DE 4210-67]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-6337-N-02]

Notice on Community Development Block Grant Disaster Recovery (CDBG-DR) Formula

AGENCY: Office of the Assistant Secretary for Policy Development and Research (PD&R), Department of Housing and Urban Development (HUD).

ACTION: Notice.

SUMMARY: This notice seeks additional comment on an earlier Request for Information (RFI) on the methodology HUD uses to calculate Community Development Block Grant Disaster Recovery (CDBG-DR) allocation amounts. It also notifies the public that HUD will use the formula described in the 2025 notice for allocations to 2023 and 2024 disasters until a final rule is completed. This notice also seeks comment on potential formula modifications that HUD is considering.

DATES: Comments are requested on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER.]** Late-filed comments will be considered to the extent practicable.

ADDRESSES: Interested persons are invited to submit comments responsive to this notice. All submissions must refer to the docket number and title of the notice. Comments may include written data, views, or arguments. Each individual or organization is encouraged to submit only one response and to limit their submissions to 10 pages in 12-point or larger font, with a page number provided on each page. Commenters are encouraged to identify the number of the specific question or questions to which they are responding. Responses should include the name of the person(s) or organization(s) filing the comment but should not include any personally identifiable information.

There are two methods for submitting public comments.

1. Electronic Submission of Comments. Interested persons may submit comments electronically through the Federal eRulemaking Portal at http://www.regulations.gov OR by

electronic mail to the Office of Disaster Recovery at Disaster_Recovery@hud.gov. If submitting comments by electronic mail, please include the docket number and "RFI for HUD CDBG-DR Formula" in the subject line of the message.

2. Submission of Comments by Mail. Comments may be submitted by mail to the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street SW, Room 10276, Washington, DC 20410-0500.

HUD strongly encourages commenters to submit their feedback and recommendations electronically. Electronic submission of comments allows the commenter maximum time to prepare and submit a response, ensures timely receipt by HUD, and enables HUD to make comments immediately available to the public. Comments submitted electronically through the http://www.regulations.gov website can be viewed by other commenters and interested members of the public. Commenters should follow the instructions provided on that site to submit comments electronically.

Note: To receive consideration as public comments, comments must be submitted through one of the two methods specified above. Again, all submissions must refer to the docket number and title of the notice.

FOR FURTHER INFORMATION CONTACT: Todd Richardson, Office of Policy Development and Research, Department of Housing and Urban Development, 451 7th Street SW, Room 8138, Washington, DC 20410-0500; telephone number (202) 402-5706 (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.

SUPPLEMENTARY INFORMATION:

I. Purpose of this Notice.

Section 504 of the 21st Century ROAD to Housing Act includes the Reforming Disaster Recovery Act that authorizes the CDBG-Disaster Recovery program and specifically requires HUD to issue a notice in the *Federal Register* containing the latest formula allocation methodologies used to determine the total estimate of unmet needs related to housing, economic revitalization, and infrastructure in the most impacted and distressed areas resulting from a catastrophic major disaster. The statute requires HUD to solicit public comments on the described methodologies and seek alternative methods for formula allocation within a similar total amount of funding; the impact of formula methodologies on rural areas and Tribal areas; adjustments to improve targeting to the most serious needs; objective criteria for grantee capacity and concentration of damage to inform grantee determinations and minimum allocation thresholds; and research and data to inform an additional amount to be provided for mitigation depending on type of disaster, which shall be up to 18 percent of the total estimate of unmet needs.

On December 20, 2022, HUD requested comment on the CDBG-DR formula in use at the time through an RFI (December 2022 Notice).[1] HUD published a later notice on January 16, 2025 (the January 2025 Notice),[2] announcing a revised formula, which is substantially similar to the methodology published for public comment in the December 2022 Notice. HUD intends to use the formula published in January 2025 as the allocation methodology until such time as HUD publishes an updated formula notice or completes rulemaking.

II. Specific Information Requested.

HUD's intent is for future modifications to make the formula simpler and more transparent to help ensure allocations are quickly delivered based on the scale and severity of unmet need. To that end, HUD is seeking additional comment on the current allocation formula, as described in the December 2022 Notice and in the January 2025 Notice, and the following specific questions:

[1] 87 FR 77855
[2] 90 FR 4759

1. Are there alternative methods for formula allocation HUD should consider within a similar total amount of funding? Some ideas HUD is considering and seeking comment are:

   a. Housing need multipliers. HUD is seeking comment on changing the multiplier for determining a dollar amount of unmet housing needs. HUD is seeking comment on adding a new category – "destroyed" – separate from its current severe definition, for having a specific multiplier calculated. In addition, HUD is seeking comment on no longer matching to SBA data to determine the amount used for the multiplier and instead use historic experience of multipliers by disaster type and adjusting for cost differences by geography using private sector construction cost data (similar to the methods used for the HOME and Housing Trust Fund formulas) and inflation over time. HUD is also seeking comment on how to define reasonable costs to rebuild, including comment on how to incorporate standards for determining if local regulations are causing unreasonable higher costs to rebuild and how to best assess whether and to what extent a locality has taken action(s) consistent with HUD's State and Local Best Practices for Home Construction. HUD is seeking comment on using rental unit multipliers different than owner unit multipliers to reflect generally fewer square feet for rental units than owner units. *Discussion:* HUD has found that disasters with large numbers of destroyed housing have much different recovery needs than those with only damaged homes. In addition, the timing of when there is reliable SBA disaster loan data on cost to repair for a disaster and the timing for allocating CDBG-DR funds are not well synchronized. To facilitate a faster CDBG-DR allocation, HUD is seeking comment on no longer relying on the SBA disaster loan data to determine the multipliers.

b. Economic revitalization. For economic revitalization, HUD is seeking comment on not using SBA business disaster loan data, but instead presuming that economic revitalization unmet need equals some percentage of the calculated housing unmet need. *Discussion*: Data on grantee action plans for the major CDBG-DR appropriations years for disasters in 2011-2013, 2016, 2017, 2018, 2020/21, 2022, and 2023/24 show that relatively little funding has been planned for economic development, ranging from 0 percent to 7 percent, the median is 2 percent. HUD is seeking comment on this approach of basing economic revitalization need off of housing need; and if that percentage should be a flat amount, such as 2 percent, or adjusted based on type of disaster and what percentages HUD should consider.

c. Infrastructure. For infrastructure, HUD is seeking comment on no longer using FEMA Public Assistance Category C to G estimates for determining infrastructure need. Instead, HUD is considering determining unmet infrastructure need as a percentage of the calculated housing unmet needs. *Discussion*: Similar to the issue with SBA business data, FEMA's estimates for infrastructure need often change significantly over time so the timing of the formula allocation is often not in alignment with the timing for the best estimates for FEMA Public Assistance needs. At the same time, HUD knows that some grantees often do expend considerable share of CDBG-DR on infrastructure, and others very little. Data on grantee plans for the major appropriations for disasters in 2011-2013, 2016, 2017, 2018, 2020/21, 2022, and 2023/24 show a range by appropriation on planned infrastructure expenditures of 9 percent to 31 percent, median of 22 percent. HUD is seeking comment on this approach of basing infrastructure need off of housing need; and if that percentage should be adjusted based on type of disaster and what percentages HUD should consider.

d. Extraordinary Circumstances. The expectation is that the vast majority of estimated unmet needs for CDBG-DR allocations would use the standard methodology. However, due to the unpredictability of natural disasters, HUD is seeking comment on including an element to the formula that reserves the right for the Secretary to use alternative data or methods in the case of extraordinary circumstances. *Discussion.* Over the more than 25 years HUD has calculated formula allocations for CDBG-DR, there have been occasional disasters where there was a particular type of unmet need not previously considered. For example, in 2018, HUD made an adjustment for undamaged homes permanently inaccessible due to lava flow in Hawaii.

2. How should HUD measure the impact of formula methodologies on rural areas and Tribal areas? HUD is seeking comment on revising its definition for most impacted and distressed areas to have separate thresholds for metropolitan, non-metropolitan (a proxy for rural areas), and tribal areas.
3. What adjustments to the formula should HUD consider to improve its targeting to the most serious needs? The 21st Century ROAD to Housing Act limits grantee eligibility to those impacted by "catastrophic disasters." For a "catastrophic" standard solely used for determining CDBG-DR eligibility, HUD is seeking comment on what that standard might be. For example, HUD is exploring limiting the disasters it funds to those of large scale as measured by a large number of housing units with major-high or severe damage with unmet needs (as defined in the 2022 RFI, except that major high includes homes with 1 foot or more flooding on first floor) or a high concentration of homes with major-high or severe need relative to all occupied homes in a small geography. These standards could be set differently based on whether the disaster is in a metropolitan area, a non-metropolitan area, or a tribal area.

4. How might HUD determine separate thresholds for metropolitan, non-metropolitan, and tribal areas to inform its determinations of most serious need?
5. Should HUD consider updating thresholds for the housing damage definitions of minor-low, minor-high, major-low, major-high, and severe, given these thresholds were originally established for Hurricane Sandy and have been used since; and if so, how should they be updated?
6. Are there objective criteria to measure grantee capacity and concentration of damage in regards to determining the appropriate jurisdiction to receive the allocation? HUD is seeking comment on a policy that assumes states are generally going to have more capacity and HUD's preference will be to award grants to states unless HUD's review of capacity and concentration of damage warrant allocation to local governments or Indian tribes. For tribes, HUD is seeking comments on a general policy that, if a tribe receives a disaster declaration and the disaster meets the definition of catastrophic, HUD's Office of Native American Programs make the determination of tribal capacity to administer the grant.
7. Are there other objective criteria HUD should consider for assessing concentration of damage to inform grantee determinations and minimum allocation thresholds?
8. Is there research and data that could inform HUD on how to calculate an additional amount to be provided for mitigation depending on type of disaster? HUD is seeking comments offering research that would recommend different percentages (not to exceed 18 percent) by disaster type.
9. How might HUD consider repetitive loss data (i.e. properties that have experienced damage from multiple disasters) or damage to critical infrastructure in the allocation formula?

III. Response Guidance

For comments submitted by mail responses should not exceed 35 pages. Please provide the following information at the start of your response to this notice: Company/institution name (if applicable); contact information, including address, phone number, and email address. Do not submit Confidential Business Information (CBI) in your response to this notice. Responses identified as containing CBI will not be reviewed and will be discarded.

Please identify each answer by responding to a specific question or topic if applicable. You may answer as many or as few questions as you wish. To help you prepare your comments, please see the *How Do I Prepare Effective Comments* segment of the Commenting on HUD Rules web page, https://www.hud.gov/program_offices/general_counsel/Commenting-On-HUD-Rules#1. While that web page is written for commenting on regulatory proposals, these tips are generally applicable to this RFI.

Reid Wilson,
Deputy Chief of Staff to the Secretary,
Performing the Delegable Duties of the Principal Deputy Assistant Secretary for Policy Development and Research.

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