

CDBG-DR Policy Bulletin 2026-02

Avoiding Choice Limiting Actions (Environmental Review)

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
Office of Disaster Recovery

Grantee Audience

<input checked="" type="checkbox"/> Universal Notice (2023-Present)	<input checked="" type="checkbox"/> 2016 Grantees	<input checked="" type="checkbox"/> CDBG-MIT
<input checked="" type="checkbox"/> Consolidated Notice (January 2023-2020)	<input checked="" type="checkbox"/> 2015 Grantees	<input checked="" type="checkbox"/> CDBG-RBD
<input checked="" type="checkbox"/> 2017-2019 Grantees	<input checked="" type="checkbox"/> 2011-2013 Grantees (Sandy)	<input checked="" type="checkbox"/> CDBG-NDR

Applicability Note: This product is designed for all CDBG-DR, CDBG-MIT, CDBG-RBD, and CDBG-NDR grantees.

Change Log

Version (Date)	Summary of Changes Made
Version 1 (May 2026)	<ul style="list-style-type: none">Original publication.

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Introduction

Community Development Block Grant-Disaster Recovery (CDBG-DR) funding is appropriated by Congress to help communities recover from catastrophic Presidentially Declared Disasters. These grants are subject to the Housing and Community Development Act of 1974 (HCDA), as amended, (42 U.S.C. § 5301 et seq.) and its implementing regulations at 24 CFR Part 570, unless modified by waivers and alternative requirements in the Allocation Announcement Notices that announce the CDBG-DR awards. CDBG-DR typically offers more flexibility, not typically available through the standard CDBG program, to expedite disaster recovery. For example, the Non-Federal Cost Share and reimbursement programs that fund pre-application costs play a vital role in aiding recovery efforts. However, due to the timing of CDBG-DR allocations, many projects often begin before Congress appropriates CDBG-DR funds for to the Department of Housing and Urban Development (HUD) to allocate, raising concerns about **Choice Limiting Actions (CLA)**, as outlined in 24 CFR 58.22(a). This guidance aims to help CDBG-DR grantees understand how CLAs apply to these specific programs and outlines steps to ensure compliance.

Overview of Choice Limiting Actions

A CLA violation is an activity, as defined in 24 CFR 58.22, undertaken by the grantee, subrecipient, or its partners after the federal nexus but prior to obtaining environmental clearance, that reduces or eliminates a grantee's opportunity to choose project alternatives that would avoid or minimize environmental impacts or enhance the quality of the human environment. CLAs may include but are not limited to real property acquisition, demolition, disposition, rehabilitation, repair, new construction, site preparation or clearance, ground disturbance, and leasing, including a binding legal contract to commit funds to these activities that are not conditioned on successful completion of the environmental review (ER) process.

24 CFR 58.22 Limitations on activities pending clearance:

(a) Neither a recipient nor any participant in the development process, including public or private nonprofit or for-profit entities, or any of their contractors, may commit HUD assistance under a program listed in § 58.1(b) on an activity or project until HUD or the state has approved the recipient's RROF and the related certification from the responsible entity. In addition, until the RROF and the related certification have been approved, neither a recipient nor any participant in the development process may commit non-HUD funds on or undertake an activity or project under a program listed in § 58.1(b) if the activity or project would have an adverse environmental impact or limit the choice of reasonable alternatives.

If a CLA violation occurs, the project may become ineligible for federal assistance, require repayment of expended federal funds, and/or necessitate mitigation measures to prevent future violations. Additional details are available in the [HUD Choice Limiting Action \(CLA\) Violation Review Process Fact Sheet – Updated 8/20/2024](#). To ensure continued eligibility for federal assistance, grantees must take appropriate steps to prevent CLAs from occurring.

CDBG-DR Non-Federal Cost Share and Supplemental Assistance for Federally Assisted Projects

As provided by the HCDA, CDBG-DR funds may be used to satisfy a match requirement, share, or contribution for any other Federal program when used to carry out an eligible CDBG-DR activity. This support enables communities to leverage federal resources more effectively and expedite recovery efforts by reducing the financial burden on local governments, ensuring that critical infrastructure, housing, and economic revitalization projects can proceed without delay. There are a few restrictions on using CDBG-DR as non-federal match: 1) for a project funded by the U.S. Army Corps of Engineers (USACE), then by law, as codified in the HCDA as a note to section 105(a)), only \$250,000 or less of CDBG-DR funds may be used for the non-federal cost share; and 2) Appropriations acts prohibit the use of CDBG-DR funds for any activity reimbursable by, or for which funds are also made available by the Federal Emergency Management Agency (FEMA) or the United States Army Corps of Engineers (USACE).

In response to a disaster, FEMA may implement, and grantees may elect to follow, alternative procedures for FEMA’s Public Assistance Program, as authorized pursuant to Section 428 of the Stafford Act (42 U.S.C. 5189(f)). Like other projects, grantees may use CDBG-DR funds as a matching requirement, share, or contribution for Section 428 PA Projects. For all activities funding the non-federal match, grantees must document that CDBG-DR funds have been used for the actual costs incurred for the assisted project and for costs that are eligible, meet a national objective, and meet other applicable CDBG-DR requirements. Additional information can be found on the [HUD Exchange: New Implementation Guidance for Use of CDBG-DR Funds as Non-Federal Cost Share for FEMA’s Public Assistance Program](#).

FEMA and other Federal agencies typically receive and provide disaster recovery funding to communities affected by disasters well before HUD allocates CDBG-DR funds. The timing of these allocations, which depends on Congressional appropriations, can range from a few weeks to several years. Consequently, other Federal agencies may plan, commence, and even complete projects before CDBG-DR funds become available for supplemental assistance. This includes completing an environmental review. The Disaster Relief Supplemental Appropriations Act, 2025 (P.L. 118-158) (“the 2025 Appropriations Act”) allows the CDBG-DR grantee to adopt the other Federal agency’s environmental review through a streamlined process. Refer to the [CDBG-DR Policy Bulletin 2026-01: Environmental Review Adoption Guidance](#) for more details.

Federal projects supplemented with CDBG-DR funds, whether in progress or completed, do not automatically constitute a CLA violation. The determination of a CLA violation depends on when the HUD nexus was established and whether the action or activity occurred before or after this point. The HUD nexus is established when an application for CDBG-DR funds is submitted to the grantee.

HUD Nexus – Supplemental Assistance:

The HUD nexus is established when an application for supplemental assistance is submitted to the CDBG-DR grantee, signifying the intent to use HUD funds for the project.

While pausing all work after the HUD nexus and resuming only once the environmental review is complete is considered a best practice, HUD does not mandate a stop-work order under certain

conditions. Specifically, if a project supplemented by CDBG-DR funds has a construction contract executed prior to the HUD nexus, work funded by non-HUD sources may proceed as practical and in accordance with the existing contract. However, grantees are prohibited from executing new construction contracts or making additional choice-limiting commitments, including committing HUD or additional non-HUD funds to the project, after the HUD nexus is established. An environmental review must be completed before any HUD funds or newly committed non-HUD funds are applied to the project.

CDBG-DR Pre-Application Costs

CDBG-DR grantees may charge grants for the pre-award and pre-application costs incurred by homeowners, businesses, and other qualifying entities (the "applicants") for eligible disaster-related expenses. These eligible costs include rehabilitation, demolition, and reconstruction of single-family, multifamily, and nonresidential buildings, including commercial properties, incurred before the applicant applies for CDBG-DR assistance. Grantees must adhere to cross-cutting requirements (e.g., Davis-Bacon, Civil Rights, Lead-Based Paint, URA) and the Allocation Announcement Notice that announced their CDBG-DR award, including the requirement to complete an environmental review before the grantee commits funds or initiates recovery activities. If all requirements under 24 CFR part 58 are not satisfied, or if environmental harm has occurred, pre-application costs cannot be reimbursed with CDBG-DR funds. For further details, refer to:

- [Notice CPD-15-17: Guidance for Charging Pre-Application Costs of Homeowners, Businesses, and Other Qualifying Entities to CDBG Disaster Recovery Grants](#);
- [Universal Notice \(FR-6489-N-01\)](#): Section III.B.14. *Reimbursement of disaster recovery expenses*; and
- Appendix B - CDBG-DR Consolidated Notice: Section III.F.4. *Reimbursement of disaster recovery expenses by a grantee or subrecipient* and Section III.F.5. *Reimbursement of pre-application costs of homeowners, renters, businesses, and other qualifying entities*.

HUD Nexus – Rehabilitation and Reimbursement Programs:

The HUD nexus is established when an applicant applies for the CDBG-DR supported program, signifying the intent to use HUD funds for the project.

The HUD nexus for this program is established when an applicant applies for the rehabilitation and reimbursement program, signaling their intent to use HUD funds. Applicants may, at their own risk, proceed with work funded by non-Federal sources under contracts predating their application, as long as the work aligns with the terms of the existing contract and remains practical. However, there is significant risk that

such activities may cause environmental harm¹ or limit the choice of reasonable alternatives², which

¹ Environmental harm example: Roof restoration may adversely affect endangered bat species, if present, and result in noncompliance with Section 7 of the Endangered Species Act (ESA) of 1973.

² Limiting reasonable alternatives example: Prematurely demolishing a potentially historic structure eliminates the opportunity to explore alternatives - such as rehabilitation, adaptive reuse, or façade preservation - effectively foreclosing options that might have allowed for both development and historic preservation.

could render them ineligible for CDBG-DR reimbursement. To avoid this risk, HUD recommends applicants, where feasible, issue a stop-work order as a best practice to prevent further adverse environmental impacts.

Once the application is submitted, no additional contracts, commitments, or choice-limiting actions can be made until an environmental review is completed and a Request for Release of Funds and Certification (RROF/C) is approved by HUD, or the State if applicable. Applicants using their own workforce or performing work themselves without a preexisting legal obligation must pause construction, where practical, until the environmental review is complete.

Activities that caused environmental harm, pre-HUD nexus, cannot be reimbursed with CDBG-DR funds. However, funds may be used to mitigate the harm and bring the project into compliance with 24 CFR part 58. Grantees are reminded that the HUD environmental review process is most effectively implemented when it is performed early in the development process and integrated into program design.

Frequently Asked Questions (FAQs)

- 1) **Question:** When CDBG-DR is used as supplemental assistance for a Federally funded project, such as those funded by FEMA or the USACE, is there a difference between the Federal nexus and HUD nexus?
Answer: Yes, there is a difference. The Federal nexus is established when another Federal agency commits funds to the project. CDBG-DR supplemental assistance is introduced afterward. The HUD nexus occurs when there is intent to use CDBG-DR supplemental assistance for the project. Typically, the HUD nexus for supplemental assistance arises when an application for CDBG-DR funds has been submitted to the grantee.
- 2) **Question:** When does the HUD nexus for a CDBG-DR funded single-family, multifamily, or non-residential building rehabilitation and reimbursement project occur?
Answer: The HUD nexus occurs when the applicant applies for the rehabilitation and reimbursement program, as this demonstrates intent to use HUD funds for the project. Work completed before the HUD nexus is referred to as pre-application costs.
- 3) **Question:** If a rehabilitation and reimbursement applicant has an existing contract in place, should they issue a stop-work order?
Answer: As a best practice, HUD recommends issuing a stop-work order after applying to the program to avoid environmental harm. If applicants continue with construction and there has been any environmental harm that cannot be mitigated (e.g., damaging endangered species habitat, impacting a structure eligible for listing on the National Register of Historic Places), or any work that requires Federal consultation – such as consultation with the State Historic Preservation Officer and Tribal consultation under the National Historic Preservation Act, those project activities may be ineligible for CDBG-DR funding. For these reasons, continuing with work has risk of ineligibility for funding.

However, applicants, at their own risk, can proceed with construction work in instances where the associated contract was entered into prior to applying to the program. In such cases, work funded by non-Federal funds may proceed to the extent practical, and to the extent permitted in accordance with the previously executed contract. The applicant may not enter into additional construction contracts or make other choice limiting commitments or actions, including making a commitment of HUD or additional non-HUD funds to the project, after applying to the program. An environmental review must be completed before HUD funds and new commitments of non-HUD funds can be used on a project.

- 4) **Question:** If a rehabilitation and reimbursement applicant (HUD nexus established at the time of application) is presently working on the project and the work is not under contract, does the applicant have to stop work?

Answer: If the applicant is using their own workforce or conducting the work themselves (i.e., there is no preexisting legal obligation with another party to continue the construction activities), then the applicant must pause construction, where practical, until the environmental review is completed.

- 5) **Question:** What happens if there was work done on a rehabilitation and reimbursement project before the HUD nexus that resulted in environmental harm?

Answer: The work that resulted in environmental harm would be ineligible for reimbursement through CDBG-DR funds. If the environmental harm can be mitigated, CDBG-DR funds can be used to mitigate the environmental harm and fund the rest of the project. If the environmental harm cannot be mitigated, then the entire project is ineligible to receive CDBG-DR funding.

- 6) **Question:** If a federally funded project is fully complete when CDBG-DR is identified for supplemental assistance, is there a potential for a CLA violation?

Answer: Yes, a CLA violation remains possible. If CDBG-DR funds are committed or provided (i.e., expended) before the environmental review is formally adopted and before the grantee has submitted a Request for Release of Funds (RROF) to HUD (or the State), then a statutory violation would occur, and the project would be precluded from using any HUD funds. If CDBG-DR funds are committed or expended after the grantee has submitted an RROF to HUD (or the State), but before HUD (or the State) approves the RROF, a regulatory violation would occur, and the project would be precluded from using any HUD funds.

- 7) **Question:** If a federally funded project is in progress and CDBG-DR funds will supplement the project, what are examples of CLA violations a CDBG-DR grantee should be aware of?

Answer: Generally, federally funded projects that are in progress will have been procured and all work will be under contract, reducing the potential for a CLA violation to occur. While pausing all work after establishing the HUD nexus and resuming only once the environmental review is complete or adopted is considered a best practice, HUD does not require a stop-work order when a construction contract has already been executed prior to the HUD nexus.

Possible CLA violations that could occur before the environmental review is complete or adopted in these circumstances include:

- Amending an existing contract in ways that introduce new activities.
- Undertaking actions that are not covered by an existing contract.
- Executing a new contract.

- Obligating or expending CDBG-DR funds.

Grantees should ensure strict compliance with all applicable environmental and procurement regulations to avoid potential violations.

- 8) **Question:** How long does it take to adopt another Federal agency's environmental review when CDBG-DR funds will supplement the project?

Answer: The environmental review adoption process, as identified in the Disaster Relief Supplemental Appropriation Act, 2025 (P.L. 118-158) and outlined in Section III.B.10.c of the Universal Notice (FR-6489-N-01), is designed to significantly expedite the approval process. In most cases, adoption can occur in a matter of days. However, the timeline depends on coordination between the RE and the Federal agency to share the environmental review record, as well as the RE's availability to process.

Additional Resources

For additional information or assistance to make a preliminary determination as to whether a CLA violation has occurred, please consult your HUD Regional Environmental Officer (REO). A complete list of REOs is available in the [HUD Environment and Energy Staff Directory](#).

Acronyms:

- AUGF: Authorization to Use Grant Funds (HUD Form 7015.16)
- CDBG-DR: Community Development Block Grant – Disaster Recovery
- CLA: Choice Limiting Action
- ERR: Environmental Review Record
- RE: Responsible Entity
- RROF/C: Request for Release of Funds/Certification (HUD Form 7015.15)

References:

- [2025 Appropriations Act \(P.L. 118-158\)](#)
- [Universal Notice \(FR-6489-N-01\)](#)
- Appendix B - CDBG-DR Consolidated Notice
- [HUD Choice Limiting Action \(CLA\) Violation Review Process Fact Sheet – Updated 8/20/2024](#)
- [HUD Exchange: New Implementation Guidance for Use of CDBG-DR Funds as Non-Federal Cost Share for FEMA's Public Assistance Program.](#)
- [Notice CPD-15-17: Guidance for Charging Pre-Application Costs of Homeowners, Businesses, and Other Qualifying Entities to CDBG Disaster Recovery Grants](#)
- [CDBG-DR Policy Bulletin 2026-01: Environmental Review Adoption Guidance](#)
- [FEMA Statutory Exclusions \(STATEX\)](#)