

Naval Base  
Point Loma CA  
Landholding Agency: Navy  
Property Number: 77200830012  
Status: Unutilized  
Reasons: Secured Area

New York  
Bldg. 913T  
Brookhaven Natl Laboratory  
Upton NY 11973  
Landholding Agency: Energy  
Property Number: 41200830001  
Status: Unutilized  
Reasons: Extensive deterioration; Secured Area; Within 2000 ft. of flammable or explosive material

Ohio  
National Guard Facility  
1512 Oak Harbor Rd.  
Fremont OH 43420  
Landholding Agency: GSA  
Property Number: 54200830006  
Status: Excess  
GSA Number: 1-D-OH-834  
Reasons: Within 2000 ft. of flammable or explosive material

#### Unsuitable Properties

##### Building

Utah  
Bldg. 00143  
Tooele Army Depot  
Tooele UT 84074  
Landholding Agency: Army  
Property Number: 21200830002  
Status: Unutilized  
Reasons: Extensive deterioration

Virginia  
Bldgs. NH-18, NH-21  
Naval Support Activity  
Norfolk VA 23551  
Landholding Agency: Navy  
Property Number: 77200830014  
Status: Excess  
Reasons: Extensive deterioration; Secured Area

Bldg. 100  
Naval Support Activity  
Lafayette River Annex  
Norfolk VA 23551  
Landholding Agency: Navy  
Property Number: 77200830015  
Status: Excess  
Reasons: Extensive deterioration; Secured Area

#### Unsuitable Properties

##### Land

North Carolina  
0.23 acres  
Marine Corps Base  
Camp Lejeune NC  
Landholding Agency: Navy  
Property Number: 77200830013  
Status: Unutilized  
Reasons: Secured Area  
[FR Doc. E8-18181 Filed 8-7-08; 8:45 am]

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## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-5224-N-01]

### Reconsideration of Waivers Granted to and Alternative Requirements for Community Development Block Grant Disaster Recovery Grantees Under Public Laws 109-148 and 109-234

AGENCY: Office of the Secretary, HUD.

ACTION: Notice.

**SUMMARY:** This Notice reconsiders and generally affirms the waivers made under the three "common" Notices governing grant funds for Community Development Block Grant (CDBG) disaster recovery grants for the purpose of assisting in the recovery in the most impacted and distressed areas related to the consequences of Hurricanes Katrina, Rita, and Wilma in the Gulf of Mexico in 2005. These prior notices were published in the **Federal Register** on February 13, 2006, October 30, 2006, and August 24, 2007. The Notice published today addresses the purpose and use of these funds, while highlighting unique components of the three notices and noting any changes made by HUD as the result of the required reconsideration of the waivers. For the most part, HUD is repeating or restating the original explanatory text so that grantees and program administrators may continue to have the explanation of a changed requirement and the requirement itself in a single document.

**DATES:** *Effective Date:* August 8, 2008.

#### FOR FURTHER INFORMATION CONTACT:

Jessie Handforth Kome, Director, Disaster Recovery and Special Issues Division, Office of Block Grant Assistance, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 7286, Washington, DC 20410, telephone number 202-708-3587. Persons with hearing or speech impairments may access this number via TTY by calling the Federal Information Relay Service at 800-877-8339. Fax inquiries may be sent to Ms. Kome at 202-401-2044. (Except for the 800 number, these telephone numbers are not toll-free.)

#### SUPPLEMENTARY INFORMATION:

##### Authority To Grant Waivers

The Department of Defense, Emergency Supplemental Appropriations to Address Hurricanes in the Gulf of Mexico, and Pandemic Influenza Act, 2006 (Pub. L. 109-148, approved December 30, 2005) (Appropriations Act) appropriated \$11.5 billion, and Chapter 9 of Title II of the

Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Hurricane Recovery, 2006 (Pub. L. 109-234, approved June 15, 2006), appropriated \$5.2 billion for a combined total of \$16.7 billion in CDBG funds for necessary expenses related to disaster relief, long-term recovery, and restoration of infrastructure directly related to the consequences of the covered disasters. These 2006 Acts (collectively "the supplemental Acts") authorize the Secretary to waive, or specify alternative requirements for, any provision of any statute or regulation that the Secretary administers in connection with the obligation by the Secretary or by the five eligible states' use of these funds, except for requirements related to fair housing, nondiscrimination, labor standards, and the environment, upon a request by one of the five states and a finding by the Secretary that such a waiver would not be inconsistent with the overall purpose of the statute. The difference between the waiver authorizations in the supplemental Acts is that Public Law 109-148 directs that the Secretary "shall" make the waivers in response to a state's request and a consistency finding, while Public Law 109-234 states that the Secretary "may" make such waivers.

This Notice reconsiders and generally affirms the waivers made under the three "common" Notices governing grant funds for CDBG disaster recovery grants for the purpose of assisting in the recovery in the most impacted and distressed areas related to the consequences of Hurricanes Katrina, Rita, and Wilma in the Gulf of Mexico in 2005. These prior notices were published in the **Federal Register** on February 13, 2006 (71 FR 7666), October 30, 2006 (71 FR 63337), and August 24, 2007 (72 FR 48804). The reconsideration of the February 13, 2006, Notice is required at this time. HUD is reconsidering the October 30, 2006, and August 24, 2007, Notices earlier than required by statute because publication of all common waivers and alternative requirements in a single Notice will produce a more sensible administrative and regulatory result.

The following waivers and alternative requirements for funds provided under either 2006 Act are in response to requests from all five states receiving CDBG disaster recovery grants under those Acts. In accordance with the states' earlier requests for administrative consistency to the extent feasible (noted in 71 FR 63337, published October 30, 2006), each waiver or alternative requirement will apply to assistance

provided under either Act wherever appropriate and possible.

After reconsideration, the Secretary affirms that the following waivers and alternative requirements, as described below, are not inconsistent with the overall purpose of Title I of the Housing and Community Development Act of 1974, as amended, or the Cranston-Gonzalez National Affordable Housing Act, as amended.

Under the requirements of the Department of Housing and Urban Development Reform Act of 1989 (the HUD Reform Act), as amended 42 U.S.C. 3535(q), regulatory waivers must be justified and published in the **Federal Register**.

Further, the supplemental Acts direct the Secretary to publish in the **Federal Register** any waiver (or reconsideration thereof) of any statute or regulation that the Secretary administers pursuant to Title I of the Housing and Community Development Act of 1974, no later than 5 days before the effective date of such waiver.

Except as described in this and other notices applicable to these grants, statutory and regulatory provisions governing the CDBG program for states, including those at 24 CFR part 570, shall apply to the use of these funds. In accordance with the supplemental Acts, HUD is reconsidering every published waiver 2 years from its date of publication.

**Allocations**

The supplemental Acts provide a combined total of \$16.7 billion for the CDBG program for:

Necessary expenses related to disaster relief, long-term recovery, and restoration of infrastructure in the most impacted and distressed areas related to the consequences of Hurricanes Katrina, Rita, or Wilma in the Gulf of Mexico in 2005.

The \$11.5 billion allocation appropriated under Public Law 109-148 is also discussed and expanded upon in the conference report (H.R. Rep. No. 109-359). The conference agreement included \$11.5 billion for necessary expenses related to disaster relief, long-term recovery, restoration of infrastructure, and mitigation in communities in any declared disaster area in Louisiana, Mississippi, Alabama, Florida, and Texas related to Hurricanes Katrina, Rita, or Wilma. The conference agreement emphasizes the requirement that the states with the most impacted and distressed areas in connection with the Gulf of Mexico hurricanes receive priority consideration in the allocation of funds by HUD.

Public Law 109-148 further states: That funds provided under this heading shall be administered through an entity or entities designated by the Governor of each state. And that no state shall receive more than 54 percent of the amount provided under this heading.

Public Law 109-234 also states:

That funds provided under this heading shall be administered through an entity or entities designated by the Governor of each state. And that no state shall receive more than \$4.2 billion of the amount provided under this heading.

As provided for in Public Law 109-148 and Public Law 109-234, the funds may not be used for activities reimbursable by or for which funds are made available by the Federal Emergency Management Agency (FEMA) or the Army Corps of Engineers. Further, none of the funds made available under Public Law 109-234 may be used by a state or locality as a matching requirement, share, or contribution for any other federal program.

Also as required by Public Law 109-234, not less than \$1.0 billion of the \$5.2 billion appropriation (which computes to 19.3311 percent of any state's allocation, excluding \$27.0 million in administrative set-asides) shall be used for repair, rehabilitation, and reconstruction (including demolition, site clearance, and remediation) of the affordable rental housing stock (including public and other HUD-assisted housing) in the impacted areas. Therefore, HUD requires that not less than 19.3311 percent of each state's grant under Public Law 109-234 be used for these activities.

The allocations from Public Law 109-148 are as follows:

TABLE 1—FEBRUARY 13, 2006, DISASTER RECOVERY ALLOCATION

State	Disaster	Allocation amount (\$)
Alabama .....	Hurricane Katrina (FEMA-1605-DR) .....	74,388,000
Florida .....	Hurricane Katrina (FEMA-1602-DR), Hurricane Wilma (FEMA-1609-DR) .....	82,904,000
Louisiana .....	Hurricane Katrina (FEMA-1603-DR), Hurricane Rita (FEMA-1607-DR) .....	6,210,000,000
Mississippi .....	Hurricane Katrina (FEMA-1604-DR) .....	5,058,185,000
Texas .....	Hurricane Rita (FEMA-1606-DR) .....	74,523,000

The allocations from the supplemental appropriation, as

provided for in Public Law 109-234, are as follows:

TABLE 2—OCTOBER 30, 2006, DISASTER RECOVERY SUPPLEMENTAL ALLOCATION

State	Disaster	Allocation amount (\$)	Minimum amount for affordable rental housing (\$)
Alabama .....	Hurricane Katrina (FEMA-1605-DR) .....	21,225,574	4,103,146
Florida .....	Hurricane Katrina (FEMA-1602-DR), Hurricane Wilma (FEMA-1609-DR) .....	100,066,518	19,344,001
Louisiana .....	Hurricane Katrina (FEMA-1603-DR), Hurricane Rita (FEMA-1607-DR) .....	4,200,000,000	811,907,984
Mississippi .....	Hurricane Katrina (FEMA-1604-DR) .....	423,036,059	81,777,703
Texas .....	Hurricane Rita (FEMA-1606-DR) .....	428,671,849	82,867,166

The amounts in Table 2 include the minimum amount of the allocations each state is required to use, pursuant to Public Law 109-234, for repair, rehabilitation, and reconstruction (including demolition, site clearance, and remediation) of the affordable rental housing stock (including public and other HUD-assisted housing) in the impacted areas.

In the case of Louisiana, the Department reviewed data chronicling the massive impact of the disasters on affordable rental housing, including public housing, in the areas of the state most affected by the disasters. In light of the state's unprecedented housing needs resulting from the disasters, the Secretary gave priority to affordable rental housing through an alternative requirement on the grant under Public Law 109-234. Under a prior Notice, HUD required that before the state of Louisiana expended any funds to meet the minimum requirement for affordable rental housing (see table above), the Governor of Louisiana had to demonstrate to the Secretary's satisfaction that the state will provide funds or has identified dedicated resources sufficient to meet the key disaster recovery needs for repair, rehabilitation, and reconstruction of affordable rental housing stock, including public housing, in the most impacted areas of the state. This notice continues the requirement to ensure that any fund reprogramming continues to prioritize such housing.

Pursuant to this Notice, HUD continues to invite each of the five states to submit an Action Plan for Disaster Recovery in accordance with prior Notices.

The supplemental Acts require that funds be used only for disaster relief, long-term recovery, and restoration of infrastructure in the most impacted and

distressed areas related to the consequences of hurricanes in the Gulf of Mexico in 2005. The supplemental Acts direct that each grantee describe in its Action Plan for Disaster Recovery how the use of the grant funds gives priority to infrastructure development and the rehabilitation and reconstruction of the affordable rental housing stock, including public and other HUD-assisted housing. HUD monitors compliance with this direction and may be compelled to disallow expenditures if it finds that uses of funds are not disaster-related, or that funds allocated duplicate other benefits. HUD encourages grantees to contact their assigned HUD offices for guidance in complying with these requirements during development of their Action Plans for Disaster Recovery and any amendments or if they have any questions regarding meeting these requirements.

For the state of Louisiana, which suffered major impacts from two of the hurricanes, HUD estimated that more than 85 percent of the major and severe damage due to those storms was in the New Orleans-Metairie-Bogalusa Metropolitan Area (Jefferson, Orleans, Plaquemines, St. Bernard, St. Charles, St. John the Baptist, and St. Tammany parishes). HUD, therefore, expects the state to target a substantial majority of its disaster recovery funds under Public Law 109-234 toward the disaster recovery needs in the New Orleans-Metairie-Bogalusa Metropolitan Area, and included an alternative requirement to that effect.

**Prevention of Fraud, Abuse, and Duplication of Benefits**

The supplemental Acts also directed the Secretary to: Establish procedures to prevent recipients from receiving any duplication of benefits and report quarterly to the

Committees on Appropriations with regard to all steps taken to prevent fraud and abuse of funds made available under this heading, including duplication of benefits.

To meet this directive, HUD has taken five courses of action. First, HUD established by Notice specific reporting, written procedures, monitoring, and internal audit requirements for grantees. Second, to the extent that its resources allowed, HUD instituted risk analysis and on-site monitoring of grantee management of the grants and of the specific uses of funds. Third, HUD has been extremely cautious in considering any waiver related to basic financial management requirements. The standard, time-tested CDBG financial requirements will continue to apply to future waiver requests. Fourth, HUD collaborated with the HUD Office of Inspector General to plan and implement oversight of these funds. Fifth, HUD followed the direction of the conference report for Public Law 109-494 and applied \$6 million of funds appropriated for the Working Capital Fund for "immediate enhancement of the capabilities of the Disaster Recovery Grant Reporting system by building additional electronic controls that are intended to increase accountability while further decreasing the risk of fraud, waste, or abuse."

**Waiver Justification**

In general, waivers already granted to the states of Alabama, Florida, Louisiana, Mississippi, and Texas and alternative requirements already specified for CDBG disaster recovery grant funds provided under the supplemental Acts apply unless determined to be excepted or limited under this Notice. The notices in which these prior waivers and alternative requirements appear are shown in the table below.

Notice	Date	Applicability
71 FR 7666, FR-5051-N-01 .....	02/13/2006	Common Allocation/Application for \$11.5 billion.
71 FR 34448, FR-5051-N-02 .....	06/14/2006	State of Alabama.
71 FR 34451, FR-5051-N-04 .....	06/14/2006	State of Louisiana.
71 FR 34457, FR-5051-N-03 .....	06/14/2006	State of Mississippi.
71 FR 43622, FR-5051-N-05 .....	08/01/2006	State of Texas.
71 FR 51678, FR-5051-N-06 .....	08/30/2006	State of Florida.
71 FR 62372, FR 5051-N-07 .....	10/24/2006	State of Mississippi.
71 FR 63337, FR-5089-N-01 .....	10/30/2006	Common Allocation/Application, and Applicability of Prior Waivers for \$5.2 billion.
72 FR 10014, FR-5089-N-03 .....	03/06/2007	State of Louisiana.
72 FR 10020, FR-5089-N-04 .....	03/06/2007	State of Mississippi.
72 FR 48804, FR-5089-N-05 .....	08/24/2007	Common waiver of Section 414 of the Stafford Act and alternative requirements.
72 FR 48808, FR-5051-N-08 .....	08/24/2007	State of Mississippi.
72 FR 61788, FR-5051-N-09 .....	10/31/2007	State of Mississippi.
72 FR 70472, FR-5183-N-01 .....	12/11/2007	State of Louisiana for \$3 billion.

The provisions of this Notice do not apply to funds provided under the

regular CDBG program or other HUD or federally funded programs. The

provisions provide additional flexibility in program design and implementation

and implement statutory requirements unique to these appropriations.

### Section 414 of the Stafford Act

The states requested and were granted a waiver of Section 414 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended, for all their disaster recovery programs. Section 414 requires special measures that are designed to assist the efforts of the five states in expediting the rendering of aid and emergency services and in the reconstruction and rehabilitation of devastated areas, as necessary. In addition, the Secretary provided alternative requirements more consistent with the purpose of the supplemental Acts, which have assisted and supported disaster recovery in the areas most impacted by the effects of the three 2005 Gulf hurricanes. Hurricanes Katrina, Rita, and Wilma resulted in unprecedented destruction in the Gulf states, which will continue to require reconstruction for many years (and possibly decades) to come. The Department surveyed other federal agencies' administration of Section 414 and found varying interpretations for long-term, post-disaster projects involving the acquisition, rehabilitation, or demolition of disaster-damaged housing. The five states have also launched programs, such as rental rehabilitation, that could be affected by this statute if a clear direction to restore affordable rental housing to the devastated areas is not realized. Therefore, to avoid possible risk to the recovery effort by further delay in providing the states with a definitive answer, the Department issued a partial statutory waiver and specified alternative requirements. HUD is continuing this statutory waiver by this Notice because affordable housing programs are under way in all five of the states that rely on this waiver and alternative requirements. For programs or projects covered by this waiver ("covered programs or projects") that are initiated within 3 years after the applicable disaster, an affected state must select one of the two alternative requirements specified in 72 FR 48804 and restated in this Notice.

### Alternative One

The state may provide relocation assistance to a former residential occupant whose former dwelling is acquired, rehabilitated, or demolished for a covered program or project initiated within 3 years after the disaster, even though the actual displacements were caused by the effects of the disaster. To the extent practicable, such relocation assistance

must be offered in a manner consistent with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, (URA) and its implementing regulations, except as modified by applicable waivers and alternative requirements.

### Alternative Two

If the state determines that the first alternative would substantially conflict with meeting the disaster recovery purposes of the supplemental Acts, the state may establish a re-housing plan for a covered program or project initiated within 3 years after the disaster. Such determinations must be made on a program or project basis (not person or household). The re-housing plan must include, at minimum, the following:

1. A description of the class(es) of persons eligible for assistance, including all persons displaced from their residences by particular enumerated, or all, effects of the disaster, and including all persons still receiving temporary housing assistance from FEMA for the covered disaster(s);
2. A description of the types and amount of financial assistance to be offered, if any;
3. A description of other services to be made available, including, at minimum, outreach efforts to eligible persons and housing counseling providing information about available housing resources. Outreach efforts and housing counseling information should be provided in languages other than English to persons with limited English proficiency; and
4. Contact information and a description of any applicable application process, including any deadlines.

5. If the program or project involves rental housing, the re-housing plan must also include the following:

- (i) Placement services for former and prospective tenants;
- (ii) A public registry of available rental units assisted with CDBG disaster recovery and/or other funds; and
- (iii) A description of application materials, award letters, and operating procedures requiring property owners to make reasonable attempts to contact their former residential tenants and offer them a unit upon completion if they meet the program's eligibility requirements.

### Justification for Waiver

This section of the Notice describes the basis for granting the section 414 waivers represented by the states in their requests. The principal reasons are highlighted here:

- Hurricanes Katrina, Rita, and Wilma caused unprecedented destruction in the Gulf Coast region. The magnitude of destruction resulted in massive displacements and decimated the region's affordable housing stock. Continued ambiguity on Section 414's applicability may cause substantial delays in long-term recovery along the Gulf Coast, particularly in Louisiana, Mississippi, and Texas;

- URA assistance may duplicate insurance proceeds and federal, state, or local housing assistance that has already been disbursed; and

- The opportunity to simplify the administration of disaster recovery projects or programs initiated years following the disaster.

Persons in physical occupancy who are displaced by a HUD-assisted disaster recovery project will continue to be eligible for URA assistance. Persons displaced by the effects of the disaster may continue to apply for assistance under the states' approved disaster recovery programs, which are designed to bring affordable housing to the affected areas. This waiver does not address programs or projects receiving other HUD funding, or funding from other federal sources.

A state may already be performing some elements of a re-housing plan, such as providing a public rental registry or undertaking outreach and placement services to those former residents still receiving FEMA housing assistance. Description in the re-housing plan of how those existing efforts will be available for covered programs or projects may be used in satisfying the requirements of this Notice. These waivers and alternative requirements streamline the pre-grant process and set the guidelines for a state's application for allocations.

### Application for Allocations Under Public Laws 109-148 and 109-234

*Overall benefit to low- and moderate-income persons.* Pursuant to explicit authority in the supplemental Acts, HUD granted an overall benefit waiver that allows for up to 50 percent of the grants to assist activities under the urgent need or under the prevention or elimination of slums and blight national objectives, rather than the 30 percent allowed in the annual state CDBG program. The primary objective of Title I of the Housing and Community Development Act of 1974 and of the funding program of each grantee is "development of viable urban communities, by providing decent housing and a suitable living environment and expanding economic opportunities, principally for persons of

low and moderate income.” The statute goes on to set the standard of performance for this primary objective for the annual CDBG program at 70 percent of the aggregate of the funds used for support of activities producing benefit to low- and moderate-income persons. Because extensive damage to community development and housing affected those with varying incomes, and the hardest-hit grantees have designed their programs to take advantage of this waiver, HUD is retaining the waiver of the 70 percent overall benefit requirement and leaving the 50 percent requirement, in order to give grantees continued flexibility to carry out recovery activities within the confines of the CDBG program national objectives. HUD may provide additional waivers of this requirement only if it makes a finding of compelling need. The requirement that each activity meet one of the three national objectives is not waived. HUD did reconsider, but is not altering this waiver. The states have already budgeted the vast majority of the funds under the terms of the initial waiver. Changing the waiver and alternative requirement now might be counter-productive to the recovery efforts across the Gulf Coast and, most particularly, in Louisiana. The state of Mississippi has been granted additional overall benefit waivers and alternative requirements as published in Notices other than the three under reconsideration in the current Notice. The first of Mississippi’s other Notices is scheduled for reconsideration in June 2008.

*Expanded distribution and direct action.* The waivers and alternative requirements allowing distribution of funds by a state to entitlement communities and Indian tribes, and to allow a state to carry out activities directly rather than distribute all funds to units of local government, are consistent with waivers granted for previous similar disaster recovery cases. HUD believes that, in recommending the Lower Manhattan Development Corporation (LMDC) as a model and in increasing the administrative cap, Congress is signaling its intent that the states under this appropriation also be able to carry out activities directly. Therefore, HUD waived and continues its waiver of certain program requirements to support direct implementation of activities by the states. HUD stated in prior Notices and restates in this Notice the necessary complementary waivers and alternative requirements related to subrecipients to ensure proper management and

disposition of funds during the grant execution and at closeout.

*Consistency with the consolidated plan.* HUD waived the requirement for consistency with the consolidated plan priorities because the effects of a major disaster usually alter a grantee’s priorities for meeting housing, employment, and infrastructure needs. To emphasize that uses of grant funds must be consistent with the overall purposes of the Housing and Community Development Act of 1974, HUD requires the scope of the waiver to be consistent with the consolidated plan; the waiver applies only until the grantee first updates its consolidated plan priorities following the disaster. Because of limited data availability or staff resources, not all grantees have completely updated their consolidated plans. Therefore, HUD is continuing this waiver.

*Action Plan for Disaster Recovery.* HUD waived the CDBG action plan requirements and substituted an Action Plan for Disaster Recovery. HUD is continuing this waiver and restates the Action Plan for Disaster Recovery requirements under this Notice. This waiver allowed for rapid implementation of disaster recovery grant programs and ensured conformance with provisions of the supplemental Acts. Where possible, the Action Plan for Disaster Recovery, including certifications, does not repeat common action plan elements that the grantee already committed to carry out as part of its annual CDBG submission. Although a state as the grantee may designate an entity or entities to administer the funds, the state is responsible for compliance with federal requirements. During the course of these grants, HUD is monitoring the states’ uses of funds and their actions for consistency with the Action Plan. A state may submit an initial, partial Action Plan and amend it one or more times subsequently until the Action Plan describes uses for the combined total grant amount. A state may also amend activities in its Action Plan.

The following new elements to a state’s Action Plan for Disaster Recovery apply only to the supplemental funds allocated under Public Law 109–234:

These elements include a description of how the state gives priority to infrastructure development and rehabilitation and how the state gives priority to the rehabilitation and reconstruction of the affordable rental housing stock, including public and other HUD-assisted housing. The state must explain how its choices for the use of funds will result in the state meeting the requirement to use not less than

19.3311 percent of its allocation under Public Law 109–234 for repair, rehabilitation, and reconstruction (including demolition, site clearance, and remediation) of the affordable rental housing stock (including public and other HUD-assisted housing) in the impacted areas. The explanation should include how the state has considered the unique challenges that individuals with disabilities face in finding accessible and affordable housing.

*Citizen participation.* The citizen participation waiver and alternative requirements permit a more streamlined public process, but one that still provides for reasonable public notice, appraisal, examination, and comment on the CDBG disaster recovery grant fund activities. The waiver removes the requirement at both the grantee and state grant recipient levels for public hearings or meetings as the method for disseminating information or collecting citizen comments. Instead, grantees are encouraged to employ innovative methods to communicate with citizens and solicit their views on proposed uses of disaster recovery funds, and to indicate in the Action Plan how the grantee has addressed these views. After reconsidering this waiver, HUD decided to leave it in place because the need for speedy decision-making is still necessary in some of the states. However, HUD is providing guidance that, as time since the hurricanes elapses, HUD expects grantees to provide for increased time for public comments and for provision of public hearings related to amendments to the Action Plan whenever hearings are administratively feasible. HUD notes that most grantees are making good use of the Internet to provide disaster recovery information on plan amendments and resources for their citizens, and HUD expects this practice will continue.

*Administration limitation.* State program administration requirements must be modified to be consistent with the Appropriations Act, which allows up to 5 percent of the grant to be used for the state’s administrative costs. The provisions at 42 U.S.C. 5306(d) and 24 CFR 570.489(a)(1)(i) and (iii) will not apply to the extent that they cap state administration expenditures and require a dollar-for-dollar match of state funds for administrative costs exceeding \$100,000. HUD does not waive 24 CFR 570.489(a)(3) to allow the state to exceed the overall planning, management, and administrative cap of 20 percent.

### Use of Subrecipients

The state CDBG program rule does not make specific provision for the treatment of the entities called "subrecipients" in the CDBG entitlement program. The waiver allowing a state to carry out activities directly creates a situation in which the state may use subrecipients to carry out activities in a manner similar to entitlement communities. HUD and its Office of Inspector General have long identified the use of subrecipients as a practice that increases the risk of abuse of funds. HUD's experience is that this risk can be successfully managed by adhering to the CDBG entitlement requirements and related guidance. Therefore, HUD requires that a state taking advantage of the waiver allowing it to carry out activities directly must follow the alternative requirements that are drawn from the CDBG entitlement rule and specified in this Notice, when using subrecipients.

### Reporting

HUD waives the annual reporting requirement because Congress requires quarterly reports from the grantees and from HUD on various aspects of the uses of funds and of the activities funded with these grants. Many of the data elements the grantees will report to Congress quarterly are the same as those that HUD uses to exercise oversight for compliance with the requirements of this Notice and for prevention of fraud, abuse of funds, and duplication of benefits. To collect these data elements and to meet its reporting requirements, HUD requires each grantee to report to HUD quarterly using the online Disaster Recovery Grant Reporting system. HUD uses grantee reports to monitor for anomalies or performance problems that suggest fraud, abuse of funds, and duplication of benefits; to reconcile budgets, obligations, fund draws, and expenditures; to calculate applicable administrative and public service limitations and the overall percent of benefit to low- and moderate-income persons; and to establish a basis for risk analysis in determining a monitoring plan.

Originally, HUD's guidance was that after HUD reviews each report and accepts a report, the grantee must post the report on an Internet site with public access for its citizens. On reconsideration, HUD is requiring grantees to post each report as it is submitted. After HUD reviews the report, the grantee may also post the reviewed version, if HUD makes any changes. If a grantee chooses, it may use its report, together with a statement

regarding any sole source procurements, as its required quarterly submission to the Committees on Appropriations. Each quarter, HUD will submit to the Committees a summary description of its report reviews, of other HUD monitoring and technical assistance activities undertaken during the quarter, and of any significant conclusions related to fraud, abuse of funds, or duplication of benefits.

### Certifications

HUD waived the standard certifications and substituted alternative certifications. The alternative certifications are tailored to CDBG disaster recovery grants and remove certifications and references that are redundant or appropriate to the annual CDBG formula program.

### Applicable Rules, Statutes, Waivers, and Alternative Requirements

The following discussion is comprised of two parts: a common section that applies to **Federal Register** notices 71 FR 7666, 71 FR 63337, and 72 FR 48804, and a unique section that highlights components of these three notices that are different.

#### Common Section

1. *General note.* Prerequisites to a grantee's receipt of CDBG disaster recovery assistance include adoption of a citizen participation plan; publication of its proposed Action Plan for Disaster Recovery; public notice and comment; and submission to HUD of an Action Plan for Disaster Recovery, including certifications. Except as described in this Notice, the statutory, regulatory, and notice provisions that shall apply to the use of these funds are:

a. The state-specific Notices governing the funds appropriated under Public Law 109-148 and Public Law 109-234 (the supplemental Acts) and already published in the **Federal Register**;

b. Those governing the CDBG program for states, including those at 42 U.S.C. 5301 *et seq.* and 24 CFR part 570.

2. *Overall benefit waiver and alternative requirement.* The requirements at 42 U.S.C. 5301(c), 42 U.S.C. 5304(b)(3)(A), and 24 CFR 570.484 that at least 70 percent of funds are for activities that benefit low- and moderate-income persons are waived to stipulate that at least 50 percent of disaster recovery grant funds from each grant must assist activities that principally benefit low- and moderate-income persons.

3. *Section 414 of the Stafford Act waiver and alternative requirements.*

a. Section 414 of the Stafford Act, 42 U.S.C. 5181 (including its implementing

regulation at 49 CFR 24.403(d)), is waived to the extent that it would apply to CDBG disaster recovery-funded programs or projects initiated at least one year after the incident-date of Hurricane Katrina, Rita, or Wilma (as applicable) by the states of Alabama, Florida, Louisiana, Mississippi, and Texas under an approved Action Plan for Disaster Recovery for its grants under Public Law 109-148 or Public Law 109-234; provided that such program or project was not planned, approved, or otherwise under way prior to the disaster.

b. For all programs or projects covered by this waiver ("covered programs or projects") that are initiated at least one year after but within no more than 3 years after the applicable disaster, the states of Alabama, Florida, Louisiana, Mississippi, and Texas must comply with one of the following two alternative requirements (for programs or projects initiated after the 3-year period, the alternative requirements would not apply; only the waiver would be applicable):

1. Relocation Assistance. The state may provide relocation assistance to a former residential occupant whose former dwelling is acquired, rehabilitated, or demolished for a covered program or project initiated within 3 years after the disaster, even though the actual displacements were caused by the effects of the disaster. To the extent practicable, such relocation assistance must be offered in a manner consistent with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, and its implementing regulations, except as modified by prior waivers and alternative requirements granted to the states.

2. Re-housing Plan. If the state determines that the first alternative would substantially conflict with meeting the disaster recovery purposes of the supplemental Acts, the grantee may establish a re-housing plan for a covered program or project initiated at least one year after, but within no more than 3 years after, the disaster. Such a determination must be made on a program or project basis (not person or household). The re-housing plan must include, at minimum, the following:

i. A description of the class(es) of persons eligible for assistance, including all residents displaced from their residences by either certain enumerated or all effects of the covered disaster, and including all disaster-displaced residents still receiving temporary housing assistance from FEMA for the covered disasters;

ii. A description of the types and amount of financial assistance to be provided, if any;

iii. A description of other services to be made available, including, at a minimum, outreach efforts to eligible persons and housing counseling that provide information about available housing resources;

iv. Contact information for additional program information;

v. A description of any applicable application process, including any deadlines; and

vi. If the program or project covered by this waiver involves rental housing, the grantee shall establish procedures for the following:

A. Application materials, award letters, and operating procedures that require property owners to make reasonable attempts to contact their former tenants and to offer a unit, upon completion, to those tenants meeting the program's eligibility requirements;

B. Placement services for former and prospective tenants; and

C. A public registry of available rental units assisted with CDBG disaster recovery and/or other funds.

c. *Eligible Project Costs.* The cost of relocation assistance and the reoccupancy plan are eligible project costs in the same manner and to the same extent as other project costs authorized under the supplemental Acts. For covered programs or projects involving affordable rental housing, the relocation and planning costs required by this Notice may be paid from funds reserved for the affordable rental housing stock in the impacted areas under Public Law 109-234.

4. *Direct grant administration by states and means of carrying out eligible activities.* Requirements at 42 U.S.C. 5306 are waived to the extent necessary to allow the state to use its disaster recovery grant allocation directly to carry out state-administered activities eligible under this Notice. Activities eligible under this Notice may be undertaken, subject to state law, by the recipient through its employees or through procurement contracts, through loans or grants under agreements with subrecipients, or by one or more entities that are designated by the chief executive officer of the state. Activities made eligible under section 105(a)(15) of the Housing and Community Development Act of 1974, as amended, may be undertaken only by entities specified in that section, regardless of whether the assistance is provided to such an entity from the state or from a unit of general local government.

5. *Consolidated Plan waiver.* Requirements at 42 U.S.C. 12706 and 24

CFR 91.325(a)(6), that housing activities undertaken with CDBG funds be consistent with the strategic plan, are waived. Further, the requirement at 42 U.S.C. 5304(e), to the extent that it would require HUD to annually review grantee performance under the consistency criteria, is also waived. These waivers apply only until the time that the grantee first updates its consolidated plan priorities following the hurricane.

6. *Citizen participation waiver and alternative requirement.* Provisions of 42 U.S.C. 5304(a)(2) and (3), 42 U.S.C. 12707, 24 CFR 570.486, and 24 CFR 91.115(b), with respect to citizen participation requirements, are waived and replaced by the requirements below. The streamlined requirements do not mandate public hearings at either the state or local government level, but do require providing a reasonable opportunity for citizen comment and ongoing citizen access to information about the use of grant funds. The streamlined citizen participation requirements for this grant are:

a. Before the grantee adopts the action plan for this grant or any substantial amendment to this grant, the grantee will publish the proposed plan or amendment (including the information required in this Notice for an Action Plan for Disaster Recovery). The manner of publication (including prominent posting on the state, local, or other relevant Web site) must afford citizens, affected local governments, and other interested parties a reasonable opportunity to examine the plan or amendment's contents. Subsequent to publication, the grantee must provide a reasonable time period and method(s) (including electronic submission) for receiving comments on the plan or on any substantial amendment to it. The grantee's plans to minimize displacement of persons or entities and to assist any persons or entities displaced must be published with the action plan. HUD expects the grantee to hold a public hearing on a proposed plan amendment unless doing so would hinder the provision of expedient disaster recovery.

b. In the action plan, each grantee will specify its criteria for determining what changes in the grantee's activities constitute a substantial amendment to the plan. At a minimum, adding or deleting an activity or changing the planned beneficiaries of an activity will constitute a substantial change. The grantee may modify or substantially amend the action plan if it follows the same procedures required in this Notice for the preparation and submission of an Action Plan for Disaster Recovery. The

grantee must notify HUD, but is not required to notify the public, when it makes any plan amendment that is not substantial.

c. The grantee must consider all comments received on the action plan or any substantial amendment and submit to HUD a summary of those comments and the grantee's response with the action plan or substantial amendment.

d. The grantee must make the action plan, any substantial amendments, and all performance reports available to the public. HUD recommends posting them on the Internet. In addition, the grantee must make these documents available in a form accessible to persons with disabilities and non-English-speaking persons. During the term of this grant, the grantee will provide citizens, affected local governments, and other interested parties with reasonable and timely access to information and records relating to the action plan and to the grantee's use of this grant.

e. The grantee will provide a timely written response to every citizen complaint. Such response will be provided within 15 working days of the receipt of the complaint, if practicable.

7. *Modify requirement for consultation with local governments.* Currently, the statute and regulations require consultation with affected units of local government in the non-entitlement area of the state regarding the state's proposed method of distribution. HUD is waiving 42 U.S.C. 5306(d)(2)(C)(iv), 24 CFR 91.325(b), and 24 CFR 91.110, with the alternative requirement that the state consult with all disaster-affected units of general local government, including any CDBG entitlement communities, in determining the use of funds.

8. *Action Plan waiver and alternative requirement.* The requirements at 42 U.S.C. 12705(a)(2), 42 U.S.C. 5304(a)(1), 42 U.S.C. 5304(m), 42 U.S.C. 5306(d)(2)(C)(iii), 24 CFR 1003.604, and 24 CFR 91.320 are waived for these disaster recovery grants. Each state must submit to HUD an Action Plan for Disaster Recovery that describes:

a. The effects of the covered disaster, especially in the most impacted areas and populations, and the greatest recovery needs resulting from the covered disaster that have not been addressed by insurance proceeds, other federal assistance, or any other funding source;

b. The grantee's overall plan for disaster recovery, including:

1. How the state will promote sound short- and long-term recovery planning at the state and local levels, especially land use decisions that reflect



responsible flood plain management, removal of regulatory barriers to reconstruction, and prior coordination with planning requirements of other state and federal programs and entities;

2. How the state will encourage construction methods that emphasize high quality, durability, energy efficiency, and mold resistance, including how the state will promote enactment and enforcement of modern building codes and mitigation of flood risk, where appropriate;

3. How the state will provide or encourage provision of adequate, flood-resistant housing for all income groups that lived in the disaster-impacted areas prior to the incident date(s) of the applicable disaster(s), including a description of the activities it plans to undertake to address emergency shelter and transitional housing needs of homeless individuals and families (including subpopulations), to prevent low-income individuals and families with children (especially those with incomes below 30 percent of median) from becoming homeless, to help homeless persons make the transition to permanent housing and independent living, and to address the special needs of persons who are not homeless-identified, in accordance with 24 CFR 91.315(d);

c. Monitoring standards and procedures that are sufficient to ensure that program requirements, including non-duplication of benefits, are met and that provide for continual quality assurance, investigation, and internal audit functions, with responsible staff reporting independently to the Governor of the state or, at a minimum, to the chief officer of the governing body of any designated administering entity;

d. A description of the steps the state will take to avoid or mitigate occurrences of fraud, abuse, and mismanagement, especially with respect to accounting, procurement, and accountability, with a description of how the state will provide for increasing the capacity for implementation and compliance of local governments, subrecipients, subgrantees, contractors, and any other entity responsible for administering activities under this grant; and

e. The state's method of distribution. The method of distribution shall include descriptions of the method of allocating funds to units of local government and of specific projects the state will carry out directly, as applicable. The descriptions will include:

1. When funds are to be allocated to units of local government; and all criteria used to select applications from

local governments for funding, including the relative importance of each criterion, and including a description of how the disaster recovery grant resources will be allocated among all funding categories, plus the threshold factors and grant size limits that are to be applied; and

2. In cases where the state will carry out activities directly, the projected uses for the CDBG disaster recovery funds broken down by responsible entity, activity, and geographic area;

3. How the method of distribution or use of funds described in accordance with the above subparagraphs will result in eligible uses of grant funds related to long-term recovery from specific effects of the disaster(s) or restoration of infrastructure; and

4. Sufficient information so that citizens, units of general local government, and other eligible subgrantees or subrecipients will be able to understand and comment on the action plan and, if applicable, be able to prepare responsive applications to the state.

f. Required certifications (see the applicable Certifications section of this Notice); and

g. A completed and executed federal form SF-424.

9. *Allow reimbursement for pre-agreement costs.* The provisions of 24 CFR 570.489(b) are applied to permit a grantee to reimburse itself for otherwise allowable costs incurred on or after the incident date of the covered disaster.

10. *Clarifying note on the process for environmental release of funds when a state carries out activities directly.* Usually, a state distributes CDBG funds to units of local government and takes on HUD's role in receiving environmental certifications from the grant recipients and approving releases of funds. For this grant, HUD will allow a state grantee to also carry out activities directly instead of distributing all funds to other governments. According to the environmental regulations at 24 CFR 58.4, when a state carries out activities directly, the state must submit the certification and request for release of funds to HUD for approval.

11. *Duplication of benefits.* In general, 42 U.S.C. 5155 (section 312 of the Robert T. Stafford Disaster Assistance and Emergency Relief Act, as amended) prohibits any person, business concern, or other entity from receiving financial assistance with respect to any part of a loss resulting from a major disaster as to which such person/business/entity has received financial assistance under any other program or from insurance or any other source. The appropriations acts stipulate that funds may not be used for

activities reimbursable by, or for which funds have been made available by, the Federal Emergency Management Agency or by the Army Corps of Engineers.

12. *Waiver and alternative requirement for distribution to CDBG metropolitan cities and urban counties.*

a. Section 5302(a)(7) of title 42, U.S.C. (definition of "non-entitlement area"), and provisions of 24 CFR part 570 that would prohibit a state from distributing CDBG funds to units of general local government in entitlement communities and to Indian tribes, are waived, including 24 CFR 570.480(a), to the extent that such provisions limit the distribution of funds to units of general local government located in entitlement areas and to state or federally recognized Indian tribes. The state is required instead to distribute funds to the most adversely affected and impacted areas related to the consequences of the covered disaster(s) without regard to a local government or Indian tribe status under any other CDBG program.

b. Additionally, because a state grantee under this appropriation may carry out activities directly, HUD is applying the regulations at 24 CFR 570.480(c) with respect to the basis under which HUD determines whether the state has failed to carry out its certifications; the basis shall be that the state has failed to carry out its certifications in compliance with applicable program requirements. Also, HUD is waiving 24 CFR 570.494, regarding timely distribution of funds. However, HUD expects each state grantee to expeditiously obligate and expend all funds, including any recaptured funds or program income, and to carry out activities in a timely manner.

13. *Note that use of grant funds must relate to the covered disaster(s).* The supplemental Acts impose fundability criteria in addition to the annual CDBG requirement that each activity must be eligible under 42 U.S.C. 5305(a) or this Notice and meet a CDBG national objective under the penultimate paragraph of 42 U.S.C. 5304(b)(3). Public Laws 109-148 and 109-234 require that each activity assisted must be related to disaster relief, long-term recovery, and restoration of infrastructure in the most impacted and distressed areas related to the consequences of Hurricanes Katrina, Rita, and Wilma in communities included in Presidential disaster declarations.

14. *Note on the change to the administration limitation.* Up to 5 percent of the grant amount may be used for the state's administrative costs.



The provisions of 42 U.S.C. 5306(d) and 24 CFR 570.489(a)(1)(i) and (iii) will not apply to the extent that they cap state administration expenditures and require a dollar-for-dollar match of state funds for administrative costs exceeding \$100,000. HUD does not waive 24 CFR 570.489(a)(3) to allow a state to exceed the overall planning, management, and administrative cap of 20 percent.

### Reporting

15. *Waiver of performance report and alternative requirement.* The requirements for submission of a Performance Evaluation Report (PER) pursuant to 42 U.S.C. 12708 and 24 CFR 91.520 are waived. The alternative requirement is that:

a. Each grantee must submit its Action Plan for Disaster Recovery, including performance measures, into HUD's Web-based Disaster Recovery Grant Reporting (DRGR) system. (The signed certifications and the form SF-424 must be submitted in hard copy.) As additional detail about uses of funds becomes available to the grantee, the grantee must enter this detail into DRGR, in sufficient detail to serve as the basis for acceptable performance reports.

b. Each grantee must submit a quarterly performance report, as HUD prescribes, no later than 30 days following each calendar quarter, beginning after the first full calendar quarter, after grant award and continuing until all funds have been expended and all expenditures reported. Each quarterly report will include information about the uses of funds during the applicable quarter, including (but not limited to) the project name, activity, location, and national objective, funds budgeted, obligated, drawn down, and expended; the funding source and total amount of any non-CDBG disaster funds; beginning and ending dates of activities; and performance measures such as numbers of low- and moderate-income persons or households benefiting. Quarterly reports to HUD must be submitted using HUD's Web-based DRGR system.

16. *Use of subrecipients.* The following alternative requirement applies for any activity that a state carries out directly by funding a subrecipient:

a. 24 CFR 570.503, except that specific references to 24 CFR parts 84 and 85 need not be included in subrecipient agreements.

b. 570.502(b), except to the extent that it mandates compliance with Office of Management and Budget (OMB) Circular A-110 (implemented at 24 CFR part 84, "Uniform Administrative

Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals and Other Non-Profit Organizations"). HUD recommends application of 24 CFR part 84, but does not require it.

17. *Recordkeeping.* Recognizing that the state may carry out activities directly, 24 CFR 570.490(b) is waived in such a case and the following alternative provision shall then apply: state records. The state shall establish and maintain such records as may be necessary to facilitate review and audit by HUD of the state's administration of CDBG disaster recovery funds under 24 CFR 570.493. Consistent with applicable statutes, regulations, waivers and alternative requirements, and other federal requirements, the content of records maintained by the state shall be sufficient to: enable HUD to make the applicable determinations described at 24 CFR 570.493; make compliance determinations for activities carried out directly by the state; and show how activities funded are consistent with the descriptions of activities proposed for funding in the action plan. For fair housing and equal opportunity purposes and, as applicable, such records shall include data on the racial, ethnic, and gender characteristics of persons who are applicants for, participants in, or beneficiaries of the program.

18. *Change of use of real property.* This waiver conforms the change of use of real property rule to the waiver allowing a state to carry out activities directly. For purposes of this program, in 24 CFR 570.489(j), (j)(1), and the last sentence of (j)(2), "unit of general local government" shall be read as "unit of general local government or state."

19. *Responsibility for state review and handling of noncompliance.* This change conforms the rule with the waiver allowing the state to carry out activities directly. 24 CFR 570.492 is waived and the following alternative requirement applies: The state shall make reviews and audits, including on-site reviews of any subrecipients, designated public agencies, and units of general local government as may be necessary or appropriate to meet the requirements of section 104(e)(2) of the Housing and Community Development Act of 1974, as amended, and modified by this Notice. In the case of noncompliance with these requirements, the state shall take such actions as may be appropriate to prevent a continuance of the deficiency, to mitigate any adverse effects or consequences, and to prevent a recurrence. The state shall establish remedies for noncompliance by any designated public agencies or units of

general local governments and for its subrecipients.

20. *Information collection approval note.* HUD has approval for information collection requirements in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520) under OMB control number 2506-0165. In accordance with the Paperwork Reduction Act, HUD may not conduct or sponsor, nor is a person required to respond to, a collection of information, unless the collection displays a valid control number.

### Certifications

21. *Certifications for state governments, waiver, and alternative requirement.* Section 91.325 of title 24 of the Code of Federal Regulations is waived. Each state must make the following certifications prior to receiving a CDBG disaster recovery grant:

a. The state certifies that it will affirmatively further fair housing, which means that it will conduct an analysis to identify impediments to fair housing choice within the state, take appropriate actions to overcome the effects of any impediments identified through that analysis, and maintain records reflecting the analysis and actions in this regard. (See 24 CFR 570.487(b)(2).)

b. The state certifies that it has in effect and is following a residential anti-displacement and relocation assistance plan in connection with any activity assisted with funding under the CDBG program.

c. The state certifies its compliance with restrictions on lobbying required by 24 CFR part 87, together with disclosure forms, if required by that part.

d. The state certifies that the Action Plan for Disaster Recovery is authorized under state law and that the state, and any entity or entities designated by the state, possesses the legal authority to carry out the program for which it is seeking funding, in accordance with applicable HUD regulations and this Notice.

e. The state certifies that it will comply with the acquisition and relocation requirements of the URA, as amended, and implementing regulations at 49 CFR part 24, except where waivers or alternative requirements are provided for this grant.

f. The state certifies that it will comply with section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u), and implementing regulations at 24 CFR part 135.

g. The state certifies that it is following a detailed citizen participation plan that satisfies the

requirements of 24 CFR 91.115 (except as provided for in notices providing waivers and alternative requirements for this grant), and that each unit of general local government that is receiving assistance from the state is following a detailed citizen participation plan that satisfies the requirements of 24 CFR 570.486 (except as provided for in notices providing waivers and alternative requirements for this grant).

h. The state certifies that it has consulted with affected units of local government in counties designated in covered major disaster declarations in the non-entitlement, entitlement, and tribal areas of the state in determining the method of distribution of funding;

i. The state certifies that it is complying with each of the following criteria:

1. Funds will be used solely for necessary expenses related to disaster relief, long-term recovery, and restoration of infrastructure in the most impacted and distressed areas related to the consequences of the Gulf Coast hurricanes of 2005 in communities included in Presidential disaster declarations.

2. With respect to activities expected to be assisted with CDBG disaster recovery funds, the action plan has been developed so as to give the maximum feasible priority to activities that will benefit low- and moderate-income families.

3. The aggregate use of CDBG disaster recovery funds shall principally benefit low- and moderate-income families in a manner that ensures that at least 50 percent of the amount is expended for activities that benefit such persons during the designated period.

4. The state will not attempt to recover any capital costs of public improvements assisted with CDBG disaster recovery grant funds, by assessing any amount against properties owned and occupied by persons of low- and moderate-income, including any fee charged or assessment made as a condition of obtaining access to such public improvements, unless: (A) disaster recovery grant funds are used to pay the proportion of such fee or assessment that relates to the capital costs of such public improvements that are financed from revenue sources other than under this title; or (B) for purposes of assessing any amount against properties owned and occupied by persons of moderate income, the grantee certifies to the Secretary that it lacks sufficient CDBG funds (in any form) to comply with the requirements of clause (A).

j. The state certifies that the grant will be conducted and administered in

conformity with title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d) and the Fair Housing Act (42 U.S.C. 3601–3619) and implementing regulations.

k. The state certifies that it has and that it will require units of general local government that receive grant funds to certify that they have adopted and are enforcing:

1. A policy prohibiting the use of excessive force by law enforcement agencies within its jurisdiction against any individuals engaged in non-violent civil rights demonstrations; and

2. A policy of enforcing applicable state and local laws against physically barring entrance to or exit from a facility or location that is the subject of such non-violent civil rights demonstrations within its jurisdiction.

l. The state certifies that each state grant recipient or administering entity has the capacity to carry out disaster recovery activities in a timely manner, or that the state has a plan to increase the capacity of any state grant recipient or administering entity that lacks such capacity.

m. The state certifies that it will not use CDBG disaster recovery funds for any activity in an area delineated as a special flood hazard area in FEMA's most current flood advisory maps, unless it also ensures that the action is designed or modified to minimize harm to or within the floodplain in accordance with Executive Order 11988 and 24 CFR part 55.

n. The state certifies that it will comply with applicable laws.

22. *Duration of funding.* Availability of funds provisions in 31 U.S.C. 1551–1557, added by section 1405 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510), limit the availability of certain appropriations for expenditure. This limitation may not be waived. However, the appropriations acts for these grants direct that these funds be available until expended unless, in accordance with 31 U.S.C. 1555, the Department determines that the purposes for which the appropriation has been made have been carried out and that no disbursement has been made against the appropriation for 2 consecutive fiscal years. In such a case, the Department shall close out the grant prior to expenditure of all funds.

#### **Provisions Unique to Grants Under Public Law 109–234**

23. *Action Plan additional elements.* The disaster recovery grantees receiving funding under Public Law 109–234 must provide the following elements as part of the overall plan for disaster recovery:

a. An explanation of how the state will give priority to the rehabilitation and reconstruction of the affordable rental housing stock, including public and other HUD-assisted housing, a description of the activities the state plans to undertake with grant funds under this priority, and a description of the unique challenges that individuals with disabilities face in finding accessible and affordable housing;

b. An explanation of how the state will give priority to infrastructure development and rehabilitation, and a description of the infrastructure activities it plans to undertake with grant funds; and

c. An explanation of how the method of distribution or use of funds described in accordance with the applicable notices will result in the state meeting the requirement that at least 19.3311 percent of its allocation under this notice shall be used for repair, rehabilitation, and reconstruction (including demolition, site clearance, and remediation) of the affordable rental housing stock (including public and other HUD-assisted housing) in the impacted areas.

#### *24. Alternative requirements regarding targeting in Louisiana.*

a. The State of Louisiana will target 70 percent of its disaster recovery funds under Public Law 109–234 toward the disaster recovery needs in the New Orleans-Metairie-Bogalusa Metropolitan Area; and

b. Before Louisiana expends any funds to meet the minimum requirement for affordable rental housing under this notice, the Governor of Louisiana shall demonstrate to the Secretary's satisfaction that the state will provide funds or has identified dedicated resources sufficient to meet the key disaster recovery needs for repair, rehabilitation, and reconstruction of affordable rental housing stock, including public housing disaster recovery in the most impacted areas of the state.

#### **Catalog of Federal Domestic Assistance**

The Catalog of Federal Domestic Assistance numbers for the disaster recovery grants under this Notice are as follows: 14.219; 14.228.

#### **Finding of No Significant Impact**

A Finding of No Significant Impact (FONSI) with respect to the environment has been made in accordance with HUD regulations at 24 CFR part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)). The FONSI is available for public inspection between 8 a.m. and 5

p.m. weekdays in the Office of the Rules Docket Clerk, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 10276, Washington, DC 20410-0500. Due to security measures at the HUD Headquarters building, please schedule an appointment to review the finding by calling the Regulations Division at 202-402-3055 (this is not a toll-free number).

Dated: July 28, 2008.

**Roy A. Bernardi,**

*Deputy Secretary.*

[FR Doc. E8-18281 Filed 8-7-08; 8:45 am]

BILLING CODE 4210-67-P

## DEPARTMENT OF THE INTERIOR

### Office of the Secretary

#### **Exxon Valdez Oil Spill Trustee Council; Notice of Meeting**

**AGENCY:** Office of the Secretary, Department of the Interior.

**ACTION:** Notice of meeting.

**SUMMARY:** The Department of the Interior, Office of the Secretary is announcing a public meeting of the Exxon Valdez Oil Spill Public Advisory Committee.

**DATES:** September 3, 2008, at 9 a.m.

**ADDRESSES:** Exxon Valdez Oil Spill Trustee Council Office, 441 West 5th Avenue, Suite 500, Anchorage, Alaska.

**FOR FURTHER INFORMATION CONTACT:** Douglas Mutter, Department of the Interior, Office of Environmental Policy and Compliance, 1689 "C" Street, Suite 119, Anchorage, Alaska, 99501, (907) 271-5011.

**SUPPLEMENTARY INFORMATION:** The Public Advisory Committee was created by Paragraph V.A.4 of the Memorandum of Agreement and Consent Decree entered into by the United States of America and the State of Alaska on August 27, 1991, and approved by the United States District Court for the District of Alaska in settlement of *United States of America v. State of Alaska*, Civil Action No. A91-081 CV. The meeting agenda will include review of the draft fiscal year 2009 program development and implementation budget, and invitation; 2008 update to the Injured Resources and Services List; Integrated Herring Restoration Program;

fiscal year 2008 projects requesting extensions; and personnel changes.

**Willie R. Taylor,**

*Director, Office of Environmental Policy and Compliance.*

[FR Doc. E8-18341 Filed 8-7-08; 8:45 am]

BILLING CODE 4310-RG-P

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

**[FWS-R7-R-2008-NO182] [70138-1263-0000-4A]**

#### **Information Collection Sent to the Office of Management and Budget (OMB) for Approval; Alaska Guide Service Evaluation**

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice; request for comments.

**SUMMARY:** We (Fish and Wildlife Service) have sent an Information Collection Request (ICR) to OMB for review and approval. The ICR, which is summarized below, describes the nature of the collection and the estimated burden and cost. We may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

**DATES:** You must submit comments on or before September 8, 2008.

**ADDRESSES:** Send your comments and suggestions on this ICR to the Desk Officer for the Department of the Interior at OMB-OIRA at (202) 395-6566 (fax) or OIRA\_DOCKET@OMB.eop.gov (e-mail). Please provide a copy of your comments to Hope Grey, Information Collection Clearance Officer, Fish and Wildlife Service, MS 222-ARLSQ, 4401 North Fairfax Drive, Arlington, VA 22203 (mail); (703) 358-2269 (fax); or hope\_grey@fws.gov (e-mail).

**FOR FURTHER INFORMATION CONTACT:** To request additional information about this ICR, contact Hope Grey by mail, fax, or e-mail (see ADDRESSES) or by telephone at (703) 358-2482.

#### **SUPPLEMENTARY INFORMATION:**

**OMB Control Number:** None. This is a new collection.

**Title:** Alaska Guide Service Evaluation.

**Service Form Number(s):** 3-2349.

**Type of Request:** New collection.

**Affected Public:** Clients of permitted commercial guide service providers.

**Respondent's Obligation:** Voluntary.

**Frequency of Collection:** One time following use of commercial guide services.

**Estimated Annual Number of Respondents:** 396.

**Estimated Total Annual Responses:** 396.

**Estimated Time Per Response:** 15 minutes.

**Estimated Total Annual Burden Hours:** 99.

**Abstract:** We are proposing to collect information to help us evaluate commercial guide services on our national wildlife refuges in the State of Alaska (State). The National Wildlife Refuge Administration Act of 1966, as amended (16 U.S.C. 668dd-ee), authorizes us to permit uses, including commercial visitor services, on national wildlife refuges when we find the activity to be compatible with the purposes for which the refuge was established. With the objective of making available a variety of quality visitor services for wildlife-dependent recreation on National Wildlife Refuge System lands, we issue permits for commercial guide services, including big game hunting, sport fishing, wildlife viewing, river trips, and other guided activities. We plan to use FWS Form 3-2349 (Alaska Guide Service Evaluation) as a method to:

- (1) Monitor the quality of services provided by commercial guides.
  - (2) Gauge client satisfaction with the services.
  - (3) Assess the impacts of the activity on refuge resources.
- The client is the best source of information on the quality of commercial guiding services. We plan to collect:
- (1) Client name.
  - (2) Guide name(s).
  - (3) Type of guided activity.
  - (4) Dates and location of guided activity.
  - (5) Information on the services received such as the client's expectations, safety, environmental impacts, and client's overall satisfaction.

We will encourage respondents to provide any additional comments that they wish regarding the guide service or refuge experience, and ask whether or not they wish to be contacted for additional information.

The above information, in combination with State-required guide activity reports and contacts with guides and clients in the field, will provide a comprehensive method for monitoring permitted commercial guide activities. A regular program of client evaluation will help refuge managers detect potential problems with guide services so that we can take corrective actions promptly. In addition, we will use this information during the competitive selection process for big game and sport fishing guides to evaluate an applicant's