

U. S. Department of Housing and Urban Development



Community Planning and Development

Region VIII, Denver
1670 Broadway Street
Denver, Colorado 80202-4801

Phone: 303-672-5414
Fax: 303-672-5028
Web: www.hud.gov

September 6, 2022

Rick Garcia, Executive Director
Colorado Department of Local Affairs
1313 Sherman Street, Room 500
Denver, Colorado 80203

Dear Mr. Garcia:

SUBJECT: State Community Development Block Grant Program
Waiver Request Approval

This letter responds to the State of Colorado's June 30, 2022, letter requesting to waive section 106(d)(2) of the Housing and Community Development Act of 1974 as amended (HCDA) (42 U.S.C. § 5306(d)(2)). Section 106(d)(2) is a statutory requirement that the State only grant Community Development Block Grant (CDBG) funds to units of general local governments (UGLGs); however, the U.S. Department of Housing and Urban Development (HUD) Secretary may suspend statutory requirements in certain circumstances. The State requested this waiver to directly carry out activities with CDBG funds in response to the Presidentially declared major disaster, Colorado Marshall Fire, FM-5423-CO, (the "Disaster") that occurred on December 31, 2021, which destroyed 1,086 homes in Boulder County, Colorado (the "County").

In accordance with Section 122 of the HCDA, the Deputy Assistant Secretary for Grant Programs has determined that good cause exists to suspend 42 U.S.C. 5306(d)(2). The State may carry out activities in Boulder County to address damage in the area that received the major disaster declaration through its employees, procurement contracts, or assistance provided under agreements with subrecipients, consistent with the entitlement CDBG regulation at 24 C.F.R. § 570.200(f). This suspension shall remain in effect through the end of Fiscal Year (FY) 2027 and **only applies to funds used for housing assistance to households in the County that were impacted by the Disaster.**

Furthermore, pursuant to 24 C.F.R. § 5.110, the Deputy Assistant Secretary for Grant Programs has determined that good cause exists to waive and provide alternative requirements to the following related regulations:

- 24 C.F.R. § 570.480(g) to the extent necessary to allow the State to carry out activities directly through its employees, procurement contracts, or assistance provided under agreements with subrecipients, consistent with the entitlement CDBG regulation at 24 C.F.R. § 570.200(f);

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- 24 C.F.R. §§ 91.320(d) and 91.320(k)(1)(i) to the extent necessary to require the State to submit a method of distribution including a list of the use of all funds for activities it will carry out directly and how the use of funds will respond to the Disaster;
 - 24 C.F.R. § 570.489(b) to the extent necessary to authorize the State to charge to the grant pre-agreement costs of its subrecipients in accordance with procedures established by the State and subject to the requirements that apply to pre-agreement costs of units of general local government in 24 C.F.R. § 570.489(b) and the requirements that apply to the use of CDBG funds, including the requirements of 24 C.F.R. Part 91;
 - 24 C.F.R. § 570.483 to the extent necessary for the State to directly fulfill all requirements that § 570.483 imposes on units of general local government to demonstrate compliance with national objective criteria;
 - 24 C.F.R. § 570.490(a) to the extent necessary to require the State to maintain such records for activities that it carries out directly as may be necessary to facilitate review and audit by HUD of the State's administration of CDBG funds, pursuant to 24 C.F.R. § 570.493;
 - 24 C.F.R. § 570.490(b) to the extent necessary for the State to establish recordkeeping requirements for subrecipients of the State that are sufficient to facilitate reviews and audits of the State by HUD under 24 C.F.R. § 570.493;
 - 24 C.F.R. § 570.493 to the extent necessary to permit HUD to make reviews and audits as may be necessary or appropriate to determine whether the State has complied with CDBG requirements;
 - 24 C.F.R. § 570.489(j) to the extent necessary for all references to "unit of general local government" shall be read as "State, unit of general local government (UGLG) or State subrecipient;" and
 - 24 C.F.R. § 570.492 to the extent necessary for the State to make reviews and audits, including on-site reviews of any subrecipients and local governments, as may be necessary or appropriate to meet the requirements of section 104(e)(2) of the HCD Act, as amended. In the case of noncompliance with these requirements, the state shall take such actions as may be appropriate to prevent a continuance of the deficiency, mitigate any adverse effects or consequences, and prevent a recurrence. The State shall establish remedies for noncompliance by any subrecipients or local governments.

These waivers and alternative requirements remain in effect through the end of the period of performance stated in the State's CDBG-DR grant (B-21-DF-08-0001), which is six years from the date HUD signs the CDBG-DR grant agreement, and any amendments thereto; and further, that the waivers and alternative requirements only apply to CDBG funds used for housing assistance to households in the County that were impacted by the Disaster.

The suspension and waivers provided here do not change the limits for administrative and technical assistance costs, pursuant to 24 CFR 570.489(a)(1). The State may use CDBG funds not to exceed \$100,000, plus 50 percent of administrative expenses incurred in excess of \$100,000. Amounts of CDBG funds used to pay administrative expenses in excess of \$100,000 shall not exceed the sum of three percent of the State's annual grant; three percent of program income received by UGLG during each program year, and three percent of funds reallocated by HUD to the State.

If you have questions regarding the waiver, please contact Don Morris, Senior Community Planning and Development Representative at 303-672-5418 or don.r.morris@hud.gov.

Sincerely,



Noemi Ghirghi
Regional Director

cc: Alison George, Director
Division of Housing