



NCDCA Washington Report

September 25, 2020

Agreement Reached on a Continuing Resolution to Avoid a Government Shutdown

Congress has reached agreement on a Continuing Resolution (CR) to avoid a federal government shutdown on October 1. On September 22, the House passed a CR – *Continuing Appropriations Act, 2021 and Other Extensions (H.R. 8319)* - that keeps federal programs operating at current funding levels through December 11. The measure includes additional trade relief for farmers (which the Republicans wanted) and additional funding for child nutrition programs (which the Democrats wanted). The CR is expected to clear the Senate by early next week and the President has signaled that he will sign it.

The CR extends several key programs.

- Temporary Assistance for Needy Families (TANF) through December 11, 2020.
- Pandemic-EBT program through September 21, 2021 (this program provides food assistance to children who receive free or reduced school meals).
- National Flood Insurance Program through September 21, 2021. This program provides affordable flood insurance to property owners.
- Fixing America's Surface Transportation Act. The CR extends the FAST Act, the current law governing surface transportation programs, through FY21.

While the House has passed its 12 spending bills for FY21, the Senate has not put forward any FY21 spending measures. Congress will need to hammer out a spending deal in a lame duck session after the elections or approve another CR.

Census Count Extended Through October 31

A federal judge has ordered that the Census count continue through October 31, 2020. The National Urban League sued the Trump Administration over the decision to end the count on September 30, 2020, citing the undercounting of minority communities. The Justice Department is expected to appeal the decision, but for now, Census workers can continue the in-person count through October 31.

Coronavirus Relief Legislation Stalled

Congressional leaders and the White House have not been able to reach agreement on additional coronavirus relief. The Democratically controlled House is at odds with the Senate and the White House

over the funding level. House Speaker Nancy Pelosi and House Democrats want at least \$2.2 trillion while the White House has offered \$1.5 trillion. On September 8, Senate Republicans released a \$650 billion coronavirus package which failed to pass the Senate on September 10. The bill called for \$300 in weekly unemployment benefits for families, additional money for small businesses, funding for schools, funding for testing and vaccine production, and legal protections for businesses. The Senate measure did not include aid for state and local governments which is a major sticking point for Speaker Pelosi and House Democrats.

In an attempt to reignite discussions on coronavirus funding, the bipartisan House Problem Solvers Caucus last week released a proposal calling for over \$1.5 billion in additional coronavirus funding for testing, unemployment assistance, small business support, school and childcare support, state and local aid, and direct assistance to families.

House Democrats are working on a slimmed down coronavirus relief package to allow a vote in advance of the elections.

National Eviction Moratorium in Place

The Centers for Disease Control (CDC) issued an [order](#) banning evictions through December 31, 2020 to help limit the spread of COVID-19 by preventing homelessness. To be eligible for eviction protections under the order, households must sign a [declaration form](#) and meet the requirements in the order (which are also described in the declaration form). The order applies only to those households unable to make full rent payment. It does not require landlords to forgive rent payments or preclude the charging or collection of fees, penalties, or interest for failure to make rent payments.

HUD Releases CDBG-CV Round 3 Funds

HUD allocated the third and final round of CDBG CARES Act funding on September 11. HUD developed new formula factors to distribute the \$1.988 allocation which targeted the funds to CDBG communities with high unemployment and job losses and communities most at risk for transmission of the coronavirus and at risk of eviction.

- 40% of funds toward households at higher risk of transmission of coronavirus or higher risk of eviction
- 60% for economic and housing market disruptions, specifically unemployment

The allocations and allocation methodology are available [here](#).

HUD Issues Final Disparate Impact Rule

On September 24, 2020, HUD issued a [final rule](#) which implements HUD's interpretation of the Fair Housing Act's Disparate Impact Standard. The final rule takes effect on October 26, 2020.

The rule amends HUD's 2013 disparate impact standard regulation to better reflect the Supreme Court's 2015 ruling in *Texas Department of Housing and Community Affairs v. Inclusive Communities Project*,

Inc. In 2015, the Texas Department of Housing and Community Affairs was sued by Inclusive Communities Project, Inc. for awarding more tax credits to developers that built affordable housing in low-income neighborhoods. While the Supreme Court ruled in favor of the plaintiff, the majority opinion provided protection against future disparate-impact lawsuits including that plaintiffs must prove a “robust causal link” between a business’s alleged discriminatory policy and disparate outcome.

HUD’s final disparate impact rule is based on this majority opinion. The final rule revises the burden-shifting test for determining whether a given practice has an unjustified discriminatory effect. It also establishes a uniform standard for determining when a housing policy or practice with a discriminatory effect violates the Fair Housing Act. The rule would establish a new burden-shifting framework that requires plaintiffs to identify a specific policy or practice that has a discriminatory effect – as opposed to a single event.

Treasury Releases Updated Coronavirus Relief Fund Guidance

On September 21, the Treasury Department issued an updated reporting and recordkeeping [FAQ](#) for the Coronavirus Relief Fund (CRF) and an updated program [FAQ](#) on September 2. The CRF provides \$150 million to states and local governments with populations over 500,000 to address expenditures incurred due to COVID-19.

HUD Releases Guidance for ESG CARES Act Funding

Earlier this month, HUD issued a [notice](#) outlining the long-awaited guidance for the ESG CARES Act funding which includes waivers and alternative requirements. The Notice provides the following flexibilities.

- States may use up to 100 percent of their ESG-CV funds to carry out activities directly.
- States and local governments may subaward funds to public housing agencies and local redevelopment authorities.
- Local government ESG-CV grantees have up to 240 days from the date HUD signs the grant agreement to obligate their ESG-CV funds.
- The first and second rounds of ESG-CV funds must be expended by September 30, 2022.
 - HUD may recapture up to 20 percent of a grantee’s total ESG-CV award if the recipient has not expended at least 20 percent of that award by September 30, 2021.
 - HUD may recapture up to 80 percent of a grantee’s total ESG-CV award if the grantee has not expended at least 80 percent of the award by March 31, 2022.
- ESG-CV funds are not subject to match.
- HUD is waiving the ESG program income provisions and establishing alternative provisions. See the notice for further detail.
- ESG-CV funds are not subject to the emergency shelter and street outreach cap.
- ESG-CV funds can be used to pay for temporary emergency shelters for people experiencing homelessness to prevent, prepare for, and respond to coronavirus. Eligible costs include leasing real property or temporary structures; acquisition of real property, renovation, shelter operations, services, and other shelter costs HUD pre-approves in writing.
- ESG-CV funds can be used for training on infectious disease prevention.

- ESG-CV funds can be used to pay hazard pay for grantee or subrecipient staff working *directly* to prevent, prepare for, and respond to coronavirus among the homeless or those at risk of homelessness.
- ESG-CV funds can be used for the installation and maintenance of handwashing stations and portable bathrooms for people experiencing unsheltered homelessness.
- ESG-CV funds can be used to incentivize landlords to provide housing for the homeless or those at risk of homelessness. Please see the notice for detail.
- ESG-CV funds can be used to incentivize volunteer participation. Please see the notice for more detail.
- ESG-CV rental assistance can exceed the Fair Market Rent established by HUD, so long as the rent complies with standards of reasonableness established under 24 CFR 982.507.
- Grantees can use up to 10 percent of their total ESG-CV grant for administrative costs.
- Grantees can use their ESG-CV funds to help current ESG program participants maintain their housing. See the notice for more detail.
- ESG-CV grantees can deviate from normal procurement standards. Please see the notice for more detail.
- Grantees must avoid duplication of benefits.

The CARES Act authorized HUD to waive or alter requirements for any statute or regulation in connection with ESG-CV and ESG funding from prior fiscal years (with the exception of requirements related to fair housing, nondiscrimination, labor standards, and the environment). The Notice describes the process for grantees to request program waivers.

Upcoming CAPER Webinar

HUD will host a webinar on September 30th from 1:00 pm to 2:00 pm ET on the process and requirements for completing a CAPER in the eCon Planning Suite in IDIS. Go [here](#) to register for the webinar.

HOME Program Extends Deadline for Urban County and Consortia Qualification

HUD issued a [memorandum](#) that extends the deadline to November 30, 2020 for local governments to qualify or requalify as an urban county or consortium of local governments to receive a FY21 HOME allocation.

Emergency HOME TBRA Toolkit

HUD's Office of Affordable Housing Programs has developed a [Emergency HOME TBRA Toolkit \(TBRA\)](#) for Participating Jurisdictions (PJs) implementing HOME-funded emergency TBRA programs using the flexibilities found in the April 10th CPD Memo: Suspensions and Waivers to Facilitate Use of HOME-Assisted TBRA for Emergency and Short-term Assistance in Response to COVID-19 Pandemic. The Toolkit houses all HUD guidance and training resources developed for PJs and includes the following four new sample documents:

[Sample subrecipient agreement](#)

[Sample application](#) for households seeking assistance
[Sample owner certification](#) for property owners
[Sample rental assistance contract](#)

HUD CDBG-CV FAQs

On August 28, HUD's Office of Block Grant Assistance released a set of [FAQs](#) on the CARES Act CDBG funding (CDBG-CV) to summarize the [August 20, 2020 Federal Register Notice](#) regarding CDBG-CV waivers and flexibilities.

Future updated FAQs and other technical assistance will be posted on HUD's CDBG-CV [webpage](#).

HUD CDBG Best Practices Project

The FY20 Transportation-HUD spending bill (enacted last December) included language directing HUD to develop a CDBG best practices report and training for CDBG grantees. HUD is seeking your support in identifying CDBG best practices in the following four areas.

- Reducing administrative costs
- Prioritizing greatest need activities
- Grant oversight strategies
- Leveraging grant funds

The objective is to increase knowledge-sharing, develop stronger peer-to-peer communication amongst CDBG grantees, and provide technical expertise to grantees. Please contact Julia Neidecker Gonzales at julia.m.neideckergonzales@hud.gov or Joseph Baietta at Joseph.A.Baietti@hud.gov if you are interested in discussing your best practices in these areas.

NCDA CDBG-CV Survey

NCDA would like to hear from members on the CDBG-CV program. We have developed a short online [survey](#) to help us obtain a better sense of HUD's administration of the program and your challenges in implementing the program. The results will help guide us in advocating for program changes and technical assistance and guidance for CDBG-CV grantees. The overall survey results will be shared with members, but individual survey responses will be kept confidential. Please contact vwatson@ncdaonline.org with any questions.

NCDA Training

NCDA is pleased to offer the following online training.

Subrecipient Management Basics Course

October 20 through November 12, 2020

Tuesdays and Thursdays

2-4 pm ET each day

Agenda [here](#)
Register [here](#)

IDIS Basics

November 16 through December 9, 2020

Mondays and Wednesdays

3-5 pm ET each day

Agenda [here](#)

Register [here](#)

Please contact Steve at sgartrell@ncdaonline.org with any questions.

NCDA is Collecting CDBG and HOME Stories of Impact

To promote our core programs – CDBG and HOME, NCDA is collecting stories of impact. The stories will be used in our efforts to promote the programs with Congress and the Administration. Please use the following link to share your story of impact.

<https://www.surveymonkey.com/r/CDBGHOMEImpact>

Please contact Vicki Watson at vwatson@ncdaonline.org with any questions.

Department of Housing and Urban Development Budget Chart

<i>Program</i>	<i>FY20 Omnibus Spending Measure (12/23/2019)</i>	<i>President's FY21 Budget Proposal (2/10/2020)</i>	<i>House FY21 THUD Bill (7/31/2020)</i>
CDBG Formula Grants	\$3.4 billion	\$0	\$3.5 billion
HOME Formula Grants	\$1.35 billion	\$0	\$1.7 billion
Homeless Assistance Grants	\$2.777 billion	\$2.77 billion	\$3.45 billion
Section 108	\$300 million	\$0	\$300 million
Choice Neighborhoods	\$175 million	\$0	\$250 million
HOPWA	\$410 million	\$330 million	\$430 million
Lead Based Paint Hazard Reduction	\$290 million	\$360 million	\$340 million
Elderly Housing (Section 202)	\$793 million	\$853 million	\$893 million
Housing for Persons with Disabilities (811)	\$202 million	\$252 million	\$227 million
Housing Choice Vouchers (Tenant-Based Rental Assistance)	\$21.5 billion	\$18.8 billion	\$25.7 billion
Project-Based Rental Assistance	\$12.170 billion	\$12.6 billion	\$13.4 billion
Public Housing Operating Fund	\$4.549 billion	\$3.6 billion	\$4.649 billion
Public Housing Capital Fund	\$2.869 billion	\$0	\$3.18 billion

