



OFFICE OF COMMUNITY PLANNING  
AND DEVELOPMENT

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

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Special Attention of:

Notice CPD-20-04

All CPD Formula Program Grantees  
All CPD Field Office Directors

Issued: May 6, 2020  
Expires: This Notice remains in effect  
until amended, superseded, or  
rescinded.

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**SUBJECT:** Incorporating Consideration of Broadband Needs and Resilience to Natural Hazards  
into the Consolidated Plan

## **PURPOSE**

The U.S. Department of Housing and Urban Development (HUD) published a Final Rule amending 24 CFR Part 91 to require grantees to incorporate the consideration of resilience to natural hazards and broadband needs into the consolidated planning process. The Rule, issued in the Federal Register on December 16, 2016 (81 FR 90997), provided that the new requirements apply for a consolidated plan submitted on or after January 1, 2018. The regulations describe how CPD grantees should consider resilience to natural hazards and broadband needs and require grantees to include information from their analysis in the consolidated plan. This Notice summarizes the requirements and provides information regarding resources available to support the required planning. This guidance does not cover or affect other pre-existing consolidated plan requirements under 24 CFR Part 91.

## **OVERVIEW**

For any consolidated plan submitted on or after January 1, 2018, each state and local government must evaluate 1) the availability of broadband access, and 2) the vulnerability of housing occupied by low- and moderate-income households to natural hazard risks. Grantees are required to incorporate the broadband and resilience components into their Consolidated Plan process no later than September 15, 2020 or 270 days from the enactment of the Further Consolidated Appropriations Act, 2020 [P.L. 116-94].

HUD's consolidated plan is a planning mechanism designed to help states and local grantees assess their affordable housing and community development needs and to set informed priorities for actions and uses of funds. The consolidated plan regulations have been amended to require that jurisdictions consider two additional topics. The first topic is the need for broadband access for low- and moderate-income households. Broadband is the common term used to refer to a high speed, always-on connection to the Internet. The second topic is needs for resilience to natural hazard risks, taking care to anticipate how risks will increase due to changing environmental

conditions. For either topic, if the evaluations demonstrate need, the grantee must consider how to address that need, including considering the use of HUD funds.

Each grantee must evaluate increased vulnerability to natural hazard risks due to environmental conditions. State or local government will determine whether such risks exist, and, if the grantee determines risks exist, what actions, if any, should be taken to address them. In reviewing the evaluation, HUD's judgment will not substitute for the jurisdiction's determination.

Grantees should conduct evaluations using readily available data sources developed by Federal government agencies, other available data and analyses (including State, Tribal, and local hazard mitigation plans that have been approved by the Federal Emergency Management Agency (FEMA)), and data that State and local government grantees may have available to them.

For broadband, the Rule provides some recommended (not required) data sources, such as Federal Communications Commission (FCC) Form 477. This form is a semi-annual reporting mechanism designed to determine the extent of local competition and deployment of broadband services, and provides detailed information of each census block serviced. It can be found at <https://www.fcc.gov/general/broadband-deployment-data-fcc-form-477>.

For environmental and hazard risks, possible sources include the State's or jurisdiction's FEMA-approved hazard mitigation plan and the Community Resilience Planning Guide for Buildings and Infrastructure Systems prepared by the National Institute of Standards and Technology (NIST).

**HUD stated in the preamble to the Rule that it would not require a grantee to incorporate these new requirements into its consolidated plan process until HUD is able to make the data available to all grantees.** Given that HUD does not have the resources available to purchase and maintain duplicative data sets, HUD is instead issuing technical assistance resources, available on hudexchange, explaining how a grantee may integrate available broadband or resilience datasets with other data resources offered through CPDMaps. Relevant data are available at [FCC.gov](https://www.fcc.gov), at [NIST.gov](https://www.nist.gov), and at [FEMA.gov](https://www.fema.gov). Grantees have already submitted consolidated plans including broadband and resilience elements, relying on local consultation and this and other available data.

The regulations do not mandate that actions be taken to address broadband needs or natural hazard mitigation. HUD's consolidated plan process has long provided that a jurisdiction is in the best position to decide how to invest its HUD funds. The required analysis and consultation may highlight needs that grantees can address to create economic opportunities, but HUD leaves it to jurisdictions to consider any appropriate methods and to choose any appropriate actions.

## **CONSULTATION & CITIZEN PARTICIPATION**

Under the consolidated plan regulations, "consultation" refers to the process of consulting with community development and affordable housing stakeholders, and other possible partner organizations. "Citizen participation" refers to the notifications, hearings, records access, and

opportunity for comment afforded to local citizens. The purpose of both processes is to assist a grantee with identifying its housing and community development needs to inform its actions and investments.

For States and local grantees, the *consultation* requirements were updated and must include four additional stakeholder categories (§91.100 and §91.110):

- Public or private broadband internet service providers,
- Public or private organizations engaged in narrowing the digital divide,
- Agencies whose primary responsibilities include the management of flood prone areas, public land, or water resources, and
- Emergency management agencies.

Similarly, the *citizen participation* requirements were also amended (§91.105 and §91.115). The list of citizens and organizations the rule requires grantees to encourage to participate in developing its consolidated plan was expanded to include:

- For broadband:
  - public and private organizations, including broadband internet service providers, and organizations engaged in narrowing the digital divide, and
- For resilience:
  - agencies whose primary responsibilities include the management of flood prone areas, public land, or water resources, and
  - emergency management agencies

A grantee must identify agencies, groups, organizations and others who participated in the planning process and describe its consultations in the consolidated plan in accordance with the requirements at §91.200 and §91.300.

## **HOUSING MARKET ANALYSIS**

The consolidated plan regulations at §91.210 and §91.310 have been updated to require grantees to include a description of broadband needs and vulnerability to natural hazard risks in the jurisdiction's housing market analysis. The requirements for jurisdictions and states are similar, not identical, and are described below.

### Local Government Requirements:

For the broadband topic, commencing with consolidated plans submitted on or after January 1, 2018, a local jurisdiction must also describe:

- The broadband needs of housing occupied by low- and moderate-income households based on an analysis of data, identified by the jurisdiction, for its low- and moderate-income neighborhoods.
- The Rule states that broadband needs include:

- the need for broadband wiring and for connection to broadband service in the household units, and
- the need for increased competition by having more than one Internet service provider serve the jurisdiction.

For the resilience topic, commencing with consolidated plans submitted on or after January 1, 2018, a local jurisdiction must also describe:

- The vulnerability of housing occupied by low- and moderate-income households to increased natural hazards associated with changing environmental conditions.
- The analysis of data, findings, and methods used by the jurisdiction to analyze this vulnerability.

State Government Requirements:

For the broadband topic, commencing with consolidated plans submitted on or after January 1, 2018, a jurisdiction must also describe:

- The broadband needs of housing in the State based on an analysis of data, identified by the jurisdiction.
- The Rule states that broadband needs include:
  - the need for broadband wiring and for connection to broadband service in the household units, and
  - the need for increased competition by having more than one Internet service provider serve the jurisdiction.

For the resilience topic, commencing with consolidated plans submitted on or after January 1, 2018, a jurisdiction must also describe:

- The vulnerability of housing occupied by low- and moderate-income households to increased natural hazards associated with changing environmental conditions.
- The analysis of data, findings, and methods used by the jurisdiction to analyze this vulnerability.

**INFORMATION RESOURCES**

Other resources to consider include those on the HUD Exchange website. Links to HUD created content are provided below. The website also includes peer created and approved content, including local broadband access assessments, that may be found by searching the site using the term “broadband”.

- CDBG Mitigation Notice

<https://files.hudexchange.info/resources/documents/FR-6109-N-02-CDBG-Mitigation-Notice.pdf>

- HUD Community Resilience Toolkit  
<https://www.hudexchange.info/resource/5981/community-resilience-toolkit/>
- HOME program broadband FAQs  
<https://www.hudexchange.info/onecpd/assets/File/HOME-FAQs-Broadband.pdf>
- CDBG program broadband FAQs  
<https://www.hudexchange.info/resource/4891/cdbg-broadband-infrastructure-faqs/>
- Housing Trust Funds FAQs, pages 9-11  
<https://www.hudexchange.info/resources/documents/HTF-FAQs.pdf>
- CPD Maps  
<https://egis.hud.gov/cpdmaps/>

## **PLAN REVIEW CONSIDERATIONS §91.500**

Under 24 CFR 91.500, HUD may disapprove a plan or a portion of a plan if it is substantially incomplete. A plan is substantially incomplete if:

- The consolidated plan does not document that the plan was developed with the required citizen participation and the required consultation, or
- The consolidated plan does not satisfy all the required elements.

In this context, “satisfy” means to fulfill or meet. Any state or jurisdiction that describes specified broadband needs and vulnerabilities to increased natural hazard risks to housing occupied by low- and moderate-income households, but does not identify the data, findings, and methods it used for its analysis, is likely to have a substantially incomplete plan since this information is required by the plain language of the regulation. However, if a jurisdiction or state documents genuine consideration of reputable data and resources related to possible increased risk related to changing environmental conditions, HUD will not pre-determine the conclusions of the local analysis or direct particular subsequent local priorities or actions.

## **GENERAL CONSOLIDATED PLAN RESOURCES**

CPD has developed a variety of resources to assist grantees in completing the consolidated plan process in the e-Con Planning Suite. Detailed screen specific instructions are available on the HUD Exchange at <https://www.hudexchange.info/programs/consolidated-plan/>.

## **CONTACT INFORMATION**

Grantees that have questions and comments on other aspects of this Notice should contact their HUD CPD Field Office Representative. Field Offices should direct inquiries and comments to James Höemann, Director, Entitlement Communities Division, at 202-402-5716.