

February 21, 2023

Marion M. McFadden,
Principal Deputy Assistant Secretary for Community Planning and Development
Department of Housing and Urban Development
451 7th Street SW,
Washington, DC 20410-0500

Via Regulations.gov

Re: Request for Information for HUD's Community Development Block Grant Disaster Recovery (CDBG-DR) Rules, Waivers, and Alternative Requirements (Docket # HUD-2022-0083)

Dear Ms. McFadden,

In response to the HUD's Request for Information (RFI) on CDBG-DR, Question 8(a), we write to voice our strong support for HUD's requiring that CDBG-DR projects adhere to the current building codes and standards enumerated. These construction requirements are regularly updated through consensus-based processes to keep pace with changing technology, building science, and improved understanding of life safety risks. HUD's implementing them would promote a strong, long-term, and more uniform and equitable recovery.

Although the federal government invests billions of dollars in infrastructure annually, and [requires](#) current codes and standards for its own portfolio, the Federal Emergency Management Agency (FEMA) is the only federal entity that currently requires that federally assisted projects adhere to up-to-date building codes and standards. FEMA has [done so](#) to "increase the resilience of communities after a disaster," "protect lives and property," and to "reduc[e] the need for future Federal disaster recovery funding and other assistance."

CDBG-DR has [included](#) green construction requirements and flood mitigation measures that go above current codes/standards in certain instances. But these considerations don't speak to other hazards like wildfires, hurricanes, earthquakes, or tornadoes. Moreover, the flood mitigation provisions do not capture other important flood provisions for coastal areas within current codes, like prohibitions on slab on fill and perimeter wall/crawl space foundation types and requirements for vented breakaway walls.

While we welcome the Department's [requirement](#) that CDBG-DR action plans explain how the grantee will "support adoption and enforcement of modern and/or resilient codes" and "how mitigation measures and strategies to reduce hazard risks, including climate-related risks, will be integrated into rebuilding activities," this language is non-binding to CDBG-DR-assisted construction and subject to interpretation.¹ That's why requiring current codes within CDBG-DR's "Green and resilient building standard for new construction and reconstruction of housing" requirements is so critical.

Absent minimum requirements, CDBG-DR assisted infrastructure will be built to outdated codes and standards in many parts of the country. [Per FEMA](#), roughly 50% of communities facing wind/seismic risk have not adopted modern building codes to help mitigate these hazards. Significant swaths of the country have not adopted codes to mitigate wildfire risk. For instance, of the 13 western states with the greatest wildfire risk, as identified by Verisk's Fireline Wildfire Risk Analysis, only 4 have adopted wildfire mitigation codes statewide. First-ever tornado resilience measures will not be adopted in earnest for some

¹ [Some view](#) any construction to post-2000 era building codes as sufficiently resilient.

time. And, in recent years, 30% of new construction has taken place in communities with either no codes or codes that have not been updated in decades. Given the heterogeneity in the adoption of codes and standards across our country, if CDBG-DR does not require the latest codes, its investments in many parts of the country will lock avoidable risk into buildings with decades-long lifespans.

We know we [can expect](#) more frequent and more intense disasters in the future and that some people will face a more difficult recovery than others. [Research shows](#) that disasters hit low- and moderate-income families the hardest. Disasters strike with both a physical and a financial shock, and only about 4 in 10 Americans [can afford](#) to cover an unanticipated \$1,000 expense. That's about one-third of the average [FEMA-verified](#) (not actual) losses post-Hurricane Harvey.

[FEMA projects](#) that if all future construction adhered to current codes, the nation would avoid more than \$600 billion in cumulative losses from floods, hurricanes, and earthquakes by 2060. The National Institute of Building Sciences [estimates](#) that building to modern building codes saves \$11 for every \$1 invested through earthquake, flood, and wind mitigation benefits, while retrofitting 2.5 million homes in the wildland urban interface to wildfire codes could provide a nationwide benefit-cost ratio as high as \$8:1. These benefits represent avoided casualties, property damage, business interruptions, first responder and annual homeownership costs, and are enjoyed by all building stakeholders—from governments, developers, titleholders, and lenders, to tenants and communities. Better built buildings [minimize](#) repair and displacement costs and economic impacts following disasters, [reduce](#) the risk of loss, and have better ventilation and indoor air quality.

In recent years, the federal government has increasingly moved towards ensuring federally assisted infrastructure adheres to modern construction standards. Such an approach was advanced during the prior Administration within the federal government's [National Mitigation Investment Strategy](#)—developed by the Mitigation Federal Leadership Group of which HUD is a member—and continued by the current Administration through the [National Initiative to Advance Building Codes](#) (NIABC). The NIABC's goal is “to ensure that building activities receiving federal funding or financing will meet or exceed the latest building codes.” In the NIABC, HUD specifically committed to require “increased resilience” through prior CDBG-DR allocations and, more broadly, “resilient construction in HUD-assisted housing wherever feasible.”

HUD requiring resilient codes would align its disaster recovery and mitigation construction standards with FEMA's BRIC and Public Assistance Programs. Practitioners have been successfully implementing these requirements for the better part of a decade. In response to RFI Question 8(b), we note that implementing enhanced construction standards consistently across like programs would help the federal government reduce complexity and increase programmatic efficiency, while at the same time easing implementation and strengthening practices for contractors, architects, and engineers in the field.

Schools, hospitals, housing, childcare facilities, and other public buildings and amenities are all pillars of our communities and especially important in meeting the needs of vulnerable populations. Many of these buildings frequently serve communities as emergency shelters, which requires these facilities perform optimally and be well maintained. Ensuring they are constructed to modern codes and standards protects the people who use and occupy these structures as well as the federal government's own investment; is consistent with White House, HUD, and FEMA policy; follows the federal government's requirements for its own buildings; and enjoys widespread support from across the political spectrum.²

² Bipartisan CDBG-DR authorizing [legislation](#) previously cleared the U.S. House on the suspension calendar 290 to 118.

By requiring CDBG-DR-assisted construction at minimum adhere to modern codes and standards, HUD can ensure this needed investment is well made, better coordinated, and more equitable.

Sincerely,

AEC Science & Technology, LLC
Alliance for National and Community Resilience
American Concrete Institute
American Institute of Architects
American Property Casualty Insurance Association
American Society of Civil Engineers
American Society of Interior Designers
American Supply Association
Association of State Floodplain Managers
BuildStrong
Earthquake Engineering Research Institute
Enterprise Community Partners
EPDM Roofing Association
Federal Alliance for Safe Homes – FLASH, Inc.
Flood Mitigation Industry Association
Insurance Institute for Business & Home Safety
International Association of Fire Chiefs
International Association of Structural Movers
International Code Council
International Institute of Building Enclosure Consultants
Mason Contractors Association of America
National Association of Mutual Insurance Companies
National Association of State Fire Marshals
National Concrete Masonry Association
National Council of Structural Engineers Associations
National Institute of Building Sciences
National Ready Mixed Concrete Association
Post-Tensioning Institute
Precast/Prestressed Concrete Institute
Reinsurance Association of America
Sheet Metal and Air Conditioning Contractors National Association
Simpson Strong-Tie Company, Inc.
Slag Cement Association
Society of Fire Protection Engineers
Structural Insulated Panel Association
U.S. Resiliency Council