

HUD CARES Act Q & A MCDA 10/21 - 10/22/2020

Please note the responses below have been provided based on current requirements and guidance available. Notices or other HUD issued guidance in the future may change the current requirements and require further action to comply with such Notices or guidance.

Q: The Federal Register Notice from August 20, 2020 indicates there are six years to spend the CV funds. With the third tranche, when does six years start? When does the three years (for spending 80%) start?

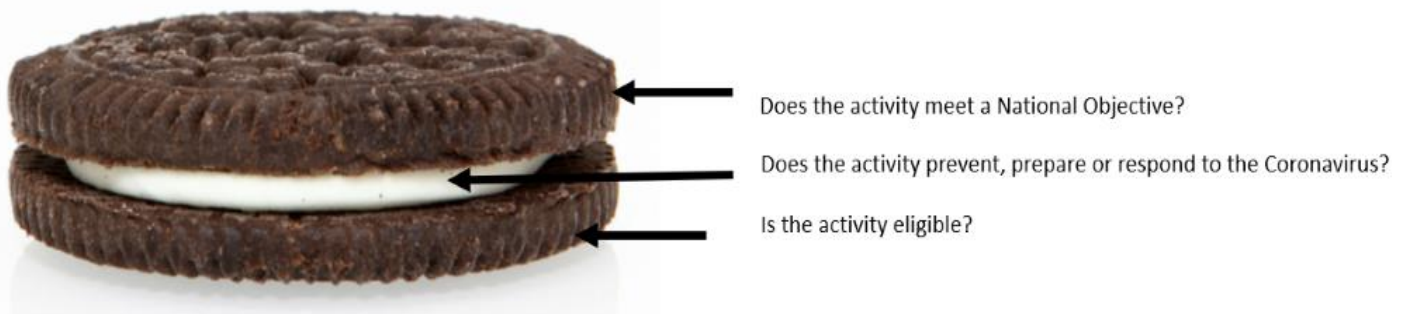
A: The 'start date' is driven by Box 4 in the grant agreement from the FIRST agreement. The Notice indicates that it is based on the first execution of the first tranche. Please advise grantees who may be hesitating to apply for CV3 that, if they submitted their first tranche several months ago, they will have several months less than three years to spend 80 percent of the total grant amount (CV1+2+3). HUD may include some updated special conditions regarding this, so be on the lookout.

Periods of Performance - CARES Act Funding		
Funding	Period of Performance	Notes
CDBG-CV	All funds must be expended in 6 years; 80% to be expended within 3 years.	To calculate the start of the clock use Box 4 on the <u>first</u> grant agreement + 6 years.
ESG-CV	All funds must be expended by 9/30/22.	Obligate within 180 days. 20% must be expended by 9/30/21. 80% must be expended by 3/31/22.
HOPWA-CV	3 years	A 2-year extension is possible.

Q: Do grantees and subgrantees need to tie each beneficiary to prevent, prepare for, and respond (PPR), or can it be done at the project level?

A: Try to answer the question at the activity level, then see if additional information is needed for the national objective. In some cases, activity-level information is not going to be specific enough, and the individual need must be tied to PPR. An example is the case of paying emergency rental assistance, where the grantee should maintain documentation that each assisted beneficiary needed the assistance due to loss of income related to COVID-19. An example of when the individual tie is not needed would be an emergency food bank that was stood up in response to COVID-19. In that case, the activity is the tie and the grantee does not need to maintain a tie-back to COVID for each individual using the food bank, but additional documentation of the national objective would still be necessary – in this case most likely nature and location.

Think of it as a Cookie:



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Q: How do we recommend grantees document a tie to prevent, prepare for, and respond to coronavirus if it is not obvious?

A: Keep in mind the project or activity MUST directly connect to prevent, prepare for, and respond (PPR) to COVID. For example, can a community use CDBG-CV funds for Street Improvements since the local municipal budget was negatively impacted as a result from the economic shutdown from COVID? The answer to that is NO. The street work does not PPR to COVID. CARES Act funds are not for local budget shortfalls.

Q: Can you fund the same activity with CDBG-CV1 and CV3? For instance, we have a CDBG-CV1 activity for subsistence payments that includes rent and mortgage assistance as well as utility assistance. Can we put our CDBG-CV3 allocation into that activity or does it need to be separated because utility payments are included in the CV1 activity?

A: When it comes time to commit and draw CARES Act CDBG in IDIS, grantees will not be able to distinguish between CDBG-CV1 and CDBG-CV3 because all the funds will be on one grant number. To track the allocations separately, it is up to the grantee to track the allocations on the side.

Q: Do you have to create a separate activity if using both regular and CV funding for one activity?

A: It depends. If the activity is to respond to COVID, and you are funding with both regular funds and with CV funds, then it can indeed be one activity; both allocations can be added to fund one activity. MicroStrategy reports will pull out fund types. However, if you have an activity that is NOT related to COVID and then you expand it due to COVID using CV funds, then these are two separate activities. The example is a regular ongoing food bank. This activity would be separate from a food bank supplemental activity stood up to respond to COVID needs, regardless of which funds support it. But if you stood up an emergency "COVID food bank" and used both regular and CV funds to fund it, that could be one activity.

Q: Is CDBG-CV program income subject to the CDBG-CV requirements, or does it convert to regular program income?

A: CDBG-CV program income is classified as regular CDBG program income and gets receipted and drawn down in IDIS as such. See the Federal Register Notice III.B.6.(A) PROGRAM INCOME To expedite use of grant funds, HUD is clarifying the requirements for CDBG-CV grants on the treatment of program income at 24 CFR 570.504 (entitlement) and 24 CFR 570.489I-(f) (state) that is generated by the use of CDBG-CV funds. The receipt and expenditure of program income that is generated by the use of CDBG-CV funds shall be treated as annual formula CDBG program income and recorded as part of the financial transactions of the annual formula CDBG grant program. This clarification will facilitate expenditures of CDBG-CV grant funds for their intended purpose, while continuing to maintain appropriate controls on the use of program income.

Q: How do grantees receipt program income for CV funds in IDIS?

A: There are no new PI types. All PI associated with CV grants should be receipted to regular entitlement funding. Reported Program Income will show up on a PR09 and should be expended prior to drawing EN – just like the usual PI rules.

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Q: Will there be CDBG-CV quarterly reports? What if no funds were spent yet?

A: The CARES Act does not include a statutory requirement for quarterly reporting. However, the quarterly cash on hand report (PR29) is required. The report includes information on all CDBG funds (regular and CARES alike, combined) and is not grant-specific. FSRS (FFATA) reporting is required and more information on this requirement is forthcoming. Report all the funds received thus far as Funds Available and 0 for Funds Expended.

Q: Can a grantee use CDBG-CV to purchase gift cards for food?

A: This activity is discouraged as it would be difficult due to the risk of fraud. It may not be considered to meet a “reasonable person” standard, when funding a food bank would be more economical or there are other ways to work with vendors to provide food. Purchase of food could be an emergency payment, but a gift card is treated like cash – in this case, this is like paying cash to a beneficiary rather than a third-party provider. Based on the increased need for emergency food assistance in so many communities, HUD encourages a program design that can be clearly documented to be compliant for eligibility, cost allowability and National Objective. Partnering with a local grocery store may be an option.

Q: Can CDBG-CV be used to provide Mental Health services? Can CDBG-CV be used to provide grocery delivery for homebound seniors?

A: Remember the cookie test. Does the activity meet a National Objective? Is the activity eligible? Does the activity prevent, prepare for, and respond to the Coronavirus?

Q: Is prior approval from HUD required to set up a new revolving loan fund for economic development activities?

A: Yes, as it will be its own set up in IDIS. Contact your CPD Representative to discuss options.

Q: How do you count employees for Micro Enterprise activities?

A: Businesses with 5 or fewer employees, one of whom is the owner.

Q: Can emergency payments for mortgage assistance include the escrow, or just principal and interest (PI)?

A: If the mortgage payment required under the loan documents includes an amount to be escrowed for payment of taxes, property insurance, etc., then it is allowable. So, loans that require a PITI payment can be covered. It should be noted that local units of governments should still not use CDBG or CDBG-CV to pay themselves taxes.

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Q: If a grantee provides emergency housing assistance payments up to six months in response to COVID-19 for more than 100 days (4-6 months) using CDBG-CV funds are they subject to lead-based paint requirements in 24 CFR Part 35 or is the activity exempt?

A: CDBG-CV Emergency Rental Assistance, for over 100-days, is covered by the Lead Safe Housing Rule (LSHR) requirements and in the case of rental assistance will need to follow the requirements of Subpart K, whether occupied by a child less than six years or not. Subpart K requires that almost all dwelling units built prior to January 1, 1978 that receive Federal assistance undergo a visual assessment for deteriorated paint (inside, outside and all common areas) by a trained grantee or subrecipient. Visual Assessment training is free and may be taken through this link: <https://apps.hud.gov/offices/lead/training/visualassessment/h00101.htm> The results of the visual assessment must be documented. Should deteriorated paint be identified, review and follow the compliance steps to properly address the deteriorated painted surfaces, detailed in Subpart K. A list of exemptions to the LSHR, steps to comply with Subpart K, and associated resources can be reviewed here: <https://portalapps.hud.gov/CORVID/HUDBLPAdvisor/welcome.html>

Q: Can CV funds be used to pay rental arrears?

A: CDBG funds can be used to provide emergency payments for past due, current, or future housing costs on behalf of an individual or family for up to three consecutive months ([24 CFR 570.207\(b\)\(4\)](#)). Intermittent assistance is not permitted. By waiver, HUD has extended the emergency payments to six consecutive months when using CDBG-CV funds and grant year 2019 and 2020 formula CDBG funds to prevent, prepare for, and respond to coronavirus as described on page 39 of [FR-6218-N-01: Notice of Program Rules, Waivers, and Alternative Requirements Under the CARES Act for CDBG-CV Grants, FY 2019 and 2020 CDBG Grants, and for Other Formula Programs](#). If assistance extends beyond 100 days, grantees must meet lead-based paint requirements ([24 CFR Part 35](#)). Rental assistance programs can include emergency payments for expenses incurred after the national health emergency declaration on January 21, 2020. Eligible rental assistance payments can include:

- Past due rent and utilities*
- Current and future rent and utilities*
- Security and utility deposits
- Late fees
- Similar unpaid expenses

*Payments must be made directly to the landlord or utility company on behalf of the tenant. Payments cannot be made directly to the tenant. Payments cannot be made to a utility owned by the grantee, with some exceptions. Lastly, the grantee must document how the activity will prevent, prepare for, and respond to coronavirus and does not duplicate benefits.

Section III.B.5.(B) also indicates that "HUD is waiving the requirements of 24 CFR 570.200(h) and 570.489(b) to the extent necessary to authorize a grantee to permit reimbursement of pre-application costs of subrecipients, units of general local government, and itself, in addition to pre-agreement and pre-award costs. However, an environmental review must be performed, and a release of funds must be obtained in accordance with 24 CFR part 58 prior to committing CDBG-CV funds to reimburse such costs. After the grantee signs a CDBG-CV agreement, it may reimburse a unit of general local government or subrecipient for costs incurred before the unit of general local government or subrecipient applies to the grantee for assistance."

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Q: Under a CDBG-CV funded subsistence payment program can utility costs be reimbursed to a municipally owned utility?

A: Grantees must comply with the statutory and regulatory provisions of the CDBG program unless otherwise waived or stated in the CARES Act rule. In addition, the August 7, 2020, HUD [Notice of Program Rules](#) states that “The grantee is required to use all CDBG-CV funds for CDBG-eligible activities that are carried out to prevent, prepare for, and respond to coronavirus.” As a result, activities eligible under regular CDBG rules and regulations would also be eligible for CDBG-CV funding as long as those funds are used to prevent, prepare for, and respond to the coronavirus.

The notice states that “A grantee may also undertake activities to address indirect effects of the virus, such as the economic and housing market disruptions caused by social distancing measures and stay at home order implemented to prevent the spread of coronavirus.” While some activities clearly tie back to the purposes of the CARES Act, HUD is not prohibiting grantees from carrying out any particular CDBG eligible activity described in the HCD Act and the part 570 regulations, because other CDBG eligible activities can justifiably be used to fulfill CARES Act purposes depending on the circumstances.

When considering emergency grant payments, as stated in Chapter 2, page 89 of the [Guide to National Objectives and Eligible Activities for CDBG Entitlement Communities](#):

"The general rule is that CDBG funds may not be used for income payments. For purposes of the CDBG program, “income payments” is defined as a series of subsistence-type grant payments made to an individual or family for items such as food, clothing, housing (rent or mortgage), or utilities, but excludes emergency grant payments made over a period of up to three consecutive months directly to the provider of such items or services on behalf of an individual or family. One-time grants, emergency type grants, or loans for such purposes may be authorized under the category of Public Services [see §570.201(e)]. Reference: §570.207(b)(4)"

It is important to highlight that CDBG does not permit payments made directly to an individual, but rather to another entity, such as a landlord, on behalf of an individual. The August 7, 2020 notice linked above also extends the length of time emergency payments may be made from three months to six consecutive months (Page 39-40). Please also see Question 13 of the [CDBG-CV COVID-19 FAQs](#).

In this case, however, it appears that the grantee is proposing to use CDBG funds to “pay itself” for utilities provided by the grantee as a municipal service. In consultation with HUD HQ on similar questions, the response was that neither CDBG nor CDBG-CV funds may be used by a grantee to “pay itself” for services it provides to an individual or family if that individual or family is unable to pay the grantee for them. These would be considered to be general government expenses. Such services would include water, sewer, or other municipal utilities. CDBG program regulations at 24 CFR 570.207(a)(2) characterize general government expenses as ineligible for assistance.

It should be noted that many public and private utilities are offering forbearance and have placed a moratorium on the suspension of service due to non-payment.

Additional information can be found on the HUD Exchange on the [CDBG CARES Act \(CDBG-CV\)](#) page where grantees may also [request on-call technical assistance](#).