet real content loss.

- Because applications denied for poor credit or income are the most likely measure of needs requiring the type of assistance available with CDBG–DR funds, the calculated unmet business needs for each state are adjusted upwards by the proportion of total applications that were denied at the pre-process stage because of poor credit or inability to show repayment ability. Similar to housing, estimated damage is used to determine what unmet needs will be counted as severe unmet needs. Only properties with total real estate and content loss in excess of $30,000 are considered severe damage for purposes of identifying the most impacted and distressed areas.
    - Category 1: real estate + content loss = below $12,000
    - Category 2: real estate + content loss = $12,000 to $30,000
    - Category 3: real estate + content loss = $30,000 to $65,000
    - Category 4: real estate + content loss = $65,000 to $150,000
    - Category 5: real estate + content loss = above $150,000

  To obtain unmet business needs, the amount for approved SBA loans is subtracted out of the total estimated damage.

<u>Resiliency Needs</u>.

CDBG DR funds are often used to not only support rebuilding to pre- storm conditions, but also to build back much stronger. For the disasters covered by this Notice, HUD has required that grantees use their funds in a way that results in rebuilding back stronger so that future disasters do less damage and recovery can happen faster. To calculate these resiliency costs, HUD multiplied it estimates of total repair costs for seriously damaged homes, small businesses, and infrastructure by 30 percent for flooding disasters and 10 percent for other disasters.[3] Total repair costs are the repair costs including costs covered by insurance, SBA, FEMA, and other federal agencies. The resiliency estimate is intended to reflect some of the unmet needs associated with building to higher standards such as elevating homes, voluntary buyouts, hardening, and other costs in excess of normal repair costs.

Housing and Small Business Construction Cost Adjustment.

For grantees with housing construction costs above the national average, HUD increases their estimated housing and business construction costs using the same Marshall & Swift regional cost adjustment multipliers as used for HUD's annual calculation of Total Development Costs developed for HUD's public housing repair programs. No estimate of damage is reduced by the multiplier (ie. if the Marshall & Swift adjustment is less than 1, the adjustment is set at 1).

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[3] The 30 percent multiplier for flooding disasters is the approximate additional cost to elevate a newly constructed home; the 10 percent multiplier is the approximate additional cost to add a safe room.