

VIA EMAIL: CPD_COVID-19WaiverATL@hud.gov

May 7, 2020

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The Georgia Department of Community Affairs (DCA) administers the State Program for Community Development Block Grant (CDBG) funding within Georgia. Further, the agency is also the entity responsible for administering the CDBG-DR and CDBG-CV programs for the State. Simply, the agency continues to work diligently with HUD staff to oversee multiple funding programs within the state and appreciates the responsiveness of the interaction that the agency receives from HUD staff.

According to text within the CARES Act and a subsequent April 9th memorandum entitled "CARES Act Flexibilities for CDBG Funds Used to Support Coronavirus Response and plan amendment waiver," HUD is provided explicit authorization to grant waivers in any areas that do not pertain to "fair housing, nondiscrimination, labor standards and the environment." DCA submits the following information to HUD requesting specific waivers which will enable the most effective and efficient allocation and timely expenditure of CDBG-CV funds within the state of Georgia, while ensuring that the overarching objectives of the CDBG program are maintained.

Thoughtful consideration has been given to information contained within the CARES Act and guidance issued by HUD. Contained herein are a series of waivers specifically sought by the state of Georgia for use with CDBG-CV, FFY20, and FFY19 funding.

1. **Citizen Participation Public Comment Period for Consolidated Plan Amendment.**

Requirement: 30-day Public Comment Period

Citation: 24 CFR 91.105(c)(2) and (k), 24 CFR 91.115(c)(2) and (i) and 24 CFR 91.401

Explanation: A CPD grantee may amend an approved consolidated plan in accordance with 24 CFR 91.505. Substantial amendments to the consolidated plan are subject to the citizen participation process in the grantee's citizen participation plan. The citizen participation plan must provide citizens with 30 days to comment on substantial amendments.

Justification: Given the need to expedite actions to respond to COVID-19, HUD waives 24 CFR 91.105(c)(2) and (k), 91.115(c)(2) and (i) as specified below, in order to balance the need to respond quickly to the growing spread and effects of COVID-19 with the statutory requirement to

provide reasonable notice and opportunity for citizens to comment on substantial amendments concerning the proposed uses of CDBG, HOME, HTF, HOPWA or ESG funds.

Applicability: This 30-day minimum for the required public comment period is waived for substantial amendments, provided that no less than 5 days are provided for public comments on each substantial amendment. The waiver is available through the end of the recipient's 2020 program year. Any recipient wishing to undertake further amendments to prior year plans following the 2020 program year can do so during the development of its FY 2021 Annual Action Plan.

2. **Citizen Participation Reasonable Notice and Opportunity to Comment**

Requirement: Reasonable Notice and Opportunity to Comment

Citation: 24 CFR 91.105(c)(2) and (k), 24 CFR 91.115(c)(2) and (i) and 24 CFR 91.401

Explanation: As noted above, the regulations at 24 CFR 91.105 (for local governments) and 91.115 (for states) set forth the citizen participation plan requirements for recipients. For substantial amendments to the consolidated plan, the regulations require the recipient to follow its citizen participation plan to provide citizens with reasonable notice and opportunity to comment. The citizen participation plan must state how reasonable notice and opportunity to comment will be given.

Justification: HUD recognizes the efforts to contain COVID-19 require limiting public gatherings, such as those often used to obtain citizen participation, and that there is a need to respond quickly to the growing spread and effects of COVID-19. Therefore, HUD waives 24 CFR 91.105(c)(2) and (k), 24 CFR 91.115(c)(2) and (i) and 24 CFR 91.401 as specified below to allow these grantees to determine what constitutes reasonable notice and opportunity to comment given their circumstances.

Applicability: This authority is in effect through the end of the 2020 program year.

3. **Eligible entities.**

Requirement: Only units of local government from non-entitlement communities are eligible for CDBG-CV funding from the state allocation

Citation: 24 CFR 570.4(a)

Explanation: CDBG program regulations prohibit state governments or non-profit entities from being the recipient of CDBG funding, similarly CDBG-CV funding would be limited in availability.

Justification: Within the state of Georgia, COVID-19 response has been originated and coordinated primarily by state government agencies. To ensure the effective and efficient coordination is maintained and furthered by DCA, we respectfully request a waiver to provisions contained in §570.480(a) requiring that local governments are the only eligible recipients of CDBG funding. Specifically, DCA requests that state government agencies who are leading the response and recovery efforts, non-profit and/or for-profit hospitals, and non-profit entities specifically involved in COVID-19 response, may be recipients of CDBG funding through the state of Georgia's allocation.

4. **Matching of Administrative Funds**

Requirement: States must match administrative funds on a dollar-for-dollar basis

Citation: 24 CFR 570.489(a)(1) and (3)

Explanation: CDBG program regulations require states to provide one dollar in matching funds for each dollar of CDBG administrative funding to ensure the proper oversight of the program.

Justification: Administration and oversight of federal funds to ensure compliance with all applicable federal requirements are necessary. At present, Georgia's FY21 budget is projected to have a sizable negative impact. Georgia state agencies have already been given budgetary instructions to reduce budgets by fourteen (14%) percent already. DCA respectfully requests a waiver of any match requirements for the CDBG-CV funds. (Funding was previously appropriated for FY19 and FY20 program years and was regularly budgeted for this purpose; therefore, no waiver is requested pertaining to those funds.)

5. **Low and Moderate Income Persons**

Requirement: The terms "persons of low and moderate income" and "low- and moderate-income persons" mean families and individuals whose incomes do not exceed 80 percent of the median income of the area involved, as determined by the Secretary with adjustments for smaller and larger families.

Citation: HCDA § 102(a)(20)

Explanation: DCA requests a waiver to permit the State of Georgia to use income limits of 120 percent of the median income of the area involved, similar to how CDBG-DR programs are permitted by the applicable Federal Register Notice.

Justification: COVID-19 has impacted communities across the state of Georgia – north and south, urban and rural, rich and poor. DCA respects and supports the intent of CDBG funds being to assist low and moderate income persons through its efforts. DCA understands that response to COVID-19 bears some similarities to responses through CDBG-DR programs. For that reason, DCA requests a waiver to allow Georgia's CDBG-CV program to mirror the 120% income limits that are available for limited use under the CDBG-DR program.

6. **Urgent Need.**

Requirement: Presently urgent need qualified activities must meet several criteria as noted below. The existing conditions must pose a serious and immediate threat to the health or welfare of the community; the existing conditions are of recent origin or recently became urgent (generally, within the past 18 months); the grantee is unable to finance the activity on its own; and other sources of funding are not available.

Citation: 24 CFR 570.483(d) or 570.208(c)

Explanation: The waiver request is to expand the definition of 'urgent need' as has been done for CDBG Disaster Recovery (CDBG-DR) programs. Under the CDBG-DR, a new National Objective "Urgent Need Mitigation" (UNM) national objective requires activities funded with the CDBG-MIT grant to result in measurable and verifiable reductions in the risk of loss of life and property from future disasters and yield community development benefits.

Justification: Our request is to allow an expanded definition be allowed for activities related to COVID-19 to "prevent, prepare for, and respond to coronavirus." Rural Georgia, not unlike other states, has experienced very serious health issues and in some areas, a high number of deaths as

a result of COVID-19. As the purpose of the CARES Act is to provide health care resources to fight COVID-19, an expanded definition to address these health issues will allow the State to respond to needs being experienced in Georgia's rural areas.

7. **Limited Clientele**

Requirement: Generally, limited clientele is defined as a benefit to a group that is generally presumed to be principally LMI. This presumption covers abused children, battered spouses, elderly persons, severely disabled adults, homeless persons, illiterate adults, persons living with AIDS, and migrant farm workers; or require documentation on family size and income in order to show that at least 51 percent of the clientele are LMI; or have income eligibility requirements limiting the activity to LMI persons only; or be of such a nature and in such a location that can be concluded that clients are primarily LMI.

Citation: 24 CFR 570.208(a)(2)(i)

Explanation: The waiver request is to expand the definition of 'limited clientele' to include health care provision. Examples of activities that qualify under the limited clientele category already include: acquisition of a building to be converted into a shelter for the homeless; rehabilitation of a center for training severely disabled persons to enable them to live independently; clearance of a structure from the future site of a neighborhood center that will exclusively serve the elderly; and public services activities like the provision of health services.

Justification: The request is twofold. First, the state of Georgia seeks to expand the definition of "limited clientele" to include the provision of health care as an eligible limited clientele category for the purpose of enabling CDBG-CV funds to be used to allow for the delivery of services to Georgians impacted by the virus. Additionally, this will allow public facility activities such as construction of broadband to qualify as an allowable activity to address these rural health needs.

8. **Pre-Agreement Cost Approval.**

Requirement: States may incur costs prior to entering into a grant agreement with HUD. Local governments may incur costs prior to entering into a grant agreement with the State.

Citation: 24 CFR 570.489(b)

Explanation: States and local governments may incur pre-agreement costs prior to entering into a grant agreement provided that requirements of environmental review and citizen participation requirements are met.

Justification: Given that the Governor of Georgia declared a public health emergency by Executive Order on March 12, 2020, DCA respectfully requests the establishment of March 12, 2020 as the date triggering pre-agreement cost approval.

9. **20% Administration and Planning Cap.**

Requirement: For origin year 2015 grants and subsequent grants, no more than 20 percent of any annual grant shall be expended by the State and its funded units of general local government for planning, management, and administrative costs.

Citation: 24 CFR 570.489(a)(3)

Explanation: DCA requests authorization to increase the administration and planning cap to 25 percent for CDBG-CV funds. No waiver is requested for FY19 or FY20 funds.

Justification: This suspension is required to provide both the State and local governments adequate funds to respond to the COVID-19 pandemic. Specifically, many traditional planning functions are required to ensure that state and local officials are properly informed on the current status of patients with the virus, the spread of the virus, and coordination of efforts to care for and inform members of the public.

Sincerely,



[G. Christopher Nunn \(May 8, 2020\)](#)

G. Christopher Nunn
Commissioner

GCN/kc

cc: Rusty Haygood, Deputy Commissioner – DCA
Joanie Perry, Director, Community Finance Division – DCA
Basil Beckford, Community Planning and Development Representative - HUD







CDBG-CV Waiver Request to HUD

Final Audit Report

2020-05-08

Created:	2020-05-07
By:	Kimberly Carter (KIM.CARTER@DCA.GA.GOV)
Status:	Signed
Transaction ID:	CBJCHBCAABAAj1MS_UYpfNkk52FYefDX7ZQnIFyps3Gw

"CDBG-CV Waiver Request to HUD" History

-  Document created by Kimberly Carter (KIM.CARTER@DCA.GA.GOV)
2020-05-07 - 6:45:58 PM GMT- IP address: 167.200.36.11
-  Document emailed to G. Christopher Nunn (christopher.nunn@dca.ga.gov) for signature
2020-05-07 - 6:46:26 PM GMT
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2020-05-07 - 7:47:37 PM GMT- IP address: 174.218.133.87
-  Email viewed by G. Christopher Nunn (christopher.nunn@dca.ga.gov)
2020-05-08 - 5:39:12 PM GMT- IP address: 23.103.201.254
-  Document e-signed by G. Christopher Nunn (christopher.nunn@dca.ga.gov)
Signature Date: 2020-05-08 - 5:40:00 PM GMT - Time Source: server- IP address: 174.218.131.171
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2020-05-08 - 5:40:00 PM GMT