COSCDA
Council of State Community Development Agencies

21st Century ROAD to Housing Act

Title V, Section 504: *Reforming Disaster Recovery Act*

[Link to Section 504 Text]

SUMMARY

Section 504, or the *Reforming Disaster Recovery Act* (RDRA), authorizes HUD's Community Development Block Grant Disaster Recovery (CDBG-DR) program for three years. This is the first time Congress has formally authorized the CDBG-DR program. Even with only three official years of authorization, the RDRA will result in a more stable statutory framework. As noted in the implementation section of this resource, HUD is required to publish new regulations in response to CDBG-DR's authorization. The program's funding mechanism will also change, as funding will now be channeled through the "Long-Term Disaster Recovery Fund" and eligible entities can receive preliminary funding after a major disaster.

Section 504 Outline

Subsection (a) – Definitions
Subsection (b) – Duties of the Department of Housing and Urban Development
Subsection (c) – Long-Term Disaster Recovery Fund
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- (i) Waivers and Alternative Requirements
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GENERAL PROVISIONS

Subsection (a): Definitions

Subsection (a) defines several terms for use within section 504.

- Department – means the Department of Housing and Urban Development (HUD)

- Fund – means the Long-Term Disaster Recovery Fund established under subsection (c)
- Secretary – means the Secretary of HUD

<u>Subsection (c): Long-Term Disaster Recovery Fund</u>

Subsection (c) establishes the Long-Term Disaster Recovery Fund (Fund)—an account within the United States Treasury Department. Provisions of the Fund include:

(2) Deposits, Transfers, and Credit

(A) In General – The Fund shall consist of amounts appropriated, transferred, and credited to the Fund.

(B) Transfers – The following may be transferred to the Fund:

(i) Amounts made available through section 106(c)(4) of the Housing and community Development Act of 1974 (42 U.S.C. 5306(c)(4)) as a result of actions taken under section 104(e), 111, or 124(j) of such Act.

(ii) Any unobligated balances available until expended remaining or subsequently recaptured from amounts appropriated for any disaster and related purposes under the heading "Community Development Fund" in any Act prior to the establishment of the Fund.

(C) Use of Transferred Amounts – Amounts transferred to the Fund shall be used for the eligible uses described in paragraph (3).

(3) Eligible Uses of Fund

(A) In General – Amounts in the Fund shall be available:

(i) To provide assistance in the form of grants under section 124 of the Housing and Community Development Act of 1974, as added by subsection (d); and

(ii) For activities of the Department that support the provision of such assistance, including necessary salaries and expenses, information technology, and capacity building, technical assistance, and pre-disaster readiness.

(B) Set-Aside – Of each amount appropriated for or transferred to the Fund, 3 percent shall be made available for activities described in subparagraph (A)(ii), which shall be in addition to other amounts made available for those activities.

(C) Transfer of Funds – With respect to amounts made available for use in accordance with subparagraph (B) –

(i) Amounts may be transferred to the account under the heading for "Program Offices—Salaries and Expenses—Community Planning and Development," or any successor account, for the Department to carry out activities described in subparagraph (B); and

(ii) Amounts may be used for the activities described in subparagraph (A)(ii) and for the administrative costs of administering any funds appropriated to the Department under the heading "Community Planning and Development – Community Development Fund" for any major disaster declared under section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170) in any Act before the establishment of the Fund.

(D) Inspector General –

(i) In General – Not less than one-tenth of 1 percent of each series of awards the Secretary makes from the Fund shall be transferred to the account under the heading “Office of Inspector General” for the Department of Housing and Urban Development to support audit activities and to investigate grantee noncompliance with program requirements and waste, fraud, and abuse as a result of appropriations made available through the Fund.

(ii) Availability – Funding under clause (i) shall not be made available to the Office of Inspector General until 90 days after the date on which the grantee plan or supplemental plan for the grantee is approved by the Secretary under subsection (c) or (f)(3)(C) of section 124 of the Housing and Community Development Act of 1974, as added by subsection (d), is approved by the Secretary.

(4) Interchangeability of Prior Administrative Amounts – Any amounts appropriated in any Act prior to the establishment of the Fund and transferred to the account under the heading “Program Offices—Salaries and Expenses—Community Planning and Development,” or any predecessor account, for the Department for the costs of administering funds appropriated to the Department under the heading “Community Planning and Development—Community Development Fund” for any major disaster declared under section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170) shall be available for the costs of administering any such funds provided by any prior or future Act, notwithstanding the purposes for which those amounts were appropriated and in addition to any amount provided for the same purposes in other appropriations Acts.

(5) Availability of Amounts – Amounts appropriated, transferred, and credited to the Fund shall remain available until expended.

(6) Formula Allocation – Use of amounts in the Fund for grants shall be made by formula allocation in accordance with the requirements of section 124(a) of the Housing and Community Development Act of 1974, as added by subsection (d).

IMPLEMENTATION TIMELINE AND RESPONSIBILITIES

Formula Notice

Within 30 days of enactment:

- The Secretary shall issue a notice in the Federal Register containing the latest formula allocation methodologies used to determine the total estimate of unmet needs related to housing, economic revitalization, and infrastructure in the most impacted and distressed areas resulting from a catastrophic major disaster.
- Public Comment: If the Secretary has not already requested public comment on the formula described in the notice, the Secretary shall solicit public comments on the following topics:
    - The methodologies described and seek alternative methods for formula allocation within a similar total amount of funding.
    - The impact of formula methodologies on rural areas and Tribal areas.
    - Adjustments to improve targeting to the most serious needs.
    - Objective criteria for grantee capacity and concentration of damage to inform grantee determinations and minimum allocation thresholds.

- Research and data to inform an additional amount to be provided for mitigation depending on type of disaster, which shall be up to 18 percent of the total estimate of unmet needs.

Subsection (e): Regulations

Subsection (e) includes additional rulemaking requirements, including:

Within 6 months of enactment:

- HUD must consult with FEMA, the SBA, and other Federal agencies; then, issue proposed rules to carry out this section.
- There will be a 90-day comment period for public comments on these proposed rules.

Within 1 year of enactment:

- HUD must issue final regulations to carry out the addition of section 124 to the Housing and Community Development Act of 1974 (authorization of CDBG-DR).

Within 3 years of enactment:

- The CDBG-DR authorization shall terminate.
- Congress can still "appropriate funds for disaster recovery through a similar successor program following the sunset date."

Required Rulemaking

CDBG-DR Formula	Establish a formula to allocate assistance from the Fund to the most impacted and distressed areas resulting from a catastrophic major disaster (specific formula requirements are set forth within *ROAD*). Establish a minimum allocation threshold.
Preliminary Funding	Establish a sliding scale for preliminary funding based on the size of the preliminary assessment of impact and distress.
Interchangeability	Establish requirements to expedite the use of grants under this section (interchangeability).
Grantee Plans	In addition to the required action plan elements, HUD can require other information through regulation. Through regulation, HUD can require "any consultation with interested parties" for the development of action plans. Specify criteria for the approval, partial approval, or disapproval of a plan, including approval of substantial amendments to the plan. Specify criteria for when the grantee shall be required to provide the required revisions to a disapproved plan / substantial amendment for public comment
LMI Benefit	Establish protocols that reflect the required use of funds for LMI benefit, including persons with extremely and very low incomes.

Disaster Risk Mitigation	In consultation with FEMA, establish minimum construction standards, insurance purchase requirements, and other requirements for the use of grant funds in hazard-prone areas.
Relocation	Determine the extent to which the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA) apply to CDBG-DR activities. Can include appeal rights / other requirements.
Performance Targets	Develop and make publicly available critical performance targets for review; shall include spending thresholds for each year from obligation – close-out
Administrative Costs	Establish the maximum grant amounts for administrative costs, technical assistance, and planning activities (not to exceed 8 percent for administration and 20 percent in total)
Program Income	HUD *can* exclude from consideration as program income any amounts determined to be so small that compliance with CDBG-DR rules creates an unreasonable administrative burden.
Financial Controls and Procedures	Develop requirements and procedures to certify a grantee's financial controls and procedures (more details in the text)

<u>CDBG-DR Allocation Timeline</u>

Within 90 days of a Presidential disaster declaration,

- Use the best available data to determine whether the disaster is catastrophic and qualifies for CDBG-DR assistance under the current formula.
  - If data is insufficient, HUD can wait to make the determination until 120 days.
  - HUD can allocate up to $5 million in "preliminary funding" before a determination is made if they predict the disaster will be deemed catastrophic.
    - Preliminary awards will be made along a "sliding scale" based on the size of the preliminary assessment of impact and distress.
    - Use of preliminary funds is limited to activities that:
      - Will support faster recovery, improve the ability of the grantee to assess unmet recovery needs, plan for the prevention of improper payments, and reduce fraud, waste, and abuse; and
      - May include evaluating the interim housing, permanent housing, and supportive service needs of the disaster impacted community, with special attention to vulnerable populations, such as homeless and low- to moderate-income households, to inform the grantee action plan.
    - Preliminary funding:
      - Is not subject to certification requirements and
      - Shall not be considered when calculating the amount of the grant used for administrative costs, technical assistance, and planning activities.

- If amounts are available in the Fund, HUD must immediately use the formula to announce an allocation for an eligible CDBG-DR grant.
    - If the amounts available are less than the formula calculation, HUD must announce an additional allocation within 15 days of new appropriations to the Fund.

Within 90 days of a grant allocation,

- Grantees must submit an action plan to HUD. (Grantees can request an extension)
    - The action plan must have a public comment period of at least 14 days.
    - Grantees must follow a citizen participation plan to engage with residents of the most impacted and distressed area.

Within 60 days of receiving a plan / substantial amendment,

- HUD must approve, partially approve, or disapprove the plan / amendment.

Within 24 months of receiving a grant or at the time of its scheduled ConPlan update (whichever is sooner),

- The grantee must review and make modifications to its non-disaster housing and community development plans and strategies to reflect disaster recovery needs.

Within 6 years of grant obligation,

- The grantee must fully expend its CDBG-DR grant.
- HUD must recapture and credit to the Fund any unused amount.
- Grantees can retain enough funding to close out a grant; they can also retain up to 10 percent of remaining funds to maintain minimal capacity for their CDBG-DR program.
- HUD can grant up to a 4-year extension (or 6 years for mitigation activities).

Subsection (b): Duties of HUD

Subsection (b) outlines specific duties for the "offices and officers" of HUD as it relates to disaster recovery, including:

- Leading and coordinating the disaster-related responsibilities of the Department under the National Response Framework, the National Disaster Recovery Framework, and the National Mitigation Framework;
- Coordinating and administering programs, policies, and activities of the Department related to disaster relief, long-term recovery, resiliency, and mitigation, including disaster recovery assistance under title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.);
- Supporting disaster-impacted communities as those communities specifically assess, plan for, and address the housing stock and housing needs in the transition from emergency shelters and interim housing to permanent housing of those displaced, especially among vulnerable populations and extremely low-, low-, and moderate-income households;
- Collaborating with the Federal Emergency Management Agency and the Small Business Administration and across the Department to align disaster-related regulations and

policies, including incorporation of consensus-based codes and standards and insurance purchase requirements, and ensuring coordination and reducing duplication among other Federal disaster recovery programs;

- Promoting best practices in mitigation and resilient land use planning;
- Coordinating technical assistance, including mitigation, resiliency, and recovery training and information on all relevant legal and regulatory requirements, to entities that receive disaster recovery assistance under title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.) that demonstrate capacity constraints; and
- Supporting State, Tribal, and local governments in developing, coordinating, and maintaining their capacity for disaster resilience and recovery and developing pre-disaster recovery and hazard mitigation plans, in coordination with the Federal Emergency Management Agency and other Federal agencies.

Other responsibilities listed in the text:

- Subsection(d)(e)(1) HUD shall review CDBG-DR grantees on an annual basis as necessary to determine whether a grantee has –
  - Carried out activities using grant funds in a timely manner.
  - Met the performance targets established by paragraph (e)(2). *[see next section]*
  - Carried out activities using grant funds in accordance with the requirements of this section, the other provisions of this title that apply to assistance under this section, and other applicable laws; and
  - A continuing capacity to carry out activities in a timely manner.
- (e)(4)(c) On an annual basis, HUD shall post a public facing dashboard summary status reports for all active CDBG-DR grants. The dashboards must include –
  - The status of funds by activity.
  - The percentages of funds allocated and expended to benefit low- and moderate-income communities.
  - Performance targets, spending thresholds, and accomplishments.
  - Other information the Secretary determines to be relevant for transparency.
- (i)(1) HUD can issue waivers or alternative requirements except for requirements related to fair housing, non-discrimination, labor standards, the environment, etc.

<u>Subsection (f): Coordination of Disaster Recovery Assistance, Benefits, and Data with Other Federal Agencies</u>

Subsection (f) requires HUD to coordinate disaster recovery assistance, benefits, and data with other Federal agencies in the following ways:

- Coordinate with FEMA to the greatest extent practicable in the implementation of the CDBG-DR program (as authorized).
- Establish data sharing agreements that safeguard privacy with relevant Federal agencies to ensure disaster benefits effectively and efficiently reach intended beneficiaries.
- FEMA and SBA shall provide data on disaster applicants to HUD for all Presidentially declared “major” disasters, including, when necessary:
  - Personally identifiable information
  - Disaster recovery needs

    - Resources determined eligible for
    - Amounts expended
- Data Transfers from HUD to HUD Grantees – HUD is permitted to provide relevant data (including from FEMA and SBA) to:
    - CDBG-DR grantees
    - Offices of HUD
    - Technical assistance providers
    - Lenders
- Data Transfers from HUD grantees to HUD, FEMA, and SBA
    - Grantees must report to HUD on requested information related to households, businesses, and other entities assisted / type of assistance
    - HUD must share this information with FEMA, SBA, and other Federal agencies
- There are some requirements around privacy protection.
    - HUD must enter an information sharing agreement / computer matching agreement when required by the Privacy Act of 1974 (agreement is with FEMA, SBA, or other Federal agencies)

STATUTORY AND REGUALATORY CHANGES

Color Coding Key

- Black text is for labeling or for statutory/regulatory text that will stay the same
- **Blue text** is for additions to existing statute/regulations
- ~~Red text~~ is for removals from existing statute/regulations

Subsection (b): Establishment of the Office of Disaster Management and Resiliency
Section 4 of the Department of Housing and Urban Development Act
42 U.S.C. 3533 – Officers of Department

(i) Office of Disaster Management and Resiliency. –

(1) Establishment. – There is established the Office of Disaster Management and Resiliency.

(2) Duties. – The Office of Disaster Management and Resiliency shall –

(A) be responsible for oversight and coordination of all departmental disaster preparedness and response responsibilities; and

(B) coordinate with the Federal Emergency Management Agency, the Small Business Administration, and other offices of the Department in supporting recovery and resilience activities to provide a comprehensive approach in working with communities.

Subsection (d): Establishment of CDBG Disaster Recovery Program
Title I of the Housing and Community Development Act of 1974
42 U.S.C. 5301 et seq. – Community Development

- Section 102(a) | 42 U.S.C. 5302(a) – General Provisions, Definitions

In paragraph (20)

(A) The terms "persons of low and moderate income…"
(B) The term "persons of extremely low income" means families and individuals whose income levels do not exceed household income levels determined by the Secretary under section 3(b)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(2)(C)), except that the Secretary may provide alternative definitions for the Commonwealth of Puerto Rico, Guam, the Commonwealth of the Northern Mariana Island, the United States Virgin Islands, and American Samoa.
~~(B)~~ **(C)** The Secretary may establish percentages of median income for any area that are higher or lower than the percentages set forth in subparagraph (A) **or (B),** if the Secretary finds such variations to be necessary because of unusually high or low family incomes in such area.

Addition of paragraph (25)
(25) The term "major disaster" has the meaning given the term in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122).

- Section 106(c)(4) | 42 U.S.C. 5306(C)(4) – Allocation and distribution of funds, Reallocation of undistributed funds within same metropolitan area as original allocation; amount and calculation of reallocation grant; disaster relief

In subparagraph (A)
(A) Notwithstanding paragraph (1), in the event of a major disaster ~~declared by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 4152 et seq.),~~ the Secretary shall make available, to **States for use in nonentitlement areas and to** metropolitan cities and urban counties located or partially located in the areas affected by the **major** disaster any amounts that become available as a result of actions under section 5304(e) or 5311 of this title.

In subparagraph (C)
(B) The Secretary may provide assistance to any **State,** metropolitan city**,** or urban county under this paragraph only to the extent necessary to meet emergency community development needs, as the Secretary shall determine (subject to subparagraph (D)), of the **State,** city**,** or county resulting from the **major** disaster that are not met with amounts otherwise provided under this chapter, the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), and other sources of assistance.

In subparagraph (D)
(D) Amounts provided to **States,** metropolitan cities**,** and urban counties under this paragraph…

In subparagraph (F)
(F) A **State,** metropolitan city**,** or urban county eligible for assistance under this paragraph may receive such assistance only in each of the fiscal years ending during the

3-year period beginning on the date of the declaration of the **major** disaster by the President.

In subparagraph (G)
(G) …when such amounts are to be reallocated under paragraph (1), no **State,** metropolitan city**,** or urban county qualifies for assistance under this paragraph.

- Section 122 | 42 U.S.C. 5321 – Suspension of requirements for disaster areas

For funds designated under this chapter by a recipient to address the damage in an area for which the President has declared a **major disaster,** ~~disaster under title IV of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170 et seq.),~~ the Secretary may suspend all requirements for purposes of assistance under section 5306 of this title for that area, except for those related to public notice…

- **Addition of Section 124 |** 42 U.S.C. 5324 – Community development block grant disaster recovery program

(a) Authorization, Formula, and Allocation. –

(1) Authorization – The Secretary is authorized to make community development block grant disaster recovery grants from the Long-Term Disaster Recovery Fund established under section 504(c) of the 21st Century ROAD to Housing Act (in this section referred to as the "Fund") for necessary expenses for activities authorized under subsection (f)(1) related to disaster relief, long-term recovery, restoration of housing and infrastructure, economic revitalization, and mitigation in the most impacted and distressed areas resulting from a catastrophic major disaster.

(2) Grant Awards – Grants shall be awarded under this section to States, units of general local government, and Indian tribes based on capacity and the concentration of damage, as determined by the Secretary, to support the efficient and effective administration of funds.

(3) Section 106 Allocations – Grants under this section shall not be considered relevant to the formula allocations made pursuant to section 106.

(4) Federal Register Notice –

(A) In General – Not later than 30 days after the date of enactment of this section, the Secretary shall issue a notice in the Federal Register containing the latest formula allocation methodologies used to determine the total estimate of unmet needs related to housing, economic revitalization, and infrastructure in the most impacted and distressed areas resulting from a catastrophic major disaster.
(B) Public Comment – If the Secretary has not already requested public comment on the formula described in the notice required by subparagraph (A), the Secretary shall solicit public comments on—

(i) the methodologies described in subparagraph (A) and seek alternative methods for formula allocation within a similar total amount of funding;
(ii) the impact of formula methodologies on rural areas and Tribal areas;
(iii) adjustments to improve targeting to the most serious needs;
(iv) objective criteria for grantee capacity and concentration of damage to inform grantee determinations and minimum allocation thresholds; and
(v) research and data to inform an additional amount to be provided for mitigation depending on type of disaster, which shall be up to 18 percent of the total estimate of unmet needs.

(5) Regulations –

(A) In General – The Secretary shall, by regulation, establish a formula to allocate assistance from the Fund to the most impacted and distressed areas resulting from a catastrophic major disaster.
(B) Formula Requirements – The formula established under subparagraph (A) shall –

(i) set forth criteria to determine that a major disaster is catastrophic, which criteria shall consider the presence of a high concentration of damaged housing or business that individual, State, Tribal, and local resources could not reasonably be expected to address without additional Federal assistance or other nationally encompassing data that he Secretary determines are adequate to assess relative impact and distress across geographic areas;
(ii) include a methodology for identifying most impacted and distressed areas, which shall consider unmet serious needs related to housing, economic revitalization, and infrastructure;
(iii) include an allocation calculation that considers the unmet serious needs resulting from the catastrophic major disaster and an additional amount up to 18 percent for activities to reduce risks of loss resulting from other natural disasters in the most impacted and distressed area, primarily for the benefit of low- and moderate-income persons, with particular focus on activities that reduce repetitive loss of property and critical infrastructure; and
(iv) establish objective criteria for periodic review and updates to the formula to reflect changes in available data.

(C) Minimum Allocation Threshold – The Secretary shall, by regulation, establish a minimum allocation threshold.
(D) Interim Allocation – Until such time that the Secretary issues final regulations under this paragraph, the Secretary shall –

(i) allocate assistance from the Fund using the formula allocation methodology published in accordance with paragraph (4); and
(ii) include an additional amount for mitigation of up to 18 percent of the total estimate of unmet need.

(6) Allocation of Funds –

(A) In General – The Secretary shall –

(i) except as provided in clause (ii), not later than 90 days after the President declares a major disaster, use the best available data to determine whether the major disaster is catastrophic and qualifies for assistance under the formula described in paragraph (4) or (5), unless data is insufficient to make this determination; and

(ii) if the best available data is insufficient to make the determination required under clause (i) within the 90-day period described in that clause, determine whether the major disaster qualifies when sufficient data becomes available, but in no case shall the Secretary make the determination later than 120 days after the declaration of the major disaster.

(B) Announcement of Allocation – If amounts are available in the Fund at the time the Secretary determines that the major disaster is catastrophic and qualifies for assistance under the formula described in paragraph (4) or (5), the Secretary shall immediately announce an allocation for a grant under this section.

(C) Additional Amounts – If additional amounts are appropriated to the Fund after amounts are allocated under subparagraph (B), the Secretary shall announce an allocation or additional allocation (if a prior allocation under subparagraph (B) was less than the formula calculation) within 15 days of any such appropriation.

(7) Preliminary Funding –

(A) In General – To speed recovery, the Secretary is authorized to allocate and award preliminary grants from the Fund before making a determination under paragraph (6)() if the Secretary projects, based on a preliminary assessment of impact and distress, that a major disaster is catastrophic and would likely qualify for funding under the formula described in paragraph (4) or (5).

(B) Amount –

(i) Maximum – The Secretary may award preliminary funding under subparagraph (A) in an amount that is not more than $5,000,000.

(ii) Sliding Scale – The Secretary shall, by regulation, establish a sliding scale for preliminary funding awarded under subparagraph (A) based on the size of the preliminary assessment of impact and distress.

(C) Use of Funds – The uses of preliminary funding awarded under subparagraph (A) shall be limited to eligible activities that –

(i) in the determination of the Secretary, will support faster recovery, improve the ability of the grantee to assess unmet recovery needs, plan for the prevention of improper payments, and reduce fraud, waster, and abuse; and

(ii) may include evaluating the interim housing, permanent housing, and supportive service needs of the disaster impacted community, with special attention to vulnerable populations, such as homeless and low- to moderate-income households, to inform the grantee action plan required under subsection (c).

(D) Consideration of Funding – Preliminary funded awarded under subparagraph (A) –

(i) is not subject to the certification requirements of subsection (h)(2); and

(ii) shall not be considered when calculating the amount of the grant used for administrative costs, technical assistance, and planning activities that are subject to the requirements under subsection (f)(3).

(E) Waiver – To expedite the use of preliminary funding for activities described in this paragraph, the Secretary may waive or specify alternative requirements to the requirements of this section in accordance with subsection (i).

(F) Amended Award –

(i) In General – An award for preliminary funding under subparagraph (A) may be amended to add any subsequent amount awarded because of a determination by the Secretary that a major disaster is catastrophic and qualifies for assistance under the formula.

(ii) Applicability – Notwithstanding subparagraph (D), amounts provided by an amendment under clause (i) are subject to the requirements under subsections (f)(1) and (h)(1) and other requirements on grant funds under this section.

(G) Technical Assistance – Concurrent with the allocation of any preliminary funding awarded under this paragraph, the Secretary shall assign or provide technical assistance to the recipient of the grant.

(b) Interchangeability

(1) In General – The Secretary is authorized to approve the use of grants under this section to be used interchangeably and without limitation for the same activities in the most impacted and distressed areas resulting from a declaration of another catastrophic major disaster that qualifies for assistance under the formula established under paragraph (4) or (5) of subsection (a) or a major disaster for which the Secretary allocated funds made available under the heading 'Community Development Fund' in any Act prior to the establishment of the Fund.

(2) Requirements – The Secretary shall establish requirements to expedite the use of grants under this section for the purpose described in paragraph (1).

(3) Emergency Designation – Amounts repurposed pursuant to this subsection that were previously designated by Congress as an emergency requirement pursuant to the Balance Budget and Emergency Deficit Control Act of 1985 or a concurrent resolution on the budget are designated by the Congress as being for an emergency requirement pursuant to section 4001(a)(1) of S. Con. Res. 14 (117^{th} Congress), the concurrent resolution on the budget for fiscal year 2022, and to legislation establishing fiscal year 2026 budget enforcement in the House of Representatives.

(c) Grantee Plans

(1) Requirement – Not later than 90 days after the date on which the Secretary announces a grant allocation under this section, unless an extension is granted by the Secretary, the grantee shall submit to the Secretary a plan for approval describing –

(A) the activities the grantee will carry out with the grant under this section;
(B) the criteria of the grantee for awarding assistance and selecting activities;
(C) how the use of the grant under this section will address disaster relief, long-term recovery, restoration of housing and infrastructure, economic revitalization, and mitigation in the most impacted and distressed areas;
(D) how the use of the grant funds for mitigation is consistent with hazard mitigation plans submitted to the Federal Emergency Management Agency under section 322 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5165);
(E) the estimated amount proposed to be used for activities that will benefit persons of low and moderate income;
(F) how the use of grant funds will repair and replace existing housing stock for vulnerable populations, including low- to moderate-income households;
(G) how the grantee will address the priorities described in paragraph (5);
(H) how uses of funds are proportional to unmet needs, as required under paragraph (6);
(I) for State grantees that plan to distribute grant amounts to units of general local government, a description of the method of distribution; and
(J) such other information as may be determined by the Secretary in regulation.

(2) Public Consultation – To permit public examination and appraisal of the plan described in paragraph (1), to enhance the public accountability of grantee, and to facilitate coordination of activities with different levels of government, when developing the plan or substantial amendments proposed to the plan required under paragraph (1), a grantee shall –

(A) publish the plan before adoption;
(B) provide citizens, affected units of general local government, and other interested parties with reasonable notice of, and opportunity to comment on, the plan, with a public comment period of not less than 14 days;
(C) consider comments received before submission to the Secretary;
(D) follow a citizen participation plan for disaster assistance adopted by the grantee that, at a minimum, provides for participation of residents in the most impacted and distressed area affected by the major disaster that resulted in the grant under this section and other considerations established by the Secretary;
(E) undertake any consultation with interested parties as may be determined by the Secretary in regulation.

(3) Approval – The Secretary shall –

(A) by regulation, specify criteria for the approval, partial approval, or disapproval of a plan submitted under paragraph (1), including approval of substantial amendments to the plan;

(B) review a plan submitted under paragraph (1) upon receipt of the plan;
(C) allow a grantee to revise and resubmit a plan or substantial amendment to a plan under paragraph (1) that the Secretary disapproves;
(D) by regulation, specify criteria for when the grantee shall be required to provide the required revisions to a disapproved plan or substantial amendment under paragraph (1) for public comment prior to resubmission of the plan or substantial amendment to the Secretary; and
(E) approve, partially approve, or disapprove a plan or substantial amendment under paragraph (1) not later than 60 days after the date on which the plan or substantial amendment is received by the Secretary.

(4) Low- and Moderate-Income Overall Benefit –
(A) Use of Funds – Not less than 70 percent of a grant made under this section shall be used for activities that benefit persons of low and moderate income unless the Secretary –
(i) specifically finds that –
(I) there is compelling need to reduce the percentage for the grant; and
(II) the housing needs of low- and moderate-income persons have been addressed; and
(ii) issues a waiver and alternative requirement specific to the grant pursuant to subsection (i) to lower the percentage.
(B) Regulations – The Secretary shall, by regulation, establish protocols that reflect the required use of funds under subparagraph (A), including persons with extremely and very low incomes.

(5) Prioritization – The grantee shall prioritize activities that –
(A) assist persons with extremely low-, low-, and moderate-incomes and other vulnerable populations to better recover from and withstand future disasters;
(B) address housing needs arising from a disaster, or those needs present prior to a disaster, including the needs of both renters and homeowners;
(C) prolong the life of housing and infrastructure;
(D) use cost-effective means of preventing harm to people and property and incorporate protective features and redundancies; and
(E) other measures that will assure the continuation of critical services during future disasters.

(6) Proportional Allocation – For each specific disaster, a grantee under this section shall allocate grant funds proportional to unmet needs between housing activities for renters and homeowners, economic revitalization, and infrastructure unless the Secretary specifically finds that –
(A) there is a compelling need for a disproportional allocation among those unmet needs; and
(B) the disproportional allocation described in subparagraph (A) is not inconsistent with the requirements under paragraph (4).

(7) Disaster Risk Mitigation –

(A) Definition – In this paragraph, the term “hazard-prone areas” –

(i) means areas identified by the Secretary, in consultation with the Administrator of the Federal Emergency Management Agency, at risk from natural hazards that threaten property damage or health, safety, and welfare, such as floods, wildfires (including Wildland-Urban Interface areas), earthquakes, lava inundation, tornadoes, and high winds; and

(ii) includes areas having special flood hazards as identified under the Flood Disaster Protection Act of 1973 (42 U.S.C 4002 et seq.) or the National Flood Insurance Act of 1968 (42 U.S.C 4001 et seq.).

(B) Hazard-Prone Areas – The Secretary, in consultation with the Administrator of the Federal Emergency Management Agency, shall establish minimum construction standards, insurance purchase requirements, and other requirements for the use of grant funds in hazard-prone areas.

(C) Special Flood Hazards –

(i) In General – For the areas described in subparagraph (A)(ii), the insurance purchase requirements established under subparagraph (B) shall meet or exceed the requirements under section 102(a) of the Flood Disaster Protection Act o f1973 (42 U.S.C. 4012a(a)).

(ii) Treatment as Financial Assistance – All grants under this section shall be treated as financial assistance for purposes of section 3(a)(3) of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4003(a)(3)).

(D) Consideration of Future Risks – The Secretary may consider future risks to protecting property and health, safety, and general welfare, and the likelihood of these risks, when making the determination of or modification to hazard-prone areas under this paragraph.

(8) Relocation –

(A) In General – The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.) shall apply to activities assisted under this section to the extent determined by the Secretary in regulation, or as provided in waivers or alternative requirements authorized in accordance with subsection (i).

(B) Policy – Each grantee under this section shall establish a relocation assistance policy that –

(i) minimizes displacement and describes the benefits available to persons displaced as a direct result of acquisition, rehabilitation, or demolition in connection with an activity that is assisted by a grant under this section; and

(ii) includes any appeal rights or other requirements that the Secretary establishes by regulation.

(d) Certifications

Any grant under this section shall be made only if the grantee certifies to the satisfaction of the Secretary that –

(1) the grantee is in full compliance with the requirements under subsection (c)(2);

(2) for grants other than grants to Indian tribes, the grant will be conducted and administered in conformity with the Civil Rights Act of 1964 (42 U.S.C. 2000a et seq.) and the Fair Housing Act (42 U.S.C. 3601 et seq.);

(3) the projected use of funds has been developed to as to give maximum feasible priority to activities that will benefit recipient described in subsection (c)(4)(A) and activities described in subsection (c)(5), and may also include activities that are designed to aid in the prevention or elimination of slum and blight to support disaster recovery, meet other community development needs having a particular urgency because existing conditions post a serious and immediate threat to the health or welfare of the community where other financial resources are not available to meet such needs, and alleviate future threats to human populations, critical natural resources, and property that an analysis of hazards shows are likely to result from natural disasters in the future;

(4) the grant funds shall principally benefit persons of low- and moderate-income as described in subsection (c)(4)(A);

(5) for grants other than grants to Indian tribes, within 24 months of receiving a grant or at the time of its 3- or 5-year update, whichever is sooner, the grantee will review and make modifications to its non-disaster housing and community development plans and strategies required by subsections (c) and (m) of section 104 to reflect the disaster recovery needs identified by the grantee and consistency with the plan under subsection (c)(1);

(6) the grantee will not attempt to recover any capital costs of public improvements assisted in whole or part under this section by assessing any amount against properties owned and occupied by persons of low and moderate income, including any fee charged or assessment made as a condition of obtaining access to such public improvement, unless –

(A) funds received under this section are used to pay the proportion of such fee or assessment that relates to the capital costs of such public improvements that are financed from revenue sources other than under this chapter; or

(B) for purposes of assessing any amount against properties owned and occupied by persons of moderate income, the grantee certifies to the Secretary that the grantee lacks sufficient funds received under this section to comply with the requirements of subparagraph (A).

(7) the grantee will comply with the other provisions of this title that apply to assistance under this section and with other applicable laws;

(8) the grantee will follow a relocation assistance policy that includes any minimum requirements identified by the Secretary; and

(9) the grantee will adhere to construction standards, insurance purchase requirements, and other requirements for development in hazard-prone areas described in subsection (c)(7).

(e) Performance Reviews and Reporting

(1) In General – the Secretary shall, on not less frequently than an annual basis until the close-out of a particular grant allocation, make such reviews and audits as may be necessary or appropriate to determine whether a grantee under this section has –

(A) carried out activities using grant funds in a timely manner;

(B) met the performance targets established by paragraph (2);

(C) carried out activities using grant funds in accordance with the requirements of this section, the other provisions of this title that apply to assistance under this section, and other applicable laws; and

(D) a continuing capacity to carry out activities in a timely manner.

(2) Performance Targets – The Secretary shall develop and make publicly available critical performance targets for review, which shall include thresholds for each year from the date on which funds are obligated by the Secretary to the grantee until such time all funds have been expended.

(3) Failure to Meet Targets –

(A) Suspension – If a grantee under this section fails to meet 1 or more critical performance tartes under paragraph (2), the Secretary may temporarily suspend the grant.

(B) Performance Improvement Plan – If the Secretary suspends a grant under subparagraph (A), the Secretary shall provide to the grantee a performance improvement plan with the specific requirement needed to lift the suspension with a defined time period.

(C) Report – If a grantee fails to meet the spending thresholds established under paragraph (2), the grantee shall submit to the Secretary, the appropriate committees of Congress, and each member of Congress who represents a district or State of the grantee a written report identifying technical capacity, funding, or other Federal or State impediments affecting the ability of the grantee to meet the spending thresholds.

(4) Collection of Information and Reporting –

(A) Requirement to Report – A grantee under this section shall provide to the Secretary such information as the Secretary may determine necessary for adequate oversight of the grant program under this section.

(B) Public Availability – Subject to subparagraph (D), the Secretary shall make information submitted under paragraph (A) available to the public and to the Inspector General for the Department of Housing and Urban Development.

(C) Summary Status Reports – To increase transparency and accountability of the grant program under this section, the Secretary shall, on not less frequently than an annual basis, post on a public facing dashboard summary status reports for all active grants under this section that includes –

(i) the status of funds by activity;

(ii) the percentages of funds allocated and expended to benefit low- and moderate-income communities;

(iii) performance targets, spending thresholds, and accomplishments; and

(iv) other information the Secretary determines to be relevant for transparency.

(D) Considerations – In carrying out this paragraph, the Secretary shall take such actions as may be necessary to ensure that personally identifiable information regarding applicants for assistance provided from funds made available under this section is not made publicly available.

(E) Research Partnerships –

(i) In General – The Secretary may, upon a formal request from researchers, make disaggregated information available to the requestor that is specific and relevant to the research being conducted, and for the purposes of researching program impact and efficacy.

(ii) Privacy Protections – In making information available under clause (i), the Secretary shall protect personally identifiable information as required under section 552a of title 5, United States Code (commonly known as the "Privacy Act of 1974").

(f) Eligible Activities

(1) In General – Activities assisted under this section –

(A) may include activities permitted under section 105 or other activities permitted by the Secretary by waiver or alternative requirement pursuant to subsection (i); and

(B) shall be related to disaster relief, long-term recovery, restoration of housing and infrastructure, economic revitalization, and mitigation in the most impacted and distressed areas resulting from the major disaster for which the grant was awarded.

(2) Prohibition – Grant funds under this section may not be used for costs reimbursable by, or for which funds have been made available by, the Federal Emergency Management Agency or the United States Army Corps of Engineers.

(3) Administrative Costs, Technical Assistance, and Planning –

(A) In General – The Secretary shall establish in regulation the maximum grant amounts a grantee may use for administrative costs, technical assistance, and planning activities, taking into consideration size of grant, complexity of recovery, and other factors as determined by the Secretary, but not to exceed 8 percent for administration and 20 percent in total.

(B) Availability – Amounts available for administrative costs for a grant under this section shall be available for eligible administrative costs of the grantee for any grant made under this section, without regard to a particular disaster.

(C) Supplemental Plan –

(i) In General – Grantees may submit to the Secretary an optional supplemental plan to the grantee plan required under this title specifically for administrative costs, which shall include a description of the use of all grant funds for administrative costs, including for any eligible pre-award program administrative costs, and how such uses will prepare the grantee to more effectively and expeditiously administer funds provided under the full plan.

(ii) Use of Funds – If a supplemental plan is approved under clause (i), a grantee may draw down the aforementioned administrative funds before the full grantee plan is approved.

(iii) Waivers – In carrying out this subparagraph, the Secretary may include any waivers or alternative requirements in accordance with subsection (i).

(4) Program Income – Notwithstanding any other provision of law, any grantee under this section may retain program income that is realized from grants made by the Secretary under this section if the grantee agrees that the grantee will utilize the program income in accordance with the requirements for grants under this section, except that the Secretary may –

(A) by regulation, exclude from consideration as program income any amounts determined to be so small that compliance with this paragraph creates an unreasonable administrative burden on the grantee; or

(B) permit the grantee to transfer remaining program income to other grants of the grantee under this title upon closeout of the grant.

(5) Prohibition on the Use of Assistance for Employment Relocation Activities –

(A) In General – Grants under this section may not be used to assist directly in the relocation of any industrial or commercial plant, facility, or operation, from one area to another area, if the relocation is likely to result in a significant loss of employment in the labor market area from which the relocation occurs.

(B) Applicability – The prohibition under subparagraph (A) shall not apply to a business that was operating in the disaster-declared labor market area before the incident date of the applicable disaster and has since moved, in whole or in part, from the affected area to another State or to a labor market area within the same State to continue business.

(6) Requirements – Grants under this section are subject to the requirements of this section, the other provisions of this title that apply to assistance under this section, and other applicable laws, unless modified by waivers or alternative requirements in accordance with subsection (i).

(g) Environmental Review

(1) Adoption – A recipient of funds provided under this section that uses the funds to supplement federal assistance provided under section 203, 402, 403, 404, 406, 407, 408(c)(4), 428, or 502 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170a, 5170b, 5170c, 5172, 5173, 5174(c)(4), 5189f, 5192) may adopt, without review or public comment, any environmental review, approval, or permit performed by a Federal agency, and such adoption shall satisfy the responsibilities of the recipient with respect to such environmental review, approval, or permit performed by a Federal agency, and such adoption shall satisfy the responsibilities of the recipient with respect to such environmental review, approval, or permit under section 104(g)(1), so long as the actions covered by the existing environmental review, approval, or permit and the actions proposed for these supplemental funds are substantially the same.

(2) Approval of Release of Funds – Notwithstanding section 104(g)(2), the Secretary or a State may, upon receipt of a request for release of funds and certification, immediately approve the release of funds for an activity or project to be assisted under this section if the recipient has adopted an environmental review, approval, or permit under paragraph (1) or the activity or project is categorically excluded from review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(3) Units of General Local Government – The provisions of section 104(g)(4) shall apply to assistance under this section that a State distributes to a unit of general local government.

(h) Financial Controls and Procedures

(1) In General – The Secretary shall develop requirements and procedures to demonstrate that a grantee under this section -

(A) has adequate financial controls and procurement processes;

(B) has adequate procedures to detect and prevent fraud, waste, abuse, and duplication of benefit; and

(C) maintains a comprehensive and publicly accessible website.

(2) Certification – Before making a grant under this section, the Secretary shall certify that the grantee has in place proficient processes and procedures to comply with the requirements developed under paragraph (1), as determined by the Secretary.

(3) Compliance Before Allocation – The Secretary may permit a State, unit of general local government, or Indian tribe to demonstrate compliance with the requirements for adequate financial controls developed under paragraph (1) before a disaster occurs and before receiving an allocation for a grant under this section.

(4) Duplication of Benefits –

(A) In General – Funds made available under this section shall be used in accordance with section 312 of the Robert T. Stafford Disaster Relief and

Emergency Assistance Act (42 U.S.C. 5155) and such rules as may be prescribed under such section 312.

(B) Penalties – In any case in which use of grant funds under this section results in a prohibited duplication of benefits, the grantee shall –

(i) apply an amount equal to the identified duplication to any allowable costs of the award consistent with an actual, immediate cash requirement;

(ii) remit any excess amounts to the Secretary to be credited to the obligated, undisbursed balance of the grant consistent with requirements on Federal payments applicable to such grantee; and

(iii) if excess amounts under clause (ii) are identified after the period of performance or after the closeout of the award, remit such amounts to the Secretary to be credited to the Fund.

(C) Failure to Comply – Any grantee provided funds under this section or from prior appropriations Acts under the heading "Community Development Fund" for purposes related to major disasters that fails to comply with section 312 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5155) or fails to satisfy penalties to resolve a duplication of benefits shall be subject to remedies for noncompliance under section 111, unless the Secretary publishes a determination in the Federal Register that it is not in the best interest of the Federal Government to pursue remedial actions.

(i) Waivers and Alternative Requirements

(1) In General – In administering grants under this section, the Secretary may waive, or specify alternative requirements for, any provision of any statute or regulation that the Secretary administers in connection with the obligation by the Secretary or the use by the grantee of those funds (except for requirements related to fair housing, non-discrimination, labor standards, the environment, and the requirements of this section that do not expressly authorize modifications by waiver or alternative requirement), if the Secretary makes a public finding that good cause exists for the waiver or alternative requirement.

(2) Effective Date – A waiver or alternative requirements described in paragraph (1) shall not take effect before the date that is 5 days after the date of publication of the waiver or alternative requirement on the website of the Department of Housing and Urban Development or the effective date for nay regulation published in the Federal Register.

(3) Public Notification – The Secretary shall notify the public of all waivers or alternative requirements described in paragraph (1) in accordance with the requirements of section 7(q)(3) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(q)(3)).

(j) Unused Amounts

(1) Deadline to Use Amounts – A grantee under this section shall use an amount equal to the grant within 6 years beginning on the date on which the Secretary obligates the amounts to the grantee, as such period may be extended under paragraph (4).

(2) Recapture – The Secretary shall recapture and credit to the Fund any amount that is unused by a grantee under this section upon the earlier of –

(A) the date on which the grantee notifies the Secretary that the grantee has completed all activities identified in the disaster grantee's plan under subsection (c); or

(B) the expiration of the 6-year period described in paragraph (1), as such period may be extended under paragraph (4).

(3) Retention of Funds – Notwithstanding paragraph (1), the Secretary –

(A) shall allow a grantee under this section to retain amounts needed to close out grants; and

(B) may allow a grantee under this section to retain up to 10 precent of the remaining funds to support maintenance of the minimal capacity to launch a new program in the event of a future disaster and to support pre-disaster long-term recovery and mitigation planning.

(4) Extension of Period for Use of Funds – The Secretary may extend the 6-year period described in paragraph (1) by not more than 4 years, or not more than 6 years for mitigation activities if –

(A) the grantee submits to the Secretary –

(i) written documentation of the exigent circumstances impacting the ability of the grantee to expend funds that could not be anticipated; or

(ii) a justification that such request is necessary due to the nature and complexity of the program and projects; and

(B) The Secretary submits a written justification for the extension to the Committee on Appropriations and the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Appropriations and the Committee on Financial Services of the House of Representatives that specifies the period of that extension.

(k) Definition – In this section, the term "Indian tribe" has the meaning given the term in section 4 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4103).