

fraudulent contractor may have performed defective construction. In either case, the grantee has the discretion to determine what documentation is sufficient to demonstrate these events. Ultimately, required documentation depends on each particular fact pattern.

## VI. Use of CDBG Funds

*A. Use of funds for explicit and eligible purposes.* CDBG disaster recovery funds must be used for eligible purposes of the program or activity for which they have been provided. That is, CDBG funds provided for the sole purpose of repairing a home should be used strictly for the repair of that home. They should not be used for any other purpose. Similarly, funds provided to a business for equipment replacement, or structural repair, should be used only for those purposes. While some business assistance programs may provide for-profit entities with working capital, this purpose should be clearly identified from the outset of the program so as not to duplicate other programs or working capital assistance.

*B. Treatment of SBA Loans.* CDBG disaster recovery funds should not be used to pay down an SBA home or business loan. In cases where initial SBA loan amounts approved based on estimated costs are later determined to be inadequate relative to the actual costs to complete home repairs or reconstruction, the SBA will consider re-evaluating an applicant's maximum eligibility to explore if additional assistance may be provided. This also applies to recipients of SBA business loans (including loans for working capital). If need remains after all SBA eligibility has been exhausted, supplemental disaster recovery CDBG funds may be used to address that need.

SBA loans are among the Federal government's primary and standard forms of disaster assistance. As disaster recovery CDBG funds are provided by Congress through supplemental appropriations only in extraordinary circumstances, these funds are intended to supplement rather than supplant SBA assistance. Grantees may, on rare occasion and in extraordinary circumstances, contend that the payment of SBA loans with disaster recovery CDBG for a beneficiary is justified in keeping with all associate laws and regulations. In such an instance, the grantee should contact its CPD representative for guidance.

## VII. Collecting a Duplication

If a potential duplication is discovered after CDBG disaster recovery assistance has been provided, the

grantee may reassess need at that time. If additional need is not demonstrated, disaster recovery funds should be recaptured to the extent they are in excess of the need and duplicate other assistance received by the beneficiary for the same purpose. However, it may depend on what funds were provided last.

Under the Stafford Act, a Federal agency that provides duplicative funds must collect those funds. FEMA regulations at 44 CFR 206.191 set forth a hierarchy of delivery that determines the order in which beneficiaries should receive Federal assistance. This hierarchy is based on which agency has the primary responsibility for providing assistance following a disaster, not which agency actually delivers the assistance first. As an example, in most situations, FEMA and SBA assistance is provided to individuals before supplemental disaster recovery CDBG assistance is able to be delivered. However, there may be cases in which, prior to receiving FEMA or SBA assistance, an applicant receives CDBG assistance for a purpose for which they are FEMA/SBA eligible. In this latter case, subject to the agreement that the grantee should have in place with the applicant, the applicant should reimburse the grantee in an amount equal to all duplicative FEMA or SBA funds subsequently received for purposes which CDBG funds were initially used.

The regulations at 44 CFR 206.191(d) explain that a duplication of benefits occurs when an agency provides assistance which was the primary responsibility of another agency, and the agency with primary responsibility later provides assistance. When the delivery sequence has been disrupted, the disrupting agency is responsible for rectifying the duplication.

Since CDBG disaster recovery provides long-term recovery assistance via supplemental congressional appropriations, and falls lower in the hierarchy of delivery than FEMA or SBA assistance, it is intended to supplement rather than supplant these sources of assistance. If CDBG disaster recovery funds or non-Federal funds were provided last and unknowingly create a duplication, the method of recapturing the CDBG funds, and the timeframe, are the responsibility of the grantee. HUD has no set guidelines or regulations for this process. However, the recapture method and timeframe should be consistent with OMB Circular A-87 (2 CFR part 225) or other applicable cost principles, any relevant guidance or handbook issued by the HUD Office of the Inspector General,

and the Stafford Act, which requires that duplicative assistance shall be collected in accordance with chapter 37 of title 31, relating to debt collection. HUD's CPD representatives are available to provide guidance to grantees setting up or revising their duplication of benefits policies and procedures.

## Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance numbers for the disaster recovery grants under this Notice are as follows: 14.218; 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). The FONSI is available for public inspection between 8 a.m. and 5 p.m. weekdays in the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street SW., Room 10276, Washington, DC 20410-0500. Due to security measures at the HUD Headquarters building, an advance appointment to review the docket file must be scheduled by calling the Regulations Division at (202) 708-3055 (this is not a toll-free number). Hearing or speech-impaired individuals may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877-8339.

Dated: November 4, 2011.

**Mercedes M. Márquez,**  
*Assistant Secretary for Community Planning and Development.*

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## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-5580-N-02]

### HUD Draft Environmental Justice Strategy, Extension of Public Comment Period

**AGENCY:** Office of Sustainable Housing and Communities, HUD.

**ACTION:** Notice.

**SUMMARY:** Through this notice, HUD extends the period by which comments may be submitted on HUD's draft Environmental Justice Strategy, for which the availability of review and the opportunity to submit public comments were announced by notice published in the **Federal Register** on October 7, 2011.

**DATES:** *Comment Due Date:* November 23, 2011. Comments may be submitted to [EJStrategy@hud.gov](mailto:EJStrategy@hud.gov).

**FOR FURTHER INFORMATION CONTACT:**

Kathryn Dykgraaf Office of Sustainable Housing and Communities, Department of Housing and Urban Development, 451 7th Street SW., Room, Washington, DC 20410; telephone number (202) 402-6731 (this is not a toll-free number). Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877-8339.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

By notice published in the **Federal Register** on October 7, 2011 (76 FR 62434), HUD released for review and public comment its draft Environmental Justice Strategy (EJ Strategy). HUD's EJ Strategy is a four-year plan to address environmental justice concerns and increase access to environmental benefits through HUD policies, programs, and activities. HUD's EJ strategy can be found at [http://portal.hud.gov/hudportal/HUD?src=/program\\_offices/sustainable\\_housing\\_communities/HUD\\_Draft\\_Environmental\\_Justice\\_Strategy](http://portal.hud.gov/hudportal/HUD?src=/program_offices/sustainable_housing_communities/HUD_Draft_Environmental_Justice_Strategy). As HUD noted in the October 7, 2011, notice, the release of the draft is the latest step in a larger Administration-wide effort to ensure strong protection from environmental and health hazards for all Americans. The October 7, 2011, notice provided for the submission of public comments through November 14, 2011.

Through this notice HUD extends the public comment period to November 23, 2011. Comments can be submitted by emailing [EJStrategy@hud.gov](mailto:EJStrategy@hud.gov).

HUD will review the comments submitted, and is targeting finalization of the strategy by February 2012. After the strategy is issued in final, HUD and its Federal partners will continue to engage stakeholders through outreach, education and stakeholder events and respond to public comments through annual implementation reports.

Dated: November 7, 2011.

**Mariia Zimmerman,**

*Deputy Director for Sustainable Communities.*

[FR Doc. 2011-29518 Filed 11-15-11; 8:45 am]

**BILLING CODE 4210-67-P**

**DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**

[Docket No. (FR-5478-N-06)]

**Privacy Act of 1974; Notification To Delete and Create a New System of Records, "HUD/FHA Lender Approval Files" to New Lender Electronic Assessment Portal**

**AGENCY:** Office of the Chief Information Officer, HUD.

**ACTION:** Notification to Delete and Create a New System of Records.

**SUMMARY:** HUD is providing public notice that it proposes to design a new system, the Lender Electronic Assessment Portal (LEAP), and revise and delete information published in the **Federal Register** (FR) about one of its existing Privacy Act system of records. The creation of the new system is to facilitate migration and streamline efforts for record collection activities under the Federal Housing Administration (FHA) lender approval and recertification process. The new system LEAP will take full custody over the records currently maintained by HUD's Lender Approval Files System of Records Notice (SORN) and will fully automate the manual records process for these records. The HUD/FHA Lender Approval Files SORN contains information pertaining to individuals who are principals or officers of financial institutions seeking approval or approved to originate, service, or hold FHA single family or multifamily insured mortgages, or Title I and Title II insured loans. Fully automating and streamlining HUD's lender approval and recertification process enables HUD's Office of FHA to efficiently perform the workflow operation and the assessments required to ascertain a financial institution's eligibility and/or qualification to participating under a FHA-insured mortgage, or Title I and Title II insured loans. Subsequent changes that have occurred for the previously published notice involve: Changes to the Categories of Individuals Covered by the System, Categories of Records in the System, Purposes of the System, and Routine Uses of Records Maintained in the System, Including Categories of Users and Purposes of Such Users. This notice serves to update, replace and delete the prior SORN reference published in the **Federal Register** on August 22, 1999 for HUD/FHA Lender Approval Files.

**DATES:** *Effective Date:* This proposal shall become effective, without further notice, December 16, 2011, unless comments are received during or before

this period which would result in a contrary determination.

*Comments Due Date:* December 16, 2011.

**ADDRESSES:** Interested persons are invited to submit comments regarding this notice to the Rules Docket Clerk, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street SW., Room 10276, Washington, DC 20410. Communications should refer to the above docket number and title. FAX comments are not acceptable. A copy of each communication submitted will be available for public inspection and copying between 8 a.m. and 5 p.m., weekdays at the above address.

**FOR FURTHER INFORMATION CONTACT:** For Privacy Act inquiries contact Harold Williams, Acting Departmental Privacy Act Officer, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410, telephone number (202) 402-8087. Regarding records maintained in Washington, DC 20410 for the Office of Housing, contact the Director, Lender Approval and Recertification Division, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410, telephone number (202) 402-8214. [The above are not toll free numbers.] A telecommunications device for hearing- and speech-impaired persons (TTY) is available at 1-(800) 877-8339 (Federal Information Relay Services).

**SUPPLEMENTARY INFORMATION:** Title 5 U.S.C. 552a(e)(4) and (11) provides that the public be afforded a 30-day period in which to comment on the amended record system. The system report was submitted to the Office of Management and Budget (OMB), the Senate Committee on Homeland Security and Governmental Affairs and the House Committee on Government Reform pursuant to Paragraph 4c of Appendix I to OMB Circular No. A-130, "Federal Agencies Responsibilities for Maintaining Records About Individuals," dated July 25, 1993 (58 FR 36075, July 2, 1993).

Accordingly, this notice deletes prior publication for the HUD/FHA Lender Approval Files SORN and creates a new notice for the HUD's FHA Housing program administrators and accompanying information to be submitted and accessed in the management of HUD's FHA Housing programs by the Office of Housing.

**Authority:** 5 U.S.C. 552a; 88 Stat. 1896; 42 U.S.C. 3535(d).