



# **Overview of the Joint Guidance for Use of HUD's CDBG-DR Funds as Non-Federal Cost Share for FEMA's PA Program**

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**2020 CDBG-DR Public Assistance Webinar Series**

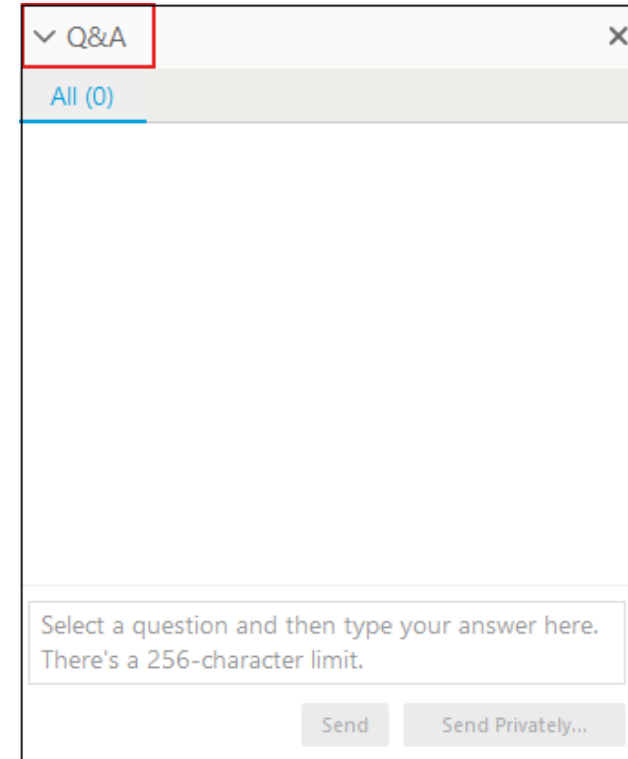
# Webinar Instructions

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- Participants in 'listen only' mode
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Q&A

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# Session Overview and Introductions



# Session Overview

- Objectives
  - Discuss the flexible match concept, how to satisfy requirements, and how match benefits FEMA applicants and HUD grantees
  - Describe how to apply flexible match for FEMA PA and CDBG-DR grant
- Agenda
  - Brief Overview of Guidance
  - Flexible Match Discussion
  - Satisfying Requirements
  - Grants Management



# Introductions

- Jen Carpenter, HUD
- Carey Whitehead, HUD
- Mikayla Catani, HUD
- Denise Yandle, FEMA
- Sarah Mulligan, FEMA





# Overview of FEMA PA and HUD CDBG-DR





# Authorities/Roles



## • FEMA

- FEMA Stafford Act Authority
- PA Applicants: entities that apply for PA funding and are responsible for carrying out a project
  - PA Recipient: receives the direct award from FEMA
  - PA Subrecipient: received a subaward by the PA Recipient

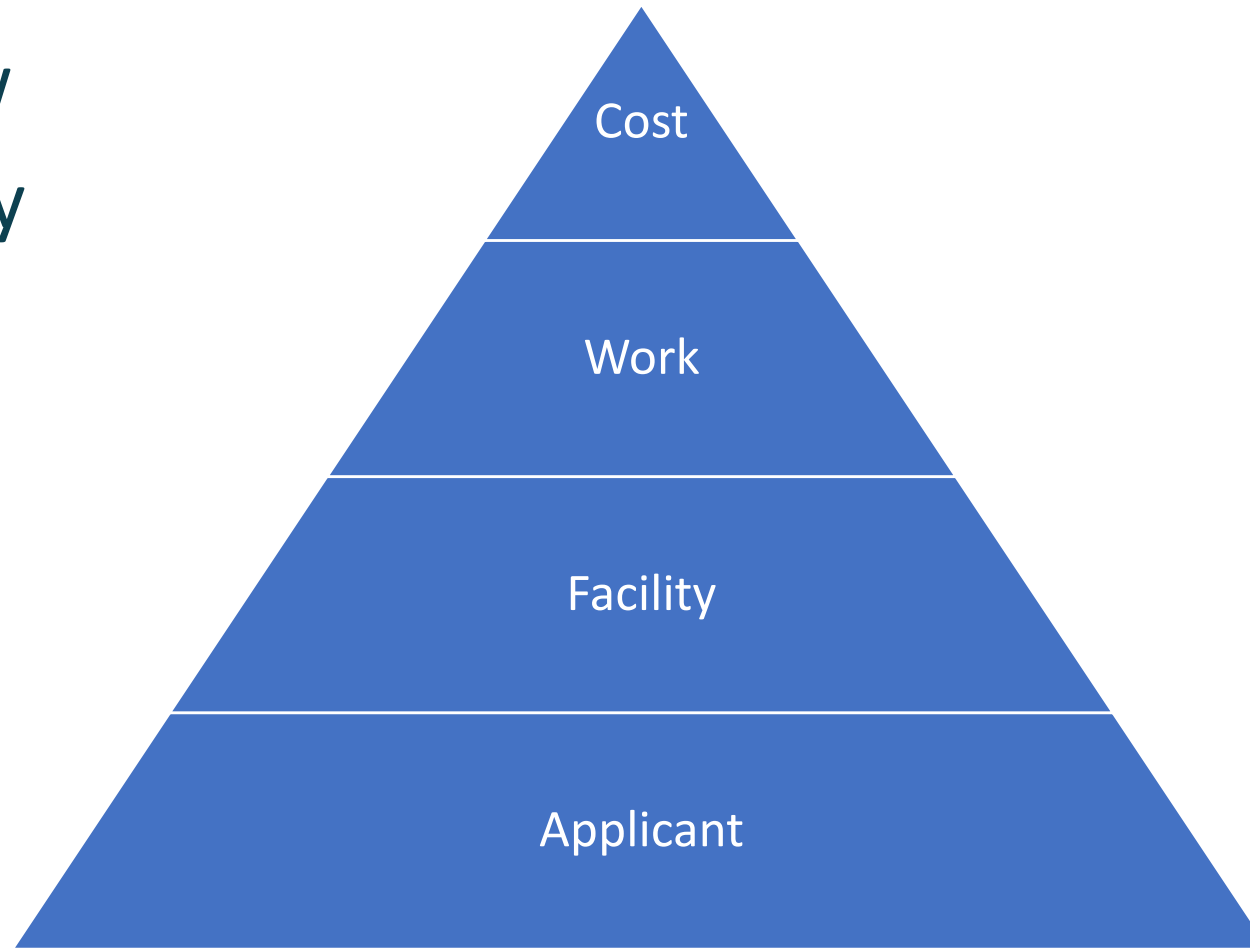
## • HUD

- HUD CDBG-DR Authority
- CDBG-DR Grantees: entities that receive direct awards from HUD
- CDBG-DR Subrecipients: entities that receive subawards from the CDBG-DR Grantee



# FEMA Public Assistance (PA)

- PA Program Overview
- Determining Eligibility
  - Applicant
  - Facility
  - Work
  - Cost



# FEMA Public Assistance (PA)

- Project Formulation
  - Small vs. Large Projects
  - Type of Work
    - Section 407 – Debris Removal
    - Section 403 – Emergency Preparedness and Response
    - Section 406 – Permanent Work
      - Roads and Bridges, Water Facilities, Buildings & Equipment, Utilities, Parks and Other Uses
    - Section 422 – Small Projects
    - Section 428 – Alternative Procedures Projects
  - Other considerations:
    - Similar contracts
    - Similar sites/facilities
    - Damage within the same area/boundary





# HUD Community Development Block Grant Disaster Recovery (CDBG-DR)

- Action Plan
  - Use of Funds
    - Require a “tie back” to the disaster
    - Benefit LMI persons (with 70% of overall grant)
- Typical Categories of Activities
  - Housing
  - Economic Development
  - Infrastructure
  - Planning/Administration
  - Ineligible



# HUD Community Development Block Grant Disaster Recovery (CDBG-DR)

- National Objectives
  - Low/Moderate Income (LMI): housing, jobs, area benefit, limited clientele, buyout, and housing incentive
  - Urgent Need
  - Slum/Blight (spot or area basis)
- Most Impacted and Distressed (MID) Areas
  - HUD-identified
  - Grantee-identified



# Flexible Match





# New Guidance

- Implementation Guidance for Use of Community Development Block Grant Disaster Recovery Funds as Non-Federal Cost Share for FEMA's Public Assistance Program was issued 10/14/20
  - FEMA published as Implementation Guide
  - HUD published as a CPD Notice 20-10
- What is a cost-share?
- What does the guidance do?
- Who does this guidance apply to?

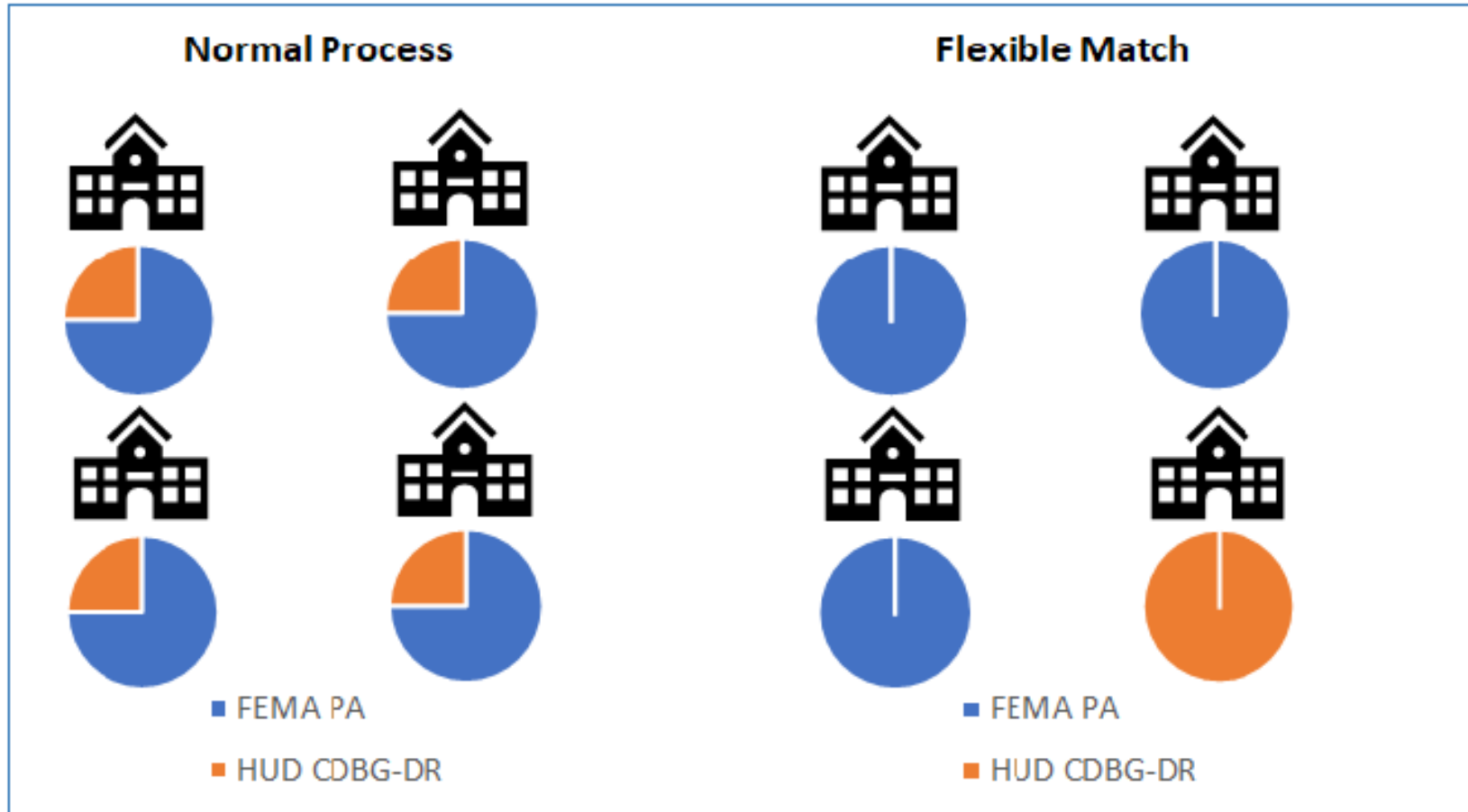


# Defining Flexible Match

- What is it?
- Key elements:
  - Satisfy local match at a site level within a project
  - Consolidate use of CDBG-DR funds
  - All sites within a project must comply with PA requirements
  - CDBG-DR cannot pay for PA-eligible costs
  - Partial or full match can be done with CDBG-DR



# Illustration



Example: Single Project with Four (4) Sites



# Traditional Match

- Method: Apply local match proportionally across each line item within a project

Project Site Number and Cost		FEMA PA	% FEMA share of each site	HUD CDBG-DR	% HUD share of each site
Total cost for Site #1	\$50,000	\$37,500	(75% of site 1 cost)	\$12,500	(25% of site 1)
Total cost for Site #2	\$50,000	\$37,500	(75% of site 2 cost)	\$12,500	(25% of site 2 cost)
Total cost for Site #3	\$250,000	\$187,500	(75% of site 3 cost)	\$62,500	(25% of site 3 cost)
Total cost for Site #4	\$800,000	\$600,000	(75% of site 4 cost)	\$200,000	(25% of site 4 cost)
<b>TOTAL ALL SITES</b> (100% of Total Project Cost)	<b>\$1,150,000</b>	<b>\$862,500</b> (75% of total Project Cost)		<b>\$287,500</b> (25% of total Project Cost)	



# Flexible Match

- Method: Apply local match to one site within a project

Project Site Number and Cost		FEMA PA	% FEMA share of each site	HUD CDBG-DR	% HUD share of each site
Total cost for Site #1	\$50,000	\$50,000	(100% of site 1 cost)	\$0	(0% of site 1)
Total cost for Site #2	\$50,000	\$50,000	(100% of site 2 cost)	\$0	(0% of site 2 cost)
Total cost for Site #3	\$250,000	\$250,000	(100% of site 3 cost)	\$0	(0% of site 3 cost)
Total cost for Site #4	\$800,000	\$512,500	( 64% of site 4 cost)	\$287,500	(36% of site 4 cost)
<b>TOTAL ALL SITES (100%)</b>	<b>\$1,150,000</b>				
	<b>(75% of Total Project Cost = \$862,500)</b>	<b>\$862,500</b>		<b>\$287,500</b>	
	<b>(25% of Total Project Cost = \$287,500)</b>				



# Identifying Flexible Match

- Let's look at a project and identify what can be reimbursed with CDBG-DR
  - What projects and type of work are included in the project?
  - What is the total project amount? What is the local match requirement?
  - How much CDBG-DR funding is available for match purposes?

Project Sites	Project Amount (100%)	Possible National Objective
Road Segment #1	\$150,000	LMI Area
Road Segment #2	\$150,000	LMI Area
Road Segment #3	\$200,000	Uncertain
Road Segment #4	\$200,000	Uncertain
Road Segment #5	\$300,000	Uncertain
<b>TOTAL</b>	<b>\$1,000,000</b>	





# Applying Flexible Match

- Understand the cost breakdown
- Determine the distribution of CDBG-DR funding
  - What is the eligible activity for CDBG-DR?
  - What National Objective is met?
- Determine how regulations will apply
  - Which contracts for goods and services cover work that will be done on the CDBG-DR assisted portions of the project?
  - How will other cross-cutting requirements apply to the CDBG-DR assisted portions of the PW?

Work components	Cost	Possible Distribution of CDBG-DR
<b>Road Segment #1</b>		
• Planning, design, & permitting	\$ 50,000	\$ 50,000
• Construction Cost	\$100,000	\$100,000
<b>Road Segment #2</b>		
• Planning, design, & permitting	\$ 50,000	\$ 50,000
• Construction Cost	\$100,000	<b>\$ 50,000</b>
<b>TOTAL</b>	<b>\$300,000</b>	<b>\$250,000</b>



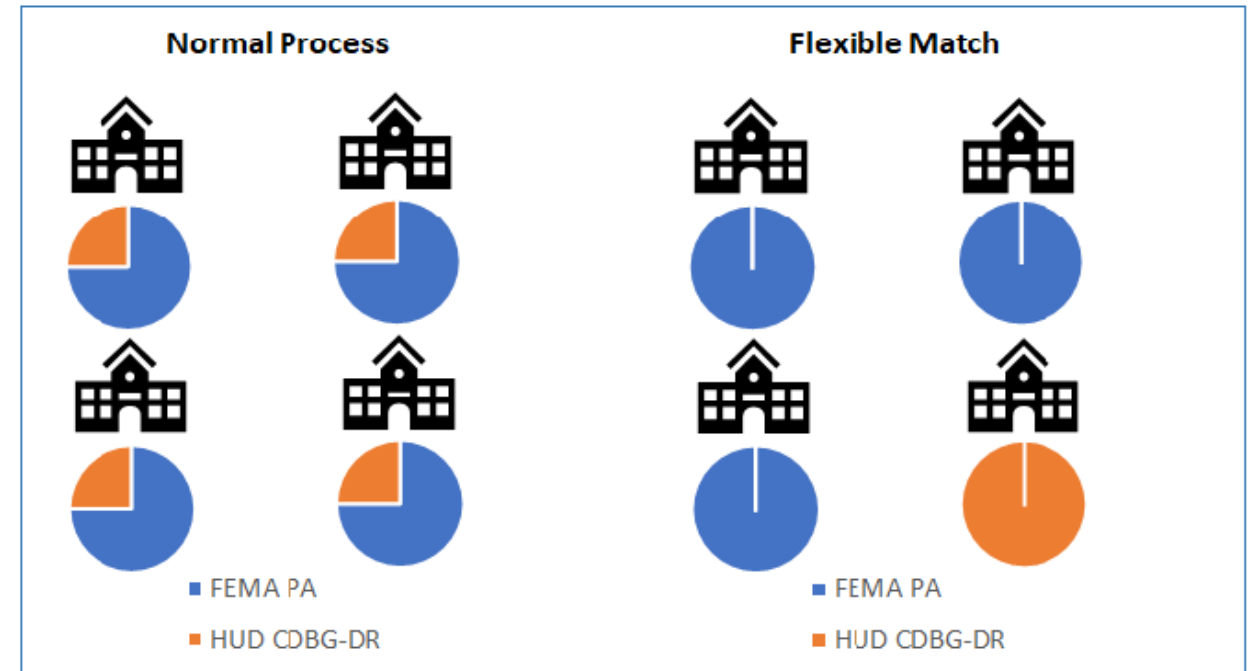
# Potential Pitfalls with Flexible Match

- Paying for more than the local match
- CDBG-DR funded work meets HUD and FEMA requirements
- Not understanding how match affects procurement
- Not understanding the timing considerations



# Flexible Match

- Keys to success
  - Constant communication between persons/departments
  - Apply due diligence when selecting projects and costs
  - Aligning funding sources
  - Identifying the CDBG-DR assisted portions early
  - Reporting differences and programmatic differences



Example: Single Project with Four (4) Sites



# PA Projects Based on Actual Costs (e.g., 406 projects)

- Amount of Local Match can change over time.
- Take precautions to avoid paying for PA-eligible costs in excess of the final amount of Local Match. Do not use CDBG-DR to “front” costs.
  - Section VIII.B. of guidance identifies best practices.
- Changes in actual costs could cause order of assistance concerns if CDBG-DR funds > required amount of Local Match:
  - Ex. FEMA reduces the total amount and their federal obligation on a 406 Project after CDBG-DR funds are advanced to a CDBG-DR subrecipient to pay for costs of the Local Match.





# Special considerations for 428s and Small Projects

- Amount of Local Match: Generally based on the estimated scope of work (even if actual costs differ from the estimate).
  - Small Projects under section 422:
    - Generally paid soon after Federal obligation of funds.
    - Match amount usually fixed (change in rare cases, e.g., change in scope of work or appeal could require adjustment to match).
  - Projects under section 428:
    - Generally paid on a reimbursement basis based on estimated cost.
    - Amount of match usually fixed.
    - If actual costs are less than estimated costs, the PA applicant can use “excess” PA funds on the same project worksheet or another 428-project worksheet. In some cases, this may cause match amount to change.



# Flexible Match Example – Section 428

Ex. actual costs < estimated costs; savings used for costs in same project

Project Site Number and ESTIMATED Cost of Project	Actual Project Costs (underruns)	FEMA PA	% FEMA share of each site	HUD CDBG-DR	% HUD share of each site
Total cost for Site #1 \$50,000	\$40,000 (\$10,000)	\$40,000	(100% of site 1 cost)	\$0	(0% of site 1)
Total cost for Site #2 \$50,000	\$40,000 (\$10,000)	\$40,000	(100% of site 2 cost)	\$0	(0% of site 2 cost)
Total cost for Site #3 \$250,000	\$240,000 (\$10,000)	\$240,000	(100% of site 3 cost)	\$0	(0% of site 3 cost)
Total cost for Site #4 \$800,000	\$760,000 (\$40,000)	\$472,500	(62% of site 4 cost)	\$287,500	(38% of site 4 cost)
Excess funds of <u>for use on same Project</u> \$70,000	\$70,000 (can be used for other approved work)	\$70,000 “Excess funds”	(100% of other project costs)	\$0	(0% of other approved work)
<b>TOTAL EST. PROJECT COSTS</b> <b>\$1,150,000</b> <b>(100% of Total Project Cost)</b>	<b>Total Actual Project costs</b> <b>\$1,150,000</b>	<b>\$862,500</b> <b>(75% of total Project Cost)</b>		<b>\$287,500</b> <b>(25% of total Project Cost)</b>	



# Knowledge Check #1 (True or False)

1. Costs that are funded by CDBG-DR only need to adhere to CDBG-DR requirements. True or False?
2. FEMA allows flexible match to be used for prior disasters. For CDBG-DR, if a project was not included in an Action Plan, substantial amendment to the Action Plan must be done. Substantial amendments require additional citizen participation and HUD approval. True or False?



# Grants Management & Closeout





# Grants Management

Project Implementation and Oversight	<p><b><u>FEMA</u></b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Approves appropriate deadline for work completion</li> <li><input type="checkbox"/> Approves any changes to the scope of work</li> <li><input type="checkbox"/> Approves use of excess funds for 428 Alternative Procedures projects</li> <li><input type="checkbox"/> Provides TA and completes post-award monitoring</li> <li><input type="checkbox"/> Reviews quarterly reports</li> </ul>	<p><b><u>HUD</u></b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Reviews quarterly reports</li> <li><input type="checkbox"/> Provides TA and monitors grantees</li> </ul>
	<p><b><u>PA Applicant</u></b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Complies with all programmatic requirements</li> <li><input type="checkbox"/> Completes PW within scope and deadlines</li> <li><input type="checkbox"/> Submits request for PW approval</li> <li><input type="checkbox"/> Provides quarterly status updates</li> <li><input type="checkbox"/> Request payment disbursements</li> </ul>	<p><b><u>CDBG-DR Grantee</u></b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Responsible for compliant use of all grant funds</li> <li><input type="checkbox"/> Monitors performance by its subrecipient</li> <li><input type="checkbox"/> Maintains adequate records to demonstrate compliance</li> </ul>
	<p><b><u>PA Recipient</u></b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Ongoing management of PA funds</li> <li><input type="checkbox"/> Completes quarterly reporting requirements</li> </ul>	<p><b><u>CDBG-DR Subrecipients</u></b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Ensures that use of all CDBG-DR funds complies with requirements included in the subrecipient agreement</li> </ul>



# Grant Closeout Requirements

Reconciliation/ Closeout	<p><b><u>FEMA</u></b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Reviews and resolves any concerns</li> <li><input type="checkbox"/> Approves closeout of projects and applicants</li> </ul>	<p><b><u>HUD</u></b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Reviews and resolves any concerns</li> <li><input type="checkbox"/> Drafts closeout agreement</li> <li><input type="checkbox"/> Closes grant after agreement is signed</li> </ul>
	<p><b><u>PA Applicant</u></b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Submits its reconciliation/closeout package including use of excess 428 funds, if applicable</li> </ul>	<p><b><u>CDBG-DR Grantee</u></b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Prepares for closeout of grant in accordance with applicable CDBG-DR closeout regulations and procedures</li> </ul>
	<p><b><u>PA Recipient</u></b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Validates request with its procedures and submits its recommendations for projects or applicant's closeout</li> </ul>	<p><b><u>CDBG-DR Subrecipients</u></b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Closes out subgrant in accordance with instructions, policies, and procedures established by CDBG-DR Grantee</li> </ul>



# Satisfying Federal Requirements



# Procurement Requirements

Procurement Entity	Applicable Requirements	Recommendations
FEMA PA Applicants & Recipients (State Governments)	<ul style="list-style-type: none"> <li><input type="checkbox"/> Follow the same procedures used for non-federal funds</li> <li><input type="checkbox"/> Comply with 2 CFR Part 200.322 (Procurement of Recovered Materials)</li> </ul>	<ol style="list-style-type: none"> <li>1. Fair and open competition.</li> <li>2. Perform a cost or price analysis on all contracts.</li> </ol>
FEMA PA Applicants & Recipients (Tribal, Local Gov'ts, and PNPs)	<ul style="list-style-type: none"> <li><input type="checkbox"/> Comply with federal rules found in 2 CFR Part 200.318-326.</li> </ul>	<ol style="list-style-type: none"> <li>3. Include CDBG-DR requirements into applicable contracts that govern projects that may be funded with CDBG-DR or affect CDBG-DR work.</li> </ol>
CDBG-DR Grantees (State)	<ul style="list-style-type: none"> <li><input type="checkbox"/> Three options:               <ul style="list-style-type: none"> <li>▪ Adopt 2 CFR § 200.317, but impose 2 CFR §§ 200.318 through 200.326 on Subrecipients</li> <li>▪ Adopt 2 CFR §§ 200.318 through 200.326</li> <li>▪ Follow its own procurement policies and establish procurement policies and procedures pursuant to 24 CFR Part 570.489(g) for Subrecipients.</li> </ul> </li> </ul>	<ol style="list-style-type: none"> <li>4. Evaluate and document a contractor's past performance.</li> <li>5. Document the procurement process and decisions made.</li> </ol>
CDBG-DR Grantees (Local Gov'ts)	<ul style="list-style-type: none"> <li><input type="checkbox"/> Comply with federal rules found in 2 CFR Part 200.318-326.</li> </ul>	





# Other Requirements

- Various cross cutting requirements may apply, such as:
  - Davis Bacon & related Acts (labor standards)
  - Uniform Relocation Act (URA)
  - Environmental review process
  - Section 504 handicapped accessibility
  - Lead Based Paint Hazard Reduction



# Special Considerations

- Flood Insurance
- State and Local Codes and Standards
- Green Building Standards
- Elevation and Floodproofing
- Flood Control (i.e., dams and levees)



# Knowledge Check #2

- 1. What if a PA Project is already under construction, but the CDBG-DR Grantee realizes that the elevation standards of the project does not meet HUD's standard? What can be done?**



# Q&A





# Resources

- Published Guidance
  - HUD: <https://www.hudexchange.info/news/new-implementation-guidance-for-use-of-cdbg-dr-funds-as-non-federal-cost-share-for-femas-public-assistance-program/>
  - FEMA: [https://www.fema.gov/sites/default/files/2020-10/fema\\_hud\\_flexible-match-implementation-guidance\\_sop\\_10-14-2020.pdf](https://www.fema.gov/sites/default/files/2020-10/fema_hud_flexible-match-implementation-guidance_sop_10-14-2020.pdf)
- Signed MOU Agreement: <https://cdbg-dr.pr.gov/en/download/hud-fema-flexible-match-mou-signed-1-3-2020/?wpdmdl=10950&refresh=5f891c83b92291602821251>
- HUD Exchange CDBG-DR page: <https://www.hudexchange.info/programs/cdbg-dr/>
- FEMA: <https://www.fema.gov/assistance/public>





# Thank you!

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- Contact Info:

- HUD Policy Unit, [DRSIPolicyUnit@hud.gov](mailto:DRSIPolicyUnit@hud.gov)
- FEMA Public Assistance Policy Branch, [fema-recovery-pa-policy@fema.dhs.gov](mailto:fema-recovery-pa-policy@fema.dhs.gov)