

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-5067-N-01]

Implementation Guidance for Section 901 of the Emergency Supplemental Appropriations to Address Hurricanes in the Gulf of Mexico, and Pandemic Influenza Act, 2006

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice.

SUMMARY: This Notice provides guidance to HUD field offices and PHAs located within the most heavily impacted areas of Louisiana and Mississippi that are subject to a declaration by the President of a major disaster under the Robert T. Stafford Disaster Relief and Emergency Assistance Act in connection with Hurricanes Katrina or Rita on how to implement Section 901 of the Emergency Supplemental Appropriations to Address Hurricanes in the Gulf of Mexico, and Pandemic Influenza Act, 2006 (Section 901). This supplemental appropriations act authorizes public housing agencies (PHAs) to combine assistance provided under sections 9(d) and (e) of the United States Housing Act of 1937 (Act) and assistance provided under section 8(o) of the Act, for the purpose of facilitating the prompt, flexible, and efficient use of funds provided under these sections of the Act to assist families who were receiving housing assistance under the Act immediately prior to Hurricane Katrina or Rita and were displaced from their housing by the hurricanes.

DATES: *Effective date:* July 28, 2006.

FOR FURTHER INFORMATION CONTACT: Bessy M. Kong, Deputy Assistant Secretary, Office of Policy, Program, and Legislative Initiatives, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4116, Washington, DC 20410-5000, telephone (202) 708-0614 or 708-0713, extension 2548 (this is not a toll-free number). Persons with hearing or speech impairments may access this number via TTY by calling the toll-free Federal Information Relay Service at (800) 877-8339.

SUPPLEMENTARY INFORMATION:

I. Background

Division B of 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), among other things, makes emergency supplemental appropriations to address the hurricane devastation around the Gulf Coast. Section 901 of this supplemental appropriations act permits eligible PHAs to combine their Capital Funds (section 9(d) of the United States Housing Act of 1937 (42 U.S.C. 1437 *et seq.*) (1937 Act)), Operating Funds (section 9(e) of the 1937 Act), and Housing Choice Voucher Funds (HCV) (section 8(o) of the 1937 Act) to assist families who were displaced by Hurricanes Katrina or Rita. The full text of Section 901 is as follows:

SEC. 901. Notwithstanding provisions of the United States Housing Act of 1937 (Public Law 93-383), in order to assist public housing agencies located within the most heavily impacted areas of Louisiana and Mississippi that are subject to a declaration by the President of a major disaster under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*) in connection with Hurricane Katrina or Rita, the Secretary for Calendar Year 2006 may authorize a public housing agency to combine assistance provided under sections 9(d) and (e) of the United States Housing Act of 1937 and assistance provided under section 8(o) of such Act, for the purpose of facilitating the prompt, flexible and efficient use of funds provided under these sections of the Act to assist families who were receiving housing assistance under the Act immediately prior to Hurricane Katrina or Rita and were displaced from their housing by the hurricanes.

II. Eligibility

PHAs that are eligible are those in the most heavily impacted areas of Louisiana and Mississippi that are subject to declaration by the President of a major disaster under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*) in connection with Hurricanes Katrina or Rita. Please refer to section X of this Notice, which lists all eligible agencies. This list was created based on the Federal Emergency Management Agency's (FEMA) disaster designations for counties eligible to receive both Individual and Public Assistance.

III. Eligible Funds for Inclusion

Eligible PHAs may combine public housing Capital Funds (including Replacement Housing Factor (RHF) grants), Operating Funds, and HCV funds received during Calendar Year 2006 and eligible prior years funds that are not yet obligated or expended in the program for which they were intended.

With regard to HCV funding, the maximum amount of voucher funding a PHA may consider for use in the public housing program will be determined by

HUD based on Calendar Year 2005 and 2006 voucher funding that is not needed for the regular voucher program through December 31, 2006 (e.g., excluding amounts such as those needed for post-Katrina/Rita tenant protection vouchers, new post Hurricanes Katrina/Rita voucher program admissions, and current portability billings). For PHAs, HUD will establish separate funding maximums for housing assistance payments and administrative fee transfers. Additional Disaster Voucher Program (DVP) supplemental guidance will include more information on determining the maximum amount of voucher funding a PHA may consider for use in the public housing program as part of a separate PIH Notice concerning Voucher Program Fungibility Issues Associated with Combining Voucher and Public Housing Funding During Calendar Year 2006.

Neither DVP assistance nor capital funds provided from the Set-Aside for Emergencies and Natural Disasters may be combined with other capital, operating, and HCV funds pursuant to this Notice.

IV. Permitted Activities

The flexibility provided under this section permits a PHA to combine the funding assistance, as indicated in III., Eligible Funds for Inclusion, for any use eligible under the programs to assist families who were receiving housing assistance under the Act immediately prior to Hurricane Katrina or Rita and were displaced from their housing by the hurricanes. PHAs may obligate the combined funds only for uses under the Operating Fund or Capital Fund. None of the combined funds may be spent for uses under the HCV program. For example, an eligible PHA using this flexibility may redirect its Operating Subsidy or HCV funding to construct replacement public housing units as permitted under section 9(d) so that families may return to the community.

A PHA may reallocate funds only in order to carry out programs for which it had authority to administer prior to the hurricanes. The flexibility provided under Section 901 may be utilized in combination with any regulatory and administrative waivers granted by HUD in conjunction with Notices published in the **Federal Register** on October 3, 2005 (70 FR 57716), and November 1, 2005 (70 FR 66222), as applicable.

V. General Procedures for Combining Public Housing and Voucher Funds Under Section 901

In Calendar Year 2006, the Secretary is authorizing the PHAs listed at the end of this Notice to combine assistance

under Section 901. The following sets forth the procedures to be followed by PHAs.

A. Submission of a Notice of Intent and Fungibility Plan

PHAs interested in implementing this flexibility should submit in writing for HUD review and approval, no later than 45 days from the date of this Notice: (1) A Notice of Intent to invoke this flexibility and (2) a detailed Section 901 Fungibility Plan describing the total amount under Section 901, and the source of those funds by account (HCV, Operating Fund, Capital Fund). PHAs should submit one copy to the Public Housing Director of the HUD office in New Orleans, Louisiana, or Jackson, Mississippi, as applicable, and the original to HUD Headquarters, Office of Public and Indian Housing, Office of Policy, Program, and Legislative Initiatives, 451 Seventh Street, SW., Room 4116, Washington, DC 20410-5000, Attention: Bessy Kong/Sherry McCown. The Notification of Intent and Fungibility Plan must include the following:

1. A resolution from the PHA Board of Commissioners certifying that the flexibility will be used to facilitate "prompt, flexible, and efficient use of these funds to assist families who were receiving housing assistance immediately prior to Hurricanes Katrina or Rita and were displaced from their housing by the hurricanes."

2. Identification of the name of the program from which funds will be provided for purposes of fungibility (source of funds).

3. Identification of the name of the program(s) with which funds are being combined (use of funds).

4. Identification of the exact dollar amount of funds, by program source, to be provided for fungibility purposes, including the grant number(s) and grant year(s) (grant numbers not applicable to vouchers).

5. A detailed description of the proposed use of the combined funds, e.g., the number of units to be renovated, repaired, acquired, or built, and the types of administrative functions to be undertaken.

6. For combined funds for Capital Fund activities, the Capital Fund Program Annual Statement/Performance and Evaluation Report, Parts I-III (part of form HUD-50075-SA).

HUD shall review and notify the PHA, in writing, of its determination to accept, reject, or comment on the Plan within 45 calendar days of receipt. If the Plan does not provide sufficient information, HUD reserves the right to reject such a Plan and require a

resubmission within 15 calendar days, to which HUD will respond within 10 calendar days. HUD must officially approve all Plans, including those that must be resubmitted, no later than December 31, 2006. PHAs must submit to HUD requests for approval of any substantial deviations from the approved Fungibility Plan. HUD will respond to such requests within 10 calendar days.

B. Reporting Requirements for Activities and Use of Funds Provided for Fungibility Under Section 901

1. *General.* In general, PHAs must report the details on the use of these combined funds through normal reporting procedures. Supplemental guidance, as needed, will be posted on HUD's Web site at <http://www.hud.gov/offices/pih/>.

2. *Annual Report.* PHAs with an approved Notice of Intent and Fungibility Plan must provide annual progress reports to their HUD field office. They should address: (1) The amount of funds, by source program, being combined under Section 901 fungibility, (2) the proposed uses of those combined funds, (3) the amount of funds obligated during the year from each source, (4) the cumulative total amount of funds obligated, (5) the total amount of funds expended during the year from each source, and (6) the cumulative total amount of funds expended. The annual reports must cover the 12-month period ending September 30 and are due at the field office within 45 calendar days.

3. *Final Report.* A final report is due at the end of the fungibility period, which is the earlier of either the expenditure deadline or when the PHA has expended all funds. PHAs that combined funds under Section 901 shall submit to their local HUD field office a summary report of how funds were combined, the original Notice of Intent and planned activities, and actual activities and results.

4. *Financial Data Schedule Reporting.* PHAs shall report all program funding combined under Section 901 on the Financial Data Schedule (FDS). PHAs approved to combine funds as authorized by Section 901 must continue to report on the FDS the original program funds in each program (Public Housing Capital Fund Program, Public Housing Operating Fund Program, or Housing Choice Voucher Program). Any original program funds (from one or more of the above programs) used under Section 901 to assist families displaced by Hurricanes Katrina or Rita should then be entered into a new column on the FDS entitled "Other Federal Activity—Section 901."

The PHA should use FDS Line 1001 to record the sources of funds being added for "Other Federal Activity—Section 901," and FDS Line 1002 to record the same sources of funds being subtracted from the originally intended program (Capital Funds, Low Rent Public Housing (LRPH), or HCV columns). If the funds to be combined under Section 901 were appropriated in 2005 or earlier, then the transaction should be reported as an "Equity Transfer" on Line 1104 of the current FDS. Further, an explanation of this fungibility is required to be made by the PHA in the "Comments Link" in both its unaudited and audited financial submissions. This will help ensure that all users and readers of the financial data are aware that the PHA participated in this funding flexibility.

To add the "Other Federal Activity—Section 901" column on the FDS, click the PHA Info Link, click the Program Selection Tab, click the Add a Program Link, and then select Other Federal Activity—Section 901. Once the funds have been recorded in the "Other Federal Activity—Section 901" column, all activity related to the funding flexibility must be accounted for and reported in this new column on the financial data schedule.

VI. Timely Use of Funds

For the Housing Choice Voucher or Operating funds that a PHA combines and uses for Capital Fund purposes, these funds must be expended within 5 years from the date of HUD's approval of the Section 901 Fungibility Plan, or as authorized by the Assistant Secretary for Public and Indian Housing. Housing Choice Voucher funds or Capital funds that a PHA uses for Operating Fund purposes or activities must be expended within one year from the date of HUD's approval. If the combined funds are not expended according to these time frames, the PHA loses the flexibility provided under this Notice and the funds revert back to original program uses, including applicable funding terms. For example, if a PHA combines voucher funds with Capital Funds for public housing reconstruction purposes, and if the voucher funds are not expended for those purposes after 5 years, they revert back to vouchers.

VII. For Further Information Contact

For technical assistance and other questions concerning the Notice of Intent and/or Section 901 Fungibility Plan, PHAs should contact their local HUD Public Housing Hub in New Orleans, Louisiana, or Jackson, Mississippi; Bessy Kong, Deputy Assistant Secretary for Policy, Program, and Legislative Initiatives at (202) 708-0713, extension 2548; or Deborah

Hernandez, Deputy Assistant Secretary, Office of Field Operations, at (202) 708-4016.

VIII. 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 Office of General Counsel, Regulations Division, 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 advance appointment to review the FONSI by calling the Regulations Division at (202) 708-3055 (this is not a toll-free telephone number). Hearing- and speech-impaired persons may access the telephone numbers listed above via TTY by calling the Federal Information Relay Service at (800) 877-8339.

IX. Paperwork Reduction Act

The Office of Management and Budget has approved the information collection requirements contained in this Notice in accordance with the Paperwork

Reduction Act of 1995 (44 U.S.C. 3501-3520), and assigned OMB control number 2577-0245. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a valid control number.

X. List of Louisiana and Mississippi PHAs Heavily Impacted by Hurricane Katrina or Rita

The following list includes PHAs in counties eligible to receive individual and public assistance through FEMA as a result of damages sustained from Hurricanes Katrina and Rita.

No.	HA code	HA name	County	State	Hurricane
1	LA001	New Orleans Housing Authority (HA)	Orleans	LA	Katrina.
2	LA003	E. Baton Rouge HA	East Baton Rouge	LA	Katrina.
3	LA004	Lake Charles HA	Calcasieu	LA	Katrina and Rita.
4	LA005	Lafayette (City) HA	Lafayette	LA	Katrina and Rita.
5	LA011	Westwego	Jefferson	LA	Katrina and Rita.
6	LA012	Kenner HA	Jefferson	LA	Katrina and Rita.
7	LA013	Jefferson Parish HA	Jefferson	LA	Katrina and Rita.
8	LA024	Bogalusa HA	Washington	LA	Katrina.
9	LA025	Eunice HA	St. Landry	LA	Rita.
10	LA026	Kaplan HA	Vermilion	LA	Katrina and Rita.
11	LA027	New Iberia HA	Iberia	LA	Katrina and Rita.
12	LA028	Rayne HA	Acadia	LA	Katrina and Rita.
13	LA029	Crowley	Acadia	LA	Katrina and Rita.
14	LA030	Ville Platte HA	Evangeline	LA	Rita.
15	LA031	Mamou HA	Evangeline	LA	Rita.
16	LA032	Church Point HA	Acadia	LA	Katrina and Rita.
17	LA033	Oakdale HA	Allen	LA	Rita.
18	LA034	Abbeville HA	Vermilion	LA	Katrina and Rita.
19	LA035	Gueydan HA	Vermilion	LA	Katrina and Rita.
20	LA036	Morgan City HA	St. Mary	LA	Katrina and Rita.
21	LA039	Welsh HA	Jefferson Davis	LA	Katrina and Rita.
22	LA040	St. Martinville HA	St. Martin	LA	Katrina and Rita.
23	LA041	Lake Arthur HA	Jefferson Davis	LA	Katrina and Rita.
24	LA043	Donaldsonville HA	Ascension	LA	Katrina and Rita.
25	LA044	Thibodaux HA	Lafourche	LA	Katrina and Rita.
26	LA046	Vinton HA	Calcasieu	LA	Katrina and Rita.
27	LA047	Erath HA	Vermilion	LA	Katrina and Rita.
28	LA055	Opelousas HA	St. Landry	LA	Rita.
29	LA056	Berwick HA	St. Mary	LA	Katrina and Rita.
30	LA058	Basile HA	Evangeline	LA	Rita.
31	A059	Breaux Bridge HA	St. Martin	LA	Katrina and Rita.
32	LA063	Sulphur HA	Calcasieu	LA	Katrina and Rita.
33	LA065	Delcambre HA	Vermilion	LA	Katrina and Rita.
34	LA066	Elton HA	Jefferson Davis	LA	Katrina and Rita.
35	LA067	St. Landry Parish HA	St. Landry	LA	Rita.
36	LA068	Oberlin HA	Allen	LA	Rita.
37	LA069	Kinder HA	Allen	LA	Rita.
38	LA070	Patterson HA	St. Mary	LA	Katrina and Rita.
39	LA073	South Landry HA	St. Landry	LA	Rita.
40	LA074	Sabine Parish HA	Sabine	LA	Rita.
41	LA075	Ponchatoula HA	Tangipahoa	LA	Katrina.
42	LA080	Lafourche Parish HA	Lafourche	LA	Katrina and Rita.
43	LA082	Merryville HA	Beauregard	LA	Rita.
44	LA084	Parks HA	St. Martin	LA	Katrina and Rita.
45	LA086	Deridder HA	Beauregard	LA	Rita.
46	LA090	Houma—Terrebonne HA	Terrebonne	LA	Katrina and Rita.
47	LA091	Southwest Acadia HA	Acadia	LA	Katrina and Rita.
48	LA092	St. James Parish HA	St. James	LA	Katrina.
49	LA093	White Castle HA	Iberville	LA	Katrina.
50	LA094	St. Charles Parish HA	St. Charles	LA	Katrina.
51	LA095	St. John the Baptist Parish HA	St. John the Baptist	LA	Katrina.
52	LA099	Independence HA	Tangipahoa	LA	Katrina.
53	LA100	Youngsville HA	Lafayette	LA	Katrina and Rita.
54	LA101	Denham Springs HA	Livingston	LA	Katrina and Rita.

No.	HA code	HA name	County	State	Hurricane
55	LA103	Slidell HA	St. Tammany	LA	Katrina and Rita.
56	LA106	Dequincy HA	Calcasieu	LA	Katrina and Rita.
57	LA111	Leesville HA	Vernon	LA	Rita.
58	LA113	New Roads HA	Pointe Coupee	LA	Katrina.
59	LA118	Jennings HA	Jefferson Davis	LA	Katrina and Rita.
60	LA128	Vernon Parish HA	Vernon	LA	Rita.
61	LA130	Duson HA	Lafayette	LA	Katrina and Rita.
62	LA231	HA of Iowa	Calcasieu	LA	Katrina and Rita.
63	LA238	Covington HA	St. Tammany	LA	Katrina and Rita.
64	LA250	Ascension Parish	Ascension	LA	Katrina and Rita.
65	LA261	Fenton	Jefferson Davis	LA	Katrina and Rita.
66	LA266	White Castle City	Iberville	LA	Katrina.
67	MS001	Hattiesburg HA	Forrest	MS	Katrina.
68	MS002	Laurel HA	Jones	MS	Katrina.
69	MS003	McComb HA	Pike	MS	Katrina.
70	MS004	Meridian HA	Lauderdale	MS	Katrina.
71	MS005	Biloxi HA	Harrison	MS	Katrina.
72	MS019	Mississippi Regional HA No. IV	Lowndes	MS	Katrina.
73	MS030	Mississippi Regional HA No. V	Newton	MS	Katrina.
74	MS040	Mississippi Regional HA No. VIII	Harrison	MS	Katrina.
75	MS047	Starkville HA	Oktibbeha	MS	Katrina.
76	MS057	Mississippi Regional HA No. VII	Pike	MS	Katrina.
77	MS058	Mississippi Regional HA No. VI	Hinds	MS	Katrina.
78	MS060	Brookhaven HA	Lincoln	MS	Katrina.
79	MS061	Canton HA	Madison	MS	Katrina.
80	MS063	Yazoo City HA	Yazoo	MS	Katrina.
81	MS064	Bay St. Louis HA	Hancock	MS	Katrina.
82	MS066	Picayune HA	Pearl River	MS	Katrina.
83	MS067	Richton HA	Perry	MS	Katrina.
84	MS068	Waynesboro HA	Wayne	MS	Katrina.
85	MS076	Columbus HA	Lowndes	MS	Katrina.
86	MS079	Louisville HA	Winston	MS	Katrina.
87	MS084	Summit HA	Pike	MS	Katrina.
88	MS086	Vicksburg HA	Warren	MS	Katrina.
89	MS094	Hazlehurst HA	Copiah	MS	Katrina.
90	MS099	Lumberton HA	Lamar	MS	Katrina.
91	MS101	Waveland HA	Hancock	MS	Katrina.
92	MS103	Jackson HA	Hinds	MS	Katrina.
93	MS105	Natchez HA	Adams	MS	Katrina.
94	MS109	Long Beach HA	Harrison	MS	Katrina.
95	MS111	Forest HA	Scott	MS	Katrina.
96	MS117	Attala County HA	Attala	MS	Katrina.

Dated: July 21, 2006.

Orlando J. Cabrera,

*Assistant Secretary for Public and Indian
Housing.*

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