

February 21, 2023

Regulations Division Office of General Counsel
U.S. Department of Housing and Urban Development
451 7th Street SW, Room 10276
Washington, DC 20410-0500

RE: Docket No. FR-6337-N-01, Request for Information Community Development Block Grant Disaster Recovery (CDBG-DR) Formula

The Council of State Community Development Agencies (COSCDA) appreciates HUD's interest in receiving input on the Community Development Block Grant – Disaster Recovery (CDBG-DR) formula allocation. For three decades, the methodology used to inform the allocation has helped communities and households access HUD resources for their respective recovery needs. Updates to the methodology prove necessary to ensure federal assistance sufficiently responds to gaps in initial federal support through Federal Emergency Management Agency (FEMA) and related entities. COSCDA welcomes the opportunity to contribute and add perspective to revisions needed for directing future allocations.

In recognition of how specific formula allocation updates may be advanced, we encourage HUD to accept further feedback from stakeholders beyond this request for information. In addition to the following comments, COSCDA looks forward to other engagement opportunities on the CDBG-DR formula and related areas essential to program performance.

General Questions

Question 1. Given the policy objective of quickly allocating funds so that state and local officials can speedily develop programs to address their most serious unmet needs for disaster recovery, are there other ways HUD might allocate CDBG-DR funds beyond the methodology described above?

Discussion. HUD has long relied on the data from FEMA and SBA to make formula calculations. With advances in technology and other public and private data sources, there may be other approaches HUD could consider.

1. Pre-award grants would support immediate response from state and local governments which anticipate receipt of future federal assistance (when available). Capacity challenges have greatly limited planning and related activities critical to disaster recovery. Initial resources which allow for assessment of needs at the state and local levels would accelerate the recovery process and better position jurisdictions for use of additional federal resources as available.

2. If significant needs have compounded following disaster events, further allocations should be considered to help jurisdictions address these gaps in housing, infrastructure, and business assistance. Additional assessments of disaster conditions following initial examination of needs may conclude other areas are left unaddressed critical to restoring households and community well-being. Future supplemental appropriations may afford HUD the ability to invest funds after first allocations have been made. In this case, an allocation formula may help to direct more aid to further unmet needs.

Question 2. If Congress appropriates funds in advance of disasters occurring in a specified time period, should disasters be funded as soon as practicable after they occur, or should HUD hold back funding until all disasters in a year are known so each receives an equal share of the remaining funding relative to their needs?

A balanced approach to disaster assistance is needed to ensure that states and localities can be assisted both timely and, in a manner responsive to recovery needs. Allocations should be announced as soon as practical given the nature of state and local planning to direct funds. This would include certain timelines which HUD can reasonably review disaster events, assess unmet needs, and decide using available funds to allocate these resources. As future events and needs thereafter are unpredictable, HUD should work closely with the FEMA, related federal partners, and Congress to secure further resources and likewise announce allocations in a similar timeframe.

Component 2. Specific Questions. Basic Formula for Unmet Needs

Question 4. Are there are other unmet needs that HUD should be factoring into the formula calculation beyond housing, economic revitalization, and infrastructure?

Due to the focus of CDBG-DR towards highest priority recovery needs, we support most of the aid being directed to the three activity categories. Within preliminary recovery, to the extent that may be helpful for beneficiaries, case management could be a meaningful use of program resources. Disaster survivors face immense pressures to access assistance. If unavailable or limited, state and local activities on this front could be accommodated through CDBG-DR.

Question 5. Should HUD establish a minimum number of days to have passed after a Presidential Disaster declaration, or some other metric, before calculating unmet needs?

While COSCDA does not offer a specific metric to address in calculating unmet needs, we do support the establishment of a transparent and consistent standard which can be understood by a host disaster recovery stakeholder. An initial allocation based on preliminary data would expedite the delivery of funds. A second allocation following could be provided once more robust data is allocation based on initial data to speed delivery of funds.

Component 3. Specific Questions. Housing Unmet Needs

Question 6. Should HUD continue to exclude certain homeowners with incomes above 120 percent of area median income from consideration of unmet needs?

COSCD A generally agrees with HUD's assumption of higher income households carrying some level of insurance to recover property losses. In instances where the mortgage provider does not require flood insurance if the property is outside of the floodplain, damages can be incurred without the availability of insurance. The exclusion would be reasonable to continue for homeowners in coastal areas however

consideration should be given to residents outside of a designated floodplain which experience damage from flooding.

Question 7. For homeowner occupied units, in addition to uninsured households, should HUD consider the unmet need of insured applicants denied SBA loans? Is there another data source or characteristic HUD should consider to measure the unmet needs of insured applicants?

Yes, unmet needs of insured applicants of denied SBA loans should be considered for assistance. The SBA loan information provides a relevant source of information to determine unmet needs of insured homeowners. COSCDA does not offer another source for reference.

Question 10. For renter occupied units, is it a reasonable assumption that damage to housing occupied by renters less than the greater of poverty or 50 percent of AMI reflects a likely loss of affordable housing?

It is not a reasonable assumption that damage to housing occupied by renters less than the greater of poverty or 50 percent of AMI reflects a likely loss of affordable housing. COSCDA recommends updating its assessment on loss of affordable housing to include other factors: scope of damage and location; if household is eligible for SBA/FEMA IA match; level of insurance coverage for impacted households; type of disaster for instance between flood and wildfire, varying damage absorbed by household; and inclusion of state-based resources to provide a fuller picture of disaster needs.

Question 11. Is there a simpler approach for calculating the multipliers used for unmet needs?

State and local administrators experience considerable challenges in determining multipliers used for unmet needs. COSCDA does not have a recommendation to share on simplifying the calculation on multipliers. However, an additional multiplier for green building and resiliency would be relevant to reconstruction or rehabilitation and is not currently considered in unmet needs.

Component 5. Specific Questions. Methods for Estimating Unmet Infrastructure Needs

Question 16. Are there other data or factors HUD might consider for measuring unmet infrastructure needs?

Should HUD establish a minimum amount of time (e.g. not less than 60 days) after a disaster to calculate CDBG-DR allocations so they are based on consistent, accurate FEMA PA damage estimates?

1. Specific infrastructure data from individual states and localities may be requested and accessed by HUD to better assess disaster recovery needs.
2. On minimum amount of time for HUD to calculate CDBG-DR allocations using FEMA PA damage estimates: COSCDA recommends determining this by reviewing PA obligations over time and how long it takes on average to complete an unmet needs assessment to inform HUD's allocation. If, for example, a disaster occurs in January followed by a presidential declaration soon thereafter and HUD has all of the information necessary on unmet needs by April, this would involve four months of deliberation between FEMA and localities on the extent of damage and costs. Additional time likely reveals additional unmet needs and if HUD has available resources remaining after an initial allocation, it may be useful to additional recovery needs. The extent and time involved in determining the full array of unmet needs depends on the type of disaster. Flooding for instance may be infrastructure heavy in its damage whereas wildfires may impact more housing depending on the individual event.

3. As previously mentioned, funding delivery through a minimum of two allocations would work well to ensure data is being used in the most responsive manner to unmet needs. The most accurate datasets involve significant time and vary as well depending on the specific event.
4. One important piece to this issue is that damage assessments and reporting which contributes to FEMA PA data relies on the capacity and response of individual communities. Communities may vary in how they report damage, either underestimating damage due to their inability to provide the 10 or 25% cost share required by FEMA. On the other hand, other communities may overestimate damage and project needs in anticipation of FEMA to decline some or most of its requests. Damage estimates are just a proxy for the capacity of a community to complete FEMA paperwork after a disaster.

Component 8. Specific Questions. Amount of Funding

Question 21. If resources are limited, should a certain type or types of unmet need be prioritized over others in determining an allocation? For example, housing only.

1. While resources for CDBG-DR will likely remain limited and unable to accommodate all future unmet needs in disaster recovery, HUD should continue to assess damages to the best ability possible and consider the full extent of damage to homes, infrastructure, and businesses. Through CDBG-DR's flexibility and access of funds for use at state and local direction, grantees can continue to accommodate responsive projects aimed at helping impacted individuals and communities. Grantees remain in the best position to identify and respond to on-the-ground conditions following disasters. Unless disaster damage becomes consistent across the nation or several major events have similar outcomes, HUD's emphasis on specific unmet needs removes discretion of resources away from affected jurisdictions which have the greatest ability to identify needs and undertake recovery.

Component 9. Specific Questions. Allocations to Local Governments and Indian Tribes

Question 22. What criteria should HUD use when determining if an allocation should be made directly to local governments and Indian tribes (as that term is defined under section 102(a) of the Housing and Community Development Act of 1974) versus the full allocation to a state government? Should HUD take into account grantee capacity when deciding on either providing a direct grant and/or amount of the grant?

1. Financial controls, staff capacity, and jurisdiction experience with federal grant management should be taken into consideration as HUD determines an allocation should be made directly to local governments and Indian tribes.
2. Capacity is a major barrier for units of local government to effectively carry out HUD disaster assistance. Local governments have proven successful at implementing CDBG-DR funds when partnerships are established between multiple jurisdictions. Collaboration is key to addressing all aspects of program implementation as well as dedicating resources for reach across the impacted area.
3. The level of funding is also a significant consideration when making this determination to direct funds to local governments and Indian tribes. Depending on the amount provided through CDBG-DR, the grant may involve a level of responsibility that the entity cannot carry out with existing staff. The depth of program oversight and activities requires considerable management personnel. However, due to the minimal funds provided for grant administration, recipients are maintaining a disaster recovery program with minimal staff largely pre-existing with the annual CDBG program.

4. While direct allocations to communities can sometimes be effective, the ability to administer an annual HUD program is not equivalent to managing a CDBG-DR program. By allocating funds to the State in a disaster allocation HUD builds in two layers of support for beneficiaries to ensure an efficient recovery. If a community, as a subrecipient of the state, is unable to support recovery, the state can always step in and take that on. In most cases, states with CDBG-DR programs have a proven track record and the systems in place to launch programs quickly. Disaster allocations often exponentially dwarf an annual allocation communities may be familiar spending. Additionally, a community's annual CDBG program(s) are not managed and overseen by HUD to the same degree from a compliance perspective. The result is often delays in recovery, expensive outsourcing of support, and duplicative administrative costs between the community and the state. It can also lead to beneficiaries affected by the same disaster event not being equally eligible from recovery options.

*Question 23. Are there revisions to HUD's allocation methodology that should be considered to capture tribal recovery needs more effectively? Please see the RFI requesting information on the CDBG-DR program published elsewhere in today's **Federal Register** .*

Due to capacity issues and nature of tribal communities largely existing in small and rural jurisdictions, we recommend HUD's allocation methodology continue to rely on state and local governments to provide support in directing disaster resources. States and localities continue to have the essential relationships, programs, and staffing to complement tribal access to disaster resources. If HUD determines a tribal community is impacted by a major disaster event and qualifies for CDBG-DR, allocations should reflect the extent of unmet needs in tribes and how tribes may be facilitated if states and localities are positioned to assist.

Component 10. Specific Questions. Minimum Amount To Be Spent in Most Impacted Areas

Question 24. Currently at least, 80 percent of CDBG-DR funds must be spent to benefit the most impacted and distressed area designated by HUD, and up to 20 percent may be spent in area designed by the grantee as most impacted and distressed areas; is this the right amount?

COSCOA recommends CDBG-DR funds be directed in a manner responsive to unmet needs of low- and moderate-income populations following major disaster events. The existing 80-20 standard may continue to be applied broadly. However, if a determination is made by states and localities that specific areas outside of HUD's qualifying populations remain unserved by other federal assistance, and the grantee's percent of funds are already dedicated elsewhere, then additional flexibility should be extended to grantees for request of assistance to these targeted areas. This may be accommodated by a process established by HUD for states and localities to formally request assistance to areas outside of HUD's designated areas once grantees have maximized use of their respective 20% of funds. Both qualitative and quantitative information would be used to demonstrate aid and how the initial assessments of funds by HUD would be better applied to the petitioned areas instead of HUD's targeted communities.

Component 11. Specific Questions. Data Provided to CDBG-DR Grantees for Developing Action Plans

Question 25. In addition to the raw data provided by FEMA to HUD for the formula calculation, should HUD provide to CDBG-DR grantees and the public a set of pre-scripted tables and maps to assist with development of Action Plans? What other information would be helpful for developing Action Plans?

Any prepared templates, toolkits, or designed resources in Action Plan development would be welcomed by grantees especially those with limited or no experience in CDBG-DR. Specifically, in addition to the noted tables and maps, introductory guidance would be helpful as well on items for a potential state or local CDBG-DR grantee to consider ahead of an allocation. COSCDA is available to share further information on this approach and items therein.