



[Docket No. FR-6239-N-01]

Allocations, Common Application, Waivers, and Alternative Requirements for Community Development Block Grant Disaster Recovery Grantees (CDBG Mitigation)

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

ACTION: Notice.

SUMMARY: This notice allocates over \$186 million in Community Development Block Grant Mitigation (CDBG-MIT) funds to grantees recovering from qualifying 2018 disasters. Funds allocated by this notice were made available by the Additional Supplemental Appropriations for Disaster Relief Act, 2019. This notice describes grant requirements and procedures, including waivers and alternative requirements, applicable to CDBG–MIT funds only. Funds allocated pursuant to this notice shall be subject only to the provisions of this notice and the applicable prior notices, unless otherwise provided herein. This notice also clarifies the applicability of certain previous waivers and alternative requirements provided for CDBG-MIT grantees.

DATES: Applicability Date: **[INSERT DATE FIVE DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER.]**

FOR FURTHER INFORMATION CONTACT: Jessie Handforth Kome, Director, Office of Block Grant Assistance, Department of Housing and Urban Development, 451 7th Street, SW, Room 7282, Washington, DC 20410, telephone number 202-708-3587. Persons with hearing or speech impairments may access this number via TTY by calling the Federal Information Relay Service at 800-877-8339. Facsimile inquiries may be sent to Ms. Kome at 202-708-0033. (Except for the “800” number, these telephone numbers are not toll-free). Email inquiries may be sent to *disaster_recovery@hud.gov*.

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I. Allocations

The Additional Supplemental Appropriations for Disaster Relief Act, 2019 (Pub. L. 116-20, approved June 6, 2019) (Appropriations Act) made \$2,431,000,000 in Community Development Block Grant disaster recovery (CDBG-DR) funds available for major disasters occurring in 2017, 2018, or 2019, of which \$431,000,000 was for grantees that received funds in response to disasters occurring in 2017. On January 27, 2020, HUD allocated \$2,153,928,000 in CDBG-DR funds in accordance with the Appropriations Act, to address unmet disaster recovery needs through activities authorized under title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 *et seq.*) (HCDA) related to disaster relief, long term recovery, restoration of infrastructure and housing, economic revitalization, and mitigation in the “most impacted and distressed” (MID) areas resulting from a qualifying major disaster in 2018 and 2019, which included the \$431,000,000 for unmet infrastructure needs for 2017 disasters. In a notice published concurrently with this notice, HUD has allocated an additional \$85,291,000 of CDBG-DR funds from the Appropriations Act for remaining unmet needs for disasters occurring

in 2018 and 2019. Of amounts made available for 2018 and 2019 disasters, the Appropriations Act requires that HUD first allocate funds to address unmet disaster recovery needs for 2018 and 2019 disasters. Any funds remaining after addressing unmet disaster recovery needs for 2018 and 2019 disasters must be allocated for mitigation activities in the MID areas resulting from a major disaster that occurred in 2018, in an amount proportional to the amount of funds each grantee received from all CDBG-DR allocations for 2018 disasters (including allocations of funds made available by Public Law 115-254).

HUD has determined that its CDBG-DR allocations pursuant to the Appropriations Act are sufficient to address unmet disaster recovery needs in MID areas arising from 2018 and 2019 disasters. Therefore, this notice allocates the remaining \$186,781,000 in funds made available in the Appropriations Act as CDBG-MIT funds to grantees recovering from qualifying 2018 disasters.

HUD described the grant requirements and procedures, including waivers and alternative requirements applicable to CDBG-MIT funds, for CDBG-MIT grantees in the following *Federal Register* notices (collectively, the “Prior Notices”):

- 84 FR 45838, published August 30, 2019 (the “Main CDBG-MIT Notice”); and
- 85 FR 60821, published September 28, 2020 (the “2020 Omni Notice”).

CDBG-MIT funds allocated in the Prior Notices are made available by the Further Additional Supplemental Appropriations for Disaster Relief Requirements Act, 2018 (Pub. L. 115-123). Pursuant to that appropriation, HUD allocated \$6.875 billion in CDBG-MIT funds in the Main CDBG-MIT Notice to grantees recovering from a qualifying 2015, 2016, and 2017 disaster for mitigation activities.

In the Main CDBG-MIT Notice, HUD recognized that CDBG-MIT funds are to be used for distinctly different purposes than CDBG-DR funds. In that notice, HUD defined “mitigation activities” to mean those activities that increase resilience to disasters and reduce or eliminate the

long-term risk of loss of life, injury, damage to and loss of property, and suffering and hardship, by lessening the impact of future disasters.

The nature of programs and projects that are likely to be funded require all CDBG-MIT grantees and their subrecipients to strengthen their program management capacity, financial management, and internal controls. The Main CDBG-MIT Notice also states the Department's intent to establish special grant conditions for individual CDBG-MIT grants based upon the risks posed by the grantee, including risks related to the grantee's capacity to carry out the specific programs and projects proposed in its action plan. These conditions are designed to provide additional assurances that oversight of CDBG-MIT funds addresses grantee-specific risks, such as the potential for waste, fraud, and abuse, or the potential failure to effectively operate and maintain mitigation projects.

This notice imposes the requirements of the Prior Notices as amended by provisions in this notice or by subsequent notices, to the CDBG-MIT grants allocated by this notice¹. The requirements of the Appropriations Act apply in lieu of the requirements of Pub. L. 115-123, which is referenced in the Prior Notices. The amount of CDBG-MIT funding grantees must expend to mitigate risks within the HUD-identified MID areas is listed in Table 1 (below). In accordance with the Appropriations Act, HUD's allocation of CDBG-MIT funds in Table 1 is based on each grantee's proportional share of total CDBG-DR funds allocated for all eligible disasters in 2018. Table 2 contains the total mitigation allocations for 2015 through 2018 disasters under Public Laws 115-123 and 116-20.

¹ This notice is only applicable to grantees receiving a CDBG-MIT grant under Pub. L. 116-20 in response to a 2018 disaster.

**TABLE 1 – TOTAL ALLOCATION FOR MITIGATION ACTIVITIES
UNDER PUBLIC LAW 116-20**

Disaster No.	Grantee	Total Allocation for CDBG-MIT for 2018 disasters under Public Law 116-20	Minimum amount that must be expended in the HUD-identified "most impacted and distressed" areas listed herein	HUD-identified "most impacted and distressed" areas
4413	State of Alaska	\$2,288,000	\$1,144,000	Anchorage, Borough
4357	American Samoa	\$1,470,000	\$1,470,000	All components of American Samoa
4407; 4382	State of California	\$64,907,000	\$32,453,500	Butte, Lake, Los Angeles, and Shasta Counties
4399	State of Florida	\$46,926,000	\$23,463,000	Bay, Calhoun, Gulf and Jackson Counties; 32321 (Liberty), 32327 (Wakulla), 32328 (Franklin), 32346 (Wakulla and Franklin), 32351 (Gadsden), and 32428 (Washington) Zip Codes
4400	State of Georgia	\$2,669,000	\$1,334,500	39845 (Seminole) Zip Code
4366	Hawaii County, HI	\$6,862,000	\$6,862,000	Hawaii County
4365	Kauai County, HI	\$585,000	\$292,500	96714 (Kauai) Zip Code
4393	State of North Carolina	\$34,619,000	\$17,309,500	Brunswick, Carteret, Columbus, Craven, Duplin, Jones, New Hanover, Onslow, Plender, and Robeson Counties; 28352 (Scotland), 28390 (Cumberland), 28433 (Bladen), and 28571 (Pamlico) Zip Codes
4396 & 4404	The Commonwealth of the Northern Mariana Islands	\$16,225,000	\$8,112,500	Saipan and Tinian Municipalities
4394	State of South Carolina	\$4,598,000	\$2,299,000	Horry and Marion Counties; 29536 (Dillion) Zip Code
4377	State of Texas	\$4,652,000	\$2,326,000	Hidalgo County
4402	State of Wisconsin	\$980,000	\$490,000	53560 (Dane) Zip Code
Total		\$186,781,000	\$97,556,500	

**This table is intended to reflect 2018 CDBG-MIT awards. To view previous CDBG-MIT grantees, see Table 2.*

TABLE 2: TOTAL ALLOCATIONS FOR MITIGATION ACTIVITIES FOR 2015 through 2018 DISASTERS UNDER PUBLIC LAWS 115-123 and 116-20

Disasters	2015, 2016, and 2017 Disasters	2015, 2016, and 2017 Disasters	2015, 2016, and 2017 Disasters	2018 Disasters	
Appropriations Act	Pub. L. 115-123	Pub. L. 115-123	Pub. L. 115-123	Pub. L. 116-20	
Date of Enactment	February 09, 2018	February 09, 2018	February 09, 2018	June 06, 2019	
Date of Applicable Federal Register Notice	August 30, 2019	September 10, 2019	January 27, 2020		
Federal Register Notice Reference Number	85 FR 45838	84 FR 47528	85 FR 4676		
Mitigation Grantees					Totals
State of Alaska	\$0	\$0	\$0	\$2,288,000	\$2,288,000
American Samoa	\$0	\$0	\$0	\$1,470,000	\$1,470,000
State of California	\$88,219,000	\$0	\$0	\$64,907,000	\$153,126,000
State of Florida	\$633,485,000	\$0	\$0	\$46,926,000	\$680,411,000
State of Georgia	\$26,961,000	\$0	\$0	\$2,669,000	\$29,630,000
Hawaii County, HI	\$0	\$0	\$0	\$6,862,000	\$6,862,000
Kauai County, HI	\$0	\$0	\$0	\$585,000	\$585,000
State of Louisiana	\$1,213,917,000	\$0	\$0	\$0	\$1,213,917,000
State of Missouri	\$41,592,000	\$0	\$0	\$0	\$41,592,000
State of North Carolina	\$168,067,000	\$0	\$0	\$34,619,000	\$202,686,000
State of South Carolina	\$157,590,000	\$0	\$0	\$4,598,000	\$162,188,000
Columbia, SC	\$18,585,000	\$0	\$0	\$0	\$18,585,000
Lexington County, SC (Urban County)	\$15,185,000	\$0	\$0	\$0	\$15,185,000
Richland County, SC (Urban County)	\$21,864,000	\$0	\$0	\$0	\$21,864,000
State of Texas	\$4,297,189,000	\$0	\$0	\$4,652,000	\$4,301,841,000
Houston, TX	\$61,884,000	\$0	\$0	\$0	\$61,884,000
San Marcos, TX	\$24,012,000	\$0	\$0	\$0	\$24,012,000
The Commonwealth of the Northern Mariana Islands	\$0	\$0	\$0	\$16,225,000	\$16,225,000
The Commonwealth of Puerto Rico	\$0	\$0	\$8,285,284,000	\$0	\$8,285,284,000
State of West Virginia	\$106,494,000	\$0	\$0	\$0	\$106,494,000
State of Wisconsin	\$0	\$0	\$0	\$980,000	\$980,000
U.S. Virgin Islands	\$0	\$774,188,000	\$0	\$0	\$774,188,000
Totals:	\$6,875,044,000	\$774,188,000	\$8,285,284,000	\$186,781,000	\$16,121,297,000

II. Use of CDBG-MIT Funds

Funds allocated under this notice are subject to the requirements of the Prior Notices, as amended by this notice or subsequent notices. This notice outlines additional requirements imposed by the Appropriations Act that apply to funds allocated under this notice.

HUD recognizes that grantees receiving an allocation of CDBG-MIT funds of less than \$5,000,000 may realize meaningful mitigation outcomes and minimize associated administrative costs by using these funds for a limited number of targeted mitigation activities and projects. HUD will provide technical assistance, when appropriate, for grantees receiving an allocation of less than \$5 million in CDBG-MIT funds and who adopt this targeted approach. Like all uses of CDBG-MIT funds, use of funds for a targeted number of activities must mitigate specific current and future risks identified in the grantee's Mitigation Needs Assessment and benefit MID areas. All grantees should also maximize the impact of available funds by encouraging leverage, private-public partnerships, and coordination with other Federal programs.

II.A. Action Plan, Substantial Amendments, and Amendments for Covered Projects

Action plan. Before the Secretary obligates CDBG-MIT funds to a grantee, the Appropriations Act requires the grantee to submit a plan to HUD for approval detailing the proposed use of all funds. The plan must include the required elements of the action plan described in section V.A.2. of the Main CDBG-MIT Notice. For example, the plan must include a risk-based Mitigation Needs Assessment that identifies and analyzes all significant current and future disaster risks and provide a substantive basis for the activities proposed, pursuant to this notice and section V.A.2.a.(1) of the Main CDBG-MIT Notice (84 FR 45847). The action plan must describe how funded activities satisfy the requirements of the Main CDBG-MIT Notice, including how all proposed activities meet the definition of mitigation activities as defined in section II.A. of the Main CDBG-MIT Notice. As described in section II.B. of the Main CDBG-MIT Notice, grantees must describe in their action plan how they have coordinated and will

continue to coordinate with other partners who manage FEMA and USACE funds and describe the actions that they have taken to align proposed activities with other federal, state, and local mitigation projects and planning processes.

Covered Projects. To allow for a more detailed review of larger projects, the Main CDBG-MIT Notice requires that infrastructure projects that also meet the definition of a Covered Project be included in an action plan or a substantial action plan amendment. The Main CDBG-MIT Notice defines a Covered Project as an infrastructure project having a total project cost of \$100 million or more, with at least \$50 million of CDBG funds (regardless of source (CDBG-DR, CDBG-National Disaster Resilience (NDR), CDBG-MIT, or CDBG)). Covered Projects proposed by a grantee receiving funds pursuant to this notice are subject to the requirements for Covered Projects, which are primarily located in sections V.A.2.h. and V.A.13.b. of the Main CDBG-MIT Notice.

Amendments. A grantee must amend its action plan to update its Mitigation Needs Assessment, modify or create new activities, or reprogram funds, as appropriate. Each amendment must be highlighted, or otherwise identified within the context of the entire action plan. The beginning of every substantial amendment must include a: (1) section that identifies exactly what content is being added, deleted, or changed; (2) chart or table that clearly illustrates where funds are coming from and where they are moving to; (3) revised budget allocation table that reflects the entirety of all funds, as amended; and (4) a description of how the amendment is consistent with the grantee's Mitigation Needs Assessment. A grantee must amend its action plan in accordance with section V.A.2.g. of the Main CDBG-MIT Notice, as amended by the 2020 Omni Notice, as further modified by this notice. In the 2020 Omni Notice, HUD clarified that a substantial amendment is not subject to the public hearing requirements for the initial action plan that are described in section V.A.3.a. of the Main CDBG-MIT Notice.

As discussed in section III.B. of this notice, grantees that received a CDBG-MIT allocation pursuant to Pub. L. 115-123 must submit a substantial amendment to its approved CDBG-MIT action plan.

II.B. Most Impacted and Distressed Areas

The Appropriations Act made CDBG-MIT funds available for eligible activities related to the mitigation of risks within the MID areas resulting from 2018 disasters. Table 1 identifies the HUD-identified MID areas for CDBG-MIT funds under this notice only. The amount of funding grantees must expend to mitigate risks within the HUD-identified MID areas under this notice is also listed in Table 1. In some instances, HUD has identified the entire jurisdiction of a grantee as the HUD-identified MID area. For all other CDBG-MIT grantees, HUD is requiring that at least 50 percent of all CDBG-MIT funds must be used for mitigation activities that address identified risks within the HUD-identified MID areas.

Note that if HUD designates a ZIP Code for 2018 disasters as a MID area for purposes of allocating funds, the grantee may expand program operations to the whole county (county is indicated in parentheses next to the ZIP Code) as a MID area. For CDBG-MIT funds under this notice only, a grantee should indicate its decision to expand eligibility to the whole county in its action plan.

A grantee may use up to 5 percent of the total grant award (plus 5 percent of program income generated by the grant) for grant administration and no more than 15 percent of its total grant amount on planning costs. HUD will include 50 percent of a grantee's expenditures for grant administration in its determination that 50 percent of the total award has been expended in the HUD-identified MID areas. Additionally, expenditures for planning activities may be counted towards a grantee's 50 percent MID expenditure requirement, provided that the grantee describes in its action plan how those planning activities benefit the HUD-identified MID areas.

HUD may approve a grantee's request to add other areas to the HUD-identified MID areas based upon the grantee's submission of a data-driven analysis that illustrates the basis for

designating the additional area as most impacted and distressed as a result of the qualifying 2018 disaster. A grantee seeking to amend its HUD-identified MID area for purposes of its CDBG-MIT grant for 2018 disasters must also amend the HUD-identified MID area for its corresponding CDBG-DR grant(s) for 2018 disasters. Grantees proposing to add to the HUD-identified MID area for their existing CDBG-DR grant do so through a substantial amendment that includes a consideration of unmet housing recovery needs. The grantee must also undertake a substantial amendment to its CDBG-MIT action plan so that the HUD-identified MID areas are the same across both grants. The grantee may submit the substantial amendments for both grants simultaneously.

Grantees may determine where to use the remaining 50 percent of the CDBG-MIT grant (i.e., the grantee-identified MID areas for 2018 disasters), but that portion of the grant must be used for mitigation activities that address identified risks within those areas that the grantee determines are most impacted and distressed resulting from the major disasters identified by the disaster numbers listed in Table 1. The grantee-identified MID areas must be determined through the use of quantifiable and verifiable data.

Grantee expenditures for eligible mitigation activities outside of the HUD-identified or grantee-identified MID areas for 2018 disasters may be counted toward the MID area expenditure requirements provided that the grantee can demonstrate how the expenditure of CDBG-MIT funds outside of this area will measurably mitigate risks identified within the HUD-identified or grantee-identified MID area for 2018 disasters (e.g., upstream water retention projects to reduce downstream flooding in the HUD-identified MID area).

III. Overview of Grant Process

III.A. Action Plan Process for New CDBG-MIT Grantees Under the Appropriations Act (Pub. L. 116-20)

Grantees that have not received a previous CDBG-MIT allocation (Alaska, American Samoa, Hawaii County, Kauai County, the Commonwealth of the Northern Mariana Islands, and

Wisconsin) must submit an action plan pursuant to the requirements in section V.A.2 of the Main CDBG-MIT Notice, as superseded by section IV.A.3.b. of this notice (i.e., within 270 days after the applicability date of this notice). Since March 2020, HUD has authorized extensions for action plan submissions for CDBG-DR and CDBG-MIT grants due to the coronavirus (COVID-19) pandemic. The ongoing challenges of the pandemic continue to warrant longer submission time frames for grants allocated under this notice. Therefore, the deadlines for submitting an action plan in the Main CDBG-MIT Notice are superseded by the extended submission time frame in section IV.A.3.b. of this notice.

Grantees that received allocations under the January 2020 Notice for 2018 and 2019 disasters submitted information described in section VI.A.1. of the February 9, 2018 notice (as amended and updated by section IV.B.1. of the January 27, 2020 notice). These submissions supported the Secretary's evaluation of grantee capacity and the Secretary's certification of proficient financial controls and procurement processes and adequate procedures for proper grant management required by the Appropriations Act. Rather than resubmit the same information for allocations under this notice, grantees are required to update those submissions to reflect any material changes. This includes updates to the information required by section VI.A.1.a. of the February 9, 2018 notice (83 FR 5847), paragraphs (1) – (6), as updated and amended by section IV.B.1. of the January 2020 Notice (85 FR 4686). HUD will consider these updates before granting funds allocated by this notice. The submission deadlines in the notices referenced in the previous two paragraphs are superseded by deadlines set by this notice. HUD will direct grantees to checklists for submitting information required by this paragraph.

Grantees must also submit additional information that the Main CDBG-MIT Notice requires of grantees that do not apply to CDBG-DR grants. The required information must be submitted by completing the checklist on HUD's website titled "CDBG-MIT Certification Addendum C to the Pub. L. 116-20 and 115-254 CDBG-DR Financial Management and Grant Compliance Certification Checklist." In the checklist, a CDBG-MIT grantee must: indicate how

it will strengthen its internal audit function; specify the criteria for subrecipient selection and its plans to increase subrecipient monitoring, and establish a process for promptly identifying and addressing conflicts under the grantee's conflict of interest policy.

If the CDBG-MIT grant is to be administered by an agency that does not administer a grantee's corresponding CDBG-DR grant, the administering agency for the CDBG-MIT grant must submit the documentation for the certification of financial controls and procurement processes, and adequate procedures for proper grant management as described in section V.A.1.a. of the Main CDBG-MIT Notice.

To begin expending CDBG-MIT funds, the following steps are necessary:

- Grantee develops or amends its citizen participation plan for disaster recovery per the requirements in section V.A.3 of the Main CDBG-MIT Notice.
- Grantee consults with stakeholders, including required consultation with affected local governments, Indian Tribes, and public housing authorities (as required by section V.A.7 of the Main CDBG-MIT Notice).
- Within 210 days of the applicability date of this notice, the grantee must submit material updates to documentation for the certification of financial controls and procurement processes, and adequate procedures for grant management and the Addendum C added to Pub. L. 116-20 and 115-254 CDBG-DR Financial Management and Grant Compliance Certification Checklist, as described above.
- Grantee publishes its action plan for mitigation on the grantee's required public website for no less than 45 calendar days to solicit public comment and convenes the required number of public hearings on the proposed plan as required by the Main CDBG-MIT Notice. The grantee may convene virtual hearings in lieu of in-person hearings, pursuant to the authorization provided below in section IV.A.3.d. of this notice.
- Within 270 days of the applicability date of this notice, the grantee responds to public comment and submits its action plan (which includes Standard Form 424 (SF-424) and

certifications), its implementation plan and capacity assessment submissions in accordance with the requirements in section V.A.1.b. and V.A.2. of the Main CDBG-MIT Notice, and projection of expenditures and outcomes to HUD as described in section IV.A.3.b. and IV.A.3.c. of this notice.

- Grantee requests and receives Disaster Recovery Grant Reporting (DRGR) system access and may enter activities into the DRGR system before or after submission of the action plan to HUD. Any activities that are changed as a result of HUD's review must be updated once HUD approves the action plan.
- HUD reviews (within 60 days from date of receipt) the action plan according to criteria identified for CDBG-MIT funds, and either approves or disapproves the plan as described in section IV.A.2 of this notice.
- If the action plan is not approved, HUD will notify the grantee of the deficiencies. The grantee must then resubmit the action plan within 45 days of the notification.
- After the action plan is approved, HUD sends an action plan approval letter.
- Prior to transmittal of the grant agreement, HUD notifies grantees of its certification of the grantee's financial controls, procurement processes and grant management procedures and its acceptance of the implementation plan and capacity assessment.
- HUD sends the grant agreement to the grantee.
- Grantee signs and returns the grant agreement to HUD.
- HUD will sign the grant agreement and establish the grantee's line of credit to reflect the amount of available funds.
- Grantee posts the final HUD approved action plan on its official website.
- Grantee enters the activities from its approved action plan into the DRGR system if it has not previously done so and submits its DRGR action plan to HUD (funds can be drawn from the line of credit only for activities that are established in the DRGR system).

- The grantee must publish (on its website) policies for programs and activities implemented by the grantee with CDBG-MIT funds.
- The grantee may draw down funds from the line of credit, consistent with the applicable draw down requirements, after the Responsible Entity completes applicable environmental review(s) pursuant to 24 CFR part 58 or as authorized by the Appropriations Act and, as applicable, receives from HUD or the state the Authority to Use Grant Funds (AUGF) form and certification.
- Substantial amendments are subject to a 30-day public comment period, including posting to the grantee's website, followed by a 60-day review period for HUD.

III.B. Substantial Action Plan Amendment Process for Existing Grantees Under Prior Appropriations (Pub. L. 115-123)

A single CDBG-MIT action plan will be used to describe the uses of both the existing CDBG-MIT grant under Pub. L. 115-123 and the new CDBG-MIT grant under Pub. L. 116-20. While each grant remains separate, with separate purposes, financial controls, and some other distinctions, this combined administrative approach should ease grantee burden. Each grantee that previously received a CDBG-MIT allocation under the Main CDBG-MIT Notice pursuant to Pub. L. 115-123 (California, Florida, Georgia, North and South Carolina, and Texas) is required to submit a substantial amendment to its approved CDBG-MIT action plan. The substantial amendment must be submitted not later than 180 days after HUD's full or partial approval of the Pub. L. 115-123 CDBG-MIT action plan or not later than 180 days after the applicability date of this notice, whichever is later, unless the grantee has requested, and HUD has approved an extension of this submission deadline. The substantial amendment must include the CDBG-MIT funds allocated under this notice and address the requirements of the Prior Notices and this notice.

Grantees that received a CDBG-MIT allocation under the Main CDBG-MIT Notice have submitted documentation for the certification of financial controls and procurement

processes, and adequate procedures for grant management in section V.A.1.a of the Main CDBG-MIT Notice entitled, “Certification of financial controls and procurement processes, and adequate procedures for proper grant management.” A grantee may request that HUD rely on this CDBG-MIT Financial Management and Grant Compliance Certification Checklist and supporting documentation for the purposes of this mitigation allocation, provided, however, that the grantee must update its submissions as described in section V.A.1.a. (1)-(6) of the Main CDBG-MIT Notice to reflect any material changes in the submissions.

Additionally, each grantee that received an allocation under the Main CDBG-MIT Notice must meet the following requirements to amend its approved CDBG-MIT action plan. These steps are only applicable to the substantial amendment process to add the CDBG-MIT funds allocated under this notice.

- Grantee must consult with stakeholders, including required consultation with affected local governments, Indian Tribes, and public housing authorities to update its Mitigation Needs Assessment as required by section V.A.7. of the Main CDBG-MIT Notice.
- Within 120 days of the applicability date of this notice, the grantee updates its submissions for the certification of financial controls and procurement processes, and adequate procedures for grant management described in section V.A.1.a. of the Main CDBG-MIT Notice to reflect any material changes in the submissions.
- Grantee must amend its CDBG-MIT action plan to update its Mitigation Needs Assessment in accordance with the requirements described in section IV.A.3.a. of this notice. At a minimum, this must include the HUD-identified MID areas under this notice in addition to those identified in the Main CDBG-MIT Notice and to add in the new grant funds allocated by this notice. The grantee may also modify or create new activities from its existing CDBG-MIT grant.
- Grantee must publish the substantial amendment to its current approved CDBG-MIT action plan on the grantee’s required public website in a manner that affords citizens,

affected local governments, Indian Tribes, public housing authorities, and other interested parties a reasonable opportunity to examine the amendment's contents and provide feedback. The manner of publication must include, at a minimum, prominent posting on the grantee's official website for no less than 30 calendar days to solicit public comment and convene one public hearing on the proposed amendment. Each grantee must ensure that mitigation program information is available in the appropriate languages for the geographic areas to be served (see HUD's LEP Guidance, 72 FR 2732 (2007)) and take appropriate steps to ensure effective communications with persons with disabilities under Section 504 (see, 24 CFR 8.6) and the Americans with Disabilities Act (see 28 CFR 35.106).

- Grantee must respond to public comment and submit its substantial amendment to HUD (together with SF-424 and the certifications in paragraph VI.1. of the Main CDBG-MIT Notice) no later than 180 days after the applicability date of this notice.
- HUD will review the substantial amendment within 60 days from date of receipt as described in section of IV.A.2. of this notice and determine whether to approve the substantial amendment per criteria identified in this notice and the Prior Notices.
- HUD will send a substantial amendment approval letter, and a new grant agreement to the grantee. If the substantial amendment is not approved, a letter will be sent identifying its deficiencies and the grantee must then re-submit the substantial amendment within 45 days of the notification letter.
- Grantee may enter activities into the DRGR system before or after submission of the substantial amendment to HUD. Note that, while the action plan is consolidated, the DRGR system will maintain the necessary and appropriate separations between the two distinct CDBG-MIT grants. Any activities that are changed as a result of HUD's review must be updated once HUD approves the substantial amendment.

- Grantee must ensure that the HUD-approved substantial amendment and currently approved CDBG-MIT action plan are posted prominently on its official website. Each grantee's current version of its entire action plan must be accessible for viewing as a single document at any given point in time, rather than the public or HUD having to view and cross-reference changes among multiple amendments.
- Grantee must enter the activities from its published substantial amendment into the Disaster Recovery Grant Reporting (DRGR) system and submit the updated DRGR action plan (revised to reflect the substantial amendment) to HUD within the DRGR system.
- Grantee must sign and return the grant agreement to HUD.
- HUD will sign the grant agreement and will establish the grantee's line of credit to reflect the amount of funds made available under Pub. L. 116-20.
- The grantee may draw down funds from the line of credit, consistent with the applicable draw down requirements, after the Responsible Entity completes applicable environmental review(s) pursuant to 24 CFR part 58 or as authorized by the Appropriations Act and, as applicable, receives from HUD or the state the Authority to Use Grant Funds (AUGF) form and certification.
- Grantee must amend and submit its projection of CDBG-MIT expenditures and performance outcomes with the substantial amendment.

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

This section of the notice describes rules, statutes, waivers, and alternative requirements that apply to each grantee receiving an allocation under this notice. The Secretary has determined that good cause exists to apply each waiver and alternative requirement established in the Prior Notices, as amended by this notice, to the use of funds under this notice and that such waivers and alternative requirements are not inconsistent with the overall purpose of title I of the HCDA. The Appropriations Act authorizes the Secretary to waive or specify

alternative requirements for any provision of any statute or regulation that the Secretary administers in connection with HUD's obligation or use by the recipient of these funds (except for requirements related to fair housing, nondiscrimination, labor standards, and the environment). Regulatory waiver authority is also provided by 24 CFR 5.110, 91.600, and 570.5.

Grantees may request additional waivers and alternative requirements from the Department as needed to address specific needs related to their mitigation activities. Grantee requests for waivers and alternative requirements must be accompanied by relevant data to support the request and must demonstrate to the satisfaction of the Department that there is good cause for the waiver or alternative requirement. Grantees must work with the assigned CPD representative to request any additional waivers or alternative requirements from HUD headquarters.

The following requirements apply only to the CDBG-MIT funds appropriated under the Appropriations Act (unless otherwise noted) and not to funds provided under the annual formula State or Entitlement CDBG programs, the Indian Community Development Block Grant program, or those provided under any other component of the CDBG program, such as the Section 108 Loan Guarantee Program, or any previous CDBG-MIT appropriations, unless otherwise noted. Pursuant to the requirements of the Appropriations Acts, waivers and alternative requirements are effective five days after they are published in the *Federal Register*.

Except as described in this notice or the Prior Notices, statutory and regulatory provisions governing the State CDBG program shall apply to State grantees receiving a CDBG-MIT grant and statutory and regulatory provisions governing the entitlement CDBG program shall apply to any local government receiving a CDBG-MIT grant. The provisions of 24 CFR part 570, subpart F are waived to authorize American Samoa and the Commonwealth of the Northern Mariana Islands to administer its CDBG-MIT allocation in accordance with the regulatory and statutory provisions governing the State CDBG program, as modified by rules, statutes, waivers,

and alternative requirements made applicable by *Federal Register* notices. This includes the requirement that the aggregate total for administrative and technical assistance expenditures by the Commonwealth of the Northern Mariana Islands must not exceed 5 percent of any CDBG-MIT grant made pursuant to the Appropriations Act, plus 5 percent of program income generated by the grant. The Department has determined that good cause exists for a waiver and that such waiver is not inconsistent with the overall purposes of title I of the HCDA. State and Entitlement CDBG regulations can be found at 24 CFR part 570. References to the action plan in these regulations shall refer to the action plan that covers the use of the CDBG-MIT grants allocated by this notice that is required by section V.A. of the Main CDBG-MIT Notice (as made applicable by this notice). All references in this notice pertaining to timelines and/or deadlines are in terms of calendar days unless otherwise noted. The date of this notice shall mean the applicability date of this notice unless otherwise noted.

IV.A. Grant Administration and Action Plan Requirements

IV.A.1. Applicability of waivers, alternative requirements, and other requirements.

The Prior Notices establish the waivers and alternative requirements applicable to grantees receiving funds under this notice. For convenience, some of these rules, waivers, and alternative requirements are described below in Table 3. In addition, this notice extends the waivers and alternative requirements in the Prior Notices to Hawaii County and Kauai County, which are subject to requirements imposed in 24 CFR part 570, subpart F. However, because the Prior Notices do not include waivers and alternative requirements to the provisions in 24 CFR part 570, subpart F, this notice amends the Prior Notices by also waiving 24 CFR 570.420(c), 24 CFR 570.431(a), and 24 CFR 570.431(b). The Department has determined that good cause exists for a waiver and that such waiver is not inconsistent with the overall purposes of title I of the HCDA.

TABLE 3 – RULES, WAIVERS, AND ALTERNATIVE REQUIREMENTS ESTABLISHED IN THE PRIOR NOTICES

Citation	Rules, Waivers, and Alternative Requirement
	The Main CDBG-MIT Notice
84 FR 45844	Pre-award evaluation of management and oversight of funds
84 FR 45846	CDBG–MIT Action Plan waiver and alternative requirement
84 FR 45852	Citizen participation waiver and alternative requirement
84 FR 45853	HUD performance review authorities and grantee reporting requirements in the Disaster Recovery Grant Reporting (DRGR) System
84 FR 45854	Direct grant administration and means of carrying out eligible activities-applicable to State grantees only
84 FR 45855	Consolidated plan waiver
84 FR 45855	Requirement for consultation during plan preparation
84 FR 45855	Grant administration responsibilities, combined technical assistance and administration expenditures cap
84 FR 45855	Operation and maintenance waiver for CDBG–MIT program income
84 FR 45856	Planning-only activities applicable to State grantees only
84 FR 45856	Overall benefit requirement
84 FR 45856	Use of the “upper quartile” or “exception criteria” for low- and moderate-income area benefit activities
84 FR 45856	National objective waivers and alternative requirements applicable to CDBG–MIT funds
84 FR 45857	Waiver and alternative requirement for distribution to CDBG metropolitan cities and urban counties applicable to State grantees only
84 FR 45857	Use of subrecipients- applicable to State grantees only
84 FR 45857	Recordkeeping
84 FR 45858	Change of use of real property, applicable to State grantees only
84 FR 45858	Responsibility for review and handling of noncompliance-applicable to State grantees only
84 FR 45858	Program income alternative requirement
84 FR 45859	Limitation on reimbursement
84 FR 45859	Prohibition on forced mortgage payoff
84 FR 45859	One-for-one replacement housing, relocation, and real property acquisition Requirements
84 FR 45860	Environmental requirements
84 FR 45861	Duplication of benefits
84 FR 45862	Procurement
84 FR 45862	Timely distribution of funds
84 FR 45862	Review of continuing capacity to carry out CDBG-funded activities in a timely manner
84 FR 45862	Corrective and remedial actions
84 FR 45863	Noncompliance and grant conditions
84 FR 45863	Reduction, withdrawal, or adjustment of a grant, or other appropriate action
84 FR 45863	Federal accessibility requirements
84 FR 45863	Housing-related eligibility waivers
84 FR 45864	Housing incentives in at-risk communities
84 FR 45864	Limitation on emergency grant payments—interim mortgage assistance
84 FR 45864	Acquisition of real property; flood and other buyouts
84 FR 45866	Additional LMI national objective criteria for buyouts and housing incentives
84 FR 45867	Alternative requirement for housing rehabilitation—assistance for second homes
84 FR 45867	Flood insurance
84 FR 45867	Elevation of nonresidential structures
84 FR 45868	Requirements for flood control structure
84 FR 45868	Waiver and alternative requirement to permit certain improvements on private lands
84 FR 45868	National objective documentation for economic development activities
84 FR 45868	Public benefit for certain economic development activities
84 FR 45869	Clarifying note on Section 3 resident eligibility and documentation requirements

84 FR 45869	Waiver and modification of the job relocation clause to permit assistance to help a business return
84 FR 45869	Prioritizing small businesses
84 FR 45869	Underwriting
84 FR 45869	Limitation on use of funds for eminent domain
	The 2020 Omni Notice
85 FR 60822	Waiver and Alternative Requirements for Use of FEMA-Approved Elevation Standards for Nonresidential Structures
85 FR 60825	Substantial Action Plan Amendment Requirements for CDBG-MIT Grants
85 FR 60827	Financial Certification Requirements under Public Laws 115-254 and 116-20

IV.A.2. Waiver of 45-day Review Period for CDBG-MIT Action Plan and Substantial Action Plan Amendments. The unique qualities and requirements of CDBG-MIT are well established in the Main CDBG-MIT Notice. CDBG-MIT funds represent an opportunity for grantees to use this assistance in areas impacted by recent disasters to carry out strategic and high-impact activities to mitigate disaster risk and reduce future losses.

HUD may disapprove an action plan or substantial action plan amendment if it is incomplete. HUD works with grantees to resolve or provide additional information during the review period to avoid the need to disapprove an action plan or substantial action plan amendments. There are several issues related to the action plan or substantial action plan amendments as submitted that can be fully resolved via further discussion and revision during an extended review period, rather than through HUD disapproval of the amendments which in turn would require grantees to take additional time to revise and resubmit their respective amendments. As such, the Secretary has determined that good cause exists to waive 24 CFR 91.500(a) to extend HUD's action plan review period from 45 days to 60 days.

IV.A.3. Additional requirements and modifications of requirements in the Main CDBG-MIT Notice. The following clarifications or modifications apply to all grantees receiving an allocation under this notice:

IV.A.3.a. Substantial amendments for grantees receiving an allocation of funds under the Main CDBG-MIT Notice. Grantees that received a CDBG-MIT allocation under the Main CDBG-MIT Notice (California, Florida, Georgia, North and South Carolina, and Texas) must

submit a substantial amendment to its CDBG-MIT action plan, including an updated Mitigation Needs Assessment, per the requirements outlined in this notice, in addition to meeting the requirements for substantial amendments under the Main CDBG-MIT Notice and the 2020 Omni Notice (85 FR 60825). In particular, the substantial amendment must update the risk-based Mitigation Needs Assessment to:

- (1) Identify and analyze the significant current and future disaster risks in the MID areas for 2018 disasters and provide a substantive basis for the activities proposed in those MID areas. HUD notes that a grantee's action plan and Mitigation Needs Assessment in response to the Main CDBG-MIT Notice may already include MID areas for 2018 disasters (if those areas overlap with previous disasters). In that case, the grantee must update its needs assessment. Mitigation needs evolve over time and grantees are to amend the Mitigation Needs Assessment and action plan as conditions change, additional mitigation needs are identified, and additional resources become available.

As a reminder, the agency administering the CDBG-MIT funds must consult with other jurisdictions, the private sector and other government agencies, as identified above in section III.A. and III.B. of this notice. For more information on the consultation requirements, a grantee should refer to section V.A.7. of the Main CDBG-MIT Notice.

As required by section III.A., the grantee must update its submissions for the certification of financial controls and procurement processes, and adequate procedures for grant management as described in section V.A.1.a. of the Main CDBG-MIT Notice to reflect any material changes in the submissions within 120 days of the applicability date of this notice.

IV.A.3.b. Action plans and other submission requirements for grantees receiving their first CDBG-MIT allocation under this notice. Grantees receiving their first allocation of CDBG-MIT funds (Alaska, American Samoa, Hawaii County, Kauai County, the Commonwealth of the Northern Mariana Islands, and Wisconsin) shall be subject to the deadlines for submission of

implementation plans and capacity assessments, projection of expenditures and outcomes, and action plans, as established by this paragraph and paragraph IV.A.3.c. (which supersede the deadlines in the Main CDBG-MIT Notice). These grantees must submit projection of expenditures and outcomes and an action plan not later than 270 days after the applicability date of this notice. As required by section III.A. of this notice, the grantee must submit material updates to documentation for the certification of financial controls and procurement processes, and adequate procedures for grant management and the Addendum C added to Pub. L. 116-20 and 115-254 CDBG-DR Financial Management and Grant Compliance Certification Checklist, within 210 days of the applicability date of this notice.

IV.A.3.c. Implementation plan and capacity assessment. Grantees receiving their first allocation of CDBG-MIT funds under this notice (Alaska, American Samoa, Hawaii County, Kauai County, the Commonwealth of the Northern Mariana Islands, and Wisconsin) must submit the Implementation Plan and Capacity Assessment pursuant to section V.A.1.b., including the criteria in V.A.1.b.(1) and V.A.1.b.(2), of the Main CDBG-MIT Notice within 270 days of the applicability date of this notice.

IV.A.3.d. Public Hearing Clarification. On March 20, 2020 and in response to the COVID-19 pandemic, HUD clarified its requirements for public hearings as provided in the Main CDBG-MIT Notice, to include virtual public hearings (alone, or in concert with an in-person hearing) if the virtual hearings allow questions in real time, with answers coming directly from the elected representatives to all “attendees.” HUD is extending this flexibility to grantees receiving CDBG-MIT funds pursuant to this notice to facilitate social distancing during the public health emergency. CDBG-MIT grantees subject to this notice may hold virtual hearings in lieu of in-person public hearings to fulfill the public hearing requirements required by section V.A.3.a. of the Main CDBG-MIT Notice. Grantees that hold virtual hearings must update their citizen participation plans to describe procedures for virtual hearings, including how it shall take

appropriate steps to ensure effective communication as required by 24 CFR 8.6 and provide meaningful access for individuals with limited English proficiency.

For each virtual hearing, the grantee shall provide reasonable notification and access for citizens in accordance with the grantee's certifications, timely responses to all citizen questions and issues, and public access to all questions and responses.

IV.A.3.e. Consolidated Plan Waiver. The Main CDBG-MIT Notice imposes a deadline for grantees to update their consolidated plans. To allow grantees receiving allocations under Public Law 116-20 a similar extension to revise their consolidated plans for consistency with their CDBG-MIT action plans, the following language is added to the waiver and alternative requirement provided in section V.A.6. of the Main CDBG-MIT Notice to include the CDBG-MIT funds allocated under this notice: “This timeframe to update the consolidated plan shall not apply to grantees receiving CDBG-MIT funds under Public Law 116-20 for 2018 disasters. For a grantee allocated CDBG-MIT funds under Public Law 116-20, this waiver applies only until a grantee submits its next full (3–5 year) consolidated plan, or no later than its Fiscal Year 2022.”

IV.A.3.f. Use of funds in response to Hurricane Matthew and Hurricane Florence (State of North Carolina and South Carolina only). The Appropriations Act provides that grantees that received an allocation for mitigation activities in response to Hurricane Florence may use the CDBG-MIT funds for the same activities, consistent with the requirements of the CDBG-MIT grant, in the most impacted and distressed areas related to Hurricane Matthew. Additionally, as explained in the Main CDBG-MIT Notice in paragraph V.A.5.b., grantees that received an allocation for mitigation funding provided by Public Law 115-123 in response to Hurricane Matthew may use the CDBG–MIT funds for the same activities, consistent with the requirements of the CDBG-MIT grant, in the most impacted and distressed areas related to Hurricane Florence. Expenditures in the HUD-identified MID areas for both Hurricanes Matthew and Florence may count toward the 50 percent expenditure requirement for HUD-identified MID areas outlined in Table 1 of this notice. In total, South Carolina and North Carolina must expend

50 percent of the combined total of both CDBG-MIT grants in HUD-identified MID areas resulting from Hurricanes Matthew and Florence.

V. Duration of Funding

The Appropriations Act makes funds available for obligation by HUD until expended. This notice requires each grantee to expend 50 percent of its CDBG-MIT grant for 2018 disasters on eligible activities within six years of HUD's execution of the grant agreement and 100 percent of its CDBG-MIT grant for 2018 disasters within twelve years of HUD's execution of the grant agreement. HUD may extend the period of performance administratively, if good cause for such an extension exists at that time, as requested by the grantee and approved by HUD. When the period of performance has ended, HUD will close out the grant and any remaining funds not expended by the grantee on appropriate programmatic purposes will be recaptured by HUD.

VI. Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance numbers for the grants under this notice are as follows: 14.218 and 14.228.

VII. 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 on HUD's website and in-person 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 Federal Information Relay Service at 800-877-8339 (this is a toll-free number).

John Gibbs,

Principal Deputy Assistant Secretary

for Community Planning and Development.

Billing Code 4210-67

Appendix A - Detailed Methodology

Allocation of CDBG-MIT Funds to Most Impacted and Distressed Areas due to 2018 Federally Declared Disasters

According to Public Law 116-20:

Provided further, That any funds made available under this heading and under the same heading in Public Law 115-254 that remain available, after the funds under such headings have been allocated for necessary expenses for activities authorized under such headings, shall be allocated to grantees, for mitigation activities in the most impacted and distressed areas resulting from a major disaster that occurred in 2018: Provided further, That such allocations shall be made in the same proportion that the amount of funds each grantee received under this Act and the same heading in division I of Public Law 115-254 bears to the amount of all funds provided to all grantees that received allocations for disasters that occurred in 2018:

The Table below shows the total unmet needs for each 2018 grantee as calculated by HUD, each grantee's share of the unmet needs for all 2018 disasters, and the amounts allocated to each 2018 grantee which are proportional to the total amount each of the grantees has been allocated for unmet needs from the aggregate of PL 116-20 and PL 115-254.

FEMA disaster No.	Grantee	Combined allocation for unmet needs (Pub. L. 115-254 and Pub. L. 116-20)	Proportional Share of 2018 unmet needs	2018 Mitigation Grants (Pub. L. 116-20)
4357	American Samoa	\$23,039,000	0.7869%	\$1,470,000
4413	State of Alaska	\$35,856,000	1.2247%	\$2,288,000
4407, 4382	State of California	\$1,017,399,000	34.7504%	\$64,907,000
4399	State of Florida	\$735,553,000	25.1236%	\$46,926,000
4400	State of Georgia	\$41,837,000	1.4290%	\$2,669,000
4365	Kauai County, HI	\$9,176,000	0.3134%	\$585,000
4366	Hawaii County, HI	\$107,561,000	3.6739%	\$6,862,000
4396, 4404	Commonwealth of the Northern Mariana Islands	\$254,324,000	8.6867%	\$16,225,000
4393	State of North Carolina	\$542,644,000	18.5346%	\$34,619,000
4394	State of South Carolina	\$72,075,000	2.4618%	\$4,598,000
4377	State of Texas	\$72,913,000	2.4904%	\$4,652,000
4402	State of Wisconsin	\$15,355,000	0.5245%	\$980,000
	2018 Disasters	\$2,927,732,000	100.0000%	\$186,781,000

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