



March 11, 2024

U.S. Department of Housing and Urban Development  
Regulations Division, Office of General Counsel  
451 7th Street SW, Room 10276  
Washington, DC 20410–0500

*Via regulations.gov*

**Re: “Submission for Community Development Block Grant Program, Consolidated Plans, and Indian Community Development Block Grant Program Changes,” Docket No. HUD-2024-0002**

The International Code Council (“ICC” or “Code Council”) is a nonprofit organization – with more than 60,000 members – dedicated to helping communities and the building industry provide safe, resilient, and sustainable construction through the development and use of model codes and standards used in design, construction, and compliance processes. Most U.S. states and communities, federal agencies, and many global markets choose the International Codes (I-Codes) to set the standards for regulating construction, building safety, and major renovations, plumbing and sanitation, fire prevention, and energy conservation in the built environment.

The Code Council appreciates the opportunity to submit the following comments in response to the U.S. Department of Housing and Urban Development’s (HUD) request for comments on the proposed program changes to the Community Development Block Grant (CDBG) program. However, as the proposed rule (PR) shifts preference away from general programming for community development in favor of economic development<sup>1</sup>, HUD’s partiality to larger brick and mortar projects over soft costs, including improved code enforcement for example<sup>2</sup>, is misaligned with the program’s overall intentions.<sup>3</sup> Further, the promotion of efficient code enforcement is consistent with the National Initiative to Advance Building Codes (NIABC), announced in June 2022 to accelerate the consistent adoption and application of modern building codes across programs administered by federal departments and agencies.<sup>4</sup>

---

<sup>1</sup> “This Proposed Rule enables the Federal Government to continue bolstering economic recovery through job creation while addressing economic inequities, by, for example, strengthening small businesses and investing in enduring job opportunities in underserved communities.” II. Background, Lessons Learned from the COVID-10 Pandemic, HUD, [89 FR 1746](#), p. 22 (January 10, 2024).

code enforcement, administration, planning, public services, and salaries for activity delivery, and less funds directly assisting major brick-and-mortar activities. HUD’s observations and grantee feedback indicate that HUD’s enforcement of the existing timeliness standard has resulted in pressuring grantees’ local funding decisions away from large brick-and-mortar activities, which characteristically deliver greater benefits but require longer expenditure timeframes”, D. Addressing Poor Performance, Timely Performance § 570.902, HUD, [89 FR 1746](#), p. 92 (January 10, 2024).

<sup>3</sup> Code enforcement is listed as a primary objective regarding “Decent housing, suitable living environment”, Community Development, Congressional Findings and Declaration of Purpose, [42 U.S.C. 5301\(c\)\(2\)](#).

<sup>4</sup> The White House, [FACT SHEET: Biden-Harris Administration Launches Initiative to Modernize Building Codes, Improve Climate Resilience, and Reduce Energy Costs](#) (June 1, 2022).

Separately, we commend HUD for taking steps to update the regulations for Consolidated Plans and to further incorporate resilience measures into the base CDBG program through the long-overdue implementation of the *Tornado Shelters Act of 2003* (Pub. L. 108-146).

### **Tornado Safe Shelters**

As HUD seeks to address the CDBG eligibility for the purchase and/or construction of tornado shelters in certain manufactured housing communities, it is disconcerting that the formal action has taken more than 20 years. The aforementioned *Tornado Shelters Act of 2003* directs consultation with the Federal Emergency Management Agency (FEMA) on standards for construction and safety but does not expressly name standards for construction. Consistent with FEMA's current safe room guidelines<sup>5</sup>, the Code Council encourages HUD to require design and construction to the most recently published edition of the ICC-500: *Standard for the Design and Construction of Storm Shelters*.<sup>6</sup> For installation of prefabricated storm shelters, HUD should require the units be listed and labeled as certified in compliance with ICC-500.<sup>7</sup>

### **Response to Question #8: Feedback from the public on whether it would be appropriate to apply the proposed new timeliness requirements for entitlements to States.**

The proposal to change the timing requirements is problematic as it inappropriately seeks preference of large-scale construction projects by using the unsupported characterization that they are “more transformative” and have more long-term impact than “soft” expenditures or “local activity choices,” in which “code enforcement” is listed first as an example. The PR also states that the CDBG program “emphasize[s] development of viable urban communities by providing suitable living environments” and implies that activities such as a code enforcement do not generate lasting improvements and undercuts the purpose of the act.

Since 2001, HUD has awarded just shy of three-percent of traditional CDBG formula funding for improved building code compliance.<sup>8</sup> According to HUD, these investments (1) “ensure the health, safety, and protection of the public in the construction and occupancy of buildings” by addressing “structural integrity, fire resistance, lighting, electrical, plumbing, sanitary facilities, ventilation, and seismic design;” (2) “improve the value of the residential units;” and (3) “reduce crime in a neighborhood.”<sup>9</sup> These are all examples of long-term community impacts that provide suitable living environments. In contrast, HUD requires no minimum building code requirements for CDBG-funded projects, at a time when FEMA tracking has found that nearly two-thirds of communities facing hazard risk have not adopted modern, hazard resistant codes.<sup>10</sup> HUD's proposed prioritization of standardless construction projects does not represent sound stewardship of federal tax dollars.

Modern model codes promote affordable housing and resilient communities by reducing the risk of both natural and technological hazards, lowering insurance premiums, and reducing utility bills. A 2019 FEMA-funded study by the congressionally-established National Institute of Building Sciences (NIBS) found that up to date model building codes save \$11 for every \$1 invested through earthquake, flood, and wind mitigation benefits, with up to \$8 to \$1

---

<sup>5</sup> U.S. Department of Homeland Security/FEMA, [Safe Room Publications and Resources](#) (accessed: March 2024).

<sup>6</sup> ICC Digital Codes, [2023 ANSI/ICC-500: Standard for the Design and Construction of Storm Shelters](#) (Accessed: March 2024).

<sup>7</sup> ICC-NTA, [Storm Shelter and Components Testing](#) (accessed: March 2024).

<sup>8</sup> HUD, [National Expenditure Reports \(FY 2001 - FY 2023\)](#), All CDBG Disbursements (Excel file, accessed: March 2024).

<sup>9</sup> HUD, [Use of CDBG Funds for Code Enforcement Activities, CPD-14-016](#) (October 2014).

<sup>10</sup> FEMA, [Building Codes Save: A Nationwide Study](#) (November 2020).

returns on wildfire mitigation benefits.<sup>11</sup> These benefits represent avoided human casualties, property damage, business interruptions, first responder expenses, and insurance pay-outs, and are enjoyed by all building stakeholders – from developers, titleholders, and lenders, to tenants and communities.

There are years of disaster recovery and billions of dollars in taxpayer funding that could have been avoided with more consistent and frequent consideration of the I-Codes, whether it is application for new construction through use of the International Building Code (IBC), International Residential Code (IRC), or for revitalization through the International Existing Building Code (IEBC) or the International Property Maintenance Code (IPMC). FEMA's 2020 report "Building Codes Save: A Nationwide Study," has found that adopting the current I-Codes would save the U.S. \$600 billion dollars over the next four decades.<sup>12</sup> Over the last three award cycles of FEMA's pre-disaster mitigation program – Building Resilient Infrastructure and Communities (BRIC) – the Agency has encouraged the adoption and implementation of building codes as a "low cost, high impact" mitigation strategy. Emphasis on the importance of well implemented and enforced codes was promoted further in the recently closed Fiscal Year 2023 BRIC cycle through the creation of a dedicated "Codes Plus Up" set aside for all states, territories, and tribal governments.<sup>13</sup>

During the prior administration, the Building Codes Task Force of the interagency Mitigation Framework Leadership Group (MitFLG) issued the 2019 National Mitigation Investment Strategy. The MitFLG – chaired by FEMA and comprised of HUD, another 12 federal agencies and departments as well as state, tribal, and local officials – made several recommendations concerning the use, enforcement, and adoption of building codes, including: "[a]rchitects, engineers, builders, and regulators should use the latest building codes for the most up-to-date requirements for structural integrity, mechanical integrity, fire prevention, and energy conservation," and "[u]p-to-date building codes and standard criteria should be required in federal and state grants and programs."<sup>14</sup>

Considering any investment in projects without first considering building codes and standards is arguably undercutting the purpose of the CDBG program.

For several years, HUD has required CDBG Disaster Recovery (CDBG-DR) applicants demonstrate in their action plans how they will support the adoption of resilient building codes.<sup>15</sup> Through CDBG Mitigation (CDBG-MIT) funding, HUD seeks to "support the adoption" of the "latest edition of the published disaster-resistant building codes and standards," though ultimately does not require it. Finally, HUD must ensure that any emerging techniques, technologies, or products are code compliant and do not put those in need of the accessible features at greater risk during an emergency or disaster situation.

HUD could support the greater adoption, use, and application of current building codes by (1) continuing to fund code adoption and enforcement through CDBG, CDBG-DR, and CDBG-MIT; (2) applying the Department's CDBG-DR required applicant commitment to updating codes to CDBG, CDBG-MIT and expanding this requirement to include adequate code compliance; (3) requiring HUD-funded infrastructure investments (across CDBG, CDBG-DR, and CDBG-MIT) adhere to current building codes and standards; and (4) providing additional funds to CDBG, CDBG-DR,

---

<sup>11</sup> NIBS, [Natural Hazard Mitigation Saves: 2018 Interim Report](#) (January 2019).

<sup>12</sup> FEMA, [Building Codes Save: A Nationwide Study](#) (November 2020).

<sup>13</sup> FEMA, [FEMA Fiscal Year 2023 Program Support Material: Building Resilient Infrastructure and Communities Building Code Activities](#) (November 2023).

<sup>14</sup> MitFLG, [National Mitigation Investment Strategy](#) (August 2019).

<sup>15</sup> HUD, Allocations, Common Application, Waivers, and Alternative Requirements for 2017 Disaster Community Development Block Grant Disaster Recovery Grantees, [83 FR 5844](#), (February 9, 2018); Notice of National Disaster Resilience Competition Grant Requirements, [81 FR 36557](#) (June 7, 2016); Allocations, Common Application, Waivers, and Alternative Requirements for Grantees Receiving Community Development Block Grant (CDBG) Disaster Recovery Funds in Response to Hurricane Sandy, [78 FR 14329](#) (March 5, 2013).

and CDBG-MIT recipients based on their adoption and application of the most recent edition of the codes. HUD should require additional attention to these code actions in the Consolidated Plans. Fulfilling these recommendations would further the NIABC and is also consistent with actions FEMA has taken in recent years through implementation of its Building Code Strategy. As of 2022, FEMA requires State Hazard Mitigation Plans to include building codes, including enforcement activities. FEMA's Local Hazard Mitigation Plan guidelines require jurisdictions to include a discussion of the existing building codes and capabilities needed to improve.

### **Conclusion**

HUD's actions to update the CDBG program should take more care to protect the overall investment and better promote the adoption and enforcement of codes and standards rather than favoring large scale construction projects that may be built to outdated standards, or none at all. Consistent with FEMA's requirements, implementation of the *Tornado Shelter Act* should also require design and construction of storm shelters to the most recent edition of the ICC-500 standard.

---

Thank you for the opportunity to provide comments. If you have any questions concerning the Code Council's recommendations, please do not hesitate to contact me.

Sincerely,

Lisa Berger  
Government Relations Manager  
International Code Council