

[DISCUSSION DRAFT]

116TH CONGRESS
1ST SESSION

H. R. _____

To authorize the Secretary of Housing and Urban Development to provide disaster assistance to States and units of general government under a community development block grant disaster recovery program, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. GREEN of Texas introduced the following bill; which was referred to the Committee on _____

A BILL

To authorize the Secretary of Housing and Urban Development to provide disaster assistance to States and units of general government under a community development block grant disaster recovery program, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Reforming Disaster
5 Recovery Act of 2019”.

1 **SEC. 2. COMMUNITY DEVELOPMENT BLOCK GRANT DIS-**
2 **ASTER RECOVERY PROGRAM.**

3 (a) IN GENERAL.—Title I of the Housing and Com-
4 munity Development Act of 1974 (42 U.S.C. 5301 et seq.)
5 is amended by adding at the end the following new section:

6 **“SEC. 123. CDBG-DISASTER RECOVERY ASSISTANCE.**

7 “(a) AUTHORITY; USE.—The Secretary may provide
8 assistance under this section to States, units of general
9 local government, and Indian tribes for necessary expenses
10 for activities authorized under this title related to disaster
11 relief, resiliency, long-term recovery, restoration of infra-
12 structure and housing, mitigation, and economic revital-
13 ization in the most impacted and distressed areas result-
14 ing from a major disaster declared pursuant to the Robert
15 T. Stafford Disaster Relief and Emergency Assistance Act
16 (42 U.S.C. 5121 et seq.).

17 “(b) TIMING.—

18 “(1) DEADLINES FOR ALLOCATION OF
19 AMOUNTS.—Except as provided in paragraph (2),
20 after the enactment of an Act making funds avail-
21 able for assistance under this section, the Secretary
22 shall allocate for grantees, based on the best avail-
23 able data—

24 “(A) not less than one-third of funds pro-
25 vided for assistance under this section, within

1 60 days of the date of the enactment of such
2 Act; and

3 “(B) all remaining unallocated funds to be
4 provided to grantees, within 180 days of such
5 date of enactment.

6 “(2) INAPPLICABILITY OF DEADLINES BASED
7 ON INSUFFICIENT INFORMATION.—The deadlines
8 under paragraph (1) for allocation of funds shall not
9 apply in the case of funds made available for assist-
10 ance under this section if Federal Emergency Man-
11 agement Agency has not made sufficient information
12 available to the Secretary regarding relevant unmet
13 recovery needs to make allocations in accordance
14 with such deadlines.

15 “(3) DISBURSEMENT OF AMOUNTS.—Subject to
16 subsection (c)(1), the Secretary shall provide for the
17 disbursement of the amounts allocated for a grantee
18 over time in accordance with obligations of the
19 grantee, but shall require the grantee to be in sub-
20 stantial compliance with the requirements of this
21 section before each such disbursement.

22 “(c) PLAN FOR USE OF ASSISTANCE.—

23 “(1) REQUIREMENT.—Not later than 120 days
24 after the allocation pursuant to subsection (b)(1)(B)
25 of the funds made available by an appropriations

1 Act for assistance under this section and before the
2 Secretary obligates any of such funds for a grantee,
3 the grantee shall submit a plan to the Secretary for
4 approval detailing the proposed use of all funds,
5 which shall include, at a minimum—

6 “(A) criteria for eligibility and a descrip-
7 tion of how the use of such funds will address
8 disaster relief, resiliency, long-term recovery
9 and restoration of infrastructure and housing,
10 and mitigation and economic revitalization in
11 the most impacted and distressed areas;

12 “(B) identification of officials and offices
13 responsible for administering such funds and
14 identifying and recovering duplicate benefits;

15 “(C) an agreement to share data,
16 disaggregated by the smallest census tract,
17 block group, or block possible for the data set,
18 with Federal agencies and other providers of
19 disaster relief, which shall include information
20 the grantee has regarding the matters described
21 in subparagraph (B)

22 “(D) a plan for ensuring compliance with
23 the Fair Housing Act, which may include pro-
24 viding for partnerships with local fair housing
25 organizations and funding set-aside for local

1 fair housing organizations to handle complaints
2 relating to assistance with amounts made avail-
3 able for use under this section.

4 “(2) APPROVAL.—The Secretary shall, by regu-
5 lation, specify criteria for approval of plans under
6 paragraph (1), including approval of substantial
7 amendments to such plans.

8 “(3) DISAPPROVAL.—The Secretary shall dis-
9 approve a plan or substantial amendment to a plan
10 if—

11 “(A) the plan or substantial amendment
12 does not meet the approval criteria;

13 “(B) based on damage and unmet needs
14 assessments of the Secretary and the Federal
15 Emergency Management Administration or
16 such other information as may be available, the
17 plan or amendment does not provide for equi-
18 table allocation of resources—

19 “(i) between infrastructure and hous-
20 ing projects; or

21 “(ii) between homeowners, renters,
22 and persons experiencing homelessness;

23 “(C) the plan or amendment does not pro-
24 vide a credible plan for ensuring compliance
25 with the Fair Housing Act;

1 “(D) the plan or amendment does not
2 prioritize the one-for-one replacement of public
3 housing and other federally subsidized housing
4 that provides affordable housing for the lowest
5 income households; or

6 “(E) the plan or amendment does not pro-
7 vide a process to provide applicants—

8 “(i) notice by grantee of applicant’s
9 right to appeal any adverse action or inac-
10 tion;

11 “(ii) right to full discovery of appli-
12 cant’s entire application file; and

13 “(iii) right to appeal to a court of
14 competent jurisdiction in the vicinage of
15 the applicant’s residence at the time of the
16 appeal.

17 “(4) PUBLIC CONSULTATION.— In developing
18 the plan required under paragraph (1), a grantee
19 shall, at a minimum—

20 “(A) consult with affected residents, stake-
21 holders, local governments, and public housing
22 authorities to assess needs;

23 “(B) publish the plan in accordance with
24 the requirements set forth by the Secretary, in-
25 cluding a requirement to prominently post the

1 plan on the website of the grantee for not less
2 than 14 days;

3 “(C) ensure equal access for individuals
4 with disabilities and individuals with limited
5 English proficiency; and

6 “(D) publish the plan in a manner that af-
7 fords citizens, affected local governments, and
8 other interested parties a reasonable oppor-
9 tunity to examine the contents of the plan and
10 provide feedback.

11 “(5) RESUBMISSION.—The Secretary shall per-
12 mit a grantee to revise and resubmit a disapproved
13 plan.

14 “(6) TIMING.—The Secretary shall approve or
15 disapprove a plan not later than 120 days after sub-
16 mission of the plan to the Secretary.

17 “(d) FINANCIAL CONTROLS.—

18 “(1) COMPLIANCE SYSTEM.—The Secretary
19 shall develop and maintain a system to ensure that
20 each grantee has in place—

21 “(A) proficient financial controls and pro-
22 curement processes;

23 “(B) adequate procedures to ensure that
24 all eligible families and individuals are approved
25 for assistance with amounts made available

1 under this section and that recipients are pro-
2 vided the full amount of assistance for which
3 they are eligible;

4 “(C) adequate procedures to prevent any
5 duplication of benefits, as defined by section
6 312 of the Robert T. Stafford Disaster Relief
7 and Emergency Assistance Act (42 U.S.C.
8 5155), to ensure timely expenditure of funds,
9 and to detect and prevent waste, fraud, and
10 abuse of funds; and

11 “(D) adequate procedures to ensure the
12 grantee will maintain comprehensive and pub-
13 licly accessible websites that make available in-
14 formation regarding all disaster recovery activi-
15 ties assisted with such funds, which information
16 shall include—

17 “(i) full and unredacted copies of all
18 requests for qualification for assistance or
19 for procurement with such funds, however
20 styled;

21 “(ii) all responses to such requests;

22 “(iii) the identity of any individual or
23 entity that reviews, evaluates, scores, or
24 otherwise influences or determines the dis-
25 position of such requests;

1 “(iv) all reports, however styled, con-
2 taining the reviewing individual or entity’s
3 scores, findings, and conclusions regarding
4 such requests; and

5 “(v) any resulting contract, agree-
6 ment, or other disposition of such requests;
7 except that such procedures shall ensure
8 that personally identifiable information re-
9 garding recipients of assistance provided
10 from funds made available under this sec-
11 tion shall not be made publicly available.

12 “(2) CERTIFICATION.—As a condition of mak-
13 ing any grant, the Secretary shall certify in advance
14 that the grantee has in place the processes and pro-
15 cedures required under subparagraphs (A) through
16 (D) of paragraph (1).

17 “(e) USE OF FUNDS.—

18 “(1) ADMINISTRATIVE COSTS.—

19 “(A) IN GENERAL.—A State, unit of gen-
20 eral local government, or Indian tribe receiving
21 a grant under this section may use not more
22 than 10 percent of the amount of grant funds
23 received, or not more than such other percent-
24 age as may be established pursuant to subpara-
25 graph (B), for administrative costs and shall

1 document the use of funds for such purpose in
2 accordance with such requirements as the Sec-
3 retary shall establish.

4 “(B) DISCRETION TO ESTABLISH SLIDING
5 SCALE.—The Secretary may establish a series
6 of percentage limitations on the amount of
7 grant funds received that may be used by a
8 grantee for administrative costs, but only if—

9 “(i) such percentage limitations are
10 based on the amount of grant funds re-
11 ceived by a grantee;

12 “(ii) such series provides that the per-
13 centage that may be so used is lower for
14 grantees receiving a greater amount of
15 grant funds and such percentage that may
16 be so used is higher for grantees receiving
17 a lesser amount of grant funds; and

18 “(iii) in no case may a grantee so use
19 more than 10 percent of grant funds re-
20 ceived.

21 “(2) LIMITATION ON USE.—Amounts from a
22 grant under this section may not be used for activi-
23 ties reimbursable by, or for which funds are made
24 available by—

1 “(A) the Federal Emergency Management
2 Agency, including under the Robert T. Stafford
3 Disaster Relief and Emergency Assistance Act
4 or the National Flood Insurance Program; or

5 “(B) the Army Corps of Engineers.

6 “(3) HUD ADMINISTRATIVE COSTS.—

7 “(A) LIMITATION.—Of any funds made
8 available for use under this section by any sin-
9 gular appropriations Act, the Secretary may use
10 0.5 percent of any such amount exceeding
11 \$1,000,000,000 for necessary costs, including
12 information technology costs, of administering
13 and overseeing the obligation and expenditure
14 of amounts made available for use under this
15 section.

16 “(B) TRANSFER OF FUNDS.—Any amounts
17 made available for use in accordance with sub-
18 paragraph (A) shall—

19 “(i) be transferred to the account for
20 ‘Program Office Salaries and Expenses—
21 Community Planning and Development’
22 for the Department;

23 “(ii) shall remain available until ex-
24 pended; and

1 “(iii) may be used for such adminis-
2 trative costs for administering any funds
3 appropriated to the Department for any
4 disaster and related purposes in any prior
5 or future Act making funds available for
6 use under this section, notwithstanding the
7 disaster for which such funds were appro-
8 priated.

9 “(4) INSPECTOR GENERAL.—Of any funds
10 made available for use in accordance with paragraph
11 (3)(A), 10 percent shall be transferred to the Office
12 of the Inspector General for necessary costs of au-
13 dits, reviews, oversight, evaluation, and investiga-
14 tions relating to amounts made available for use
15 under this section.

16 “(5) CAPACITY BUILDING.—Of any funds made
17 available for use under this section, not more than
18 0.1 percent or \$15,000,000, whichever is less, shall
19 be made available for capacity building and technical
20 assistance, including assistance regarding con-
21 tracting and procurement processes, to support
22 grantees and subgrantees receiving funds under this
23 section.

24 “(6) COMPLIANCE WITH STORM WATER PRO-
25 TECTIONS.—The Secretary shall provide that no

1 funds made available under this section may be used
2 for construction, repair, or rehabilitation of any in-
3 frastructure unless the infrastructure assisted com-
4 plies with any minimum standards for protection
5 from floods and stormwaters, including the Federal
6 Flood Risk Management Standards of the Federal
7 Emergency Management Agency.

8 “(7) FLOOD RISK MITIGATION.—

9 “(A) REQUIREMENTS.—Subject to sub-
10 paragraph (B), the Secretary shall require that
11 any structure that is located in an area having
12 special flood hazards and that is newly con-
13 structed, for which substantial damage is re-
14 paired, or that is substantially improved, using
15 amounts made available under this section,
16 shall be elevated with the lowest floor, including
17 the basement, at least two feet above the base
18 flood level.

19 “(B) MULTIFAMILY HOUSING.—In the
20 case of structures consisting of multifamily
21 housing, the Secretary, in consultation with the
22 Administrator of the Federal Emergency Man-
23 agement Agency, shall provide for alternative
24 forms of mitigation (in addition to elevation)
25 and shall exempt from the requirement under

1 subparagraph (A) any such structure that
2 meets the standards for such an alternative
3 form of mitigation.

4 “(C) DEFINITIONS.—For purposes of sub-
5 paragraph (A), the terms ‘area having special
6 flood hazards’, ‘newly constructed’, ‘substantial
7 damage’, ‘substantial improvement’, and ‘base
8 flood level’ have the same meanings as under
9 the Flood Disaster Protection Act of 1973 and
10 the National Flood Insurance Act of 1968 (42
11 U.S.C. 4001 et seq.).

12 “(f) ADMINISTRATION.—In administering any
13 amounts made available for assistance under this section,
14 the Secretary—

15 “(1) may not allow a grantee to use any such
16 amounts for any purpose other than the purpose ap-
17 proved by the Secretary in the plan submitted under
18 subsection (c)(1) to the Secretary for use of such
19 amounts;

20 “(2) may not permit a grantee to amend a plan
21 to retroactively approve a beneficiary’s use of funds
22 for an eligible activity other than an activity for
23 which the funds were originally approved in the
24 plan; and

1 “(3) shall prohibit a grantee from delegating,
2 by contract or otherwise, the responsibility for inher-
3 ent government functions.

4 “(g) TRAINING FOR GRANT MANAGEMENT FOR SUB-
5 GRANTEES.—The Secretary shall require each grantee to
6 provide ongoing training to all staff and subgrantees.

7 “(h) PROCUREMENT PROCESSES AND PROCEDURES
8 FOR STATES.—

9 “(1) STATE PROCESSES AND PROCEDURES.—In
10 procuring property or services to be paid for in
11 whole or in part with amounts from a grant under
12 this section, a State shall—

13 “(A) follow its own procurement processes
14 and procedures, but only if the Secretary makes
15 a determination that such processes and proce-
16 dures comply with the requirements under
17 paragraph (2); or

18 “(B) comply with such processes and pro-
19 cedures as the Secretary shall, by regulation,
20 establish for purposes of this section.

21 “(2) REQUIREMENTS.—The requirements under
22 this paragraph with respect to the procurement
23 processes and procedures of a State are that such
24 processes and procedures shall—

1 “(A) provide for full and open competition
2 and require cost or price analysis;

3 “(B) include requirements for procurement
4 policies and procedures for subgrantees, based
5 on full and open competition;

6 “(C) specify methods of procurement and
7 their applicability, but not allow for cost-plus-a-
8 percentage-of cost or percentage-of-construc-
9 tion-cost methods of procurement;

10 “(D) include standards of conduct gov-
11 erning employees engaged in the award or ad-
12 ministration of contracts;

13 “(E) ensure that all purchase orders and
14 contracts include any clauses required by Fed-
15 eral Statute, Executive Order, or implementing
16 regulation.

17 “(3) NONCOMPLIANCE.—In the case of a State
18 for which the Secretary finds pursuant to paragraph
19 (1)(A) that its procurement processes and proce-
20 dures do not comply with paragraph (2), the Sec-
21 retary shall—

22 “(A) provide the State with specific written
23 notice of the elements of noncompliance and the
24 changes necessary to such processes and proce-
25 dures to provide for compliance;

1 “(B) provide the State a reasonable period
2 of time to come into compliance; and

3 “(C) during such period allow the State to
4 proceed with procuring property and services
5 paid for in whole or in part with amounts from
6 a grant under this section in compliance with
7 the procurement processes and procedures of
8 the State, but only if the Secretary determines
9 the State is making a good faith effort to effec-
10 tuate compliance with the requirements of para-
11 graph (2).

12 “(i) TREATMENT OF CDBG ALLOCATIONS.—
13 Amounts made available for use under this section shall
14 not be considered relevant to the non-disaster formula al-
15 locations made pursuant to section 106 of this title (42
16 U.S.C. 5306).

17 “(j) WAIVERS.—

18 “(1) AUTHORITY.—Subject to the other provi-
19 sions of this section, in administering amounts made
20 available for use under this section, the Secretary
21 may waive, or specify alternative requirements for,
22 any provision of any statute or regulation that the
23 Secretary administers in connection with the obliga-
24 tion by the Secretary or the use by the recipient of
25 such funds (except for requirements related to fair

1 housing, nondiscrimination, labor standards, and the
2 environment and except for the requirements of this
3 section), if the Secretary makes a public finding that
4 good cause exists for the waiver or alternative re-
5 quirement and such waiver or alternative require-
6 ment would not be inconsistent with the overall pur-
7 pose of this title.

8 “(2) NOTICE AND PUBLICATION.—Any waiver
9 of or alternative requirement pursuant to paragraph
10 (1) shall not take effect before the expiration of the
11 5-day period beginning upon the publication of no-
12 tice in the Federal Register of such waiver or alter-
13 native requirement.

14 “(3) LOW- AND MODERATE-INCOME USE.—A
15 waiver pursuant to paragraph (1) may not reduce
16 the percentage of funds that must be used for activi-
17 ties that benefit persons of low and moderate income
18 to less than 70 percent, unless the Secretary specifi-
19 cally finds that there is compelling need to further
20 reduce the percentage requirement and that funds
21 are not necessary to address the housing needs of
22 low- and moderate-income residents.

23 “(4) PROHIBITION.—The Secretary may not
24 waive any provision of this section pursuant to the
25 authority under paragraph (1).

1 “(k) ENVIRONMENTAL REVIEW.—

2 “(1) ADOPTION.—Notwithstanding subsection
3 (j)(1), recipients of funds provided under this section
4 that use such funds to supplement Federal assist-
5 ance provided under section 402, 403, 404, 406,
6 407, 408(c)(4), 428, or 502 of the Robert T. Staf-
7 ford Disaster Relief and Emergency Assistance Act
8 (42 U.S.C. 5121 et seq.) may adopt, without review
9 or public comment, any environmental review, ap-
10 proval, or permit performed by a Federal agency,
11 and such adoption shall satisfy the responsibilities of
12 the recipient with respect to such environmental re-
13 view, approval, or permit under section 104(g)(1) of
14 this title (42 U.S.C. 5304(g)(1)).

15 “(2) RELEASE OF FUNDS.—Notwithstanding
16 section 104(g)(2) of this title (42 U.S.C.
17 5304(g)(2)), the Secretary may, upon receipt of a
18 request for release of funds and certification, imme-
19 diately approve the release of funds for an activity
20 or project assisted with amounts made available for
21 use under this section if the recipient has adopted
22 an environmental review, approval or permit under
23 paragraph (1) or the activity or project is categori-
24 cally excluded from review under the National Envi-

1 ronmental Policy Act of 1969 (42 U.S.C. 4321 et
2 seq.).

3 “(1) COLLECTION OF INFORMATION; AUDITS AND
4 OVERSIGHT.—

5 “(1) COLLECTION OF INFORMATION.—For each
6 major disaster for which assistance is made available
7 under this section, the Secretary shall collect infor-
8 mation regarding all recovery efforts so assisted and
9 shall make such information available to the public
10 and to the Inspector General for the Department of
11 Housing and Urban Development, and shall report
12 to the Congress regarding such efforts. Information
13 collected and reported shall be disaggregated by
14 race, income, geography, and all protected classes of
15 individuals under the Robert T. Stafford Disaster
16 Relief and Emergency Assistance Act, the Americans
17 with Disabilities Act of 1990, the Fair Housing Act,
18 the Civil Rights Act of 1964, and other civil rights
19 and nondiscrimination protections.

20 “(2) AVAILABILITY OF INFORMATION.— In car-
21 rying out this paragraph, the Secretary may make
22 full and unredacted information available to aca-
23 demic and research institutions for the purpose of
24 research into the equitable distribution of recovery

1 funds, adherence to civil rights protections, and
2 other areas.

3 “(3) PROTECTION OF INFORMATION.—The Sec-
4 retary shall take such actions as may be necessary
5 to ensure that personally identifiable information re-
6 garding recipients of assistance provided from funds
7 made available under this section shall not made
8 publicly available.

9 “(4) AUDITS AND OVERSIGHT.—In conducting
10 audits, reviews, oversight, evaluation, and investiga-
11 tions, in addition to activities designed to prevent
12 and detect waste, fraud, and abuse, the Inspector
13 General shall review programs of grantees under this
14 section for providing disaster relief and recovery as-
15 sistance to ensure such programs fulfill their pur-
16 poses and serve all eligible applicants for disaster re-
17 lief or recovery assistance.

18 “(m) PRE-CERTIFICATION FOR UNITS OF GENERAL
19 LOCAL GOVERNMENT.—

20 “(1) IN GENERAL.—The Secretary shall carry
21 out a program under this subsection to provide for
22 units of general local government to pre-certify as el-
23 igible grantees for assistance under this section.

1 “(2) REQUIREMENTS.—To be eligible for pre-
2 certification under the program under this sub-
3 section a unit of general local government shall—

4 “(A) demonstrate to the satisfaction of the
5 Secretary compliance with the requirements of
6 this section; and

7 “(B) have previously received assistance as
8 a grantee or subgrantee under this section, or
9 with amounts made available for the Commu-
10 nity Development Block Grant—Disaster Re-
11 covery account, in connection with two or more
12 major disasters declared pursuant to the Robert
13 T. Stafford Disaster Relief and Emergency As-
14 sistance Act (42 U.S.C. 5121 et seq.).

15 “(3) DURATION.—Pre-certification under the
16 program under this subsection shall be effective for
17 a term of 10 years.

18 “(n) DEPOSIT OF UNUSED AMOUNTS IN FUND.—

19 “(1) IN GENERAL.—If any amounts made avail-
20 able for assistance under this section to grantees re-
21 main unexpended upon the earlier of—

22 “(A) the date that the grantee of such
23 amounts notifies the Secretary that the grantee
24 has completed all activities identified in the
25 grantee’s plan for use of such amounts that was

1 approved by the Secretary in connection with
2 such grant; or

3 “(B) the expiration of the 6-year period
4 beginning upon the Secretary obligating such
5 amounts to the grantee, as such period may be
6 extended pursuant to paragraph (2), the Sec-
7 retary shall transfer such unexpended amounts
8 to the Secretary of the Treasury for deposit
9 into the Community Development Block Grant
10 Disaster Recovery Reserve Fund established
11 under section 124, except that the Secretary
12 may, by regulation, permit the grantee to retain
13 amounts needed to close out the grant.

14 “(2) EXTENSION OF PERIOD FOR USE OF
15 FUNDS.—The period under paragraph (1)(B) shall
16 be extended by not more than 3 years if, before the
17 expiration of such 6-year period, the Director of the
18 Office of Management and Budget, upon a request
19 by the Secretary, waives this requirement and sub-
20 mits a written justification for such waiver to the
21 Committees on Appropriations of the House of Rep-
22 resentatives and the Senate that specifies the period
23 of such extension.

1 **“SEC. 124. COMMUNITY DEVELOPMENT BLOCK GRANT DIS-**
2 **ASTER RECOVERY RESERVE FUND.**

3 “(a) ESTABLISHMENT.—There is established in the
4 Treasury of the United States an account to be known
5 as the Community Development Block Grant Disaster Re-
6 covery Reserve Fund (in this section referred to as the
7 ‘Fund’).

8 “(b) AMOUNTS.—The Fund shall consist of any
9 amounts appropriated to or deposited into the Fund, in-
10 cluding amounts deposited into the Fund pursuant to sec-
11 tion 123(n).

12 “(c) USE.—Amounts in the Fund shall be available
13 only for providing assistance under section 123, but only
14 to the extent provided in advance in appropriations Acts.”.

15 (b) REGULATIONS.—Not later than the expiration of
16 the 12-month period beginning on the date of the enact-
17 ment of this Act, the Secretary of Housing and Urban
18 Development shall issue regulations to carry out sections
19 123 and 124 of the Housing and Community Development
20 Act of 1974, as added by the amendment made by sub-
21 section (a) of this section.