



## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-6552-N-01]

### **Waivers and Alternative Requirements for Community Development Block Grant Disaster Recovery (CDBG-DR) and Community Development Block Grant Mitigation (CDBG-MIT) Grantees**

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

**ACTION:** Notice.

**SUMMARY:** This notice governs Community Development Block Grant disaster recovery (CDBG-DR) and Community Development Block Grant mitigation (CDBG-MIT) funds awarded under several appropriations acts identified in the Table of Contents. Specifically, this notice includes waivers and alternative requirements for the State of Louisiana; Kauai County, HI; and American Samoa in response to their submitted requests for waivers and alternative requirements for grants provided under the public laws cited in this notice.

**DATES:** Applicability Date: [INSERT FIVE DAYS FROM DATE OF PUBLICATION].

**FOR FURTHER INFORMATION CONTACT:** Gerilee Bennett, Acting Director, Office of Disaster Recovery, U.S. Department of Housing and Urban Development, 451 7<sup>th</sup> Street SW, Room 7282, Washington, DC 20410, telephone number 202-708-3587 (this is not a toll-free number). HUD welcomes and is prepared to receive calls from individuals who are deaf or hard of hearing, as well as individuals with speech or communication disabilities. To learn more about how to make an accessible telephone call, please visit:

<https://www.fcc.gov/consumers/guides/telecommunications-relay-service-trs>. Email inquiries may be sent to [disaster\\_recovery@hud.gov](mailto:disaster_recovery@hud.gov).

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## **I. Authority to Grant Waivers**

Each appropriations act cited in the Table of Contents authorizes the Secretary to waive or specify alternative requirements for any provision of any statute or regulation the Secretary administers in connection with the obligation by the Secretary, or use by the recipient, of grant funds, except for requirements related to fair housing, nondiscrimination, labor standards, and the environment. HUD may also exercise its regulatory waiver authority under 24 CFR 5.110, 91.600, and 570.5.

All waivers and alternative requirements authorized in this notice are based upon a request by a grantee to facilitate the use of the funds or a determination by the Secretary that good cause exists, and a determination by the Secretary that the waiver or alternative requirement is not inconsistent with the overall purposes of Title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.) (HCDA). The basis for each waiver and alternative requirement is summarized in this notice.

## **II. Pub. L. 109-148, 109-234, 110-116 and 110-329 Waivers and Alternative Requirements**

*Waiver and Alternative Requirement for Program Income Provisions of Louisiana's 2005 and 2008 CDBG-DR Grants (State of Louisiana Only)*

The Department received a request from the State of Louisiana to waive program income requirements for its 2005 and 2008 CDBG-DR grants and align program income requirements for these grants with the program income requirements included in the notice titled, *Common Application, Waivers, and Alternative Requirements for Community Development Block Grant*

*Disaster Recovery Grantees: The Universal Notice*, published on January 8, 2025, at 90 FR 1754, as amended by Memorandums 2025-02<sup>1</sup> and 2025-03<sup>2</sup> (“The Universal Notice”). As the State explained in its request, aligning program income requirements for these older grants with the program income requirements included in the Universal Notice will facilitate the use of its funds by allowing the State to invest in ongoing recovery activities, reduce administrative burden, and assist the State in ensuring ongoing compliance with program income requirements.

This waiver and alternative requirement, as described below, applies to the following CDBG-DR grants allocated to the State:

1) CDBG-DR allocations for disasters occurring in 2005 funded by Pub. L. 109-148 and subject to the requirements published in 71 FR 7666 on February 13, 2006; 71 FR 34451 on June 14, 2006; 72 FR 10014 on March 6, 2007; 72 FR 48804 on August 24, 2007; 73 FR 46312 on August 8, 2008; and 73 FR 61148 on October 15, 2008;

2) CDBG-DR allocations for disasters occurring in 2005 funded by Pub. L. 109-234 and subject to the requirements published in 71 FR 63337 on October 30, 2006, and 73 FR 46312 on August 8, 2008;

3) CDBG-DR allocations for disasters occurring in 2005 funded by Pub. L. 110-116 and subject to the requirements published in 72 FR 70472 on December 11, 2007; and

4) CDBG-DR allocations for disasters occurring in 2008 funded by Pub. L. 110-329 and subject to the requirements published in 73 FR 7244 on February 13, 2009, and 74 FR 41146 on August 14, 2009 (collectively, the “Prior Notices”).

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<sup>1</sup> Memorandum 25-02, “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),” published on March 19, 2025. Found at <https://www.hud.gov/sites/dfiles/CPD/documents/CPDUniversalnotice.pdf>

<sup>2</sup> Memorandum 25-03, “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),” published on March 31, 2025. Found at <https://www.hud.gov/sites/default/files/CPD/documents/CDBG-DR/3-31-2025UniversalNoticeChangesMemo.pdf>

To align program income requirements across grants, the State requested application of Universal Notice program income provisions to its 2005 and 2008 CDBG-DR allocations. This would allow the State to retain program income received either before or after grant closeout, including any program income funds on hand at grant closeout, to further CDBG-DR activities. Whereas the Universal Notice provides that any program income received before or after closeout may be retained to further eligible CDBG-DR activities, the Prior Notices currently governing the disposition of program income under Louisiana's 2005 and 2008 CDBG-DR grants stipulate that any program income on hand at the time of grant closeout and any program income received following grant closeout will become program income under the State's most recent annual CDBG program grant. This provision from the Prior Notices hinders Louisiana's intent to invest in long-term recovery with program income generated by these older grants, precluding the State from closing these older grants lest it wish to relinquish any CDBG-DR program income on hand, and increase the administrative burden of implementing disparate program income requirements across CDBG-DR grants.

After reviewing the State's request and based on its explanation that a waiver is required to facilitate the use of its 2005 and 2008 CDBG-DR allocations, the Department is waiving the program income requirements established under the Prior Notices for the State of Louisiana's CDBG-DR allocations funded by Public Laws 109-148, 109-234, 110-116, and 110-329, and establishing as an alternative requirement the provisions in Sections III.B.12. and III.B.13. of the Universal Notice. In accordance with Sections III.B.12. and III.B.13., the State is required to expend all program income on hand before expending additional grant funds, track and report on program income before and after grant closeout, expend program income on eligible CDBG-DR activities, or otherwise transfer program income to an annual CDBG program with HUD approval, and comply with all applicable program income provisions related to revolving funds.

Accordingly, HUD is waiving section (1) at 71 FR 34454 (published on June 14, 2006) and section (12) at 74 FR 7251 (published on February 13, 2009) relative to program income

alternative requirements and replacing these sections with Sections III.B.12 and III.B.13. of the Universal Notice:

“III.B.12. *Program income*. For state or local government grantees, HUD is waiving all applicable program income rules at 42 U.S.C. 5304(j), 24 CFR 570.489(e) and (f), 24 CFR 570.500, 24 CFR 570.504, and 24 CFR 570.509(a)(4) and providing the alternative requirement described below. Program income earned by Indian tribes that are subrecipients of state or local government grantees will be subject to the program income requirements for subrecipients of those grantees.

III.B.12.a. *Definition of program income*. “Program income” is defined as gross income generated from the use of CDBG-DR funds, except as provided in III.B.12.b. below, and received by state or local government grantees, including subrecipients. When program income is generated by an activity that is only partially assisted with CDBG-DR funds, the income shall be prorated to reflect the percentage of CDBG-DR funds used (e.g., a single loan supported by CDBG-DR funds and other funds, or a single parcel of land purchased with CDBG-DR funds and other funds). If CDBG funds are used with CDBG-DR funds on an activity, any income earned on the CDBG portion would not be subject to the waiver and alternative requirement in the Universal Notice.

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

- (i) Proceeds from the disposition by sale or long-term lease of real property purchased or improved with CDBG-DR funds.
- (ii) Proceeds from the disposition of equipment purchased with CDBG-DR funds.
- (iii) Gross income from the use or rental of real or personal property acquired by state or unit of general local government grantees, including subrecipients, with CDBG-DR funds less costs incidental to generation of the income.

- (iv) Gross income from the use or rental of real property owned by state or local government grantees, including subrecipient, that was constructed or improved with CDBG-DR funds, less costs incidental to generation of the income.
- (v) Payments of principal and interest on loans made using CDBG-DR funds, including interest paid by borrowers on loans made from a revolving fund, as defined in section III.B.13.
- (vi) Proceeds from the sale of loans made with CDBG-DR funds.
- (vii) Proceeds from the sale of obligations secured by loans made with CDBG-DR funds.
- (viii) Interest earned on program income pending disposition of the income, including interest earned on funds held in a revolving fund, as defined in section III.B.13.
- (ix) Interest earned on lump sum drawdowns for financing of property rehabilitation activities as described in 24 CFR 570.513;
- (x) Funds collected through special assessments made against non-residential properties and properties owned and occupied by non-LMI [low- and moderate-income] households, where the special assessments are used to recover all or part of the CDBG-DR portion of a public improvement.
- (xi) Gross income paid to a state or local government grantees, including subrecipients, from the ownership interest in a for-profit entity in which the income is in return for the provision of CDBG-DR assistance.
- (xii) Any income received by state or local government grantees related to the CDBG-DR grant after closeout, including income received by subrecipients after closeout (see section II.D.12.e.).

III.B.12.b. *Program income—does not include.* Program income does not include the following:

- (i) The total amount of funds that is less than \$35,000 received over the life of the grant and retained by state or local government grantees, including subrecipients. Once a grantee, including subrecipients, meets or exceeds the \$35,000 threshold, only funds over the threshold are considered program income and are subject to the requirements of the Universal Notice.
- (ii) Amounts generated by activities eligible under section 105(a)(15) of the HCDA (42 U.S.C. 5305(a)(15) and carried out by an entity under the authority of section 105(a)(15) of the HCDA.
- (iii) Income (except for interest described in 24 CFR 570.513) earned on grant advances from the U.S. Treasury; this income must be remitted to HUD for transmittal to the U.S. Treasury.

III.B.12.c. *Recording program income.* For state or local government grantees, including their subrecipients, the receipt and expenditure of program income shall be recorded using both DRGR and internal financial records as part of the financial transactions of the CDBG-DR grant.

III.B.12.d. *Retention of program income.* State grantees may permit local governments that receive or will receive program income to retain the program income but are not required to do so. Additionally, state or local government grantees may permit subrecipients that receive or will receive program income to retain the program income but are not required to do so. In all cases, program income retained by local governments or subrecipients is treated as additional CDBG-DR funds subject to the requirements of the Universal Notice.

The written agreement between the grantee and the subrecipient shall specify whether program income received is to be returned to the grantee or retained by the subrecipient. When program income is to be retained by the subrecipient, the agreement shall specify the activities that will be undertaken with program income and that all provisions of the written agreement shall apply to the specified activities. When the subrecipient retains program income, transfers of grant funds by the grantee to the subrecipient shall be adjusted according to the disbursement

principles described in section III.B.12.e. Any program income on hand when the agreement expires, or received after the agreement's expiration, shall be paid to the grantee.

III.B.12.e. *Program income—use, close out, and transfer.* Program income received (and retained, if applicable) before or after closeout of the grant that generated the program income, and used to continue disaster recovery activities, is treated as additional CDBG-DR funds subject to the requirements of the Universal Notice and must be used in accordance with the grantee's Action Plan for disaster recovery. Grantees must substantially disburse program income before making additional withdrawals from the U.S. Treasury, except as provided in section III.B.13. State grantees may meet this requirement by carrying out activities directly or by distributing program income to local governments in accordance with the state's approved method of distribution, as provided in section I.C.1.e. Local government grantees may meet this requirement by carrying out activities directly as provided in section I.C.1.e.

Any income received by state or local government grantees related to the CDBG-DR grant after closeout, including income received by subrecipients after closeout, shall be treated as program income and shall be subject to the requirements of the Universal Notice, unless transferred to an annual CDBG program. If transferred to an annual CDBG program, the following rules apply:

(1) Program income received by state or local government grantees before or after closeout, including program income received by subrecipients, may be transferred by the state or local government grantees to the annual CDBG program before or after closeout of the grant that generated the program income. In all cases, the grantee must first seek and then receive HUD's approval;

(2) Any program income transferred will not be subject to the waivers and alternative requirements of the Universal Notice. Rather, those funds will be subject to the applicable regular CDBG program rules. Any other transfer of program income not specifically addressed

in the Universal Notice may be carried out if the grantee first seeks and then receives HUD's approval; and

(3) CDBG-DR grantees must continue to report annually in DRGR on any program income received following closeout of the grant.

III.B.13. *Revolving funds.* State or local government grantees may establish revolving funds to carry out specific, identified activities. State grantees may also establish a revolving fund to distribute funds to a local government, including subrecipients, to carry out specific identified activities. A revolving fund, for these purposes, is a separate fund (with a set of accounts that are independent of other program accounts) established to carry out specific activities. These activities must generate payments used to support similar activities going forward. These payments to the revolving fund are program income and must be substantially disbursed from the revolving fund before additional grant funds are drawn from the U.S. Treasury for payments that could be funded from the revolving fund. Such program income is not required to be used or disbursed for nonrevolving fund activities. A revolving fund established by a CDBG-DR grantee shall not be directly funded or capitalized with CDBG-DR grant funds. Given that funds in a revolving loan fund, including interest earned on funds held in the revolving loan fund as well as interest paid by borrowers on loans made from the fund, are considered program income, grantees may transfer revolving loan funds before or after closeout, pursuant to section III.B.12.e.”

### **III. Pub. L. 117-43, 117-180, and 115-123 Waivers and Alternative Requirements**

*Waiver and Alternative Requirement for Calculating LMI Benefit for Infrastructure Projects for Louisiana's 2020 and 2021 CDBG-DR Grants and 2018 CDBG-MIT Grant (State of Louisiana Only)*

The Department received a request and justification of good cause from the State of Louisiana to waive the requirements at 24 CFR 570.484 to the extent necessary to allow for the proportional costs of infrastructure projects to count towards meeting the overall benefit

requirement of primarily benefiting LMI persons in service areas that are less than 51 percent LMI. This waiver request aligns with HUD's more recent policy established in its Universal Notice. Given that the Department has already included this provision in the Universal Notice, as amended, allowing this waiver and alternative requirement for the State of Louisiana would allow the grantee to align requirements across their grant portfolio and invest in large-scale infrastructure projects that accurately report the proportional benefits to LMI residents.

This waiver and alternative requirement, as further described below, applies to the following CDBG-DR grants allocated to the State:

1) A CDBG-DR allocation for disasters occurring in 2020 funded by Pub. L.117-43 and subject to the requirements published in 87 FR 6364 on February 3, 2022; 87 FR 31636 on May 24, 2022; Memorandum 22-01 on December 7, 2022; Memorandum 23-01 on May 18, 2023; Memorandum 23-02 on June 28, 2023; and Memorandum 24-01 on January 22, 2024;

2) CDBG-DR allocations for disasters occurring in 2021 funded by Public Laws 117-43 and 117-180 and subject to the requirements published in 88 FR 3198 on January 18, 2023; 87 FR 31636 on May 24, 2022; Memorandum 22-01 on December 7, 2022; Memorandum 23-01 on May 18, 2023; Memorandum 23-02 on June 28, 2023; and Memorandum 24-01 on January 22, 2024; and

3) A CDBG-MIT allocation for disasters occurring in 2016 funded by Pub. L.115-123 and subject to the requirements published in 84 FR 45838 on August 30, 2019; 85 FR 60821 on September 28, 2020; 87 FR 36869 on June 21, 2022; and 88 FR 44816 on July 13, 2023 (collectively, the "Prior Notices").

These Prior Notices require projects that use the low- and moderate-income area (LMA) benefit national objective to adhere to the national objective criteria at 24 CFR 570.208(a)(1) and 24 CFR 570.483(b)(1), in which the benefits of an LMA activity must be available to all the residents in a particular area, and at least 51 percent of those residents must be LMI. However, large-scale infrastructure projects with a broad service area present a challenge for meeting the

LMA national objective criteria because the benefit area is so large and may result in the LMI population being less than 51 percent. As such, many infrastructure projects funded by the State of Louisiana through the allocations under these Prior Notices required use of the Urgent Need national objective where the service area was less than 51 percent LMI. In those cases, the State could not count any of the funds expended for such projects towards its overall benefit requirement – even when LMI persons were located in the service area.

The Prior Notices also retain an overall benefit requirement. Specifically, for the State's CDBG-DR allocations, it must comply with the overall benefit requirements in the HCDA and 24 CFR 570.484, and 70 percent of funds must be used for activities that benefit LMI persons. Conversely, for the State's CDBG-MIT allocation, the *Federal Register* notice at 84 FR 45856 waived the requirements at 42 U.S.C. 5301(c), 42 U.S.C. 5304(b)(3)(A), and 24 CFR 570.484, instead providing that 50 percent of CDBG-MIT funds must benefit LMI persons. Since grantees' infrastructure needs and investments may represent a significant portion of their total CDBG-DR and CDBG-MIT allocations, grantees may not be able to meet the overall benefit requirement if their infrastructure activities can only meet the urgent need national objective.

The State of Louisiana reports that, to date, they have allocated over \$1.7 billion to infrastructure projects with funds allocated under these Prior Notices. The state provided examples in their waiver request of infrastructure projects that currently comply with the Urgent Need national objective, which if this waiver were applied, would also count toward a proportional percentage of the overall benefit requirement, based on the LMI percentages of those service areas. These metrics would better reflect the true impact of infrastructure projects on LMI residents. The State of Louisiana also provided examples of infrastructure projects that they rejected, such as parish-wide water infrastructure projects or public fishing piers that serve entire communities, as they did not qualify as LMA due to their broad service areas. With the application of this waiver, the State can now consider funding more infrastructure projects such as these.

HUD understands that CDBG-DR and CDBG-MIT funds represent a significant opportunity for grantees to carry out strategic, high-impact, and innovative infrastructure activities that support recovery, mitigate disaster risks, and reduce future losses. After reviewing the State's request and based on the good cause provided herein, the Department is waiving the requirements at 24 CFR 570.484, only to the extent necessary, to add this alternative requirement: The State of Louisiana may count CDBG-DR and CDBG-MIT funds expended for infrastructure activities towards benefitting LMI persons and meeting the overall benefit requirement by multiplying the total cost (including CDBG-DR/CDBG-MIT and non-CDBG-DR/MIT 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 or CDBG-MIT funds provided. This flexibility will allow the State to continue to invest in large-scale infrastructure projects with large service areas and report the benefit to LMI persons in accordance with the 70 percent overall benefit requirement for the CDBG-DR grants and the 50 percent requirement for the CDBG-MIT grant.

#### **IV. Pub. L. 116-20 Waivers and Alternative Requirements**

*Waiver and Alternative Requirement for an Internal Auditor for Kauai County's 2018 CDBG-DR Grant and 2018 CDBG-MIT Grant (Kauai County, HI only).*

The Department received a request and justification of good cause from Kauai County to waive its requirements related to hiring an internal auditor aligning with HUD's more recent policy established in its Universal Notice. Given that the Department has already included this provision in the Universal Notice, as amended, allowing this waiver and alternative requirement for Kauai County would reduce administrative burden and save financial resources as its recovery is focused on providing assistance to a developer for the construction of affordable multifamily rental housing.

This waiver and alternative requirement, as further described below, applies to the following CDBG-DR and CDBG-MIT grants allocated to the County:

1) CDBG-DR funds for disasters occurring in 2018 funded by Pub. L. 116-20 subject to the requirements published in 85 FR 4681 on January 27, 2020; 83 FR 5844 on February 9, 2018; 83 FR 40314 on August 14, 2018; 84 FR 4836 on February 19, 2019; 84 FR 28848 on June 20, 2019; 85 FR 50041 on August 17, 2020; and 88 FR 44816 on July 13, 2023; and

2) CDBG-MIT funds for disasters occurring in 2018 under Pub. L. 116-20 subject to the requirements published in 86 FR 561 on January 6, 2021; 84 FR 45838 on August 30, 2019; and 85 FR 60821 on September 28, 2020 (collectively, the “Prior Notices”).

The Prior Notices require the grantee to have an internal auditor that provides programmatic and financial oversight of CDBG-DR activities and to strengthen the internal audit functions for CDBG-MIT funds.

Specifically, for CDBG-DR funding, section VI.A.1.a.(6) at 83 FR 5848, published on February 9, 2018, requires grantees to demonstrate they have “an internal auditor that provides both programmatic and financial oversight of grantee activities and includes a document signed by the internal auditor that describes his or her role in detecting fraud, waste, and abuse.”

Relative to the county’s CDBG-MIT funding, section V.A.1.a.(6)(iii) at 84 FR 45845, published on August 30, 2019, requires grantees to demonstrate they have “Enhancements to the internal auditor function established for the grantee’s CDBG-DR grant; or if the CDBG-MIT grant is to be administered by an agency that does not administer the CDBG-DR grant, how the internal auditor function is to be established and resourced. The internal audit function must provide both programmatic and financial oversight of grantee activities and the submission must include a document signed by the internal auditor that describes his or her role in detecting fraud, waste, and abuse.”

The grantee’s CDBG-MIT funds are also subject to the requirements of 86 FR 561, published on January 6, 2021, which includes the following provision at section III.A. paragraph three, “In the checklist [CDBG-MIT Certification Addendum C to the Public Law 116-20 and 115-254 CDBG-DR Financial Management and Grant Compliance Certification 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.”

CDBG-DR and CDBG-MIT grantees may request waivers and alternative requirements, as long as good cause is provided. Kauai County is requesting a waiver and alternative requirement, similar to the alternative requirement provided in section II.A.1.d. of HUD's Universal Notice, as amended, that exempts a grantee from hiring an internal auditor if the grant size is less than \$100 million.

Given the targeted nature of the project – providing assistance to a developer for the vertical construction of affordable multifamily rental housing impacted by the 2018 disaster – the requirement to hire an internal auditor creates financial burden for Kauai County and limits funding available for its recovery. In order to protect the CDBG-DR investment, the grantee will include additional layers of financial oversight to uphold cost reasonableness, such as conducting a detailed review of the contract and cost estimate by a third-party construction consultant prior to starting construction. The project will also be required to have a cost certification completed by a CPA to convert the construction loan to permanent financing. Taken together, these factors indicate that the grantee's request is reasonable given that both its CDBG-DR and CDBG-MIT grants combined are less than \$100 million, and that the approval of this waiver would result in saving financial resources and streamlining recovery efforts.

After reviewing Kauai County's request and based on the good cause provided herein, the Department finds that good cause exists to waive the audit requirements established in the Prior Notices to not require the hiring of an internal auditor for the grantee's CDBG-DR or CDBG-MIT grant since both grants together are less than \$100 million. As an alternative requirement the grantee is subject to the requirement in section II.A.1.d.(iv) of the Universal Notice that states, “if the grant size is \$100 million or more, the grantee has or will employ an internal

auditor that provides both programmatic and financial oversight of grantee activities and will adopt policies that describe the auditor's role in detecting and preventing fraud, waste, and abuse." This alternative requirement applies to CDBG-DR and CDBG-MIT funds under Pub. L. 116-20 for Kauai County *only*. As a reminder, the grantee must still have adequate procedures in place to detect and prevent fraud, waste, and abuse. Additionally, the grantee must continue providing on-going oversight and monitoring of subrecipients or developers, as applicable, to ensure compliance with all CDBG-DR and CDBG-MIT requirements.

## **V. Pub. L. 115-254 and Pub. L. 116-20 Waivers and Alternative Requirements**

*Waiver and Alternative Requirement for an Internal Auditor for American Samoa's 2018 CDBG-DR and 2018 CDBG-MIT Grant (American Samoa only).*

The Department received a request and justification of good cause from American Samoa to waive internal auditor requirements in alignment with provisions established in the Universal Notice. Given that the Department has already included this provision in the Universal Notice, as amended, allowing this waiver and alternative requirement for American Samoa would reduce administrative burden and save financial resources as its recovery is focused on a single housing project.

This waiver and alternative requirement, as further described below, applies to the following CDBG-DR and CDBG-MIT grants allocated to American Samoa:

1) CDBG-DR funds for disasters occurring in 2018 funded by Public Laws 115-254 and 116-20 subject to the requirements published in 85 FR 4681 on January 27, 2020; 83 FR 5844 on February 9, 2018; 83 FR 40314 on August 14, 2018; 84 FR 4836 on February 19, 2019; and 84 FR 28848 on June 20, 2019; 85 FR 50041 on August 17, 2020; and 88 FR 44816 on July 13, 2023; and

2) CDBG-MIT funds for disasters occurring in 2018 under Pub. L. 116-20 subject to the requirements published in 86 FR 561 on January 6, 2021; 84 FR 45838 on August 30, 2019; and 85 FR 60821 on September 28, 2020 (collectively, the "Prior Notices").

The Prior Notices require the grantee to have an internal auditor that provides programmatic and financial oversight of CDBG-DR activities and to strengthen the internal audit functions for CDBG-MIT funds.

Specifically, for CDBG-DR funding, section VI.A.1.a.(6) at 83 FR 5848, published on February 9, 2018, requires grantees to demonstrate they have, “an internal auditor that provides both programmatic and financial oversight of grantee activities and includes a document signed by the internal auditor that describes his or her role in detecting fraud, waste, and abuse.”

Relative to the grantee’s CDBG-MIT funding, section V.A.1.a.(6)(iii) in 84 FR 45845, published on August 30, 2019, requires grantees to demonstrate they have, “Enhancements to the internal auditor function established for the grantee’s CDBG–DR grant; or if the CDBG–MIT grant is to be administered by an agency that does not administer the CDBG–DR grant, how the internal auditor function is to be established and resourced. The internal audit function must provide both programmatic and financial oversight of grantee activities and the submission must include a document signed by the internal auditor that describes his or her role in detecting fraud, waste, and abuse.”

The grantee’s CDBG-MIT funds are also subject to the requirements of 86 FR 561 published on January 6, 2021, which includes the following provision at Section III.A. paragraph three, “In the checklist [CDBG–MIT Certification Addendum C to the Public Law 116–20 and 115–254 CDBG–DR Financial Management and Grant Compliance Certification 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.”

CDBG-DR and CDBG-MIT grantees may request waivers and alternative requirements, as long as good cause is provided. American Samoa is requesting a waiver and alternative requirement, similar to the alternative requirement provided in section II.A.1.d. of HUD’s

Universal Notice, as amended, which exempts a grantee from hiring an internal auditor if the grant size is less than \$100 million. Given the small scale of its project – a single construction project to assist housing needs for local residents impacted by the 2018 disaster – the requirement to hire an internal auditor creates financial burden for American Samoa and limits funding available for its recovery. The grantee demonstrates that its request is reasonable given that both its CDBG-DR and CDBG-MIT grants combined are less than \$100 million, and that the approval of this waiver would result in saving financial resources and streamlining recovery efforts.

After reviewing American Samoa’s request and based on the good cause provided herein, the Department finds that good cause exists to waive the audit requirements established in the Prior Notices to not require the hiring of an internal auditor for the grantee’s CDBG-DR or CDBG-MIT grant since both grants together are less than \$100 million. As an alternative requirement the grantee is subject to the requirement in section II.A.1.d.(iv) of the Universal Notice that states, “if the grant size is \$100 million or more, the grantee has or will employ an internal auditor that provides both programmatic and financial oversight of grantee activities and has adopted policies that describe the auditor’s role in detecting and preventing fraud, waste, and abuse.” This alternative requirement applies to CDBG-DR and CDBG-MIT funds under Public Laws 115-254 and 116-20 for American Samoa *only*. As a reminder, the grantee must still have adequate procedures in place to detect and prevent fraud, waste, and abuse. Additionally, the grantee must continue providing on-going oversight and monitoring of subrecipients or developers, as applicable, to ensure compliance with all CDBG-DR and CDBG-MIT requirements.

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**David C. Woll Jr.,**  
Principal Deputy Assistant Secretary for  
Community Planning and Development

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