

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**ASSISTANCE LISTING 14.218 COMMUNITY DEVELOPMENT BLOCK GRANTS/ENTITLEMENT GRANTS****ASSISTANCE LISTING 14.225 COMMUNITY DEVELOPMENT BLOCK GRANTS/SPECIAL PURPOSE GRANTS/INSULAR AREAS****I. PROGRAM OBJECTIVES**

The primary objective of the Community Development Block Grant (CDBG) Entitlement Program (metropolitan cities and urban counties) (24 CFR Part 570 Subpart D) is to develop viable urban communities by providing decent housing, a suitable living environment, and expanding economic opportunities, principally for persons of low- and moderate-income (24 CFR sections 570.1, 570.200, 570.420, and 570.429).

The program is authorized under Title I of the Housing and Community Development Act (HCDA) of 1974, as amended. On March 27, 2020, the Coronavirus Aid, Relief, and Economic Security (CARES) Act provided an emergency supplemental appropriation of CDBG funding for states, entitlement communities, and insular areas. This appropriation, referred to as CDBG-CV program funds, to distinguish it from the annual formula CDBG program, is to be used similarly as annual formula grants, but specifically to prevent, prepare for, and respond to coronavirus.

This supplement also includes CDBG Disaster Recovery (CDBG-DR) funds, CDBG Mitigation (CDBG-MIT) funds, and Neighborhood Stabilization Program (NSP1, NSP3) funds.

All of the above-referenced programs, appropriations, and funding have as their core statutory basis Title I of the Housing Community Development Act (HCDA) of 1974, as amended. Unless amended by statute, regulation, or notice, specific to the particular CDBG award, recipients of any and all CDBG funds must ensure that CDBG funds are used in accordance with all program requirements as promulgated in the HCDA and in the program regulations in Part 570.

II. PROGRAM PROCEDURES**A. Overview**

The primary objective of CDBG is the development of viable urban communities. These viable communities are achieved by providing the following, principally for persons of low and moderate income:

- a. Decent housing;
- b. A suitable living environment; and
- c. Expanded economic opportunities.

To achieve these goals, the CDBG statute and regulations set forth eligible activities and the national objectives that each activity must meet. As recipients of CDBG funds, grantees are charged with ensuring that these requirements are met.

The program objective is to be achieved in two ways. First, a grantee can only use funds to assist eligible activities that meet one or more of the following three CDBG national objectives: benefit low- and moderate-income persons, aid in the prevention of slums and blight or meet community development needs having a particular urgency. Every CDBG-CV funding recipient must document how each CDBG-CV funded activity prevents, prepares for, and responds to coronavirus. Second, the grantee must spend at least 70 percent of its funds, over a period of one, two, or three years as specified by the grantee in its certification, for activities that address the national objective of benefitting low- and moderate-income persons. For CDBG-CV, this 70 percent overall benefit test applies to total expenditures over the life of the grant, regardless of program year of expenditure and compliance is determined separately from the annual formula CDBG program.

Metropolitan cities and urban counties must submit certain certifications and a three- to five-year Consolidated Housing and Community Development Strategy and Plan (the “Consolidated Plan” or “Con Plan”) describing how they propose to use the funds for housing and community development activities. They also must submit annually the certifications identified at 24 CFR section 91.225 and a one-year Action Plan indicating how they propose to use the funds to further their three- to five-year goals and objectives. The grant amount is determined by the higher of two formulas that consider a community’s population, poverty level, extent of overcrowded housing, age of housing, and growth lag (42 USC 5306(b)). Insular areas, including American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the US Virgin Islands, may submit an abbreviated consolidated plan pursuant to 24 CFR 91.235.

Except for the following differences, non-entitlement counties in Hawaii (see Assistance Listing 14.228, II, “Program Procedures”) must follow the requirements of CDBG Entitlement Grants (Assistance Listing 14.218): (1) their funding comes from Section 106(d) of the Housing and Community Development Act of 1974, as amended (42 USC 5306(d)); (2) funds are distributed using the formula contained in 24 CFR section 570.429(c); (3) reallocations due to grant reductions, or funds not applied for, go to the other non-entitlement counties in Hawaii on a pro rata basis (24 CFR section 570.429(d)); (4) non-entitlement counties are not eligible to use the exception criteria in 24 CFR section 570.208(a)(1)(ii); and (5) 24 CFR section 570.307 (Urban Counties) and 24 CFR section 570.308 (Joint Requests) would not apply to non-entitlement counties in Hawaii.

B. Subprograms/Program Elements

1. CDBG-DR and CDBG-MIT Funding

The primary objective for CDBG-DR is to provide disaster relief, long-term recovery, restoration of infrastructure and housing, and economic revitalization in the most impacted and distressed areas resulting from a major disaster, declared pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1974.

Congress may appropriate funding for CDBG-DR grants to address disaster recovery needs that are not met by other sources of Federal disaster assistance. When available, HUD provides CDBG-DR grants to states, territories, and local governments particularly to be used for specific disaster recovery purposes.

Generally, all CDBG-DR activities must:

- a. Be CDBG-eligible (or eligible under a waiver or alternative requirement);
- b. Meet a CDBG national objective; and
- c. Meet an unmet recovery need that addresses a direct or indirect impact from an eligible disaster.

Additionally, CDBG-DR grantees, with the exception of local government grantees, must use at least 80 percent of their allocations to address unmet disaster needs or mitigation activities in the HUD-identified “most impacted and distressed” (MID) areas resulting from a qualifying major disaster. Local government grantees must use 100 percent of their allocations in the HUD-identified MID areas.

For CDBG Mitigation (CDBG-MIT), Congress appropriated \$16,121,297,000 in CDBG funds specifically for mitigation activities for qualifying disasters in 2015, 2016, 2017, and 2018 under Public Law 115–123 and Public Law 116–20. CDBG-MIT is a unique and significant opportunity for eligible grantees to use this assistance in areas impacted by specific disasters to carry out strategic and high-impact activities to mitigate disaster risks and reduce future losses.

For CDBG-MIT, mitigation activities are defined as 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 mitigation objectives and efforts align with other federal programs that address hazard mitigation to create a more cohesive effort at the federal, state, and local level.

Similar to CDBG-DR funds, the use of CDBG-MIT funds must also occur within the CDBG framework. All CDBG-MIT activities must: (1) Meet the definition of mitigation activities above; (2) address current and future disaster risks; (3) be CDBG-eligible (or eligible under a waiver or alternative requirement); and (4) meet a CDBG national objective.

The national objectives of the CDBG program are: (a) Providing benefit to low- and moderate-income persons; (b) preventing or eliminating slum and blighting conditions; or (c) addressing a severe and recently arising urgent community welfare or health need. Unlike other forms of Federal disaster recovery assistance, CDBG-DR and CDBG-MIT grants have a statutory focus on benefiting vulnerable lower-income people and communities and targeting the most impacted and distressed areas.

2. *Declared Disaster Recovery Fund (DDRF)*

Pursuant to 42 USC 5306(c)(4), in the event of a major disaster declared by the President, HUD may make available to metropolitan cities and urban counties located or partially located in areas affected by the disaster, any amounts that

become available as a result of actions under 42 USC 5304(e) or 5311. These funds shall give priority to providing emergency assistance and recovery from the disaster and grant agreements or amendments for such funds may include special conditions governing their use. In all other respects, these reallocated funds shall follow the requirements of CDBG Entitlement Grants.

3. *Neighborhood Stabilization Program (NSP)*

The Housing and Economic Recovery Act of 2008 (HERA) (Pub. L. No. 110-289, July 30, 2008) provided funds for emergency assistance for redevelopment of abandoned and foreclosed homes and residential properties, and provides under a rule of construction that, unless HERA provides otherwise, the grants are to be considered CDBG funds. The grant program under Title III of HERA is referred to as the Neighborhood Stabilization Program (NSP). The NSP funding covered in this cluster is the funding provided under HERA. These HERA funds are also referred to as NSP1. Additional funding for NSP was authorized by Section 1497 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) (Pub. L. No. 111-203, July 21, 2010), and is referred to as NSP3. NSP funding provided under the American Recovery and Reinvestment Act of 2009 (ARRA) is referred to as NSP2 and NSP-TA, which are covered by the Neighborhood Stabilization Program (Recovery Act Funded) (Assistance Listing 14.256) has its own separate Compliance Supplement section and is audited separately.

The NSP1 and NSP3 grants are special CDBG allocations to address the problem of abandoned and foreclosed homes. HERA and the Dodd-Frank Act established the need, targets the geographic areas, and limits the eligible uses of NSP funds. NSP3 requirements are in the NSP notice published on October 19, 2010 (75 FR 64322-64348), which lists allocations, requirements, and waivers. The NSP3 Notice incorporates the NSP1 Bridge Notice, changes made by ARRA, and additional changes and clarification. The notices are available at <https://www.hudexchange.info/nsp/nsp-laws-regulations-and-federal-register-notices/>.

4. *FY 2020 Emergency, Supplemental Appropriation – CDBG-CV*

The Coronavirus Aid, Relief, and Economic Security (CARES) Act (Pub. L. No. 116-136, March 27, 2020) provided an emergency supplemental appropriation of CDBG funding for states, entitlement communities, and insular areas. Recipients may undertake a wide range of activities directed toward assisting their community to prevent, prepare for, and respond to coronavirus. Examples include, but are not limited to, public services designed to increase the capacity of the local health system to address the pandemic; emergency income payment programs to assist low- and moderate-income individuals and families with items such as food, clothing, housing, or utilities for a period of up to six consecutive months; interim assistance activities to address the public health emergency, such as “pop-up,” temporary coronavirus testing sites; grants or loans to businesses to avoid or mitigate job losses caused by business loss due to social distancing

guidelines; assistance to microenterprises or other for-profit entities when the recipient determines that the provision of such assistance is appropriate to carry out critical medical, food delivery, cleaning, and other services to support home health and quarantine; assistance for the acquisition, rehabilitation, or construction of facilities for coronavirus testing, diagnosis, or treatment; and coronavirus planning and capacity building activities.

Additional activities that address coronavirus were identified in the April 30, 2021, Quick Guide, CDBG-CV PPR Tieback Flexibilities. These include but are not limited to: providing technical assistance, grants, loans, and other financial assistance to establish, stabilize, and expand microenterprises to revitalize communities and local economies affected by coronavirus or to prepare for and prevent future outbreaks; providing working capital assistance to small businesses or entrepreneurs to enable creation and retention of jobs held by low- and moderate-income persons caused by business closures related to community mitigation measures or other job loss and economic disruption resulting from coronavirus; increasing the capacity and availability of daycare or after-school services serving low/mod areas in which parents have dropped out of the workforce since January 2020 to enable workers to rejoin the workforce as a public service; rehabilitation of single unit and multifamily housing units to respond to living conditions (such as mold, lead-based paint, and poor ventilation) associated with more severe coronavirus disease or poorer post-COVID health advice; conversion of public/commercial buildings into affordable housing and acquisition of property for housing to respond to residential over-crowding associated with coronavirus spread and with more severe coronavirus disease and poorer post-COVID health outcomes; new housing construction carried out by a qualified Community Based Development Organization (CBDO) to respond to residential over-crowding associated with coronavirus spread and with more severe coronavirus disease and poorer post-COVID health outcomes; constructing a public facility such as a park serving a low and moderate income area to provide suitable outdoor fitness, and social space where insufficient facilities are available to support social distancing guidance; preventing or addressing the spread of coronavirus in a vulnerable population by acquiring and rehabilitating, or constructing, a group living facility for persons recovering from substance abuse disorder; and constructing a public improvement, such as extending broadband infrastructure in an underserved area or reconstructing degraded water lines, to support tele-school and telemedicine and to ensure potable water to homes, schools, and health providers.

Entitlement communities develop their own programs and funding priorities so long as programs/activities conform to the statutory standards and program regulations. Specific statutory provisions of CDBG-CV funds include the suspension of the Housing and Community Development Act provision that caps

expenditures for public services activities; the submission of an amended Consolidated Plan, 2019 Action Plan, or 2020 Action Plan for use of CDBG-CV funds no later than August 16, 2021; the ability of a grantee to adopt and use expedited procedures to prepare, propose, modify, or amend its annual statement

of activities (Annual Action Plan) to provide citizens with notice and a reasonable opportunity to comment of no less than five days; the suspension of in-person public hearings and the adoption of virtual public hearings to fulfill public hearing requirements for the use of all funds made available under the CARES Act as long as national or local health authorities recommend social distancing and limiting public gatherings for public health reasons; and the requirement that adequate procedures are in place to prevent duplication of benefits as required by the Stafford Act and in accordance with Disaster Recovery Reform Act of 2018.

Recipients may contract with other local agencies or nonprofit organizations to carry out part or all of their programs. CBDOS may carry out neighborhood revitalization, community economic development or energy conservation projects to further achieve the national objectives of the CDBG program. CDBG-CV funds may be used to cover or reimburse allowable costs consistent with preventing, preparing for, and responding to coronavirus incurred by a locality for costs incurred on or after January 21, 2020. All eligible activities must either benefit low-and moderate-income persons, aid in the prevention or elimination of slums or blight or meet other community development needs having a particular urgency that the grantee is unable to finance on its own.

Source of Governing Requirements

These programs are authorized by Title I of the Housing and Community Development Act of 1974, as amended (Pub. L. No. 93-383) (42 USC 5301). Implementing regulations are located at 24 CFR Part 570.

The Community Development Block Grant disaster recovery (CDBG-DR) and Community Development Block Grant mitigation (CDBG-MIT) are not codified programs. Congress appropriates disaster recovery funds on a periodic basis following major disasters. Funding is authorized under Title I of the HCDA. The following public laws were the appropriation acts that provided funding for each disaster: Pub. L. nos. 117-328; 117-180; 117-43; 116-20; 115-254; 115-123; 115-72; 115-56 (Division B); 115-31 (Sec. 421); 114-254; 114-223; 114-113; 113-2; 112-55; 111-212; 110-329; 110-252; 110-116; 109-234; 109-148; 108-324; 107-206; 107-117; 107-73; and 107-38. HUD is authorized to administer CDBG-MIT under Title I of the HCDA. The public laws that appropriated funds for this purpose include Pub. L. nos. 115-123 (Division B) and 116-20 (Division B). The rules and regulations governing CDBG funds apply to CDBG-DR and CDBG-MIT funds unless otherwise waived or altered in a *Federal Register* notice. The auditor must consult the relevant public law and *Federal Register* notices for the CDBG-DR or CDBG-MIT award. The auditor can find links to the appropriate public laws and *Federal Register* notices at https://www.hud.gov/program_offices/comm_planning/cdbg-dr/regulations.

NSP1 is authorized by Title III of Division B of HERA. HUD published a “*Notice of Allocations, Application Procedures, Regulatory Waivers Granted to and Alternative Requirements for Emergency Assistance for Redevelopment of Abandoned and Foreclosed Homes Grantees Under the Housing and Economic Recovery Act, 2008*” (NSP Notice) that advises the public of the allocation formula, allocation amounts, the list of grantees, alternative requirements, and the waivers of regulations provided to grantees (October 6, 2008, *Federal Register*, 73 FR 58330-58349). NSP3 is authorized by Title XII of ARRA (123 Stat. 217). The requirements of HERA have been updated by (1) a notice in the *Federal Register*, Docket No. FR-5255-N-02 (NSP1

Bridge Notice) on June 19, 2009 (74 FR 29223-29229), which provided revisions and technical corrections to the NSP Notice and changes to NSP made by ARRA; (2) a notice in the *Federal Register*, Docket No. 5321-N-03 (NSP Notice) on April 9, 2010 (75 FR 18228-18231) to note a change in definitions and modification to the NSP; (3) the Dodd-Frank Wall Street Reform and Consumer Protection Act of July 21, 2010 (Pub. L. No. 111-203); and (4) a notice in the *Federal Register*, Docket No. FR-5447-N-01 (NSP3 Notice) on October 19, 2010 (75 FR 64322-64348) to incorporate the bridge notice, the changes made by ARRA, and additional changes and clarifications. Most of these requirements were incorporated into the NSP3 Notice.

CDBG-CV is authorized in title 12 of Division B of the CARES Act. HUD published a “*Notice of Program Rules, Waivers, and Alternative Requirements Under the CARES Act for CDBG-CV Grants, FY 2019 and 2020 CDBG Grants, and for Other Formula Programs*” (CDBG-CV Notice) that advises the public of the program rules, alternative requirements, and the waivers of regulations provided to grantees (August 20, 2020, *Federal Register*, 85 FR 51457-51475).

Availability of Other Program Information

Additional information about CDBG-DR and CDBG-MIT is available at the HUD CDBG-DR website at https://www.hud.gov/program_offices/comm_planning/cdbg-dr.

Additional information about the NSP laws, regulations, and notices are available at <https://www.hudexchange.info/programs/nsp/nsp-laws-regulations-and-federal-register-notices/>.

Specific NSP notices are available at:

NSP Notice (Docket No. FR-5255-N-01) at <https://www.govinfo.gov/content/pkg/FR-2008-10-06/pdf/E8-23476.pdf>

NSP1 Bridge Notice (Docket No. FR-5255-N-02) at <https://www.govinfo.gov/content/pkg/FR-2009-06-19/pdf/E9-14360.pdf>

NSP “Definition and Modification” Notice (Docket No. 5321-N-03) at <https://www.govinfo.gov/content/pkg/FR-2010-04-09/pdf/2010-8131.pdf>

NSP3 Notice (Unified NSP1 and NSP3 Notice) (Docket No. FR-5447-N-01) at <https://www.govinfo.gov/content/pkg/FR-2010-10-19/pdf/2010-26292.pdf>

NSP Closeout Notice (November 27, 2012) at <https://www.govinfo.gov/content/pkg/FR-2012-11-27/pdf/2012-28642.pdf>

Notice of Formula Allocations and Program Requirements for NSP1 and NSP3 Formula Grants; Amendment: Updated Foreclosure Data (May 21, 2013) at <https://www.govinfo.gov/content/pkg/FR-2013-05-21/pdf/2013-11999.pdf>

Notice of Changes to NSP Closeout Requirements Related to Program Income (June 14, 2016) at <https://www.govinfo.gov/content/pkg/FR-2016-06-14/pdf/2016-14062.pdf>

Notice of Changes to NSP Closeout Requirements Related to Program Income Amendment (September 12, 2019) at <https://www.govinfo.gov/content/pkg/FR-2019-09-12/pdf/2019-19708.pdf>

Additional information about CDBG-CV, including the latest grantee guidance and any additional waivers or program flexibilities available to grantees are available at https://www.hud.gov/program_offices/comm_planning/cdbg_programs_covid-19

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, “Matrix of Compliance Requirements”), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a “Y” in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as “N,” it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an “N.” See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	N	N	Y	N	Y	N	Y	Y	N	Y

A. Activities Allowed or Unallowed

1. All activities undertaken must meet one of three national objectives of the CDBG Entitlement Grants program (i.e., benefit low- and moderate-income persons, prevent or eliminate slums or blight, or meet community development needs having a particular urgency) (24 CFR sections 570.200, 570.208, and 570.420). Section III.B.5(f) of the CDBG-CV Notice, *Eligible Activities*, further specifies that a grantee may use CDBG–CV funds only for those activities carried out to prevent, prepare for, and respond to coronavirus. By law, use of funds for any other purpose is unallowable. Some funded activities may respond to the direct effects of the virus, others to the indirect effects. Some CDBG-eligible activities, such as public services, economic development and microenterprise assistance, and public facilities and improvements clearly tie back to the purposes of the CARES Act. HUD is not prohibiting grantees, however, from carrying out any particular CDBG eligible activity described in the HCDA and 24 CFR 570, because other CDBG eligible

activities, such as acquisition of real property, can justifiably be used to fulfill the CARES Act purposes depending upon the circumstances.

CDBG funds are to be used for the following activities: (a) the acquisition of real property; (b) the acquisition, construction, reconstruction, rehabilitation or installation of public works, facilities and sites, or other improvements, including removal of architectural barriers that restrict accessibility of elderly or severely disabled persons; (c) clearance, demolition, and removal of buildings and improvements; (d) payments to housing owners for losses of rental income incurred in temporarily holding housing for the relocated; (e) disposition of real property acquired under this program; (f) provision of public services (subject to limitations contained in the CDBG regulations); (g) payment of the nonfederal share for another grant program for activities that are otherwise eligible; (h) interim assistance where immediate action is needed prior to permanent improvements or to alleviate emergency conditions threatening public health and safety; (i) payment to complete a Title I Federal Urban Renewal project; (j) relocation assistance; (k) planning activities and program administrative costs, subject to the limitations at 24 CFR section 570.200(g); (l) acquisition, construction, reconstruction, rehabilitation, or installation of commercial or industrial buildings; (m) assistance to community-based development organizations; (n) activities related to privately owned utilities; (o) assistance to private, for-profit businesses, when appropriate to carry out an economic development project; (p) construction of housing assisted under Section 17 of the United States Housing Act of 1937; (q) reconstruction of properties; (r) direct homeownership assistance to facilitate and expand homeownership; (s) technical assistance to public or private nonprofit entities for capacity building; (t) housing services related to HOME-funded activities; (u) assistance to institutions of higher education to carry out eligible activities; (v) assistance to public and private entities (including for-profits) to assist micro-enterprises; (w) payment for repairs and operating expenses for acquired “in Rem” properties; (x) residential housing rehabilitation; (y) code enforcement in deteriorated or deteriorating areas, (z) lead-based paint hazard evaluation and removal; (aa) construction or improvement of tornado-safe shelters for residents of manufactured housing and provision of assistance to nonprofit and for-profit entities for such construction or improvement (42 USC 5305(a); 24 CFR sections 570.201 through 570.206, as well as 570.207 for ineligible activities).

2. Entitlement grantees and Insular Area grantees may have loans guaranteed by HUD under Section 108 of the Housing and Community Development Act of 1974, (42 USC 5308). The guaranteed loan funds are to be used only for the following activities: (a) acquisition of real property; (b) housing rehabilitation; (c) rehabilitation of publicly owned real property; (d) eligible CDBG economic development activities; (e) relocation payments, (f) clearance, demolition, and removal; (g) payment of interest on Section 108 guaranteed obligations; (h) payment of issuance and other costs associated with private sector financing under this subpart; (i) site preparation related to redevelopment or use of real property acquired or rehabilitated pursuant to this subpart or for economic development purposes; (j) construction of housing by nonprofit organizations for home ownership under Section 17(d) of the US Housing Act of 1937 (12 USC 1715(l)) or Title VI of the Housing and Community Development Act of 1987; (k) debt service reserve; (l) acquisition,

construction, reconstruction, rehabilitation, or installation of public works and site or other improvements, which serve “colonias” (as defined in Section 916 of the Housing Act of 1990 and amended by Section 810 of the Housing and Community Development Act of 1992); and (m) acquisition, construction, rehabilitation, or installation of public facilities (except for buildings for the general conduct of government), public streets, sidewalks, and other site improvements, and public utilities (24 CFR sections 570.700 through 570.710).

Under the Section 108 Loan Guarantee Program, CDBG grantees can borrow up to five times their most recent CDBG grant by issuing federally guaranteed notes. To ensure that CDBG–CV funds are used for the purposes authorized by the CARES Act, HUD issued the following alternative requirement to sections 108(b) and (c) of the HCD Act (42 USC 5308(c)): CDBG–CV funds shall not be factored into a grantee’s Section 108 borrowing authority. Regarding the use of CDBG–CV funds, A grantee may use CDBG–CV funds to make a direct payment of principal, interest, or any fees due under a Section 108 note only if the use of funds is to prevent, prepare for, and respond to coronavirus. The necessity of such use shall be documented by the grantee or the subrecipient that provided the assistance (e.g., if Section 108 funds were used by the grantee to provide assistance to a for-profit business in the form of a loan and the business is unable to make a payment due to the reduction in revenue caused by coronavirus, any restructuring of that loan must be supported by modification to loan documents that document the relationship to coronavirus). When CDBG–CV funds are used to subsidize or replace principal, interest, or fees due under a loan previously made with guaranteed loan funds as part of an activity to assist a for-profit or a subrecipient, and the CDBG–CV assistance is necessary to respond to the impact of coronavirus (e.g., a third-party business borrower whose loan is the intended source for repayment of a Section 108 loan is not collecting sufficient revenue due to local public health conditions), the documentation that the original assisted activity satisfies national objective criteria shall be sufficient to demonstrate that the use of the guaranteed loan funds and the additional CDBG–CV assistance meet a CDBG national objective.

3. All activities that a grantee undertakes during its CDBG program year must be identified in an annual action plan or an amended action plan. Plan amendments are required to reflect changes in activities or funding decisions (24 CFR Part 91, Subpart C, and 24 CFR section 91.505). A grantee was required to apply for CDBG–CV funds by submitting a substantial amendment to its most recently approved annual action plan (either the 2019 or 2020 Action Plan). As part of the application submission, HUD temporarily waived the requirements (found at 42 USC 12706 and 91.225(a)(5)) that grantees certify that the housing activities to be undertaken with CDBG, HOME, ESG, and HOPWA funds are consistent with the strategic plan portion of the consolidated plan. HUD imposed a related alternative requirement that allowed grantees to submit those certifications when the grantees submit their next full (three–five year) consolidated plan due after the 2020 program year. Grantees may not have considered the needs associated with CDBG–CV funds when developing their current consolidated plan strategic plan and needs assessment. In conjunction, HUD temporarily waived 42 USC 5304(e) to the extent that it requires HUD to annually review grantee performance under the consistency criteria. This waiver also only applies until the grantee submits its next full (three–five year) consolidated plan due after the 2020 program year.

When the CDBG-CV application was submitted as a substantial amendment to either the 2019 or 2020 Action Plan, the substantial amendment must have included the CDBG-CV allocation as an available resource for the year. The amendment must have identified the proposed use of all funds and how the funds would be used to prevent, prepare for, and respond to coronavirus. To permit an expedited application process, HUD waived statutory provisions at 42 USC 12705(a)(2) to the extent they require updates to the housing and homeless needs assessment, (24 CFR 91.205 and 91.405), housing market analysis (24 CFR 91.210 and 91.410), and strategic plan (24 CFR 91.215 and 91.415. HUD also waived 24 CFR 91.220 (entitlements), to the extent those regulations limit the action plan to a specific program year, to permit grantees to prepare substantial amendments to either the 2019 or 2020 annual action plan).

HUD also issued a waiver and alternative requirement to 24 CFR 91.505 to facilitate the use of the CDBG-CV funds to the extent necessary to require submission of the substantial amendment to HUD for review in accordance with 24 CFR 91.500, and required that, to receive a CDBG-CV grant, a grantee must also submit a SF-424, SF-424D, and the certifications at 24 CFR 91.225(a) and (b).

When CDBG-CV funds were included in a substantial amendment to either the 2019 or 2020 Action Plan, existing cooperation agreements between a local government and an urban county governing other CDBG funds in the most recently submitted annual action plan (for purposes of either an urban county or a joint program) automatically covered CDBG-CV funding as well. These cooperation agreements will continue to apply to the use of CDBG-CV funds for the duration of the CDBG-CV grant.

The action plan submission procedures in 24 CFR Part 91 (including consultation and a public hearing) apply to grantees that choose to submit CDBG-CV applications by including CDBG-CV funds in a new annual action plan submission (2020 Action Plan). Content of action plans is described at 24 CFR 91.220.

The waivers and alternative requirements apply to all allocations of CDBG-CV funds. HUD encourages grantees to apply for additional allocations of CDBG-CV funds as they are announced by submitting substantial amendments to the same annual Action Plan that they used to apply for the first CDBG-CV allocation.

An application submitted as a substantial amendment must include the CDBG-CV allocation as an available resource for the year and include the proposed use of all funds and how the funds will be used to prevent, prepare for, and respond to coronavirus.

HUD strongly encouraged grantees to apply for allocations through substantial amendments as they were announced. However, grantees that had not submitted applications for CDBG-CV funds when additional allocations were announced may submit a single application for all allocations as a substantial amendment to either the 2019 or 2020 annual Action Plan.

The CARES Act and the CDBG-CV Notice amend the submission deadline for the

Consolidated Housing and Community Development Strategy and Plan (Consolidated Plan) or annual action plan amendment for the use of CDBG-CV funds and 2019 and 2020 federal fiscal year annual formula CDBG funds to no later than August 16, 2021. Please see III.N. “Special Tests and Provisions” of the Compliance Requirements below for additional waivers and alternative requirements regarding citizen participation prior to plan or plan amendment submission.

4. In compliance with the HCDA, CDBG funds are not to be used to reduce substantially the amount of local financial support for community development activities below the level of such support prior to the availability of such assistance. HUD has concluded, however, that when CDBG funding is used for purposes of the CARES Act, it is not considered to substantially replace the amount of local financial support previously provided to community development activities.

All CDBG-CV grantees are required to establish and maintain adequate procedures to prevent any duplication of benefits for assisted activities (as discussed in Section III.B.9. of the CDBG-CV Notice). To demonstrate that no financial assistance has been received or is available to pay costs charged to a CDBG-CV grant, a grantee may demonstrate that no other funds are available for an activity by maintaining records of compliance with mandatory duplication of benefits requirements described in Section III.B.9.

5. The CARES Act and the CDBG-CV Notice eliminated the 15 percent limitation on the use of CDBG-CV and 2019 and 2020 federal fiscal year CDBG funds to prevent, prepare for, and respond to coronavirus for public service activities (i.e., those activities set forth in Section 105(a)(8) of the HCDA and 24 CFR 570.201(e) of the CDBG entitlement regulations). The cap is still routinely applied to all other 2019 and 2020 federal fiscal year CDBG-funded public service activities that do not address coronavirus.

CDBG funds may not be used for income payments, which are not included among eligible activities in section 105(a) of the HCD Act, and which are expressly prohibited by 24 CFR 570.207(b)(4) in the Entitlement CDBG regulations. The phrase income payments means a series of subsistence-type grant payments made to an individual or family for items such as food, clothing, housing (rent or mortgage) or utilities, but excludes emergency payments made over a period of up to three consecutive months to the provider of such items or services on behalf of an individual or family. HUD has waived section 105(a)(8) of the HCD Act and 24 CFR 570.207(b)(4) only to the extent necessary to establish the following alternative requirement: CDBG-CV funds may be used to provide emergency payments for individuals or families impacted by coronavirus for items such as food, clothing, housing (emergency rental assistance or mortgage assistance) or utilities for up to six consecutive months. Emergency payments must be made to the provider of such items or services on behalf of an individual or family, and not directly to an individual or family in the form of income payments, debit cards, or similar direct income payments. CDBG-CV grantees must ensure that proper documentation is maintained to ensure that all costs incurred are eligible. Grantees using this alternative requirement must document, in their policies and procedures, how they will determine the amount of assistance to be provided is necessary and reasonable.

This waiver is also applicable to 2019 and 2020 federal fiscal year CDBG funds used to prevent, prepare for, and respond to coronavirus.

6. CDBG funding can only be used for special economic development projects that meet the criteria in 24 CFR section 570.203. Grantees must have data to support that assistance provided to carry out special economic development projects is appropriate by meeting the public benefit standards for job creation and provision of goods and services described in 24 CFR section 570.209. CDBG-CV grantees providing assistance to for-profit entities are still required to adopt financial underwriting policies and procedures in accordance with the guidelines for evaluating project costs and financial requirements found in Appendix A of 24 CFR Part 570. To facilitate the use of CDBG-CV and 2019 and 2020 federal fiscal year CDBG funds used to prevent, prepare for, and respond to coronavirus for economic development activities, HUD has instituted the following alternative requirements to demonstrate national objective compliance:
 - a. Removing the higher poverty rate required in some cases for central business districts, which is not required by statute. HUD is instituting an alternative requirement to modify the regulations at 24 CFR 570.208(a)(4)(v) by deleting the criteria at 24 CFR 570.208(a)(4)(v)(B). Under this alternative requirement, for purposes of the LMI job creation/retention national objective at 24 CFR 570.208(a)(4), a census tract qualifies for the presumptions under the criteria established in regulations at 24 CFR 570.208(a)(4)(v) if the poverty rate is at least 20 percent and if it evidences pervasive poverty and general distress using the criteria described in 24 CFR 570.208(a)(4)(v)(C).
 - b. Notwithstanding that the definitions of low-income person and moderate-income person in 24 CFR 570.3 are based on family income, for purposes of meeting the national objective criteria for job creation or retention at 24 CFR 570.208(a)(4), grantees and employers may consider individuals that apply for or hold jobs to be members of one-person families for activities that prevent, prepare for, and respond to coronavirus. HUD is also modifying related recordkeeping requirements at 24 CFR 570.506(b)(7) by adding the following additional presumption: the recipient may substitute records showing the type of job and the annual wages or salary of the job in lieu of maintaining records showing the person's family size and income to demonstrate that the person who filled or held/retained the job was a low- or moderate-income person, when required by paragraph 24 CFR 570.506(b)(5)(i)(B), (b)(5)(ii)(C), (b)(6)(iii) or (b)(6)(v). HUD will consider the person income-qualified if the annual wages or salary of the job is equal to or less than the Section 8 low-income limit established by HUD for a one-person family. Grantees will typically obtain such information from assisted businesses rather than each person who received a job.

In addition, for CDBG-CV and 2019 and 2020 federal fiscal year CDBG funds used to prevent, prepare for, and respond to coronavirus, HUD eliminated the aggregate

public benefit standard and modified the individual public benefit standards for job creation and retention. HUD waived the individual standards at 24 CFR 570.209(b)(3) and imposed the following alternative requirement:

For activities subject to the public benefit standards, grantees must document that:

- a) the activity will create or retain at least one full-time equivalent, permanent job per \$85,000 of CDBG funds used; b) the activity will provide goods or services to residents of an area such that the number of LMI persons residing in the area served by the assisted businesses amounts to at least one LMI person per \$1,700 of CDBG funds used; or c) the assistance was provided due to business disruption related to coronavirus (in which case, no monetary standard applies because HUD has determined that there is sufficient public benefit derived from the provision of assistance to stabilize or sustain businesses in the grantee's jurisdiction that suffer disruption due to coronavirus).

Finally, through the CDBG-CV Notice, HUD clarifies an existing requirement of economic development activities that grantees may carry out pursuant to 24 CFR 570.203(b). Grantees may provide assistance, with CDBG-CV and 2019 and 2020 federal fiscal year CDBG funds used to prevent, prepare for, and respond to coronavirus, to an economic development project through a for-profit entity that passes the funds through a financing mechanism (e.g., Qualified Opportunity Funds and New Markets Tax Credit (NMTC) investment vehicles). The regulations at 24 CFR 570.203(b) already list forms of support by which grantees can provide assistance to private, for-profit businesses where the assistance is appropriate to carry out an economic development project. HUD has previously interpreted this provision to allow for CDBG assistance to NMTC investment vehicles. This clarification makes clear that such assistance through any financing mechanism (which is not limited to NMTC investment vehicles) is eligible under 24 CFR 570.203(b). The regulation also does not apply to states, but states may consider 24 CFR 570.203(b), as clarified by the following alternative requirement, as guidance in the same way that they may consider other Entitlement CDBG regulations. HUD is not waiving 24 CFR 570.203(b) and other statutory and regulatory requirements remain in place.

The CDBG-CV Notice also established an alternative requirement, for the same grouping of funds mentioned in the last paragraph, that expanded the authority in section 105(a)(15) of the HCD Act and 24 CFR 570.204 to permit grantees subject to entitlement CDBG regulations to assist nonprofit organizations serving the development needs of their jurisdiction by carrying out community economic development projects through a financing mechanism. The nonprofit may pass assistance through a financing mechanism to another entity based on the language in section 105(a)(15) of the HCD Act. Grantees subject to entitlement regulations must document that the assisted nonprofit is serving the development needs of the jurisdiction and that the assistance is used for a community economic development project that is necessary to prevent, prepare for, and respond to coronavirus.

7. When CDBG funds are used to finance rehabilitation, the rehabilitation is to be limited to privately owned buildings and improvements for residential purposes; low-income public housing and other publicly owned residential buildings and improvements; publicly or privately owned commercial or industrial buildings, subject to the limitations at 24 CFR 570.202(a)(3); and manufactured housing

when it constitutes part of the community's permanent housing stock (24 CFR 570.202(a)).

8. For NSP funds, HERA requirements supersede some CDBG requirements (see III.A.1) to allow for the eligible uses in section 2301(c)(3) of HERA. The NSP categories and CDBG entitlement grant regulations are listed in Section II.H.3.a. of NSP3 Notice, 75 FR 64332-64333. The NSP eligible uses are to:
 - a. Establish financing mechanisms for purchase and redevelopment of foreclosed upon homes and residential properties including such mechanisms as soft-second, loan loss reserves, and shared-equity loans for low- and moderate-income homebuyers.
 - b. Purchase and rehabilitate homes and residential properties that have been abandoned or foreclosed upon for later sale, rent, or redevelopment.
 - c. Establish and operate land banks for homes and residential properties that have been foreclosed upon.
 - d. Demolish blighted structures.
 - e. Redevelop demolished or vacant properties.
9. The NSP3 Notice lists the CDBG-eligible activities HUD has determined best correlate to these specific NSP-eligible uses. Grantees must receive written HUD approval to undertake activities other than those listed in Section II.H., Eligibility and Allowable Costs, of NSP3 Notice (Section 2301(c)(3) of HERA; Section II.H. of NSP3 Notice, 75 FR 64332-64333).

For NSP funds, NSP requirements supersede existing CDBG requirements (see III.A.1) to permit the use of only the low- and moderate-income national objective for NSP-assisted activities. A NSP activity may not qualify using the "prevent or eliminate slums and blight" or "address urgent community development needs" national objectives. The HERA redefines and supersedes the definition of "low- and moderate-income," effectively allowing households whose incomes exceed 80 percent of area median income but do not exceed 120 percent of median income to qualify as if their incomes did not exceed the published low- and moderate-income levels of the regular CDBG program (Section III.E. of NSP3 Notice, 75 FR 64329-64331). HUD will refer to this new income group as "middle income" and maintain the regular CDBG definitions of "low-income" and "moderate-income" currently in use (Section 2301(f)(3)(A) of HERA).

For purposes of NSP only, an activity may meet the HERA established low- and moderate-income national objective if the assisted activity (a) provides or improves permanent residential structures that will be occupied by a household whose income is at or below 120 percent of area median income; (b) serves an area in which at least 51 percent of the residents have incomes at or below 120 percent of area median income; or (c) serves a limited clientele whose incomes are at or below 120 percent of area median income (Section 2301(f)(3)(A) of HERA; Section II.E. of NSP3 Notice, 75 FR 64329-64331).

10. In addition to the activities allowed for State and Entitlement CDBG, the below flexibilities and unique requirements generally apply to CDBG-DR and CDBG-MIT funds:
- a. Program administrative costs;
 - b. Program planning costs;
 - c. The HUD Secretary may provide waivers or specify alternative requirements if such waiver is not inconsistent with the overall purpose of Title I of the Housing and Community Development Act of 1974. Common CDBG-DR and CDBG-MIT activities that are eligible and/or modified through a waiver and alternative requirement include:
 - i. *New housing construction*: HUD waives 42 U.S.C. 5305(a) and 24 CFR 570.207(b)(3) to the extent necessary to permit new housing construction.
 - ii. *Buyouts*: HUD waives 42 U.S.C. 5305(a) and establishes an alternative requirement only to the extent necessary to create a new eligible activity for buyouts. The term “buyouts” means the acquisition of properties located in a floodway, floodplain, or other Disaster Risk Reduction Area that is intended to reduce risk from future hazards.
 - iii. *Public benefit for activities that support economic revitalization*: HUD waives the public benefit standards for only those economic development activities designed to create or retain jobs or businesses; please consult applicable *Federal Register* notices for additional details.
 - d. CDBG-DR and CDBG-MIT grantees are required to establish and maintain adequate procedures to prevent any duplication of benefits (DOB). Grantees must consult their applicable *Federal Register* notices;

As outlined below, some flexibilities and requirements only apply to certain disaster classes of CDBG-DR awards and to CDBG-MIT awards:

- (1) CDBG-DR awards after 2013
 - i. Assistance for rehabilitation and housing incentives to second homes are prohibited.
 - ii. Business assistance is limited to small businesses.
- (2) CDBG-DR awards for 2015 disasters and beyond
 - i. *Use of administrative funds across multiple grants*: The applicable Appropriations Acts authorize special treatment of grant administrative funds. Beginning in 2015, grantees that have received CDBG-DR or CDBG-MIT grants in the past or in any

future acts, may use eligible administrative funds appropriated by these acts for the cost of administering any CDBG-DR or CDBG-MIT grant without regard to the particular disaster appropriation from which such funds originated.

(3) CDBG-DR awards for disasters which occurred in 2017 and beyond

- i. Disaster funds cannot be used for rehabilitation/reconstruction assistance to persons with incomes that exceed 120 percent area median income or the national median if they are in a floodplain and did not obtain flood insurance for the damaged property.

(4) CDBG-DR awards subject to the Consolidated Notice (2020, 2021, 2022 disasters)

- i. *CDBG-DR mitigation set-aside*: The applicable Appropriations Acts require HUD to include in any allocation of CDBG-DR funds for unmet needs an additional amount of 15 percent for mitigation activities, which HUD refers to as the “CDBG-DR mitigation set-aside.” Unlike recovery activities where grantees must demonstrate that their activities “tie-back” to the specific disaster and address a specific unmet recovery need for which the CDBG-DR funds were appropriated, activities funded by the CDBG-DR mitigation set-aside do not require such a “tie-back” to the specific qualified disaster that has served as the basis for the grantee’s allocation.
- ii. *Interchangeability of disaster funds*: The applicable Appropriations Acts give the Secretary authority to authorize grantees that receive an award for 2020, 2021, and 2022 disasters and under prior or future appropriations to use those funds interchangeably and without limitation for the same activities related to unmet recovery needs in the “most impacted and distressed” (MID) areas resulting from a major disaster in the Appropriations Acts or in prior or future appropriation acts, when the MID areas overlap and when the use of the funds will address unmet recovery needs of major disasters in the Appropriations Acts or in any prior or future appropriation acts.
- iii. *Prioritizing economic revitalization*: Under the Consolidated Notice, grantees are required to prioritize assistance to disaster-impacted businesses that serve underserved communities and spur economic opportunity for underserved communities that were economically distressed before the disaster.
- iv. *Assistance to utilities*: Contrary to prior awards, the applicable Appropriations Acts provide that funds “may be used by a grantee to assist utilities as part of a disaster-related eligible activity under section 105(a) of the Housing and Community Development Act of 1974 (42 U.S.C. 5305(a)).”

(5) CDBG-MIT

- i. Program administrative costs for the cost of administering any of these grants without regard to the particular disaster appropriation from which such funds originated.
- ii. At least 50 percent of all CDBG-MIT funds must be used for mitigation activities that address identified risks within the HUD-identified “most impacted and distressed” (MID) areas.

For applicable CDBG-DR and CDBG-MIT waivers or alternative requirements, auditors should consult the CDBG-DR Laws, Regulations, and Federal Register Notices on HUD.gov: https://www.hud.gov/program_offices/comm_planning/cdbg-dr/regulations. This page includes the relevant Public Laws that appropriated CDBG-DR and CDBG-MIT funds, the applicable *Federal Register* notices governing those funds, and a short description of the subject or purpose of each *Federal Register* notice listed.

B. Allowable Costs/Cost Principles

1. All items of cost listed in 2 CFR Part 200, Subpart E, that require prior federal agency approval are allowable without prior approval, except for the following:
 - a. Depreciation methods for fixed assets shall not be changed without the approval of the federal cognizant agency.
 - b. Costs of housing (e.g., depreciation, maintenance, utilities, furnishings, rent), housing allowances, and personal living expenses (goods or services for personal use), regardless of whether reported as taxable income to the employees, require prior HUD approval.
 - c. Organization costs require prior HUD approval.
2. Fines, penalties, damages, and other settlements are unallowable (24 CFR section 570.200(a)(5)).
3. Grantees may use CDBG-CV funds only for those activities carried out to prevent, prepare for, and respond to coronavirus. By law, use of funds for any other purpose is unallowable. The CARES Act provides that CDBG-CV funds may be used to cover or reimburse allowable costs of activities to prevent, prepare for, and respond to coronavirus incurred by a state or locality incurred on or after January 21, 2020. The term “locality” is not defined by the CARES Act, the HCD Act, or the CDBG program regulations. For purposes of CDBG-CV grants, a “locality” shall mean units of general local government, as defined in section 102 of the HCD Act. The CARES Act also requires that all costs reimbursed with CDBG-CV funds be allowable costs, meaning they comply with all grant requirements. Therefore, as set forth in Section III.B.5.(b) of the CDBG-CV Notice, HUD has adopted the following waivers and

alternative requirements to 24 CFR 570.200(h) to facilitate the use of CDBG-CV funds to reimburse allowable costs by modifying current regulations that are inconsistent with CARES Act reimbursement authority and imposing safeguards to help ensure the allowability of all costs charged to the CDBG-CV grant:

Grantees shall not reimburse costs incurred before January 21, 2020, without written approval from HUD's Office of Block Grant Assistance (OBGA), by emailing the contact person listed at the beginning of the CDBG-CV Notice. HUD is imposing a presumption that costs of activities undertaken before January 21, 2020, the date the Centers for Disease Control and Prevention confirmed the first case of coronavirus in the United States in the State of Washington, are highly unlikely to be eligible for reimbursement because they likely are not costs to prevent, prepare for, and respond to coronavirus. The need to pay for coronavirus-related costs incurred after this date far exceeds the amount of CDBG-CV funds available. HUD cautions that it will only consider granting written approval in extraordinary cases where the clear link to the purposes of the CARES Act is documented by substantial evidence provided to HUD by the grantee. Inquiries related to this requirement can be submitted to the contact identified in the CDBG-CV Notice.

HUD has waived the requirements of 570.200(h) to the extent necessary to authorize a grantee to permit reimbursement of pre-application costs of subrecipients, units of general local government, and itself, in addition to pre-agreement and pre-award costs. However, an environmental review must be performed, and a release of funds must be obtained in accordance with 24 CFR Part 58 prior to committing CDBG-CV funds to reimburse such costs. After the grantee signs a CDBG-CV agreement, it may reimburse a unit of general local government or subrecipient for costs incurred before the unit of general local government or subrecipient applies to the grantee for assistance.

For grantees subject to the entitlement CDBG regulation at 24 CFR 570.200(h), the following waivers and alternative requirements apply:

In lieu of the effective date described at 570.200(h), the grantee shall use the date in Box 4 of Form HUD-7082, Funding Approval/Agreement.

HUD is waiving the requirement at 570.200(h)(1)(i) and (ii) that the activity for which costs are incurred must be included in a consolidated plan action plan or amended consolidated plan action plan before incurring the costs. Instead, the activity for which costs were incurred must be included in the grantee's CDBG-CV application before CDBG-CV funds are used to reimburse those costs. Or, if the use of CDBG-CV funds for reimbursements is not included in the CDBG-CV application, this use may be included in a subsequent amendment to the annual action plan that describes the use of the CDBG-CV funds (following the grantee's citizen participation plan procedures for amendments).

To facilitate the use of funds provided under a one-time grant rather than an annual appropriation, HUD is waiving the time limitation and the monetary limitation on reimbursements in 570.200(h)(1)(v) and (vi) and related provisions at 570.200(h)(2). HUD is not waiving the requirement at 570.200(h)(1)(iii) to comply with the environmental review procedures stated in 24 CFR Part 58.

All grantees may authorize subrecipients to incur pre-award costs in accordance with pre-award cost authority under 24 CFR 570.200(h), as modified above.

F. Equipment and Real Property Management

1. Except for awards to faith-based organizations, the real property requirements at 24 CFR Part 200 do not apply. The requirements that apply are in 24 CFR section 570.505 (24 CFR section 570.502(a)(5)).
2. NSP grantees that have established and currently operate land banks for homes and residential properties that have been foreclosed upon shall have in place a land bank management plan that will facilitate management and eventual disposition of the land bank inventory. Please reference *Federal Register* Notice of Neighborhood Stabilization Program; Closeout Requirements and Recapture (77 FR 70799).

The CDBG definition of the eligible activity of disposition, at 24 CFR 570.201(b), includes the “reasonable costs of temporarily managing such property.” HUD interprets this to include ongoing maintenance such as board-up, lawn-mowing, spot repairs, and other related functions that keep the property in a condition that stabilizes the neighborhood. Grantees managing scattered-site properties meeting the CDBG definition of a disposition activity must identify each property as a separate disposition activity in IDIS.

3. When equipment is sold, the proceeds are considered program income. Equipment not needed by the subrecipient for CDBG activities shall be transferred to the recipient for the CDBG program or shall be retained after compensating the recipient (24 CFR section 570.502(a)(6)).

H. Period of Performance

1. CDBG entitlement funds must be expended by the end of the eighth fiscal year after the fiscal year of appropriation. This requirement applies to annual CDBG appropriations. Funds must be expended by the end of the fifth fiscal year following the period of obligation. Annual appropriations legislation historically has provided an obligation period of three years for CDBG funding; the combined effect is to provide an expenditure period of eight fiscal years from the fiscal year of appropriation (31 USC 1552).
2. As set forth in Section III.B.7. of CDBG-CV Notice, grantees must expend all CDBG-CV funds (including CDBG-CV funds from additional allocations that are obligated by HUD through amendments to the grant agreement) within the six-year period of performance established by the CDBG-CV grant agreement. CDBG-CV funds will not be included in determining compliance with the timely expenditure requirements applicable to annual formula CDBG grants found at 24 CFR 570.902.

3. NSP1 grantees are required to expend an amount equal to or greater than the initial allocation of NSP1 funds within four years of receipt of those funds (Section II.M. of NSP3 Notice, 75 FR 64336-64337).
4. NSP3 grantees are required to expend an amount equal to or greater than 50 percent of their initial allocation of NSP3 funds within two years of receipt of those funds and 100 percent of their initial allocation of NSP3 funds within three years of receipt of those funds (Section II.M. of NSP3 Notice, 75 FR 64336-64337).
5. The appropriation accounting provisions in 31 USC 1551–1557, added by section 1405 of the National Defense Authorization Act for Fiscal Year 1991 (Pub. L. No. 101–510), limit the availability of certain appropriations for expenditure. Such a limitation may not be waived. The appropriations acts for NSP1 and NSP3 grants direct that these funds be available until expended. Notwithstanding these provisions, *Federal Register* Notice of Changes to NSP Closeout Requirements Related to Program Income Amendment (84 FR 48165) added the following language to Section X. of the Unified NSP1 and NSP3 Notice:

“Note that NSP I and NSP3 grant funds are subject to 31 U.S.C. 1555, which states, ‘An appropriation account available for obligation for an indefinite period shall be closed, and any remaining balance (whether obligated or unobligated) in that account shall be canceled and thereafter shall not be available for obligation or expenditure for any purpose, if (1) the head of the agency concerned or the President determines that the purposes for which the appropriation was made have been carried out; and (2) no disbursement has been made against the appropriation for two consecutive fiscal years.’”

6. CDBG-DR grantees are required to expend their grant funds as soon as possible following the execution of a grant agreement with HUD:
 - a. HUD instituted a six-year expenditure deadline on all CDBG-DR grantees. A grantee receiving CDBG-DR grants under the Public Laws listed below is required to expend 100 percent of the grant on eligible activities within six years of HUD’s execution of the initial grant agreement:
 - (1) A CDBG-MIT grantee must expend 50 percent of the grant on eligible activities within six years of HUD’s execution of the grant agreement and 100 percent of its grant within 12 years of HUD’s execution of the agreement;
 - (2) CDBG-DR funds awarded under these public laws are eligible for an expenditure extension at the end of the original grant term for up to two years to provide grantees with flexibility during the COVID-19 pandemic.
 - b. Pub. L. 117–328 provided that CDBG–DR grant obligations made before September 30, 2017, from funds made available under Public Law 113–2 are to remain available until expended. The requirements at 2 CFR

200.211(b) require all Federal awards to include a period of performance and budget period. Therefore, HUD revised the period of performance and budget period for open Federal awards made under Public Law 113-2 with an end date of September 30, 2029. HUD may extend the grant period of performance and budget period administratively.

A grantee receiving CDBG-DR awards prior to Pub. L. 113-2 (or under the Public Laws listed in Section III) must expend 100 percent of the funds within two years of the date its grant agreement with HUD is executed. Generally, a remaining active CDBG-DR grantee has funds available until expended.

The following public laws apply to the corresponding information above and is in the table below.

Section	Public Law(s)	Expenditure Deadline
I.	114-113, 114-223, 114-254, 115-31, 115-56, 115-123, 115-254, 116-20, 117-43, 117-180, 117-328	Expend 100% within six years.
I.a.	115-123 and 116-20	Expend 50% within six years and 100% within 12 years.
I.b.	114-113, 114-223, 114-254, 115-31, 115-56, 115-123	Eligible for an expenditure extension for up to two years to provide grantees with flexibility during the COVID-19 pandemic.
II.	113-2	To remain available until expended.
III.	107-73, 107-38, 107-117, 117-206, 108-324, 109-148, 109-324, 109-148, 109-234, 110-116, 110-252, 110-329, 111-212, 112-55	Expend 100% of the funds within two years of the date its grant agreement with HUD is executed.

For funds appropriated under Pub. L. 114-113, 114-254, 115-31, 115-56, 115-123, 115-254, 116-20, 117-43, 117-180, and 117-328 for CDBG-DR and CDBG-MIT grants, HUD may extend the period of performance administratively, if good cause for such an extension exists, as requested by the grantee, and approved by HUD.

J. Program Income

1. The grantee must accurately account for any program income generated from the use of CDBG funds and must treat such income as additional CDBG funds which are subject to all program rules. Program income does not include income received in a single program year by the grantee and all of its subrecipients if the total amount of such income does not exceed \$25,000 (24 CFR sections 570.500, and 570.504).

2. Making loans and collecting the payments on those loans can be a significant source of program income for grantees. The use of income derived from loan payments is subject to program requirements. This carries with it the responsibility for grantees to have a loan origination and servicing system in effect which ensures that loans are properly authorized, receivables are properly established, earned income is properly recorded and used, and write-offs of uncollectible amounts are properly authorized (24 CFR sections 570.500 and 570.504).
3. When equipment is sold, the proceeds are considered program income. Equipment not needed by the subrecipient for CDBG activities shall be transferred to the recipient for the CDBG program or shall be retained after compensating the recipient (24 CFR section 570.502(a)(6)).
4. As set forth in Section III.B.6.(a) of the CDBG-CV Notice, the receipt and expenditure of program income that is generated by the use of CDBG-CV funds shall be treated as annual formula CDBG program income and recorded as part of the financial transactions of the annual formula CDBG grant program. Based on this treatment of program income, the use of CDBG-CV funds for float-funded activities or guarantees as described at 24 CFR 570.301(b) and section 104(h) of the HCD Act is not allowed.

A grantee may permit subrecipients to retain program income from the use of CDBG-CV funds if the amount held does not exceed the subrecipient's projected cash needs for CDBG activities including activities to prevent, prepare for, and respond to coronavirus.

As program income to the grantees' annual formula CDBG programs, income generated from CDBG-CV activities will be included in timely expenditure compliance determinations for each entitlement grantee's annual formula CDBG program and be subject to the requirements found at 24 CFR 570.902.

Removing the cap in Section 105(a)(8) of the HCD Act for activities to prevent, prepare for, and respond to coronavirus also removes the public services cap on the use of the program income, and removes the corresponding regulatory cap in 24 CFR 570.201(e) for CDBG-CV funds and fiscal year 2019 and 2020 funds used to prevent, prepare for, and respond to coronavirus.

Program income, regardless of the source funding of the activity that generated the income, shall be included in the compliance determination of the public service cap and the administrative and planning cost cap applicable to annual formula CDBG grants and program income, separately from CDBG-CV funds. For purposes of calculating the public services cap, the treatment of program income generated by the CDBG-CV grant and received (i.e., documented in IDIS) by the annual formula CDBG program shall be considered as any other program income received by the annual formula CDBG program.

5. NSP1 or NSP3 revenue received by a unit of general local government or subrecipient that is directly generated from the use of CDBG funds (which includes NSP1 and NSP3 grant funds) constitutes CDBG program income. The

CDBG definition of program income shall be applied to amounts received by units of local government and subrecipients (24 CFR section 570.500; Section II.N. of NSP3 Notice, 75 FR 64337). HERA, however, imposes limitations and requirements that necessitate an alternative requirement to govern the use of program income generated by NSP activities. The limitations and requirements are based on the NSP activity that generated the program income and on the date the income is received (Section 2301(d)(4) of HERA).

- a. Any revenue from the sale, rental, redevelopment, rehabilitation, or any other eligible use of NSP funds is to be provided to and used by the unit of local general government. This provision includes revenue received by a private individual or other entity that is not a subrecipient (Section 2301(d)(4) of HERA; Section II.N. of NSP Notice, 73 FR 58340-58341).
 - b. Program income which is generated by NSP activities carried out pursuant to Section 2301(c)(3) of HERA may be retained by the unit of local government if it is treated as additional CDBG funds and used in accordance with the requirements of Section 2301 (Section 2301(c)(3) of HERA; Section II.N. of NSP Notice, 73 FR 58340-58341).
6. With the advent of *Federal Register* Notice of Changes to NSP Closeout Requirements Related to Program Income (81 FR 38730) and the succeeding NSP closeout notice, Notice of Changes to NSP Closeout Requirements Related to Program Income Amendment (84 FR 48165), NSP1 and NSP3 grantees with CDBG annual formula programs may transfer not only NSP program income on hand, but also a future stream of NSP program income for an activity to the annual CDBG program, eliminating the need for multiple written requests to transfer program income that is anticipated, but not yet received.
7. For CDBG-DR and CDBG-MIT, program income is revenue generated from a CDBG or CDBG-DR eligible activity. HUD grantees adhere to the program income requirements in CDBG regulation 24 CFR § 570.504, unless program income is waived by HUD. The *Federal Register* notices include waivers and alternative requirements associated with each grant, thereby waiving program income, or providing an alternative requirement in each applicable notice. The grantee must receipt program income and expenditures in the DRGR system. Program income must be expended in DRGR before drawing additional program funds.

There are several ways the grantee can generate program income. Program income can be generated in the following ways, but not limited to:

- a. Proceeds from the sale or lease of property purchased or improved with CDBG funds;
- b. Proceeds from the sale or lease of equipment purchased with CDBG funds;
- c. Gross income from the use or rental of real or personal property acquired, constructed or improved by the grantee (or a subrecipient), less costs

incidental to the generation of income;

- d. Payments of principal and interest on loans made using CDBG funds; and
- e. Proceeds from the sale of loans or obligations secured by loans made with CDBG funds.

As outlined above, the program income requirements for CDBG-DR and CDBG-MIT grants are contained in *Federal Register* notices, which can be viewed at https://www.hud.gov/program_offices/comm_planning/cdbg-dr/regulations.

L. Reporting

1. Financial Reporting

- a. *SF-270, Request for Advance or Reimbursement* – Not Applicable
- b. *SF-271, Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable
- c. *SF-425, Federal Financial Report* – Applicable (cash status only) (*this is the IDIS PR29 Cash on Hand Quarterly Report made available in IDIS on August 12, 2019, which allows grantees to generate this report by custom date ranges and export data to Excel and PDF*)
- d. *Integrated Disbursement and Information System (IDIS) (OMB No. 2506-0077)* – Grantees may include reports generated by IDIS as part of their annual performance and evaluation report that must be submitted for the CDBG Entitlement program 90 days after the end of a grantee's program year. Section IV.B.2.(c) of the CDBG-CV Notice reiterated the waiver authorized by a May 7, 2020, HUD memorandum (found in the waiver information link noted in *IV. Other Information*, below) that waives the 90 day requirement for program year 2019 annual performance and evaluation reports, subject to the condition that within 180 days after the close of a jurisdiction's program year that it submit its performance report.

Auditors are only expected to test information extracted from IDIS in the following system-generated reports:

- (1) PR26 – CDBG Financial Summary Report (restricted as of September 14, 2020, to run for CDBG annual formula grants only)
This report can be used to check program income reported in IDIS (line 05), overall low-mod income benefit compliance (line 22), percent of funds obligated to the public services (line 36), and percent of funds obligated to the planning and administrative activities during the program year (line 46).
- (2) PR26 – CDBG-CV Financial Summary Report (made available September 14, 2020, to run for CDBG CARES Act grants only)
This report can be used to check the overall low-mod income

benefit compliance (line 15) and percent of funds expended for the planning and administrative activities (line 21).

- (3) PR26 – CDBG Activity Summary by Selected Grant (Added field, as of September 14, 2020, in the report “Activity to prevent, prepare for, and respond to Coronavirus.” This field will be populated with Yes if the checkbox for “Activity to prevent, prepare for, and respond to Coronavirus” is checked on the activity set up screen otherwise Null. Added a subtotal for Coronavirus related activities for Public Services section only.) This report can be used to check percentage of funds expended for the planning and administrative activities for origin year 2015 and later grants.
- (4) PR29 – CDBG Cash on Hand Quarterly Report
- (5) PR29 – CDBG-CV Cash on Hand Quarterly Report (available in IDIS in July 2021)
- e. *Section 15011 of the CARES Act* requires that recipients of \$150,000 or more of CARES Act funding submit, not later than 10 days after the end of each calendar quarter, a report containing: information regarding the amount of funds received; the amount of funds obligated or expended for each project or activity; a detailed list of all such projects or activities, including a description of the project or activity; and detailed information on any subcontracts or subgrants awarded by the recipient. This report is limited to CDBG-CV funding and does not include other CDBG funds that may be used to address coronavirus. The requirements have been outlined in OMB memorandum M-20-21, *Implementation Guidance for Supplement Funding in Response to the Coronavirus Disease (COVID-19)* (available at <https://www.whitehouse.gov/wp-content/uploads/2020/04/Implementation-Guidance-for-Supplemental-Funding-Provided-in-Response.pdf>). Grantees and subrecipients have reported data meeting the Section 15011 requirements at usaspending.gov. The Pandemic Response Accountability Committee (PRAC), an independent oversight committee within the Council of the Inspectors General on Integrity and Efficiency, has determined that the data reported in usaspending.gov has fulfilled these reporting requests.

2. Performance Reporting

Not Applicable

3. Special Reporting

Not Applicable

4. Special Reporting for Federal Funding Accountability and Transparency Act

See Part 3 – Compliance Requirements, Section L. Reporting, for audit guidance.

N. Special Tests and Provisions

1. Wage Rate Requirements

Compliance Requirements The Wage Rate Requirements apply to the rehabilitation of residential property only if such property contains eight or more units. However, the requirements do not apply to volunteer work where the volunteer does not receive compensation, or is paid expenses, reasonable benefits or a nominal fee for such services, and is not otherwise employed at any time in construction work (42 USC 5310; Section 1205 of Pub. L. No. 111-32; 24 CFR section 570.603).

See Part 4, 20.001 Wage Rate Requirements Cross-Cutting Section.

As with annual formula CDBG grants, CDBG-CV grants are subject to the Wage Rate Requirements, known more popularly as the Davis-Bacon prevailing wage requirements imposed by section 110(a) of the HCD Act. Under regulations of the Department of Labor (DOL) at 29 CFR 1.6(g), where federal assistance is not approved prior to contract award (or the beginning of construction if there is no contract award), Davis-Bacon wage rates apply retroactively to the beginning of construction and must be incorporated retroactively in the contract specifications. However, if there is no evidence that the owner intended to apply for the CDBG-CV assistance prior to the contract award or the start of the construction, HUD may request that DOL allow prospective, rather than retroactive, application of the Davis-Bacon wage rates. DOL may allow prospective application of Davis-Bacon requirements when it finds that it is necessary and proper in the public interest to prevent injustice or undue hardship and it finds no intent to apply for the federal assistance before contract award or the start of construction. The CDBG-CV Grantee should contact a HUD Labor Relations Specialist if such a situation arises.

2. Citizen Participation

Compliance Requirements At the time of submission to HUD for its annual grant, the grantee must certify to HUD that it has met the citizen participation requirements in 24 CFR section 91.105.

The CARES Act modifies some CDBG program requirements to provide immediate support for efforts to address coronavirus. The modifications, which are described in more detail in Section III. of the CDBG-CV Notice, permit the following:

- a. A public comment period of no less than five days when citizen participation is required (detailed in Section III.B.4.(a)(i) of the CDBG-CV Notice)
- b. A grantee to develop expedited citizen participation procedures and to hold virtual public hearings when necessary for public health reasons (Section III.B.4.(a)(i) of the CDBG-CV Notice)

Section III.B.4.(a)(iii) of the CDBG-CV Notice includes a corollary waiver and alternative requirement to permit states to extend these flexibilities to units of general local government and insular areas.

Section III.B.4.(a) of the CDBG-CV Notice applies to all fiscal year 2019 and 2020 annual formula CDBG grants, regardless of the use of funds. This section of the CDBG-CV Notice describes the program flexibilities provided by the CARES Act related to expedited citizen participation and virtual hearings. When this section refers to CDBG-CV funds, it shall apply equally to fiscal years 2019 and 2020 CDBG grants.

HERA provided for supersession of the citizen participation requirement to expedite the distribution of NSP grant funds and to provide for expedited citizen participation. The provisions of 24 CFR section 91.105 with respect to following the citizen participation plan are waived to allow the jurisdiction to provide no fewer than 15 calendar days for citizen comment, rather than 30 days, for its initial NSP submission (Section II.B.4 of NSP3 Notice, 75 FR 64328).

Grantees must identify what constitutes a substantial amendment to their action plan in their citizen participation plans. Grantees must identify a change in the use of CDBG funds from one activity to another as a substantial amendment, which is subject to the citizen participation process (24 CFR Part 91, Subpart C, and sections 91.105(c) and 91.505).

To permit a more streamlined process and ensure CDBG-DR grants are awarded in a timely manner, HUD waives provisions of 42 U.S.C. 5304(a)(2) and (3), 42 U.S.C. 12707, 24 CFR 570.486, 24 CFR 1003.604, 24 CFR 91.105(b) through (d), and 24 CFR 91.115(b) through (d), with respect to citizen participation requirements, and replaces the provisions with alternative requirements.

For CDBG-DR awards before 2017 disasters, the streamlined requirements require CDBG-DR grantees to publish its action plan for no less than 14 calendar days. For CDBG-DR awards for 2017 disasters and beyond, the streamlined requirements require CDBG-DR grantees provide a reasonable opportunity (at least 30 days) for citizen comment. The grantee must follow a detailed citizen participation plan that satisfies the requirements of 24 CFR 91.115 or 91.105 (except as provided for in notices providing waivers and alternative requirements). Each local government receiving assistance from a state grantee must follow a detailed citizen participation plan that satisfies the requirements of 24 CFR 570.486 (except as provided for in notices providing waivers and alternative requirements). Additionally, CDBG-DR awards subject to HUD's Consolidated Notice (2020, 2021, and 2022) must also include public hearings on the proposed CDBG-DR action plan.

For CDBG-MIT grantees, HUD also waives 42 U.S.C. 5304(a)(2) and (3), 42 U.S.C. 12707, 24 CFR 570.486, 24 § 91.105(b) and (c), and 24 CFR 91.115(b) and (c), with respect to citizen participation requirements. The revised requirements mandate public hearings (the number of which is based upon the amount of a grantee's CDBG-MIT allocation) across the HUD-identified MID areas and require the grantee to provide a reasonable opportunity (at least 45 days) for citizen comment and ongoing citizen access to information about the use of grant funds.

While the above waivers and alternative requirements reflect the most recent CDBG-DR citizen participation requirements for grantees subject to the Consolidated Notice and the long-standing CDBG-MIT requirements at 84 FR 45852 of the Main CDBG-MIT Notice published on August 30, 2019, auditors should review the *Federal Register*

notices for additional details concerning each grantee's applicable citizen participation requirements at https://www.hud.gov/program_offices/comm_planning/cdbg-dr/regulations.

Audit Objectives Determine whether the grantee has developed and implemented a citizen participation plan, including identifying what constitutes a substantial amendment.

Suggested Audit Procedures

- a. Verify that the grantee has a citizen participation plan.
- b. Review the plan to verify that it provides for public hearings, publication, public comment, access to records, and consideration of comments.
- c. Verify that the grantee has identified what constitutes a substantial amendment to its citizen participation plan, and a change in the use of CDBG funds from one activity to another is among the criteria for a substantial amendment.
- d. Examine the grantee's citizen participation records, including items such as public hearing records and minutes, sign-in sheets, and mailing lists of interested parties for evidence that the elements of the citizen's participation plan were followed as the grantee certified.

3. Required Certifications and HUD Approvals

Compliance Requirements CDBG funds (and local funds to be reimbursed with CDBG funds) cannot be obligated or expended before receipt of HUD's approval of a Request for Release of Funds (RROF) and environmental certification, except for exempt activities under 24 CFR section 58.34 and categorically excluded activities under section 58.35(b) (24 CFR section 58.22).

Audit Objectives Determine whether the grantee is obligating and expending program funds only after HUD's approval of the RROF.

Suggested Audit Procedures

- a. Examine HUD's approval of the RROF and environmental certification and note dates.
- b. Review the expenditure and related records to ascertain when CDBG funds and local funds which were reimbursed with CDBG funds, were first obligated or expended and ascertain if any funds were obligated or expended prior to HUD's approval of the RROF.

4. Environmental Reviews

Compliance Requirements Projects must have an environmental review unless they meet criteria specified in the regulations that would exempt or exclude them from RROF and environmental certification requirements (24 CFR sections 58.1, 58.22, 58.34, 58.35, and 570.604).

As is noted in Section III.B.6.(d)(iii) of the CDBG-CV Notice, HUD's environmental review regulations in 24 CFR Part 58 include two provisions that may be relevant to environmental review procedures for activities to prevent, prepare for, and respond to coronavirus. The first is 24 CFR 58.34(a)(10), which provides an exemption for certain activities undertaken in response to a national or locally declared public health emergency. Except for the applicable requirements of 24 CFR 58.6, a responsible entity does not have to comply with the requirements of Part 58 or undertake any environmental review, consultation, or other action under NEPA and the other provisions of law or authorities cited in 24 CFR 58.5 for exempt activities or projects consisting solely of exempt activities. Exempt activities include assistance for temporary or permanent improvements that do not alter environmental conditions and are limited to protection, repair, or restoration activities necessary only to control or arrest the effects from imminent threats to public safety.

The second is a streamlined public notice and comment period in the regulation at 24 CFR 58.33, which may apply in some cases for emergency activities undertaken to prevent, prepare for, and respond to coronavirus. The application of these two provisions following a presidentially declared or locally declared public health emergency is discussed in the Notice, *Guidance on conducting environmental review pursuant to 24 Part 58 for activities undertaken in response to the public health emergency as a result of COVID-19* (CPD-20-07) posted at <https://www.hud.gov/sites/dfiles/OCHCO/documents/2020-07cpdn.pdf>.

CDBG-DR grantees are required to ensure every project/activity undergoes the appropriate level of environmental review and receives clearance and Authorization to Use Grant Funds (AUGF) prior to expending any funds. As a result, special circumstances apply to HUD environmental reviews for disaster recovery efforts, and an environmental review is required accordingly: (a) analysis of impacts of a project on the surrounding environment and vice versa, (b) demonstrates compliance with federal environmental laws and authorities, (c) encourages public participation. Additional CDBG-DR environmental review information and federal regulations can be found on HUD.gov at https://www.hud.gov/program_offices/comm_planning/cdbg-dr/environmental-review and on the HUD Exchange at <https://www.hudexchange.info/programs/environmental-review/disaster-recovery-and-environment/#unified-federal-review>.

Audit Objectives Determine whether environmental reviews are being conducted, when required.

Suggested Audit Procedures

- a. Verify through a review of environmental review certifications that the environmental reviews were made.
- b. Select a sample of projects where an environmental review was not performed and ascertain if a written determination was made that the review was not required.
- c. Test whether documentation exists that any determination not to make an environmental review was made consistent with the criteria contained in 24 CFR

sections 58.34 and 58.35(b). Some CDBG-DR grantees may use the environmental review for projects that are also funded with FEMA. See *Federal Register* notices.

5. Rehabilitation

Compliance Requirements When CDBG and CDBG-CV funds are used for rehabilitation, the grantee must ensure that the work is properly completed (24 CFR section 570.506). Any NSP-assisted rehabilitation of a foreclosed-upon home or residential property shall be completed to the extent necessary to comply with applicable laws, codes and other requirements relating to housing safety, quality, or habitability, in order to sell, rent, or redevelop such homes and properties. To comply with this provision, a grantee must describe or reference in its NSP action plan amendment what rehabilitation standards it will apply for NSP-assisted rehabilitation (Section 2301(d)(2) of HERA; Section II.I. of NSP Notice, 73 FR 58338).

Audit Objectives Determine whether the grantee ensures that rehabilitation work is properly completed.

Suggested Audit Procedures

- a. Verify that pre-rehabilitation inspections are conducted describing the deficiencies to be corrected.
- b. Ascertain that the deficiencies to be corrected are incorporated into the rehabilitation contract.
- c. For NSP projects, review rehabilitation standards.
- d. Verify through a review of documentation that the grantee inspects the rehabilitation work upon completion to assure that it is carried out in accordance with contract specifications, and that NSP projects were carried out in accordance with rehabilitations standards.

6. Section 3 of the HCDA

Compliance Requirements Grantees must establish and maintain documentation to demonstrate that workers on Section 3 projects meet the definition of a Section 3 worker or Targeted Section 3 worker, at the time of hire or the first reporting period. This includes requiring written reports from developers or contractors summarizing the totals for labor hours, including Section 3 worker and Targeted Section 3 worker labor hours, and documentation from employees or employers certifying that the employee met the requirements to receive Section 3 worker status. Any information that a grantee enters in IDIS or DRGR must have supporting documentation demonstrating the accuracy of the data. (24 CFR part 75)

Audit Objectives Determine whether the Grantee is following its own Section 3 policy and procedures by collecting and maintaining adequate records demonstrating Section 3 compliance.

Suggested Audit Procedures

- a. Review the grantee's Section 3 policy and procedures.
- b. Review a sample of grant agreements for housing rehabilitation, housing construction, or other public construction projects, **to determine if the grantee notified subrecipients of requirements** to maintain or ensure that a subrecipient, contractor, or subcontractor maintains adequate records demonstrating Section 3 compliance.

IV. OTHER INFORMATION

Further information about CDBG-CV funding and uses of funds may be found at https://www.hud.gov/program_offices/comm_planning/cdbg_programs_covid-19.

Further information about available waivers of program requirements for CDBG-CV and other CPD programs may be found at https://www.hud.gov/program_offices/comm_planning/waivers_covid-19.

Additional grantee CDBG-CV program implementation resources may be found at <https://www.hudexchange.info/programs/cdbg-cv/>.

Information on CDBG-DR and CDBG-MIT waivers and alternative requirements issued by HUD can be found at https://www.hud.gov/program_offices/comm_planning/cdbg-dr/regulations.

HUD Compliance Reviews. Auditors may consult HUD's Community Planning and Development Monitoring Handbook for the specific compliance review exhibits that HUD uses to determine compliance. The CDBG-DR monitoring exhibits can be found at https://www.hud.gov/program_offices/administration/hudclips/handbooks/cpd/6509.2. CDBG monitoring exhibits can be found in Chapter 3 following the same link.

Further instructions to grantees who report in DRGR on compliance with Section 3 reporting may be found at <https://www.hudexchange.info/resource/6413/drgr-fact-sheet-drgr-guidance-on-reporting-section-3-labor-hours/>.

Guidance on Section 3 compliance and reporting may also be found in CPD Notice 21-09, *Section 3 of the Housing and Urban Development Act of 1968, as amended by the Housing and Community Development Act of 1992, final rule requirements for CDBG, CDBG-CV, CDBG-DR, CDBG-MIT, NSP, Section 108, and RHP projects*, found at <https://www.hud.gov/sites/dfiles/OCHCO/documents/2021-09cpdn.pdf>.