



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

PRINCIPAL DEPUTY ASSISTANT SECRETARY
FOR COMMUNITY PLANNING AND DEVELOPMENT

MEMORANDUM FOR: Lee County, Florida for Disaster Occurring in 2022 (Allocations announced in the May 2023 Notice); Community Planning and Development Field Office Directors, Deputy Directors, and Program Managers.

FROM: David C. Woll, Jr., Principal Deputy Assistant Secretary for
Community Planning and Development, D

SUBJECT: Buildings for the General Conduct of Government Waiver and
Alternative Requirement (Lee County, Florida only)

APPLICABILITY DATE: May 12, 2025

PURPOSE

This waiver and alternative requirement memorandum governs Community Development Block Grant Disaster Recovery (CDBG-DR) funds, including CDBG-DR mitigation set-asides, allocated to Lee County, Florida pursuant to the Department of Housing and Urban Development (HUD) Appropriations Act, 2023 (Pub. L. 117-328, Division L, Title X) (the "Appropriations Act") approved December 29, 2022 for major disasters occurring in 2022.

This waiver and alternative requirement lift the prohibition on assisting buildings for the general conduct of government at 42 U.S.C. 5305(a)(2) and associated regulations at 24 CFR 570.207(a). This will permit Lee County, Florida (the grantee) to use these CDBG-DR funds, including CDBG-DR mitigation set-asides, for the construction, reconstruction, and rehabilitation of buildings for the general conduct of government, including when the funds are used as the non-federal match for funds provided through the Federal Emergency Management Agency.

WAIVER AUTHORITY

The Appropriations Act made available \$3,000,000,000 in CDBG-DR funds for major disasters that occurred in 2022 or later. The CDBG-DR funds made available by this act are for necessary expenses for activities authorized under Title I of the Housing and Community Development Act of 1974 (HCDA) related to disaster relief, long-term recovery, restoration of infrastructure and housing, economic revitalization, and mitigation in the "most impacted and distressed" (MID) areas resulting from qualifying major disasters.

The Appropriations Act 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 these funds, except for

requirements related to fair housing, nondiscrimination, labor standards, and the environment, if the Secretary finds that good cause exists for the waiver or alternative requirement and such waiver or alternative requirement would not be inconsistent with the overall purpose of Title I of the HCDA. HUD may also exercise its regulatory waiver authority under 24 CFR 5.110 and 570.5. The waiver and alternative requirement included below are based upon a determination by the Secretary that good cause exists, and that the waiver and alternative requirement are not inconsistent with the overall purposes of Title I of the HCDA.

The Appropriations Act requires the Secretary to publish any waiver or alternative requirement via a *Federal Register* notice or on the Department's website no later than five days before the effective date of such waiver or alternative requirement. For the waiver and alternative requirement included below, HUD is exercising its authority to publish on the Department's website.

HUD announced CDBG-DR funds appropriated by Public Law 117-328 for major disasters occurring in 2022 in the *Federal Register* notice published on May 18, 2023 (the "May 2023 Notice") at 88 FR 32046. The May 2023 Notice includes the Consolidated Notice as Appendix B and made the Consolidated Notice applicable to the grants announced in the May 2023 Notice. The Department allocated \$1,107,881,000 to Lee County, Florida for unmet needs and mitigation activities in the most impacted and distressed areas resulting from 2022 disasters governed by the May 2023 Notice. This memorandum modifies the requirements for the CDBG-DR funds awarded to Lee County, Florida *only* under the Appropriations Act by adding a new waiver and alternative requirement.

BUILDINGS FOR THE GENERAL CONDUCT OF GOVERNMENT WAIVER (LEE COUNTY, FLORIDA)

Background

The Department received a request and justification of good cause from Lee County, Florida to waive the prohibition on using CDBG-DR funds for activities that assist buildings for the general conduct of government. As described at 42 U.S.C. 5305(a)(2) and the associated regulations at 24 CFR 570.207(a), CDBG funds may not be used for acquisition, construction, reconstruction, or installation of buildings for the general conduct of government. This prohibition applies to Lee County, Florida per section I of the Consolidated Notice included in the May 2023 Notice, which stipulates that the statutory and regulatory requirements governing the CDBG program apply to CDBG-DR grantees, except where HUD has issued a waiver or alternative requirement.

Due to the disaster, infrastructure damage throughout the county has led to a delay in responding to emergency needs. Lee County has argued that improving wind resistance is critical to improving the resilience of the community to help speed up recovery from disasters, such as Hurricane Ian, and has identified 22 structures at 18 sites that need a retrofit to improve their wind resistance in its waiver request. These structures include facilities such as city halls, the County Annex facility, City of Fort Myers Permitting Department, Lee County's Hough St. Warehouse, Sanibel police headquarters, LeeTran Transfer stations and headquarters, public

works, and other buildings for the general conduct of government in Fort Myers Beach, City of Sanibel, Cape Coral, and unincorporated Lee County were damaged or destroyed due to flooding, wind damage, and storm surge.

To aid with recovery of infrastructure and public facilities, Lee County has implemented an activity to use CDBG-DR as the non-Federal match in its Hazard Mitigation Grant Program (HMGP). Approval of the waiver of the prohibition on assisting buildings for the general conduct of government at 42 U.S.C. 5305(a)(2) and the associated regulations at 24 CFR 570.207(a) will support the recovery process by allowing Lee County to provide the required match for all awarded HMGP projects, including the buildings for the general conduct of government described in the grantee's waiver request and a public works facility that also provides working space for key personnel who facilitate and administer the day-to-day operations of Utilities, Natural Resources, Community Development, and the Department of Transportation.

Buildings for the General Conduct of Government Waiver and Alternative Requirement (Lee County, Florida only)

After reviewing the grantee's request, the Department has determined there is good cause to grant this waiver and alternative requirement based on the need to allow assistance to buildings that could not otherwise be funded without this waiver. The buildings the county will assist include buildings for the general conduct of government that address critical infrastructure needs that will improve residents' access to government services in Lee County, Florida before, during, and after a disaster. HUD has also determined that the waiver and alternative requirement are not inconsistent with the overall purposes of Title I of the HCDA.

Therefore, the Department is waiving the prohibition on assisting buildings for the general conduct of government at 42 U.S.C. 5305(a)(2) and associated regulations at 24 CFR 570.207(a) to permit Lee County, Florida to carry out the construction, reconstruction, and rehabilitation of buildings for the general conduct of government. However, as an alternative requirement, the grantee is prohibited from using CDBG-DR funds for buildings for the general conduct of government in which the legislative or general administrative affairs of the government are not conducted all year round and is prohibited from using funds for buildings for the general conduct of government that are used exclusively as emergency operations centers.

FOR FURTHER INFORMATION CONTACT

Tennille Smith Parker, 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 (this is not a toll-free number). 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.