

**SUPPLEMENTARY INFORMATION:** Notice of this meeting is given under the Federal Advisory Committee Act, 5 U.S.C. App. (Pub. L. 92-463).

#### Agenda of the Meeting

The agenda for the September 9 meeting will be as follows:

- (1) Opening comments.
- (2) Introductions.
- (3) Administrative announcements.
- (4) Pre-approved presentations from the public.
- (5) Debriefs from each DRBOSAC Subcommittee.
- (6) Public comments.
- (7) Future Committee business.
- (8) Closing.

More information and detail on the meeting will be available at the committee Web site, located at <https://homeport.uscg.mil/drbosac>. Additional detail may be added to the agenda up to September 2, 2009.

#### Procedural

This meeting is open to the public. All persons entering the Harbor Room will need to sign in at the door. Please note that the meeting may close early if all business is finished.

The public will be able to make oral presentations during the meeting when given the opportunity to do so. Members of the public may seek pre-approval for their oral presentations by contacting the Coast Guard no later than September 2, 2009. The public may file written statements with the committee; written material should reach the Coast Guard no later than September 2, 2009. If you would like a copy of your material distributed to each member of the committee in advance of the meeting, please submit 35 copies to the Liaison to the DFO no later than September 2, 2009, and indicate that the material is to be distributed to committee members in advance of the September 9 meeting.

Please register your attendance with the Liaison to the DFO no later than September 2, 2009.

#### Information on Services for Individuals with Disabilities

For information on facilities, or services for individuals with disabilities, or to request special assistance at the meeting, contact the Liaison to the DFO as soon as possible.

Dated: August 6, 2009.

**Nakeisha B. Hills,**

*Lieutenant Commander, U.S. Coast Guard, Preparedness Officer, Sector Delaware Bay Acting Designated Federal Officer.*

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**BILLING CODE 4910-15-P**

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-5337-N-01]

### Additional Allocations and Waivers Granted to and Alternative Requirements for 2008 Community Development Block Grant (CDBG) Disaster Recovery Grantees

**AGENCY:** Office of the Secretary, HUD.

**ACTION:** Notice of allocations, waivers, and alternative requirements.

**SUMMARY:** This Notice advises the public of the second allocation for grant funds for CDBG disaster recovery grants for the purpose of assisting in the recovery in areas covered by a declaration of major disaster under title IV of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*) as a result of recent natural disasters. As described in the **SUPPLEMENTARY INFORMATION** section of this Notice, HUD is authorized by statute and regulations to waive statutory and regulatory requirements and specify alternative requirements for this purpose, upon the request of the state grantees. This Notice also describes: (1) How the allocatees may implement the common application, eligibility, and administrative waivers and the common alternative and statutory requirements for the grants; and (2) additional waivers and alternative requirements for certain earlier grants.

**DATES:** *Effective Date:* August 19, 2009.

#### FOR FURTHER INFORMATION CONTACT:

Scott Davis, Director, Disaster Recovery and Special Issues Division, Office of Block Grant Assistance, Department of Housing and Urban Development, 451 7th 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 telephone number 800-877-8339. Facsimile inquiries may be sent to Mr. Davis at facsimile number 202-401-2044. (Except for the "800" number, these telephone numbers are not toll free.)

#### SUPPLEMENTARY INFORMATION:

##### Authority To Grant Waivers

The Consolidated Security, Disaster Assistance, and Continuing Appropriations Act, 2009 (Pub. L. 110-329, approved September 30, 2008) (hereinafter, "Second 2008 Act" to differentiate it from the earlier 2008 Supplemental Appropriations Act) (Pub. L. 110-252 approved June 30, 2008)

(hereinafter "First 2008 Act"), appropriated \$6.5 billion, to remain available until expended, in CDBG funds for necessary expenses related to disaster relief, long-term recovery, and restoration of infrastructure, housing, and economic revitalization in areas affected by hurricanes, floods, and other natural disasters occurring during 2008, for which the President declared a major disaster under title IV of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*). To date, \$377,139,920 has been rescinded, \$6,500,000 was set-aside for HUD administrative costs, and \$2,145,000,000 was allocated by HUD in November 2008. This Notice allocates the remaining \$3,971,360,080.

The First 2008 Act also appropriated funds for 2008 disaster recovery grantees, although it only provided funds for disasters occurring in May and June 2008. Both the First 2008 Act and the Second 2008 Act 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 use of these funds and guarantees by the recipient, except for requirements related to fair housing, nondiscrimination, labor standards, and the environment (including requirements concerning lead-based paint), upon a request by the state explaining why such waiver is required to facilitate the use of such funds or guarantees, and a finding by the Secretary that such a waiver would not be inconsistent with the overall purpose of title I of the Housing and Community Development Act of 1974 (HCD Act). Additionally, regulatory waiver authority is provided by 24 CFR 5.110, 91.600, and 570.5. The following application and reporting waivers and alternative requirements are in response to requests from the states receiving an allocation under today's **Federal Register** Notice.

The Secretary finds that the following waivers and alternative requirements, as described below, are necessary to facilitate use of the funds for the statutory purposes and are not inconsistent with the overall purpose of title I of the HCD Act or the Cranston-Gonzalez National Affordable Housing Act, as amended.

Under the requirements of the First 2008 Act and the Second 2008 Act, statutory and regulatory waivers must be published in the **Federal Register**. Except as described in this Notice, 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 First and Second 2008 Acts, HUD will reconsider every waiver in today's **Federal Register** Notice on the 2-year anniversary of the day this Notice is published.

#### Additional Waivers

Each state receiving an allocation may request additional waivers from the Department as needed to address the specific needs related to that state's recovery activities. The Department will respond separately to the state's requests for waivers of provisions not covered in this Notice, after working with the state to tailor the program to best meet the unique disaster recovery needs in its impacted areas. HUD has included some additional waivers and alternative requirements for individual states in this Notice.

#### Allocations

Today's Notice makes available the remainder of the Second Act's supplemental appropriation, \$3,971,360,080 for the CDBG program for necessary expenses related to disaster relief, long-term recovery, and restoration of infrastructure, housing,

and economic revitalization in areas affected by hurricanes, floods, and other natural disasters occurring in 2008, for which the President declared a major disaster under title IV of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*). The Second 2008 Act notes:

That funds provided under this heading shall be administered through an entity or entities designated by the Governor of each state \* \* \* Provided further, that funds allocated under this heading shall not adversely affect the amount of any formula assistance received by a state under the Community Development Fund: Provided further, that each state may use up to five percent of its allocation for administrative costs.

HUD computes allocations based on data that are generally available covering all the eligible affected areas. The 11 states receiving an allocation in today's Notice are indicated in Table 1, below. Their estimated unmet needs represent more than 97 percent of the estimated unmet needs across all 76 disasters that occurred in 2008. The allocation was based on two factors: (i) The sum of estimated unmet housing, infrastructure, and business needs,

adjusted by (ii) a HUD calculated risk level for recovery challenge. More detailed information about the data reviewed, the formula process, and the possible risks affecting recovery can be found in Appendix 1 of this Notice. Initial allocations made under the Second 2008 Act were announced by HUD on November 26, 2008, and published in the **Federal Register** on February 13, 2009 (74 FR 7244). Initial allocations are included in Table 1. The states of Kentucky, Georgia, and Mississippi, and the Commonwealth of Puerto Rico received allocations in the February 13, 2009, **Federal Register** Notice, but are not receiving additional funds under today's Notice, bringing to 15 the total number of grantees allocated funding from the Second 2008 Act. Table 2 is a reprint from the initial allocation notice that shows what the allocations were under the First 2008 Act. Unlike funds allocated under the Second 2008 Act, which may be used for recovery from any disaster occurring during Calendar Year 2008, funds under the First 2008 Act are available only for use in areas covered by specific declarations, so these are also noted.

TABLE 1—SECOND 2008 ACT DISASTER RECOVERY ALLOCATIONS

State	This Notice's Second 2008 Act allocation	Initial Second 2008 Act allocation (Notice 74 FR 7244)	Total Second 2008 Act allocation	Minimum amount for affordable rental housing
Texas .....	\$1,743,001,247	\$1,314,990,193	\$3,057,991,440	\$342,521,992
Louisiana .....	620,467,205	438,223,344	1,058,690,549	118,582,672
Iowa .....	516,713,868	125,297,142	642,011,010	71,910,891
Indiana .....	253,340,079	95,042,622	348,382,701	39,021,933
Illinois .....	127,207,128	41,984,121	169,191,249	18,950,911
Missouri .....	78,625,549	13,979,941	92,605,490	10,372,631
Wisconsin .....	75,200,572	25,039,963	100,240,535	11,227,823
Tennessee .....	71,881,834	20,636,056	92,517,890	10,362,819
Arkansas .....	70,181,041	20,294,857	90,475,898	10,134,098
Florida .....	63,606,850	17,457,005	81,063,855	9,079,866
California .....	39,531,784	0	39,531,784	4,427,908
Kentucky .....	0	3,217,686	3,217,686	341,943
Georgia .....	0	4,570,779	4,570,779	485,736
Mississippi .....	0	6,283,404	6,283,404	667,737
Puerto Rico .....	0	17,982,887	17,982,887	1,911,040

TABLE 2—FIRST 2008 ACT DISASTER RECOVERY ALLOCATIONS

State	Disaster No.	Incident date	Declared date	Allocation
Mississippi .....	1753	3/20 to 5/19 .....	5/8/08	\$2,281,287
Maine .....	1755	4/28 to 5/14 .....	5/9/08	2,187,114
Oklahoma .....	1756	5/10 to 5/13 .....	5/14/08	1,793,876
Arkansas .....	1758	5/2 to 5/12 .....	5/20/08	4,747,501
South Dakota .....	1759	5/1 .....	5/22/08	1,987,271
Missouri .....	1760	5/10 to 5/11 .....	5/23/08	3,519,866
Colorado .....	1762	5/21 .....	5/26/08	589,651
Iowa .....	1763	5/25 and continuing .....	5/27/08	156,690,815
Indiana .....	1766	5/30 to 6/27 .....	6/8/08	67,012,966
Montana .....	1767	5/1 .....	6/13/08	666,672
Wisconsin .....	1768	6/5 and continuing .....	6/14/08	24,057,378
West Virginia .....	1769	6/3 to 6/7 .....	6/19/08	3,127,935
Nebraska .....	1770	5/22 .....	6/20/08	5,557,736

TABLE 2—FIRST 2008 ACT DISASTER RECOVERY ALLOCATIONS—Continued

State	Disaster No.	Incident date	Declared date	Allocation
Illinois .....	1771	6/1 to 7/22 .....	6/24/08	17,341,434
Minnesota .....	1772	6/7 to 6/12 .....	6/25/08	925,926
Missouri .....	1773	6/1 to 8/13 .....	6/25/08	7,512,572

Congress required that states devote “not less than \$650,000,000” of the total Second 2008 Act to support “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 where there is a demonstrated need as determined by the Secretary.” Table 1 above shows the minimum amount each grantee must spend on affordable rental housing from its total combined allocation of first and second round funding under the Second 2008 Act.

**Disaster Recovery Enhancement Allocations.** As stated above, HUD calculates CDBG disaster recovery allocations, including the above allocations, to each grantee based on unmet needs data (see Appendix 1). These data largely represent an estimate of the costs for repairs to a pre-disaster condition. Often, this data does not adequately reflect the full recovery costs associated with a disaster. Also, because of cost considerations, state disaster recovery grantees may not always choose recovery activities that are the most advantageous for long-term recovery and resilience from a federal perspective. For example, relocating a repetitively flooded community from a floodplain limits future calls on the National Flood Insurance program and other federal recovery programs. From a federal perspective, flood buyouts are frequently a good idea; locally, they can be politically difficult and somewhat more costly to administer than a traditional rehabilitation program.

Therefore, the Secretary has created a \$311,602,923 Disaster Recovery Enhancement Fund (DREF) for secondary allocations to grantees that anticipate that they will still have unmet disaster recovery needs after developing and undertaking forward-thinking recovery strategies and activities in a timely manner. To be eligible to receive an additional allocation, a grantee must budget its allocated Second 2008 Act funds for the specific activities listed in this Notice by programming the funds in an Action Plan for Disaster Recovery (or an amendment thereof) submitted to HUD by June 30, 2010. A state receiving an additional allocation may use the funds

for any activity eligible for assistance under the Second 2008 Act in accordance with this Notice.

Note that the Stafford Act and the Second 2008 Act prohibit use of these funds as a substitute or match for Federal Emergency Management Agency (FEMA) Hazard Mitigation Grant Program (HMGP) funds. Also note that CDBG disaster recovery funds must be used in the counties declared in the applicable covered disaster(s) for each state, while HMGP funds may generally be used statewide.

By setting a specific deadline for the Action Plan submissions for this DREF allocation, HUD is signaling that the Department intends to assist grantees that will implement these forward-thinking approaches to long-term recovery in a timely manner. Funds will be allocated dollar-for-dollar for the first \$15 million budgeted for enhanced disaster recovery activities for an individual state and on a pro rata basis for amounts budgeted above \$15 million as measured by funds budgeted by grant recipients by June 30, 2010, on the following specific enhanced disaster recovery activities that reduce the risk of damage from a future disaster:

1. Development and adoption of a forward-thinking land-use plan that will guide use of long-term recovery efforts and subsequent land-use decisions throughout the community and that reduces existing or future development in disaster-risk areas;

2. Floodplain or critical fire or seismic hazard area buyouts programs under an optional relocation plan that includes incentives so that families and private sector employers move out of areas at severe risk for a future disaster;

3. Individual mitigation measures (IMM) to improve residential properties and make them less prone to damage. If such activities are incorporated into the grantee’s rehabilitation or new construction programs generally, the cost increment attributed to IMM will be the amount considered for the additional allocation, not the total construction amount budget; or

4. Implementation of modern disaster resistant building codes, including, but not limited to, training on new standards and code enforcement.

A grantee must include start and end dates for each activity in its Action Plan.

A grantee must demonstrate in its Action Plan submission for any additional allocation that it still has eligible unmet needs to receive assistance from the DREF before HUD will add the additional allocation to the state’s line of credit. Furthermore, the Secretary reserves the right to allocate more or less than \$311,602,923 under this fund, depending on the amount grantees actually budget on such activities and any amounts available for reallocation.

A grantee may reprogram funds from one of the listed enhanced disaster recovery activities to another, but if the grantee reprograms grant funds to any other activity, HUD may recapture the DREF allocation, in whole or in part, in accordance with section 111 of the HCD Act, 24 CFR part 570, subpart O, and this Notice.

The Second 2008 Act requires funds to be used in accordance with its specific purposes. The statute directs that each grantee will describe in its Action Plan for Disaster Recovery criteria for eligibility and how the use of grant funds will address long-term recovery and infrastructure restoration, housing, and economic revitalization in the affected areas. HUD will monitor compliance with this direction and may be compelled to disallow expenditures if it finds uses of funds do not meet the statutory purposes, or 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 or if they have any questions regarding meeting these requirements.

As provided for in the Second 2008 Act, the funds may not be used for activities reimbursable by or for which funds are made available by FEMA or the Army Corps of Engineers. Further, none of the funds may be used as the required match, share, or contribution for another federal program.

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

Additionally, the Second 2008 Act directs 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 is pursuing four courses of action. First, the **Federal Register** Notice published February 13, 2009 (74 FR 7244), includes specific reporting, written procedures, monitoring, and internal audit requirements for grantees. Second, to the extent its resources allow, HUD will institute risk analysis and on-site monitoring of grantee management of the grants and of the specific uses of funds. Third, HUD will be extremely cautious in considering any waiver related to basic financial management requirements. The standard, time-tested CDBG financial requirements will continue to apply. Fourth, HUD is collaborating with the HUD Office of Inspector General to plan and implement oversight of these funds.

#### *Waiver Justification*

The waivers, alternative requirements, and statutory changes described in the February 13, 2009, **Federal Register** Notice (74 FR 7244) apply to all of the CDBG supplemental disaster recovery funds appropriated in the Second 2008 Act (Pub. L. 110-329), but not to funds provided under the regular CDBG program. Similarly, the waivers, alternative requirements, and statutory changes described in the September 11, 2008, **Federal Register** Notice (73 FR 52870) apply to the CDBG supplemental disaster recovery funds appropriated in the First 2008 Act, not to funds provided under the regular CDBG program. These actions, below, provide additional flexibility in program design and implementation and implement statutory requirements. The previous notices, referenced above, provide further justification for the waivers.

#### *Common Waivers*

*Previously published waivers to streamline application and program launch.* Funds allocated by today's **Federal Register** Notice will be subject to the waivers, alternative requirements, and statutory changes described in this Notice and those previously published in the February 13, 2009, **Federal Register** Notice (74 FR 7244).

*General planning activities use entitlement presumption, all grantees.* Today's **Federal Register** Notice notifies Congress and the public that the states receiving funds under the First 2008 Act and/or the Second 2008 Act have requested this waiver and HUD is granting the waiver. The annual State CDBG program requires that local

government grant recipients for planning-only grants must document that the use of funds meets a national objective. In the State CDBG program, these planning grants are typically used for individual project plans. By contrast, planning activities carried out by entitlement communities are more likely to include nonproject specific plans such as functional land-use plans, historic preservation plans, comprehensive plans, development of housing codes, and neighborhood plans related to guiding long-term community development efforts comprising multiple activities funded by multiple sources. In the annual entitlement program, these more general stand-alone planning activities are presumed to meet a national objective under the requirements at 24 CFR 570.208(d)(4). The Department notes that almost all effective CDBG disaster recoveries in the past have relied on some form of area-wide or comprehensive planning activity to guide overall redevelopment independent of the ultimate source of implementation funds. Therefore, the Department is removing the eligibility requirement that CDBG disaster recovery-assisted planning-only grants or state directly administered planning activities that will guide recovery in accordance with the appropriations act must comply with the State CDBG program rules at 24 CFR 570.483(b)(5) or (c)(3). Instead, 24 CFR 570.208(d)(4) will apply.

#### *State-Specific Waivers*

*National Objective Documentation for Economic Development Activities—States of Iowa, Louisiana, and Texas.* For the national objective documentation for business assistance activities, the states of Iowa, Louisiana and Texas, which have received funds under the First 2008 Act and Second 2008 Act, have asked to apply individual salaries or wages-per-job and the income limits for a household of one, rather than the usual CDBG standard of total household income and the limits by total household size. The states have asserted that this proposed documentation would be simpler and quicker for participating lenders to administer, easier to verify, and would not misrepresent the amount of low- and moderate-income benefit provided. Upon consideration, HUD is granting this waiver, which also was granted for recovery in lower Manhattan following September 11, 2001, and in certain states following the Gulf Coast hurricanes of 2005. Due to the significant breadth of many states' economic development programs, this waiver will play a key role in

streamlining the documentation process because it allows collection of wage data for each position created or retained from the assisted businesses, rather than from each individual household.

*Section 414 of the Stafford Act—States of Louisiana and Texas.* In addition to the above, the states of Louisiana and Texas have also requested a waiver of section 414 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended, for their disaster recovery programs. Section 414 directs that persons who were displaced by a disaster be considered to be displaced by a federal action, as defined under the Uniform Relocation Act (URA), if the property in which they were living prior to the disaster is assisted with certain federal funds. Today's **Federal Register** Notice grants, in part, the request that the Secretary waive that section and provides alternative requirements more consistent with the purpose of the Second 2008 Act, which is to assist and support disaster recovery in the areas most affected by the effects of the disasters in 2008.

Several states suffered significant destruction in the wake of Hurricanes Ike and Gustav, and the reconstruction will likely last for many years to come—much like in the Gulf Coast states affected by the hurricanes in 2005. For programs or projects covered by this waiver ("covered programs or projects") that are initiated within 3 years after the applicable disaster, each state receiving this waiver must comply with one of the 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):

#### *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 should be offered in a manner consistent with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA), as amended, 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 Second 2008 Act, 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 by 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) Application materials, award letters, and operating procedures requiring property owners to make reasonable attempts to contact their former residential tenants and offer a unit, upon completion, to those tenants meeting the program's eligibility requirements.

- (iv) Persons in physical occupancy who are displaced by a HUD-assisted disaster recovery project will continue to be eligible for URA assistance.

#### Justification for Waiver

The reasons for granting this waiver are several, and are ably represented by the states in their requests. The principal reasons are highlighted here:

- Hurricanes Ike and Gustav caused significant destruction that 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, particularly in Texas and Louisiana; and

- Simplify the administration of disaster recovery projects or programs initiated years following the disaster.

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. A 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.

*Eligibility—buildings for the general conduct of government—States of Indiana, Louisiana, and Texas.* The states of Indiana, Louisiana, and Texas requested a limited waiver of the prohibition on funding buildings for the general conduct of government. HUD has considered the request and agrees that it is consistent with the overall purposes of the 1974 Act for requesting states to be able to use the grant funds under this notice to repair or reconstruct buildings used for the general conduct of government and that the states have selected in accordance with the method described in their Action Plans for Disaster Recovery and that they have determined have substantial value in promoting disaster recovery. However, as stated by the Second 2008 Act, funds allocated under today's **Federal Register** Notice, or the February 13, 2009, **Federal Register** Notice (74 FR 7244), may not be used for activities reimbursable by or for which funds are made available by FEMA or the Army Corps of Engineers. Further, none of the funds may be used as the required match, share, or contribution for another federal program.

*Public benefit for certain economic development activities—States of Iowa, Louisiana, and Texas.* The states of Iowa, Louisiana, and Texas have requested a waiver of the public benefit standards for their economic development activities. The public benefit provisions set standards for individual economic development activities (such as a single loan to a business) and for economic development activities in the annual aggregate. Currently, public benefit standards limit the amount of CDBG assistance per job retained or created, or

the amount of CDBG assistance per low- and moderate-income person to which goods or services are provided by the activity. Essentially, the public benefit standards are a proxy for all the other possible public benefits provided by an assisted activity. These dollar thresholds were set more than a decade ago and, under disaster recovery conditions (which often require a larger investment to achieve a given result), can be too low and, thus, impede recovery by limiting the amount of assistance the grantee may provide to a critical activity. States requesting this waiver have made public in their Action Plans the disaster recovery needs each activity is addressing and the public benefits expected.

After consideration, today's **Federal Register** Notice waives the public benefit standards for the cited activities, except that each requesting state shall report and maintain documentation on the creation and retention of: (a) Total jobs, (b) number of jobs within certain salary ranges, (c) the average amount of assistance per job and activity or program, and (d) the types of jobs. As a conforming change for the same activities or programs, HUD is also waiving paragraph (g) of 24 CFR 570.482 to the extent its provisions are related to public benefit.

*Housing incentives to encourage housing resettlement consistent with local recovery plans; States of Louisiana and Texas.* The states of Louisiana and Texas may offer disaster recovery or mitigation housing incentives to promote suitable housing development or resettlement in particular geographic areas. By "resettlement," HUD is referring to resettling the community as a whole, which may include buyouts and relocation, as well as repopulation initiatives if part of a recovery plan. In the past, the state of New York successfully used an incentive program to induce rapid and stable resettlement of lower Manhattan following September 11, 2001. Also, the city of Grand Forks, North Dakota, provided a very affordable soft-second loan as an incentive to help induce households to resettle within the city during its recovery. Any state choosing to provide incentives must maintain documentation, at least at a programmatic level, describing how the amount of assistance was determined to be necessary and reasonable. Generally, incentives are offered in addition to other programs or funding (such as insurance), to try to influence individual residential location decisions, when these decisions are in doubt. For example, a grantee may offer an incentive payment (possibly in

addition to buyouts) for households that volunteer to relocate within a particular period of time, or who choose to resettle outside a 100- or 500-year floodplain. Note, however, that if the grantee requires the funds to be used for a particular purpose by the household receiving the assistance, then the activity will be that required use, not an eligible incentive. The Department is waiving 42 U.S.C. 5305(a) and associated regulations to make these uses of grant funds eligible.

**Compensation for disaster-related losses.** The states of Louisiana and Texas plan to provide compensation to certain homeowners whose homes were affected during the covered disasters, if the homeowners agree to meet the stipulations of the state's or subawardee's published program design. Such stipulations may not include requirements related to how the homeowner may use the funds, because then the assisted activity would be that required use, not compensation. Such programs were carried out by the states of Louisiana and Mississippi following the 2005 hurricanes. A strength of these compensation programs is that they may be able to disburse funding more quickly than traditional CDBG rehabilitation programs. However, a major weakness is the lack of certainty about whether an assisted homeowner will use the granted assistance in a way that supports the community's long-term recovery goals. Very little data exists to verify the degree to which compensation funds have been used for reconstruction or rehabilitation. Existing data suggest that a certain percentage of those receiving assistance fail to comply with the program stipulations. By contrast, a rehabilitation program is typically able to demonstrate that all or nearly all of its assisted households reside (after receiving assistance) in reconstructed or rehabilitated homes, according to the grantee's standards. Therefore, HUD is granting this compensation waiver together with alternative requirements. HUD will disapprove an action plan if a compensation program is not adequately justified in accordance with these alternative requirements. Any state deciding to assist a compensation activity must address in its action plan and program design:

- (1) How the state will ensure that compensation payments will result in disaster recovery or economic revitalization;
- (2) Why a housing rehabilitation or reconstruction or buyouts program is not a more appropriate choice; and
- (3) How the state determined the appropriate compensation amount(s).

Further, any state choosing to provide compensation assistance must also carry out an evaluation of outcomes of the program, for a statistically valid sample of the program participants, within a year of providing the final payment.

**Three-month limitation on emergency grant payments.** In response to the state of Iowa's request, HUD is waiving 42 U.S.C. 5305(a) to allow it to extend interim mortgage assistance to qualified individuals for up to 20 months. The state is currently operating an Interim Mortgage Assistance Program, limited to a maximum of 3 months and a maximum of \$1,000 per month. It has now been almost 12 months since the original flooding event occurred but many families still require this assistance. Furthermore, it will still be several months before FEMA buyout decisions will be made and implemented. Therefore, to permit the state of Iowa to adequately assist households through this period, and to be consistent with the state funding that has been supplied separately for this purpose, HUD will waive the normal 3-month limitation, to provide a total of 20 months of Interim Mortgage Assistance to qualified individuals.

#### Summary of States Receiving Waivers

**Texas.** Texas has requested and HUD has approved the following waivers and alternative requirements for funds provided to the state under the Second 2008 Act (Pub. L. 110–329): (1) Documentation of job retention, (2) section 414 of the Stafford Act, (3) eligibility of buildings for the general conduct of government, (4) public benefit for certain economic development activities, and (5) compensation for disaster-related losses or housing incentives to resettle in disaster-affected communities. Texas has justified each request and documented the need for each waiver.

**Iowa.** Iowa has requested and HUD has approved the following waivers and alternative requirements: (1) Documentation of job retention, (2) public benefit for certain economic development activities, and (3) three-month limitation on emergency grant payments. Iowa has justified each request and documented the need for each waiver. The waivers granted by this Notice will apply to funds received under the First 2008 Act (Pub. L. 110–252), and to all funds received under the Second 2008 Act (Pub. L. 110–329).

**Louisiana.** Louisiana has requested and HUD has approved the following waivers and alternative requirements for funds provided to the state under the Second 2008 Act: (1) Documentation of job retention, (2) section 414 of the

Stafford Act, (3) eligibility of buildings for the general conduct of government, (4) public benefit for certain economic development activities, and (5) compensation for disaster-related losses or housing incentives to resettle in disaster-affected communities.

Louisiana has justified each request and documented the need for each waiver.

**Indiana.** Indiana has requested and HUD has approved a waiver regarding the eligibility of buildings for the general conduct of government for all funds received under the First 2008 Act, 2008 (Pub. L. 110–252). Note, this waiver has been neither requested nor approved for funds received under the Second 2008 Act (Pub. L. 110–329).

#### Application for Allocations Under the Second 2008 Act

The waivers and alternative requirements streamline the pre-grant process and set the guidelines for states' applications for their allocations. Each grantee receiving an allocation under the Second 2008 Act (which includes allocations made under this Notice, as well as those made under the February 13, 2009, Notice) is required, with the exception of California, to submit and/or amend its Action Plan for Disaster Recovery to program all of each state's allocations by September 30, 2009. The state of California (which did not receive an allocation under the February 13, 2009, Notice) is required to submit an Action Plan for Disaster Recovery by December 30, 2009. Any allocation not applied for by these dates may be added to the funds available under the DREF and reallocated. If any grantee fails to meet the requirement to program its allocations within the relevant timelines, HUD, on the first business day after that deadline, will commence an action to recapture the funds.

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

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, statutory and regulatory provisions governing the CDGB program for states, including those at 42 U.S.C. 5301 *et seq.* and 24 CFR part 570, shall apply to the use of these funds.

2. The waivers provided in the February 13, 2009, **Federal Register** Notice (74 FR 7244) are granted and the alternative requirements of that Notice apply to all the states receiving an

allocation of grant funds under this Notice. Each of the states has requested, in writing, that HUD grant it the waivers and alternative requirements of that Notice.

3. *Planning activities.* For CDBG disaster recovery-assisted general planning activities that will guide recovery in accordance with the First 2008 Act (Pub. L. 110–252) and the Second 2008 Act (Pub. L. 110–329), the State CDBG program rules at 24 CFR 570.483(b)(5) and (c)(3) are waived and the presumption at 24 CFR 570.208(d)(4) applies for all First 2008 Act and Second 2008 Act grantees.

4. *National Objective Documentation for Economic Development Activities.* 24 CFR 570.483(b)(4)(i) is waived to allow the states of Texas, Iowa, and Louisiana to establish low- and moderate-income jobs benefit by documenting, for each person employed, the name of the business, type of job, and the annual wages or salary of the job. HUD will consider the person income-qualified if the annual wages or salary of the job is at or under the HUD-established income limit for a one-person family.

5. *Section 414 of the Stafford Act.* 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 within 3 years of the incident-date of Hurricane Ike or Hurricane Gustav (as applicable) by the states of Texas and Louisiana under an approved Action Plan for Disaster Recovery for its grants under the Second 2008 Act, provided that such program or project was not planned, approved, or otherwise under way prior to the disaster.

a. For all programs or projects covered by this waiver (“covered programs or projects”) that are within 3 years after the applicable disaster, the states of Texas and Louisiana 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 URA, 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 Second 2008 Act, the grantee may establish a re-housing plan for a covered program or project initiated within 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.

b. Eligible Project Costs. The costs 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 Second 2008 Act. 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 the Second 2008 Act.

c. Persons in physical occupancy who are displaced by a HUD-assisted disaster

recovery project will continue to be eligible for URA assistance.

6. *Buildings for the general conduct of government.* 42 U.S.C. 5305(a) is waived to the extent necessary to allow the states of Texas and Louisiana to fund the rehabilitation or reconstruction of public buildings that are otherwise ineligible and that the state selects in accordance with its approved Action Plan for Disaster Recovery and that the state has determined have substantial value in promoting disaster recovery. The state of Indiana may use funds allocated under the September 11, 2008, **Federal Register** Notice (73 FR 52870) or December 19, 2008, **Federal Register** Notice (73 FR 77818) to fund the rehabilitation or reconstruction of public buildings that are otherwise ineligible.

7. *Public benefit for certain economic development activities.* For economic development activities designed to create or retain jobs or businesses (including, but not limited to, long-term, short-term, and infrastructure projects), the public benefit standards at 42 U.S.C. 5305(e)(3) and 24 CFR 570.482(f)(1), (2), (3), (4)(i), (5), and (6) are waived for the states of Texas, Louisiana, and Iowa, except that these states shall report and maintain documentation on the creation and retention of total jobs; the number of jobs within certain salary ranges; the average amount of assistance provided per job, by activity or program; and the types of jobs. Paragraph (g) of 24 CFR 570.482 is also waived for these states to the extent its provisions are related to public benefit.

8. *Compensation for disaster-related losses.* HUD is granting a compensation waiver together with alternative requirements for the states of Louisiana and Texas. Either state deciding to assist a compensation activity must address the following in its action plan and program design:

a. How the state will ensure that compensation payments will result in disaster recovery or economic revitalization;

b. Why a housing rehabilitation or reconstruction or buyouts program is not a more appropriate choice than providing housing compensation. The state must compare and contrast schedules, delivery costs, and projected recovery resulting from each type of activity; and

c. How the state determined the appropriate compensation amount(s). Further, any state choosing to provide compensation assistance must also carry out and publish an evaluation of outcomes of the program for a statistically valid sample of the program participants within a year of providing

the final compensation payment. If the state also provides rehabilitation assistance, it must include in its evaluation a comparison of the results of the compensation and rehabilitation activities.

9. *Housing incentives to encourage housing resettlement consistent with local recovery plans.* The states of Louisiana and Texas may offer disaster recovery or mitigation housing incentives to promote suitable housing development or resettlement in particular geographic areas. Any state choosing to provide incentives must maintain documentation at least at a programmatic level describing how the amount of assistance was determined to be necessary and reasonable. Note that if the grantee requires the funds to be used for a particular purpose by the household receiving the assistance, then the activity will be that required use, not an eligible incentive. The Department is waiving 42 U.S.C. 5305(a) and associated regulations to make these uses of grant funds eligible.

10. *Three-month limitation on emergency grant payments.* 42 U.S.C. 5305(a) is waived so that Iowa may extend interim mortgage assistance to qualified individuals for up to 20 months. This waiver applies to funds received under the First 2008 Act (Pub. L. 110–252), and to funds received under the Second 2008 Act (Pub. L. 110–329).

#### 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 (Pub. L. 101–510), limit the availability of certain appropriations for expenditure. This limitation may not be waived. However, the Second 2008 Act directs 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 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.

#### 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). 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 telephone number 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 Information Relay Service at 800–877–8339.

Dated: July 20, 2009.

**Mercedes Márquez,**

*Assistant Secretary for Community Planning and Development.*

#### Appendix 1—Allocation Methodology Detail

The Consolidated Security, Disaster Assistance, and Continuing Appropriations Act, 2009 (Pub. L. 110–329), enacted on September 30, 2008, appropriated \$6.5 billion through the CDBG program for “necessary expenses related to disaster relief, long-term recovery, and restoration of infrastructure, housing, and economic revitalization in areas affected by hurricanes, floods, and other natural disasters occurring during 2008 for which the President declared a major disaster.”

It went on to say that “such funds may not be used for activities reimbursable by, or for which funds are made available by, the Federal Emergency Management Agency or the Army Corps of Engineers” and that “none of the funds \* \* \* may be used \* \* \* as a matching requirement, share, or contribution for any other Federal program.” It also stated that “not less than \$650,000,000 from funds made available on a pro-rata basis according to the allocation made to each State” shall be used for affordable rental housing.

Finally, the statute called for “not less” than 33 percent of the funds to be allocated within 60 days of enactment (that is, by November 28th) based “on the best estimates available of relative damage and anticipated assistance from other Federal sources.”

#### Schedule for Allocations

While Congress appropriated \$6.5 billion, \$377,139,920 has been rescinded, \$6.5 million has been set aside for HUD administrative costs, and \$2,145,000,000 was allocated in November 2008. This allocation distributes the remaining \$3,971,360,080, with a \$311,603,923 set-aside to the Disaster Recovery Enhancement Fund.

#### Disasters in 2008

There were 76 major disasters that occurred in 2008 in 35 states, Puerto Rico, and the Virgin Islands. Data on damaged housing are available for 36 disasters from FEMA and Small Business Administration (SBA); business loss data are available for 39 disasters from SBA; and 72 disasters have data on the cost FEMA and states are estimated to spend on infrastructure and other Public Assistance costs.

#### Available Data

The data HUD staff have identified as being available to calculate “relative damage and anticipated assistance from Federal sources” at this time for the targeted disasters come from the following data sources:

- FEMA Individual Assistance program data concerning housing unit damage;
- SBA for management of its disaster assistance loan program for housing repair and replacement;
- SBA for management of its disaster assistance loan program for business real estate repair and replacement, as well as content loss; and
- FEMA estimated and obligated amounts under its Public Assistance program, including the federal and state cost share.

#### Formula

This formula “allocates” the full \$6,116,360,080 available for allocation under this appropriation and then subtracts out the \$2,145,000,000 that was previously allocated and the \$311,602,923 set-aside reserve fund (on a pro-rata basis). HUD has adopted this practice to adjust grants to reflect better data than were available at the time of the November 2008 allocation and to treat disasters occurring after November equally with disasters that occurred earlier in the year.

The formula mechanics are as follows: \$6,116,360,080

$$* \left[ \frac{(\text{State sum of HUD-calculated unmet housing, business, and infrastructure needs})}{(\text{All disaster sum of HUD-calculated unmet housing, business, and infrastructure needs})} \right. \\ \left. * \frac{(\text{State Per Seriously Damaged Home Challenge Score})^a}{(\text{Basic Allocation National Weighted Challenge Score})} * (20\% \text{ power})^b \right]$$

—State total: November \$2.145 billion allocation

\* Pro-rata adjustment after minimum grant threshold and reserve grant set-aside

<sup>a</sup>No state can have its grant adjusted up or down by more than 10 percent using this factor.

<sup>b</sup>Mathematically, each state's challenge factor is divided by the weighted national rate (14.7) and multiplied by 0.2 (that is, if a state's ratio was above 1; for example, 1.5 would become 1.10,  $[1 + ((1 - 0.5) * 0.2)]$ ; if the ratio was below 1, for example, 0.5 would become 0.9  $[1 - ((1 - 0.5) * 0.2)]$ ).

This allocation does not duplicate funding already provided under the Supplemental Appropriations Act of 2008 (Pub. L. 110–252, 122 Stat. 2323), enacted on June 30, 2008, which appropriated \$300 million for disasters that were declared and occurred in May and June of 2008. This current allocation subtracts out of the unmet housing and business need estimates the amount of funds allocated for housing and business under the 2008 June appropriation.

#### Calculating Unmet Housing Needs

The core data on housing damage for both the unmet housing needs calculation and the concentrated damage are based on home inspection data for FEMA's Individual Assistance program. For unmet housing needs, the FEMA data are supplemented by SBA data from its Disaster Loan Program. HUD calculates "unmet housing needs" as the number of housing units with unmet needs, multiplied by the estimated cost to repair those units, minus the amount of repair funding already provided by FEMA, where:

- The number of owner-occupied units with unmet needs are units FEMA housing inspectors determined would require more than \$3,000 to become habitable and were determined by FEMA to be eligible for a repair or replacement grant (now up to \$30,300, earlier disasters in the year had a cap of \$28,800). In general, when HUD refers to units "seriously damaged," it is

referring to units with a FEMA damage assessment of \$3,000 or greater.

- The number of rental units with unmet needs are units FEMA housing inspectors determined would require more than \$3,000 to become habitable AND are occupied by households with an income reported to FEMA of less than \$20,000. The use of the \$20,000 income cut-off for calculating rental unmet needs is in response to the statutory language that emphasized the use of the funds for affordable rental housing.

- Each of the FEMA inspected units are categorized by HUD into one of five categories:
  - Minor-Low: Less than \$3,000 of FEMA-inspected damage
  - Minor-High: \$3,000 to \$7,999 of FEMA-inspected damage
  - Major-Low: \$8,000 to \$14,999 of FEMA-inspected damage
  - Major-High: \$15,000 to \$28,800 of FEMA-inspected damage
  - Severe: Greater than \$28,800 of FEMA-inspected damage or -determined destroyed.

**Note:** FEMA has recently raised its maximum grant to \$30,300. For this first round allocation, HUD continues to use the \$28,800 as the threshold, because it applied for most of the declared disasters.

- The average cost to fully repair a home for a specific disaster within each of the damage categories noted above is calculated using the average real property damage repair costs determined by the SBA for its disaster loan program for the subset of homes inspected by both SBA and FEMA. Because SBA is inspecting for full repair costs, it is presumed to reflect the full cost to repair the home, which is generally more than FEMA estimates on the cost to make the home habitable. If fewer than 100 SBA inspections are made for homes within a FEMA damage category, the estimated damage amount in the category for that disaster has a cap applied at the 75th percentile of all damaged units for that category for all disasters and has a floor applied at the 25th percentile.

- The base amount of unmet housing needs is then increased by 20 percent to reflect an assumed premium associated with the additional costs needed to run a repair program with CDBG funding.

#### Calculating Infrastructure Needs

As noted above, the statute for this allocation states that "such funds may not be used for activities reimbursable by, or for which funds are made available by, the Federal Emergency Management Agency or the Army Corps of Engineers" and that "none of the funds \* \* \* may be used \* \* \* as a matching requirement, share, or contribution for any other Federal program." In past disasters, unmet infrastructure need has been calculated at the required match portion for the public assistance program. Because these funds cannot be used as match, we must identify a proxy for what infrastructure activities are likely to require funding beyond FEMA's Public Assistance funding and the state match requirement. To best proxy unmet needs that would exceed what FEMA and state match will pay for under the Public Assistance program, this allocation uses only a subset of the Public Assistance damage estimates reflecting the categories of activities most likely to require CDBG funding above the Public Assistance and State Match requirement. Those activities are the following categories: C—Roads and Bridges; D—Water Control Facilities; E—Public Buildings; F—Public Utilities; and G—Recreational—Other. Categories A (Debris Removal) and B (Protective Measures) are largely expended immediately after a disaster and reflect interim recovery measures, rather than the long-term recovery measures the CDBG funds are generally used for. "Unmet" infrastructure needs assume that the subset categories of Public Assistance needs will have state aggregate costs 25 percent higher than that covered by FEMA or the state match requirement.

	Disasters with project(s)	Total estimate	Percent
Public Assistance Total .....	75	\$5,322,992,430	
A_Debris_Removal .....	71	1,185,035,209	22

	Disasters with project(s)	Total estimate	Percent
B_Protective_Measures .....	75	995,171,090	19
C_Roads_Bridges .....	73	494,369,300	9
D_Water_Control_Facilities .....	43	57,455,582	1
E_Public_Buildings .....	69	1,509,980,683	28
F_Public_Uilities .....	74	837,448,078	16
G_Recreational_Other .....	64	243,532,488	5

FEMA Extract: April 14, 2009.

### *Calculating Economic Revitalization Needs*

Based on SBA disaster loans to businesses, HUD used the sum of real property and real content loss of small businesses not receiving an SBA disaster loan. This is adjusted upward by the proportion of applications that were received for a disaster for which content and real property loss were not calculated because the applicant had inadequate credit or income. For example, if a state had 160 applications for assistance, and if 150 had calculated needs and 10 were denied in the pre-processing stage for not enough income or poor credit, the estimated unmet need calculation would be increased as  $(1 + 10/160)$ , multiplied by the calculated unmet real content loss.

SBA business loan data shows that verified real estate damage and content loss not approved for an SBA loan equaled \$972 million. Across all of the disasters there were 17,157 applications for a business disaster loan from SBA. No inspections were done (and loss calculated) for 14 percent of those applications. SBA maintains information on why an application was denied. There are dozens of reasons for such denials, but the most common relate to income and credit. Of those denied at the pre-processing stage 59 percent were denied because of a low credit score and 10 percent for not being able to establish repayment ability. The remaining applications denied in pre-processing are largely denied for being ineligible for the program or similar reasons. For the applications that get

processed and a loss determined but are subsequently not approved, the reasons for not being approved are 38 percent for inability to repay, 2 percent for poor credit, and dozens of other reasons, but mostly because the applications are withdrawn by the applicant.

Because applications denied for poor credit or inadequate income are the most likely measure of requiring the type of assistance available with CDBG recovery funds, the calculated unmet business needs for each state are adjusted upwards by the proportion of total applications that were denied at the pre-process stage because of poor credit or inability to show repayment ability.

### *Calculating Challenge To Recover*

The 2005 hurricanes damaged more than 1.2 million homes. One year after the disaster, 90 percent of those homes were occupied. It is in the areas that homes were vacant a year after the storms that the recovery has been especially slow, and a large number of those homes vacant a year after the storms continue to remain vacant. As described in more detail below, two variables are very strong predictors of whether a home becomes vacant and remains vacant over an extended period of time. Those variables are the percent of homes with serious damage within the neighborhood (Census Tract is the proxy) and if a home received very severe damage.

The vast majority of households impacted by a disaster are able to return to their homes within a relatively short time frame. For those households displaced longer than a year and for the neighborhoods where that displacement

occurs, the recovery challenges are much more pronounced. For example, areas may decide not to build back and to build elsewhere, using buyout programs and other strategies. Alternatively, homes built back might need to be built to a higher standard of construction to better resist future disasters. These are factors not accounted for in the basic repair costs calculated in the needs calculations for housing, infrastructure, and economic revitalization. To account for these above normal recovery needs that are associated with only the most severe of disasters, HUD has used data from Hurricanes Katrina, Rita, and Wilma to develop a model for estimating if a home is at a high or low risk for overcoming these recovery challenges. There are many reasons why a recovery might not happen for a particular house, but just two factors can predict 34 percent of the variance between homes. According to the model, any home with serious damage (FEMA-estimated damage of greater than \$5,200 in a 2005 disaster) had about a one percent risk for being vacant for some period during the 43 months following the disaster. A home with severe damage (more than 50 percent damaged) had an additional 20 percent risk, and if that home was in a Census Tract where many other homes had major or severe damage, it had an additional risk of that proportion of homes affected, multiplied by 34 percent. Such a risk factor can be a useful tool for adjusting grants so that states with a higher per-damaged home risk score get relatively more than states with a relatively lower per-damaged home risk score.

	Unstandardized coefficients	Std. Error	Standardized coefficients	t	Sig.
	B		Beta		
(Constant) .....	0.010695	0.000909	.....	11.76848	5.77E-32
Percent of homes in Census Tract with serious damage .....	0.347154	0.001615	0.375916	214.9506	0
Home with severe damage .....	0.195913	0.001158	0.295827	169.1555	0

Dependent Variable: A time weighted average vacancy risk due to the 2005 Hurricanes =

[16 \* (1 – ratio of 12–2006 active address rate to 2005 pre-storm active address rate)

14 \* (1 – ratio of 2–2008 active address rate to 2005 pre-storm active address rate)

- 10 \* (1 – ratio of 12–2008 active address rate to 2005 pre-storm active address rate)
- 3 \* (1 – ratio of 3–2009 active address rate to 2005 pre-storm active address rate)]

Divided by 43 months. (the longer the vacancy the higher the average score)

R-square: 0.340

N: 287,190

To adjust for this greater recovery challenge, the results of the analysis above are used in the following model for 2008:

Vacancy Risk Score =  
0.010695 (Constant)  
+ 0.347154 Percent of homes in  
Census Tract with serious damage  
+ 0.195913 Home with major-high or  
severe damage

The risk score is then aggregated for each disaster and divided by the total number of housing units with more than very minor damage. That is, we determine a per-damaged home recovery challenge risk score. Such a risk factor can be a useful tool for adjusting grants so that states with a higher risk for long-term recovery challenges get a somewhat higher grant because of this risk.

[FR Doc. E9–19488 Filed 8–13–09; 8:45 am]

BILLING CODE 4210–67–P

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5282–N–04]

### Notice of Proposed Information Collection: Comment Request; Community Development Block Grant Recovery (CDBG–R) Program

**AGENCY:** Office of Community Planning and Development, Department of Housing and Urban Development.

**ACTION:** Notice of proposed information collection.

**SUMMARY:** The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

**DATES:** Comments Due Date: October 13, 2009.

**ADDRESSES:** Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Lillian L. Deitzer, Reports Management

Officer, QDAM, Department of Housing and Urban Development, 451 7th Street, SW., Room 4176, Washington, DC 20410; telephone 202–402–8048 (this is not a toll-free number) or e-mail Ms. Deitzer at [Lillian.L.Deitzer@hud.gov](mailto:Lillian.L.Deitzer@hud.gov) for a copy of the proposed form and other available information.

#### FOR FURTHER INFORMATION CONTACT:

Steve Johnson, Director, Entitlement Communities Division, Office of Block Grant Assistance, 451 7th Street, SW., Room 7282, Washington, DC 20410; telephone (202) 708–1577 (this is not a toll-free number).

**SUPPLEMENTARY INFORMATION:** The Department is submitting the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended). The Department submitted to OMB for emergency processing a proposed information collection for the Community Development Block Grant Recovery (CDBG–R) program. It was approved by OMB on April 17, 2009 and expires on October 31, 2009. Since HUD will be using the form (SF 424) beyond the emergency clearance time period, this is a resubmission to OMB under the normal paperwork clearance process for a three-year approval.

This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

This Notice also lists the following information:

*Title of Proposal:* Community Development Block Grant Recovery Program.

*OMB Control Number, if Applicable:* 2506–0184.

*Description of the Need for the Information and Proposed Use:* This request identifies the estimated reporting burden associated with information that CDBG–R grantees will report in IDIS for CDBG–R assisted activities, recordkeeping requirements,

and reporting requirements. Section 1512 of the Recovery Act requires that not later than 10 days after the end of each calendar quarter, each recipient that received recovery funds from a Federal agency shall submit a report to that agency that contains: (1) The total amount of recovery funds received from that agency; (2) the amount of recovery funds received that were expended or obligated to projects or activities; and (3) a detailed list of all projects or activities for which recovery funds were expended or obligated, including the name of the project or activity; a description of the project or activity; an evaluation of the completion status of the project or activity; an estimate of the number of jobs created and the number of jobs retained by the project or activity; and for infrastructure investments made by State and local governments, the purpose, total cost, and rationale of the agency for funding the infrastructure investment with funds made available under the Recovery Act and name of the person to contact at the agency if there are concerns with the infrastructure investment. Not later than 30 calendar days after the end of each calendar quarter, each agency that made Recovery Act funds available to any recipient shall make the information in reports submitted publicly available by posting the information on a Web site.

*Agency Form Numbers:* Not applicable.

*Members of the Affected Public:* Eligible CDBG grantees (metropolitan cities, urban counties, nonentitlement counties in Hawaii, and States).

*Estimation of the total numbers of hours needed to prepare the information collection including number of responses, frequency of responses, and hours of responses:* The number of respondents is 1,196. The proposed frequency of the response to the collection is on a quarterly basis. The total estimated burden is 28,704 quarterly hours.

*Status of the proposed information collection:* This submission is an extension of a previously approved emergency information collection. The current OMB approval expires on October 31, 2009.

**Authority:** The Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: August 6, 2009.

**Mercedes Márquez,**

*Assistant Secretary for Community Planning and Development.*

[FR Doc. E9–19485 Filed 8–13–09; 8:45 am]

BILLING CODE 4210–67–P