



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-7000

OFFICE OF COMMUNITY PLANNING
AND DEVELOPMENT

MEMORANDUM FOR: The State of Washington for a Disaster Occurring in 2021
(Allocations announced in the May 2022 Notice and January 2023
Notice); Community Planning and Development Field Office
Directors, Deputy Directors, and Program Managers.

FROM: Bryan W. Horn, Acting Principal Deputy Assistant Secretary for
Community Planning and Development, D BRYAN HORN

SUBJECT: Low- and Moderate-Income (LMI) Benefit for Infrastructure
Projects (State of Washington only)

APPLICABILITY DATE: September 29, 2025

Digitally signed by: BRYAN HORN
DN: CN = BRYAN HORN C = US O = U.S.
Government OU = Department of Housing and
Urban Development, Office of Community
Planning and Development
Date: 2025.09.23 16:37:41 -0400

PURPOSE

This memorandum provides a waiver and alternative requirement, consistent with the Universal Notice, allowing the State of Washington to apply proportional infrastructure costs toward meeting the LMI overall benefit threshold in areas with less than 51 percent of LMI residents. This memorandum applies to the following CDBG-DR grant allocated to the State of Washington:

- 1) CDBG-DR allocation for a disaster occurring in 2021 funded by Pub. L. 117-43 (“the Appropriations Act”) and subject to the requirements published in the *Federal Register* at 87 FR 31636 on May 24, 2022, and 88 FR 3198 on January 18, 2023; and Memorandum 22-01 on December 7, 2022 (the “Prior Notices”).

WAIVER AND ALTERNATIVE REQUIREMENT AUTHORITY

With certain exceptions, the Appropriations Act cited above authorizes the Secretary to 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 use by the recipient, of grant funds. In particular, the Appropriations Act waiver and alternative requirement authority does not extend to requirements related to fair housing, nondiscrimination, labor standards, and the environment. The Department of Housing and Urban Development (HUD) (the “Department”) may also exercise regulatory waiver authority under 24 CFR 5.110, 91.600, and 570.5.

The Appropriations Act requires the Secretary to publish any waiver or alternative requirement either via the *Federal Register* or the Department’s website no later than five days before the effective date of such waiver or alternative requirement. HUD is exercising its authority to publish this memorandum on the Department’s website. [Click here to access:](#)

CDBG-DR Laws, Regulations, and Federal Register Notices.

The waiver and alternative requirement authorized in this memorandum is based upon a determination by the Secretary that good cause exists, and the waiver and alternative requirement is not inconsistent with the overall purposes of Title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.) (HCDA). The basis for the waiver and alternative requirement is summarized below.

Waiver and Alternative Requirement for Calculating LMI Benefit for Infrastructure Projects for Washington’s 2021 CDBG-DR Grant (State of Washington only)

Background

The Department received a request and justification of good cause from the State of Washington to waive the requirements at 24 CFR 570.484, as modified by the Prior Notices, to the extent necessary to allow for the proportional costs of infrastructure projects to count towards meeting the overall benefit requirement of primarily benefiting LMI persons in service areas that are less than 51 percent LMI. This waiver request aligns with requirements included in the notice titled *Common Application, Waivers, and Alternative Requirements for Community Development Block Grant Disaster Recovery Grantees: The Universal Notice*, published on January 8, 2025, at 90 FR 1754, as amended by Memorandums 25-02¹ and 25-03² (“The Universal Notice”). Allowing this waiver and alternative requirement for the State of Washington would allow the grantee to invest in large-scale infrastructure projects and report proportional LMI benefit.

The Prior Notices require projects that use the low- and moderate-income area (LMA) benefit national objective to adhere to the national objective criteria at 24 CFR 570.208(a)(1) and 24 CFR 570.483(b)(1), in which the benefits of an LMA activity must be available to all the residents in a particular area, and at least 51 percent of those residents must be LMI. However, large-scale infrastructure projects with a broad service area present a challenge for meeting the LMA national objective criteria because the benefit area is so large and may result in the LMI population being less than 51 percent. As such, many infrastructure projects funded by the State of Washington through the allocations under the Prior Notices required use of the Urgent Need national objective where the service area was less than 51 percent LMI. In those cases, the State could not count any of the funds expended for such projects towards its overall benefit requirement – even when LMI persons were located in the service area.

¹ Memorandum 25-02, “Revisions made to the Common Application, Waivers, and Alternative Requirements for Community Development Block Grant Disaster Recovery Grantees: The Universal Notice published in the Federal Register (90 FR 1754) and Clarifications to the Allocations for Community Development Block Grant Disaster Recovery and Implementation of the CDBG–DR Consolidated Waivers and Alternative Requirements Notice Published in the Federal Register (90 FR 4759),” published on March 19, 2025. Found at <https://www.hud.gov/sites/dfiles/CPD/documents/CPDUniversalnotice.pdf>

² Memorandum 25-03, “Revisions made to the Common Application, Waivers, and Alternative Requirements for Community Development Block Grant Disaster Recovery Grantees: The Universal Notice published in the Federal Register (90 FR 1754),” published on March 31, 2025. Found at <https://www.hud.gov/sites/default/files/CPD/documents/CDBG-DR/3-31-2025UniversalNoticeChangesMemo.pdf>

The Prior Notices also retain an overall benefit requirement. Specifically, for the State of Washington's CDBG-DR allocations under these notices, it must comply with the overall benefit requirements in the HCDA and 24 CFR 570.484, and 70 percent of funds must be used for activities that benefit LMI persons. Since grantees' infrastructure needs and investments may represent a significant portion of their total CDBG-DR allocation, grantees may not be able to meet the overall benefit requirement if their infrastructure activities can only meet the urgent need national objective.

The State of Washington has requested this waiver based on two key challenges to meeting the LMI national objective for infrastructure projects. First, while the State's planned infrastructure activities—such as storm-damaged sewer and water system repairs in the City of Sumas and surrounding areas—will benefit a significant number of LMI residents, the large service areas result in LMI populations falling just below the 51 percent threshold. Preliminary data shows these projects will benefit approximately 3,200 LMI individuals, or 48 percent of the affected population.

Second, with roughly one-third of its total CDBG-DR allocation dedicated to infrastructure and mitigation programs, the State of Washington may not meet the 70 percent overall LMI benefit requirement if these projects do not get any credit for assisting LMI persons in the area. The requested waiver would allow the State to more accurately reflect the proportional benefits to LMI residents while supporting critical disaster recovery and mitigation efforts.

HUD's Determination

HUD understands that CDBG-DR and CDBG-MIT funds represent a significant opportunity for grantees to implement strategic, high-impact infrastructure projects that support recovery, mitigate disaster risks, and reduce future losses. After reviewing the State of Washington's request and based on the good cause provided herein, the Department is waiving the requirements at 24 CFR 570.484 only to the extent necessary, to add the following alternative requirement: the State of Washington may count CDBG-DR funds expended for infrastructure activities toward benefiting LMI persons and meeting the overall benefit requirement by multiplying the total cost (including both CDBG-DR and non-CDBG-DR funds) of the activity by the percentage of LMI persons in the service area, provided that the amount counted does not exceed the amount of CDBG-DR funds invested. This flexibility will allow the State to invest in large-scale infrastructure projects with broad service areas and report proportional LMI benefit in accordance with the 70 percent overall benefit requirement for its CDBG-DR grant announced under the Prior Notices.

FOR FURTHER INFORMATION CONTACT

Gerilee W. Bennett, Acting Director, Office of Disaster Recovery, Department of Housing and Urban Development, 451 7th Street SW, Room 7282, Washington, DC 20410, telephone number 202-708-3587. HUD welcomes and is prepared to receive calls from individuals who are deaf or hard of hearing, as well as individuals with speech and communication disabilities. Email inquiries may be sent to Disaster_Recovery@hud.gov.