



White Paper

# Decoding the Latest Single-Family Housing CDBG-DR Requirements

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## Highlights

- CDBG-DR grantees working to secure funds for single-family housing programs need to demonstrate a deep understanding of new requirements mandated by HUD.
- Grantees that work with homeowners on a consistent basis—community development departments, housing counseling organizations, non-profits, etc.—may not be aware of the different factors that distinguish post-disaster housing recovery efforts.
- This paper outlines new and updated requirements that affect program design and compliance.

## Executive Summary

After a disaster, local government agencies and non-profit organizations face an incredible challenge when it comes to preserving, protecting, and rehabilitating housing options for the citizens they serve. Organizations already working with single-family homeowners and renters to tackle issues like foreclosure, unfair evictions, and other challenges must now also follow a stringent, shifting, and complex landscape of Community Development Block Grants – Disaster Recovery (CDBG-DR) and Federal Emergency Management (FEMA) requirements. If local leaders don't have a firm understanding of those requirements, homeowners and renters may not receive the support and resources they need to fully recover.



In [FR-6066-N-01](#) published on February 9, 2018, the U.S. Department of Housing and Urban Development (HUD) announced requirements that affect the ways single-family housing programs need to be orchestrated and communicated by 2017 CDBG-DR grantees. To make sure you are designing and implementing compliant programs, read on to learn more about the latest single-family housing requirements.

## What construction related requirements have been put in place?

**Meet the Green Building Standard.** Through on-site inspections, grantees must confirm that all substantially damaged buildings receiving CDBG-DR repair/reconstruction or new construction assistance meet Green Building Standards or other industry-recognized standards (For a table comparing various industry standards, visit the Environmental Protection Agency's Smart Growth website at <https://www.epa.gov/smartgrowth/green-building-standards>). Grantees and subrecipients need to ensure that program guidelines, by extension, mandate construction standards that meet HUD requirements. For non-substantially damaged buildings, grantees must apply the guidelines of the HUD CPD Green Building Retrofit Checklist, found on HUD's website. If a project is already completed, underway, or under contract prior to HUD's approval of the grantee's action plan, grantees are encouraged but not required to apply Green Building Standards and/or install energy-efficient appliances.

**Elevation standards for new construction, repair of substantial damage, or substantial improvement.** As has been the case with previous allocations, substantial improvement of residential structures in flood hazard areas must be elevated with the lowest floor at least two feet above the available base flood elevation (ABFE). "Substantial improvement" is defined by FEMA at 44 CFR 59.1 as "any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which exceeds 50 percent of the pre-disaster market value of the structure". For instance, a home that was valued at \$200,000 prior to Hurricane Maria that needs estimated repairs of \$100,001 would trigger a substantial improvement.

**Resilient Home Construction Standard.** Though not a requirement, grantees are "strongly encouraged" to incorporate a Resilient Home Construction Standard into the rehabilitation, reconstruction, or new construction of its housing. The Federal Register Notice specifically cites the FORTIFIED Home™ standards, which has three levels: Bronze, Silver, and Gold. The FORTIFIED Bronze level provides standards for roof construction. The Silver level builds on the Bronze level by fortifying openings, such as windows and doors. The Gold level encompasses the first two levels and ensures that the entire building has a continuous load path, meaning that all parts are secured to the foundation. Obviously, FORTIFIED Gold is only feasible for new construction; however, since most reconstruction activities and many rehabilitation activities require replacement of roofs, doors, and windows, grantees should consider adopting FORTIFIED Home standards depending on the level of assistance.





## What else is new?

HUD incorporated several new requirements for 2017 CDBG-DR grantees to follow. The following topics do not relate to housing construction, but they have important ramifications for a grantee's housing program design. Grantees need to:

**Ensure elevation decisions are cost reasonable.** Grantee decisions to elevate structures in a neighborhood or local government must be cost reasonable relative to other alternatives, such as infrastructure improvements that mitigate flooding. Before grantees choose to stand up a housing rehabilitation program that will involve the costly elevation of hundreds or thousands of single-family homes, they must consider infrastructure improvement alternatives that can make elevation unnecessary. For example, if an entire neighborhood needs to be elevated, buyouts, a large drainage activity, or a floodwall may be a more cost-effective option. If such options exist, and the grantee still chooses the elevation approach, it must be able to justify the decision as cost reasonable.

**Incorporate subrogation agreements.** Subrogation agreements obligate homeowners to repay any further recovery assistance they receive after closing that is for the same purpose as their CDBG-DR award to the CDBG-DR grantee. Subrogation agreements have always been required for all beneficiary programs via the inclusion in each FR Notice of the requirement to follow [76 FR 71060](#) (commonly known as the Duplication of Benefits or DOB Notice). However, 83 FR 5844 is the first FR Notice to include specific language that must be included in a grantee's subrogation agreement with beneficiaries. Program policies and procedures should detail how the subrogation agreement will be enforced, and the subrogation terms should be explained to the beneficiary and signed at the same time as the grant agreement.

**Coordinate with HUD-approved<sup>1</sup> counseling organizations.** Grantees must coordinate with one of the over 2,000 HUD-approved housing counseling organizations. Housing counseling organizations can, among other things, assist with community outreach, help residents navigate the housing rehab/reconstruction process, find temporary alternative housing, and help households avoid contractor fraud. The use of HUD-certified housing counseling agencies should be incorporated to support the implementation of single-family rehabilitation, tenant-based rental assistance, buyout, and other housing programs.

**Clarify specific flood assistance guidelines.** New requirements mandate that grantees may only provide assistance for the rehabilitation or reconstruction of a house located in a floodplain if a) the homeowner had flood insurance at the time of the qualifying disaster and still has unmet recovery needs or b) the household earns less than the greater of 120% AMI of the national area median income and has unmet recovery needs. Further, in its action plan and program guidelines, the grantee needs to outline which income verification method will be used to determine eligibility. The income eligibility method adopted, IRS 1040 or Part 5, affects who is deemed eligible. HUD, in partnership with ICF, created an income eligibility calculator that covers both methods and can be found here: <https://www.hudexchange.info/incomecalculator/>.



<sup>1</sup> The FR Notice references "HUD-certified" but housing counseling agencies are "HUD-approved."

**Appropriately process applications from households that were approved for but declined SBA assistance.** There are many homeowners who qualified for SBA disaster loans but for one reason or another did not accept the loan. In those cases, CDBG-DR grantees are no longer required to document "hardship" and can provide CDBG-DR assistance to households so long as it does not duplicate other funding already received.

**Treatment of beneficiaries who were approved for but declined SBA assistance.** There are many homeowners who qualified for SBA disaster loans but for one reason or another did not accept the loan. In those cases, CDBG-DR grantees are no longer required to document "hardship" and can provide CDBG-DR assistance to households so long as it does not duplicate other funding already received.

### What are some other important considerations?

The following requirements may not necessarily be new to CDBG-DR grantees but stem from waivers of the regular CDBG program rules.

**Provide timely, transparent notification of application status.** All applicants must have access to and understand the status of their application throughout the entire project lifecycle. This means that grantees need to create systems such as web-based applications or develop procedures for case management through which applicants can immediately access their grant status. Grantees should consider using technology and web-based applications to provide applicants with immediate access to their grant status and/or develop procedures with clear timeframes for case managers to contact applicants for status updates.

**Develop a tiered approach to environmental reviews.** HUD strongly encourages grantees (as Responsible Entities) to develop a tiered approach to streamline the environmental review process for single-family housing programs. For instance, grantees could conduct a tier-one review to identify possible environmental issues within an entire area that was affected, and they could conduct a tier-two assessment of individual homes, businesses, or buildings as those sites are identified. This approach streamlines the environmental review process.

**Allow for interim mortgage assistance for up to 20 months.** Interim mortgage assistance can be provided for up to 20 months instead of up to three months as is traditionally allowed under the regular CDBG program. This allows grantees to develop either a stand-alone program or incorporate this assistance into their single-family housing rehab program. This flexibility helps affected households that may otherwise risk foreclosure stay in their homes. Program policies and procedures must outline how eligibility is determined and how the amount of the assistance provided is necessary and reasonable.

**Prohibit assistance to second homes.** Generally speaking, grantees cannot provide assistance to properties that served as second homes. However, HUD will consider exceptions and may allow a grantee to provide assistance to second home if, for example, it will create an affordable housing unit. Grantees need to work in consultation with and get approval from HUD before implementing any program that allows assistance for second homes.

## Understanding the Bigger CDBG-DR Picture

Being able to answer common CDBG-DR-related questions is critical for those designing a compliant, effective disaster recovery program.

But for grantees, compiling, decoding, and applying that information can be challenging and confusing. To that end, ICF has developed [Quick Guide to the CDBG-DR Federal Register Notice](#), a live Google spreadsheet that provides an easy way for CDBG-DR grantees and their partners to review and understand the FR notice that is applicable to their appropriation. Learn more at [ICF.com/markets/natural-disaster-recovery](https://www.icf.com/markets/natural-disaster-recovery).

## ICF Disaster Recovery Services

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We've been there—in states, cities, counties, and small-islands, in the United States and around the world—designing programs, setting up systems, building capacity, and developing policies and procedures to help communities tackle seemingly insurmountable challenges. Having worked with federal, state, and local government agencies for nearly every major natural disaster in recent U.S. history, we understand the social, economic, and cultural challenges these communities face.



## About the Authors



**Brandy Bones** (AICP, PMP) has 12 years of experience helping states and localities implement disaster recovery, neighborhood stabilization, and affordable homeownership and rental programs. She is an expert in the U.S. Department of Housing and Urban Development (HUD) Community Development Block Grant (CDBG), CDBG Disaster Recovery (CDBG-DR), HOME Investment Partnerships (HOME), Neighborhood Stabilization Program (NSP), and Choice Neighborhoods programs. Ms. Bones is experienced in program and project implementation, policy and procedures development, and data tracking, analysis, and reporting. Ms. Bones leads ICF's disaster recovery work with HUD and recently led the development of HUD's CDBG-DR Launch Toolkit and is working on a disaster preparedness and recovery toolkit for HUD's Office of Housing Counseling. She has designed disaster recovery programs in Louisiana, New Jersey, and Pennsylvania and is currently leading a HUD Technical Assistance engagement in the U.S. Virgin Islands.



**Steve Higginbotham** has 17 years of experience in the administration of HUD's Community Development Block Grant (CDBG) program. As a HUD senior community planning & development specialist, he provided technical assistance in the start-up and administration of every grantee in HUD's \$85 billion CDBG Disaster Recovery (CDBG-DR) portfolio and served as the lead grant manager for the states of Texas and New Jersey. Since 2015 Mr. Higginbotham has also led the team responsible for developing HUD's CDBG-DR policy guidance and issuing the Federal Register Notices that allocated CDBG-DR funds to program grantees. Prior to his disaster recovery work, Mr. Higginbotham served as a grant manager in HUD's State CDBG program, where he provided technical assistance to the Southwest border states (California, Arizona, New Mexico, and Texas) and Puerto Rico. He also authored a CPD Notice on combining CDBG and HOME program funds in colonias and the proposed rule for State CDBG administrative changes. Mr. Higginbotham also served nine years in the Army National Guard, with a deployment to Iraq in support of Operation: Iraqi Freedom.



**Sue Southon** is a development professional, trainer, and strategic planner with over 30 years of experience in community, economic development, and affordable housing production. She has managed several technical assistance engagements for the U.S. Department of Housing and Urban Development (HUD), where she provided senior expertise on program design, organizational structure and staffing requirements, budget development, regulatory compliance, and project underwriting. She has assisted major disaster recovery initiatives in Louisiana, New Jersey, and Pennsylvania to develop housing recovery programs,

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organizational structure, and staffing projections. She is recognized as a subject matter expert in redevelopment, program design, policies, procedures, document templates and checklists, and provision of technical assistance with regulatory issues. Ms. Southon garnered this expertise through years of working with states and localities where she served as a strategic adviser to local governments, community development organizations, and private developers. She served as a trainer for the International Economic Development Council (IEDC), Professional Certification Program, the Economic Development Institute, and the National Association of Workforce Boards.

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