



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-7000

OFFICE OF COMMUNITY PLANNING
AND DEVELOPMENT

Major General James Hoyer
Office of The Adjutant General
West Virginia National Guard
1703 Coonskin Drive
Charleston, WV 25311

JUL 11 2018

Dear Major General Hoyer:

This letter provides additional guidance with respect to West Virginia's efforts to recover from the 2016 floods. The State has identified several procurement issues associated with both the project management contract executed by the State to assist in the administration of Community Development Block Grant disaster recovery (CDBG-DR) funds and several contracts with housing contractors for housing rehabilitation and reconstruction work funded through the State's CDBG-DR grant.

The requirements for the use of these funds are set forth in the *Federal Register* Notice published on November 21, 2016. The State is required to follow its own procurement policies and procedures in the use of CDBG-DR funds and is also subject to the State CDBG program requirements of 24 CFR §570.489(g). In response to the State's request for guidance, the Department has considered the statutory requirement for proficient procurement procedures, the importance of minimizing harm to flood-affected homeowners and the need to limit the impact of the identified deficiencies on future CDBG-DR funded activities.

The State has indicated verbally that it may remedy the identified deficiencies by exercising a provision of State law that authorizes the Governor to waive State procurement requirements. In evaluating use of this provision for the project management contract, HUD advises the State to narrowly limit the application of a waiver to prevent having to pay for the same goods and services under both the existing contract and a new contract. Further, if the State opts to apply this provision of State law to this contract, HUD advises the State to concurrently initiate a new procurement for project management services, if needed, or to increase its own internal capacity to perform this work.

Regarding the housing contracts, the Department similarly advises the State to expedite new competitive procurements of these contracts or to take steps to designate subrecipients to carry out housing activities. Meanwhile, to the extent feasible under a waiver authorized by State law, the Department advises the State to continue to use its existing housing contracts to complete work in cases where existing housing contractors have commenced work on the rehabilitation, construction or reconstruction of a home, or where a replacement unit for a homeowner has been ordered.

By narrowly tailoring any waiver allowed under State law, the State will be better positioned to demonstrate that overall, the State's procedures operate in a manner that provides for full and open competition.

The Department's priorities are to help expedite the provision of CDBG-DR assistance to families and communities that were impacted by the 2016 flooding while also ensuring that Federal financial resources are used in a manner that promotes public confidence. Please contact Frank McNally, Deputy Director, Disaster Recovery and Special Issues Division if you have further questions or concerns at (202) 402-7100.

Sincerely,

A handwritten signature in black ink, appearing to read "Stanley Gimont". The signature is written in a cursive, flowing style.

Stanley Gimont
Deputy Assistant Secretary
for Grant Programs