

116TH CONGRESS
1ST SESSION

H. R. 3702

AN ACT

To authorize the Secretary of Housing and Urban Development to provide disaster assistance to States, Puerto Rico, units of general local government, and Indian tribes under a community development block grant disaster recovery program, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Reforming Disaster
3 Recovery Act of 2019”.

4 **SEC. 2. COMMUNITY DEVELOPMENT BLOCK GRANT DIS-**
5 **ASTER RECOVERY PROGRAM.**

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

9 **“SEC. 123. CDBG-DISASTER RECOVERY ASSISTANCE.**

10 “(a) AUTHORITY; USE.—The Secretary may provide
11 assistance under this section to States, including Puerto
12 Rico, units of general local government, and Indian tribes
13 for necessary expenses for activities authorized under this
14 title related to disaster relief, resiliency, long-term recov-
15 ery, restoration of infrastructure and housing, mitigation,
16 and economic revitalization in the most impacted and dis-
17 tressed areas (as such term shall be defined by the Sec-
18 retary by regulation) resulting from a major disaster de-
19 clared pursuant to the Robert T. Stafford Disaster Relief
20 and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

21 “(b) ALLOCATION; COORDINATION.—

22 “(1) ALLOCATION FOR MITIGATION.—In deter-
23 mining the amount allocated under this section for
24 any grantee, the Secretary shall include an addi-
25 tional amount for mitigation that is not less than 45

1 percent of the amount allocated for such grantee for
2 unmet needs.

3 “(2) DEADLINES FOR ALLOCATION.—Except as
4 provided in paragraph (3), after the enactment of an
5 Act making funds available for assistance under this
6 section, the Secretary shall allocate for grantees,
7 based on the best available data all funds provided
8 for assistance under this section within 60 days of
9 the date of the enactment of such Act.

10 “(3) INAPPLICABILITY OF DEADLINES BASED
11 ON INSUFFICIENT INFORMATION.—The deadlines
12 under paragraph (2) for allocation of funds shall not
13 apply in the case of funds made available for assist-
14 ance under this section if Federal Emergency Man-
15 agement Agency has not made sufficient information
16 available to the Secretary regarding relevant unmet
17 recovery needs to make allocations in accordance
18 with such deadlines. The Secretary shall notify the
19 Congress of progress on or delay in receiving the
20 necessary information within 60 days following dec-
21 laration of such a major disaster and monthly there-
22 after until all necessary information is received.

23 “(4) OBLIGATION OF AMOUNTS BY THE SEC-
24 RETARY.—Subject to subsection (c)(1), the Sec-
25 retary shall provide for the disbursement of the

1 amounts allocated for a grantee, but shall require
2 the grantee to be in substantial compliance with the
3 requirements of this section before each such dis-
4 bursement.

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

7 “(A) COORDINATION OF DATA.—The Sec-
8 retary shall coordinate with other agencies to
9 obtain data on recovery needs, including the
10 Administrator of the Federal Emergency Man-
11 agement Agency and the Administrator of the
12 Small Business Administration, and other agen-
13 cies when necessary regarding disaster benefits.

14 “(B) COORDINATION WITH FEMA.—The
15 Secretary shall share with the Administrator of
16 the Federal Emergency Management Agency,
17 and make publicly available, all data collected,
18 possessed, or analyzed during the course of a
19 disaster recovery for which assistance is pro-
20 vided under this section including—

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

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

1 “(iii) information regarding the effect
2 of the disaster on education, transportation
3 capabilities and dependence, housing
4 needs, health care capacity, and displace-
5 ment of persons.

6 “(C) REQUIREMENTS REGARDING ELIGI-
7 BILITY FOR DIRECT ASSISTANCE AND DUPLICA-
8 TION OF BENEFITS.—

9 “(i) COMPLIANCE.—Funds made
10 available under this subsection shall be
11 used in accordance with section 312 of the
12 Robert T. Stafford Disaster Relief and
13 Emergency Assistance Act (42 U.S.C.
14 5155), as amended by section 1210 of the
15 Disaster Recovery Reform Act of 2018 (di-
16 vision D, Public Law 115–254), and such
17 rules as may be prescribed under such sec-
18 tion.

19 “(ii) PRIORITY.—Households having
20 the lowest incomes shall be prioritized for
21 assistance under this subsection until all
22 unmet needs are satisfied for families hav-
23 ing an income up to 120 percent of the
24 median for the area.

1 “(D) TREATMENT OF DUPLICATIVE BENE-
2 FITS.—In any case in which a grantee provides
3 assistance that duplicates benefits available to a
4 person for the same purpose from another
5 source, the grantee itself shall either (i) be sub-
6 ject to remedies for noncompliance under sec-
7 tion 111, or (ii) bear responsibility for absorb-
8 ing such cost of duplicative benefits and return-
9 ing an amount equal to any duplicative benefits
10 paid to the grantee’s funds available for use
11 under this section or to the Community Devel-
12 opment Block Grant Disaster Recovery Reserve
13 Fund under section 124, unless the Secretary
14 issues a public determination by publication in
15 the Federal Register that it is not in the best
16 interest of the Federal Government to pursue
17 such remedies.

18 “(E) PROTECTION OF PERSONALLY IDEN-
19 TIFIABLE INFORMATION.—In carrying out this
20 paragraph, the Secretary and the grantee shall
21 take such actions as may be necessary to ensure
22 that personally identifiable information regard-
23 ing recipients of assistance provided from funds
24 made available under this section is not made
25 publicly available by the Department of Hous-

1 ing and Urban Development or any agency with
2 which information is shared pursuant to this
3 paragraph.

4 “(c) PLAN FOR USE OF ASSISTANCE.—

5 “(1) REQUIREMENT.—Not later than 90 days
6 after the allocation pursuant to subsection (b)(1) of
7 all of the funds made available by an appropriations
8 Act for assistance under this section and before the
9 Secretary obligates any of such funds for a grantee,
10 the grantee shall submit a plan to the Secretary for
11 approval detailing the proposed use of all funds,
12 which shall include, at a minimum—

13 “(A) criteria for eligibility for each pro-
14 posed use of funds, including eligibility limits
15 on income and geography, and a description of
16 how each proposed use of such funds will com-
17 ply with all civil rights and fair housing laws
18 and will address unmet needs relating to dis-
19 aster relief, resiliency, long-term recovery, res-
20 toration of infrastructure and housing, mitiga-
21 tion, and economic revitalization in the most
22 impacted and distressed areas, including assist-
23 ance to impacted households experiencing home-
24 lessness as defined by section 103 of the
25 McKinney-Vento Homeless Assistance Act (42

1 U.S.C. 11302) or at risk of homelessness as de-
2 fined by section 401 of such Act (42 U.S.C.
3 11360);

4 “(B) an agreement to share data,
5 disaggregated by the smallest census tract,
6 block group, or block possible for the data set,
7 with Federal agencies and other providers of
8 disaster relief, which shall include information
9 the grantee has regarding the matters described
10 in subsection (b)(4)(B);

11 “(C) identification of officials and offices
12 responsible for administering such funds and
13 processes and procedures for identifying and re-
14 covering duplicate benefits; and

15 “(D) a plan for ensuring compliance with
16 the Fair Housing Act, which may include, at
17 the election of the grantee, providing for part-
18 nerships with local fair housing organizations
19 and funding set-aside for local fair housing or-
20 ganizations to handle complaints relating to as-
21 sistance with amounts made available for use
22 under this section.

23 “(2) APPROVAL.—The Secretary shall, by regu-
24 lation, specify criteria for approval of plans under

1 paragraph (1), including approval of substantial
2 amendments to such plans.

3 “(3) DISAPPROVAL.—The Secretary shall dis-
4 approve a plan or substantial amendment to a plan
5 if—

6 “(A) the plan or substantial amendment
7 does not meet the approval criteria;

8 “(B) based on damage and unmet needs
9 assessments of the Secretary and the Federal
10 Emergency Management Administration or
11 such other information as may be available, the
12 plan or amendment does not address equitable
13 allocation of resources—

14 “(i) between infrastructure and hous-
15 ing activities; and

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

18 “(C) the plan or amendment does not pro-
19 vide an adequate plan for ensuring that funding
20 provided under this section is used in compli-
21 ance with the Fair Housing Act;

22 “(D) the plan or amendment does not
23 prioritize the one-for-one replacement, with cost
24 adjustment where appropriate, of damaged
25 dwelling units in public housing, in projects re-

1 ceiving tax credits pursuant to section 42 of the
2 Internal Revenue Code of 1986, or in projects
3 assisted under section 202 of the Housing Act
4 of 1959 (12 U.S.C. 1701q), under section 811
5 of the Cranston-Gonzalez National Affordable
6 Housing Act (42 U.S.C. 8013), under the
7 HOME Investment Partnerships Act (42
8 U.S.C. 12721 et seq.), under the community
9 development block grant program under this
10 title, or by the Housing Trust Fund under sec-
11 tion 1338 of the Housing and Community De-
12 velopment Act of 1992 (12 U.S.C. 4568); or

13 “(E) the plan or amendment does not pro-
14 vide a process to provide applicants—

15 “(i) notice by grantee of applicant’s
16 right to appeal any adverse action or inac-
17 tion;

18 “(ii) right to full discovery of appli-
19 cant’s entire application file; and

20 “(iii) right to appeal to a court of
21 competent jurisdiction in the vicinage of
22 the applicant’s residence at the time of the
23 appeal.

1 “(4) PUBLIC CONSULTATION.— In developing
2 the plan required under paragraph (1), a grantee
3 shall, at a minimum—

4 “(A) consult with affected residents, stake-
5 holders, local governments, and public housing
6 authorities to assess needs;

7 “(B) publish the plan in accordance with
8 the requirements set forth by the Secretary, in-
9 cluding a requirement to prominently post the
10 plan on the website of the grantee for not less
11 than 14 days;

12 “(C) ensure equal access for individuals
13 with disabilities and individuals with limited
14 English proficiency; and

15 “(D) publish the plan in a manner that af-
16 fords citizens, affected local governments, and
17 other interested parties a reasonable oppor-
18 tunity to examine the contents of the plan and
19 provide feedback.

20 “(5) RESUBMISSION.—The Secretary shall per-
21 mit a grantee to revise and resubmit a disapproved
22 plan or plan amendment.

23 “(6) TIMING.—

24 “(A) IN GENERAL.—The Secretary shall
25 approve or disapprove a plan not later than 60

1 days after submission of the plan to the Sec-
2 retary. The Secretary shall immediately notify
3 the applicant of the Secretary's decision.

4 “(B) DISAPPROVAL.—If the Secretary dis-
5 approves a plan, not later than 15 days after
6 such disapproval the Secretary shall inform the
7 applicant in writing of (A) the reasons for dis-
8 approval, and (B) actions that the applicant
9 could take to meet the criteria for approval.

10 “(C) AMENDMENTS; RESUBMISSION.—The
11 Secretary shall, for a period of not less than 45
12 days following the date of disapproval, permit
13 amendments to, or the resubmission of, any
14 plan that is disapproved. The Secretary shall
15 approve or disapprove a plan amendment not
16 less than 30 days after receipt of such amend-
17 ments or resubmission.

18 “(D) GRANT AGREEMENTS.—Subject to
19 subsection (b)(3), the Secretary shall ensure
20 that all grant agreements necessary for prompt
21 disbursement of funds allocated to a grantee
22 are executed within 60 days of approval of
23 grantee's plan.

24 “(d) FINANCIAL CONTROLS.—

1 “(1) COMPLIANCE SYSTEM.—The Secretary
2 shall develop and maintain a system to ensure that
3 each grantee has and will maintain for the life of the
4 grant—

5 “(A) proficient financial controls and pro-
6 curement processes;

7 “(B) adequate procedures to ensure that
8 all eligible families and individuals are approved
9 for assistance with amounts made available
10 under this section and that recipients are pro-
11 vided the full amount of assistance for which
12 they are eligible;

13 “(C) adequate procedures to prevent any
14 duplication of benefits, as defined by section
15 312 of the Robert T. Stafford Disaster Relief
16 and Emergency Assistance Act (42 U.S.C.
17 5155), to ensure timely expenditure of funds,
18 and to detect and prevent waste, fraud, and
19 abuse of funds; and

20 “(D) adequate procedures to ensure the
21 grantee will maintain comprehensive and pub-
22 licly accessible websites that make available in-
23 formation regarding all disaster recovery activi-
24 ties assisted with such funds, which information
25 shall include—

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

5 “(ii) all responses to such requests,
6 subject to redactions necessary to protect
7 personal or proprietary data;

8 “(iii) the identity of any entity that
9 reviews, evaluates, scores, or otherwise in-
10 fluences or determines the disposition of
11 such requests;

12 “(iv) all reports, however styled, con-
13 taining the reviewing individual or entity’s
14 scores, findings, and conclusions regarding
15 such requests; and

16 “(v) any resulting contract, agree-
17 ment, or other disposition of such requests;
18 except that such procedures shall ensure
19 that personally identifiable information re-
20 garding recipients of assistance provided
21 from funds made available under this sec-
22 tion shall not be made publicly available.

23 “(2) EVALUATION OF COMPLIANCE.—The Sec-
24 retary shall provide, by regulation or guideline, a
25 method for qualitatively and quantitatively evalu-

1 ating compliance with the requirements under para-
2 graph (1).

3 “(3) CERTIFICATION.—As a condition of mak-
4 ing any grant, the Secretary shall certify in advance
5 that the grantee has in place the processes and pro-
6 cedures required under subparagraphs (A) through
7 (D) of paragraph (1).

8 “(e) USE OF FUNDS.—

9 “(1) ADMINISTRATIVE COSTS.—

10 “(A) IN GENERAL.—A State, unit of gen-
11 eral local government, or Indian tribe receiving
12 a grant under this section may use not less
13 than 7 percent and not more than 10 percent
14 of the amount of grant funds received, or with-
15 in such other percentage as may be established
16 pursuant to subparagraph (B), for administra-
17 tive costs and shall document the use of funds
18 for such purpose in accordance with such re-
19 quirements as the Secretary shall establish.

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

1 “(i) such percentage limitations are
2 based on the amount of grant funds re-
3 ceived by a grantee;

4 “(ii) such series provides that the per-
5 centage that may be so used is lower for
6 grantees receiving a greater amount of
7 grant funds and such percentage that may
8 be so used is higher for grantees receiving
9 a lesser amount of grant funds; and

10 “(iii) in no case may a grantee so use
11 more than 10 percent of grant funds re-
12 ceived.

13 “(2) LIMITATIONS ON USE.—Amounts from a
14 grant under this section may not be used for activi-
15 ties—

16 “(A) that are reimbursable, or for which
17 funds are made available, by the Federal Emer-
18 gency Management Agency, including under the
19 Robert T. Stafford Disaster Relief and Emer-
20 gency Assistance Act or the National Flood In-
21 surance Program; or

22 “(B) for which funds are made available
23 by the Army Corps of Engineers.

24 “(3) HUD ADMINISTRATIVE COSTS.—

1 “(A) LIMITATION.—Of any funds made
2 available for use under this section by any sin-
3 gle appropriations Act, the Secretary may use 1
4 percent of any such amount exceeding
5 \$1,000,000,000 for necessary costs, including
6 information technology costs, of administering
7 and overseeing the obligation and expenditure
8 of amounts made available for use under this
9 section.

10 “(B) TRANSFER OF FUNDS.—Any amounts
11 made available for use in accordance with sub-
12 paragraph (A)—

13 “(i) shall be transferred to the ac-
14 count for Program Office Salaries and Ex-
15 penses—Community Planning and Devel-
16 opment for the Department;

17 “(ii) shall remain available until ex-
18 pended; and

19 “(iii) may be used for administering
20 any funds appropriated to the Department
21 for any disaster and related purposes in
22 any prior or future Act, notwithstanding
23 the disaster for which such funds were ap-
24 propriated.

1 “(4) INSPECTOR GENERAL.—Of any funds
2 made available for use in accordance with paragraph
3 (3)(A), 15 percent shall be transferred to the Office
4 of the Inspector General for necessary costs of au-
5 dits, reviews, oversight, evaluation, and investiga-
6 tions relating to amounts made available for use
7 under this section.

8 “(5) CAPACITY BUILDING.—Of any funds made
9 available for use under this section, not more than
10 0.1 percent or \$15,000,000, whichever is less, shall
11 be made available to the Secretary for capacity
12 building and technical assistance, including assist-
13 ance regarding contracting and procurement proc-
14 esses, to support grantees and subgrantees receiving
15 funds under this section.

16 “(6) MITIGATION PLANNING.—

17 “(A) REQUIREMENT.—The Secretary shall
18 require each grantee to use a fixed percentage
19 of any grant funds for comprehensive mitiga-
20 tion planning.

21 “(B) AMOUNT.—Such fixed percentage
22 shall not be less than 15 percent, except that
23 the Secretary may by regulation establish a
24 lower percentage for grantees receiving a grant
25 exceeding \$1,000,000,000.

1 “(C) COORDINATION.—Each grantee shall
2 ensure that such comprehensive mitigation
3 plans are coordinated and aligned with existing
4 comprehensive, land use, transportation, and
5 economic development plans, and specifically
6 analyze multiple types of hazard exposures and
7 risks. Each grantee shall coordinate and align
8 such mitigation planning with other mitigation
9 projects funded by the Federal Emergency
10 Management Agency, the Army Corps of Engi-
11 neers, the Forest Service, and other agencies as
12 appropriate.

13 “(D) USE OF FUNDS.—Such funds may be
14 used for the purchase of data and development
15 or updating of risk mapping for all relevant
16 hazards.

17 “(E) PRIORITY.—Grantees shall prioritize
18 the expenditure of mitigation dollars for pro-
19 grams and projects primarily benefitting per-
20 sons of low and moderate income with the
21 greatest risk of harm from natural hazards.

22 “(7) BUILDING SAFETY.—

23 “(A) IN GENERAL.—After consultation
24 with the Administrator of the Federal Emer-
25 gency Management Agency, the Secretary shall

1 provide that no funds made available under this
2 section shall be used for installation, substantial
3 rehabilitation, reconstruction, or new construc-
4 tion of infrastructure or residential, commercial,
5 or public buildings in hazard-prone areas, un-
6 less construction complies with paragraph (8)
7 and with the latest published editions of rel-
8 evant national consensus-based codes, and spec-
9 ifications and standards referenced therein, ex-
10 cept that nothing in this section shall be con-
11 strued to prohibit a grantee from requiring
12 higher standards.

13 “(B) SAVINGS PROVISION.—Nothing in
14 subparagraph (A) shall be construed as a re-
15 quirement for a grantee to adopt the latest pub-
16 lished editions of relevant national consensus-
17 based codes, specifications, and standards.

18 “(C) COMPLIANCE.—Compliance with this
19 paragraph may be certified by a registered de-
20 sign professional.

21 “(D) DEFINITIONS.—For purposes of this
22 paragraph, the following definitions shall apply:

23 “(i) HAZARD-PRONE AREAS.—The
24 term ‘hazard-prone areas’ means areas
25 identified by the Secretary, in consultation

1 with the Administrator, at risk from nat-
2 ural hazards that threaten property dam-
3 age or health, safety, and welfare, such as
4 floods (including special flood hazard
5 areas), wildfires (including Wildland-Urban
6 Interface areas), earthquakes, tornados,
7 and high winds. The Secretary may con-
8 sider future risks and the likelihood such
9 risks may pose to protecting property and
10 health, safety, and general welfare when
11 making the determination of or modifica-
12 tion to hazard-prone areas.

13 “(ii) LATEST PUBLISHED EDITIONS.—
14 The term ‘latest published editions’ means,
15 with respect to relevant national con-
16 sensus-based codes, and specifications and
17 standards referenced therein, the two most
18 recent published editions, including, if any,
19 amendments made by State, local, tribal,
20 or territorial governments during the adop-
21 tion process, that incorporate the latest
22 natural hazard-resistant designs and estab-
23 lish criteria for the design, construction,
24 and maintenance of structures and facili-
25 ties that may be eligible for assistance

1 under this section for the purposes of pro-
2 tecting the health, safety, and general wel-
3 fare of a buildings’s users against disas-
4 ters.

5 “(8) FLOOD RISK MITIGATION.—

6 “(A) REQUIREMENTS.—Subject to sub-
7 paragraph (B), the Secretary shall require that
8 any structure that is located in an area having
9 special flood hazards and that is newly con-
10 structed, for which substantial damage is re-
11 paired, or that is substantially improved, using
12 amounts made available under this section,
13 shall be elevated with the lowest floor, including
14 the basement, at least two feet above the base
15 flood level, except that critical facilities, includ-
16 ing hospitals, nursing homes, and other public
17 facilities providing social and economic lifelines,
18 as defined by the Secretary, shall be elevated at
19 least 3 feet above the base flood elevation (or
20 higher if required under paragraph (7)).

21 “(B) ALTERNATIVE MITIGATION.—In the
22 case of existing structures consisting of multi-
23 family housing and row houses, the Secretary
24 shall seek consultation with the Administrator
25 of the Federal Emergency Management Agency,

1 shall provide for alternative forms of mitigation
2 (apart from elevation), and shall exempt from
3 the requirement under subparagraph (A) any
4 such structure that meets the standards for
5 such an alternative form of mitigation.

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

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

17 “(1) may not allow a grantee to use any such
18 amounts for any purpose other than the purpose ap-
19 proved by the Secretary in the plan or amended plan
20 submitted under subsection (c)(1) to the Secretary
21 for use of such amounts;

22 “(2) may not permit a grantee to amend a plan
23 to retroactively approve a beneficiary’s use of funds
24 for an eligible activity other than an activity for

1 which the funds were originally approved in the
2 plan; and

3 “(3) shall prohibit a grantee from delegating,
4 by contract or otherwise, the responsibility for inher-
5 ent government functions.

6 “(g) TRAINING FOR GRANT MANAGEMENT FOR SUB-
7 GRANTEES.—The Secretary shall require each grantee to
8 provide ongoing training to all staff and subgrantees.

9 “(h) PROCUREMENT PROCESSES AND PROCEDURES
10 FOR GRANTEES.—

11 “(1) GRANTEE PROCESSES AND PROCE-
12 DURES.—In procuring property or services to be
13 paid for in whole or in part with amounts from a
14 grant under this section, a grantee shall—

15 “(A) follow its own procurement processes
16 and procedures, but only if the Secretary makes
17 a determination that such processes and proce-
18 dures comply with the requirements under
19 paragraph (2); or

20 “(B) comply with such processes and pro-
21 cedures as the Secretary shall, by regulation,
22 establish for purposes of this section.

23 “(2) REQUIREMENTS.—The requirements under
24 this paragraph with respect to the procurement

1 processes and procedures of a grantee are that such
2 processes and procedures shall—

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

5 “(B) include requirements for procurement
6 policies and procedures for subgrantees;

7 “(C) specify methods of procurement and
8 their applicability, but not allow cost-plus-a-per-
9 centage-of cost or percentage-of-construction-
10 cost methods of procurement;

11 “(D) include standards of conduct gov-
12 erning employees engaged in the award or ad-
13 ministration of contracts; and

14 “(E) ensure that all purchase orders and
15 contracts include any clauses required by Fed-
16 eral statute, Executive order, or implementing
17 regulation.

18 “(3) NONCOMPLIANCE.—In the case of a grant-
19 ee for which the Secretary finds pursuant to para-
20 graph (1)(A) that its procurement processes and
21 procedures do not comply with paragraph (2), the
22 Secretary shall—

23 “(A) provide the grantee with specific writ-
24 ten notice of the elements of noncompliance and

1 the changes necessary to such processes and
2 procedures to provide for compliance;

3 “(B) provide the grantee a reasonable pe-
4 riod of time to come into compliance; and

5 “(C) during such period allow the grantee
6 to proceed with procuring property and services
7 paid for in whole or in part with amounts from
8 a grant under this section in compliance with
9 the procurement processes and procedures of
10 the grantee, but only if the Secretary deter-
11 mines that the grantee is making a good faith
12 effort to effectuate compliance with the require-
13 ments of paragraph (2).

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

19 “(j) WAIVERS.—

20 “(1) AUTHORITY.—Subject to the other provi-
21 sions of this section, in administering amounts made
22 available for use under this section, the Secretary
23 may waive, or specify alternative requirements for,
24 any provision of any statute or regulation that the
25 Secretary administers in connection with the obliga-

1 tion by the Secretary or the use by the recipient of
2 such funds (except for requirements related to fair
3 housing, nondiscrimination, labor standards, and the
4 environment and except for the requirements of this
5 section), if the Secretary makes a public finding that
6 good cause exists for the waiver or alternative re-
7 quirement and such waiver or alternative require-
8 ment would not be inconsistent with the overall pur-
9 pose of this title.

10 “(2) NOTICE AND PUBLICATION.—Any waiver
11 of or alternative requirement pursuant to paragraph
12 (1) shall not take effect before the expiration of the
13 5-day period beginning upon the publication of no-
14 tice in the Federal Register of such waiver or alter-
15 native requirement.

16 “(3) LOW- AND MODERATE-INCOME USE.—The
17 requirements in this Act that apply to grants made
18 under section 106 of this title (except those related
19 to the allocation) apply equally to grants under this
20 section unless modified by a waiver or alternative re-
21 quirement pursuant to paragraph (1). Notwith-
22 standing the preceding sentence, the Secretary may
23 not grant a waiver to reduce the percentage of funds
24 that must be used for activities that benefit persons
25 of low and moderate income to less than 70 percent,

1 unless the Secretary specifically finds that there is
2 compelling need to further reduce the percentage re-
3 quirement and that funds are not necessary to ad-
4 dress the housing needs of low- and moderate-in-
5 come residents.

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

9 “(k) ENVIRONMENTAL REVIEW.—

10 “(1) ADOPTION.—Notwithstanding subsection
11 (j)(1), recipients of funds provided under this section
12 that use such funds to supplement Federal assist-
13 ance provided under section 402, 403, 404, 406,
14 407, 408(e)(4), 428, or 502 of the Robert T. Staf-
15 ford Disaster Relief and Emergency Assistance Act
16 (42 U.S.C. 5121 et seq.) may adopt, without review
17 or public comment, any environmental review, ap-
18 proval, or permit performed by a Federal agency,
19 and such adoption shall satisfy the responsibilities of
20 the recipient with respect to such environmental re-
21 view, approval, or permit under section 104(g)(1) of
22 this title (42 U.S.C. 5304(g)(1)).

23 “(2) RELEASE OF FUNDS.—Notwithstanding
24 section 104(g)(2) of this title (42 U.S.C.
25 5304(g)(2)), the Secretary may, upon receipt of a

1 request for release of funds and certification, imme-
2 diately approve the release of funds for an activity
3 or project assisted with amounts made available for
4 use under this section if the recipient has adopted
5 an environmental review, approval or permit under
6 paragraph (1) or the activity or project is categori-
7 cally excluded from review under the National Envi-
8 ronmental Policy Act of 1969 (42 U.S.C. 4321 et
9 seq.).

10 “(1) COLLECTION OF INFORMATION; AUDITS AND
11 OVERSIGHT.—

12 “(1) COLLECTION OF INFORMATION.—For each
13 major disaster for which assistance is made available
14 under this section, the Secretary shall collect infor-
15 mation from grantees regarding all recovery activi-
16 ties so assisted, including information on applicants
17 and recipients of assistance, and shall make such in-
18 formation available to the public and to the Inspec-
19 tor General for the Department of Housing and
20 Urban Development on a monthly basis using uni-
21 form data collection practices, and shall provide a
22 monthly update to the Congress regarding compli-
23 ance with this section. Information collected and re-
24 ported by grantees and the Secretary shall be
25 disaggregated by program, race, income, geography,

1 and all protected classes of individuals under the
2 Robert T. Stafford Disaster Relief and Emergency
3 Assistance Act, the Americans with Disabilities Act
4 of 1990, the Fair Housing Act, the Civil Rights Act
5 of 1964, and other civil rights and nondiscrimination
6 protections, with respect to the smallest census
7 tract, block group, or block possible for the data set.

8 “(2) AVAILABILITY OF INFORMATION.— In car-
9 rying out this paragraph, the Secretary may make
10 full and unredacted information available to aca-
11 demic and research institutions for the purpose of
12 research into the equitable distribution of recovery
13 funds, adherence to civil rights protections, and
14 other areas.

15 “(3) PROTECTION OF INFORMATION.—The Sec-
16 retary shall take such actions and make such
17 redactions as may be necessary to ensure that per-
18 sonally identifiable information regarding recipients
19 of assistance provided from funds made available
20 under this section shall not made publicly available.

21 “(4) AUDITS AND OVERSIGHT.—In conducting
22 audits, reviews, oversight, evaluation, and investiga-
23 tions, in addition to activities designed to prevent
24 and detect waste, fraud, and abuse, the Inspector
25 General shall review programs of grantees under this

1 section for providing disaster relief and recovery as-
2 sistance to ensure such programs fulfill their agreed-
3 upon purposes and serve all eligible applicants for
4 disaster relief or recovery assistance.

5 “(m) BEST PRACTICES.—

6 “(1) STUDY.—The Secretary shall direct the
7 Office Community Planning and Development to col-
8 laborate with the Office of Policy Development and
9 Research to identify best practices for grantees on
10 issues including developing the action plan under
11 subsection (c) and substantive amendments, estab-
12 lishing financial controls, building grantee technical
13 and administrative capacity, procurement, compli-
14 ance with Fair Housing Act statute and regulations,
15 and use of grant funds as local match for other
16 sources of federal funding. The Secretary shall pub-
17 lish a compilation of such identified best practices
18 and share with all relevant grantees to facilitate a
19 more efficient and effective disaster recovery proc-
20 ess. The compilation shall include guidelines for
21 housing and economic revitalization programs, in-
22 cluding mitigation, with sufficient model language on
23 program design for grantees to incorporate into ac-
24 tion plans. The compilation shall include standards

1 for at least form of application, determining unmet
2 need, and income eligibility.

3 “(2) PROMULGATION.—After publication of the
4 final compilation, the Secretary shall issue either
5 Federal regulations, as part of the final rule for the
6 above authorization or as a separate rule, or a Fed-
7 eral Register notice that establishes the require-
8 ments which grantees must follow in order to qualify
9 for expedited review and approval. Such guidance
10 shall establish standard language for inclusion in ac-
11 tion plans under subsection (c) and for establishing
12 standardized programs and activities recognized by
13 the Secretary. Use of best practices shall not pre-
14 clude grantees from standard requirements for pub-
15 lic comment, community engagement, and online
16 posting of the action plan. Use of promulgated best
17 practices shall allow for an expedited review process,
18 under which the Secretary will approve or disapprove
19 such programs within 30 days. The Secretary shall
20 publish the draft compilation of best practices on its
21 website and allow the public 60 days to submit com-
22 ments. The Secretary shall review all public com-
23 ments and publish a final compilation within 1 year
24 from the date of enactment. The Secretary may re-

1 vise the requirements for best practices at any time
2 after a public comment period of at least 60 days.

3 “(n) PLAN PRE-CERTIFICATION FOR UNITS OF GEN-
4 ERAL LOCAL GOVERNMENT.—

5 “(1) IN GENERAL.—The Secretary shall carry
6 out a program under this subsection to provide for
7 units of general local government to pre-certify as el-
8 igible grantees for assistance under this section. The
9 objective of such program shall be to—

10 “(A) allow grantees that have consistently
11 demonstrated the ability to administer funds re-
12 sponsibly and equitably in similar disasters to
13 utilize in subsequent years plans which are sub-
14 stantially similar to those the Department has
15 previously approved; and

16 “(B) facilitate the re-use of a plan or its
17 substantially similar equivalent by a pre-cer-
18 tified grantee for whom the plan has previously
19 been approved and executed upon.

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

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

1 “(B) have previously submitted a plan or
2 its substantially similar equivalent and received
3 assistance thereunder as a grantee or sub-
4 grantee under this section, or with amounts
5 made available for the Community Development
6 Block Grant—Disaster Recovery account, in
7 connection with two or more major disasters de-
8 clared pursuant to the Robert T. Stafford Dis-
9 aster Relief and Emergency Assistance Act (42
10 U.S.C. 5121 et seq.).

11 “(3) APPROVAL OF PLANS.—

12 “(A) EXPEDITED APPROVAL PROCESSES.—
13 The Secretary shall establish and maintain
14 processes for expediting approval of plans for
15 units of general local government that are pre-
16 certified under this subsection.

17 “(B) EFFECT OF PRE-CERTIFICATION.—
18 Pre-certification pursuant to this subsection
19 shall not—

20 “(i) establish any entitlement to, or
21 priority or preference for, allocation of
22 funds made available under this section; or

23 “(ii) exempt any grantee from com-
24 plying with any of the requirements under,

1 or established pursuant to, subsection (c)
2 or (d).

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

5 “(o) DEPOSIT OF UNUSED AMOUNTS IN FUND.—

6 “(1) IN GENERAL.—If any amounts made avail-
7 able for assistance under this section to grantees re-
8 main unexpended upon the earlier of—

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

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

19 the Secretary may, subject to authority provided in
20 advance by appropriations Acts, transfer such unex-
21 pended amounts to the Secretary of the Treasury for
22 deposit into the Community Development Block
23 Grant Disaster Recovery Reserve Fund established
24 under section 124, except that the Secretary may, by

1 regulation, permit the grantee to retain amounts
2 needed to close out the grant.

3 “(2) EXTENSION OF PERIOD FOR USE OF
4 FUNDS.—

5 “(A) IN GENERAL.—The period under
6 paragraph (1)(B) shall be extended by not more
7 than 4 years if, before the expiration of such 6-
8 year period, the Secretary waives this require-
9 ment and submits a written justification for
10 such waiver to the Committees on Appropria-
11 tions of the House of Representatives and the
12 Senate that specifies the period of such exten-
13 sion.

14 “(B) INSULAR AREA.—For any amounts
15 made available for assistance under this section
16 to a grantee that is an insular area as specified
17 in section 107(b)(1), the Secretary may extend
18 the waiver period under subparagraph (A) by
19 not more than an additional 4 years, and shall
20 provide additional technical assistance to help
21 increase capacity within the insular area receiv-
22 ing such extension. If the Secretary extends the
23 waiver period pursuant to this subparagraph,
24 the Secretary shall submit a written justifica-
25 tion for such extension to the Committees on

1 Appropriations of the House of Representatives
2 and the Senate that specifies the period of such
3 extension.

4 “(p) DEFINITIONS.—For purposes of this section:

5 “(1) GRANTEE.—The term ‘grantee’ means a
6 recipient of funds made available under this section
7 after its enactment.

8 “(2) SUBSTANTIALLY SIMILAR.—The term ‘sub-
9 stantially similar’ means, with respect to a plan, a
10 plan previously approved by the Department, admin-
11 istered successfully by the grantee, and relating to
12 disasters of the same type.

13 “(3) OTHER TERMS.—Within 1 year of enact-
14 ment of this section, the Department shall issue
15 rules to define the following terms:

16 “(A) Unmet needs.

17 “(B) Most impacted and distressed.

18 “(C) Substantial compliance.

19 “(D) Full and open competition.

20 “(E) Cost plus a percentage of cost.

21 “(F) Percentage of construction cost.

22 **“SEC. 124. COMMUNITY DEVELOPMENT BLOCK GRANT DIS-**
23 **ASTER RECOVERY RESERVE FUND.**

24 “(a) ESTABLISHMENT.—There is established in the
25 Treasury of the United States an account to be known

1 as the Community Development Block Grant Disaster Re-
2 covery Reserve Fund (in this section referred to as the
3 ‘Fund’).

4 “(b) AMOUNTS.—The Fund shall consist of any
5 amounts appropriated to or deposited into the Fund, in-
6 cluding amounts deposited into the Fund pursuant to sec-
7 tion 123(o).

8 “(c) USE.—Amounts in the Fund shall be available,
9 pursuant to the occurrence of a major disaster declared
10 under the Robert T. Stafford Disaster Relief and Emer-
11 gency Assistance Act, only for providing technical assist-
12 ance and capacity building in connection with section 123
13 for grantees under such section that have been allocated
14 assistance under such section in connection with such dis-
15 aster to facilitate planning required under such section
16 and increase capacity to administer assistance provided
17 under such section, including for technical assistance and
18 training building and fire officials, builders, contractors
19 and subcontractors, architects, and other design and con-
20 struction professionals regarding the latest published edi-
21 tions of national consensus-based codes, specifications,
22 and standards (as such term is defined in section
23 123(e)(7)).”.

24 (b) REGULATIONS.—

1 (1) PROPOSED RULE.—Not later than the expi-
2 ration of the 6-month period beginning on the date
3 of the enactment of this Act, the Secretary of Hous-
4 ing and Urban Development shall issue proposed
5 rules to carry out sections 123 and 124 of the Hous-
6 ing and Community Development Act of 1974, as
7 added by the amendment made by subsection (a) of
8 this section, and shall provide a 90-day period for
9 submission of public comments on such proposed
10 rule.

11 (2) FINAL RULE.—Not later than the expira-
12 tion of the 12-month period beginning on the date
13 of the enactment of this Act, the Secretary of Hous-
14 ing and Urban Development shall issue final regula-
15 tions to carry out sections 123 and 124 of the Hous-
16 ing and Community Development Act of 1974, as
17 added by the amendment made by subsection (a) of
18 this section.

Passed the House of Representatives November 18,
2019.

Attest:

Clerk.

116TH CONGRESS
1ST SESSION

H. R. 3702

AN ACT

To authorize the Secretary of Housing and Urban Development to provide disaster assistance to States, Puerto Rico, units of general local government, and Indian tribes under a community development block grant disaster recovery program, and for other purposes.