COSCDA

Council of State Community Development Agencies

21st Century ROAD to Housing Act

Title II, Section 213: *Build Now Act*

[Link to Section 213 Text]

SUMMARY

Section 213, or the *Build Now Act,* is intended to incentivize local communities to adopt pro-growth housing policies. It directs HUD to calculate a new "housing growth improvement rate" for CDBG entitlement communities. CDBG recipients above the median housing growth improvement rate will receive bonus funding in their allocations. CDBG recipients below the median will lose 10% of their CDBG allocations.

Many CDBG recipients are <u>excluded</u> from Section 213's formula adjustments. CDBG recipients are excluded if:

- They are a non-entitlement CDBG program (**state agencies are excluded**)
- They are at or below the 60th percentile of median Small Area Fair Market Rents *<u>and</u>* the median home value is below the median home value for the United States.
- The annual vacancy rate is greater than the national annual rental vacancy rate.
- They received a major disaster or emergency declaration under the Stafford Act in the past three years.
- They do not have the legal authority to enact or update zoning / permitting ordinances.

HUD must notify CDBG recipients within 60 days of enactment about (a) whether these adjustments would apply to them and (b) their current housing growth improvement rate. The *Build Now Act* formula adjustments will apply from FY30 – FY43 allocations.

GENERAL PROVISIONS

<u>Subsection (a): Definitions</u>

Subsection (a) defines the following terms for the purposes of Section 213:

- Covered Recipient – a metropolitan city or urban county, as those terms are defined in section 102 of the Housing and Community Development Act of 1974 (42 U.S.C. 5302), that receives funds under section 106.
- Current Annual Growth Rate – with respect to an eligible recipient and a fiscal year, means the average annual percentage increase in the number of housing units in the jurisdiction of the eligible recipient, as calculated by the Secretary, during the period –
    - Beginning with the third quarter of the sixth preceding fiscal year; and
    - Ending with the third quarter of the preceding fiscal year.
- Eligible Recipient – any covered recipient unless
    - The median Small Area Fair Market Rent in the jurisdiction of the covered recipient is at or below the 60th percentile of median Small Area Fair Market Rents in the jurisdictions of all covered recipients and the median home value in

the jurisdiction of the covered recipient is below the median home value for the United States;
    - The annual rental vacancy rate in the jurisdiction of the covered recipient is greater than the national annual rental vacancy rate for the most recent year available, as published by the Bureau of the Census;
    - During the 3-year period preceding the date on which the Secretary allocates funds under section 106, the jurisdiction of the covered recipient has been the subject of a major disaster or emergency declaration under section 401 or 501, respectively, of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170, 5191); or
    - The covered recipient lacks the legal authority to enact or update zoning and permitting ordinances.
- Extremely High-Growth Recipient – an eligible recipient for which the current annual growth rate is at or above 4 percent.
- Housing Growth Improvement Rate – with respect to an eligible recipient and a fiscal year, means the quotient of –
    - The current annual growth rate of the eligible recipient, minus
    - The prior annual growth rate of the eligible recipient; and
    - The sum obtained by adding the absolute values of the current annual growth rate and the prior annual growth rate of the eligible recipient.
- Prior Annual Growth Rate – with respect to an eligible recipient and a fiscal year, means the average annual percentage increase in the number of housing units in the jurisdiction of the eligible recipient, as calculated by the Secretary, during the period –
    - Beginning with the third quarter of the 11th preceding fiscal year; and
    - Ending with the third quarter of the sixth preceding fiscal year.
- Secretary – the Secretary of Housing and Urban Development (HUD)
- Section 106 – section 106 of the Housing and Community Development Act of 1974 (42 U.S.C. 5306).

Subsection (b): Adjustments to Community Development Block Grant Allocations

(1) In General – In allocating amounts to an eligible recipient under section 106 for a fiscal year, the Secretary shall adjust the allocation based on the housing growth improvement rate of the eligible recipient, in accordance with paragraph (2) of this subsection.

(2) Adjustments –

(A) Housing Growth Improvement Rate at or Above Median; Extremely High-Growth Recipients –

(i) In General – If, with respect to a fiscal year for which the allocation under section 106 is being determined, the housing growth improvement rate for an eligible recipient is at or above the median housing growth improvement rate for all eligible recipients other than extremely high-growth recipients, or if an eligible recipient is an extremely high-growth recipient, the Secretary shall allocate to the eligible recipient for that fiscal year, in addition to the amount that would otherwise be allocated to the eligible recipient under section 106, a bonus amount, as determined under clause (ii) of this subparagraph.

(ii) Bonus Amount – For purposes of clause (i), the bonus amount for an eligible recipient for a fiscal year shall be equal to the product of –

(I) The aggregate amount by which allocations to eligible recipients are decreased under subparagraph (B) for that fiscal year; and

(II) the quotient of

(aa) the difference in the number of housing units, between the third quarter of the second preceding fiscal year and the third quarter of the preceding fiscal year, in the jurisdiction of the eligible recipient, as calculated by the Secretary; and

(bb) the difference in the number of housing units, between the third quarter of the second preceding fiscal year and the third quarter of the preceding fiscal year, in the jurisdictions of all eligible recipients that receive a bonus amount under this paragraph, as calculated by the Secretary.

(B) Housing Growth Improvement Rate Below Median – If, with respect to a fiscal year for which the allocation under section 106 is being determined, the housing growth improvement rate for an eligible recipient is below the median housing growth improvement rate for all eligible recipients other than high-growth outliers, the Secretary shall decrease the amount that would otherwise be allocated to the eligible recipient under section 106 for that fiscal year by 10 percent.

IMPLEMENTATION TIMELINE AND RESPONSIBILITIES

Subsection (c): Calculation of Housing Units

To calculate the number of housing units in the jurisdiction of an eligible recipient under any provision of this section, the Secretary must:

- Use the Current Address Count Listing Files and other data products, as needed, of the Bureau of the Census tabulated from the Master Address File; and
- Make calculations at the block level, using boundaries that reflect the most current boundaries.

The Bureau of the Census and the United States Postal Service shall provide any relevant data to the Secretary upon request to assist the Secretary in making the calculation described above.

The Secretary may adjust the calculation periods described in subsection (a) by not more than 2 months to achieve alignment with the data provided by the Bureau of the Census.

Subsection (d): Annual Report on Housing Growth Improvement Rate

Before allocating funds under section 106 for a fiscal year, the Secretary must publish a report that:

- Includes the housing growth improvement rate for each eligible recipient; and
- Lists, for the most recent fiscal year for which allocations were made under section 106 –
    - The eligible recipients that received a bonus amount under subsection (b)(2)(A); and
    - The eligible recipients for which the allocation under section 106 was decreased under subsection (b)(2)(B) of this section.

Subsection (e): Notification; Implementation Dates

Within 60 days of enactment –

The Secretary must notify each eligible recipient of the recipient's housing growth improvement rate and whether that housing growth improvement rate is above, at, or below the median housing growth improvement rate for all eligible recipients other than extremely high-growth recipients.

As part of this notification, the Secretary must share guidance, including resources developed by HUD, on best practices and recommendations for policies to reduce regulatory barriers to housing and increase housing supply.

Third fiscal year after enactment (FY30) –

Subsection (b) shall take effect and remain in effect through fiscal year 2043. The *Build Now Act* does not apply to amounts appropriated before the date of enactment of this Act (prior to FY27).