



Office of Community Planning and Development, Washington, DC

Compliance With the Disaster Relief Appropriations Act, 2013, Grantee Expenditure Requirement

**Office of Audit, Region 6
Fort Worth, TX**

**Audit Report Number: 2019-FW-0001
May 17, 2019**



To: Stan Gimont, Deputy Assistant Secretary for Grant Programs, DG

//signed//

From: Kilah S. White, Regional Inspector General for Audit, 6AGA

Subject: CPD Did Not Enforce the Disaster Appropriations Act, 2013, 24-Month Grantee Expenditure Requirement

Attached is the U.S. Department of Housing and Urban Development (HUD), Office of Inspector General's (OIG) final results of our review of the Office of Community Planning and Development's (CPD) monitoring and enforcement of the Disaster Appropriations Act, 2013, 24-month grantee expenditure deadline.

HUD Handbook 2000.06, REV-4, sets specific timeframes for management decisions on recommended corrective actions. For each recommendation without a management decision, please respond and provide status reports in accordance with the HUD Handbook. Please furnish us copies of any correspondence or directives issued because of the audit.

The Inspector General Act, Title 5 United States Code, section 8M, requires that OIG post its publicly available reports on the OIG website. Accordingly, this report will be posted at <http://www.hudoig.gov>.

If you have any questions or comments about this report, please do not hesitate to call me at (817)-978-9309.



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**CPD Did Not Enforce the Disaster Relief Appropriations Act, 2013,
24-Month Grantee Expenditure Requirement**

Highlights

What We Audited and Why

We initiated our audit in accordance with our strategic goal to provide the U.S. Department of Housing and Urban Development (HUD) with services and products to address vulnerabilities, to provide opportunities for improvements, and to recognize positive outcomes. The audit objective was to determine whether the HUD Office of Community Planning and Development (CPD) monitored and ensured that its Disaster Relief Appropriations Act, 2013, grantees complied with the Act's 24-month statutory expenditure requirement.

What We Found

Although it monitored grantees, CPD did not enforce the 2013 Act's 24-month grantee expenditure requirement. Specifically, CPD allowed the six grantees reviewed to either (1) spend more funds than they had obligated and budgeted, (2) record expenses before an amendment was executed, or (3) record expenses after the 24-month expenditure deadline. These issues occurred because CPD's actions showed that it did not strictly enforce the Act and its Disaster Recovery Grants Reporting system had material control weaknesses. Further, HUD's Office of the Chief Financial Officer did not use its financial controls to monitor compliance with the Act. As a result, CPD allowed grantees to improperly receive payments totaling \$526 million as of January 19, 2018. In addition, it allowed grantees to revise 1,333 vouchers totaling \$1.8 billion from the month in which the original voucher was created to 3 years later. CPD also did not recapture and reallocate unspent funds totaling \$524,289, and it did not ensure that grantees reported their activities and expenses in a transparent manner. If CPD does not correct the identified issues, grantees risk mispending \$413 million of the remaining \$6.2 billion in unspent 2013 Act Community Development Block Grant (CDBG) Disaster Recovery funds as of January 19, 2018.

What We Recommend

We recommend that CPD require the grantees to repay a total of \$526 million in ineligible payments made (1) in excess of the amount obligated for a round, (2) before a grant round agreement was executed, (3) after a grant round agreement expired, and (4) with funds that should have been recaptured. We also recommend that CPD (1) adopt and enforce new written policies, procedures, and internal controls for CDBG Disaster Recovery funds that have a statutory expenditure deadline and (2) take action to correct and address the DRGR system material internal control weaknesses.

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Background and Objective

In January 2013, Congress passed the Disaster Relief Appropriations Act, 2013, which provided the U.S. Department of Housing and Urban Development (HUD) \$15.2 billion to provide aid in the recovery from Hurricane Sandy and other disasters.¹ The 2013 Act allowed HUD to award the funds for necessary expenses related to Hurricane Sandy and other disasters in 2011, 2012, and 2013.² It required that “funds for grants provided...shall be expended by the grantees within the 24-month period following the agency’s obligation of funds for the grant unless in accordance with guidance to be issued by the Director of OMB [Office of Management and Budget] the Director waives this requirement for a particular grant program...”³ On October 21, 2013, OMB’s Director granted HUD a waiver of almost \$7.5 billion for its Community Development Block Grant (CDBG) Disaster Recovery program funds.

Congress gave overall responsibility for establishing effective administrative control of funds to HUD’s Office of the Chief Financial Officer (OCFO). The Office of Community Planning and Development (CPD) was the funds allotment holder⁴ for the 2013 Act funds. CPD prepared a 2013 funds control plan for its CDBG Disaster Recovery assistance funds, which required that the 2013 Act funds be expended within 2 years after obligation. The plan said that the point of obligation was CPD’s signing of the “Approval/Agreement.”⁵ The plan also required grantees to use the Disaster Recovery Grants Reporting (DRGR) system to obligate funds to an activity and to enter vouchers into the DRGR system, which then requested the funds from HUD’s Line of Credit Control System (LOCCS).⁶ It stated that an activity must have grant funds obligated before a grantee could draw funds. Further, it said that the DRGR system would perform a preliminary validation of a voucher to determine whether funds were available for a specific activity before creating a voucher and sending it to LOCCS. No HUD approval was required for vouchers that totaled less than \$5 million in a day.

CPD’s Office of Block Grant Assistance (OBGA) issued 25 Federal Register notices,⁷ which, among other requirements and waivers, (1) allocated the 2013 Act’s funds to grantees; (2) provided an overview of the grant process, including the preparation of an action plan, which would detail the proposed use of funds; and (3) required grantees to expend all funds within 2 years of the date their grant agreement with HUD was executed.⁸ Because of the 2-year

¹ The amount appropriated by Public Law 113-2 and reduced by sequestration according to the Balanced Budget and Emergency Deficit Control Act.

² Chapter 9. See appendix C.

³ Title IX, section 904(c). See appendix C.

⁴ Allotment holders are responsible for the proper management and control for all funds allotted to them.

⁵ Form HUD-7082. Note that CPD used both 24 months and 2 years to refer to the 24-month statutory expenditure requirement and this report used CPD’s terms when citing its requirements.

⁶ LOCCS processes grantees’ draw requests from DRGR. If approved, LOCCS sends the payment requests to the U.S. Treasury for payment, which then transmits the funds to the grantees.

⁷ See appendix D for a listing of the applicable Federal Register notices.

⁸ See appendix C for excerpts from the applicable Federal Register notices.

expenditure deadline, OBGA decided to award the 2013 Act’s funds in rounds of funding to extend the obligation and expenditure deadlines. CPD entered into one grant with many amendments, rather than a separate grant for each round of funds. It initially stated that the date of obligation would be enforced relative to the activities funded under each obligation.⁹ Based on the amount of funding provided and a risk analysis, grants were assigned either to OBGA’s Disaster Recovery and Special Issues Division (DRSI) or CPD’s field offices. Six grantees received the majority of the 2013 Act’s funding as shown in table 1.¹⁰

Table 1: 2013 Act’s funding and expenditures by the six largest grantees

Grantee	Number of grant rounds	Total grant amount	Amount spent as of 1/19/2018	Percentage spent	Responsible CPD monitoring entity
Connecticut	7	\$ 157,279,000	\$ 101,612,665	65%	CPD field office
Maryland	8	28,640,000	20,831,941	73%	CPD field office
New Jersey	5	3,794,429,000	2,633,560,434	69%	DRSI
New York	5	4,231,882,000	2,973,854,936	70%	DRSI
New York City	4	3,766,339,000	2,205,280,306	59%	DRSI
Rhode Island	7	19,911,000	13,061,569	66%	CPD field office
Total		11,998,480,000	7,948,201,851	66%	

After CPD executed an initial grant agreement with a grantee, it sent the agreement to OCFO, which entered the obligation amount into LOCCS, which made the funds available to grantees via the DRGR system. When CPD entered into grant amendments for later rounds of funds, it sent an amendment to OCFO, which added the new obligation to the amount previously obligated in LOCCS under the same grant number. Although the initial and amended grants stated that the funds obligated expired in 2 years, CPD did not enter an expiration date on the grant form, and OCFO did not record expiration dates in LOCCS.

CPD’s DRSI and field offices monitored obligations monthly by reviewing the information in the DRGR system. CPD was required to monitor each grantee with approved partial action plans to determine the end date for each of the partial action plans based on the 2-year timeline and any approved extensions. CPD said that it would use functions in the DRGR system to restrict access to funds outside the period and would use the standard deobligation process to notify OCFO when funds under a partial action plan had expired unless otherwise extended by waiver. Funds from the 2013 Act subject to cancellation before HUD’s obligation deadline of September 30, 2017, were to be reallocated to other eligible grantees. Funds subject to cancellation after HUD’s obligation deadline were to be returned to the U.S. Treasury.

Our audit objective was to determine whether CPD monitored and ensured that grantees complied with the 24-month statutory expenditure requirement in the Disaster Relief Appropriations Act, 2013.

⁹ 78 Federal Register (FR) Notice 14329, issued March 5, 2013. See appendix C.

¹⁰ See appendix E for a listing of all grants, rounds of funding, and various expenditure deadlines. Table 1 does not include Rebuild by Design competitive grants as these grants received extensions until September 30, 2022.

Results of Audit

Finding: CPD Did Not Enforce the 2013 Act’s 24-Month Grantee Expenditure Requirement

Although it monitored grantees, CPD did not enforce the 2013 Act’s 24-month grantee expenditure requirement.¹¹ Specifically, CPD allowed the six grantees reviewed to either (1) spend more funds than they had obligated and budgeted, (2) record expenses before an amendment was executed, or (3) record expenses after the 24-month expenditure deadline. These issues occurred because CPD’s actions showed that it did not strictly enforce the Act and its DRGR system had material control weaknesses. Further, OCFO did not use its financial system controls to monitor compliance with the Act. As a result, CPD allowed grantees to improperly receive payments totaling \$526 million as of January 19, 2018. In addition, it allowed grantees to revise 1,333 vouchers totaling \$1.8 billion from the month in which the original voucher was created to 3 years later. CPD also did not recapture and reallocate unspent funds totaling \$524,289, and it did not ensure that grantees reported their activities and expenses in a transparent manner. If CPD does not correct the identified issues, grantees risk mispending \$413 million of the remaining \$6.2 billion in unspent and untested 2013 Act Disaster Recovery funds.

CPD Monitored Its Grantees

As shown in table 2, CPD monitored its grantees.¹² It conducted annual risk assessments to ensure that it performed monitoring of high-risk grantees. Its monitoring included both onsite and remote monitoring, and it issued monitoring reports, which included both findings and concerns.

Table 2: CPD’s monitoring of the selected grantees

Grantee	Report(s) total	Monitoring visit
Connecticut	5	June 2017
		December 2016
		July 2016
		March 2015
		March 2014
Maryland	1	July 2014

¹¹ See footnote 3.

¹² See Audit Report 2018-FW-0001, CPD’s Risk Assessment and Monitoring Program Did Not Provide Effective Oversight of Federal Funds, issued June 26, 2018, for our finding and recommendations related to whether CPD appropriately assessed grantees’ risk to the integrity of CPD programs and adequately monitored its grantees.

Table 2: (continued)

Grantee	Report(s) total	Monitoring visit
New Jersey	8	January 2017
		October 2015
		May 2015
		December 2014
		October 2014
		March 2014
		February 2014
		July 2013
New York	7	February 2017
		September 2016
		February 2016
		August 2015
		August 2014
		February 2014
		August 2013
New York City	10	August 2017
		May 2017
		August 2016
		April 2016
		September 2015
		March 2015
		September 2014
		June 2014
		March 2014
		September 2013
Rhode Island	1	June 2014
Totals	32	

Further, DRSI prepared and shared monthly tracking reports detailing obligations and expenditures by grantee and grant round based on DRGR data. It also provided grantees formal training and informal technical assistance.

CPD Did Not Enforce the Act’s 24-month Grantee Expenditure Requirement

CPD did not enforce the Act’s 24-month grantee expenditure requirement. Specifically, CPD allowed the six grantees reviewed to (1) spend more funds than they had obligated or budgeted, (2) record expenses before an amendment was executed, or (3) record expenses after the 24-month expenditure deadline. As a result, CPD allowed grantees to improperly receive payments totaling \$526 million as of January 19, 2018, which may have been potential Antideficiency Act (ADA) violations.¹³ In addition, it allowed grantees to revise 1,333 vouchers totaling \$1.8 billion

¹³ See Audit Memorandum 2018-FW-0802, Interim Report - Potential Antideficiency Act and Generally Accepted Accounting Principle Violations Occurred With Disaster Relief Appropriation Act, 2013, Funds, issued May 15, 2018. The ADA prohibits Federal employees from making or authorizing an expenditure in excess of the amount available in the appropriation or fund or in excess of the amount permitted by agency regulations 31 U.S.C. (United States Code) 1341(a)(1)(A) and 1517(a).

from the month in which the original voucher was created to 3 years later. CPD also did not recapture and reallocate unspent funds totaling \$524,289, and it did not ensure that grantees reported their activities and expenses in a transparent manner.

CPD Allowed Grantees To Spend Funds in Excess of the Amount Obligated and Budgeted

Our interim memorandum to OCFO¹⁴ showed that CPD allowed two grantees to report total grant round expenses in the DRGR system, which exceeded the amounts CPD had obligated for three grant rounds as shown in table 3. The two grantees reported that they had spent \$160 million more than CPD had obligated for three grant rounds.

Table 3: Grantees’ expenditures exceeding the approved grant amendment amount as of January 19, 2018

Grantee	Round no.	Amount obligated per grant round amendment	DRGR system total expenditures by round	Obligation balance
Maryland	1	\$ 4,400,000	\$ 4,421,353	\$ (21,353)
New York	2	803,000,000	803,096,837	(96,837)
	4	550,000,000	710,242,524	(160,242,524)
Totals		1,357,400,000	1,517,760,714	(160,360,714)

Based on its tracking reports, CPD knew that New York had exceeded the amount obligated for grant round 2. CPD’s September 1, 2015, monthly Sandy tracking report showed that New York had spent \$6.9 million more than the \$803 million awarded for grant round 2, which was almost 2.5 years before the results in table 3. Replacing New York’s round 2 obligation balance of (96,837) in table 3 with (6,990,367) in CPD’s September 2015 tracking report showed that the two grantees spent \$167 million more than the amount CPD obligated for the three rounds.¹⁵

In addition, the six grantees’ quarterly performance reports¹⁶ (QPR) showed more occasions on which the grantees budgeted more than CPD had obligated for a grant round or spent more than they had budgeted for a grant round or activity. As shown in table 4, the grantees’ QPRs showed that on at least one occasion, (1) six grantees budgeted more for a round than was obligated for that round (example in figure 1), (2) three grantees spent more than they budgeted for a round (example in figure 2), and (3) five grantees spent more than they budgeted for a project activity (examples in figures 2 and 3).

¹⁴ Ibid.

¹⁵ The amount calculated as the total of \$160,360,714 minus the New York round 2 obligation balance of \$96,837 plus the September 2015 over grant amount of \$6,990,367 equals \$167,254,244.

¹⁶ The QPR reports grantee accomplishments for each quarter and on a cumulative basis at the grant and activity level by (1) identifying accomplishments once a national objective has been met, (2) pulling financial data as entered into the Drawdown Module, and (3) providing narrative detail on the progress of the grant as a whole and per activity.

Table 4: Grantees' QPRs showing that budgeted amounts were more than the amount obligated for a round or amounts spent were more than amounts budgeted for a round or an activity

Grantee	Budgeted more than grant round obligated amount (yes-no)	Spent more than budgeted for grant round amount (yes-no)	Spent more than budgeted for a project activity (yes-no)
Connecticut	Yes	No	Yes
Maryland	Yes	Yes	Yes
New Jersey	Yes	Yes	Yes
New York	Yes	Yes	Yes
New York City	Yes	No	No
Rhode Island	Yes	No	Yes

Figure 1: QPR excerpt showing that the grantee budgeted more than its grant round 2 obligation amount.

July 1, 2015 thru September 30, 2015 Performance Report

Grantee Name: New York

Project Summary

Project#, Project Title	This Report Period	To Date	
	Program Funds Drawdown	Project Funds Budgeted	Program Funds Drawdown
R2-Admin, H. Administration R 2	\$0.00	\$31,790,960.11	\$31,790,960.11
R2-Buyout, B. Buyout and Acquisition Rnd. 2	\$19,572,929.43	\$166,980,754.82	\$144,927,632.90
R2-ComRecon, G. Community Reconstruction Rnd. 2	\$3,369,526.44	\$35,000,000.00	\$31,010,626.43
R2-Housing, A. Recreate NY Smart Home Repair &	\$19,710,269.89	\$414,210,849.57	\$405,486,649.30
R2-IMA, I. IMA Rnd. 2	\$369,201.09	\$17,298,531.35	\$17,298,531.35
R2-INFRA, Local Government and Critical Infrastructure	\$23,295.86	\$22,340,180.20	\$17,066,190.09
R2-Match, F. Non-Federal Share Match Program Rnd. 2	\$414,622.67	\$111,900,000.00	\$98,386,843.47
R2-Rental, Rental Properties Program R2	\$0.00	\$14,540,337.27	\$14,314,082.07
R2-SmBusiness, D. Small Business Program Rnd 2	\$4,683,961.98	\$32,000,000.00	\$24,923,809.03
R2-TMC, Tourism Marketing Campaign R2	\$0.00	\$4,541,451.40	\$0.00

Our computed budget total for grant round 2	\$850,603,064.72
Amount CPD obligated for grant round 2	803,000,000.00
Difference budgeted versus obligated	(47,603,064.72)

Figure 2: QPR excerpt showing that the grantee spent more funds than budgeted for grant round 1 and spent more funds than budgeted for a project activity (Rental Housing)

Apr 1, 2015 thru Jun 30, 2015 Performance Report

Grantee Name: New Jersey

Project Summary

Project#, Project Title	This Report Period	To Date	
	Program Funds Drawdown	Project Funds Budgeted	Program Funds Drawdown
S01AdmnR1, Admin	0	62,787,607.68	62,787,607.68
S01EconRevR1, Economic Revitalization	0	110,412,672.55	110,412,672.55
S01GovEntR1, Support For Governmental Entities	0	79,595,509.81	79,595,509.81
S01HmHsgR1, Homeowner Housing	6,479,392.08	601,087,395.87	601,087,395.87
S01RentHsgR1, Rental Housing	0	147,244,614.54	147,300,046.73
S01SupSrvsR1, Supportive Services	9,064.02	5,052,767.36	5,052,767.36

Our computed totals for grant round 1	\$1,006,180,567.81	\$1,006,236,000.00
Difference budgeted versus drawdown		(55,432.19)

Figure 3: QPR excerpt showing that the grantee spent more funds than budgeted for a project activity

Apr 1, 2015 thru Jun 30, 2015 Performance Report

Grantee Name: Connecticut

Project Summary

Project#, Project Title	This Report Period	To Date	
	Program Funds Drawdown	Project Funds Budgeted	Program Funds Drawdown
R1-T1-Homeowner Housing, R1-T1-Homeowner Housing	\$4,196,741.74	\$8,306,000.00	\$13,256,000.00

Difference budgeted versus drawdown (\$4,950,000.00)

CPD Allowed Grantees To Record Expenses Before an Amendment Was Executed

Five grantees entered 153 voucher line item expenses totaling more than \$24 million into the DRGR system and received reimbursement for them, although CPD had not executed a grant round amendment for that round as shown in table 5. In addition, 4 grantees revised an additional 46 expense transactions totaling more than \$26 million, which were originally paid before a grant round amendment had been executed.

Table 5: Grantees’ expense transactions entered before a grant round’s execution date as of January 19, 2018

Grantee	No. of grant rounds affected	No. of revised transactions with errors ¹⁷	Revised transactions totals	No. of completed transactions with errors ¹⁸	Completed transactions totals
Connecticut	2	-	-	6	\$ 338,180
Maryland	-	-	-	-	-
New Jersey	2	8	\$ 220,600	2	324
New York	3	8	3,825,484	26	6,486,229 ¹⁹
New York City	2	29	22,733,466	112	17,546,494
Rhode Island	2	1	8,255	7	38,028
Totals	11	46	26,787,805	153	24,409,255

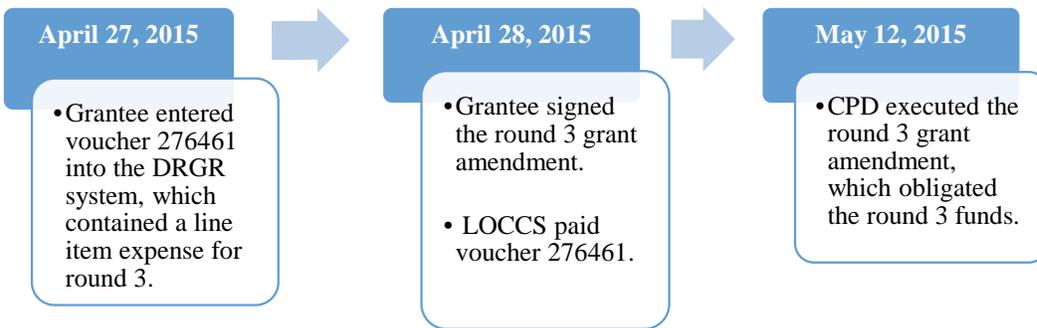
In some cases, the grantee clearly entered the expense before CPD executed the grant round agreement. As shown in figure 4, a grantee entered a voucher containing round 3 expenses into the DRGR system 13 days before CPD executed the grant for round 3.

¹⁷ An error was a transaction entered before a grant round’s execution date.

¹⁸ Ibid.

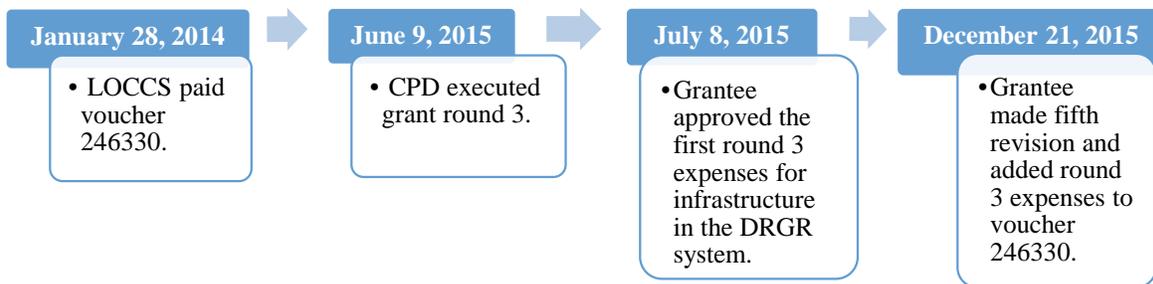
¹⁹ Total amounts reported for New York and the table total differed from our interim report 2018-FW-0802 as CPD incorrectly recorded the expiration date for New York’s round 3 in its tracking reports as July 9, 2015, rather than June 9, 2015, and our interim testing was based on this incorrect date.

Figure 4: Timeline of events for voucher 276461



In other cases, the grantee revised a completed voucher after it had been paid by LOCCS and added one or more line item expenses to the voucher from a later round, which resulted in the grantee's recording a later round's costs to a voucher created in an earlier period. For example, as shown in figure 5, a grantee added a July 2015 round 3 infrastructure activity expense to voucher 246330, which was created in January 2014. The grantee entered the original voucher into DRGR almost 1.5 years before CPD obligated grant round 3.

Figure 5: Timeline of events for voucher 246330



CPD Allowed Grantees To Record Expenses for a Grant Round After It Expired

Five grantees entered 631 voucher line item expenses totaling more than \$334 million into the DRGR system after the grant round's expenditure deadline had expired.²⁰ In addition, the grantees revised an additional 55 expense transactions totaling more than \$45 million, which were originally made after a grant round expired. See table 6 below.

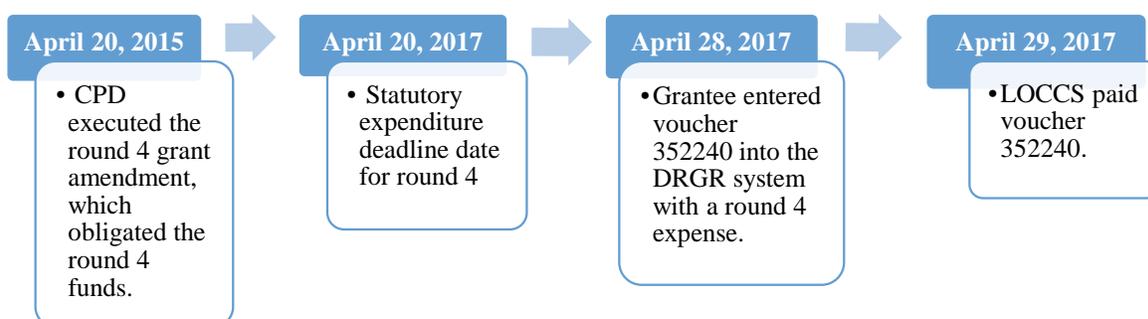
²⁰ Results excluded grant round 2 for New York City; round 3 for New Jersey, New York City, and Rhode Island; and round 4 for New York as these rounds had extensions granted during our audit scope. The completed transaction total reported for round 3 for New York was reduced by \$4 million as it had a \$4 million extension granted during our audit scope.

Table 6: Grantees’ transactions entered after a grant round’s deadline as of January 19, 2018

Grantee	No. of grant rounds affected	No. of revised transactions with errors ²¹	Revised transactions totals	No. of completed transactions with errors ²²	Completed transactions totals
Connecticut	3	2	\$ 285,365	25	\$ 9,098,913
Maryland	2	-	-	10	571,549
New Jersey	2	33	17,050,511	311	57,915,566
New York	3	18	27,357,227	266	245,688,694 ²³
New York City	1	2	1,225,592	19	21,167,149
Rhode Island	-	-	-	-	-
Totals	11	55	45,918,695	631	334,441,871

In some cases, the grantee’s original voucher transaction occurred after the statutory deadline. As shown in figure 6, LOCCS paid a voucher 9 days after the statutory deadline for one grantee.

Figure 6: Timeline of events for voucher 352240



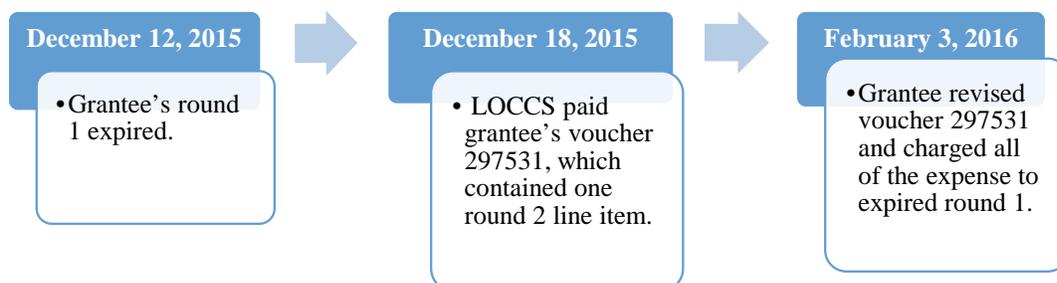
In other cases, the grantee revised a completed voucher and recorded an earlier round’s costs as spent in a later voucher, which was after the earlier round’s 24-month deadline. As shown in figure 7, a grantee revised a voucher more than a month after it was paid and added a round that had expired before the original voucher was submitted.

²¹ An error was a transaction entered after a grant round’s deadline.

²² Ibid.

²³ See footnote 20.

Figure 7: Timeline of expense for voucher 297531



CPD Actions Showed That It Did Not Strictly Enforce the Act

CPD's actions showed that it did not strictly enforce the Act's 24-month expenditure deadline. CPD initially had specific Federal Register Notice requirements that matched funded activities to the individual grant round deadline, which also mirrored its 2013 funds control plan. However at its first grantee training in March 2013, CPD both confirmed and contradicted its initial notice and plan. In addition, starting in May 2015, CPD began changing and weakening the requirements in its Federal Register notices by removing the requirement tying grant round funding to activities. In February 2017, while changing from a funds control plan to a funds control matrix, CPD published new policies and procedures, which changed to a prohibited cumulative method of accounting for the funds without notifying OCFO or CPD budget staff. Once we notified OCFO of the improper methodology, OCFO required CPD to discontinue the cumulative method. In addition, CPD's current funds control and internal policies and procedures were unclear.

CPD Initially Had Clear Requirements That Matched Its 2013 Funds Control Plan

CPD's March 5, 2013, Federal Register notice and its funds control plan, signed in April 2013, contained clear matching requirements concerning the Act's 24-month deadline. Both stated that the funds must be spent within 2 years of the date HUD obligated the funds to a grantee, and both tied obligation of the funds to an activity. The March 2013 notice was specific as it stated in these sections,

- **“Timely Expenditure of Funds and Prevention Waste, Fraud, Abuse and Duplication of Benefits...** the Appropriations Act requires that all funds be expended within two years of the date HUD obligates funds to a grantee (funds are obligated to a grantee upon HUD's signing of the grantee's CDBG-DR [CDBG Disaster Recovery] grant agreement). Action Plans must demonstrate how funds will be fully expended within two years of obligation... Funds remaining in the grantee's line of credit at the time of its expenditure deadline will be returned to the U.S Treasury, or if before September 30, 2017, will be recaptured by HUD.”
- **“Action Plan...**The requirement to expend funds within two years of the date of obligation will be enforced relative to the activities funded under each obligation, as applicable.”
- **“Timely distribution of funds...**the requirement for each grantee to expend funds within two years of the date of obligation will be enforced relative to the activities funded under

each obligation. HUD expects each grantee to expeditiously obligate and expend all funds, including any recaptured funds or program income, and to carry out activities in a timely manner to ensure this deadline is met....”

- “**Duration of Funding**...the requirement for each grantee to expend funds within two years is triggered by each amendment to the grant agreement. That is, each grant amendment has its own expenditure deadline.”

Further, the 2013 funds control plan stated,

“Before a Grantee can draw down funds from a grant:

- The activity must have grant funds obligated from one or more funding sources....

To draw down grant funds, a process must be followed. The process is as follows:

- Using DRGR, a Grantee obligates grant funds to an activity.
- A Grantee creates a voucher in DRGR to draw down funds for one or more activities....”

CPD’s Initial Training Confirmed and Contradicted Its Issued Rules and Controls

At its grantee training conducted on March 18-19, 2013,²⁴ CPD both confirmed and contradicted its March 2013 Federal Register notice and its soon to be issued 2013 funds control plan. At the training, CPD initially stated, “When the department announces the second Sandy allocation or the 2011, 2012 allocation, those each have their own two-year timeframes.” and “When the second pot of Sandy money is awarded, once we obligate a grant agreement for that, that will have two years on that clock. The clocks do not link with each other. So each pot has its own two-year clock.”²⁵ These statements were consistent with its issued notice. Later in that training, though, a grantee asked, “If one of your projects in the \$75 million timeline is moving slowly, but you have a project in your \$25 million timeline that is moving quickly, can you transfer money between those projects, increase one, decrease the other and then as long as you expend your \$75 million by that deadline you're okay?”²⁶ CPD told grantees,

- “...you can do that....”
- “...We’re maybe canceling this activity, deleting it or shifting something out of this pot of money and moving it to this pot of money....”
- “...when you make that choice the types of things that you're considering, again, fast-moving, slower-moving activities, moving up the fast, moving activities or pulling funds out of the slow-moving altogether....”²⁷

Interviews with six grantees confirmed that all six moved funds between the rounds to meet the 24-month expenditure deadline. Several grantees also mentioned that they split activities and

²⁴ Statements from transcripts of CPD’s CDBG Disaster Recovery Administration Training, conducted in Newark, NJ, on March 18-19, 2013

²⁵ Ibid.

²⁶ Ibid.

²⁷ Ibid.

substituted a fast-moving activity for a slower moving activity. Two grantees cited CPD's training to support that transfers between rounds were allowed.

Thus, CPD instructed grantees that the 24-month deadline would not be enforced at the activity level before the 2013 plan was signed by CPD budget officials and before any grantee signed its first grant, which conflicted with the 2013 Federal Register notice and plan requirements. Further, by presenting this conflicting message, CPD's management and staff did not appear to be implementing effective controls to project a positive, proactive, and clear message to its grantees, nor did it appear that it would be monitoring and enforcing compliance with all requirements as described in its front-end risk assessment.²⁸

CPD Changed and Weakened the Federal Register Notice Requirements

CPD issued 24 Federal Register notices related to the 2013 Act's funds, and it changed and weakened the requirements as time passed.²⁹ From April 2013 to April 2015, it issued 12 Federal Register notices, which referenced the March 2013 requirements, linked the 2-year expenditure requirement to activities funded under each obligation, and included similar requirements. On May 11, 2015, 2 days before the first grantee's grant round expired, CPD issued guidance on extension requests, which changed the prior 2013 Act Federal Register notices. CPD removed the language from the March 2013 notice's "Timely distribution of funds" section, which said,

"...the requirement for each grantee to expend funds within two years of the date of obligation will be enforced relative to the activities funded under each obligation. HUD expects each grantee to expeditiously obligate and expend all funds, including any recaptured funds or program income, and to carry out activities in a timely manner to ensure this deadline is met...."

It replaced the prior requirement with the following language, which no longer required the obligation be tied to an activity:

"The Appropriations Act requires that funds be expended within two years of the date HUD obligates funds to a grantee; and funds are obligated to a grantee upon HUD's signing of a grantee's CDBG-DR grant agreement. In its Action Plan, a grantee must demonstrate how funds will be fully expended within two years of obligation and HUD must obligate all funds not later than September 30, 2017. ...Funds remaining in the grantee's line of credit at the time of its expenditure deadlines will be recaptured by HUD."

²⁸ A front-end risk assessment is a formal, documented review by management to determine the susceptibility of a new or substantially revised program or administrative function to waste, fraud, abuse, and mismanagement.

²⁹ See appendix D for a listing of applicable Federal Register notices and see appendix C for excerpts from applicable Federal Register notices. An additional Federal Register notice concerning duplication of benefits applied to the 2013 Act and all other disaster funds.

However, the language in the May 2015 and prior Federal Register notices still required in the “Action Plan” section that the date of obligation be enforced relative to the activities funded under each obligation.³⁰

On June 2, 2016, HUD’s Office of General Counsel (OGC) issued a note to the Director of DRSI to answer its question on HUD’s ability to amend CDBG Disaster Recovery grant agreements. OGC’s note stated that it saw no requirement to specify in the grant agreement which approved activities would be carried out under each incremental obligation and agreed that the action plan could be used to specify the programs and activity. However, OGC stressed that HUD must still ensure that grantees spend the funds within 2 years of HUD’s obligation of funds unless HUD had provided the grantee an extension.

A few months later on August 15, 2016, HUD revised all prior Federal Register notices’ “Action Plan” sections and removed the requirement tying activities to the 2-year obligation deadline, which said,

“The requirement to expend funds within two years of the date of obligation will be enforced relative to the activities funded under each obligation, as applicable.”

Instead, the new language stated,

“The requirement, however, to expend funds within 2 years of the date of obligation will continue to be enforced relative to each partial obligation made by HUD, as applicable.”

With this change, all requirements in the Federal Register notices, which required the funds to be obligated to an activity and spent within the 24 months, had been removed and replaced with weaker and vague language.

In addition, DRSI’s internal procedures were revised on September 23, 2016, and noted that if a grant had not yet been 100 percent obligated to the grantee, it would not recapture funds if a grantee missed an expenditure deadline no later than September 30, 2017. Instead, the funds would remain in the grantee’s line of credit but would be made “unavailable” to the grantee until September 30, 2017, to avoid multiple transactions to obligate and deobligate funds for the same grantee. This policy change contradicted its prior Federal Register notices, which required recapture at the time of the expenditure deadline.

CPD Changed to a Prohibited Cumulative Method of Accounting

In February 2017, without consulting with OCFO or CPD budget officials, DRSI published a policy “abstract”³¹ and changed to a cumulative method of accounting for the funds, effective March 1, 2017. CPD made this change, in part, because grantees “were executing far more “partial obligation” grant agreements than originally anticipated” and the “level of effort required

³⁰ See Audit Report 2018-FW-0002, HUD’s Office of Block Grant Assistance Had Not Codified the Community Development Block Grant Disaster Recovery Program, issued July 23, 2018, which stated that OBGA’s use of multiple Federal Register notices presented challenges to grantees.

³¹ The document provided background information and revised policies and procedures for tracking expenditure deadlines for grantees that received CDBG Disaster Recovery funds under Public Law 113-2.

by HUD and the grantees to make every effort to avoid expenditure deadline extensions (e.g. voucher/round adjustments, amended budget in grant agreements, etc.) has proven to be unduly time consuming.”

When it made this change, CPD revised all of the grantees’ grant agreements. CPD stated that the change to this methodology was in its revisions to the August 2016 Federal Register notice “Action Plan” section, which it said allowed for accounting for funds “relative to each partial obligation.” CPD made this policy change when HUD was transitioning from individual funds control plans to funds control matrices. However, the 2017 and 2018 matrices did not include the statutory 24-month expenditure requirement for the 2013 Act funds, and they did not include the detailed funds control language, which had existed in the 2013 plan.

CPD’s new policy stated that the 24-month expenditure deadlines would be tracked on a rolling, cumulative basis and eliminated tracking projects and activities in the DRGR system by rounds of funding. As an expenditure deadline approached, CPD would review DRGR expenditures to ensure that a grantee had expended an amount equal to the amount obligated in the grant agreement. Figure 8 below shows how CPD had been tracking grants by round, and figure 9 shows how it would be tracking expenditures by the cumulative method.

Figure 8: CPD’s tracking of expenditures by round.

Figure 1: Tracking Expenditure Deadlines: FY13 – FY16

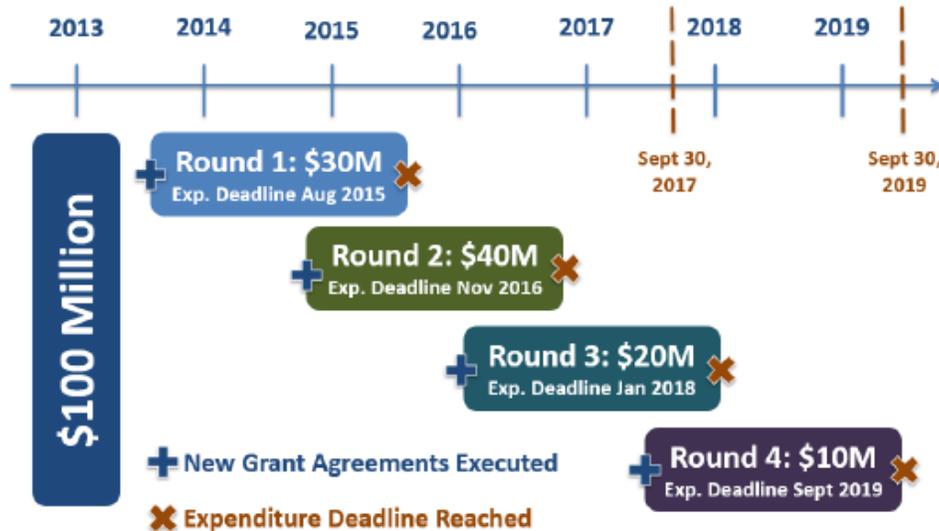
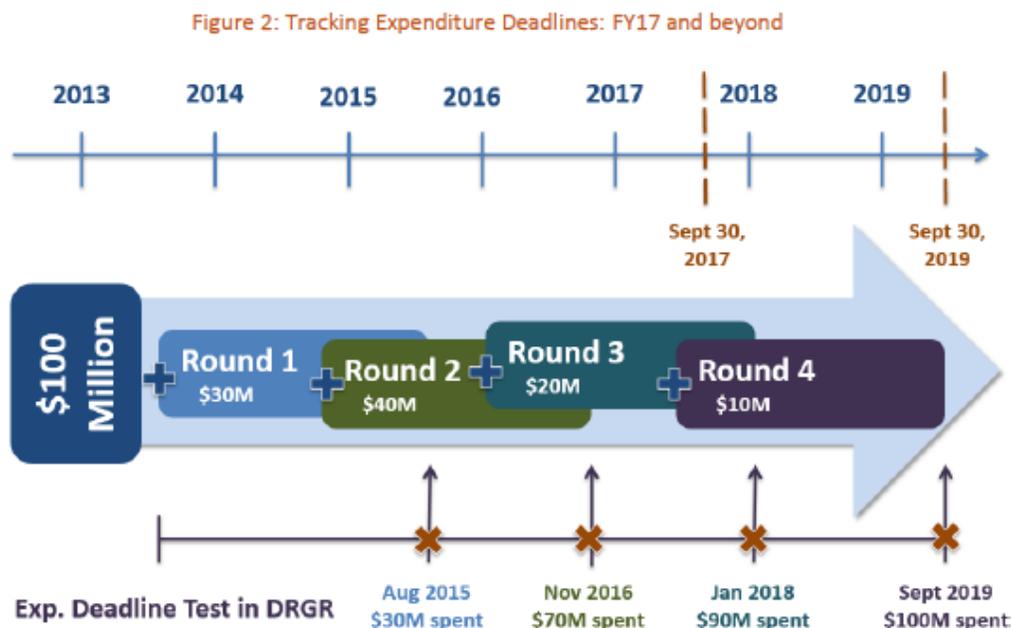


Figure 9: CPD’s tracking of expenditures by the cumulative method.



However, the U.S. Government Accountability Office (GAO) had previously informed HUD that it could not use a cumulative basis to determine when a grantee had fully committed each year’s HOME Investment Partnerships program allocation by the 24-month commitment deadline.³² Once it was made aware of the cumulative methodology for the 2013 Act funds, OCFO required CPD to discontinue its use on September 22, 2017, and CPD began a process to convert the data back to round-by-round tracking.

CPD’s Funds Control and Internal Policies and Procedures Were Unclear

CPD’s funds control and internal policies and procedures were unclear. When CPD stopped using the cumulative method, it indicated that it was working with OCFO to arrive at a new method to account for the 2013 Act funds, which would ensure that grantees expended the funds within the 24-month statutory requirement. However, as of September 2018, CPD had not updated its written policies. It said that it was engaged in a “wholesale revision” and would have a new overall edition of the policies and procedures in early fiscal year 2019, which would reflect revisions to a number of areas. Further, it stated that in the interim, it would “rely on guidance, like the February 2017 document,” which indicated that CPD disregarded OCFO’s instructions to discontinue using the February guidance in September 2017.

When asked whether the 2013 funds control plan was still in effect, CPD budget staff stated that the switch to a funds control matrix was not supposed to change any of the funds control processes outlined in the 2013 plan unless there was a policy change implemented in 2017.

³² GAO’s decision, dated July 17, 2013, regarding HUD HOME Program Grants - Statutory Commitment Deadline. See the decision at <https://www.gao.gov/assets/660/655931.pdf>.

Further, CPD budget indicated that it did not believe there were any changes that affected the 2013 Act's funds but it had not been informed of CPD's change to a cumulative method. Initially, when asked if it was using the 2013 funds control plan, DRSI staff indicated that it did not identify any aspect of the 2013 funds control plan that required a revision to move to accounting for expenditures based on cumulative disbursements. A short time later, DRSI staff said that it had checked with OCFO and "the matrix is now the operative document and has been for some time," which indicated that CPD had stopped using the 2013 plan. However, the matrix lacked the detailed funds control processes that were previously contained in the 2013 plan. Thus, it appeared that CPD did not have a clear written funds control process for the 2013 Act funds after adoption of the 2017 matrix.

CPD's DRGR System Had Material Control Weaknesses

Noncompliance with the Act's 24-month statutory deadline also occurred because CPD's DRGR system had multiple material control weaknesses. For example, the DRGR system did not prevent grantees from spending more than the total amount obligated for a grant round or the amount budgeted for an individual activity. Yet CPD's 2013 funds control plan stated that

- Grantees used the DRGR system to obligate funds to an activity.
- Grantees created a voucher to draw down funds for one or more activities.
- When a voucher was generated, the DRGR system performed a preliminary validation to ensure that funds were available for a specific activity and then the DRGR system generated a voucher.

Based on the errors identified in this report, which included grantees' spending more funds than they had obligated or budgeted, the DRGR validation check, which confirmed that funds were available for an activity, was not working.

HUD had the DRGR system reviewed to determine whether it complied with the Federal Financial Management Improvement Act (FFMIA).³³ The contractor's June 2017 report determined that the DRGR system was a mixed system and the system was noncompliant with FFMIA requirements. The system was found to be noncompliant due to the following open audit-related matters in our fiscal years 2015 and 2016 financial statement audit reports:

- not sufficiently monitoring obligations to ensure timely expenditures for the Disaster Recovery program and
- invalid or expired obligations.

As explained in this report, testing of the DRGR system voucher data showed similar issues with 2013 Act grantee obligations and expenditures as grantees recorded expenses before an amendment was executed or after the grant rounds' 24-month expenditure deadline.

Another material weakness was that the DRGR system did not prevent grantees from making repeated adjustments to completed voucher transactions months and even years after the initial

³³ FFMIA encourages agencies to have systems that generate timely, accurate, and useful information with which to make informed decisions and to ensure accountability on an ongoing basis.

voucher and the voucher’s individual line transactions. Further, the DRGR system’s lack of controls allowed grantees to add projects or rounds to a voucher even when the projects or rounds did not exist when the grantee paid the original voucher. Also, the DRGR system lacked controls to prevent grantees from revising a voucher and adding expenses for rounds that had expired.

OCFO Did Not Use Its LOCCS Controls To Monitor Compliance With the Act

OCFO did not fully use its LOCCS controls to track and enforce compliance with the Act’s 24-month expenditure deadline. LOCCS has an expiration date field for grants. Since CPD awarded a single grant with many amendments and each amendment had its own 24-month statutory deadline date, OCFO did not use this field because only one date could be entered into the field. Further, OCFO stated that it did not enter a deadline into LOCCS as CPD’s grant form did not have a box for the grant expenditure date. Although the 2013 Act was the first disaster appropriation to include an expenditure deadline, the 2013 funds control plan said that funds were to be expended within 2 years after obligation, and the grant agreement’s language clarified that the grantee was required to spend the funds obligated in the grant agreement within 2 years of the date of obligation. Thus, OCFO was aware that the 2013 Act funds had a 24-month statutory expenditure deadline. OCFO could have calculated and entered a grant expiration deadline based on the date the grant was signed if it had entered each grant round separately in LOCCS. If it had done so, OCFO would have been able to monitor and oversee the grantees’ compliance with the Act’s 24-month expenditure deadline. Although OCFO is ultimately responsible for overseeing the funds, OCFO instead relied on CPD to monitor the unliquidated obligations using the DRGR system rather than using LOCCS and performing its own monitoring of the grantees’ compliance with the 2013 Act’s 24-month expenditure deadline.³⁴

CPD’s Lack of Controls Allowed Grantees To Improperly Spend Funds Totaling \$526 Million

Due to its actions and the lack of system controls by both CPD and OCFO, CPD allowed six grantees to improperly spend funds and receive payments totaling \$526 million as of January 19, 2018, as shown in table 7.

Table 7: Total ineligible amount the grantees spent

Reason ineligible	Total amount ineligible
Two grantees spent more than obligated for a grant round.	\$167,254,244
Five grantees spent funds for a round before the grant round was signed.	24,409,255
Four grantees spent funds for a round after the grant round had expired.	334,441,871
Total	526,105,370

³⁴ See Audit Report 2018-FW-0802, Interim Report - Potential Antideficiency Act and Generally Accepted Accounting Principle Violations Occurred With Disaster Relief Appropriation Act, 2013, Funds, issued May 15, 2018, for recommendations addressed to OCFO, including one concerning tracking the Disaster Recovery funding 24-month expenditure deadline in LOCCS.

CPD’s Lack of Controls Resulted in Grantees’ Making Revisions Totaling \$1.8 Billion Up to 3 Years After the Initial Voucher

CPD’s lack of DRGR system controls allowed the six grantees to revise 1,333 vouchers totaling more than \$1.8 billion of the almost \$8 billion spent, or 23 percent of the total amount spent, as of January 19, 2018, as shown in table 8. Grantees started revising vouchers and transferring funds between activities in the same round as early as July 2013 and between different rounds and activities as early as September 2014. Changes occurred from the month in which the voucher was created to 3 years later. In one example, a grantee revised a 10-line-item \$1.8 million voucher 6 times over a 6-month period until the voucher had 108 line items. In another case, a grantee revised a voucher, which totaled \$75 million, 6 times in 3-years, increasing the original 3-line-item voucher to a 32-line-item voucher, and added a July 2015 expense to the January 2014 voucher.

Table 8: Revised vouchers by the six grantees as of January 19, 2018

Grantee	Total vouchers paid	Vouchers with revision(s)	Percentage of vouchers revised	Number of line items revised	Total amount revised
Connecticut	110	45	41%	112	\$ 27,537,814
Maryland	125	1	1%	1	23,237
New Jersey	4,970	629	13%	1,220	368,704,854
New York	3,363	284	8%	504	893,074,991
New York City	2,778	370	13%	564	548,650,330
Rhode Island	185	4	2%	4	277,114
Totals	11,531	1,333	12%	2,405	1,838,268,340

Further, grantees continued to revise vouchers after January 19, 2018. A review of four transactions in April 2018, made after OCFO received our draft report on potential ADA violations,³⁵ showed that CPD allowed two grantees to revise two vouchers rather than repay transactions that had been identified as ineligible. Grantee interviews in May 2018 confirmed that the revisions were still happening. One grantee stated that revisions were being made to correct the cumulative methodology and comply with the 2-year deadline. However, the transactions that grantees revised included transactions dated before CPD formally adopted the cumulative process. Another grantee stated that it was revising vouchers to correct mistakes. Yet two grantees’ corrections caused additional errors as expenses from later rounds were being added to vouchers created in an earlier period.

CPD Avoided Recapturing and Reallocating Grant Funds

Because CPD did not enforce the 24-month requirement, it did not recapture and reallocate grant funds as its Federal Register notices required. According to the DRGR system data, as of January 19, 2018, three grantees had not fully obligated four rounds of funding by the grant round deadline date as shown in table 9.

³⁵ Audit Report 2018-FW-0802, Interim Report - Potential Antideficiency Act and Generally Accepted Accounting Principle Violations Occurred With Disaster Relief Appropriation Act, 2013, Funds, issued May 15, 2018

Table 9: Unspent grant round amounts by the round deadline date and by grantee based on DRGR system data

Grantee	Grant round	Round deadline date	Amount obligated	Amount spent	Unspent amount
Connecticut	3	12/2/2016	\$35,000,000	\$34,819,578	\$180,422
Maryland	1	12/12/2015	4,400,000	4,398,116	1,884
Maryland	3	12/3/2016	1,100,000	1,078,647	21,353
New York	1	5/15/2015	640,000,000	639,679,370	320,630
Totals			680,500,000	679,975,711	524,289

As shown in table 10, CPD’s tracking reports showed that two grantees, Maryland and New York, had not fully spent \$439,388 for two grants before the expenditure deadlines. Further, in Maryland’s case, CPD’s tracking reports did not show the funds as being fully spent until more than 2.5 months after the deadline.

Table 10: Unspent grant amounts by grantee based on CPD’s tracking report information

Grantee	Tracking report date	Grant round	Round deadline date	Amount obligated	Amount spent	Unspent amount
Maryland	2/1/2016	1	12/13/2015	\$ 4,400,000	\$ 4,376,763	\$ 23,237
New York	2/1/2016	2	01/8/2016	803,000,000	802,583,849	416,151
Totals				807,400,000	806,960,612	439,388

All six grantees also said that CPD had not recaptured any funds. One grantee admitted that it had missed a 2018 expenditure deadline, but it stated that CPD was very accommodating and allowed it to modify and adjust a voucher from one round to another, which allowed it to meet the expenditure deadline. Thus, CPD allowed grantees to keep and spend the funds rather than recapture and reallocate them as required.

CPD Did Not Ensure That the Grantees Were Transparent in Reporting Recovery Progress

Because it allowed grantees to revise vouchers and change activities, CPD did not ensure that the grantees were being transparent in reporting their recovery progress to Congress and the public. For example, at the end of round 1, Connecticut had two activities (Multifamily and Planning), which had spent less than \$1 million of \$6 million budgeted. Instead of reporting that the activities were taking longer than 24 months to complete and seeking an extension for the activities, the grantee

- Moved faster moving Housing activity costs from round 3 to round 1 by revising completed vouchers and changing the recorded expenses.
- Decreased the round 1 budget for the slower moving Multifamily and Planning activities and increased the round 1 budget for Housing activities.
- Reported the round 1 Multifamily, Planning, and Housing activities as complete.
- Moved the incomplete round 1 Multifamily activities to round 3 Multifamily activities.

In another example, Rhode Island in its 2015 QPRs changed four projects from round 2 to round 3 to ensure that it met the expenditure deadline. The project descriptions did not change.

However when it made the change from round 2 to round 3, it changed the projected start and end dates, making it appear that the projects would meet the 24-month expenditure requirement. Yet according to a prior QPR, these projects would now exceed the 24-month expenditure deadline when comparing the date the project originally started to the new projected end date. In the four cases, the projects' lengths, based on the new projected end date, were between 32 and 47 months. Further, Rhode Island did not request an extension on any of its projects until November 22, 2016, which was months or more than a year after these projects would have exceeded the 24-month deadline.

By shifting funds between rounds, deleting activities, and reporting the same activities in a later round, grantees avoided the administrative task of asking for an extension of funds and were allowed to close and report that the earlier round was completed within the deadline. One grantee indicated that CPD discouraged extensions by making the process arduous and making it apparent that extensions should be for exceptions and not regular project delays. Further, CPD avoided having to review, approve, and publicize that it had granted extensions.

Conclusion

CPD did not ensure that grantees met the Act's 24-month expenditure deadline. This condition occurred because CPD's actions showed that it did not strictly enforce the Act and its DRGR system had material control weaknesses. As a result, grantees (1) misspent \$526 million, (2) made \$1.8 billion in revisions to completed vouchers totaling almost \$8 billion up to 3 years after the original voucher was created, and (3) kept \$524,289 in funds that should have been recaptured. If CPD does not correct the identified issues, grantees risk misspending a minimum of \$413 million of the remaining 2013 Act funds as of January 19, 2018.³⁶ Further, CPD and its grantees were not being transparent in reporting their Disaster Recovery progress to Congress and the public. Instead, grantees revised vouchers and changed activities to move faster moving activities to expiring rounds and slower moving activities to later rounds to report that they were complying with the Act's 24-month deadline.

Recommendations

We recommend that Deputy Assistant Secretary for Grant Programs

- 1A. Require two grantees to repay \$167,254,244 for grants funds spent in excess of the amount obligated for a round.
- 1B. Require five grantees to repay \$24,409,255 for grant funds spent before the grantee had signed a grant round agreement obligating the funds.
- 1C. Require four grantees to repay \$334,441,871 for grant funds spent by the grantee after the grant round's 24-month expenditure deadline had expired.
- 1D. Recapture \$524,289 in grant funds, which the grantee had not reported spent by the grant round expenditure deadline, and return the funds to the U.S. Treasury as HUD can no longer reobligate the funds.

³⁶ See the Scope and Methodology section for the calculation of funds put to better use.

- 1E. Adopt and enforce new written policies, procedures, and internal controls for all CDBG Disaster Recovery funds that have a statutory grantee expenditure deadline, which will ensure that \$413,530,414 in 2013 Act funds will be put to better use.
- 1F. Take action to correct and address the DRGR system material internal control weaknesses identified in this report.

Scope and Methodology

Our audit generally covered the period January 2013 through March 2018, but we expanded and limited our scope as explained below to complete our audit objective. We started our audit on May 7, 2017, and completed our work on September 19, 2018. We performed our field work at CPD's offices in Washington, DC, and our Region 6, Fort Worth, TX, offices. We selected 6 of the 47 Disaster Relief Appropriations Act, 2013, grantees for our audit work as they received the majority of the funding in multiple rounds. The grantees included (1) Connecticut, (2) Maryland, (3) New Jersey, (4) New York, (5) New York City, and (6) Rhode Island.

We reviewed

- The Disaster Relief Appropriations Act, 2013;³⁷ the Supplemental Appropriations for Disaster Relief Requirements Act, 2017; the Additional Supplemental Appropriations for Disaster Relief Requirements Act, 2017; the Bipartisan Budget Act of 2018; and the ADA.
- The 25 Federal Register notices associated with funds provided under the 2013 Act.³⁸
- The Controller of OMB's March 2013 letter to agency heads of executive departments regarding accountability for funds provided by the Disaster Relief Appropriations Act, 2013.
- HUD's "Analysis of Future Disbursement Timeframes for Grantees under P.L. [Public Law] 113-2," issued June 7, 2013.
- The Director of OMB's October 2013 letter to the Committee on Appropriations, U.S. House of Representatives, regarding notification of waivers granted to agency programs, including a waiver of almost \$7.5 billion granted to HUD's CDBG program.
- The Director of OMB's July 2013 letter to the Committee on Appropriations, U.S. Senate, under the Continuing Appropriation Act, 2018; Supplemental Appropriations for Disaster Relief Requirements Act, 2017; and Bipartisan Budget Act of 2018, regarding a waiver of more than \$35 billion in CDBG program funding.
- GAO's Federal Principles of Appropriation Law and related sections of the United States Code regarding obligations and expenditure of Federal funds.
- GAO's decision in the matter of HUD HOME Program Grants - Statutory Commitment Deadline, dated July 17, 2013.
- DRSI's revised September 2016 CDBG-Disaster Recovery Procedures Guidebook and February 2017 Managing Expenditure Deadline Policy Abstract for Public Law 113-2 grantees.
- CPD's 2013 funds control plan for CDBG (0162) Disaster Recovery assistance and the 2017 and 2018 internal control matrices.
- HUD's Directive System and Administrative Control of Funds Policy Handbooks.³⁹

³⁷ See appendix C.

³⁸ Ibid.

³⁹ Handbooks 000.2, REV-3, issued March 2012, and 1830.2, REV-6, issued March 22, 2017

- The August 2017 DRGR System Grantee User Manual, version 2.0.
- HUD's FFMIA Financial System Review Report on the DRGR system, issued June 13, 2017.
- The grant agreements, grant amendments, and grant deadline extensions for the six selected grantees, dated from May 13, 2013, to September 6, 2017.
- DRSI's monthly 2-year tracking reports from December 2013 to October 2017.
- CPD DRSI's and the field offices' available monitoring reports for the six grantees from July 2013 to August 2017. We limited our scope of review to the provided reports and determining when the monitoring occurred and whether any findings addressed the 24-month grantee expenditure requirement. We did not assess the sufficiency of the monitoring or the frequency of the monitoring visits because our audit work indicated that CPD provided guidance to its grantees that contradicted its initial Federal Register notice and its funds control plan.
- OGC's Community Development Division's undated note to DRSI's Director concerning HUD's authority to amend CDBG Disaster Recovery grant agreements.
- CPD's training documents, including training transcripts, fact sheets, and presentations, for training held in March 2013, October 2013, August 2015, March 2016, and February 2017.

We interviewed

- CPD management and staff responsible for overseeing the grants.
- OCFO management, appropriations attorneys, and staff.
- OGC's Community Development Assistant General Counsel and attorneys.
- State employees at the six grantees responsible for administering the Disaster Recovery grant programs.

As of January 19, 2018, we had obtained data downloads from the DRGR system's FinRept03 report for all six selected grantees. These reports showed the status of all six grantees' 43,103 voucher line items as of that date, which included more than \$8 billion in completed and \$1.8 billion in revised transactions. The DRGR report contained a data limitation as the report did not list an original completed transaction if the transaction had been revised. Instead, it showed only the revision. Further, the report showed the revision occurring on the date the original line item processed and not on the date the revision processed. We tested a limited number of vouchers and determined that the detailed vouchers in the DRGR system contained both the debit and credit side of a revision and the date of the revision. Thus, we determined that the data limitation existed solely within the FinRept03 report, and it had a limited effect on our work and conclusions. However, we included revised transactions in our results when the grantee's original transactions would have been (1) before the grant was awarded, (2) after the grant expired, or (3) more than a year after the original entry. We tested the data reliability of the DRGR amounts paid by comparing the amounts paid in a DRGR voucher to the amounts reported paid by LOCCS. We determined that the DRGR system data were generally reliable for the purposes of our testing.

We then used computer analytical tools, including filters and pivot tables, to perform testing on 100 percent of the 43,103 line item transactions in our data universe. Using filters, we excluded

all Rebuild by Design grant funds as these grants were competitive in nature and the funds expenditure deadline had been extended to September 2022. We identified (1) the total amount each grantee had spent for a grant round, (2) all line item transactions that occurred before and after each grant round for our six grantees, and (3) the number of vouchers and line item transaction revisions a grantee had made.

We reviewed all of CPD’s monthly tracking reports from December 2013 to October 2017 to identify any grantees that had reported spending more funds in a round than CPD had obligated. We noted that in the September 1, 2015, report, one grantee, New York, was reported as spending nearly \$7 million more than the \$803 million amount HUD awarded for round 2. Using the DRGR FinRept03 report data, dated January 19, 2018, we employed filters to determine whether any of the six selected grantees reported a total amount spent for a round in excess of the amount that CPD had awarded and obligated. We identified two grantees that had reported that they had spent \$160 million more than CPD had obligated for three grant rounds (table 2).

We reviewed all of CPD’s monthly tracking reports from December 2013 to October 2017 to identify any grantees that had reported funds not being 100 percent spent by the expenditure deadline. We noted that CPD reported in its tracking reports that two grantees had not fully spent their funds (table 9). Using the DRGR FinRept03 report data, dated January 19, 2018, for the six selected grantees, we employed filters to determine the number of line item transactions and amount that occurred 3 days after the round’s expenditure deadline to determine the amount of funds that CPD should have recaptured as the funds had not been spent by the deadline (table 8).

To determine future funds at risk of being misspent, we determined the error rate for the universe of transactions by dividing the total questioned costs by total expenditures after excluding Rebuild by Design line item transactions. We then multiplied the error rate by the amount of unspent and untested 2013 Act funds as of January 19, 2018, to compute the estimated amount of future funds to be put to better use as shown in table 11.

Table 11: Calculation of funds to be put to better use as of January 19, 2018

Description	Amount
Total questioned costs	\$526,629,659
Total expenditures	\$7,948,201,851
Error rate (total questioned costs/total expenditures)	6.63%
Unspent 2013 Act funding for the 6 grantees	\$4,050,278,149
Untested 2013 Act funding for remaining grantees	\$2,186,983,000
Total unspent and untested funding with a 24-month expenditure deadline	\$6,237,261,149
Funds to be put to better use (error rate X unspent and untested funding)	\$413,530,414

We also obtained for the six grantees updated FinRept03 data in May 2018 after issuance of our draft report to OCFO concerning potential ADA and generally accepted accounting principles (GAAP) violations to determine whether the grantees continued to revise previous vouchers in DRGR, including vouchers previously questioned. We tested four vouchers that had been

specifically reported in the draft audit memorandum and noted that two vouchers had been revised again. In addition, we reviewed total expenditures by round for one grantee that had previously reported overspending a round and noted that the grantee now reported that it had spent only the amount awarded.

We obtained 45 QPRs for the six selected grantees from October 2013 to December 2017. We performed limited analyses on the data in some of them. We reviewed the summary detail information in the QPRs to determine whether the grantee reported that it had spent more than it had budgeted for a project activity. We also performed additional limited testing of the grantee's QPR summary information by totaling amounts reported by round and comparing the total to the amount CPD obligated for a round to determine whether a grantee budgeted or spent more than CPD had obligated.

We conducted the audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective(s). We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

Internal Controls

Internal control is a process adopted by those charged with governance and management, designed to provide reasonable assurance about the achievement of the organization's mission, goals, and objectives with regard to

- effectiveness and efficiency of operations,
- reliability of financial reporting, and
- compliance with applicable laws and regulations.

Internal controls comprise the plans, policies, methods, and procedures used to meet the organization's mission, goals, and objectives. Internal controls include the processes and procedures for planning, organizing, directing, and controlling program operations as well as the systems for measuring, reporting, and monitoring program performance.

Relevant Internal Controls

We determined that the following internal controls were relevant to our audit objective:

- Policies and procedures created by CPD to ensure compliance with the 2013 Act's 24-month grantee expenditure requirement.
- CPD's DRGR system controls.
- OCFO's LOCCS controls for expenditure deadlines.

We assessed the relevant controls identified above.

A deficiency in internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, the reasonable opportunity to prevent, detect, or correct (1) impairments to effectiveness or efficiency of operations, (2) misstatements in financial or performance information, or (3) violations of laws and regulations on a timely basis.

Significant Deficiencies

Based on our review, we believe that the following items are significant deficiencies:

- CPD's controls did not prevent grantees from (1) spending more funds than they had obligated or budgeted, (2) recording expenses before an amendment was executed, or (3) recording expenses after the 24-month expenditure deadline (finding).
- CPD's controls did not ensure that recapture of funds occurred (finding).
- CPD staff actions and training contradicted its published Federal Register notices and 2013 funds control plan (finding).
- CPD temporarily adopted a prohibited cumulative method of accounting for the 2013 Act funds (finding).

- The 2017 and 2018 funds control matrices did not include the 24-month grantee expenditure requirement (finding).
- CPD's current policies and controls for the funds were unclear (finding).
- CPD's DRGR system controls have material weaknesses (finding).
- OCFO did not use LOCCS controls to ensure that CPD's grantees complied with the 24-month expenditure requirement⁴⁰ (finding).

⁴⁰ See footnote 35.

Followup on Prior Audits

Interim Report - Potential Antideficiency Act and Generally Accepted Accounting Principle Violations Occurred With Disaster Relief Appropriation Act, 2013, Funds, 2018-FW-0802, Issued May 15, 2018

While performing audit work to determine whether the HUD CPD monitored and ensured that grantees complied with the 24-month statutory expenditure requirement contained in the Disaster Relief Appropriations Act, 2013, we noted issues with (1) the recording of grants in LOCCS and (2) the grantees' recording of expenditures in the DRGR system. These issues require immediate action by the OCFO as they are potential violations of the ADA⁴¹ and do not appear to follow GAAP.

As of January 19, 2018, two of the six grantees had recorded total expenses in the DRGR system in excess of what CPD had obligated for a grant round, which totaled more than \$160 million. Five grantees also recorded expenses in the DRGR system before CPD executed a grant round amendment and after a grant round expired, which totaled more than \$435 million. In addition, four grantees made revisions to completed and revised vouchers totaling more than \$496 million in the DRGR system a year or more after they entered the initial voucher. These issues had a variety of causes, including (1) systemic weaknesses in the DRGR system, (2) CPD's entering into one grant agreement with multiple amendments with multiple deadlines, (3) how CPD and OCFO treated the grants in LOCCS, (4) a lack of voucher monitoring by OBGA, and (5) OBGA's incorrect decisions on how to account for the funds. These expenses appeared to have been potential ADA and GAAP violations and could potentially have a negative effect on both HUD's and the grantees' financial statements. If OCFO does not require corrections to how it and CPD account for Disaster Recovery funds, these issues will continue to occur with the remaining \$6.4 billion in 2013 Disaster Recovery funding⁴² and the future \$35.4 billion for 2017 and 2018 Disaster Recovery funding.

We recommended that OCFO determine whether (1) summary expenditures totaling more than \$160 million, which exceeded the grant round obligations for the two grantees, and (2) revised and completed detail transactions totaling to more than \$435 million, which occurred before and after grant rounds' obligation and expenditure dates, were ADA violations. We also recommended that OCFO determine whether the revised and completed transactions totaling more than \$496 million and made more than a year after the original DRGR voucher entry were GAAP violations. We further recommended that OCFO enter expiration terms into LOCCS for DRGR funding and require CPD to implement additional controls to prevent the identified issues from occurring in 2017 and 2018 Disaster Recovery funding.

⁴¹ HUD Handbook 1830.2, REV-6, Administrative Control of Funds Policies, issued March 22, 2017, designated the Chief Financial Officer's appropriations law staff responsible for determining whether an ADA violation occurred. See appendix C.

⁴² The amount unspent was as of February 1, 2018.

In its various responses to the recommendations regarding ADA and GAAP violations, OCFO stated that it opened an ADA investigation and was reviewing to determine whether GAAP violations had occurred. OCFO indicated it would address the other recommendations once it completed its ADA investigation.

HUD's Office of Block Grant Assistance Had Not Codified the Community Development Block Grant Disaster Recovery Program, 2018-FW-0002, Issued July 23, 2018

As part of our annual risk and internal planning process, we audited HUD OBGA's CDBG Disaster Recovery program. Our analysis noted that Congress had historically provided disaster funding through supplemental appropriations, yet OBGA had not created a formal codified program. Instead, it had issued multiple requirements and waivers for each Disaster Recovery supplemental appropriation in Federal Register notices, many of which were repeated from disaster to disaster. Our objective was to determine whether OBGA should codify the CDBG Disaster Recovery funding as a program in the Code of Federal Regulations.

Although OBGA had managed billions in Disaster Recovery funds since 2002, it had not codified the CDBG Disaster Recovery program. It had not codified the program because it believed it did not have the authority under the Robert T. Stafford Disaster Relief and Emergency Assistance Act and it had not determined whether it had the authority under the Housing and Community Development Act of 1974 as amended. It also believed a Presidential Executive Order presented a barrier to codification as it required CPD to identify two rules to eliminate in order to create a new codified rule. We believe OBGA has the authority under the Housing Act of 1974 and it should codify the program. OBGA's use of multiple Federal Register notices to operate the Disaster Recovery program presented challenges to the grantees. For example, 59 grantees with 112 active Disaster Recovery grants, which totaled more than \$47.4 billion as of September 2017, had to follow requirements contained in 61 different Federal Register notices to manage the program. Further, codifying the CDBG Disaster Recovery program would (1) ensure that a permanent framework is in place for future disasters, (2) reduce the existing volume of Federal Register notices, (3) standardize the rules for all grantees, and (4) ensure that grants are closed in a timely manner.

We recommended that the Acting Director of OBGA work with OGC to codify the CDBG Disaster Recovery program. CPD did not agree codification was necessary and stated codification has limited or no applicability for future disasters in a memorandum issued to OIG on October 30, 2018. OIG disagreed with this management decision and has referred the disagreement to the next level of management.

Appendixes

Appendix A

Schedule of Questioned Costs and Funds To Be Put to Better Use

Recommendation number	Ineligible 1/	Funds to be put to better use 2/
1A.	\$167,254,244	
1B.	24,409,255	
1C.	334,441,871	
1D.	524,289	
1E.		\$413,530,414
Totals	526,629,659	413,530,414

- 1/ Ineligible costs are costs charged to a HUD-financed or HUD-insured program or activity that the auditor believes are not allowable by law; contract; or Federal, State, or local policies or regulations.
- 2/ Recommendations that funds be put to better use are estimates of amounts that could be used more efficiently if an Office of Inspector General (OIG) recommendation is implemented. These amounts include reductions in outlays, deobligation of funds, withdrawal of interest, costs not incurred by implementing recommended improvements, avoidance of unnecessary expenditures noted in preaward reviews, and any other savings that are specifically identified. In this case, the amount represents CDBG Disaster Recovery funds unspent and untested for the 2013 Act as of January 19, 2018, multiplied by the known error rate based on our 100 percent data testing as explained in the Scope and Methodology section.

Appendix B

Auditee Comments and OIG's Evaluation

Ref to OIG Evaluation

Auditee Comments

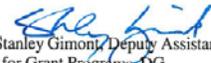


OFFICE OF COMMUNITY PLANNING
AND DEVELOPMENT

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

April 10, 2019

MEMORANDUM FOR: Kilah White, Regional Inspector General for Audit, 6GA

FROM: 
Stanley Gimoni, Deputy Assistant Secretary
for Grant Programs, DG

SUBJECT: Draft Audit Report 2018-FW-xxxx: Compliance with the Disaster Relief Appropriations Act, 2013, Grantee Expenditure Requirement

The Office of Community Planning and Development (CPD) has reviewed the draft audit report of CPD's monitoring and enforcement of the Disaster Appropriations Act, 2013, 24-month Community Development Block Grant disaster recovery (CDBG-DR) grantee expenditure requirement. CPD offers the following comments on the draft audit report for consideration. CPD appreciates the additional time to respond to this draft.

The draft audit report maintains that CPD did not enforce the 2013 Act's 24-month grantee expenditure requirement; that the Disaster Recovery Grant Reporting (DRGR) system had material control weaknesses; and that the Office of the Chief Financial Officer (OCFO) did not use its financial controls to monitor compliance with the 2013 Act. The draft audit report concludes that, as a result, CPD allowed grantees to improperly receive payments totaling \$526 million as of January 19, 2018.

The draft audit report is directly linked to the Office of Inspector General (OIG)'s Interim Report - Potential Anti-deficiency Act and Generally Accepted Accounting Principle Violations Occurred With Disaster Relief Appropriation Act, 2013, Funds (2018-FW-0802), issued on May 15, 2018. As stated during the meeting to discuss the draft audit report on March 13, 2019, it is CPD's understanding that OCFO is working to complete its review to determine whether there are any compliance issues related to the Anti-deficiency Act or Generally Accepted Accounting Principles in response to the interim report. The OCFO's conclusions will inform both the OIG's final determination of any recommendations proposed in the draft audit report as well as CPD's response and management decision. For that reason, CPD requests that the OIG not issue the final draft audit report until the OCFO completes its response to the OIG interim report referenced above.

The draft audit report states the audit period began on May 7, 2017, and was completed on September 19, 2018. As previously noted through numerous written and verbal communications with OIG staff, the audit period coincided with CPD's process of transitioning back to the original "round-by-round" CDBG-DR expenditure deadline tracking method from the short-lived "cumulative disbursement" method. As a result, the observations outlined in the draft audit report that formed the basis for audit Recommendations #1A, #1B, and #1C do not accurately reflect the current status of the grants that are the subject of the draft audit, as the transition to the original

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Comment 1

Comment 2

**Ref to OIG
Evaluation**

Auditee Comments

Comment 3

round-by-round method is complete and the conditions the draft audit report describes as warranting repayment no longer exist. In transitioning back to the “round-by round” method, CPD has acted pursuant to guidance provided by OFCO and is awaiting that office’s determination of the extent to which the transition comports with OFCO guidance.

In response to Recommendation #1D, CPD advises that CDBG-DR funds not expended by the expenditure deadline have been blocked from future draws in the DRGR system and are no longer available to grantees for expenditure. CPD is working with OCFO to de-obligate the funds in HUD’s Line of Credit Control System (LOCCS) and to recapture those funds.

Comment 4

In response to Recommendation #1E, CPD questions the draft audit report’s contention that \$413 million of unexpended CDBG-DR funds could be put to better use CPD has continued to approve extensions of the 24-month grantee expenditure requirement in accordance with waiver authority provided by the Office of Management and Budget. All but \$11.5 million of unexpended funds for the six Sandy grantees reviewed in the draft audit report have received an extended expenditure deadline of September 30, 2022, which is the maximum amount of time allowable for the expenditure of funds. A pending expenditure deadline extension request by the State of New Jersey will, once approved, leave \$2.5 million subject the September 30, 2019, expenditure deadline. The draft audit report does not consider or reflect the status of expenditure deadlines for the unexpended balance of funds under the 2013 Act. CPD urges that the final audit report be responsible with regard to the amount of unexpended funds (\$11.5 million) that may ultimately be subject to an expenditure deadline regardless of the time parameters of the audit work.

Comment 5

In response to Recommendation #1F, and in consultation with OCFO and the response to the interim report, CPD will consider improvements to the DRGR system, as funding permits, to address the system’s ability to accurately track expenditure requirements. These enhancements include the items listed below:

- 1.) CDBG-DR grantees cannot draw more funds than the LOCCS authorized amount, which is equal to the amount HUD obligated to the grantee via grant agreement. LOCCS is the grant disbursement system and subledger. DRGR provides grantees with access to LOCCS to drawdown funds up to the obligated amount.
- 2.) Grantees must create “projects” and “activities” in the DRGR system. The sum of project budgets cannot exceed the LOCCS authorized amount and the sum of activity budgets cannot exceed the project amount. In addition to the activity budget, the grantee must also obligate funds for each activity, and the activity obligation amount cannot exceed the activity budget.
- 3.) When a grant is established in DRGR, the full grant award amount is recorded in the Restricted Balance Project. As funds are obligated to the grantee through an executed grant agreement, including amendments, the obligated funds are added to the Line of Credit in LOCCS and recorded in DRGR as an increase to the grant’s LOCCS Authorized Amount. CPD staff must process a manual adjustment to reduce the Restricted Balance before the grantee can access the new obligation in order to budget the grant funds at the Project and Activity levels. Grantees may only draw funds at the

Comment 5

Comment 5

**Ref to OIG
Evaluation**

Auditee Comments

Comment 5

3

activity level therefore, it is not possible for the grantee to draw any grant funds prior to obligation by HUD, processing in LOCCS, and CPD's reduction to the Restricted Balance of the grant. The Restricted Balance is also used to maintain grant funds that have missed their disbursement deadline and are subject to de-obligation, recapture, and return to the Treasury.

- 4.) CPD can block access to funds at the grant, project or activity level at any time, including selecting a future date for an auto-drawdown block to be applied at the project and activity level (e.g. to enforce expenditure deadlines).

If you have questions regarding this response, please contact Frank McNally, Deputy Director, Disaster Recovery and Special Issues Division, at (202) 402-7100.

OIG Evaluation of Auditee Comments

Comment 1 CPD stated that this report was directly linked to our report issued to OCFO concerning potential Antideficiency Act and generally accepted accounting principle violations.⁴³ Because of this link, CPD requested that OIG not issue a final audit report until OCFO completed its response.

We disagree that delaying the final report would be prudent. Due to the significance of the issues identified during the audit, OIG issued its interim report to OCFO on May 15, 2018. OCFO opened its investigation and has indicated it will not complete its review until June 2019. The conditions and systemic weaknesses in this report need to be corrected before CPD awards additional CDBG-DR grants.

Comment 2 CPD stated that the observations in the report do not accurately reflect the current status of grants and the conditions in the draft report that required repayment no longer exist.

We agree that the report results do not reflect the current status of the grants in the DRGR system as CPD continued to allow grantees to revise any previously submitted voucher. We noted in the report that as of January 2018, more than \$1.8 billion in voucher revisions had occurred for the six grantees and that a grantee noted that additional revisions were occurring. We disagree that a requirement for repayment no longer exists as we noted CPD allowed grantees to (1) spend more funds than obligated or budgeted, (2) record expenses before a grant amendment or round was executed, and (3) record expenses after a grant amendment or round expired. The current amount of repayment will be determined as part of the audit resolution.

Comment 3 CPD stated that CDBG-DR funds not expended by the expenditure deadline have been blocked from future draws and that it was working to recapture those funds.

We did not see where such recapture of funds occurred during our audit and noted where a grantee stated that a voucher revision occurred after an expenditure deadline rather than recapture of the funds. In addition, CPD did not provide any documentation to support that recaptures had occurred. Therefore, we maintain our position.

⁴³ Audit Report 2018-FW-0802, Interim Report - Potential Antideficiency Act and Generally Accepted Accounting Principle Violations Occurred With Disaster Relief Appropriation Act, 2013, Funds, issued May 15, 2018

Comment 4 CPD questioned the amounts of funds put to better use of \$413 million in the report by stating that CPD had granted extensions to all but \$11.5 million of unexpended funds.

We affirm our calculation of the funds to be put to better use in the report which was based on our audit scope and the data in the DRGR system as of January 19, 2018. We projected our documented error rate to the 2013 Act funds, which were untested and unspent as of January 19, 2018. We excluded CPD's extensions granted to the six grantees dated from February 2017 to January 2018 as the majority of the extensions were granted during the period that CPD used the prohibited cumulative method of accounting.

Comment 5 CPD listed enhancements to improve accounting for the funds in the DRGR system, including (1) limiting draws to the LOCCS authorized amount, (2) stating that project budgets cannot exceed the LOCCS authorized amount, (3) restricting the grantee from accessing funds until authorized, and (4) blocking access to the funds at the grant, project, or activity level at any time.

These steps would not prevent the conditions cited in this report. LOCCS already contained the total of all of the rounds authorized amounts. However, CPD obligated its 2013 Act funding in rounds and each round had its own obligation amount and expenditure deadline, which were not tracked by LOCCS. Thus, CPD must implement controls to limit grantee draws by the round authorized total amount and require that budgeted amounts cannot exceed the total amount allocated by round. Further, these controls are needed for future CDBG-DR grants as CPD has adopted a 6-year expenditure deadline for current grantees and it is unclear as to whether CPD will continue to fund grantees using rounds. CPD also did not address the grantees' ability to retroactively revise a DRGR voucher months and years after the voucher was created and add activities (1) that did not exist when the voucher was created or (2) whose 24-month expenditure deadline had expired. We acknowledge the actions CPD has taken to make improvements and it will need to continue with additional actions to fully address the report recommendations.

Appendix C

Criteria

The Disaster Relief Appropriations Act, 2013

Title IX, General Provisions - This Division

Section 904(c) Funds for grants provided by this division shall be expended by the grantees within the 24-month period following the agency's obligation of funds for the grant, unless, in accordance with guidance to be issued by the Director of OMB, the Director waives this requirement for a particular grant program and submits a written justification for such waiver to the Committees on Appropriations of the House of Representatives and the Senate. In the case of such grants, the agency shall include a term in the grant that requires the grantee to return to the agency any funds not expended within the 24-month period.

Chapter 9, Department of Housing and Urban Development, Community Planning and Development, Community Development Fund

For an additional amount for "Community Development Fund", \$16,000,000,000, to remain available until September 30, 2017, for necessary expenses related to disaster relief, long-term recovery, restoration of infrastructure and housing, and economic revitalization in the most impacted and distressed areas resulting from a major disaster declared pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. [United States Code] 5121 et seq.) due to Hurricane Sandy and other eligible events in calendar years 2011, 2012, and 2013, for activities authorized under title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.)

Federal Register Notices

78 FR 14329, Issued March 5, 2013

II. Use of Funds

The Appropriations Act requires funds to be used only for specific disaster-related purposes. The law also requires that prior to the obligation of funds, a grantee shall submit a plan detailing the proposed use of funds, including criteria for eligibility and how the use of these funds will address disaster relief, long-term recovery, restoration of infrastructure and housing and economic revitalization in the most impacted and distressed areas. Thus, in an Action Plan for Disaster Recovery, grantees must describe uses and activities that: (1) are authorized under title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.) (HCD Act) or allowed by a waiver or alternative requirement published in this Notice; and (2) respond to a disaster-related impact. To help meet these requirements, grantees must conduct an assessment of community impacts and unmet needs to guide the development and prioritization of planned recovery activities....

III. Timely Expenditure of Funds and Prevention of Waste, Fraud, Abuse, and Duplication of Benefits

To ensure the timely expenditure of funds, section 904(c) under Title IX of the Appropriations Act requires that all funds be expended within two years of the date HUD obligates funds to a grantee (funds are obligated to a grantee upon HUD's signing of the grantee's CDBG-DR grant

agreement). Action Plans must demonstrate how funds will be fully expended within two years of obligation. For any funds that the grantee believes will not be expended by the deadline, it must submit a letter to HUD justifying why it is necessary to extend the deadline for a specific portion of funds. The letter must detail the compelling legal, policy, or operational challenges for any such waiver, and must also identify the date by when the specified portion of funds will be expended. HUD will forward the request to the Office of Management and Budget (OMB) and publish any approved waivers in the **Federal Register** once granted...Funds remaining in the grantee's line of credit at the time of its expenditure deadline will be returned to the U.S. Treasury, or if before September 30, 2017, will be recaptured by HUD. The Appropriations Act requires that HUD obligate all funds not later than September 30, 2017....⁴⁴

V. Overview of Grant Process

To begin expenditure of CDBG-DR funds, the following expedited steps are necessary:...

- Grantee signs and returns the fully executed grant agreement;
- HUD establishes the proper amount in a line of credit for the grantee;
- Grantee requests and receives DRGR system access (if the grantee does not already have it);
- If it has not already done so, grantee enters the activities from its published Action Plan into DRGR and submits it to HUD within the system (funds can be drawn from the line of credit only for activities that are established in DRGR);...

VI. Applicable Rules, Statutes, Waivers, and Alternative Requirements...

A. Grant Administration.

1. Action Plan for Disaster Recovery waiver and alternative requirement. The requirements for CDBG actions plans, located at 42 U.S.C. 12705(a)(2), 42 U.S.C. 5304(a)(1), 42 U.S.C. 5304(m), 42 U.S.C. 5306(d)(2)(C)(iii), 24 CFR [Code of Federal Regulations] 91.220, and 91.320 are waived for funds provided under the Appropriations Act. Instead, each grantee must submit to HUD an Action Plan for Disaster Recovery. This streamlined Plan will allow grantees to more quickly and effectively implement disaster recovery programs while conforming to statutory requirements...

a. *Action Plan.* The Action Plan must identify the proposed use(s) of the grantee's allocation, including criteria for eligibility, and how the uses address long-term recovery needs. To develop and submit an acceptable Action Plan in a timely manner, a grantee may elect to program or budget only a portion of the grantee's CDBG-DR award in an Action Plan....Although a grantee may submit a partial Action Plan, the partial Action Plan must be amended one or more times until it describes uses for 100 percent of the grantee's CDBG-DR award, subject to the limitations that HUD may not obligate Appropriations Act funds after September 30, 2017 and the last date that grantees may submit an amendment is June 1, 2017. The requirement to expend funds within two years of the date of obligation will be enforced relative to the activities funded under each obligation, as applicable....⁴⁵

j. *Obligation and expenditure of funds.* Upon the Secretary's certification, HUD will issue a grant agreement obligating the funds to the grantee. Only the funds described by the

⁴⁴ Section III was replaced by section IV in 80 FR 26942, issued May 11, 2015.

⁴⁵ Section VI.A.1.a was revised by section II.4 of 81 FR 54114, issued August 15, 2016.

grantee in its Action Plan, at the necessary level of detail, will be obligated. In addition, HUD will establish the line of credit and the grantee will receive DRGR system access (if it does not have access already). The grantee must also enter its Action Plan activities into the DRGR system before it may draw funds as described in paragraph A.2, below....⁴⁶

k. *Amending the Action Plan.* As the grantee finalizes its long-term recovery goals, or as needs change through the recovery process, the grantee must amend its Action Plan to update its needs assessment, modify or create new activities, or re-program funds, as necessary. Each amendment must be highlighted, or otherwise identified, within the context of the entire Action Plan. The beginning of every Action Plan amendment must include a section that identifies exactly what content is being added, deleted, or changed. This section must also include a chart or table that clearly illustrates where funds are coming from and where they are moving to. The Action Plan must include a revised budget allocation table that reflects the entirety of all funds, as amended....

If a grantee amends its Action Plan to program additional funds that the Department has allocated to it, the grant agreement must also be revised. As stated in paragraph 1.a, the requirement for each grantee to expend funds within two years of the date of obligation will be enforced relative to the activities funded under each obligation, as applicable....⁴⁷

2. HUD performance review authorities and grantee reporting requirements in the Disaster Recovery Grant Reporting (DRGR) System.

a. *Performance review authorities.* 42 U.S.C. 5304(e) requires that the Secretary shall, at least on an annual basis, make such reviews and audits as may be necessary or appropriate to determine whether the grantee has carried out its activities in a timely manner, whether the grantee's activities and certifications are carried out in accordance with the requirements and the primary objectives of the HCD Act [Housing and Community Development Act of 1974] and other applicable laws, and whether the grantee has the continuing capacity to carry out those activities in a timely manner. Grantees are advised that HUD is increasing its monitoring and technical assistance effort to coincide with the two-year expenditure deadline.

This Notice waives the requirements for submission of a performance report pursuant to 42 U.S.C. 12708 and 24 CFR 91.520. In the alternative, and to ensure consistency between grants allocated under the Appropriations Act and prior CDBG-DR appropriation laws, HUD is requiring that grantees enter information in the DRGR system in sufficient detail to permit the Department's review of grantee performance on a quarterly basis and to enable remote review of grantee data to allow HUD to assess compliance and risk.

b. *DRGR Action Plan.* Each grantee must enter its Action Plan for Disaster Recovery, including performance measures, into HUD's DRGR system. As more detailed information about uses of funds is identified by the grantee, it must be entered into the DRGR system at a level of detail that is sufficient to serve as the basis for acceptable performance reports, and permits HUD review of compliance requirements.

The Action Plan must also be entered into the DRGR system so that the grantee is able to draw its CDBG-DR funds. The grantee may enter activities into DRGR before or after

⁴⁶ Section VI.A.1.j was revised by section V.1.d.78 FR 76154, issued December 16, 2013.

⁴⁷ Section VI.A.1.k was revised by section VI.3.e of 78 FR 69109, issued November 18, 2013, which was later revised by section II.4 of 81 FR 54114, issued August 15, 2016.

submission of the Action Plan to HUD. To enter an activity into the DRGR system, the grantee must know the activity type, national objective, and the organization that will be responsible for the activity...

Each activity entered into the DRGR system must also be categorized under a "project." Typically, projects are based on groups of activities that accomplish a similar, broad purpose (e.g., Housing, Infrastructure, or Economic Development) or are based on an area of service (e.g., Community A). If a grantee submits a partial Action Plan or amendment to describe just one program (e.g., Single Family Rehabilitation), that program is entered as a project in DRGR. Further, the budget of the program would be identified as the project's budget. If a State grantee has only identified the Method of Distribution (MOD) upon HUD's approval of the published Action Plan, the MOD itself typically serves as the projects in the DRGR system, rather than the activities. As funds are distributed to subgrantees and subrecipients, who decide which specific activities to fund, those activity fields are then populated.

c. *Tracking oversight activities in the DRGR system; use of DRGR data for HUD review and dissemination.* Each grantee must also enter into DRGR summary information on monitoring visits and reports, audits, and technical assistance it conducts as part of its oversight of its disaster recovery programs. The grantee's Quarterly Performance Report (QPR) will include a summary indicating the number of grantee oversight visits and reports (see subparagraph e for more information on the QPR). HUD will use data entered into the DRGR Action Plan and the QPR, transactional data from the DRGR system, and other information provided by the grantee to provide reports to Congress and the public, as well as to (1) Monitor for anomalies or performance problems that suggest fraud, abuse of funds, and duplication of benefits; (2) reconcile budgets, obligations, funding draws, and expenditures; (3) calculate expenditures to determine compliance with administrative and public service caps and the overall percentage of funds that benefit low- and moderate-income persons; and (4) analyze the risk of grantee programs to determine priorities for the Department's monitoring....

e. *DRGR System Quarterly Performance Report (QPR).* Each grantee must submit a QPR through the DRGR system no later than 30 days following the end of each calendar quarter...QPRs must be submitted on a quarterly basis until all funds have been expended and all expenditures have been reported.

Each QPR will include information about the uses of funds in activities identified in the DRGR system Action Plan during the applicable quarter. This includes, but is not limited to, the: project name, activity, location, and national objective; funds budgeted, obligated, drawn down, and expended; the funding source and total amount of any non-CDBG-DR funds to be expended on each activity; beginning and actual completion dates of completed activities; achieved performance outcomes such as number of housing units complete or number of low- and moderate-income persons benefiting; and the race and ethnicity of persons assisted under direct-benefit activities...The DRGR system will automatically display the amount of program income receipted, the amount of program income reported as disbursed, and the amount of grant funds disbursed....

3. *Citizen participation waiver and alternative requirement...* The streamlined citizen participation requirements for a grant carried out under this Notice are:

a. *Publication of the Action Plan, opportunity for public comment, and substantial amendment criteria.* Before the grantee adopts the Action Plan for this grant or any substantial amendment to this grant, the grantee will publish the proposed plan or amendment (including the information required in this Notice for an Action Plan for Disaster Recovery)....

Subsequent to publication of the Action Plan, the grantee must provide a reasonable time frame and method(s) (including electronic submission) for receiving comments on the plan or substantial amendment. In its Action Plan, each grantee must specify criteria for determining what changes in the grantee's plan constitute a substantial amendment to the plan. At a minimum, the following modifications will constitute a substantial amendment: a change in program benefit or eligibility criteria; the allocation or re-allocation of more than \$1 million; or the addition or deletion of an activity. The grantee may substantially amend the Action Plan if it follows the same procedures required in this Notice for the preparation and submission of an Action Plan for Disaster Recovery. Prior to submission of a substantial amendment, the grantee is encouraged to work with its HUD representative to ensure the proposed change is consistent with this Notice, and all applicable regulations and Federal law....

24. *Timely distribution of funds.* The provisions at 24 CFR 570.494 and 24 CFR 570.902 regarding timely distribution of funds are waived and replaced with the alternative requirements under this Notice. Section 904(c) of the Appropriations Act requires that all funds be expended within two years of the date HUD obligates funds to a grantee. Therefore, each grantee must expend all funds within two years of the date its grant agreement with HUD is executed. Note that a grant agreement must be amended when the Department allocates additional funds to the grantee. As stated in paragraph A.1.a, in this section, the requirement for each grantee to expend funds within two years of the date of obligation will be enforced relative to the activities funded under each obligation. HUD expects each grantee to expeditiously obligate and expend all funds, including any recaptured funds or program income, and to carry out activities in a timely manner to ensure this deadline is met. See sections III and VII of this Notice for additional details on expenditure of funds....

VII. Duration of Funding

The Appropriations Act requires that HUD obligate all funds provided under Chapter 9, Community Development Fund, not later than September 30, 2017. Concurrently, section 904(c) of the Appropriations Act requires that all funds be expended within two years of the date HUD obligates funds. Therefore, each grantee must expend all funds within two years of the date HUD signs the grant agreement with the grantee. Note that if a grantee amends its Action Plan to program additional funds that the Department has allocated to it, the grant agreement must also be revised. As stated in paragraph 1.a, under section VI of this Notice, the requirement for each grantee to expend funds within two years is triggered by each amendment to the grant agreement. That is, each grant amendment has its own expenditure deadline....

78 FR 23578, Issued April 19, 2013

II. Applicable Rules, Statutes, Waivers, and Alternative Requirements

...This section provides additional waivers and alternative requirements to Hurricane Sandy grantees, and clarifies or modifies guidance provided at 78 FR 14329....

78 FR 32262, Issued May 29, 2013

II. Use of Funds

...Detailed information on the needs assessment, eligible CDBG-DR activities, and the development of an Action Plan is included in the March 5, 2013, notice. The subsequent notice published on April 19, 2013, clarifies and/or modifies information provided in the March 5, 2013, notice. For grantees receiving an allocation under this Notice, many of the requirements described in those prior notices will apply (*see* section V of this Notice: “Applicable Rules, Statutes, Waivers, and Alternative Requirements”)....

III. Timely Expenditure of Funds and Prevention of Waste, Fraud, Abuse, and Duplication of Benefits

To ensure the timely expenditure of funds, section 904(c) under Title IX of the Appropriations Act requires that all funds be expended within two years of the date HUD obligates funds to a grantee (funds are obligated to a grantee upon HUD’s signing of the grantee’s CDBG-DR grant agreement). Action Plans must demonstrate how funds will be fully expended within two years of obligation. For any funds that the grantee believes will not be expended by the deadline and that it wishes to retain, it must submit a letter to HUD not less than 30 days in advance of the deadline justifying why it is necessary to extend the deadline for a specific portion of funds. The letter must detail the compelling legal, policy, or operational challenges for any such waiver, and must also identify the date by when the specified portion of funds will be expended. HUD will forward the request to the Office of Management and Budget (OMB) and publish any approved waivers in the **Federal Register** once granted. Waivers to extend the expenditure deadline may be granted by OMB in accordance with guidance to be issued by OMB, but grantees are cautioned that such waivers may not be approved. Funds remaining in the grantee’s line of credit at the time of the 24-month expenditure deadline will be returned to the U.S. Treasury, or if before September 30, 2017, will be recaptured by HUD. The Appropriations Act requires that HUD obligate all funds not later than September 30, 2017. Grantees must continue to meet the requirements for Federal cash management at 24 CFR 85.20(a)(7)....⁴⁸

VI. Duration of Funding

The Appropriations Act requires that HUD obligate all funds provided under Chapter 9, Community Development Fund, not later than September 30, 2017. Concurrently, section 904(c) of the Appropriations Act requires that all funds be expended within two years of the date HUD obligates funds. Therefore, each grantee must expend all funds within two years of the date HUD signs the grant agreement with the grantee. Note that if a grantee amends its Action Plan to program additional funds that HUD has allocated to it, the grant agreement must also be revised. The requirement for each grantee to expend funds within two years is triggered by each amendment to the grant agreement. That is, each grant amendment has its own expenditure

⁴⁸ Section III was replaced by section IV in 80 FR 26942, issued May 11, 2015.

deadline. Pursuant to section 904(c) of the Appropriations Act, grantees, or HUD may request waivers of the two-year expenditure deadline from the Office of Management and Budget. For any funds that the grantee believes will not be expended by the deadline and that it desires to retain, it must submit a letter to HUD not less than 30 days in advance of the deadline justifying why it is necessary to extend the deadline for a specific portion of funds. The letter must detail the compelling legal, policy, or operational challenges for any such waiver, and must also identify the date by when the specified portion of funds will be expended. Funds remaining in the grantee's line of credit at the time of this expenditure deadline will be returned to the U.S. Treasury....

78 FR 46999, Issued August 2, 2013

I. Background

...In a **Federal Register** notice published March 5, 2013 (78 FR 14329), the Department allocated \$5.4 billion after analyzing the impacts of Hurricane Sandy and identifying unmet needs. A subsequent notice, providing additional guidance, waivers, and alternative requirements for Hurricane Sandy grantees was published by the Department on April 19, 2013 (78 FR 23578). This notice provides additional waivers and alternative requirements to several Hurricane Sandy grantees-the State of New York and the State of New Jersey.

78 FR 69104, Issued November 18, 2013

I. Allocation and Related Information

...This Notice builds upon the requirements of the **Federal Register** Notices published by the Department on March 5, 2013 (78 FR 14329), April 19, 2013 (78 FR 23578) and August 2, 2013 (78 FR 46999), referred to collectively in this Notice as the "Prior Notices"....

III. Timely Expenditure of Funds

The Appropriations Act requires that funds be expended within two years of the date HUD obligates funds to a grantee and funds are obligated to a grantee upon HUD's signing of a grantee's CDBG-DR grant agreement. In its Action Plan, a grantee must demonstrate how funds will be fully expended within two years of obligation and HUD must obligate all funds not later than September 30, 2017. For any funds that the grantee believes will not be expended by the deadline and that it desires to retain, the grantee must submit a letter to HUD not less than 30 days in advance justifying why it is necessary to extend the deadline for a specific portion of funds. The letter must detail the compelling legal, policy, or operational challenges for any such waiver, and must also identify the date by when the specified portion of funds will be expended. The Office of Management and Budget has provided HUD with authority to act on grantee waiver requests but grantees are cautioned that such waivers may not be approved. Approved waivers will be published in the **Federal Register**....⁴⁹

IV. Grant Amendment Process

To access funds allocated by this Notice grantees must submit a substantial Action Plan Amendment to their approved Action Plan. Any substantial Action Plan Amendment submitted after the effective date of this Notice is subject to the following requirements:...

⁴⁹ Section III was replaced by section IV in 80 FR 26942, issued on May 11, 2015.

- Grantee signs and returns the grant agreement;
- HUD signs the grant agreement and revises the grantee’s line of credit amount (this triggers the two year expenditure deadline for any funds obligated by this grant agreement);...

VI. Applicable Rules, Statutes, Waivers, and Alternative Requirements...

3. *Action Plan for Disaster Recovery waiver and alternative requirement-Housing, Business Assistance, and General Requirements.* The Prior Notices are modified as follows:...

e. *Amending the Action Plan.* Paragraph 1(k) at 78 FR 14337 of the March 5, 2013 Notice is amended, as necessary, to require each grantee to submit a substantial Action Plan Amendment to HUD within 120 days of the effective date of this Notice. All Action Plan Amendments submitted after the effective date of this Notice must be prepared in accordance with the Prior Notices, as modified by this Notice. In addition, they must budget all, or a portion, of the funds allocated under this Notice. Grantees are reminded that an Action Plan may be amended one or more times until it describes uses for 100 percent of the grantee’s CDBG-DR award. The last date that grantees may submit an Action Plan Amendment is June 1, 2017 given that HUD must obligate all CDBG-DR funds not later than September 30, 2017. The requirement to expend funds within two years of the date of obligation will be enforced relative to the activities funded under each obligation, as applicable....⁵⁰

78 FR 76154, Issued December 16, 2013

SUMMARY:...In **Federal Register** Notices, the Department has described those allocations, relevant statutory provisions, the grant award process, criteria for Action Plan approval, eligible disaster recovery activities, and applicable waivers and alternative requirements. This Notice builds upon the requirements of the **Federal Register** Notices published by the Department on March 5, 2013 (78 FR 14329), April 19, 2013 (78 FR 23578) and August 2, 2013 (78 FR 46999), referred to collectively in this Notice as the “Prior Notices...”

For grantees receiving an allocation under this Notice many of the requirements described in the Prior Notices will apply, with some minor modifications....

III. Timely Expenditure of Funds and Prevention of Waste, Fraud, Abuse, and Duplication of Benefits

Section 904(c) under Title IX of the Appropriations Act requires that all funds be expended within two years of the date HUD obligates funds to a grantee (funds are obligated to a grantee upon HUD’s signing of the grantee’s CDBG-DR grant agreement). Action Plans must demonstrate how funds will be fully expended within two years of obligation. HUD must obligate all funds not later than September 30, 2017. For any funds that the grantee believes will not be expended by the deadline and that it desires to retain, the grantee must submit a letter to HUD not less than 30 days in advance justifying why it is necessary to extend the deadline for a specific portion of funds. The letter must detail the compelling legal, policy, or operational challenges for any such waiver, and must also identify the date by when the specified portion of funds will be expended. The Office of Management and Budget has provided HUD with

⁵⁰ Section VI.3.e, issued November 18, 2013, was revised by section II.4 of 81 FR 54114, issued August 15, 2016.

authority to act on grantee waiver requests but grantees are cautioned that such waivers may not be approved. Approved waivers will be published in the **Federal Register**. Funds remaining in the grantee's line of credit at the time of its expenditure deadline will be returned to the U.S. Treasury or, if before September 30, 2017, will be recaptured by HUD.⁵¹

V. Applicable Rules, Statutes, Waivers, and Alternate Requirements

... 1. *Incorporation of waivers alternative requirements, and statutory changes previously described.* The waivers and alternative requirements provided in the March 5, 2013, Notice, as clarified or modified by the April 19, 2013, Notice, apply to each grantee receiving an allocation of funds under this Notice, except as modified herein. These waivers and alternative requirements provide additional flexibility in program design and implementation to support full recovery following the disasters of 2013, while also ensuring that statutory requirements unique to the Appropriations Act are met. The following clarifications or modifications apply to grantees in receipt of an allocation under this Notice:...

a. All submission deadlines regarding the Secretary's certification or the Action Plan, referenced in this Notice or previous notices, are triggered by the effective date of this Notice...

d. Paragraph VI.A.1.(j) of the March 5, 2013, Notice, at 78 FR 14337, is hereby amended. The disbursement of grant funds must begin within 60 days after funds have been obligated. Funds are obligated the day HUD signs the grant agreement.

VI. Duration of Funding

The Appropriations Act requires that HUD obligate all funds provided under Chapter 9, Community Development Fund, not later than September 30, 2017. Concurrently, section 904(c) of the Appropriations Act requires that all funds be expended within two years of the date HUD obligates funds. Therefore, each grantee must expend all funds within two years of the date HUD signs the grant agreement with the grantee. Note that if a grantee amends its Action Plan to program additional funds that HUD has allocated to it, the grant agreement must also be revised. The requirement for each grantee to expend funds within two years is triggered by each amendment to the grant agreement meaning that each grant amendment has its own expenditure deadline....

79 FR 17173, Issued March 27, 2014

I. Background

...To describe these allocations and the accompanying requirements, the Department published multiple notices (collectively, the "Prior Notices") in the **Federal Register**. The requirements of the Prior Notices continue to apply, except as modified by this Notice.

II. Applicable Rules, Statutes, Waivers, and Alternative Requirements

...This Notice clarifies or modifies guidance provided by the Prior Notices. For each waiver and alternative requirement described in this Notice, the Secretary has determined that good cause exists and the action is not inconsistent with the overall purpose of the HCD Act. Grantees may

⁵¹ Section III was replaced by section IV in 80 FR 26942, issued on May 11, 2015.

request additional waivers and alternative requirements from the Department as needed to address specific needs related to their recovery activities.

79 FR 31964, Issued June 3, 2014

II. Use of Funds

This Notice builds upon the requirements of the **Federal Register** Notices published by the Department on March 5, 2013 (78 FR 14329), April 19, 2013 (78 FR 23578), and December 16, 2013 (76 FR 76154), referred to collectively in this Notice as the “Prior Notices”....

III. Timely Expenditure of Funds

The Appropriations Act requires that funds be expended within two years of the date HUD obligates funds to a grantee; and funds are obligated to a grantee upon HUD’s signing of a grantee’s CDBG-DR grant agreement. In its Action Plan, a grantee must demonstrate how funds will be fully expended within two years of obligation and HUD must obligate all funds not later than September 30, 2017. For any funds that the grantee believes will not be expended by the deadline and that it desires to retain, the grantee must submit a letter to HUD not less than 30 days in advance justifying why it is necessary to extend the deadline for a specific portion of funds. The letter must detail the compelling legal, policy, or operational challenges for any such waiver, and must also identify the date by when the specified portion of funds will be expended. The Office of Management and Budget (OMB) has provided HUD with authority to act on grantee waiver requests but grantees are cautioned that such waivers may not be approved. Approved waivers will be published in the **Federal Register**. Funds remaining in the grantee’s line of credit at the time of its expenditure deadline will be returned to the U.S. Treasury, or if before September 30, 2017, will be recaptured by HUD.⁵²

V. Applicable Rules, Statutes, Waivers, and Alternative Requirements

...This section of the Notice describes requirements imposed by the Appropriations Act, as well as applicable waivers and alternative requirements. For each waiver and alternative requirement described in this Notice, the Secretary has determined that good cause exists and the action is not inconsistent with the overall purpose of the HCD Act. The following requirements apply only to the CDBG-DR funds allocated in this Notice. Grantees may request additional waivers and alternative requirements to address specific needs related to their recovery activities. Except where noted, waivers and alternative requirements described below apply to all grantees under this Notice. Under the requirements of the Appropriations Act, regulatory waivers are effective five days after publication in the **Federal Register**.

1. *Incorporation of general requirements, waivers, alternative requirements, and statutory changes previously described.* Grantees are advised that general requirements, waivers and alternative requirements provided for and subsequently clarified or modified in the Prior Notices (published March 5, 2013, April 19, 2013, and December 16, 2013) apply to all funds under this Notice, except as modified herein. However, waivers and alternative requirements specific to one or more grantees only apply to those grantees. These waivers and alternative requirements described in the Prior Notices and this Notice provide additional flexibility in program design and implementation to support resilient recovery following the

⁵² Section III was replaced by section IV in 80 FR 26942, issued on May 11, 2015.

2013 disasters, while also ensuring that statutory requirements unique to the Appropriations Act are met.

2. *Eligible activities and uses of funds.* Each grantee's Action Plan Amendment must describe uses and activities that: (1) Are authorized under title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 *et seq.*) (HCD Act) or allowed by a waiver or alternative requirement published in this Notice or the Prior Notices; (2) meet a national objective; and (3) respond to a disaster-related impact in a county eligible for assistance. As described in the Prior Notices, eligible activities and uses typically fall under one of the following categories -housing, infrastructure, or economic revitalization....

4. *Action Plan for Disaster Recovery waiver and alternative requirement-Housing, Business Assistance, and General Requirements.* The Prior Notices are modified as follows:

d. *Amending the Action Plan.* The Prior Notices are amended, as necessary, to require each grantee to submit a substantial Action Plan Amendment to HUD within 120 days of the effective date of this Notice. All Action Plan Amendments submitted after the effective date of this Notice must be prepared in accordance with the Prior Notices, as modified by this Notice. In addition, they must budget all, or a portion, of the funds allocated under this Notice. Grantees are reminded that an Action Plan may be amended one or more times until it describes uses for 100 percent of the grantee's CDBG-DR award. The last date that grantees may submit an Action Plan Amendment is June 1, 2017 given that HUD must obligate all CDBG-DR funds not later than September 30, 2017. The requirement to expend funds within two years of the date of obligation will be enforced relative to the activities funded under each obligation, as applicable....⁵³

79 FR 40133, Issued July 11, 2014

I. Background

...To date, \$14.1 billion has been allocated for the areas most impacted by Hurricane Sandy and other disasters occurring in 2011, 2012, and 2013. To describe these allocations and the accompanying requirements, the Department published multiple **Federal Register** notices: March 5, 2013 (78 FR 14329), April 19, 2013 (78 FR 23578), May 29, 2013 (78 FR 32262), August 2, 2013 (78 FR 46999), November 18, 2013 (78 FR 69104), March 27, 2014 (78 FR 17173), and June 3, 2014 (79 FR 31964), referred to collectively in this Notice as the "Prior Notices"). The requirements of the Prior Notices continue to apply, except as modified by this Notice....

II. Applicable Rules, Statutes, Waivers, and Alternative Requirements

...This Notice clarifies or modifies requirements of the Prior Notices. Except as noted, the waivers and alternative requirements in this Notice apply to all grants under the Appropriations Act. For each waiver and alternative requirement described in this Notice, the Secretary has determined that good cause exists and the action is not inconsistent with the overall purpose of the HCD Act....

⁵³ Section V.4.d was revised by section II.4 of 81 FR 54114, issued August 15, 2016.

79 FR 60490, Issued October 7, 2014

I. Background

...To describe these allocations and the accompanying requirements, the Department published multiple **Federal Register** notices: March 5, 2013 (78 FR 14329), April 19, 2013 (78 FR 23578), May 29, 2013 (78 FR 32262), August 2, 2013 (78 FR 46999), November 18, 2013 (78 FR 69104), March 27, 2014 (78 FR 17173), June 3, 2014 (79 FR 31964), and July 11, 2014 (79 FR 40133). For Minot, North Dakota, allocations and requirements under Public Law 112-55 April 16, 2012 (77 FR 22583). These are referred to collectively in this Notice as the “Prior Notices.” The requirements of the Prior Notices continue to apply, except as modified by this Notice....

II. Applicable Rules, Statutes, Waivers, and Alternative Requirements

...This Notice modifies requirements of the Prior Notices. The waivers and alternative requirements in this Notice apply to Minot, North Dakota, as identified herein. For the waiver and alternative requirements described in this Notice, the Secretary has determined that good cause exists and the action is not inconsistent with the overall purpose of Title I of the HCD Act....

79 FR 62182, Issued October 16, 2014

I. Allocation and Related Information

...This Notice builds upon the requirements of the **Federal Register** Notices published by the Department on March 5, 2013 (78 FR 14329), April 19, 2013 (78 FR 23578), August 2, 2013 (78 FR 46999), November 18, 2013 (78 FR 69104), March 27, 2014 (79 FR 17173), and July 11, 2014 (79 FR 40133) referred to collectively in this Notice as the “Prior Notices”....

III. Timely Expenditure of Funds

To ensure the timely expenditure of funds the Appropriations Act requires that funds be expended within two years of the date HUD obligates funds to a grantee. Funds are obligated to a grantee upon HUD’s signing of a grantee’s CDBG-DR grant agreement. In its Action Plan, a grantee must demonstrate how funds will be fully expended within two years of obligation and HUD must obligate all funds not later than September 30, 2017. For any funds that the grantee believes will not be expended by the deadline and that it desires to retain, the grantee must submit a letter to HUD not less than 30 days in advance of the deadline justifying why it is necessary to extend the deadline for a specific portion of funds. The letter must detail the compelling legal, policy, or operational challenges necessitating any such waiver, and must also identify the date by when the specified portion of funds will be expended. The Office of Management and Budget (OMB) has provided HUD with authority to act on grantee waiver requests but grantees are cautioned that such waivers may not be approved. If granted, waivers will be published in the **Federal Register**. Funds remaining in the grantee’s line of credit at the time of its expenditure deadlines will be recaptured by HUD....⁵⁴

IV. Grant Amendment Process

To access funds allocated by this Notice grantees must submit a substantial Action Plan Amendment to their approved Action Plan. Submission to and review by HUD must follow the

⁵⁴ Section III was replaced by section IV in 80 FR 26942, issued on May 11, 2015.

process outlined below. HUD approves the Amendment according to criteria identified in the Prior Notices and this Notice...

- HUD sends an amended unsigned grant agreement with revised grant conditions to the grantee; and the grantee signs and returns the amended grant agreement;
- HUD signs the grant agreement amendment and revises the grantee's line of credit amount (this triggers the two year expenditure deadline for any funds obligated by this amended grant agreement) and provides a copy of the executed grant agreement to the grantee;
- If it has not already done so, grantee enters the activities from its published Action Plan Amendment into the Disaster Recovery Grant Reporting (DRGR) system and submits it to HUD within the system;....

VII. Applicable Rules, Statutes, Waivers, and Alternative Requirements...

2. Action Plan for Disaster Recovery Waiver and Alternative Requirements...

d. Amending the Action Plan.

Except as otherwise provided for in this Notice, Section VI.A.1.k at 78 FR 14337 of the March 5, 2013 Notice is amended, as necessary, to require each grantee to submit a substantial Action Plan Amendment to HUD within 120 days of the effective date of this Notice. All Action Plan Amendments submitted after the effective date of this Notice must be prepared in accordance with the Prior Notices, as modified by this Notice. In addition, they must budget all, or a portion, of the funds allocated under this Notice. Grantees are reminded that an Action Plan may be amended one or more times until it describes uses for 100 percent of the grantee's CDBG-DR award. The last date that grantees may submit an Action Plan Amendment is June 1, 2017 given that HUD must obligate all CDBG-DR funds not later than September 30, 2017. The requirement to expend funds within two years of the date of obligation will be enforced relative to the activities funded under each obligation, as applicable....⁵⁵

80 FR 1039 January 8, 2015

II. Use of Funds

This Notice builds upon the requirements of the **Federal Register** Notices published by the Department on March 5, 2013 (78 FR 14329), April 19, 2013 (78 FR 23578), December 16, 2013 (76 FR 76154), June 3, 2014 (79 FR 31964), and July 11, 2014 (79 FR40133) referred to collectively in this Notice as the "Prior Notices"....

The requirements of this Notice parallel those established for other grantees receiving funds under the Appropriations Act in a **Federal Register** Notice published by the Department on November 18, 2013 (78 FR 69104)...Additionally, the funds allocated in this Notice are bound by all of the same requirements as those found in the **Federal Register** Notice published by the Department on June 3, 2014 (79 FR 31964), including the two year expenditure deadline....

⁵⁵ Section VII.2.d was revised by 81 FR 54114, issued August 15, 2016.

80 FR 26942, Issued May 11, 2015

II. Background

This Notice establishes submission instructions for expenditure deadline extension requests and other related requirements for grantees in receipt of allocations under the Appropriations Act, which are described within the **Federal Register** Notices published by HUD on March 5, 2013 (78 FR 14329), April 19, 2013 (78 FR 23578), May 29, 2013 (78 FR 32262), August 2, 2013 (78 FR 46999), November 18, 2013 (78 FR 69104), December 16, 2013 (78 FR 76154), March 27, 2014 (79 FR 17173), June 3, 2014 (79 FR 31964), July 11, 2014 (79 FR 40133), October 7, 2014 (79 FR 60490), October 16, 2014 (79 FR 62182), January 8, 2015 (80 FR 1039), and April 2, 2015 (80 FR 17772) referred to collectively in this Notice as the “Prior Notices.” The requirements of the Prior Notices continue to apply, except as modified by this Notice.

The Appropriations Act requires HUD to obligate all funds provided under the Appropriations Act by September 30, 2017. The Appropriations Act also requires that grantees expend funds within 24 months of the date on which HUD obligates funds to a grantee. Funds are obligated to a grantee on the date that HUD signs a grantee’s CDBG-DR grant agreement or grant agreement amendment obligating additional funds. Each obligation carries its own expenditure deadline. For each obligation to a grantee, any funds remaining in the grantee’s line of credit from that obligation at the time of the expenditure deadline for that obligation will be returned to the U.S. Treasury, or if before September 30, 2017, will be recaptured by HUD. In all instances, grantees must continue to meet the requirements for Federal cash management at 24 CFR 85.20(a)(7), as may be amended, and therefore may not draw down funds in advance of need to attempt to comply with the expenditure deadline in accordance with HUD’s long-standing implementation of this requirement.

Section 904(c) of the Appropriations Act authorizes the Office of Management and Budget (OMB) to grant waivers of the 24-month expenditure deadline. To implement this provision of the Appropriations Act, OMB requested Federal agencies receiving an appropriation under the Appropriations Act to identify categories of activities that could be subject to a waiver of the 24-month expenditure deadline. OMB also requested that agencies estimate, for each category of activity, the total amount of funds provided under the Appropriations Act that would likely require a waiver. HUD submitted an analysis of different categories of CDBG-DR activities that would likely necessitate a waiver of the expenditure deadline to OMB. OMB authorized HUD to provide CDBG-DR grantees with expenditure deadline extensions for activities that are inherently long-term and where it would be impracticable to expend funds within the 24-month period and still achieve program missions.

Although HUD has authority to grant extensions of the 24-month expenditure deadline up to amounts approved by OMB for each of the activity categories described in Section III of this Notice, grantees are advised that 31 U.S.C. 1552(a) continues to apply to funds appropriated under the Appropriations Act. Specifically, CDBG-DR funds are to remain available for expenditure for five years following the period of availability for obligation. All funds under the Appropriations Act, including those subject to a waiver of the expenditure deadline, must be expended by September 30, 2022. Any grant funds that have not been disbursed by September 30, 2022, will be canceled and will no longer be available for disbursement to the grantee for obligation or expenditure for any purpose....

IV. Timeline for Submission

The process for any funds that the grantee believes will not be expended by the 24-month expenditure deadline, as outlined in **Section III** of each of the prior **Federal Register** Notices published by HUD on March 5, 2013 (78 FR 14329), May 29, 2013 (78 FR 32262), November 18, 2013 (78 FR 69104), December 16, 2013 (78 FR 76154), June 3, 2014 (79 FR 31964), and October 16, 2014 (79 FR 62185), is hereby revised as follows:

“The Appropriations Act requires that funds be expended within two years of the date HUD obligates funds to a grantee; and funds are obligated to a grantee upon HUD’s signing of a grantee’s CDBG-DR grant agreement. In its Action Plan, a grantee must demonstrate how funds will be fully expended within two years of obligation and HUD must obligate all funds not later than September 30, 2017. For any funds that the grantee believes will not be expended by the 24-month deadline and that it desires to retain, the grantee must submit an extension request in a form acceptable to HUD not less than 120 calendar days in advance of the date of the expenditure deadline on those funds justifying why it is necessary to extend the deadline for a specific portion of the funds. In consideration of the timeline for funds with expenditure deadlines in 2015, extension requests for those funds must be submitted to HUD not less than 60 calendar days in advance of the date of the expenditure deadline on those funds. OMB has provided HUD with authority to act on grantee extension requests but grantees are cautioned that such extensions may not be approved. If granted, extensions will be published in the **Federal Register**. Funds remaining in the grantee’s line of credit at the time of its expenditure deadlines will be recaptured by HUD.”

V. Requirements for Submission

Grantees seeking an extension of the 24-month deadline for a project or program must provide HUD with detailed information on the compelling legal, policy, or operational challenges that prevent the grantee from meeting the expenditure deadline as well as identify the proposed date for the full expenditure of the specified portion of funds.

To expedite the review process, HUD has developed a CDBG-DR Expenditure Deadline Extension Request template. Grantees must submit one template per program or project for which a revised expenditure deadline is being requested. In certain cases, HUD may request that a grantee resubmit this template at a project-level if information provided at the programmatic level is insufficient for HUD to assess whether the request meets HUD’s criteria for approving an extension, as outlined in Section VII below. This template will ensure that each request captures all of the requirements outlined in this Notice. The template will be posted at: <https://www.hudexchange.info/cdbg-dr/>. Each grantee must include the following elements, as delineated within the CDBG-DR Expenditure Deadline Extension Request template, as part of its submission:

- (1) A description of the individual program or project for which an extension is being requested, including information on relevant Disaster Recovery Grant Reporting System (DRGR) activity(ies).
- (2) An explanation for why an extension is being requested, including all relevant and compelling statutory, regulatory, policy, or operational challenges, and how the extension will promote a more effective and efficient recovery effort.
- (3) Description of how the provision of an extension would reduce the likelihood of waste, fraud, and abuse, if applicable.

(4) An identification of all community stakeholders (including state or local entities, sub-recipients, nonprofits, and civic organizations) to be affected by the expenditure deadline extension, their role in program or project implementation, and the impact, if any, of the extension on these stakeholders.

(5) A revised expenditure deadline for the CDBG-DR funds budgeted for the program or project (*i.e.* the DRGR ‘end date’) as well as a projection of quarterly expenditures for the program or project for which the waiver is requested, including incremental dollar amounts and percentage of funds budgeted for each DRGR activity. This information is required in order for HUD to ensure grantee compliance with revised expenditure deadlines in the DRGR system.

(6) A description of the risks associated with not receiving the requested extension, such as the estimated percentage of funds which would be at risk of recapture or specific recovery needs that would not be met if the particular program or project cannot be completed or undertaken.

(7) A description of the monitoring process and internal controls that the grantee and any sub-recipients will implement to ensure compliance with the revised expenditure deadline.

VI. Submission Process

The submission of any grantee expenditure deadline extension request is subject to the following requirements:

- Grantee submits the completed CDBG-DR Expenditure Deadline Extension Request template and any attachments to HUD in order to request consideration of the extension request not less than 120 calendar days in advance of the expenditure deadline on the funds (or 60 days for funds expiring in calendar year 2015).
- HUD reviews the extension request within 45 (or sooner for funds expiring in calendar year 2015) calendar days from date of receipt and approves the request based on the parameters outlined in Section VII of this Notice.
- HUD sends an extension request approval letter to the grantee. HUD may disapprove the request if it is determined that it does not meet the requirements of this Notice. If the request is not approved, a letter will be sent identifying its deficiencies; the grantee must then re-submit the request within 30 calendar days (or 10 days for funds expiring in the calendar year 2015) of the notification letter;
- Within 30 calendar days of HUD’s approval, the grantee amends its Action Plan for disaster recovery to reflect the approval of the revised expenditure deadline. HUD considers any Action Plan amendments to reflect revised activity expenditure timelines to be non-substantial amendments.
- Immediately following this amendment, the grantee updates its DRGR Action Plan to reflect the revised ‘end date’ for each DRGR activity covered by the approved waiver.
- If approved, HUD will publish the extension approval in the **Federal Register**. HUD will consolidate grantee extension approvals for publication. Therefore, extension approval is effective as of the date of the extension request approval letter, rather than as of the effective date of the published **Federal Register** notice.

VII. Criteria for Approval

Under the authority provided to HUD by OMB, HUD will consider expenditure deadline extension requests for projects or programs based on the Secretary's determination that the extension is necessary and that the request meets the conditions set forth by OMB. HUD will assess extension requests using the following criteria:

- (1) The program or project must be approved in the grantee's Action Plan for disaster recovery prior to the grantee's submission of an expenditure deadline extension request to HUD.
- (2) The CDBG-DR funds associated with the program or project must have been obligated by HUD through a grant agreement, and, therefore, be subject to an established expenditure deadline.
- (3) The information submitted on the CDBG-DR Expenditure Deadline Extension Request template is comprehensive and complete to the satisfaction of HUD, as outlined in Section V of this Notice.
- (4) The revised expenditure deadline for the CDBG-DR funds budgeted for the program or project (*i.e.* the DRGR 'end date') as well as the projection of quarterly expenditures are determined to be achievable based on the grantee's past performance and expenditure rate.
- (5) The grantee's capacity to implement monitoring processes and internal controls as outlined by the grantee in the template are sufficient to ensure compliance with the revised expenditure deadline.
- (6) The grantee has demonstrated that it has evaluated all reasonable alternatives prior to determining that an extension is the only remaining viable alternative.
- (7) HUD can determine, based on the grantee's submission, that the program or project covered by the request satisfies the OMB criteria for activities that are long-term by design, where it is impracticable to expend funds within the 24-month period and achieve program missions, and any other criteria imposed by OMB.

Regardless of the criteria outlined in this section, HUD retains the authority to deny requested extensions or to provide alternative expenditure deadlines to those proposed by grantees.

VIII. Applicable Rules and Considerations...

2. *Expenditure deadline extensions are program- and project-specific.* Any revised expenditure deadline is specific to the program or project as identified in the approval letter from HUD. Grantees may not reallocate funds with a revised expenditure deadline to other recovery programs or projects without HUD authorization. In order to reallocate such funds, the grantee must request an additional extension through the process described in Section VI of this Notice. Grant balances not used for a program or project that receives an expenditure deadline waiver will be canceled if the expenditure deadline on those funds has passed.

80 FR 51589, Issued August 25, 2015

I. Background

...This notice specifies a waiver and alternative requirements and modifies requirements for Hurricane Sandy grantees in receipt of allocations under the Appropriations Act, which are described within the **Federal Register** notices published by the Department on March 5, 2013 (78 FR 14329), April 19, 2013 (78 FR 23578), August 2, 2013 (78 FR 46999), November 18, 2013 (78 FR 69104), March 27, 2014 (79 FR 17173), July 11, 2014 (79 FR 40133), October 16,

2014 (79 FR 62182), April 2, 2015 (80 FR 17772), and May 11, 2015 (80 FR 26942), referred to collectively in this notice as the “prior notices.” The requirements of the prior notices continue to apply, except as modified by this notice.

80 FR 72102, Issued November 18, 2015

I. Background

...This notice applies to grantees in receipt of allocations under the Appropriations Act, which are described within the **Federal Register** notices published by the Department on March 5, 2013 (78 FR 14329); April 19, 2013 (78 FR 23578); May 29, 2013 (78 FR 32262); August 2, 2013 (78 FR 46999); November 18, 2013 (78 FR 69104); December 16, 2013 (78 FR 76154); March 27, 2014 (79 FR 17173); June 3, 2014 (79 FR 31964); July 11, 2014 (79 FR 40133); October 7, 2014 (79 FR 60490); October 16, 2014 (79 FR 62182); January 8, 2015 (80 FR 1039); April 2, 2015 (80 FR 17772); May 11, 2015 (80 FR 26942); and August 25, 2015 (80 FR 51589) referred to collectively in this notice as the “prior notices.” The requirements of the prior notices continue to apply, except as modified by this notice.

81 FR 7567, Issued February 12, 2016

I. Background

...This notice applies to all CDBG-DR grantees in receipt of allocations under the Appropriations Act, which are described within the **Federal Register** notices published by the Department on March 5, 2013 (78 FR 14329), April 19, 2013 (78 FR 23578), May 29, 2013 (78 FR 32262), August 2, 2013 (78 FR 46999), November 18, 2013 (78 FR 69104), December 16, 2013 (78 FR 76154), March 27, 2014 (79 FR 17173), June 3, 2014 (79 FR 31964), July 11, 2014 (79 FR 40133), October 7, 2014 (79 FR 60490), October 16, 2014 (79 FR 62182), January 8, 2015 (80 FR 1039), April 2, 2015 (80 FR 17772), May 11, 2015 (80 FR 26942), August 25, 2015 (80 FR 51589), and November 18, 2015 (80 FR 72102), referred to collectively in this notice as the “prior notices.” The requirements of the prior notices continue to apply, except as modified by this notice....

II. Applicable Rules (Including Clarifying Guidance), Statutes, Waivers, and Alternative Requirements

...1. *Timeline for the submission of expenditure deadline extension requests.* The Appropriations Act requires the Department to obligate all funds provided under the Appropriations Act by September 30, 2017, and requires grantees to expend funds within 24-months of the date on which the Department obligates funds to a grantee. The Appropriations Act also authorizes the Office of Management and Budget (OMB) to grant waivers of the 24-month expenditure deadline. OMB authorized the Department to provide CDBG-DR grantees with expenditure deadline extensions for activities that are inherently long-term and where it would be impracticable to expend funds within the 24-month period and still achieve program missions, up to amounts approved by OMB. In the **Federal Register** notice published on May 11, 2015, (80 FR 26942), the Department established the process and criteria for the submission of expenditure deadline extension requests for CDBG-DR grantees in receipt of funds under the Appropriations Act. The May 11, 2015, notice requires these grantees to submit requests for the extension of an expenditure deadline at least 120 calendar days in advance of the expenditure deadline (80 FR 26944). Since the

May 11, 2015, notice was published, the Department subsequently received, reviewed, and acted upon expenditure deadline extension requests from a number of CDBG-DR grantees in receipt of funds under the Appropriations Act. In some instances, the Department observed that events and circumstances beyond the control of the grantee may require grantees to request an extension of an expenditure deadline after the 120-calendar-day deadline has passed. The Department is therefore amending this requirement of the May 11, 2015, notice to provide that a grantee “submits the completed CDBG-DR Expenditure Deadline Extension Request template and any attachments to HUD in order to request consideration of the extension request at least 120 calendar days in advance of the expenditure deadline on the funds (or 60 days for funds expiring in calendar year 2015). HUD may, however, also accept requests from CDBG-DR grantees for the extension of an expenditure deadline *less than* 120 calendar days in advance of the deadline upon receipt of a letter from the chief executive officer of the grantee requesting the extension and a demonstration by the grantee that the request is required in order to achieve program missions. Grantees are advised however, that time constraints may not permit HUD to act upon requests that are received in close proximity to an expenditure deadline.”

2. *Urgent need national objective certification requirements.* The March 5, 2013, notice (78 FR 14329) provided grantees receiving funds under the Appropriations Act with a waiver of the certification requirements for the documentation of the urgent need national objective, located at §§ 570.208(c) and 570.483(d), until 2 years after the date the Department obligates funds to a grantee. The May 11, 2015, notice allowed grantees seeking a waiver of an expenditure deadline to simultaneously seek an extension of the urgent need certification waiver. The extension of the urgent need certification waiver, however, is currently only effective after its publication in the **Federal Register**. This approach presents challenges for CDBG-DR grantees who receive an extension of an expenditure deadline for an activity associated with the urgent need certification, with the extended expenditure deadline in effect but with the urgent need certification waiver still requiring publication in the **Federal Register**.

To accommodate the timely expenditure of funds, HUD is modifying the temporary, streamlined urgent need waiver and alternative requirement in paragraph VI.A.1.f. of the March 5, 2013, notice (78 FR 14336). This waiver and alternative requirement supersedes the information published in the May 11, 2015, notice and will allow grantees to more effectively implement urgent recovery activities by aligning the applicable urgent need national objective criteria with the expenditure deadline on the use of funds. The March 5, 2013, notice is modified to add the following alternative requirement for grantees that receive an extension of the expenditure deadline: For activities designed to respond to a disaster-related impact that poses a serious and immediate threat to the health or welfare of the community, the grantee may continue to use the urgent need national objective until the end of the new expenditure deadline if the grantee meets the following requirements from the March 5, 2013, notice: (1) Before seeking the expenditure deadline extension, the grantee must reference in its Action Plan the type, scale, and location of the disaster-related impacts addressed by each program and/or activity that will meet the urgent need national objective; (2) before seeking the expenditure deadline extension, the grantee must identify these disaster related impacts in its Action Plan needs assessment; (3) the needs assessment must be updated as new or more detailed/accurate disaster-related impacts are known; and (4) the

grantee must document how all programs and/or activities funded under the urgent need national objective respond to a disaster-related impact identified by the grantee....

81 FR 54114, Issued August 15, 2016

I. Background

...This notice specifies waivers and alternative requirements and modifies requirements for Hurricane Sandy grantees in receipt of allocations under the Appropriations Act, which are described in the **Federal Register** notices published by the Department on March 5, 2013 (78 FR 14329); April 19, 2013 (78 FR 23578); August 2, 2013 (78 FR 46999); November 18, 2013 (78 FR 69104); March 27, 2014 (79 FR 17173); July 11, 2014 (79 FR 40133); October 16, 2014 (79 FR 62182); April 2, 2015 (80 FR 17772); May 11, 2015 (80 FR 26942); August 25, 2015 (80 FR 51589); November 18, 2015 (80 FR 72102); and February 12, 2016 (81 FR 7567) (referred to collectively in this notice as the “prior notices”)...The requirements of the prior notices continue to apply, except as modified by this notice.

II. Applicable Rules, Statutes, Waivers, and Alternative Requirements

...4. *Submission of a Final Action Plan Amendment for Disaster Recovery.* HUD is modifying the language in paragraph VI.A.1.a of the March 5, 2013, **Federal Register** notice regarding the submission of Action Plan amendments after June 1, 2017. The March 5, 2013, notice does not currently allow grantees to submit Action Plan amendments after June 1, 2017. While grantees must program the use of 100 percent of their allocated funds by June 1 in an approved Action Plan, HUD realizes that grantees will continue to need the flexibility of making both substantial and non-substantial Action Plan amendments as their programs continue to move forward and evolve after the June 1 deadline.

Accordingly, HUD is amending this language to allow grantees to submit Action Plan amendments after June 1, 2017. Subparagraph a of section VI.A.1 of the March 5, 2013, notice, as amended by the April 19, 2013, notice, is amended further to read:

Although a grantee may submit a partial Action Plan, the partial Action Plan must be amended one or more times until it describes uses for 100 percent of the grantee’s CDBG-DR award. Due to the statutory requirement that HUD may not obligate Appropriations Act funds after September 30, 2017, grantees must submit an Action Plan amendment to HUD that provides for the allocation of 100 percent of its CDBG-DR funds for its recovery programs no later than June 1, 2017.

Grantees may continue to submit Action Plan amendments after that date. The requirement, however, to expend funds within 2 years of the date of obligation will continue to be enforced relative to each partial obligation made by HUD, as applicable.

HUD is also similarly modifying paragraph VI.3.e of the November 18, 2013, **Federal Register** notice (78 FR 69109) to read:

e. Amending the Action Plan. Paragraph 1(k) at 78 FR 14337 of the March 5, 2013, notice is amended, as necessary, to require each grantee to submit a substantial Action Plan amendment to HUD within 120 days of the effective date of this notice. All Action Plan amendments submitted after the effective date of this notice must be prepared in accordance with the prior notices, as modified by this notice. In addition, they must budget all, or a portion, of the funds allocated under this notice. Grantees are reminded that an Action Plan may be amended one or more times until it describes uses for 100 percent of

the grantee's CDBG-DR award. The last date by which grantees must submit the Action Plan amendment that provides for the allocation of 100 percent of its funds for its recovery programs is June 1, 2017, given that HUD must obligate all CDBG-DR funds no later than September 30, 2017. Grantees may continue to submit Action Plan amendments after that date. The requirement, however, to expend funds within 2 years of the date of obligation will continue to be enforced relative to each partial obligation made by HUD.

Paragraph V.4(d) of the June 3, 2014, **Federal Register** notice (79 FR 31969), is also modified to read:

d. Amending the Action Plan. The prior notices are amended, as necessary, to require each grantee to submit a substantial Action Plan amendment to HUD within 120 days of the effective date of this notice. All Action Plan amendments submitted after the effective date of this notice must be prepared in accordance with the prior notices, as modified by this notice. In addition, they must budget all, or a portion, of the funds allocated under this notice. Grantees are reminded that an Action Plan may be amended one or more times until it describes uses for 100 percent of the grantee's CDBG-DR award. The last date by which grantees must submit the Action Plan amendment that provides for the allocation of 100 percent of its funds for its recovery programs is June 1, 2017, given that HUD must obligate all CDBG-DR funds not later than September 30, 2017. Grantees may continue to submit Action Plan amendments after that date. The requirement, however, to expend funds within 2 years of the date of obligation will continue to be enforced relative to each partial obligation made by HUD.

Finally, paragraph VII.2.d of the October 16, 2014, **Federal Register** notice (79 FR 62191) is modified to read:

d. Amending the Action Plan. Except as otherwise provided for in this notice, paragraph VI.A.1.k of the March 5, 2013 notice (at 78 FR 14337) is amended, as necessary, to require each grantee to submit a substantial Action Plan amendment to HUD within 120 days of the effective date of this notice. All Action Plan amendments submitted after the effective date of this notice must be prepared in accordance with the prior notices, as modified by this notice. In addition, they must budget all, or a portion, of the funds allocated under this notice. Grantees are reminded that an Action Plan may be amended one or more times until it describes uses for 100 percent of the grantee's CDBG-DR award. The last date for grantees to submit the Action Plan amendment that provides for the allocation of 100 percent of its funds for its recovery programs is June 1, 2017, given that HUD must obligate all CDBG-DR funds not later than September 30, 2017. Grantees may continue to submit Action Plan amendments after that date. The requirement, however, to expend funds within 2 years of the date of obligation will continue to be enforced relative to each partial obligation made by HUD.

82 FR 9753, Issued February 8, 2017

I. Background

...All waivers and alternative requirements for Hurricane Sandy grantees in receipt of allocations under the Appropriations Act, are described within the **Federal Register** notices published by the Department on March 5, 2013 (78 FR 14329), April 19, 2013 (78 FR 23578), August 2, 2013 (78 FR 46999), November 18, 2013 (78 FR 69104), March 27, 2014 (79 FR 17173), July 11, 2014 (79 FR 40133), October 16, 2014 (79 FR 62182), April 2, 2015 (80 FR

17772), and May 11, 2015 (80 FR 26942), August 25, 2015 (80 FR 51589), November 18, 2015 (80 FR 72102), February 12, 2016 (81 FR 7567), and August 15, 2016 (81 FR 54114) (referred to collectively in this notice as the “prior notices”). The requirements of the prior notices continue to apply, except as modified by this notice....

82 FR 36812, Issued August 7, 2017

...IV. Public Law 113-2 Waivers and Alternative Requirements

This section of the notice specifies waivers and alternative requirements and modifies requirements for grantees that received awards under the NDRC (CDBG-NDR grantees), described in the **Federal Register** notice published by the Department on June 7, 2016 (81 FR 36557). The requirements of the June 7, 2016 notice continue to apply to these grantees, except as modified by this notice...

11. Publication of Approved Expenditure Extension Requests.

Pursuant to the requirements of section 904(c) under title IX of Public Law 113-2, CDBG-DR and CDBG-NDR funds must be expended within 24 months following obligation, unless an extension is provided. The Office of Management and Budget (OMB) granted the Department a waiver of the statute’s two-year expenditure timeline, recognizing that certain disaster recovery activities satisfy the OMB criteria for activities that are long-term by design where it is impracticable to expend funds within the 24-month period and achieve program missions. HUD may grant extensions for activities that satisfy the OMB criteria. The **Federal Register** notice published by the Department on May 11, 2015 (80 FR 26942) and the June 7, 2016 notice established the process and requirements for extension of the deadline for the expenditure of funds under Public Law 113-2, including the requirement that HUD publish its approval of the extension of grantee expenditure deadlines in the **Federal Register**. In order to provide the public with more timely information about the expenditure deadlines for funds provided under Public Law 113-2, the Department is amending both the May 11, 2015 notice and the June 7, 2016 notice, respectively, to provide for the publication of expenditure deadline extensions on the Department’s Web site.

Accordingly, the last bullet of Section VI of the May 11, 2015 notice is amended to read:

- “If approved, HUD will publish the extension approval on its web site at: [https:// www.hudexchange.info/programs/cdbg-dr/](https://www.hudexchange.info/programs/cdbg-dr/). HUD will consolidate grantee extension approvals for publication. Therefore, extension approval is effective as of the date of the extension approval letter, rather than as of the date the approval is published on the HUD web site.”

82 FR 61320, Issued December 27, 2017

...II. Applicable Rules, Statutes, Waivers, and Alternative Requirements

This section of the notice provides a technical correction to the previously established alternative requirement on the low- and moderate- income (LMI) national objective criteria for grantees undertaking buyouts and housing incentives with CDBG–DR funding provided by Public Laws 113-2, 114-113, 114-223, 114-254 and 115-31....

Appendix D

Federal Register Notices Issued and Applicable to 2013 Act Funds

Count	FR number	Title	Dated	Number of pages
1.	76 FR 71060	Clarification of Duplication of Benefits Requirements Under the Stafford Act for Community Development Block Grant (CDBG) Disaster Recovery Grantees	11/16/2011	7
2.	78 FR 14329	Allocations, Common Application, Waivers, and Alternative Requirements for Grantees Receiving Community Development Block Grant (CDBG) Disaster Recovery Funds in Response to Hurricane Sandy	3/5/2013	21
3.	78 FR 23578	Clarifying Guidance, Waivers, and Alternative Requirements for Hurricane Sandy Grantees in Receipt of Community Development Block Grant Disaster Recovery Funds	4/19/2013	4
4.	78 FR 32262	Allocations, Waivers, and Alternative Requirements for Grantees Receiving Community Development Block Grant Disaster Recovery Funds in Response to Disasters Occurring in 2011 or 2012	5/29/2013	8
5.	78 FR 45551	Rebuild by Design - Competition and Registration	7/29/2013	5
6.	78 FR 46999	Additional Waivers and Alternative Requirements for Hurricane Sandy Grantees in Receipt of Community Development Block Grant Disaster Recovery Funds	8/2/2013	2
7.	78 FR 52560	Hurricane Sandy Rebuilding Task Force - Rebuild-by-Design; Announcement of Selection of Design Teams	8/23/2013	2
8.	78 FR 69104	Second Allocation, Waivers, and Alternative Requirements for Grantees Receiving Community Development Block Grant (CDBG) Disaster Recovery Funds in Response to Hurricane Sandy	11/18/2013	10
9.	78 FR 76154	Allocations, Waivers, and Alternative Requirements for Grantees Receiving Community Development Block Grant Disaster Recovery Funds in Response to Disasters Occurring in 2013	12/16/2013	7
10.	79 FR 17173	Clarifying Guidance, Waivers, and Alternative Requirements for Grantees in Receipt of Community Development Block Grant Disaster Recovery Funds Under the Disaster Relief Appropriations Act, 2013	3/27/2014	5
11.	79 FR 31964	Second Allocation, Waivers, and Alternative Requirements for Grantees Receiving Community Development Block Grant (CDBG) Disaster Recovery Funds in Response to Disasters Occurring in 2013	6/3/2014	10
12.	79 FR 40133	Additional Clarifying Guidance, Waivers, and Alternative Requirements for Grantees in Receipt of Community Development Block Grant Disaster Recovery Funds Under the Disaster Relief Appropriations Act, 2013	7/11/2014	5
13.	79 FR 60490	Additional Waivers and Alternative Requirements for Grantees in Receipt of Community Development Block Grant Disaster Recovery Funds Under the Disaster Relief Appropriations Act, 2013	10/7/2014	3
14.	79 FR 62182	Third Allocation, Waivers, and Alternative Requirements for Grantees Receiving Community Development Block Grant (CDBG) Disaster Recovery Funds in Response to Hurricane Sandy	10/16/2014	13

Count	FR number	Title	Dated	Number of pages
15.	80 FR 1039	Third Allocation, Waivers, and Alternative Requirements for Grantees Receiving Community Development Block Grant Disaster Recovery Funds in Response to Disasters Occurring in 2013	1/8/2015	5
16.	80 FR 17772	Additional Clarifying Guidance, and Alternative Requirements for Grantees in Receipt of Community Development Block Grant Disaster Recovery Funds Under the Disaster Relief Appropriations Act, 2013	4/2/2015	3
17.	80 FR 26942	Guidance and Instructions for Extension Requests of 24-Month Expenditure Deadline for Community Development Block Grant Disaster Recovery (CDBG-DR) Grantees	5/11/2015	4
18.	80 FR 51589	Additional Clarifying Guidance, Waivers, and Alternative Requirements for Grantees in Receipt of Community Development Block Grant Disaster Recovery Funds Under the Disaster Relief Appropriations Act, 2013	8/25/2015	5
19.	80 FR 72102	Guidance, Waivers, and Alternative Requirements for Grantees in Receipt of Community Development Block Grant Disaster Recovery Funds Under Public Law 113-2: "Buyout" and "Acquisition" Activities; Assistance to Agricultural Enterprises; and State of Colorado Waiver for Tourism Promotion	11/18/2015	4
20.	81 FR 7567	Additional Clarifying Guidance, Waivers and Alternative Requirements for Grantees in Receipt of Community Development Block Grant Disaster Recovery Funds Under the Public Law 113-2 for the Submission of Expenditure Deadline Extension Requests and Urgent Need Certification Extensions and for the Provision of Interim Mortgage Assistance by the State of New York	2/12/2016	3
21.	81 FR 36557	Notice of National Disaster Resilience Competition Grant Requirements	6/7/2016	24
22.	81 FR 54114	Additional Clarifying Guidance, Waivers, and Alternative Requirements for Grantees in Receipt of Community Development Block Grant (CDBG) Funds Under the Disaster Relief Appropriations Act, 2013	8/15/2016	6
23.	82 FR 9753	Additional Clarifying Guidance, Waivers, and Alternative Requirements for Grantees in Receipt of Community Development Block Grant (CDBG) Funds Under the Disaster Relief Appropriations Act, 2013	2/8/2017	2
24.	82 FR 36812	Allocations, Common Application, Waivers, and Alternative Requirements for Community Development Block Grant Disaster Recovery Grantees	8/7/2017	15
25.	82 FR 61320	Allocations, Common Application, Waivers, and Alternative Requirements for Community Development Block Grant Recovery Grantees; State of Texas Allocation	12/27/2017	4

Appendix E

Grant Amounts by the Six Selected Grantees

Grantee and grant no.	Grant round	Obligation amount	Grant execution by CPD	Expenditure deadline
Connecticut B-13-DS-09-0001	Round 1	\$ 15,000,000	8/22/2013	8/22/2015
	Round 2	15,000,000	6/30/2014	6/30/2016
	Round 3	35,000,000	12/2/2014	12/2/2016
	Round 4	3,000,000	4/20/2015	4/20/2017
	Round 4, Rebuild by Design ⁵⁶	2,000,000	4/20/2015	9/30/2022
	Round 5	30,000,000	4/18/2016	4/18/2018
	Round 6	20,000,000	3/1/2017	3/2/2019
	Round 7	39,279,000	9/5/2017	9/5/2019
Maryland B-13-DS-24-0001	Round 1	4,400,000	12/12/2013	12/12/2015
	Round 2	7,578,000	7/3/2014	7/3/2016
	Round 3	1,100,000	12/3/2014	12/3/2016
	Round 4	3,140,000	11/12/2015	11/12/2017
	Round 5	2,350,000	1/20/2016	1/20/2018
	Round 6	4,872,000	3/3/2016	3/3/2018
	Round 7	745,000	4/17/2017	4/17/2019
	Round 8	4,455,000	8/11/2017	8/11/2019
New Jersey B-13-DS-34-0001	Round 1	1,006,236,000	5/13/2013	5/13/2015
	Round 2	500,000,000	7/29/2014	7/29/2016
	Round 3, Rebuild by Design	873,809,247	6/1/2015	6/2/2017
		474,990,753	6/1/2015	9/30/2022
		46,700,000	6/1/2015	9/30/2022
	Round 4	169,870,320	12/29/2016	12/29/2018
	Round 5, Rebuild by Design	769,822,680	6/26/2017	6/26/2019
333,000,000		6/26/2017	9/30/2022	
New York B-13-DS-36-0001	Round 1	640,000,000	5/14/2013	5/15/2015
	Round 2	803,000,000	1/7/2014	1/7/2016
	Round 3, Rebuild by Design	796,000,000	6/9/2015	6/9/2017
		4,000,000	6/9/2015	9/30/2022
	Round 4, Rebuild by Design	536,000,000	7/27/2016	7/27/2018
		14,000,000	7/27/2016	9/30/2022
	Round 5, Rebuild by Design	486,199,363	1/18/2017	1/18/2019
1,137,682,637		1/18/2017	9/30/2022	
New York City B-13-MS-36-0001	Round 1	425,000,000	8/16/2013	8/16/2015
	Round 2, Rebuild by Design	986,979,545	6/8/2015	6/8/2017
		13,020,455	6/8/2015	9/30/2022
	Round 3, Rebuild by Design	660,000,604	10/23/2015	10/23/2017
		27,999,396	10/23/2015	9/30/2022
		17,000,000	10/23/2015	9/30/2022
	Round 4, Rebuild by Design	1,276,358,851	1/19/2017	1/19/2019
		482,537,604	1/19/2017	9/30/2022
324,979,545		1/19/2017	9/30/2022	

⁵⁶ Rebuild by Design grants were competitive Disaster Recovery grants, and we did not include these grants in our testing.

Grantee and grant no.	Grant round	Obligation amount	Grant execution by CPD	Expenditure deadline
Rhode Island B-13-DS-44-0001	Round 1	625,612	9/3/2013	9/3/2015
	Round 2	2,692,595	7/10/2014	7/10/2016
	Round 3	4,050,573	5/12/2015	5/12/2017
		3,204,356	5/12/2015	9/13/2018
	Round 4	3,737,945	1/20/2016	1/20/2018
	Round 5	347,300	9/12/2016	9/12/2018
	Round 6	175,000	4/13/2017	4/13/2019
Round 7	5,077,619	9/6/2017	9/6/2019	
Total		13,013,017,000		