



ASSOCIATION OF STATE FLOODPLAIN MANAGERS, INC.

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ASFPM Comments on July 18, 2016

Modernizing HUD's Consolidated Planning Process to Narrow the Digital Divide and Increase Resilience to Natural Hazards.

HUD's Consolidated Plan is a planning mechanism designed to help states and local governments assess their affordable housing and community development needs and to make data-driven, place-based investment decisions. The consolidated planning process serves as the framework for a community-wide dialogue to identify housing and community development priorities that align and focus funding from HUD's formula block grant programs.

The proposed rule amends HUD's Consolidated Plan regulations to require that jurisdictions consider two additional concepts in their consolidated planning efforts: natural hazard risk to promote resilience and broadband access.

The Association of State Floodplain Managers is providing comments on the requirement that community's consolidated plans include assessment and consideration of the vulnerability of housing occupied by elderly, minority and low- to moderate-income households to natural hazards risk to promote community resilience to natural hazards

Key Background points on HUD's Consolidated Plan:

1. HUD's Consolidated Plan process, established by regulation in 1994, provides a comprehensive planning process for HUD programs administered by HUD's Office of Community Planning and Development (CDBG, HOME, ESG and HOPWA).
2. More than 1,200 states and localities submit Consolidated Plans to HUD on a 3-5 year cycle.

Key points of Proposed Rule related to natural hazard resilience

1. The proposed rule would require an assessment of natural hazard risks into development of the plan, including taking care to anticipate how risks will increase due to climate change, in order to begin addressing impacts to low- and moderate-income residents.
2. The proposed rule would require jurisdictions consult internal and external agencies whose primary responsibilities include the management of natural hazard areas, including flood-prone areas, public land or water resources, and emergency management agencies.

Dedicated to reducing flood risk and losses in the nation.

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ASFPM's Position:

ASFPM strongly supports the proposed rule with some suggestions we believe will add to community resilience in those communities using the subject HUD programs and taxpayer funding.

There is no doubt these HUD programs provide critically needed assistance to communities. However, it is also critical that federal taxpayer dollars be spent with due consideration of current and future risk from natural hazards. Without these considerations, the taxpayers will be faced with spending additional dollars to repair, replace or otherwise address these same areas in these same communities in the future. We have all seen the increased intensity of storms and rainfall leading to increased flooding and taxpayer funded disaster relief. With full consideration of current and future natural hazard risks, lives, property and taxpayer investments will be protected and community resilience enhanced. The importance of the proposed rule is even greater when considering many areas subject to natural hazards are occupied by elderly, minority and low- to moderate-income households with a challenged ability to reduce their risk and recover from natural disasters.

ASFPM supports the proposed amendment to specify local governments and states must consult with other agencies and organizations whose primary responsibilities include the management of flood-prone areas, public lands or water resources and emergency management agencies in the process of developing the consolidated plan. We also support the guidance for the community to consider ways to incorporate hazard mitigation and resilience into their community planning and development goals, codes and standards.

Furthermore, we support the requirement that the jurisdiction assess the natural hazards risk to at-risk residents based on analysis of best available data. The rule cites numerous places to obtain that data. The use of a planning horizon is not clear, although the rule does reference some reports that use a horizon up to 2100, including the FEMA report that has projections at 20-year intervals up to 2100. We urge communities to use a planning horizon consistent with the useful life of the investment being made. For example, if a federal investment is made in residential housing, the effective life of that building is more than 100-years according to demographers. Therefore, a planning horizon of 2100 is logical. For other investments such as commercial buildings, the effective life may be in the 25-50 year range. We note that for planning purposes, an investment's effective life is more important to use than its design life. Too often our investments – especially public infrastructure – are pushed to provide services far beyond their design life.

While the proposed rule correctly requires consultation of officials who manage flood-prone areas and requires the jurisdiction to provide an assessment of natural hazard risk to LMI residents, there is no requirement, should the assessment show moderate or major impacts of natural hazards risk to LMI residents, to incorporate mitigation or resiliency measures into either the action plan or strategic plan (the proposed rule explicitly states it is not mandating jurisdictions take actions in either of these areas). Why not? ASFPM is disappointed there is not a requirement for actions to be taken and believes there should be a much stronger attempt to compel states and communities to take action to improve natural hazard resilience to protect federal taxpayer investments – not merely just require an assessment of it. Initially, at-risk states and communities could be taking steps towards action through the update of its



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strategic plan and inclusion of building community resiliency as a required issue/element. Or, there could be a requirement that specific items must be included in the action plan.

Sections 2 (ii) and (iii) of Executive Order 13653 state: ...reform policies and federal funding programs that may, perhaps unintentionally, increase the vulnerability of natural or built systems, economic sectors, natural resources, or communities to climate change related risks; identify opportunities to support and encourage smarter, more climate resilient investments by states, local communities, and tribes, including by providing incentives through agency guidance, grants, technical assistance, performance measures, safety considerations, and other programs.... If HUD is reluctant to mandate actions be taken in either the strategic plan or action plan, then HUD should at least consider incentives to induce action as part of funding/prioritization decisions, and/or require reporting on any progress towards community resilience in the Consolidated Annual Performance and Evaluation Report.

Resilience is a term that means many things to many people. ASFPM recommends that a definition of resiliency be included in 24 CFR 91. ASFPM supports, as do many other organizations, the definition of resilience created by the National Academies.

Finally, the proposed rule invites public comments specifically on the need for post-disaster review and the possibility of requiring a reevaluation at the final rule stage. ASFPM fully supports this being a requirement. Our members, having been significantly involved in hazard mitigation planning, know a disaster can result in many plan updates and changes. Perhaps an event was larger than the risk assessment would have shown. Or, the mitigation strategy to take advantage of opportunities to increase resiliency was not adequate. The point is that after a disaster is always an excellent time to reevaluate any community plan that considers natural hazards and community resiliency.

Added ASFPM considerations:

1. We continue to be concerned that there is no requirement for deed restricting acquired land for CDBG-DR projects and such property has even been used for levee construction. FEMA acquisition programs do not permit building or rebuilding structures (including levees) on land purchased with taxpayer funded HMA grant programs (with the exception of green space uses such as parks, athletic fields or community gardens as long as there are no impervious improvements) so that disaster funds will not have to be used on the purchased tracts after future disasters. We urge HUD to consider a similar deed restriction requirement for acquisition program tracts.

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2. Coastal communities face added concerns with storm intensity and sea level rise. Too often we see federal taxpayer dollars used to keep people, especially at-risk elderly, low income and minority populations in areas that are not sustainable in the future. We understand retreat from all coastal areas will not happen, but urge that consideration of mitigation planning in very high risk areas always include long-term and short-term planning for retreat.

ASFPM and its 36 chapters represent more than 17,000 state and local officials, as well as other professionals engaged in all aspects of floodplain management and flood hazard mitigation including management of local floodplain ordinances, flood risk mapping, engineering, planning, community development, hydrology, forecasting, emergency response, water resources development and flood insurance. All ASFPM members are concerned with reducing our nation's flood-related losses. For more information on the association, its 14 policy committees and 36 state chapters, our website is: www.floods.org.