

REFORMING DISASTER RECOVERY ACT OF 2018

DECEMBER 22, 2018.—Ordered to be printed

Mr. HENSARLING, from the Committee on Financial Services,
submitted the following

R E P O R T

[To accompany H.R. 4557]

[Including cost estimate of the Congressional Budget Office]

The Committee on Financial Services, to whom was referred the bill (H.R. 4557) to authorize the Secretary of Housing and Urban Development to provide disaster assistance to States and units of general government under a community development block grant disaster recovery program, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Reforming Disaster Recovery Act of 2018”.

SEC. 2. COMMUNITY DEVELOPMENT BLOCK GRANT DISASTER RECOVERY PROGRAM.

(a) IN GENERAL.—Title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.) is amended by adding at the end the following new section:

“SEC. 123. CDBG-DISASTER RECOVERY ASSISTANCE.

“(a) AUTHORITY; USE.—The Secretary may provide assistance under this section to States, units of general local government, and Indian tribes for necessary expenses for activities authorized under this title related to disaster relief, resiliency, long-term recovery, restoration of infrastructure and housing, mitigation, 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. 5121 et seq.).

“(b) TIMING.—

“(1) DEADLINES FOR ALLOCATION OF AMOUNTS.—Except as provided in paragraph (2), after the enactment of an Act making funds available for assistance under this section, the Secretary shall allocate for grantees, based on the best available data—

“(A) not less than one-third of funds provided for assistance under this section, within 60 days of the date of the enactment of such Act; and

“(B) all remaining unallocated funds to be provided to grantees, within 180 days of such date of enactment.

“(2) INAPPLICABILITY OF DEADLINES BASED ON INSUFFICIENT INFORMATION.—The deadlines under paragraph (1) for allocation of funds shall not apply in the case of funds made available for assistance under this section if Federal Emergency Management Agency has not made sufficient information available to the Secretary regarding relevant unmet recovery to make allocations in accordance with such deadlines.

“(3) DISBURSEMENT OF AMOUNTS.—Subject to subsection (c)(1), the Secretary shall provide for the disbursement of the amounts allocated for a grantee over time in accordance with obligations of the grantee, but shall require the grantee to be in substantial compliance with the requirements of this section before each such disbursement.

“(4) COORDINATION OF DISASTER BENEFITS AND DATA WITH OTHER FEDERAL AGENCIES.—

“(A) COORDINATION OF DATA.—The Secretary shall coordinate with other agencies to obtain data on recovery needs. The Administrator of the Federal Emergency Management Agency and the Administrator of the Small Business Administration shall share data with the Secretary to coordinate disaster benefits.

“(B) COORDINATION WITH FEMA.—The Secretary and the Administrator of the Federal Emergency Management Agency shall share with each other, and make publicly available, all data collected or analyzed during the course of a disaster recovery for which assistance is provided under this section, including—

“(i) all data on damage caused by the disaster;

“(ii) information on how any Federal assistance provided in connection with the disaster is expended;

“(iii) information regarding the effect of the disaster on education, transportation capabilities and dependence, housing needs and displacement.

“(C) PROHIBITION AND REQUIREMENTS REGARDING SMALL BUSINESS ADMINISTRATION LOANS.—

“(i) PROHIBITION.—Funds made available for use under this section may not be used to repay Small Business Administration loans.

“(ii) FAMILY ELIGIBILITY.—Any family having an income exceeding 120 percent of the area median income shall not be eligible for assistance provided from funds made available for use under this section unless (i) the family has applied for a Small Business Administration loan for such purpose and has agreed that if such a loan is made that it will use the proceeds of such loan in lieu of assistance from funds made available for use under this section, or (ii) such loans are not available at the time of application for assistance from funds made available for use under this section; except that the Secretary may establish income ceilings higher or lower than 120 percent of the median for the area on the basis of the Secretary’s findings that such variations are necessary because of unusually high or low family incomes.

“(D) NOTICE TO SBA APPLICANTS.—The Secretary shall consult and coordinate with the Administrator of the Small Business Administration as necessary to ensure that applicants for Small Business Administration disaster loans are provided clear written notice regarding their potential eligibility for assistance with funds made available under this section and the affect of such Small Business Administration loans on such eligibility.

“(E) TREATMENT OF DUPLICATIVE BENEFITS.—In any case in which a grantee provides assistance that duplicates benefits available to a person for the same purpose from another source, the grantee shall collect any duplicative assistance that it provides and return the amount of duplicative assistance to the grantees funds available for use under this section, or to the Secretary, or be subject to remedies for noncompliance under section 111, unless the Secretary issues a public determination that it is not in the best interest of the Federal Government to pursue such remedies.

“(F) PROTECTION OF PERSONALLY IDENTIFIABLE INFORMATION.—In carrying out this paragraph, the Secretary shall take such actions as may be necessary to ensure that personally identifiable information regarding recipients of assistance provided from funds made available under this section is not made publicly available by the Department of Housing and Urban Development or any agency with which information is shared pursuant to this paragraph.

“(c) PLAN FOR USE OF ASSISTANCE.—

“(1) REQUIREMENT.—Not later than 120 days after the allocation pursuant to subsection (b)(1)(B) of the funds made available by an appropriations Act for as-

sistance under this section and before the Secretary obligates any of such funds for a grantee, the grantee shall submit a plan to the Secretary for approval detailing the proposed use of all funds, which shall include, at a minimum—

“(A) criteria for eligibility and a description of how the use of such funds will address disaster relief, resiliency, long-term recovery and restoration of infrastructure and housing, and mitigation and economic revitalization in the most impacted and distressed areas;

“(B) identification of officials and offices responsible for administering such funds and identifying and recovering duplicate benefits;

“(C) an agreement to share data with Federal agencies and other providers of disaster relief, which shall include information the grantee has regarding the matters described in subparagraph (B); and

“(D) a plan for ensuring compliance with the Fair Housing Act, which may include providing for partnerships with local fair housing organizations and funding set-aside for local fair housing organizations to handle complaints relating to assistance with amounts made available for use under this section.

“(2) APPROVAL.—The Secretary shall, by regulation, specify criteria for approval of plans under paragraph (1), including approval of substantial amendments to such plans.

“(3) DISAPPROVAL.—The Secretary shall disapprove a plan or substantial amendment to a plan if—

“(A) the Secretary determines that a plan or substantial amendment does not meet the approval criteria;

“(B) the Secretary determines, based on damage and unmet needs assessments of the Secretary and the Federal Emergency Management Administration or such other information as may be available, that the plan or amendment does not provide for equitable allocation of resources—

“(i) between infrastructure and housing projects; or

“(ii) between homeowners, renters, and persons experiencing homelessness;

“(C) the Secretary determines that the plan does not provide a credible plan for ensuring compliance with the Fair Housing Act; or

“(D) the Secretary determines that the plan does not prioritize the one-for-one replacement of public housing and other federally subsidized housing that provides affordable housing for the lowest income households.

“(4) RESUBMISSION.—The Secretary shall permit a grantee to revise and resubmit disapproved plans.

“(5) TIMING.—The Secretary shall approve or disapprove a plan not later than 120 days after submission of the plan to the Secretary.

“(d) FINANCIAL CONTROLS.—

“(1) COMPLIANCE SYSTEM.—The Secretary shall develop and maintain a system to ensure that each grantee has in place—

“(A) proficient financial controls and procurement processes;

“(B) adequate procedures to ensure that all eligible families and individuals are approved for assistance with amounts made available under this section and that recipients are provided the full amount of assistance for which they are eligible;

“(C) adequate procedures to prevent any duplication of benefits, as defined by section 312 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5155), to ensure timely expenditure of funds, and to detect and prevent waste, fraud, and abuse of funds; and

“(D) adequate procedure to ensure the grantee will maintain comprehensive and publicly accessible websites that make available information regarding all disaster recovery activities assisted with such funds, which information shall include—

“(i) full and unredacted copies of all requests for qualification for assistance or for procurement with such funds, however styled;

“(ii) all responses to such requests;

“(iii) the identity of any individual or entity that reviews, evaluates, scores, or otherwise influences or determines the disposition of such requests;

“(iv) all reports, however styled, containing the reviewing individual or entity’s scores, findings; and conclusions regarding such requests; and

“(v) any resulting contract, agreement, or other disposition of such requests;

except that such procedures shall ensure that personally identifiable information regarding recipients of assistance provided from funds made available under this section shall not be made publically available.

“(2) CERTIFICATION.—As a condition of making any grant, the Secretary shall certify in advance that the grantee has in place the processes and procedures required under subparagraphs (A) and (B) of paragraph (1).

“(e) USE OF FUNDS.—

“(1) ADMINISTRATIVE COSTS.—

“(A) IN GENERAL.—A State, unit of general local government, or Indian tribe receiving a grant under this section may use not more than 10 percent of the amount of grant funds received, or not more than such other percentage as may be established pursuant to subparagraph (B), for administrative costs and shall document the use of funds for such purpose in accordance with such requirements as the Secretary shall establish.

“(B) DISCRETION TO ESTABLISH SLIDING SCALE.—The Secretary may establish a series of percentage limitations on the amount of grant funds received that may be used by a grantee for administrative costs, but only if—

“(i) such percentage limitations are based on the amount of grant funds received by a grantee;

“(ii) such series provides that the percentage that may be so used is lower for grantees receiving a greater amount of grant funds and such percentage that may be so used is higher for grantees receiving a lesser amount of grant funds; and

“(iii) in no case may a grantee so use more than 10 percent of grant funds received.

“(2) LIMITATION ON USE.—Amounts from a grant under this section may not be used for activities reimbursable by, or for which funds are made available by—

“(A) the Federal Emergency Management Agency, including under the Robert T. Stafford Disaster Relief and Emergency Assistance Act or the National Flood Insurance Program; or

“(B) the Army Corps of Engineers.

“(3) HUD ADMINISTRATIVE COSTS.—

“(A) LIMITATION.—Of any funds made available for use under this section by any single appropriations Act, the Secretary may use 0.5 percent of any such amount exceeding \$1,000,000,000 for necessary costs, including information technology costs, of administering and overseeing the obligation and expenditure of amounts made available for use under this section.

“(B) TRANSFER OF FUNDS.—Any amounts made available for use in accordance with subparagraph (A) shall—

“(i) be transferred to the account for ‘Program Office Salaries and Expenses—Community Planning and Development’ for the Department;

“(ii) shall remain available until expended; and

“(iii) may be used for such administrative costs for administering any funds appropriated to the Department for any disaster and related purposes in any prior or future Act making funds available for use under this section, notwithstanding the disaster for which such funds were appropriated.

“(4) INSPECTOR GENERAL.—Of any funds made available for use in accordance with paragraph (3)(A), 10 percent shall be transferred to the Office of the Inspector General for necessary costs of audits, reviews, oversight, evaluation, and investigations relating to amounts made available for use under this section.

“(5) CAPACITY BUILDING.—Of any funds made available for use under this section, not more than 0.1 percent or \$15,000,000, whichever is less, shall be made available for capacity building and technical assistance, including assistance regarding contracting and procurement processes, to support grantees and subgrantees receiving funds under this section.

“(6) COMPLIANCE WITH STORM WATER PROTECTIONS.—The Secretary shall provide that no funds made available under this section may be used for construction, repair, or rehabilitation of any infrastructure unless the infrastructure assisted complies with any minimum standards for protection from floods and stormwaters, including the Federal Flood Risk Management Standards of the Federal Emergency Management Agency.

“(7) FLOOD RISK MITIGATION.—

“(A) REQUIREMENTS.—Subject to subparagraph (B), the Secretary shall require that any structure that is located in an area having special flood hazards and that is newly constructed, for which substantial damage is repaired, or that is substantially improved, using amounts made available

under this section, shall be elevated with the lowest floor, including the basement, at least two feet above the base flood level.

“(B) MULTIFAMILY HOUSING.—In the case of structures consisting of multifamily housing, the Secretary, in consultation with the Administrator of the Federal Emergency Management Agency, shall provide for alternative forms of mitigation (in addition to elevation) and shall exempt from the requirement under subparagraph (A) any such structure that meets the standards for such an alternative form of mitigation.

“(C) DEFINITIONS.—For purposes of subparagraph (A), the terms ‘area having special flood hazards’, ‘newly constructed’, ‘substantial damage’, ‘substantial improvement’, and ‘base flood level’ have the same meanings as under the Flood Disaster Protection Act of 1973 and the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.).

“(f) ADMINISTRATION.—In administering any amounts made available for assistance under this section, the Secretary—

“(1) may not allow a grantee to use any such amounts for any purpose other than the purpose approved by the Secretary in the plan submitted under subsection (c)(1) to the Secretary for use of such amounts;

“(2) may not permit a grantee to amend a plan to retroactively approve a beneficiary’s use of funds for an eligible activity other than an activity for which the funds were originally approved in the plan; and

“(3) shall prohibit a grantee from delegating, by contract or otherwise, the responsibility for inherent government functions.

“(g) TRAINING FOR GRANT MANAGEMENT FOR SUBGRANTEES.—The Secretary shall require each grantee to provide ongoing training to all staff and subgrantees.

“(h) PROCUREMENT PROCESSES AND PROCEDURES FOR STATES.—

“(1) STATE PROCESSES AND PROCEDURES.—In procuring property or services to be paid for in whole or in part with amounts from a grant under this section, a State shall—

“(A) follow its own procurement processes and procedures, but only if the Secretary makes a determination that such processes and procedures comply with the requirements under paragraph (2); or

“(B) comply with such processes and procedures as the Secretary shall, by regulation, establish for purposes of this section.

“(2) REQUIREMENTS.—The requirements under this paragraph with respect to the procurement processes and procedures of a State are that such processes and procedures shall—

“(A) provide for full and open competition and require cost or price analysis;

“(B) include requirements for procurement policies and procedures for subgrantees, based on full and open competition;

“(C) specify methods of procurement and their applicability, but not allow for cost-plus-a-percentage-of cost or percentage-of-construction-cost methods of procurement;

“(D) include standards of conduct governing employees engaged in the award or administration of contracts;

“(E) ensure that all purchase orders and contracts include any clauses required by Federal Statute, Executive Order, or implementing regulation.

“(3) NONCOMPLIANCE.—In the case of a State for which the Secretary finds pursuant to paragraph (1)(A) that its procurement processes and procedures do not comply with paragraph (2), the Secretary shall—

“(A) provide the State with specific written notice of the elements of non-compliance and the changes necessary to such processes and procedures to provide for compliance;

“(B) provide the State a reasonable period of time to come into compliance; and

“(C) during such period allow the State to proceed with procuring property and services paid for in whole or in part with amounts from a grant under this section in compliance with the procurement processes and procedures of the State, but only if the Secretary determines the State is making a good faith effort to effectuate compliance with the requirements of paragraph (2).

“(i) TREATMENT OF CDBG ALLOCATIONS.—Amounts made available for use under this section shall not be considered relevant to the non-disaster formula allocations made pursuant to section 106 of this title (42 U.S.C. 5306).

“(j) WAIVERS.—

“(1) AUTHORITY.—Subject to the other provisions of this section, in administering amounts made available for use under this section, the Secretary may waive, or specify alternative requirements for, any provision of any statute or

regulation that the Secretary administers in connection with the obligation by the Secretary or the use by the recipient of such funds (except for requirements related to fair housing, nondiscrimination, labor standards, and the environment and except for the requirements of this section), if the Secretary makes a public finding that good cause exists for the waiver or alternative requirement and such waiver or alternative requirement would not be inconsistent with the overall purpose of this title.

“(2) NOTICE AND PUBLICATION.—Any waiver of or alternative requirement pursuant to paragraph (1) shall not take effect before the expiration of the 5-day period beginning upon the publication of notice in the Federal Register of such waiver or alternative requirement.

“(3) LOW- AND MODERATE-INCOME USE.—A waiver pursuant to paragraph (1) may not reduce the percentage of funds that must be used for activities that benefit persons of low and moderate income to less than 70 percent, unless the Secretary specifically finds that there is compelling need to further reduce the percentage requirement.

“(4) PROHIBITION.—The Secretary may not waive any provision of this section pursuant to the authority under paragraph (1).

“(k) ENVIRONMENTAL REVIEW.—

“(1) ADOPTION.—Notwithstanding subsection (j)(1), recipients of funds provided under this section that use such funds to supplement Federal assistance provided under section 402, 403, 404, 406, 407, 408(c)(4), 428, or 502 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) may adopt, without review or public comment, any environmental review, approval, or permit performed by a Federal agency, and such adoption shall satisfy the responsibilities of the recipient with respect to such environmental review, approval, or permit under section 104(g)(1) of this title (42 U.S.C. 5304(g)(1)).

“(2) RELEASE OF FUNDS.—Notwithstanding section 104(g)(2) of this title (42 U.S.C. 5304(g)(2)), the Secretary may, upon receipt of a request for release of funds and certification, immediately approve the release of funds for an activity or project assisted with amounts made available for use under this section if the recipient has adopted an environmental review, approval or permit under paragraph (1) or the activity or project is categorically excluded from review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

“(l) COLLECTION OF INFORMATION; AUDITS AND OVERSIGHT.—

“(1) COLLECTION OF INFORMATION.—For each major disaster for which assistance is made available under this section, the Secretary shall collect information regarding all recovery efforts so assisted and shall make such information available to the public and to the Inspector General for the Department of Housing and Urban Development, and shall report to the Congress regarding such efforts. Information collected and reported shall be disaggregated by race, geography, and all protected classes of individuals under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, the Americans with Disabilities Act of 1990, the Fair Housing Act, the Civil Rights Act of 1964, and other civil rights and nondiscrimination protections. In carrying out this paragraph, the Secretary shall take such actions as may be necessary to ensure that personally identifiable information regarding recipients of assistance provided from funds made available under this section shall not be made publicly available.

“(2) AUDITS AND OVERSIGHT.—In conducting audits, reviews, oversight, evaluation, and investigations, in addition to activities designed to prevent and detect waste, fraud, and abuse, the Inspector General shall review programs of grantees under this section for providing disaster relief and recovery assistance to ensure such programs fulfill their purposes and serve all eligible applicants for disaster relief or recovery assistance.

“(m) PRE-CERTIFICATION FOR UNITS OF GENERAL LOCAL GOVERNMENT.—

“(1) IN GENERAL.—The Secretary shall carry out a program under this subsection to provide for units of general local government to pre-certify as eligible grantees for assistance under this section.

“(2) REQUIREMENTS.—To be eligible for pre-certification under the program under this subsection a unit of general local government shall—

“(A) demonstrate to the satisfaction of the Secretary compliance with the requirements of this section; and

“(B) have previously received assistance as a grantee or subgrantee under this section, or with amounts made available for the Community Development Block Grant—Disaster Recovery account, in connection with two or more major disasters declared pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

“(3) DURATION.—Pre-certification under the program under this subsection shall be effective for a term of 10 years.

“(n) DEPOSIT OF UNUSED AMOUNTS IN FUND.—

“(1) IN GENERAL.—If any amounts made available for assistance under this section to grantees remain unexpended upon the earlier of—

“(A) the date that the grantee of such amounts notifies the Secretary that the grantee has completed all activities identified in the grantee’s plan for use of such amounts that was approved by the Secretary in connection with such grant; or

“(B) the expiration of the 6-year period beginning upon the Secretary obligating such amounts to the grantee, as such period may be extended pursuant to paragraph (2),

the Secretary shall transfer such unexpended amounts to the Secretary of the Treasury for deposit into the Community Development Block Grant Disaster Recovery Reserve Fund established under section 124, except that the Secretary may, by regulation, permit the grantee to retain amounts needed to close out the grant.

“(2) EXTENSION OF PERIOD FOR USE OF FUNDS.—The period under paragraph (1)(B) shall be extended by not more than 3 years if, before the expiration of such 6-year period, the Director of the Office of Management and Budget, upon a request by the Secretary, waives this requirement and submits a written justification for such waiver to the Committees on Appropriations of the House of Representatives and the Senate that specifies the period of such extension.

“SEC. 124. COMMUNITY DEVELOPMENT BLOCK GRANT DISASTER RECOVERY RESERVE FUND.

“(a) ESTABLISHMENT.—There is established in the Treasury of the United States an account to be known as the Community Development Block Grant Disaster Recovery Reserve Fund (in this section referred to as the ‘Fund’).

“(b) AMOUNTS.—The Fund shall consist of any amounts appropriated to or deposited into the Fund, including amounts deposited into the Fund pursuant to section 123(n).

“(c) USE.—Amounts in the Fund shall be available only for providing assistance under section 123, but only to the extent provided in advance in appropriations Acts.”.

“(b) REGULATIONS.—Not later than the expiration of the 12-month period beginning on the date of the enactment of this Act, the Secretary of Housing and Urban Development shall issue regulations to carry out sections 123 and 124 of the Housing and Community Development Act of 1974, as added by the amendment made by subsection (a) of this section.

PURPOSE AND SUMMARY

On December 5, 2017, Rep. Ann Wagner introduced H.R. 4557, the “Reforming Disaster Recovery Act of 2017,” which authorizes the Department of Housing and Urban Development’s (HUD) Community Development Block Grant Disaster Recovery (CDBG–DR) program. The Amendment in the Nature of a Substitute changed the bill to the “Reforming Disaster Recovery Act of 2018” and would amend Title I of the Housing and Community Development Act of 1974 to establish guidance and standards on how disaster funds may be distributed and accounted if Congress were to appropriate those funds to be distributed to states and localities.

BACKGROUND AND NEED FOR LEGISLATION

In addition to insurance payments made through the National Flood Insurance Program (“NFIP”) and other federal assistance that may be automatically triggered with a disaster declaration, individuals in Presidentially-declared disaster areas may also access supplemental federal assistance that is not automatically triggered by such declarations. Since 2001, in some instances that are perceived as catastrophic events, Congress has opted to provide additional resources to states and local governments through the Department of Housing and Urban Development (“HUD”) and its

Community Development Block Grant Disaster Recovery Program (“CDBG–DR”).

The CDBG–DR program is not a formal program. A disaster does not automatically trigger the release of funds. Instead, Congress has occasionally addressed unmet disaster needs by providing supplemental disaster-related appropriations on an *ad hoc* basis outside of the Federal Emergency Management Agency (“FEMA”) through HUD’s general CDBG program under the rubric of CDBG–DR. Consequently, CDBG–DR is not provided for all major disasters declared under the Stafford Act, but only provided by a specific Congressional appropriation.

The stated purpose of the CDBG–DR program is to start the recovery process and assist communities and neighborhoods with limited resources. Eligible grantees include states, units of local government, Indian tribes, and other areas designated by the President as disaster areas. Generally, CDBG–DR grantees must use at least 70 percent of the funds for activities that principally benefit low- and moderate-income persons or areas. Due to the nature of the program, local and state officials receiving block grants exercise a great deal of discretion in determining which combination of eligible activities to employ. This flexibility allows communities to use CDBG–DR funds to meet disaster-related needs, including short-term disaster relief, mitigation activities, and long term recovery activities.

In part because of the level of discretion afforded to state and local government in spending federal CDBG–DR funds, for the events that Congress has appropriated special CDBG–DR funds, the program has had repeated challenges associated with mismanagement of funds and wasteful and inefficient spending. Notably, the HUD Inspector General (HUD IG) has found that across a number of disasters receiving CDBG–DR appropriations, fund mismanagement has led to confusion, duplicative benefits, and poorly-prioritized expenditures. There have also been concerns related to procurement, such as lack of independent cost estimates and analyses to support the procurement method used. In some instances, the HUD IG found that grantees even lacked sufficient documentation to support the costs of projects. The HUD IG also determined that HUD provided inconsistent guidance to grantees and its employees regarding procurement requirements. Moreover, staff assigned to review disaster grantees’ procurement processes do not specialize in procurement and may lack the expertise to determine whether grantees had proficient procurement processes.

Given these concerns, H.R. 4557 would establish guidance and standards on how disaster funds may be distributed and accounted for if those funds are appropriated by Congress and distributed through the CDBG–DR program. More importantly, this bill will ensure that the CDBG–DR grantees complete their projects in a timely manner and that they use the funds for their intended purposes.

A November 1, 2017 Oversight and Investigations subcommittee hearing served as the influence for the text of H.R. 4557 at which the HUD IG testified about HUD’s lack of oversight on its CDBG–DR program. Helen Albert, Acting HUD IG, stated in her testimony that

“[t]he Department [HUD] faces significant challenges in monitoring disaster program funds provided to various grantees, including States, cities, and local governments under its purview. This challenge is particularly pressing for HUD because of the limited resources to directly perform oversight, the broad nature of HUD projects, the length of time needed to complete some of these projects, the ability of the Department to waive certain program requirements, and the lack of understanding of disaster assistance grants by the grantees.”

The bill also eliminates the possibility that the Federal government would duplicate benefits among different agencies, which often occurs in the wake of the government response to a natural disaster. Duplication of benefits is an inherent risk to disaster recovery funding across the government. Benefits from multiple sources of Federal aid can result in citizens’ receiving funds that exceed the need for a particular recovery purpose. In these cases, the bill would require grantees (States and local governments) to ensure that citizens are responsible for repaying any duplicate benefits.

H.R. 4557 highlights the HUD Inspector General’s work and gives HUD the guidance it needs to review and implement proposals that would make the program more effective and cost efficient.

HEARINGS

The Committee on Financial Services, Subcommittee on Oversight and Investigations held two hearings examining matters relating to H.R. 4557 on November 1, 2017 and May 17, 2018.

COMMITTEE CONSIDERATION

The Committee on Financial Services met in open session on June 7, 2018, and ordered H.R. 4557 to be reported favorably to the House by a recorded vote of 53 yeas to 3 nays (recorded vote no. FC–185), a quorum being present. Before the motion to report was offered, the Committee adopted an amendment in the nature of a substitute offered by Mrs. Wagner by voice vote. The Committee subsequently adopted an amendment to the amendment in the nature of a substitute offered by Mrs. Wagner by voice vote.

COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list the record votes on the motion to report legislation and amendments thereto. The sole recorded vote was on a motion by Chairman Hensarling to report the bill favorably to the House, as amended. The motion was agreed to by a recorded vote of 53 yeas to 3 nays (Record vote no. FC–185), a quorum being present.

Record vote no. FC-185

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
Mr. Hensarling	X			Ms. Maxine Waters (CA)	X		
Mr. McHenry	X			Mrs. Carolyn B. Maloney (NY) ..	X		
Mr. King	X			Ms. Velázquez		X	
Mr. Royce (CA)	X			Mr. Sherman	X		
Mr. Lucas	X			Mr. Meeks		X	
Mr. Pearce	X			Mr. Capuano		X	
Mr. Posey	X			Mr. Clay	X		
Mr. Luetkemeyer	X			Mr. Lynch			
Mr. Huizenga	X			Mr. David Scott (GA)	X		
Mr. Duffy	X			Mr. Al Green (TX)	X		
Mr. Stivers	X			Mr. Cleaver	X		
Mr. Hultgren	X			Ms. Moore	X		
Mr. Ross	X			Mr. Ellison	X		
Mr. Pittenger	X			Mr. Perlmutter	X		
Mrs. Wagner	X			Mr. Himes	X		
Mr. Barr	X			Mr. Foster	X		
Mr. Rothfus	X			Mr. Kildee	X		
Mr. Messer	X			Mr. Delaney	X		
Mr. Tipton	X			Ms. Sinema	X		
Mr. Williams	X			Mrs. Beatty			
Mr. Poliquin	X			Mr. Heck	X		
Mrs. Love	X			Mr. Vargas			
Mr. Hill	X			Mr. Gottheimer	X		
Mr. Emmer	X			Mr. Gonzalez (TX)	X		
Mr. Zeldin	X			Mr. Crist	X		
Mr. Trott	X			Mr. Kihuen	X		
Mr. Loudermilk	X						
Mr. Mooney (WV)	X						
Mr. MacArthur							
Mr. Davidson	X						
Mr. Budd	X						
Mr. Kustoff (TN)	X						
Ms. Tenney	X						
Mr. Hollingsworth	X						

COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the findings and recommendations of the Committee based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee states that H.R. 4557 amends Title I of the Housing and Community Development Act of 1974 to establish guidance and standards on how disaster funds may be distributed and accounted for if those funds are appropriated by Congress and distributed to states and localities through the Community Development Block Grant program.

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee adopts as its own the estimate of new budget authority, entitlement authority, or tax expenditures or revenues contained in the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

CONGRESSIONAL BUDGET OFFICE ESTIMATES

Pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the following is the cost estimate provided by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, July 9, 2018.

Hon. JEB HENSARLING,
*Chairman, Committee on Financial Services,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 4557, the Reforming Disaster Recovery Act of 2018.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Robert Reese.

Sincerely,

MARK P. HADLEY
(For Keith Hall, Director).

Enclosure.

H.R. 4557—Reforming Disaster Recovery Act of 2018

H.R. 4557 would codify several practices currently used by the Department of Housing and Urban Development (HUD) to administer the Community Development Block Grant Disaster Recovery program (CDBG-DR), which provides grants to help cities, counties, and states recover from presidentially declared disasters. The

bill also would create some new requirements for the program that aim to make the allocation of appropriated disaster relief funds more efficient.

The new requirements under H.R. 4557 would:

- Direct HUD, the Federal Emergency Management Agency, and the Small Business Administration (SBA) to coordinate benefits and reduce duplication of benefits by sharing information on disaster recovery needs;
- Prohibit the use of CDBG–DR grants to repay SBA disaster loans;
- Ensure that states and localities plan to equitably allocate grants between infrastructure projects and individual assistance to people harmed by disasters; and
- Create a process for localities to pre-certify eligible grantees for CDBG–DR assistance.

Using information from HUD, CBO estimates that implementing the bill would cost about \$2 million over the 2019–2023 period for three additional employees, at an annual cost of around \$100,000 per employee, to pre-certify eligible grantees and coordinate other activities with local governments. Such spending would be subject to the availability of appropriated funds.

CBO does not expect that implementing H.R. 4557 would alter the amount of appropriations that will be needed for the CDBG–DR program to adequately respond to future disasters. However, it could change the purposes for which those funds would be used and the proportion of those funds that could be allocated to different types of projects.

Enacting H.R. 4557 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

CBO estimates that enacting H.R. 4557 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2029.

H.R. 4557 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act. Any costs incurred by state, local, or tribal governments, including matching contributions, would result from complying with conditions of assistance.

The CBO staff contact for this estimate is Robert Reese. The estimate was reviewed by H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

FEDERAL MANDATES STATEMENT

This information is provided in accordance with section 423 of the Unfunded Mandates Reform Act of 1995.

The Committee has determined that the bill does not contain Federal mandates on the private sector. The Committee has determined that the bill does not impose a Federal intergovernmental mandate on State, local, or tribal governments.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of the section 102(b)(3) of the Congressional Accountability Act.

EARMARK IDENTIFICATION

With respect to clause 9 of rule XXI of the Rules of the House of Representatives, the Committee has carefully reviewed the provisions of the bill and states that the provisions of the bill do not contain any congressional earmarks, limited tax benefits, or limited tariff benefits within the meaning of the rule.

DUPLICATION OF FEDERAL PROGRAMS

In compliance with clause 3(c)(5) of rule XIII of the Rules of the House of Representatives, the Committee states that no provision of the bill establishes or reauthorizes: (1) a program of the Federal Government known to be duplicative of another Federal program; (2) a program included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111-139; or (3) a program related to a program identified in the most recent Catalog of Federal Domestic Assistance, published pursuant to the Federal Program Information Act (Pub. L. No. 95-220, as amended by Pub. L. No. 98-169).

DISCLOSURE OF DIRECTED RULEMAKING

Pursuant to section 3(i) of H. Res. 5, (115th Congress), the following statement is made concerning directed rule makings: The Committee estimates that the bill requires no directed rule makings within the meaning of such section.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Short title

This section cites H.R. 4557 as the “Reforming Disaster Recovery Act of 2018.”

Section 2. Community Development Block Grant Disaster Recovery program

This section authorizes the Secretary of Housing and Urban Development (HUD) to provide Community Development Block Grant—Disaster Recover (CDBG—DR) assistance to States, units of general local government, and Indian tribes related to disaster relief, resiliency, long-term recovery, restoration of infrastructure and housing, mitigation, and economic revitalization for areas affected by Presidentially-declared disasters.

The HUD Secretary must disburse at least one third of appropriated CDBG—DR funds within 60 days of the enactment of the appropriating legislation, and the remaining unallocated funds must be disbursed to grantees within 180 days of such date of enactment. The deadline for allocation of CDBG—DR funds shall not apply if the Federal Emergency Management Agency (FEMA) has

not made sufficient information available to HUD regarding relevant unmet recovery needs.

This section requires the HUD Secretary to coordinate with FEMA and the Small Business Administration (SBA) to share data and coordinate disaster benefits. The section would prohibit CDBG-DR funds from repaying SBA loans and limits eligibility for families having an income exceeding 120 percent of the area median income unless the family has applied for an SBA loan or SBA loans were not available at the time of application for CDBG-DR funds. The HUD Secretary may establish an income ceiling higher or lower than 120 percent of the median for the area because of unusually high or low family incomes.

The HUD Secretary shall consult and coordinate with SBA to ensure applicants for SBA disaster loans are provided clear written notice regarding their potential eligibility for CDBG-DR assistance and how acceptance of such loan would impact eligibility for CDBG-DR funds. In any case in which a CDBG-DR grantee provides assistance that duplicates benefits, the grantee shall collect any duplicative assistance and return that amount to the grantee's account, or to the HUD Secretary, or be subject to remedies for noncompliance under Section 111 of the Housing and Community Development Act of 1974. In carrying out this subsection, the HUD Secretary shall protect personally identifiable information.

No later than 120 days after the allocation of funds are made available by an appropriations act, the grantee must submit a plan to the HUD Secretary for approval detailing the proposed use of all funds, which shall include how the funds will be used to address disaster relief, identification of officials administering the disaster funds, an agreement to share data with Federal agencies, and a plan for ensuring compliance with the Fair Housing Act. The section requires the HUD Secretary to specify criteria for approval of a grantees disaster assistance plan. The HUD Secretary shall disapprove a plan if (1) the Secretary determines that the plan does not meet the approval criteria, (2) the Secretary determines that the plan does not provide equitable allocation of resources between infrastructure and housing projects or between homeowners, rents and persons experiencing homelessness, (3) the Secretary determines that the plan does not provide a credible plan for ensuring compliance with the Fair Housing Act, or (4) the Secretary determines that the plan does not prioritize the one-for-one replacement of federally subsidized affordable housing. In the event of a disapproved plan, the HUD Secretary shall permit a grantee to revise and resubmit its plan.

This section requires the HUD Secretary to develop a system to ensure that each grantee has an approved process for financial controls and procurement to control and prevent duplication of benefits and to detect waste, fraud and abuse. As a condition of making any grant, the HUD Secretary shall certify in advance that the grantee has the proper financial processes and procedures in place.

This section stipulates that a grantee may not use more than 10 percent of its grant funds for administrative fees. The HUD Secretary may establish a series of percentage limitations on a grantee's administrative fees, but only if such limitations are based on the amount of grant funds received, such series limitations is lower for grantees receiving a greater amount of grant funds and higher

for grantees receiving a lesser amount of grant funds, and in no case may a grantee use more than 10 percent of grant funds for administrative fees. Amounts under this section may not be used for activities reimbursable by FEMA or the Army Corps of Engineers.

The HUD Secretary may use 0.5 percent of CDBG-DR appropriated amounts exceeding \$1 billion for administrative costs, of which 10 percent of that amount shall be transferred to the HUD IG for audits, reviews, oversight, evaluation, and investigations relating to amounts made available for use under this section. This section authorizes the lesser of 0.1 percent or \$15 million for capacity building and technical assistance and all funds must use flood risk mitigation standards and must comply with storm water protections.

In administering any CDBG-DR funds, the HUD Secretary may not allow a grantee to use its funds outside the scope of its original application, may not permit a grantee to amend a plan to retroactively approve a beneficiary's use of funds other than for approved activities, and shall prohibit a grantee from delegating the responsibility for inherent government functions. The Secretary shall require each grantee to provide ongoing training to its staff and sub-grantees regarding grant management.

In procuring property or services paid for with CDBG-DR funds, a State shall follow its own procurement processes and procedures or must comply with such processes or procedures established through regulation by the HUD Secretary. A State's processes and procedures must (1) provide for a full and open competition and require cost or price analysis, (2) include requirements for sub-grantees, (3) specify methods of procurement and their applicability, (4) include standards of conduct for employees, and (5) ensure that all purchase orders and contracts include any clause required by Federal Statute, Executive Order, or implementing regulation. If the HUD Secretary finds that a State's procurement processes and procedures do not comply with this section, the Secretary shall provide the State with specific written notice of the elements of noncompliance, provide the State a reasonable period of time to come into compliance, and (3) allow the State to proceed with procuring property and services only if the Secretary determines the State is making a good faith effort to effectuate compliance with this section.

Except for those statutes that relate to fair housing, non-discrimination, labor standards and the environment, this section authorizes the HUD Secretary to waive any statute or regulation when there is good cause that the waiver or the alternative requirement would be consistent with the overall goal of CDBG-DR. Any waiver shall not take effect before the expiration of the 5-day period beginning upon the publication of notice in the Federal Register of such waiver. The HUD Secretary shall not reduce the percentage of CDBG-DR funds that must be used for activities that benefit persons of low and moderate income to less than 70 percent, unless the Secretary specifies that there is compelling need. Grantees may adopt, without review or public comment, any environment review approved by a Federal agency.

For each major disaster for which CDBG-DR assistance is made available under this section, the HUD Secretary shall collect information regarding all recovery efforts and shall make the informa-

tion available to the public, while ensuring personally identifiable information is not made publicly available. The HUD Secretary shall establish a program under this subsection to pre-certify eligible grantees for assistance. To be eligible for pre-certification, a locality shall demonstrate compliance with the requirement of this section and shall have previously received CDBG-DR assistance in connection with two or more Presidentially-declared disasters. The pre-certification shall be effective for a term of 10 years.

The HUD Secretary shall recapture any unused CDBG-DR funds if the grantee notifies the Secretary that it has completed all activities provided under the grant or the grantee has not spent all or part of the appropriated funds within 6 years. The HUD Secretary shall extend the time period by not more than 3 years if the Director of the Office of Management and Budget waives the six year time requirement and submits a written justification to the House and Senate Committees on Appropriations.

The section establishes in the Treasury of the United States a CDBG-DR Reserve Fund, which shall consist of amounts appropriated to the Reserve Fund or recaptured funds as specified under this section.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, and existing law in which no change is proposed is shown in roman):

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, and existing law in which no change is proposed is shown in roman):

HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974

* * * * *

TITLE I—COMMUNITY DEVELOPMENT

* * * * *

SEC. 123. CDBG-DISASTER RECOVERY ASSISTANCE.

(a) *AUTHORITY; USE.*—*The Secretary may provide assistance under this section to States, units of general local government, and Indian tribes for necessary expenses for activities authorized under this title related to disaster relief, resiliency, long-term recovery, restoration of infrastructure and housing, mitigation, 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. 5121 et seq.).*

(b) *TIMING.*—

(1) *DEADLINES FOR ALLOCATION OF AMOUNTS.*—Except as provided in paragraph (2), after the enactment of an Act making funds available for assistance under this section, the Secretary shall allocate for grantees, based on the best available data—

(A) not less than one-third of funds provided for assistance under this section, within 60 days of the date of the enactment of such Act; and

(B) all remaining unallocated funds to be provided to grantees, within 180 days of such date of enactment.

(2) *INAPPLICABILITY OF DEADLINES BASED ON INSUFFICIENT INFORMATION.*—The deadlines under paragraph (1) for allocation of funds shall not apply in the case of funds made available for assistance under this section if Federal Emergency Management Agency has not made sufficient information available to the Secretary regarding relevant unmet recovery to make allocations in accordance with such deadlines.

(3) *DISBURSEMENT OF AMOUNTS.*—Subject to subsection (c)(1), the Secretary shall provide for the disbursement of the amounts allocated for a grantee over time in accordance with obligations of the grantee, but shall require the grantee to be in substantial compliance with the requirements of this section before each such disbursement.

(4) *COORDINATION OF DISASTER BENEFITS AND DATA WITH OTHER FEDERAL AGENCIES.*—

(A) *COORDINATION OF DATA.*—The Secretary shall coordinate with other agencies to obtain data on recovery needs. The Administrator of the Federal Emergency Management Agency and the Administrator of the Small Business Administration shall share data with the Secretary to coordinate disaster benefits.

(B) *COORDINATION WITH FEMA.*—The Secretary and the Administrator of the Federal Emergency Management Agency shall share with each other, and make publicly available, all data collected or analyzed during the course of a disaster recovery for which assistance is provided under this section, including—

- (i) all data on damage caused by the disaster;
- (ii) information on how any Federal assistance provided in connection with the disaster is expended;
- (iii) information regarding the effect of the disaster on education, transportation capabilities and dependence, housing needs and displacement.

(C) *PROHIBITION AND REQUIREMENTS REGARDING SMALL BUSINESS ADMINISTRATION LOANS.*—

(i) *PROHIBITION.*—Funds made available for use under this section may not be used to repay Small Business Administration loans.

(ii) *FAMILY ELIGIBILITY.*— Any family having an income exceeding 120 percent of the area median income shall not be eligible for assistance provided from funds made available for use under this section unless (i) the family has applied for a Small Business Administration loan for such purpose and has agreed that if such a loan is made that it will use the proceeds of such loan in lieu of assistance from funds made available

for use under this section, or (ii) such loans are not available at the time of application for assistance from funds made available for use under this section; except that the Secretary may establish income ceilings higher or lower than 120 percent of the median for the area on the basis of the Secretary's findings that such variations are necessary because of unusually high or low family incomes.

(D) NOTICE TO SBA APPLICANTS.—The Secretary shall consult and coordinate with the Administrator of the Small Business Administration as necessary to ensure that applicants for Small Business Administration disaster loans are provided clear written notice regarding their potential eligibility for assistance with funds made available under this section and the affect of such Small Business Administration loans on such eligibility.

(E) TREATMENT OF DUPLICATIVE BENEFITS.—In any case in which a grantee provides assistance that duplicates benefits available to a person for the same purpose from another source, the grantee shall collect any duplicative assistance that it provides and return the amount of duplicative assistance to the grantees funds available for use under this section, or to the Secretary, or be subject to remedies for noncompliance under section 111, unless the Secretary issues a public determination that it is not in the best interest of the Federal Government to pursue such remedies.

(F) PROTECTION OF PERSONALLY IDENTIFIABLE INFORMATION.—In carrying out this paragraph, the Secretary shall take such actions as may be necessary to ensure that personally identifiable information regarding recipients of assistance provided from funds made available under this section is not made publicly available by the Department of Housing and Urban Development or any agency with which information is shared pursuant to this paragraph.

(c) PLAN FOR USE OF ASSISTANCE.—

(1) REQUIREMENT.—Not later than 120 days after the allocation pursuant to subsection (b)(1)(B) of the funds made available by an appropriations Act for assistance under this section and before the Secretary obligates any of such funds for a grantee, the grantee shall submit a plan to the Secretary for approval detailing the proposed use of all funds, which shall include, at a minimum—

(A) criteria for eligibility and a description of how the use of such funds will address disaster relief, resiliency, long-term recovery and restoration of infrastructure and housing, and mitigation and economic revitalization in the most impacted and distressed areas;

(B) identification of officials and offices responsible for administering such funds and identifying and recovering duplicate benefits;

(C) an agreement to share data with Federal agencies and other providers of disaster relief, which shall include information the grantee has regarding the matters described in subparagraph (B); and

(D) a plan for ensuring compliance with the Fair Housing Act, which may include providing for partnerships with local fair housing organizations and funding set-aside for local fair housing organizations to handle complaints relating to assistance with amounts made available for use under this section.

(2) APPROVAL.—The Secretary shall, by regulation, specify criteria for approval of plans under paragraph (1), including approval of substantial amendments to such plans.

(3) DISAPPROVAL.—The Secretary shall disapprove a plan or substantial amendment to a plan if—

(A) the Secretary determines that a plan or substantial amendment does not meet the approval criteria;

(B) the Secretary determines, based on damage and unmet needs assessments of the Secretary and the Federal Emergency Management Administration or such other information as may be available, that the plan or amendment does not provide for equitable allocation of resources—

(i) between infrastructure and housing projects; or

(ii) between homeowners, renters, and persons experiencing homelessness;

(C) the Secretary determines that the plan does not provide a credible plan for ensuring compliance with the Fair Housing Act; or

(D) the Secretary determines that the plan does not prioritize the one-for-one replacement of public housing and other federally subsidized housing that provides affordable housing for the lowest income households.

(4) RESUBMISSION.—The Secretary shall permit a grantee to revise and resubmit disapproved plans.

(5) TIMING.—The Secretary shall approve or disapprove a plan not later than 120 days after submission of the plan to the Secretary.

(d) FINANCIAL CONTROLS.—

(1) COMPLIANCE SYSTEM.—The Secretary shall develop and maintain a system to ensure that each grantee has in place—

(A) proficient financial controls and procurement processes;

(B) adequate procedures to ensure that all eligible families and individuals are approved for assistance with amounts made available under this section and that recipients are provided the full amount of assistance for which they are eligible;

(C) adequate procedures to prevent any duplication of benefits, as defined by section 312 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5155), to ensure timely expenditure of funds, and to detect and prevent waste, fraud, and abuse of funds; and

(D) adequate procedure to ensure the grantee will maintain comprehensive and publicly accessible websites that make available information regarding all disaster recovery activities assisted with such funds, which information shall include—

(i) full and unredacted copies of all requests for qualification for assistance or for procurement with such funds, however styled;

(ii) all responses to such requests;

(iii) the identity of any individual or entity that reviews, evaluates, scores, or otherwise influences or determines the disposition of such requests;

(iv) all reports, however styled, containing the reviewing individual or entity's scores, findings; and conclusions regarding such requests; and

(v) any resulting contract, agreement, or other disposition of such requests;

except that such procedures shall ensure that personally identifiable information regarding recipients of assistance provided from funds made available under this section shall not be made publically available.

(2) CERTIFICATION.—As a condition of making any grant, the Secretary shall certify in advance that the grantee has in place the processes and procedures required under subparagraphs (A) and (B) of paragraph (1).

(e) USE OF FUNDS.—

(1) ADMINISTRATIVE COSTS.—

(A) IN GENERAL.—A State, unit of general local government, or Indian tribe receiving a grant under this section may use not more than 10 percent of the amount of grant funds received, or not more than such other percentage as may be established pursuant to subparagraph (B), for administrative costs and shall document the use of funds for such purpose in accordance with such requirements as the Secretary shall establish.

(B) DISCRETION TO ESTABLISH SLIDING SCALE.—The Secretary may establish a series of percentage limitations on the amount of grant funds received that may be used by a grantee for administrative costs, but only if—

(i) such percentage limitations are based on the amount of grant funds received by a grantee;

(ii) such series provides that the percentage that may be so used is lower for grantees receiving a greater amount of grant funds and such percentage that may be so used is higher for grantees receiving a lesser amount of grant funds; and

(iii) in no case may a grantee so use more than 10 percent of grant funds received.

(2) LIMITATION ON USE.—Amounts from a grant under this section may not be used for activities reimbursable by, or for which funds are made available by—

(A) the Federal Emergency Management Agency, including under the Robert T. Stafford Disaster Relief and Emergency Assistance Act or the National Flood Insurance Program; or

(B) the Army Corps of Engineers.

(3) HUD ADMINISTRATIVE COSTS.—

(A) LIMITATION.—Of any funds made available for use under this section by any single appropriations Act, the Secretary may use 0.5 percent of any such amount exceed-

ing \$1,000,000,000 for necessary costs, including information technology costs, of administering and overseeing the obligation and expenditure of amounts made available for use under this section.

(B) **TRANSFER OF FUNDS.**—Any amounts made available for use in accordance with subparagraph (A) shall—

(i) be transferred to the account for “Program Office Salaries and Expenses—Community Planning and Development” for the Department;

(ii) shall remain available until expended; and

(iii) may be used for such administrative costs for administering any funds appropriated to the Department for any disaster and related purposes in any prior or future Act making funds available for use under this section, notwithstanding the disaster for which such funds were appropriated.

(4) **INSPECTOR GENERAL.**—Of any funds made available for use in accordance with paragraph (3)(A), 10 percent shall be transferred to the Office of the Inspector General for necessary costs of audits, reviews, oversight, evaluation, and investigations relating to amounts made available for use under this section.

(5) **CAPACITY BUILDING.**—Of any funds made available for use under this section, not more than 0.1 percent or \$15,000,000, whichever is less, shall be made available for capacity building and technical assistance, including assistance regarding contracting and procurement processes, to support grantees and subgrantees receiving funds under this section.

(6) **COMPLIANCE WITH STORM WATER PROTECTIONS.**—The Secretary shall provide that no funds made available under this section may be used for construction, repair, or rehabilitation of any infrastructure unless the infrastructure assisted complies with any minimum standards for protection from floods and stormwaters, including the Federal Flood Risk Management Standards of the Federal Emergency Management Agency.

(7) **FLOOD RISK MITIGATION.**—

(A) **REQUIREMENTS.**—Subject to subparagraph (B), the Secretary shall require that any structure that is located in an area having special flood hazards and that is newly constructed, for which substantial damage is repaired, or that is substantially improved, using amounts made available under this section, shall be elevated with the lowest floor, including the basement, at least two feet above the base flood level.

(B) **MULTIFAMILY HOUSING.**—In the case of structures consisting of multifamily housing, the Secretary, in consultation with the Administrator of the Federal Emergency Management Agency, shall provide for alternative forms of mitigation (in addition to elevation) and shall exempt from the requirement under subparagraph (A) any such structure that meets the standards for such an alternative form of mitigation.

(C) **DEFINITIONS.**—For purposes of subparagraph (A), the terms “area having special flood hazards”, “newly constructed”, “substantial damage”, “substantial improve-

ment”, and “base flood level” have the same meanings as under the Flood Disaster Protection Act of 1973 and the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.).

(f) *ADMINISTRATION.*—In administering any amounts made available for assistance under this section, the Secretary—

(1) may not allow a grantee to use any such amounts for any purpose other than the purpose approved by the Secretary in the plan submitted under subsection (c)(1) to the Secretary for use of such amounts;

(2) may not permit a grantee to amend a plan to retroactively approve a beneficiary’s use of funds for an eligible activity other than an activity for which the funds were originally approved in the plan; and

(3) shall prohibit a grantee from delegating, by contract or otherwise, the responsibility for inherent government functions.

(g) *TRAINING FOR GRANT MANAGEMENT FOR SUBGRANTEES.*—The Secretary shall require each grantee to provide ongoing training to all staff and subgrantees.

(h) *PROCUREMENT PROCESSES AND PROCEDURES FOR STATES.*—

(1) *STATE PROCESSES AND PROCEDURES.*—In procuring property or services to be paid for in whole or in part with amounts from a grant under this section, a State shall—

(A) follow its own procurement processes and procedures, but only if the Secretary makes a determination that such processes and procedures comply with the requirements under paragraph (2); or

(B) comply with such processes and procedures as the Secretary shall, by regulation, establish for purposes of this section.

(2) *REQUIREMENTS.*—The requirements under this paragraph with respect to the procurement processes and procedures of a State are that such processes and procedures shall—

(A) provide for full and open competition and require cost or price analysis;

(B) include requirements for procurement policies and procedures for subgrantees, based on full and open competition;

(C) specify methods of procurement and their applicability, but not allow for cost-plus-a-percentage-of cost or percentage-of-construction-cost methods of procurement;

(D) include standards of conduct governing employees engaged in the award or administration of contracts;

(E) ensure that all purchase orders and contracts include any clauses required by Federal Statute, Executive Order, or implementing regulation.

(3) *NONCOMPLIANCE.*—In the case of a State for which the Secretary finds pursuant to paragraph (1)(A) that its procurement processes and procedures do not comply with paragraph (2), the Secretary shall—

(A) provide the State with specific written notice of the elements of noncompliance and the changes necessary to such processes and procedures to provide for compliance;

(B) provide the State a reasonable period of time to come into compliance; and

(C) during such period allow the State to proceed with procuring property and services paid for in whole or in part with amounts from a grant under this section in compliance with the procurement processes and procedures of the State, but only if the Secretary determines the State is making a good faith effort to effectuate compliance with the requirements of paragraph (2).

(i) **TREATMENT OF CDBG ALLOCATIONS.**—Amounts made available for use under this section shall not be considered relevant to the non-disaster formula allocations made pursuant to section 106 of this title (42 U.S.C. 5306).

(j) **WAIVERS.**—

(1) **AUTHORITY.**—Subject to the other provisions of this section, in administering amounts made available for use under this section, the Secretary may waive, or specify alternative requirements for, any provision of any statute or regulation that the Secretary administers in connection with the obligation by the Secretary or the use by the recipient of such funds (except for requirements related to fair housing, nondiscrimination, labor standards, and the environment and except for the requirements of this section), if the Secretary makes a public finding that good cause exists for the waiver or alternative requirement and such waiver or alternative requirement would not be inconsistent with the overall purpose of this title.

(2) **NOTICE AND PUBLICATION.**—Any waiver of or alternative requirement pursuant to paragraph (1) shall not take effect before the expiration of the 5-day period beginning upon the publication of notice in the Federal Register of such waiver or alternative requirement.

(3) **LOW- AND MODERATE-INCOME USE.**—A waiver pursuant to paragraph (1) may not reduce the percentage of funds that must be used for activities that benefit persons of low and moderate income to less than 70 percent, unless the Secretary specifically finds that there is compelling need to further reduce the percentage requirement.

(4) **PROHIBITION.**—The Secretary may not waive any provision of this section pursuant to the authority under paragraph (1).

(k) **ENVIRONMENTAL REVIEW.**—

(1) **ADOPTION.**—Notwithstanding subsection (j)(1), recipients of funds provided under this section that use such funds to supplement Federal assistance provided under section 402, 403, 404, 406, 407, 408(c)(4), 428, or 502 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) may adopt, without review or public comment, any environmental review, approval, or permit performed by a Federal agency, and such adoption shall satisfy the responsibilities of the recipient with respect to such environmental review, approval, or permit under section 104(g)(1) of this title (42 U.S.C. 5304(g)(1)).

(2) **RELEASE OF FUNDS.**—Notwithstanding section 104(g)(2) of this title (42 U.S.C. 5304(g)(2)), the Secretary may, upon receipt of a request for release of funds and certification, immediately approve the release of funds for an activity or project assisted with amounts made available for use under this section if the

recipient has adopted an environmental review, approval or permit under paragraph (1) or the activity or project is categorically excluded from review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(l) **COLLECTION OF INFORMATION; AUDITS AND OVERSIGHT.**—

(1) **COLLECTION OF INFORMATION.**—For each major disaster for which assistance is made available under this section, the Secretary shall collect information regarding all recovery efforts so assisted and shall make such information available to the public and to the Inspector General for the Department of Housing and Urban Development, and shall report to the Congress regarding such efforts. Information collected and reported shall be disaggregated by race, geography, and all protected classes of individuals under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, the Americans with Disabilities Act of 1990, the Fair Housing Act, the Civil Rights Act of 1964, and other civil rights and nondiscrimination protections. In carrying out this paragraph, the Secretary shall take such actions as may be necessary to ensure that personally identifiable information regarding recipients of assistance provided from funds made available under this section shall not be made publicly available.

(2) **AUDITS AND OVERSIGHT.**—In conducting audits, reviews, oversight, evaluation, and investigations, in addition to activities designed to prevent and detect waste, fraud, and abuse, the Inspector General shall review programs of grantees under this section for providing disaster relief and recovery assistance to ensure such programs fulfill their purposes and serve all eligible applicants for disaster relief or recovery assistance.

(m) **PRE-CERTIFICATION FOR UNITS OF GENERAL LOCAL GOVERNMENT.**—

(1) **IN GENERAL.**—The Secretary shall carry out a program under this subsection to provide for units of general local government to pre-certify as eligible grantees for assistance under this section.

(2) **REQUIREMENTS.**—To be eligible for pre-certification under the program under this subsection a unit of general local government shall—

(A) demonstrate to the satisfaction of the Secretary compliance with the requirements of this section; and

(B) have previously received assistance as a grantee or subgrantee under this section, or with amounts made available for the Community Development Block Grant—Disaster Recovery account, in connection with two or more major disasters declared pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

(3) **DURATION.**—Pre-certification under the program under this subsection shall be effective for a term of 10 years.

(n) **DEPOSIT OF UNUSED AMOUNTS IN FUND.**—

(1) **IN GENERAL.**—If any amounts made available for assistance under this section to grantees remain unexpended upon the earlier of—

(A) the date that the grantee of such amounts notifies the Secretary that the grantee has completed all activities iden-

tified in the grantee's plan for use of such amounts that was approved by the Secretary in connection with such grant; or

(B) the expiration of the 6-year period beginning upon the Secretary obligating such amounts to the grantee, as such period may be extended pursuant to paragraph (2), the Secretary shall transfer such unexpended amounts to the Secretary of the Treasury for deposit into the Community Development Block Grant Disaster Recovery Reserve Fund established under section 124, except that the Secretary may, by regulation, permit the grantee to retain amounts needed to close out the grant.

(2) EXTENSION OF PERIOD FOR USE OF FUNDS.—The period under paragraph (1)(B) shall be extended by not more than 3 years if, before the expiration of such 6-year period, the Director of the Office of Management and Budget, upon a request by the Secretary, waives this requirement and submits a written justification for such waiver to the Committees on Appropriations of the House of Representatives and the Senate that specifies the period of such extension.

SEC. 124. COMMUNITY DEVELOPMENT BLOCK GRANT DISASTER RECOVERY RESERVE FUND.

(a) ESTABLISHMENT.—There is established in the Treasury of the United States an account to be known as the Community Development Block Grant Disaster Recovery Reserve Fund (in this section referred to as the "Fund").

(b) AMOUNTS.—The Fund shall consist of any amounts appropriated to or deposited into the Fund, including amounts deposited into the Fund pursuant to section 123(n).

(c) USE.—Amounts in the Fund shall be available only for providing assistance under section 123, but only to the extent provided in advance in appropriations Acts.

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