

Congress of the United States

Washington, DC 20515

June 5, 2020

The Honorable Dr. Benjamin S. Carson, Sr. M.D.
Secretary
U.S. Department of Housing and Urban Development
451 7th Street S.W.
Washington, D.C. 20410

Dear Secretary Carson:

It is with deep frustration and disappointment we write to you today regarding the U.S. Department of Housing and Urban Development's ("HUD") methodology for allocating Round 2 Community Development Block Grant ("CDBG") funding which was provided for in the *Coronavirus Aid, Relief, and Economic Security Act*¹ ("the CARES Act"), on May 11th, 2020.

The formula HUD developed for Round 2 funding failed to include the most pertinent metrics and the best available data. As a result, the State of New York was denied critical funding resources that are still desperately needed to combat the COVID-19 pandemic in our state. In fact, despite New York being the epicenter of the pandemic here in the United States, the failure in HUD's allocation methodology resulted in the State of New York seeing the largest decline in share of CDBG funding between Round 1 and Round 2 of any state in the country.²

In March, Congress passed the *CARES Act* which provided \$5 billion in CDBG funding, to be distributed by HUD, in order to help states and insular areas respond to the impact of COVID-19.³ Under the *CARES Act*, Congress provided for three separate rounds of funding, and specifically noted three different allocation methods for each round.⁴

As set forth in the *CARES Act*, HUD was required to allocate \$2 billion of CDBG funding in Round 1 according to the same formula HUD used for the regular FY 2020 CDBG formula.⁵ HUD allocated \$2 billion of Round 1 funding on April 2nd and the State of New York received a total of \$192,774,513.00, which equates to 9.64 percent of total disbursement.⁶

¹ Pub. L. 116-136

² The decline from 9.64 percent to 7.05 percent represents a 26.8 percent decline in share between rounds: see HUD Program Formula Grant Allocations table for CDBG Cares Act Grants Round 1 funding at: https://www.hud.gov/program_offices/comm_planning/budget/fy20/ and Round 2 funding at: <https://www.hud.gov/sites/dfiles/PIH/documents/Round2AllocationCDBG.pdf>

³ *Coronavirus Aid, Relief, and Economic Security Act*, (Pub. L. 116-136), Title XII. Subparagraph "Community Development Fund," March 2020.

⁴ *Id.*

⁵ *Id.*

⁶ See HUD Program Formula Grant Allocations table for CDBG Cares Act Grants Round 1 funding at: https://www.hud.gov/program_offices/comm_planning/budget/fy20/ and Round 2 funding at: <https://www.hud.gov/sites/dfiles/PIH/documents/Round2AllocationCDBG.pdf>

For the \$1 billion Congress allocated for Round 2 funding, the *CARES Act* states that funds should be allocated to states and insular areas to “prevent, prepare for, and respond to coronavirus...based on public health needs, risk of transmission of coronavirus, number of coronavirus cases compared to the national average, and economic and housing market disruptions, and other factors, as determined by the Secretary, using the best available data.”⁷

HUD distributed the Round 2 funding to states and insular areas on May 11th according to a formula the Department developed after interpreting the *CARES Act*.⁸ Under Round 2 funding, New York State’s total allocation was only \$70,522,417.00,⁹ which is only a 7.05 percent share of all Round 2 funding¹⁰ and a 26.8 percent decline in the State’s share from Round 1.¹¹ As noted above, New York’s 7.05 percent share allocation constitutes the largest decline of any state between Round 1 and Round 2.¹²

The formula your Department relied on to distribute Round 2 funding is, in our view, antithetical to both the spirit and the intent of the *CARES Act*, which was to provide greater resources to those states and insular areas with the greatest public health, housing, and economic disruption needs arising from the COVID-19 pandemic.

The Round 2 allocation formula relied on the count of low-income elderly households and the count of children in poverty to satisfy the public health need metric—which was given a 60 percent weight to the overall formula. The formula also used the number of unemployment insurance claims over a six-week period as the only proxy for economic and housing market disruption—and provided it with a 40 percent weight to the overall formula.

While the public health needs of low-income seniors are accounted for, the metric of public health need completely fails to take into account COVID-19 transmission and relevant housing factors, such as renter overcrowding and extremely low-income rent-burdened households. Organizations like the National Low Income Housing Coalition have highlighted the vulnerability of extremely low-income rent-burdened households to economic shocks and to worse health outcomes.¹³

⁷ Coronavirus Aid, Relief, and Economic Security Act, (Pub. L. 116-136), Title XII. Subparagraph “Community Development Fund,” March 2020.

⁸ U.S. Department of Housing and Urban Development. *Methodology for Round 2 Allocation of CDBG CARES Act Funds*. Pg. 1. May 15, 2020. https://www.hud.gov/sites/dfiles/CPD/documents/Revised_CDBG-CV2_Methodology.pdf.
<https://www.hud.gov/sites/dfiles/PIH/documents/Round2AllocationCDBG.pdf>

⁹ *Id.*

¹⁰ *Id.*

¹¹ U.S. Department of Housing and Urban Development. See HUD Program Formula Grant Allocations table for CDBG CARES Act Grants Round 1 funding at https://www.hud.gov/program_offices/comm_planning/budget/fy20/ and Round 2 funding at <https://www.hud.gov/sites/dfiles/PIH/documents/Round2AllocationCDBG.pdf> New York Housing Conference. *New York’s Share of HUD Relief Funds Falls Short of Coronavirus Need*. May 13th, 2020. <https://thenyh.org/2020/05/13/new-yorks-share-of-hud-relief-funds-falls-short-of-coronavirus-need/>

¹² *Id.*

¹³ National Low Income Housing Coalition., *NLIHC RESEARCH NOTE: The Need for Emergency Rental Assistance During the COVID-19 and Economic Crisis*. Pg. 2. April 3, 2020. <https://nlihc.org/sites/default/files/Need-for-Rental-Assistance-During-the-COVID-19-and-Economic-Crisis.pdf>

The formula only uses the count of COVID-19 cases as an adjustment factor so that most impacted places received only a “slightly higher share of funding.”¹⁴ It is important to note that, as of June 1st, 371,711 people had tested positive for COVID-19 across the State of New York.¹⁵ Worse, as of June 1st, COVID-19 has claimed the lives of 23,959 people in New York State, which is more than any other state in the country according to the Center for Disease Control.¹⁶ Given the severity of the circumstances the communities of our state are grappling with, it is simply unacceptable that the count of COVID-19 cases was not given more weight in the overall construction of the formula.

The *CARES Act* provides for a third round of funding. Round 3 funding makes \$2 billion available for allocation to states and insular areas on a rolling basis until September 2022, based on a criteria to be determined by the Secretary.¹⁷ Given the failure of Round 2’s allocation formula to include the most pertinent metrics and the best available data, we urge you to disregard this formula and develop a new formula allocation for Round 3 funding. We further urge you not to use Round 2’s allocation formula in any future discretionary formulas that may be implemented as a result of the *CARES Act* or any future legislation passed by Congress in response to the COVID-19 crisis.

Instead, we urge you to develop a new formula for Round 3 funding that more accurately captures the public health, economic, and housing impacts of the COVID-19 crisis as defined by the *CARES Act*. This formula, and any future formula constituted by your Department, should start with the simple premise that no heavily COVID-19 impacted state or insular area, defined as experiencing more cases and/or deaths than the national average, should receive less than they would otherwise receive using a traditional formula.

Furthermore, we also expect HUD’s formula methodology for the Round 2 Allocation of the Emergency Solutions Grant (“ESG”), which must be distributed before June 25, 2020,¹⁸ to be consistent with the priorities set forth in the *CARES Act*. Specifically, the *CARES Act* requires that HUD’s construction of the ESG formula benefit homeless and unsheltered populations with the greatest need, as determined by “risk of transmission of coronavirus, high numbers or rates of sheltered and unsheltered homeless, and economic and housing market conditions”.¹⁹ Any formula that does not heavily weight both the total number of COVID-19 cases as a transmission factor and the total number of homeless and unsheltered populations in states or localities to determine allocation amounts would be impermissible as it would be ignoring the clear intent of the *CARES Act*.

¹⁴ U.S. Department of Housing and Urban Development. *HUD Allocates Third Wave of CARES Act Funding Providing \$1 Billion for Communities to Bolster Coronavirus Response and Relief Efforts*. Press Release Number 20-062. May 11th, 2020. See: https://www.hud.gov/press/press_releases_media_advisories/HUD_No_20_062

¹⁵ New York State Department of Health., NYSDOH COVID-19 Tracker. June 1, 2020. <https://covid19tracker.health.ny.gov/views/NYS-COVID19-Tracker/NYSDOHCOVID-19TrackerMap?%3Aembed=yes&%3Atoolbar=no&%3Atabs=n>

¹⁶ U.S. Center for Disease Control and Prevention. *Daily Updates of Totals by Week and State*. June 1, 2020. <https://www.cdc.gov/nchs/nvss/vsrr/COVID19/index.htm>

¹⁷ *Coronavirus Aid, Relief, and Economic Security Act*, (Pub. L. 116-136), Title XII. Subparagraph “Community Development Fund,” March 2020.

¹⁸ *Coronavirus Aid, Relief, and Economic Security Act*, (Pub. L. 116-136), Title XII. Subparagraph “Homeless Assistance Grants,” March 2020.

¹⁹ *Id.*

States and localities continue to be on the front lines of fighting this pandemic. As federal policymakers we must provide states and localities with the resources they need to protect our friends and neighbors. We stand ready and willing to work with you on a funding formula that achieves this important goal.

Sincerely Yours,



Nydia M. Velázquez
Member of Congress



Charles E. Schumer
United States Senator



Hakeem Jeffries
Member of Congress



Kirsten E. Gillibrand
United States Senator