

July 2, 2018

The Honorable Ben Carson  
U.S. Department of Housing and Urban  
Development  
451 7th St SW  
Washington, DC 20410

The Honorable Pam Patenaude  
U.S. Department of Housing and Urban  
Development  
451 7th St SW  
Washington, DC 20410

To Secretary Carson and Deputy Secretary Patenaude,

On behalf of the Disaster Housing Recovery Coalition, I write to urge the U.S. Department of Housing and Urban Development (HUD) to ensure that the lowest income seniors, people with disabilities, families with children, people experiencing homelessness, and other survivors of the 2017 hurricanes and wildfires receive the Community Development Block Grant – Disaster Recovery (CDBG-DR) resources they need for a full recovery. In particular, we urge HUD to issue a Federal Register Notice (FRN) with robust transparency and accountability requirements to help states and local communities more effectively administer disaster recovery programs.

DHRC is led by the National Low Income Housing Coalition and includes more than 700 national, state, and local organizations, including many organizations working directly with disaster-impacted communities and with first-hand experience recovering after disasters. We work to ensure that federal disaster recovery efforts reach all impacted households, including those with the lowest incomes who are often the hardest-hit by disasters and have the fewest resources to recover afterwards.

CDBG-DR plays a critical role in addressing the needs of low and moderate income disaster survivors and their communities. While CDBG-DR is one of the only recovery tools available to help low income families and communities recover after a disaster, these scarce resources have too often been diverted away from the people and communities that face the greatest recovery needs and for whom the program was designed to serve.

Below is a comprehensive set of recommendations on ways to improve HUD's FRN to ensure robust data and reporting transparency, an effective and equitable allocation limited resources, and critical oversight and accountability of federal dollars.

I look forward to discussing these issues in more detail with you or your staff.

Sincerely,



Diane Yentel  
President and CEO  
National Low Income Housing Coalition

CC: General Deputy Assistant Secretary Cliff Taffet  
Assistant Secretary for Fair Housing and Equal Opportunity Maria Farias  
Assistant Secretary for Community Planning and Development Neal Rackleff  
Deputy Assistant Secretary for Grant Programs Stan Gimont

## ***Recommendations to Improve Transparency, Accountability, and Equitable Allocation of Resources in HUD's Federal Register Notice***

The Disaster Housing Recovery Coalition (DHRC) urges the U.S. Department of Housing and Urban Development (HUD) to issue a Federal Register Notice (FRN) of CDBG-DR funds to ensure data transparency, an effective and equitable allocation limited resources, and critical oversight and accountability of federal dollars. By including the following recommendations in its FRN, HUD can best ensure that federal disaster recovery dollars reach all impacted households, including those with the lowest incomes who are often the hardest hit and have the fewest resources to recover afterwards.

### **Efficient Use of Limited Resources**

DHRC strongly supports HUD's decision to maintain the current requirement that 70% of CDBG-DR investments benefit people with low and moderate incomes (LMI). CDBG-DR is one of the only recovery tools available to help the lowest income families and communities recover after a disaster and it should be prioritized to serve those households with the greatest needs. Below are recommendations that HUD can include in its FNR to help achieve this desired outcome.

#### **Monitoring LMI Benefit**

States and subgrantees should report and make public information key data to help HUD and other stakeholders ensure that the requirement to serve LMI households is met. To this end, HUD should include guidance in its FRN to help states and subgrantees monitor the LMI benefit across the disaster area for housing and infrastructure activities. Such guidance should include an outreach plan to make LMI households aware of the available programs, as well as identification of barriers and strategies to overcome those barriers (e.g. title issues, access to technology).

The FRN should also require states and subgrantees to report key data about how the jurisdiction is meeting the requirement for LMI benefits, including the value of the assistance provided, the number of LMI and non-LMI applicants, whether an applicant was approved or rejected, and completed projects (e.g. home repair or reconstruction) for each program administered by the state or subgrantee. This data should be reported on a publicly access website on a monthly basis and provided at a granular basis to enable meaningful analysis.

For each project that does not provide an individual benefit, including infrastructure or mitigation projects, the state and subgrantees should be required to report on the amount of assistance provided and whether the project has been determined to principally benefit LMI persons and the basis for making this determination. This data should also be reported on a publicly access website on a monthly basis and provided at a granular basis to enable meaningful analysis.

The data reported by states and subgrantees should be tabulated and the cumulative percentage of LMI benefit for the state and each subgrantee should be updated monthly on the website.

### Prioritization of LMI Projects

In order to ensure required percentages of LMI beneficiaries are assisted, the FRN should direct states and subgrantees to target resources to ensure that all LMI groups are adequately served, rather than accepting projects on a first come, first served basis.

For example:

Priority 1: Unmet housing needs of owner and renter households with incomes below 50% MFI;

Priority 2: Unmet housing needs of owner and renter households with incomes between 51% - 80% MFI;

Priority 3: Critical storm water and flood control in neighborhoods with more than 50% population below 50% MFI;

Priority 4: Critical storm water and flood control in neighborhoods with more than 50% population between 51% - 80% MFI;

Priority 5: All other unmet housing needs;

Priority 6: Addressing critical storm water and flood control in all other neighborhoods.

### Coordination Across Grantee Jurisdictions

It is important that all jurisdictions provide roughly equivalent housing assistance benefits and eligibility. As such, HUD's FRN should establish uniform housing guidelines and a baseline benefit level across all jurisdictions. Moreover, the FRN should provide guidance on what information local subrecipients must include in their project applications and the data they must report regarding progress.

Certain statewide criteria should be developed governing all housing programs to be carried out with CDBG-DR and other federal disaster recovery funds. These guidelines must include:

- A list of eligible housing program activities (including appropriate relocation and buyout activities) from which recipients may select housing programs that they will offer.
- The cost and benefit criteria for each housing program.
- The program participant eligibility and qualification criteria for each housing program.
- Minimum housing quality standards for housing funded with disaster recovery funds.
- The priority factors that recipients must consider in administering their overall housing program, including prioritization for persons at various income levels, persons with special needs, and relocation programs.
- A plan to collect, maintain, report and analyze data on disaster survivors with unmet housing needs and their characteristics as members of a class of persons protected under the Fair Housing Act.
- An evaluation of the income levels of disaster survivors with unmet housing needs and the establishment of reasonable guidelines to ensure that the housing needs of low-, very low and extremely low-income households are assisted with housing in no less than the proportion to their relative percentages of the overall populations which suffered housing damage within the community being served by the Program.
- Appropriate outreach and public awareness measures for housing programs.
- The recommendations will provide and allow for objectively determined regional adjustments for these criteria to reflect differences in the costs of delivery for benefits and the economic profile of local target population.

## Programs and Activities

States and subgrantees should report and make public information key data on programs and activities to help HUD and other stakeholders ensure that CDBG-DR dollars are reaching all impacted households.

For every program activity, the FRN should require states and subgrantees to collect on an ongoing basis and update monthly on a publicly accessible website the following information: the administering entity (grantee or subrecipient name); the address of the activity; the amount allocated/budget for the activity; the amount expended for the activity as of date of data report; the number of units assisted (if applicable); and the percentage of the overall activity completed.

For each activity requiring a direct application by an individual or a non-institutional entity, the FRN should require states and subgrantees to collect on an ongoing basis and update monthly on a publicly accessible website the following information: the applicant's household income; that income as a percentage of area median income (AMI) as defined by HUD; the race and ethnicity of the head of household; the household's familial status (including children or elderly household members present); and whether any member of the household has a disability.

For each activity providing housing or housing assistance that is not directly linked to a specific beneficiary, the FRN should require states and subgrantees to collect on an ongoing basis and update monthly on a publicly accessible website the following information: the cost of the housing unit to the applicant and to the occupant; the maximum qualifying household income as a percentage of AMI as defined by HUD for each housing units; any restrictions regarding age or familial status; any restrictions on the use of Housing Choice Vouchers for rent; any accessibility accommodations for those with disabilities; and the number of accessible units; and the number of units compliant with the *Americans with Disabilities Act*.

For each non-housing activity that is identified as principally benefitting low- and moderate income households, the FRN should require states and subgrantees to collect on an ongoing basis and update monthly on a publicly accessible website the following information: a description detailing the methodology used for the LMI benefit determination sufficient to permit verification of that determination; and a detailed geographic description of the methodology used to determine the households and area benefited with the census geographies used to make the determination.

## Needs Assessments

HUD Needs Assessment Guidance should make clear the expectations of grantees. For example, any methodology HUD uses in a FRN for the purpose of allocating CDBG-DR funds must not underestimate LMI recovery needs as it has in the February 9, 2018 notice.

The utilization of singular FEMA-Verified Loss (FVL) thresholds to determine unmet needs for all income groups is flawed because, on average, FVL estimates are lowest for VLI households (<30% AMFI) and increase as income increases. The result is that unmet needs for LMI households--the very households the CDBG program is to primarily benefit -- is grossly underestimated and any funding request from HUD to Congress will be too low. This is also problematic because grantees may be inclined to utilize a similar unmet needs methodology in their Action Plans.

HUD must provide more explicit guidance to grantees for developing a proper needs assessment methodology. If FEMA data is to be utilized, then HUD should have a clear understanding of any limitations, caveats, or other issues with the data that grantees need to be aware of. It must be made clearer that HUD does not prescribe needs assessment methodologies to grantees and that grantees are to employ such a methodology in a way that accurately estimates needs for all LMI groups.

Household incomes of those with unmet needs must be appropriately considered when HUD and its grantees estimate funding needed to address unmet rental housing needs. Any methodology used, recommended, or prescribed by HUD must consider the cost to subsidize rental housing for LMI households for a sufficient period (at least 40 years) that are needed based on the income of those affected (based presumably on those determined to have unmet need according to HUD analysis of FEMA data). These incomes and the related affordability levels should be reflected in the standards for multifamily project selection.

Information on displaced HUD-subsidized housing residents must be made readily available quickly to grantees to be used in any short-term and long-term recovery plans and activities. This information should include information on damage, needed repairs, relocations (needs, status, and location), impacted people with disabilities, elderly residents, the homeless and children aging out of foster care - in other words, vulnerable populations that are more likely to face challenges in recovery.

### *Multifamily Housing Projects*

HUD's FRN should include standards for multifamily housing project selection.

For example, LMI group targeting requirements for multi-family projects employed by a grantee and its subgrantees must be clear and must correspond to the income of those renters found to have unmet need as described in a grantee's or subgrantee's needs assessment.

The FRN should prohibit any beneficiary from discriminating on the basis of source of income. Any landlord receiving CDBG-DR assistance must enter into a legally-binding contract affirming that they will accept HUD Housing Choice Vouchers.

Site inspections should be required to ensure ADA compliance of all housing units funded with CDBG-DR funds.

## **Compliance with Fair Housing and Civil Rights Obligations**

### *Fair Housing Compliance*

Low income communities and communities of color are often the hardest hit by disasters. Because low income communities and communities of color often have not received equal investment in basic public infrastructure and services, they are often the hardest hit by disasters. CDBG-DR can play a critical role in helping to address this inequity by ensuring that states and subgrantees allocate resources in compliance with federal and state fair housing obligations.

HUD's FRN should require states to submit a credible plan for how it will comply with federal and state fair housing obligations, including their obligation to affirmatively further fair housing (AFFH). At a minimum, a credible plan should include, for each activity funded with CDBG-DR dollars: a description of how the project is consistent with the grantee's fair housing obligations; actions that will be undertaken to ensure consistency with their fair housing obligations; how the state will ensure that decisions about relocation and mitigation are made equitable; impediments to fair housing for each program undertaken; impediments identified in a state and grantee's compliant Analysis of Impediments and any relevant actions to overcome these impediments; and any actions the state and grantee have taken to comply with any HUD Voluntary Compliance Agreement.

To ensure that states and subgrantees are undertaking residential anti-displacement and relocation activity, the FRN should require states and subgrantees to collect on an ongoing basis and update monthly on a publicly accessible website the following information: residential anti-displacement plans and data collected pursuant to such plans; outreach and relocation plans; a statement of the activities, budgeted and expended resources used to provide counseling and other services in furtherance of the Plan, including a description of activities to provide beneficiaries with counseling on options to move to neighborhoods with access to good schools and are outside areas subject to environmental hazards, be they natural or man-made (i.e. pollution from refineries) and to replace subsidized housing in areas of opportunity.

### *Civil Rights Compliance*

HUD's FRN should require states and subgrantees to collect data disaggregated by race and geography on all disaster recovery efforts. Data should include all protected classes covered by the *Stafford Act*, the *Americans with Disabilities Act*, *Fair Housing Act*, *Title VI*, and other civil rights protections, including, but not limited to: race, national origin (including limited English proficiency), income and economic status, age, disability, and gender. This data should also be collected on an ongoing basis, updated monthly on the grantee's public website, and provided at a granular basis to enable meaningful analysis.

For each program activity providing a direct individual benefit, the FRN should require states and subgrantees to collect on an ongoing basis and update monthly on a publicly accessible website the following information: a spreadsheet, with data separated by housing activity or program, providing on a single line for each program applicant: demographics of the applicant indicating their status and the status of other members of their households as each protected class; household income as a percentage of the AMI; census block group number of applicant's residence on the date of the disaster; census block group where the benefits (home repair, reconstruction, buyout, relocation, etc.) will be provided; date of reaching each stage in the

program (application, approval, rejection, withdrawal, pending approval or processing, project under way, project complete); and the value of assistance provided.

## **Job Opportunities and Procurement Processes**

### **Local Job Creation**

To help stimulate local economies and ensure that low income communities are built back stronger, the FRN should encourage job training and employment opportunities for low income residents and contract opportunities for small businesses in connection with projects and activities in their neighborhoods through Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. § 1701).

To this end, the FRN should require states and subgrantees to collect on an ongoing basis and update monthly on a publicly accessible website the following information: Section 3 Plan for the State and each subgrantee or recipient; hiring/contracting goals; data presenting current levels of attainment of the goals; current list of all contractors with contact information hiring/contracting goals and current attainment of goals; and current job announcements and application procedures for all Section 3 covered entities.

Moreover, states and subgrantees should collect on an ongoing basis and update monthly on a publicly accessible website the following information:

### **Procurement Processes**

All states and subgrantees should also be required to collect on an ongoing basis and update monthly on a publicly accessible website the following information: the full and unredacted copies of all requests for qualification or procurement, however styled, the identify of applicants and minority-owned business enterprises and women-owned business enterprises, all responses to such requests, the identity of any entity that reviews, evaluates, scores or otherwise influences or decides which respondent is chosen, the reports, however styled, containing the reviewing entity's scores, findings and conclusions, the resulting contract, agreement, or other disposition of the grantees' requests, and performance benchmarks and timelines. Making this information available to the public adds another layer of oversight.