

**Summary of Presentation by Career Staff**  
**HUD's Office of Community Planning and Development (CPD)**  
**CDBG-CV Guidance**  
**NLIHC DHRC National Coronavirus, Housing and Homelessness Call**  
**July 27**

NLIHC's DHRC National Coronavirus, Housing and Homelessness Call on July 27 featured two senior career staff members of HUD's Office of Community Planning and Development (CPD), Janet Golrick, Acting Deputy Assistant Secretary for Grant Programs, and Jessie Handforth Kome, Director of the Office of Block Grant Assistance. They discussed guidance regarding use of the \$5 billion supplemental Community Development Block Grant (CDBG-CV) funds provided by the CARES Act. The presentation centered on the "[CDBG COVID-19 Fact Sheet](#)," (July 10), the most recent guidance at the time. The following is a summary based on the presentation [recording](#). The CPD portion starts around minute 21 and goes to around minute 47.

\$1 billion of the \$5 billion in CDBG-CV supplemental funding "is obligated and in the hands of grantees". [NLIHC: Recall that the first "tranche" of \$1 billion was allocated on April 1, and a second \$1 billion "tranche" was allocated on May 11.]

CPD staff are looking at jurisdictions' amended Annual Action Plans [to reflect CDBG-CV proposed uses] and approving them as expeditiously as possible.

Some grantees are waiting for a *Federal Register* notice to be published before making amended Annual Action Plans. But that is not required. Grantees can issue their proposed amended Annual Action Plans, have virtual or in-person hearings with public review and comment [with at least five days for review and comment], and submit their plans for CPD review and approval. [NLIHC: An April 9 CPD Memorandum stated this, [CARES Act Flexibilities for CDBG Funds Used to Support Coronavirus Response](#) ]

CPD has implemented a communications strategy to ensure *all* [CPD stressed "all"] of our stakeholders are kept informed of key program developments, can ask questions, and can bring issues to the attention of CPD.

[NLIHC: An email address to raise questions and pass along issues to CPD is [CPDQuestionsAnswered@hud.gov](mailto:CPDQuestionsAnswered@hud.gov), but it is not prominently displayed on CPD's COVID-19 website.]

This strategy includes participating regularly in stakeholder webinars and providing significant technical assistance to ensure information is getting to all stakeholders.

[NLIHC fears that the "stakeholders" are primarily grantees, and perhaps some of the members of the CDBG Coalition (e.g. Enterprise Community Partners, National Community Development Association, etc.) NLIHC has asked to be alerted to any webinars that CPD leads.]

The "CDBG COVID-19 Fact Sheet" ([CDBG-CV COVID-19 FAQs](#)) dated July 10 [see also *Memo, 7/20*] is the first in a series of coming FAQs. [NLIHC: CPD added [Memorandum: CDBG Coronavirus Response Grantee Resources Related to Preventing Duplication of Benefits](#) on July 13.]

## Duplication of Benefits (DOB)

Referring to “CDBG COVID-19 Fact Sheet”, CPD said some DOB guidance begins with Q7, which defines DOB.

Some grantees have asked CPD, “If a grantee uses some of the \$150 billion Coronavirus Relief Fund (CRF) for an activity, does that mean the grantee can’t also use CDBG or ESG for that activity?” CPD replied, “**no** that is **not** what DOB means”. [around minute 27] It does mean you “**can’t pay for an unmet need twice**”. It is important to figure out what your needs are, and “**once costs are fully covered you can’t keep adding funding**”.

[NLIHC: These few sentences are clearer and more straightforward than the language in the Fact Sheet or Memorandum.]

Not only do grantees have the responsibility to prevent DOB, but do subgrantees and other entities that ultimately receive funding and administer activities. They all must have policies and procedures in place to prevent DOB. Grantees will have to monitor subgrantees, etc.

The Fact Sheet does not have examples [nor does the Memorandum], but the next technical assistance product will have examples.

CPD will be doing a lot more regarding DOB, such as more technical assistance tools and webinars. CDBG staff are working closely with ESG and HOPWA staff within CPD so that each program is giving the same DOB guidance.

## Emergency Rental Assistance and DOB [around minute 28.50]

When using CDBG-CV for emergency rental assistance, grantees/subgrantees have to check for DOB for each household. CPD will be providing clarification about this requirement.

Citing Q13, the Fact Sheet reiterates that grantees may use CDBG-CV, as well as FY19 and FY20 regular CDBG funds for emergency rental assistance. [see also *Memo*, [7/20](#)]

CPD has heard requests to extend the amount of time emergency rental assistance can be provided to a household from three consecutive months to six months or more. [NLIHC has urged this several times] CPD responded, stating “an answer will be coming”.

Covering Rent Arrearages [around minute 38]

NLIHC asked about using CDBG-CV to pay for rent arrearages. The Fact Sheet is silent.

CPD replied that the “problem” with rent arrears is that the issue is “case-dependent”, therefore CPD has not found a crystal clear way of providing guidance.

A grantee would have to demonstrate that the arrearage was due to the pandemic, from months after a public health emergency was declared by a local authority, and that major employment centers had to close.

A grantee’s program can’t be designed to keep anybody from being put on the street. [NLIHC: Implying that it has to be pandemic related, which the CARES Act requires for CDBG-CV.]

Some of the cases CPD has been asked about have been for arrearages that pre-date January. [NLIHC: For “regular” CDBG, rental assistance must be used for “emergency” situations, so simply providing three months for arrearages going back to before January would not necessarily be addressing an “emergency” because presumably a household is still living in a home, just owning back rent and not under immediate threat of eviction in a pandemic.]

Arrearage is probably allowable if it is from March onward. Nonetheless, CPD still has some policy questions; CPD wants to make sure a grantee is designing their program so that the household doesn’t begin to start accruing arrears again when there is not a moratorium.

CPD does not have a policy on arrears, one way or the other at this point. CPD will probably be answering the question one case at a time.

[NLIHC urged CPD to not leave the fate of a request to use CDBG-CV for arrears up to a grantee on such a case-by-case basis. NLIHC suggested that it would be helpful for advocates and residents to have the issues and concerns expressed by CPD explained in a future FAQ. That way the issue and the complex concerns CPD has will be widely known by advocates, residents, and others in the public. Advocates and non-grantees need to know the option exists and are not dependent solely on the grantee (that might not even want to pursue emergency rental assistance). With the information more widely available in an FAQ, advocates can press their grantee (staff and elected officials) to actively consider proposing using CDBG-CV for emergency rental assistance.]

CPD replied that arrearages might be queued up in one of the forthcoming FAQ documents. Again, the concern would be whether the program is just paying arrears, or if it is a public service intended to prevent people from being put on the street during a pandemic.

## Emergency Utility Payments

[NLIHC: Regular CDBG regulations allow a grantee to cover up to three months of utility payments in an emergency (like rental assistance).]

CPD said emergency utility payments are “tricky” because a lot of utilities are publicly owned, so a grantee would essentially be paying itself.

[NLIHC did not challenge this due to time constraints. However, afterwards, an email was sent suggesting a different analysis:

“The comments CPD made on Monday regarding allowing the use of CDBG-CV for emergency utility payments because many utilities are publicly owned were perplexing.

The statute and regulations emphasize the word “general”, such as buildings for the **general** conduct of government, and **general** government expenses. Allowing a city to use CDBG to pay the utilities at City Hall for up to three months because tax revenues are down due to the pandemic would be contrary to the statute.

It is not clear how providing up to three months of utility assistance [admittedly to the government-owned utility] on behalf of a household in the midst of a pandemic rises to the level of “general government expense”. The ultimate beneficiary is the household keeping the lights on, the refrigerator running, and maybe the air conditioner humming in order to sustain health by remaining in one’s home in order to avoid being exposed to the coronavirus.

The logic of equating a publicly owned utility as a “general government expense” would bump up against the wide spread use of using CDBG to repave a city’s streets, repair or install sidewalks, install water and sewer facilities, etc.”

## Miscellaneous

### *CDBG National Objectives: Low/Mod Benefit, Urgent Need*

CPD is not waiving the statutory requirement that at least 70% of a jurisdiction's CDBG funds benefit "low- and moderate-income" households. [NLIHC: In CDBG, "moderate" is 80% AMI.]

[NLIHC: The CDBG statute requires that an activity meet one of three "National Objectives": benefiting low- and moderate-income households, prevent or eliminate slums and blight, or meet an "urgent need". "Slums and Blight" isn't applicable in a pandemic context. "Urgent Need" has been seldom used in CDBG history for a lot of reasons.]

CPD said a lot of jurisdictions wanted to use the "Urgent Need" national objective for the 30% of their CDBG-CV money that did not benefit low- and moderate-income households. While a pandemic is surely "urgent" and beyond a grantee's control and financial means, CPD is not sure how to address this. [also see Q14 in the Fact Sheet]

CPD simply said that CPD will be publishing a *Federal Register* notice that will provide additional waivers and will lay out all of the CARES Act requirements in one place.

### *Food Banks*

CPD will soon have tools about using CDBG-CV for food banks.  
[also see Q28 in the Fact Sheet]

### *FEMA*

CDBG-CV can be used to pay the 25% FEMA cost-share. [also see Q29 in the Fact Sheet] There is also an ESG guide on this topic, especially relevant because a lot of FEMA money has been used for non-congregate and homeless shelters. [NLIHC: Not sure, but maybe CPD is referring to

[Federal Funding Priority Order for Non-Congregate Shelter During COVID-19](#)]

### *Webinars*

NLIHC commented that both CPD had mentioned past and forthcoming webinars for "stakeholders". NLIHC had the impression that most of these were only known by grantees. So NLIHC said that advocates and residents would like to be able to attend future webinars. CPD "Absolutely".