

FAQ

1. Does this notice allow for buyout programs like the one proposed by Governor Cuomo?

This Notice allows grantees to use CDBG-DR funds for voluntary buyout programs. The Department has found that buyout programs can be a critical recovery tool, especially in those areas that suffer from repeated flooding. Buyouts can be a cost effective way to reduce or eliminate future loss of life and property and reduce future costs to taxpayers. The Department will work with grantees to ensure buyouts are done in an effective (community-wide) manner and are locally driven.

2. Does this notice waive the low/moderate income provisions of CDBG-DR? Why?

This Notice modifies the requirement to benefit low- and moderate-income persons consistent with the provisions of the CDBG-DR appropriation which authorizes reduction of the overall low- and moderate-income benefit level to 50 percent. The CDBG program generally requires that 70 percent of the aggregate of a CDBG award be used to support activities benefitting low- and moderate-income persons. This target could be difficult to reach, and perhaps even impossible, for many communities affected by Hurricane Sandy. Grantees under this Notice experienced disaster impacts that affected entire communities—regardless of income, and the existing requirement may prevent grantees from providing assistance to damaged areas of need. Thus, the Notice reduces this to enable communities to direct funds according to impacts. In addition, grantees may request a waiver for uses below that 50 percent threshold – however they will be required to demonstrate a compelling need to do so.

3. What mitigation steps does this notice require?

Throughout the Notice, HUD incorporates guidance regarding mitigation. First, the needs assessment must take into account the costs of incorporating mitigation and resiliency measures to protect against future hazards. Second, in its Action Plan, the grantee must describe how it will encourage mitigation of hazard risk and how repair, rehabilitation, reconstruction, and new construction are designed (where possible) to incorporate principles of sustainability, including mitigating the impact of future disasters. As part of its Action Plan, the grantee must also identify how it will address the mitigation needs of each impacted Public Housing Authority (PHA) within its jurisdiction. Later tranches of CDBG funds will have a heightened focus on mitigation.

4. What other requirements are attached to funding to rebuild/repair homes or small businesses?

Each activity must be CDBG-eligible (or receive a waiver), meet a CDBG national objective such as assisting low- and moderate-income persons or addressing an urgent need, and address a direct or indirect impact from the disaster in a county covered by a Presidential disaster declaration and cited in Table 2 of the Notice. As with all CDBG activities, activities funded by CDBG-DR must meet all other Federal requirements that have not been waived or modified by the Notice (e.g., environmental, lead-based paint, Fair Housing and Section 3, Davis Bacon, relocation, etc.).

5. Does this notice allow for competitions? Marketing campaigns?

Grantees may distribute funds on a competitive basis. Marketing an eligible CDBG activity is eligible. While this notice does not specifically allow marketing campaigns, the Department has granted waivers in the past (following Hurricane Katrina, for example) allowing marketing campaigns for tourism.

6. What happens now? When can states actually get the money?

Once HUD publishes the Notice in the Federal Register, grantees must prepare an Action Plan for Disaster Recovery within 90 days that meets the criteria identified in the Notice. The plan must be made publically available for a seven day comment period and grantees must consider and respond to comments before submitting the plan to HUD. In addition, each grantee must submit documentation to the Department that allows the Secretary to certify that adequate policies and procedures are in place to prevent fraud, waste, abuse or duplication of benefits.

Once the Secretary has issued the certification for the grantee, and the Action Plan has been approved, HUD will work with the grantee to establish the grantee's line of credit and ensure the grantee has access to the Disaster Recovery Grant Reporting (DRGR) system. Once the grantee inputs its Plan into DRGR, and the Plan is approved, funds may be drawn (assuming the grantee has completed the necessary environmental review). This could come as soon as 3-4 weeks following publication of the notice, assuming timely submission of a certifiable plan by the grantees.

7. What other traditional/significant CDBG-DR requirements are waived or changed in this notice?

Many traditional CDBG requirements are waived in this Notice. The most significant waivers or alternative requirements allow:

- Streamlined and expedited citizen participation requirements (e.g., no public hearings required for the action plan);
- Direct administration of activities by a state grantee;
- Reduction of the overall benefit requirement (described above);
- Administration expenses to be capped at 5 percent of the total grant award;
- Allowing state to distribute funds to an entitlement community or Indian tribe (additional waivers and alternative requirements may be used in conjunction);
- Reimbursement of disaster recovery expenses (incurred by a state, local government, homeowner, rental property owner, or business owner) if the underlying activities meet the eligibility criteria;
- Allowing grantees to adopt an environmental review performed for a FEMA project where CDBG funds are also used;
- Homeownership assistance for households with up to 120 percent of the area median income, down payment assistance for up to 100 percent of the down payment, and new housing construction;

- Housing units that are rental units, per the Internal Revenue Service (IRS) definition of a rental unit are eligible for rehabilitation assistance, or to participate in a CDBG-DR buyout program; and
- Flexibility in quantifying the benefits of economic development activities;

Per the Appropriations Act, all funds allocated to a grantee must be expended within two years of the date HUD and the grantees execute a grant agreement unless the grantee receives a waiver from OMB.

8. Can this funding go to religious institutions?

Yes, for certain activities. The provision of assistance for buildings used for religious purposes is governed by general CDBG requirements addressing this issue. Although CDBG funds cannot be used for structures dedicated solely to religious use, such as a religious congregation's principle place of worship, grantees may in certain circumstances pay some rehabilitation or new construction costs for structures used for religious and secular purposes. For example, funding for hard costs for storm-damaged or destroyed buildings may be appropriate where a facility is not used exclusively for the benefit of the religious congregation, such as a building used as a homeless shelter, food pantry, adult literacy center, or child care center. Where a structure is used for both religious and secular uses, CDBG-DR funds may pay the portion of eligible rehabilitation or construction costs attributable to the non-religious use.

9. When will HUD allocate the next tranche of funding for Sandy?

We remain committed to getting funding to the region in a timely fashion. This depends significantly on the work of the Task Force and when we have more confidence in understanding the most effective distribution of infrastructure and mitigation needs and uninsured damage.

10. What happens if HUD rejects an action plan?

HUD has been working closely with grantees and will continue to work with them to ensure their action plans are in a position to be approved quickly. In the event that an action plan is rejected grantees may resubmit them and HUD will work to review it as quickly as possible.

11. Is compensation for economic loss an eligible activity?

Compensation for economic loss – ie, replacing business revenue lost as result of the storm – is not an eligible activity and HUD is not issuing a waiver to permit such use in this notice.

12. Does this notice require grantees to incorporate ABFE's into their process? What about considering sea level rise?

This notice does require grantees to rebuild to the Advisory Based Flood Elevations and we are currently considering whether to require building to ABFE's plus an additional consideration of sea level rise. Currently, grantees must describe how their planning will take into account sea level rise.

13. Why are folks who did the right thing and sought SBA loans now being punished by not having access to grants? Why are you rewarding people who did not bother registering and applying for SBA loans?

Our immediate focus is and has been on getting funding into the hands of folks who need it the most. The programs involved meet that need in different ways, based on the law authorizing them and on the principle that those who are able to pay some portion of their rebuilding costs once they're back on their feet should do so. The SBA disaster loan program is designed to get money to small businesses and individuals as quickly as possible to help them rebuild and get back on their feet and is focused on those companies and individuals that are able to repay a loan. The CDBG-DR program is designed to fill the gaps by supporting those small businesses that are unable to take on a loan. We have a finite amount of resources and are determined to get assistance to as many small businesses and persons as possible without duplicating benefits.

14. Can CDBG-DR funds be used to assist businesses?

Yes, but only for businesses meeting the definition of a small business according to the Small Business Administration (SBA). In addition, CDBG-DR funds cannot be used to assist a private utility for any purpose

15. Can CDBG-DR be used to repair or rehabilitate second homes?

No. (See response under Question 7 for rental property treatment.)