

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-6315-N-01]

### Allocation Formula, Applicable Requirements, and Waivers and Suspension of Requirements for Rapid Unsheltered Survivor Housing (RUSH)

**AGENCY:** Office of Assistant Secretary for Community Planning and Development, HUD.

**ACTION:** Notice.

**SUMMARY:** When the President makes a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act), the affected areas may receive various forms of disaster relief. Under the Emergency Solutions Grants (ESG) program, HUD typically provides relief through regulatory waivers to affected areas. This Notice describes a new form of relief that HUD can provide under the ESG program—special ESG grants that HUD designates as Rapid Unsheltered Survivor Housing (RUSH) grants for areas that are identified as eligible for FEMA Individual Assistance when a “major disaster” is declared under the Stafford Act (declared disaster areas). As authorized by section 231 of the Department of Housing and Urban Development Appropriations Act of 2020, HUD may make these grants to States or local governments to address the needs of individuals and families who are experiencing homelessness or at risk of homelessness in declared disaster areas and have needs not otherwise served or fully met by existing Federal disaster relief programs. This Notice explains HUD’s plan for allocating and administering these RUSH grants including the funding methodology and applicable requirements for awards. As further explained in this Notice, RUSH grants will be made to States or local governments for the purpose of assisting individuals and families who are experiencing homelessness or at risk of homelessness, have been residing in a declared disaster area, and have needs that are not otherwise served or fully met by existing Federal disaster relief programs. HUD plans to begin making allocations as described in this Notice as of the date authorized by the HUD Appropriations Act of 2020. HUD welcomes public comments on all aspects of this Notice, particularly comments that respond to the questions included in Section VIII of this Notice.

**DATES:** *Comment Due Date:* September 16, 2024.

**ADDRESSES:** Interested persons are invited to submit comments regarding this Notice. There are two methods for submitting public comments, listed below. All submissions must refer to the above-referenced docket number (FR-6315-N-01) and title of this Notice.

**Electronic Submission of Comments.** Interested persons may submit comments electronically through the Federal eRulemaking Portal at [www.regulations.gov](http://www.regulations.gov). HUD strongly encourages commenters to submit comments electronically. Electronic submission of comments allows the commenter maximum time to prepare and submit a comment, ensures timely receipt, and enables HUD to make them immediately available to the public. Comments submitted electronically through the [www.regulations.gov](http://www.regulations.gov) website can be viewed by other commenters and interested members of the public. Commenters should follow the instructions provided on that site to submit comments electronically.

**Submission of Comments by Mail.** Comments may be submitted by mail to the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street SW, Room 10276, Washington, DC 20410-0500.

**Note:** To receive consideration as public comments, comments must be submitted through one of the two methods specified above. All submissions must refer to the docket number and title of this Notice.

**No Facsimile Comments.** Facsimile (FAX) comments are not acceptable.

**Public Inspection of Public Comments.** All properly submitted comments and communications submitted to HUD will be available for public inspection and copying between 8 a.m. and 5 p.m., weekdays, at the above address. Due to security measures at the HUD Headquarters building, an appointment to review the public comments must be scheduled in advance by calling the Regulations Division at 202-708-3055 (this is not a toll-free number). HUD welcomes and is prepared to receive calls from individuals who are deaf or hard of hearing, as well as individuals with speech or communication disabilities. To learn more about how to make an accessible telephone call, please visit <https://www.fcc.gov/consumers/guides/telecommunications-relay-service-trs>. Copies of all comments submitted are available for inspection and downloading at [www.regulations.gov](http://www.regulations.gov).

**FOR FURTHER INFORMATION CONTACT:** Norm Suchar, Director, Office of Special Needs Assistance, Department of

Housing and Urban Development, 451 7th Street SW, Room 7262, Washington, DC 20410-0500; telephone number 202-402-5015 (this is not a toll-free number) or [RUSH@hud.gov](mailto:RUSH@hud.gov). HUD welcomes and is prepared to receive calls from individuals who are deaf or hard of hearing, as well as individuals with speech or communication disabilities. To learn more about how to make an accessible telephone call, please visit <https://www.fcc.gov/consumers/guides/telecommunications-relay-service-trs>.

#### SUPPLEMENTARY INFORMATION:

##### I. Statutory Authority

For major disasters declared under the Stafford Act on or after December 20, 2019, section 231 of the Department of Housing and Urban Development Appropriations Act, 2020, (Section 231)<sup>1</sup> authorizes HUD to use funds recaptured from HUD’s homeless assistance grants (e.g., Continuum of Care (CoC) Program and Emergency Solutions Grants Program (ESG) grants) to make RUSH grants<sup>2</sup> to States or local governments to address the needs of individuals and families who are experiencing homelessness or at risk of homelessness in a declared disaster area<sup>3</sup> and whose needs are not otherwise served or fully met by existing Federal disaster relief programs. For purposes of RUSH funding, HUD understands “existing Federal disaster relief programs” to mean the Federal and non-Federal cost share under Federal programs that provide assistance for the purpose of disaster relief and are permanently authorized as of the date of the RUSH award. These programs include the Transitional Sheltering Assistance (TSA) program (42 U.S.C. 5170b) and Non-Congregate Sheltering (NCS) administered by the Federal Emergency Management Agency (FEMA). In addition, Federal duplication of benefit requirements apply. For more information about these programs, visit FEMA’s website.<sup>4</sup>

##### II. RUSH Funding Methodology

The formulas HUD will use to allocate and, if necessary, reallocate RUSH

<sup>1</sup> Public Law 116-94, Division H, Title II, section 231 (codified at 42 U.S.C. 11364a).

<sup>2</sup> RUSH grants provide funding under the ESG program; therefore, unless this Notice or a subsequent HUD notice, waiver, or rule specifically provides otherwise, RUSH grant funds will be governed by the same Federal requirements that apply to ESG grant funds authorized under subtitle B of McKinney-Vento Homeless Assistance Act.

<sup>3</sup> For purposes of this Notice, declared disaster areas are areas that are identified as eligible for FEMA Individual Assistance when a major disaster is declared under the Stafford Act on or after December 20, 2019.

<sup>4</sup> <https://www.fema.gov/assistance/individual/program>.

funding will follow the directive provided at 42 U.S.C. 11364a, rather than the allocation and reallocation formulas for annual ESG grant amounts at 24 CFR 576.3 and 24 CFR 576.300–575.303. HUD has determined that it would be inconsistent with 42 U.S.C. 11364a(c) to allocate the RUSH funds according to the annual ESG formula in 24 CFR 576.3 or to reallocate those funds as provided by 24 CFR 576.300–575.303 because those allocation and reallocation requirements make no account of major disasters and rely heavily on the formula for Community Development Block Grant (CDBG) funding, which is designed to target community development need and distribute annually appropriated funding nationwide. In contrast, 42 U.S.C. 11364a(c)(1) requires that RUSH funding be allocated “to States or local governments to address the needs of homeless individuals or families or individuals or families at risk of homelessness in areas affected by a major disaster declared pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*) on or after December 20, 2019, whose needs are not otherwise served or fully met by existing Federal disaster relief programs.” Accordingly, HUD will use the formulas set out in sections II.A, B, and C of this Notice to distribute funding that becomes available for RUSH grants to meet the directive of 42 U.S.C. 11364a(c)(1).

#### A. Initial Allocation

Consistent with the statutory purpose and scheme, the initial allocation of RUSH is designed to provide immediate funding to States or local governments capable of acting quickly to meet the unmet homeless assistance and homeless prevention needs in declared disaster areas. The formula is designed to allow for the rapid identification of eligible recipients and the calculation of award amounts from readily available data sources. Because section 231 funding is not sufficient to keep pace with the needs that RUSH grants are designated to address, HUD plans to use minimum threshold requirements to make sure each RUSH grant can reasonably be used to address the needs of disaster survivors who are experiencing homelessness or at risk of experiencing homelessness and whose needs are not served or fully met by existing Federal disaster relief programs. Provided that data is available, HUD plans to notify States or local governments of their eligibility for a RUSH grant within 30 days of a major disaster. Any allocation of RUSH funds is subject to the availability of funds. As

part of the minimum threshold requirements, HUD will apply the funding formula only to States or local governments that have jurisdiction over the declared disaster areas and have reasonable capacity to address the needs of individuals and families experiencing homelessness and at risk of homelessness in the declared disaster areas.

In addition, HUD will apply the funding formula only in cases where a major disaster has been declared pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*) on or after December 20, 2019, and the disaster has severely affected survivors who are experiencing homelessness or at risk of experiencing homelessness because the disaster has affected housing stock, homeless services, or encampments or other locations where people are sleeping. For severe disasters, homeless service providers are impacted in three distinct ways:

(1) Disasters disrupt the lives and support networks of individuals and families experiencing homelessness resulting in increased need for assistance and increased work for homelessness providers.

(2) Homeless shelters and other facilities for programs that serve individuals and families experiencing homelessness could be damaged and rendered unavailable, requiring immediate rehabilitation or the acquisition of alternative emergency shelter facilities.

(3) The number of persons experiencing homelessness or at risk of experiencing homelessness could increase significantly because individuals and families, such as those previously residing with friends or family, may become homeless due to their homes being damaged.

*Minimum Threshold Requirements for Initial Allocation:* HUD may make a RUSH allocation when the following criteria are met:

a. The ESG area includes a declared disaster area (*see fn.3*);

b. The ESG area has a high level of homelessness as evidenced by the ESG area Point-in-Time (PIT) count having 50 or more people experiencing homelessness; and

i. 0.1% or greater of the population in the declared disaster area is experiencing homelessness, or

ii. in the declared disaster area, the unsheltered population is greater than or equal to 30% of the total population experiencing homelessness;

c. There is a high level of displacement as evidenced by one of the following:

i. FEMA has activated TSA or NCS in the disaster declared area within the ESG area, or

ii. In rare circumstances when NCS or TSA are not activated but HUD’s analysis finds that, in the declared disaster area, there is a loss or disrupted usability of a significant number of housing units for people experiencing homelessness, homeless services, encampments, or other locations where people are sleeping;

d. Using the formula for the initial allocation described below, the potential recipient would receive an initial allocation of at least \$100,000; and

e. The potential RUSH recipient is an existing ESG or RUSH recipient with at least one grant that has a period of performance that has not yet concluded.

Additionally, HUD will review performance and financial information about the potential recipient. HUD will not make a RUSH allocation to a recipient if the information currently available to HUD, including performance reporting, monitoring results, audits or Inspector General reports, or IDIS data regarding draws and expenditures, indicates the recipient has not complied with existing ESG or RUSH grant requirements or does not have the capacity to administer RUSH funding, unless HUD determines those capacity issues or noncompliance concerns are not relevant to the use of the RUSH allocation as provided by section 231 or there are specific conditions that can appropriately mitigate the risk with respect to the RUSH funding.

*Formula for Initial Allocation:* The initial allocation will be an amount equal to the lesser of \$3,000,000 in the case of a State and \$1,000,000 in the case of a local government or the amount determined by multiplying the number of persons experiencing sheltered or unsheltered homelessness (based on the most recent PIT count) in counties or local municipalities that are within the declared disaster areas by the Fair Market Rent (FMR) for a 1-bedroom apartment in those areas. If the PIT count area does not match the declared disaster area and sufficient levels of data is available to do a pro-ratio, HUD will use the most recent sheltered PIT count data as reported in each CoC’s Housing Inventory Count and pro-rate the unsheltered PIT count data to reflect the extent of homelessness in the declared disaster area. In cases where HUD is making allocations to a State and one or more local governments, the number of people experiencing homelessness in the local governments receiving awards

will be subtracted from the total for the State.

To receive a RUSH grant, the State or local government (as defined in section 411(1) of the McKinney-Vento Homeless Assistance Act and section 100261(1) of the MAP-21 Act) must amend its most recently approved Annual Action Plan<sup>5</sup> to account for the new amount, indicating the existing Federal disaster relief program resources, including supplemental appropriations, that are available to meet the State or local government's needs and how they will use the allocation of RUSH funds to meet needs that are not otherwise served or fully met by existing Federal disaster relief programs in accordance with 42 U.S.C. 11364a and this Notice. The State or local government must submit its amended plan to HUD as provided in section IV of this Notice. Consistent with 42 U.S.C. 11364a, this amendment must include updates to the homeless needs portions of the State or local government's plan to reflect the estimates of the needs of individuals or families experiencing homelessness or individuals or families at risk of experiencing homelessness.

#### B. Second Allocation

Following the initial allocation determined as set forth in section II.A, when data to verify the extent of serious damage to the rental housing stock and the level of serious unmet need becomes available, typically within 60 to 120 days after a major disaster, HUD will identify whether the disaster meets the appropriate minimum threshold and, subject to the availability of funding, apply the formula prescribed below for a second allocation, and subsequently notify the jurisdiction.

Obtaining reliable data immediately after a disaster can be a challenge, including serious housing damage for the CDBG-DR program, FEMA Housing Impact Assessments, and homeless data

available from the PIT count on an annual basis. HUD relies on FEMA inspection data, generally available 60 to 90 days after a disaster, as the best data source for measuring serious unmet needs and the number of seriously damaged renter housing units.

To determine the second allocation, the formula includes data elements that can quickly be attained to identify the disaster's impact on households that are experiencing homelessness and the number of renter units that were damaged because of extenuating factors associated with the disaster. This formula allows HUD to quickly allocate funds to States or local governments where the most severe needs have been established.

*Minimum Threshold Requirements for Second Allocation:* For the second allocation of RUSH funding, HUD is establishing minimum threshold requirements for the entire declared disaster area and minimum threshold requirements that apply to each state or local government with jurisdiction over a declared disaster area.

The second allocation may only be provided when a declared disaster area meets the following criteria:

(a) The declared disaster area has a total PIT count of sheltered and unsheltered persons of at least 500;

(b) HUD estimates the serious damage in the declared disaster area to be above \$50 million.

Further, a State or local government will only be eligible for a second allocation of RUSH funding if it meets the following criteria:

(a) The State or local government received an initial allocation of RUSH; and

(b) Using the formula for second allocation methodology detailed below, the State or local government would receive an allocation of at least \$100,000.

If the PIT count area does not match the declared disaster area and sufficient

data are available to do a pro-ration, HUD will pro-rate the PIT count data to reflect the extent of homelessness in the declared disaster area.

Additionally, HUD will review performance and financial information about the potential recipient. HUD will not make a RUSH allocation to a recipient if the information currently available to HUD, including performance reporting, monitoring results, audits or Inspector General reports, or IDIS data regarding draws and expenditures, indicates the recipient has not complied with existing ESG or RUSH grant requirements or does not have the capacity to administer RUSH funding, unless HUD determines those capacity issues or noncompliance concerns are not relevant to the use of the RUSH allocation as provided by Section 231 or there are specific conditions that can appropriately mitigate the risk with respect to the RUSH funding.

*Formula for Second Allocation:* The second allocation to the State or local government will be the lesser of \$10 million or the sum of the amounts calculated by applying the following formula for each county or local municipality in which the threshold for making a RUSH allocation is met:

[(The most recent Point in Time count for unsheltered and sheltered persons) × (36) × (the 1BR Fair Market Rent) × (Seriously Damaged Renter Housing Units/Total Renter Units)] + [(Seriously Damaged Renter Housing Units) × (0.03) × (the 1BR Fair Market Rent)].

This formula is a combination of the two calculations shown below. The first calculation estimates the impact of the disaster on the existing homeless population; the second calculation estimates a potential need for "new" homeless individuals.

$$\text{Existing Need} = \left( \frac{\text{Seriously Damaged Renter Housing Units}}{\text{Total Renter Units}} \right) \times \text{PIT count} \times (1\text{BR FMR} \times 36)$$

$$\text{New Need} = (\text{Seriously Damaged Renter Housing Units}) \times 0.03 \times (1\text{BR FMR})$$

$$\text{Total Allocation} = \text{Existing Need} + \text{New Need}$$

In cases where HUD is making allocations to a State and one or more local governments, data regarding number of people experiencing

homelessness and renter units in the local governments receiving awards will be subtracted from the totals for the State.

The *Existing Need* formula uses the fraction of an area's rental inventory that is seriously damaged by a disaster as a proxy for the relative impact of the

<sup>5</sup> <https://www.hudexchange.info/programs/consolidated-plan/>.

event on people experiencing homelessness, then multiplies that fraction by the PIT count and the local cost of 1-bedroom housing unit for a period of 36 months. The resulting value estimates the amount that would be necessary to provide rapid rehousing and emergency shelter to people affected by the disaster who were experiencing homelessness at the time.

The *New Need* formula calculates the number of renters who were affected by the disaster and multiplies that by a factor of .03, which estimates the proportion of affected renters who are likely to experience homelessness in the aftermath of a disaster and need assistance. Those most at risk of displacement are renters or the persons residing with family and friends in renter households. This .03 factor is low because not all seriously damaged rental units will include individuals or families at risk of experiencing homelessness. Many of those affected will be eligible for FEMA and other kinds of assistance; however, some families and individuals at risk will not be eligible.

As with the initial allocation, to receive its second allocation of a RUSH grant the State or local government must amend its most recently approved Action Plan to account for the new amount, indicating the existing Federal disaster relief program resources available to meet the State or local government's needs and how it will use the allocation of RUSH funds to meet needs that are not otherwise served or fully met by the TSA, NCS, or other existing Federal disaster relief programs in accordance with 42 U.S.C. 11364a and this Notice. The State or local government must submit its amended plan to HUD as provided in section IV of this Notice.

### C. Multiple Disasters

If multiple Presidentially declared disasters affect the same area over a 12-month period, HUD may find that the combined effects of those disasters make the formula for allocating RUSH funding inappropriate to address the needs as required by 42 U.S.C. 11364a. If HUD makes this finding, HUD may recalibrate the formula as HUD determines necessary to reflect the specific data HUD receives with respect to the combined effects of the disasters, the availability and use of resources for each disaster to date, the status of the existing recovery efforts, and reported needs of homeless assistance providers in the affected areas.

### D. Reallocation

Reallocation of RUSH funds may be necessary if a State or local government declines RUSH funds, if a recipient fails to make the submission for its allocation as provided by this Notice, or if RUSH funds are recaptured post-award.

If a State or local government declines an allocation or fails to make the submission for its allocation as provided by this notice, HUD may recalculate the formula without the jurisdiction that declines the allocation. If there are no changes in the allocation results, HUD will retain those funds for future RUSH awards. HUD will recapture any unspent RUSH funds remaining post-award and retain those funds for future RUSH awards.

### III. Applicable Requirements, Suspension of Requirements, and Regulatory Waivers

Unless this Notice or a subsequent HUD notice, waiver, or rule specifically provides otherwise, RUSH grant funds will be governed by the same Federal requirements that apply to ESG grant funds authorized under subtitle B of the McKinney-Vento Homeless Assistance Act.

#### A. Program Participant Eligibility

To be eligible for assistance provided with RUSH funds, an individual or family must: (1) be "homeless" or "at-risk of homelessness" as those terms are defined at 24 CFR 576.2 or meet the new criteria in section 103(b) of the McKinney-Vento Homeless Assistance Act; (2) have been residing in a declared disaster area; and (3) have needs that will not be served or fully met by the TSA Program (42 U.S.C. 5170b), NCS, or other existing Federal disaster relief programs.

A household will not be required to requalify as homeless or at risk of homelessness for purposes of RUSH funds if the household was already determined to meet the definition of homeless or at risk of homelessness and was receiving ESG assistance when the disaster occurred.

RUSH grants are not subject to the requirements for "serving youth who lack 3rd party documentation or live in unsafe situations" that HUD typically includes in its grant agreements for annual ESG grants, because those requirements apply only to grants made under the "homeless assistance grants" heading of the annual appropriations act for HUD.

#### B. Suspension of Requirements

Section 231(c)(2) of the Department of Housing and Urban Development Appropriations Act, 2020 (42 U.S.C.

11364a (c)(2)) authorizes HUD to suspend consultation, citizen participation, and matching requirements for purposes of the RUSH funds so that recipients may deploy the funds quickly in response to a federally declared major disaster. Accordingly, HUD is suspending the ESG match requirements in section 416(a) of the McKinney-Vento Act and 24 CFR 576.201 for both allocations of RUSH funding. As further explained in section IV of this Notice, HUD is making limited and conditional suspensions of the consultation and citizen participation requirements for RUSH funds as follows:

(1) CoC consultation requirements in section 413(b) of the McKinney-Vento Act and 24 CFR 576.400(a):

a. Initial allocation of RUSH funds: suspended provided that the recipient publishes how it will use its allocation, at a minimum, on the internet at the appropriate government website or through electronic media. See Section IV for the specific requirements related to this publication as well as notification and communication methods.

b. Second allocation of RUSH funds: required.

(2) Consultation and citizen participations requirements under sections 105(e) and 107 of the Cranston-Gonzalez National Affordable Housing Act and 24 CFR 91.110, and 91.115:

a. Initial allocation of RUSH funds: suspended, provided that the recipient publishes how it will use its allocation, at a minimum, on the internet at the appropriate government website or through electronic media. See Section IV for the specific requirements related to this publication as well as notification and communication methods.

b. Second allocation of RUSH funds: In person or remote consultation is required; citizen participation is required with a 5-day public comment period, reduced from the otherwise applicable 30-day public comment period. The public hearing may be in person or remote.

In addition, because this suspension prevents costs paid with program income from counting toward match as provided by 24 CFR 576.201(f) and 576.407(c)(1), HUD is providing prior approval for program income to be used as provided by 2 CFR 200.307(e)(2). Accordingly, program income may be treated as an addition to the Recipient's grant (or the subrecipient's subgrant, if the income is generated by the subrecipient's activities), provided that the program income is used in accordance with the purposes and

conditions of that grant or subgrant. Otherwise, program income, as defined under 24 CFR 576.2, must be deducted from allowable costs as provided by 2 CFR 200.307(e)(1).

#### C. Regulatory Waivers

In accordance with 24 CFR 5.110 and 91.600, HUD may provide regulatory waivers upon a determination of good cause, subject to statutory limitations. A recipient may request waivers from the Department as needed to address specific needs related to its recovery activities. HUD cannot waive federal civil rights and fair housing requirements. Recipients should work with the assigned Community Planning and Development representatives to request waivers from HUD and include the following information with their request:

- (1) A description of the project;
- (2) A citation to the regulatory requirements that the recipient is seeking to have waived;
- (3) An explanation of the pertinent facts and reasons why the Secretary should determine that good cause exists for the waiver; and
- (4) A discussion of why the waiver is necessary to address the unique unmet needs of a community impacted by a disaster.

HUD may contact a recipient to obtain additional information necessary to evaluate a waiver request.

#### D. Exemption From Build America, Buy America Preference

Section 70912(4) of the *Build America, Buy America* (BABA) Act excludes pre and post disaster or emergency response expenditures from Federal financial assistance subject to the Buy America preference under BABA. Because RUSH grants can only be used for disaster response expenditures as described in this Notice, RUSH grants are not subject to BABA requirements.

#### E. Performance Reporting

RUSH recipients will be required to report on uses of the RUSH funds, in their Consolidated Annual Performance and Evaluation Report (CAPER) and through submission of project data to the Sage Homeless Management Information System (HMIS) Repository. Should a recipient need an extension of the reporting deadlines in 24 CFR 91.520(a), they may request a waiver as described in III.C. HUD may also require recipients to submit quarterly reports to HUD regarding their RUSH grants.

#### IV. Allocation and Amendment Review Process; Program Changes

The requirements at 24 CFR 576.200, as modified by this Notice, shall apply to the amendment review process for RUSH funds allocated as described in this Notice. HUD will promptly notify an eligible ESG recipient by letter when it determines an allocation is to be made available.

For the initial allocation described in this Notice, the State or local government must prepare and submit within 30 days of the initial award announcement an amendment to its most recently approved Action Plan provided under 24 CFR part 91 to include the new RUSH amount and other information described above in section II of this Notice. For the second RUSH allocation described in this Notice, the State or local government must prepare and submit within 60 days of the second allocation award announcement an amendment to its most recently approved Action Plan provided under 24 CFR part 91 to include the new RUSH amount and other information described above in section II of this Notice. The State or local government must submit the signed certifications required by 24 CFR 91.325(a) and the relevant program-specific certifications for the ESG program, as further explained in section IX of this Notice, for each amendment submission. HUD may grant an extension on the submission of the Action Plan amendment if disaster-related circumstances make it unreasonable to submit the amendments within the required timeframe, such as extended utility outages, major structural damage to personal and private properties in the declared disaster areas, or if multiple Presidentially declared disasters affect the same area over a 12-month period. Each amendment submitted to HUD to receive the RUSH funds described in this Notice will be subject to the review process set forth in 24 CFR 91.500, except that HUD will expedite its review. HUD may allow the State or local government to submit a single amendment covering both allocations depending on the timing of the allocations and extenuating circumstances.

As stated in section III.B., HUD is suspending the consultation and citizen participation requirements for the initial allocation of RUSH funds, provided a recipient publishes how it will use its allocation, at a minimum, on the internet at the appropriate government website or through other electronic media. In this publication, the recipient

must describe the activities it will fund with RUSH funds and indicate whether, as of the date of that publication, the activity has already occurred or has yet to occur. In its notification and communication methods, the recipient must also ensure effective communication with individuals with disabilities and take reasonable steps to ensure meaningful access to persons with limited English proficiency (LEP). See 24 CFR 576.407(a) and (b). See also 24 CFR 8.6 (HUD's Section 504 regulation); 28 CFR 35, Subpart E—Communications (Title II ADA regulation); 24 CFR part 1 (Title VI of the Civil Rights Act of 1964).

To make a change described in 24 CFR 576.200(b) after HUD's award of funding, including changing the allocation, distribution, or use of RUSH funds, a recipient must amend its consolidated plan as provided by 24 CFR 91.505 and 576.200(b), except that the recipient is not required to comply with any consultation or citizen participation requirements for the initial allocation of funds, provided that the recipient publishes its planned changes, at a minimum, on the internet at the appropriate government website or through other electronic media.

#### V. Eligible Costs, Including Pre-Award Costs

The requirements of 24 CFR part 576, subpart B, apply unless otherwise suspended or waived as described in this Notice. To ensure RUSH funds are used effectively and efficiently, a recipient should carefully evaluate the appropriateness and cost effectiveness of interventions needed to immediately respond to a disaster.

RUSH funds may be used to address many short-term disaster response needs. Eligible activities outlined in 24 CFR part 576 include costs under the following program components: street outreach, emergency shelter, homelessness prevention, rapid rehousing, and HMIS. However, a recipient must implement procedures to verify and document that RUSH funds are used only for needs that are not served or fully met by existing Federal disaster relief programs and that RUSH costs meet both the applicable cost principles in 2 CFR part 200, subpart E, and duplication of benefits requirements discussed in section VI below.

Importantly, in accordance with the requirements at 24 CFR 576.102, a recipient may use RUSH assistance to rehabilitate an emergency shelter damaged during the disaster. Often, insurance will cover necessary repairs and rehabilitation; however, if the

emergency shelter does not have sufficient insurance or if there is a gap in funding to repair the shelter, RUSH funds may be used to cover the costs, subject to the cost principles in 2 CFR part 200, subpart E and duplication of benefits requirements discussed in section VI below.

In accordance with 2 CFR 200.458, HUD is providing prior approval of pre-award costs, subject to the following conditions:

(1) The pre-award costs must satisfy all allowable criteria under 2 CFR 200.403, except that the pre-award costs may be incurred on any date between and including the date of HUD's letter notifying a recipient of an initial RUSH allocation and the date immediately preceding the start date of the period of performance/budget period for the grant.

(2) The pre-award costs must be necessary for efficient and timely performance of eligible RUSH activities.

(3) Before committing to use RUSH funds to reimburse each pre-award cost, a recipient must either make a written determination that the pre-award cost is for an activity that is exempt from environmental review or categorically excluded and not subject to review under related environmental laws and authorities under 24 CFR part 58 or verify that the applicable environmental review has been completed and a Request for Release of Funds has been approved in accordance with 24 CFR part 58, if applicable.

(4) Although the pre-award costs may consist of costs incurred by a recipient or its subrecipient(s), the subrecipient must receive the recipient's prior written approval before incurring any pre-award costs and that written approval must be consistent with all of HUD's conditions for prior approval of pre-award costs.

(5) The documentation supporting each pre-award cost reimbursed with RUSH funds must show compliance with each of these conditions for HUD's prior approval of pre-award costs.

(6) A recipient must assume the risk of all pre-award costs it incurs or approves before executing its RUSH grant agreement with HUD. HUD will not be required to reimburse pre-award costs if for any reason the recipient does not receive a RUSH grant, if the grant is less than anticipated and inadequate to cover such costs, or if the pre-award costs do not meet the conditions listed above.

#### **VI. Duplication of Benefits (DOB) and Agreement To Repay**

Section 312 (42 U.S.C. 5155) of the Robert T. Stafford Disaster Relief and

Emergency Assistance Act, as amended (42 U.S.C. 5121 *et seq.*) prohibits duplication of benefits for programs that provide financial assistance to people or entities suffering losses because of a major disaster or emergency.

"Duplication of benefits" occurs when Federal financial assistance is provided to a person or entity through a program to address losses resulting from a Federally-declared emergency or disaster, and the person or entity has received (or would receive, by acting reasonably to obtain available assistance) financial assistance for the same costs from any other source (including insurance), and the total amount received exceeds the total need for those costs. Recipients of RUSH funds must establish and maintain adequate procedures to prevent duplication of benefits.

#### **VII. Environmental Review Process During Emergencies Following Disasters**

Notwithstanding the provisions of 24 CFR 576.407(d), and in accordance with Sec. 100261(3) of MAP-21, activities funded as described in this Notice are subject to environmental review by responsible entities under 24 CFR part 58. "Responsible entities" (as defined in 24 CFR 58.2) must assume all of the responsibilities with respect to environmental review, decision making, and action required under 24 CFR part 58. Additionally, as required by 24 CFR 58.4(a), when a State distributes funds to a responsible entity, the State must provide for appropriate procedures by which these responsible entities will evidence their assumption of environmental responsibilities.

HUD's environmental review regulations in 24 CFR part 58 include two provisions that may be relevant to environmental review procedures for activities relating to disaster response and recovery.

The first is 24 CFR 58.34(a)(10), which provides an exemption for certain activities undertaken to control or arrest the effects from disasters or imminent threats to public safety. Emergency activities for temporary or permanent improvements that do not alter environmental conditions and that are limited to protection, repair, or restoration activities necessary only to control or arrest the effects of the disaster or imminent threats to public safety, including those resulting from physical deterioration, may be considered exempt from the environmental review process (24 CFR 58.34(a)(10)). Responsible entities must document the determination in the environmental review record and

should contact their HUD Regional Environmental Officer or Field Environmental Officer for guidance on applicability of the 58.34(a)(10) exemption, if needed.

The second is 24 CFR 58.33(b), which allows for the combined Notice of Finding of No Significant Impact (FONSI) and Notice of Intent to Request Release of Funds (NOI/RROF) to be disseminated and/or published simultaneously with the submission of the RROF. This streamlined approach applies when funds are needed on an emergency basis and adherence to separate comment periods would prevent the provision of assistance to address the immediate threat to public health and safety. The FONSI/NOI-RROF must state that (1) funds are needed on an emergency basis due to a Presidentially declared disaster or local emergency that has been declared by the chief elected official of the responsible entity; (2) the public comment and objection periods have been combined into one 15-day comment period; and (3) all comments should be submitted to both HUD and the Responsible Entity issuing the notice.

#### **VIII. Request for Public Comment**

HUD welcomes comments on all aspects of this Notice, but is especially interested in comments on the following subjects:

(1) HUD has determined that it may make an allocation of RUSH funds when FEMA activates its Transitional Sheltering Assistance (TSA) Program or Non-Congregate Sheltering (NCS). Is the activation of TSA or NCS an appropriate trigger for RUSH?

(2) As an alternative to FEMA TSA and NCS, what other analysis might HUD use to determine a significant number of housing units for people experiencing homelessness, homeless services, encampments, or other locations where people are sleeping reach the level of severity necessary to trigger a RUSH allocation.

(2) Are there specific ways, other than those identified in section II.A of this Notice, in which homeless service providers are impacted by severe disasters that HUD should consider with respect to the RUSH methodology for allocating funds?

(3) Are there costs, including pre-award costs, that are not identified in section V of this Notice, that HUD should consider allowing as eligible costs for RUSH either through regulatory waiver as provided by 24 CFR 5.110 or pre-approval as provided by 2 CFR 200.407?

(4) The Notice proposes a 2-stage allocation with thresholds to qualify for

each. Does this approach appropriately balance the need to issue RUSH funds quickly with the need to ensure the disbursement of funds reflect actual need?

(5) The initial allocation will be an amount equal to the lesser of \$3,000,000 in the case of a State and \$1,000,000 in the case of a local government or the amount determined by multiplying the number of persons experiencing sheltered or unsheltered homelessness (based on the most recent Point-in-Time count) in counties or local municipalities for which the threshold for making a first RUSH allocation is met by the Fair Market Rent for a 1-BR apartment in those areas (see Section II.A). Are there other formula factors that HUD should consider for the initial allocation amount?

(6) The Notice proposes an allocation based on the sum of two formulas, one estimating the impact on the existing population experiencing homelessness and the second estimating the potential need of “new” people experiencing homelessness (see Section II.A and B). For communities that meet the threshold for a second allocation, are there other formula factors HUD should consider in determining the second allocation amount?

(7) HUD’s plan is to allocate RUSH funding to States or local governments with the capacity to address the needs of people experiencing homelessness. What objective criteria should HUD establish to determine the appropriate grantee for RUSH allocations?

(8) How can the RUSH allocation methodology be modified to allocate resources equitably and adequately to address declared disaster areas, particularly in cases where a local government does not meet the eligibility or threshold requirements for an allocation but is most impacted by the disaster?

(9) In addition to data collected as part of the CAPER, what additional data and information should HUD collect to ensure that HUD and other stakeholders have an adequate picture of the performance and outcomes of RUSH funding?

(10) How can HUD and other Federal agencies that provide disaster assistance make it easier to comply with RUSH duplication of benefits requirements?

(11) HUD is suspending the consultation and citizen participation requirements listed in Section III.B for the initial allocation of RUSH funds and reducing the public comment to 5 days for the second allocation. Realizing that the goal is to distribute RUSH funds quickly, do these suspension conditions and limitations provide the right

balance under the circumstances or should HUD set different conditions or limitations on its suspension of consultation and citizen participation requirements?

(12) To ensure that HUD only provides a second allocation to recipients who are making adequate progress on their initial allocation, are there criteria that HUD should consider when making the second allocation to evaluate a recipient’s capacity and progress in implementing the first allocation?

(13) Are there any pre-award cost conditions described in Section V that would create a significant barrier to response and recovery efforts?

(14) Are there any revisions to this Notice that would add clarity, reduce uncertainty, and assist recipients in distributing RUSH funds and complying with RUSH requirements?

#### IX. Certifications

For purposes of all ESG funds, including RUSH funds, recipients must submit certifications as required by the McKinney-Vento Act. However, as provided under this Notice, HUD does not require RUSH funds to be matched. Therefore, the certifications required for RUSH are the same standard ESG certifications HUD requires for annual ESG appropriations, except that the match certification is removed. See Section III B.

#### X. Environmental Impact

A Finding of No Significant Impact (FONSI) with respect to the environment has been made in accordance with HUD regulations at 24 CFR part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).

The FONSI is available with the posting of this Notice on HUD’s Funding Opportunities web page at: [https://www.hud.gov/program\\_offices/spm/gmomgmt/grantsinfo/fundingopps](https://www.hud.gov/program_offices/spm/gmomgmt/grantsinfo/fundingopps).

#### Marion McFadden,

*Principal Deputy Assistant Secretary for Community Planning and Development.*

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## DEPARTMENT OF THE INTERIOR

### Bureau of Indian Affairs

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AOA501010.999900; OMB Control Number  
1076–0196]

#### Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Requests for Indian Land Title and Records Information

**AGENCY:** Bureau of Indian Affairs, Interior.

**ACTION:** Notice of information collection; request for comment.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, we, the Bureau of Indian Affairs (BIA) are proposing to renew an information collection.

**DATES:** Interested persons are invited to submit comments on or before August 19, 2024.

**ADDRESSES:** Written comments and recommendations for the proposed information collection request (ICR) should be sent within 30 days of publication of this notice to the Office of Information and Regulatory Affairs (OIRA) through [https://www.reginfo.gov/public/do/PRA/icrPublicCommentRequest?ref\\_nbr=202212-1076-001](https://www.reginfo.gov/public/do/PRA/icrPublicCommentRequest?ref_nbr=202212-1076-001) or by visiting <https://www.reginfo.gov/public/do/PRAMain> and selecting “Currently under Review—Open for Public Comments” and then scrolling down to the “Department of the Interior.”

**FOR FURTHER INFORMATION CONTACT:** To request additional information about this ICR, contact Steven Mullen, Information Collection Clearance Officer, Office of Regulatory Affairs and Collaborative Action—Indian Affairs, U.S. Department of the Interior, 1001 Indian School Road NW, Suite 229, Albuquerque, New Mexico 87104; [comments@bia.gov](mailto:comments@bia.gov); (202) 924–2650. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. You may also view the ICR at <https://www.reginfo.gov/public/Forward?SearchTarget=PRA&textfield=1076-0196>.

**SUPPLEMENTARY INFORMATION:** In accordance with the Paperwork Reduction Act of 1995 (PRA, 44 U.S.C. 3501 *et seq.*) and 5 CFR 1320.8(d)(1), we provide the general public, and other Federal agencies, with an opportunity to comment on new, proposed, revised, and continuing collections of