

(2) *Title of the Form/Collection:* Immigrant Petition by Alien Entrepreneur.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* USCIS Form I-526; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or households. Form I-526 is used by the USCIS to determine if an alien can enter the U.S. to engage in commercial enterprise.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 807 responses at 1 hour and 20 minutes (1.33 hours) per response for paper filers, and 7,263 responses at 1 hour and 15 minutes (1.25 hours) per response for electronic filers.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 10,151 annual burden hours.

If you need a copy of the information collection instrument with supplementary documents, or need additional information, please visit <http://www.regulations.gov>. We may also be contacted at: USCIS, Office of Policy and Strategy, Regulatory Coordination Division, 20 Massachusetts Avenue NW., Washington, DC 20529-2140; Telephone 202-272-8377.

Dated: May 23, 2013.

**Laura Dawkins,**

Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.

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## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-5696-N-03]

### Allocations, Waivers, and Alternative Requirements for Grantees Receiving Community Development Block Grant Disaster Recovery Funds in Response to Disasters Occurring in 2011 or 2012

**AGENCY:** Office of the Assistant Secretary for Community Planning and Development, HUD.

**ACTION:** Notice.

**SUMMARY:** This Notice advises the public of a \$514,012,000 allocation for the purpose of assisting recovery in the

most impacted and distressed areas declared a major disaster in 2011 or 2012. This is the second allocation of Community Development Block Grant disaster recovery (CDBG-DR) funds appropriated by the Disaster Relief Appropriations Act, 2013 (Pub. L. 113-2). The first allocation provided \$5,400,000,000 to the areas most impacted by Hurricane Sandy. In HUD's **Federal Register** notice published on March 5, 2013, at 78 FR 14329, HUD described that allocation and its applicable waivers and alternative requirements, relevant statutory provisions, the grant award process, criteria for Action Plan approval, and eligible disaster recovery activities. Subsequently, HUD published a notice on April 19, 2013, at 78 FR 23578, which provided additional waivers and alternative requirements to Hurricane Sandy grantees, and clarified or modified guidance provided in the March 5, 2013, notice. For grantees receiving an allocation under this Notice, published in today's **Federal Register** many of the requirements described in the prior notices will apply. Additionally, this Notice modifies an alternative requirement for grantees in receipt of an allocation under section 239 of the Department of Housing and Urban Development Appropriations Act, 2012 (Pub. L. 112-55, approved November 18, 2011); allocations published in the **Federal Register** on April 16, 2012, at 77 FR 22583.

**DATES:** Effective Date: June 3, 2013.

**FOR FURTHER INFORMATION CONTACT:** Stan Gimont, Director, Office of Block Grant Assistance, Office of Community Planning and Development, 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 Relay Service at 800-877-8339. Facsimile inquiries may be sent to Mr. Gimont at 202-401-2044. (Except for the "800" number, these telephone numbers are not toll-free.) Email inquiries may be sent to [disaster\\_recovery@hud.gov](mailto:disaster_recovery@hud.gov).

#### SUPPLEMENTARY INFORMATION:

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#### I. Allocation

The Disaster Relief Appropriations Act, 2013 (Pub. L. 113-2, approved January 29, 2013) (Appropriations Act) made available \$16,000,000,000 in Community Development Block Grant (CDBG) funds for necessary expenses related to disaster relief, long-term recovery, restoration of infrastructure and housing, and economic revitalization in the most impacted and distressed areas resulting from a major disaster declared pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1974 (42 U.S.C. 5121 *et seq.*) (Stafford Act), due to Hurricane Sandy and other eligible events in calendar years 2011, 2012, and 2013.

On March 1, 2013, the President issued a sequestration order pursuant to section 251A of the Balanced Budget and Emergency Deficit Control Act, as amended (2 U.S.C. 901a), and reduced funding for CDBG-DR grants under the Appropriations Act to \$15.18 billion. Through the March 5, 2013, Notice, HUD allocated \$5.4 billion for the areas most impacted by Hurricane Sandy (see 78 FR 14329). Of the remaining \$9.78 billion, this Notice allocates \$514,012,000 for the purpose of assisting recovery in the most impacted and distressed areas declared a major disaster in 2011 or 2012. As the Appropriations Act requires funds to be awarded directly to a State, or unit of general local government (hereinafter, local government), at the discretion of the Secretary, the term "grantee" refers to any jurisdiction receiving a direct award from HUD under this Notice.

To comply with statutory direction that funds be used for disaster recovery-related expenses in the most impacted and distressed areas, HUD computes allocations based on the best available data that cover all of the eligible affected areas. Based on a review of the impacts from Presidentially-declared disasters that occurred in 2011 or 2012 (excluding Hurricane Sandy), and estimates of remaining unmet need, this Notice, published in today's **Federal Register**, provides the following awards:

TABLE 1—ALLOCATIONS FOR DISASTERS OCCURRING IN 2011 OR 2012

State	Grantee	Allocation
Alabama	State of Alabama	\$49,157,000
Alabama	City of Tuscaloosa	43,932,000
Alabama	City of Birmingham	17,497,000
Alabama	Jefferson County	9,142,000
Louisiana	State of Louisiana	66,398,000
Louisiana	Jefferson Parish	16,453,000
Louisiana	City of New Orleans	15,031,000
Louisiana	St. Tammany Parish	8,896,000
Massachusetts	Commonwealth of Massachusetts	7,210,000
Massachusetts	City of Springfield	21,896,000
Missouri	State of Missouri	11,844,000
Missouri	City of Joplin	113,276,000
North Dakota	State of North Dakota	6,576,000
North Dakota	City of Minot	35,056,000
Pennsylvania	Commonwealth of Pennsylvania	29,986,000
Pennsylvania	Luzerne County	9,763,000
Pennsylvania	Dauphin County	7,632,000
Tennessee	State of Tennessee	13,810,000
Tennessee	Shelby County	7,464,000
Texas	State of Texas	5,061,000
Vermont	State of Vermont	17,932,000
<b>Total</b>		<b>514,012,000</b>

To ensure funds provided under this Notice address unmet needs within the “most impacted and distressed” counties or parishes, each local government receiving a direct award under this Notice must expend its entire CDBG–DR award within its jurisdiction

(e.g., Shelby County must expend all funds within Shelby County; the City of Joplin must expend all funds in the portions of Jasper and Newton counties located within the city’s jurisdiction). State grantees may expend funds in any county or parish that received a

Presidential disaster declaration in 2011 or 2012, but must expend a minimum amount in counties or parishes considered most impacted and distressed, as shown in Table 2:

TABLE 2—COUNTIES AND PARISHES ELIGIBLE FOR CDBG–DR ASSISTANCE

State grantee	FEMA disaster No.	Most impacted and distressed counties and parishes	Minimum amount to expend in most impacted and distressed counties and parishes
Alabama	1971, 4052, 4082.	Tuscaloosa, Jefferson, Dekalb, Cullman, Franklin, Marion	\$25,211,400
Louisiana	4015, 4041, 4080.	St. John the Baptist, Plaquemines, Jefferson, Orleans, St. Tammany	45,042,400
Massachusetts	1959, 1994, 4028, 4051, 4097.	Hampden	1,388,800
Missouri	1961, 1980, 4012.	Jasper, Newton	0
North Dakota	1981, 1986 ...	Ward	0
Pennsylvania	4003, 4025, 4030.	Luzerne, Bradford, Dauphin, Columbia, Newton	20,509,800
Tennessee	1965, 1974, 1978, 1979, 4005, 4060.	Shelby	9,555,200
Texas	1999, 4029 ...	Bastrop	4,048,800
Vermont	1995, 4001, 1022, 4043, 4066.	Windsor, Washington, Windham	14,345,600

A detailed explanation of HUD’s allocation methodology is provided at Appendix A. Grantees with additional questions regarding the counties and parishes identified as the most impacted and distressed should contact the HUD

Community Development and Planning (CPD) Representative assigned to their grant.

**II. Use of Funds**

The Appropriations Act requires funds to be used only for specific disaster recovery-related purposes. The Appropriations Act also requires that prior to the obligation of funds, a

grantee shall submit a plan detailing the proposed use of funds, including criteria for eligibility and how the use of these funds will address disaster relief, long-term recovery, restoration of infrastructure and housing and economic revitalization in the most impacted and distressed areas. Thus, in an Action Plan for Disaster Recovery, each grantee must describe uses and activities that: (1) Are authorized under title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 *et seq.*) (HCD Act), or allowed by a waiver or alternative requirement published in an applicable **Federal Register** notice; and (2) respond to a disaster-related impact. To help meet these requirements, grantees must conduct an assessment of community impacts and unmet needs to guide the development and prioritization of planned recovery activities. Detailed information on the needs assessment, eligible CDBG-DR activities, and the development of an Action Plan is included in the March 5, 2013, notice. The subsequent notice published on April 19, 2013, clarifies and/or modifies information provided in the March 5, 2013, notice. For grantees receiving an allocation under this Notice, many of the requirements described in those prior notices will apply (*see* section V of this Notice: “Applicable Rules, Statutes, Waivers, and Alternative Requirements”). Links to the prior notices, the text of the Appropriations Act, and additional guidance prepared by HUD for CDBG-DR grants, are available on HUD’s Web site under the Office of Community Planning and Development, Disaster Recovery Assistance (hereinafter referred to as the CPD Disaster Recovery Web site): [http://portal.hud.gov/hudportal/HUD?src=/program\\_offices/comm\\_planning/communitydevelopment/programs/drsi](http://portal.hud.gov/hudportal/HUD?src=/program_offices/comm_planning/communitydevelopment/programs/drsi).

Each grantee receiving an allocation under this Notice must submit an initial Action Plan no later than 90 days after the effective date of this Notice. However, grantees are encouraged to submit their Action Plans as soon as possible. HUD will only approve Action Plans that meet the specific criteria identified in the March 5, 2013, notice, as modified by the April 19, 2013, notice (*see* section V of this Notice: “Applicable Rules, Statutes, Waivers, and Alternative Requirements”).

Finally, as provided by the HCD Act, funds may be used as a matching requirement, share, or contribution for any other Federal program when used to carry out an eligible CDBG-DR activity. This includes programs or activities administered by the Federal Emergency Management Agency (FEMA) or the U.S.

Army Corps of Engineers (USACE) (as provided at 42 U.S.C. 5305); however, the amount of CDBG-DR used as matching funds for USACE-funded projects may not exceed \$250,000. In addition, per the Appropriations Act, CDBG-DR funds may not be used for expenses reimbursable by, or for which funds are made available by, either FEMA or USACE.

### III. Timely Expenditure of Funds and Prevention of Waste, Fraud, Abuse, and Duplication of Benefits

To ensure the timely expenditure of funds, section 904(c) under Title IX of the Appropriations Act requires that all funds be expended within two years of the date HUD obligates funds to a grantee (funds are obligated to a grantee upon HUD’s signing of the grantee’s CDBG-DR grant agreement). Action Plans must demonstrate how funds will be fully expended within two years of obligation. For any funds that the grantee believes will not be expended by the deadline and that it wishes to retain, it must submit a letter to HUD not less than 30 days in advance of the deadline justifying why it is necessary to extend the deadline for a specific portion of funds. The letter must detail the compelling legal, policy, or operational challenges for any such waiver, and must also identify the date by when the specified portion of funds will be expended. HUD will forward the request to the Office of Management and Budget (OMB) and publish any approved waivers in the **Federal Register** once granted. Waivers to extend the expenditure deadline may be granted by OMB in accordance with guidance to be issued by OMB, but grantees are cautioned that such waivers may not be approved. Funds remaining in the grantee’s line of credit at the time of the 24-month expenditure deadline will be returned to the U.S. Treasury, or if before September 30, 2017, will be recaptured by HUD. The Appropriations Act requires that HUD obligate all funds not later than September 30, 2017. Grantees must continue to meet the requirements for Federal cash management at 24 CFR 85.20(a)(7).

In addition to the above, the Appropriations Act requires the Secretary to certify, in advance of signing a grant agreement, that the grantee has in place proficient financial controls and procurement processes and has established adequate procedures to prevent any duplication of benefits as defined by section 312 of the Stafford Act, ensure timely expenditure of funds, maintain comprehensive Web sites regarding all disaster recovery activities assisted with these funds, and detect

and prevent waste, fraud, and abuse of funds. HUD guidance to assist in preventing a duplication of benefits is provided in a notice published in the **Federal Register** on November 16, 2011, at 76 FR 71060. To provide a basis for the Secretary to make the certification, each grantee must submit documentation to HUD demonstrating its compliance with the above requirements. Grantees must submit the required documentation listed in paragraph A.1.i. under section VI of the March 5, 2013, Notice. Additional information is available in section III of March 5, 2013, Notice and on HUD’s CPD Disaster Recovery Web site (*see* “Guide for Review of Financial Management” and “Certification Checklist”).

Additionally, grantees must submit to HUD a projection of expenditures and outcomes to ensure funds are expended in a timely manner, and to track proposed versus actual performance (guidance on the preparation of the projections is available on HUD’s CPD Disaster Recovery Web site). Grantees are also required to ensure all contracts (with subrecipients, recipients, and contractors) clearly stipulate the period of performance or the date of completion. In addition, grantees must enter expected completion dates for each activity in HUD’s Disaster Recovery Grant Reporting (DRGR) system. When target dates are not met, grantees are required to explain why in the activity narrative. Therefore, all grantees must comply with all reporting, procedural, and monitoring requirements described in section VI. A. Grant Administration, in the March 5, 2013, Notice. HUD will institute risk analysis and on-site monitoring of grantee management as well as collaborate with the HUD Office of Inspector General to plan and implement oversight of these funds.

### IV. Overview of Grant Process

To begin expenditure of CDBG-DR funds, the following expedited steps are necessary:

- Grantee adopts citizen participation plan for disaster recovery in accordance with the requirements of this Notice and the March 5, 2013, Notice;
- Grantee consults with stakeholders, including required consultation with affected, local governments and public housing authorities;
- Within 30 days of the effective date of this Notice (or when the grantee submits its Action Plan, whichever is sooner), grantee submits evidence that it has in place proficient financial controls and procurement processes and has established adequate procedures to

prevent any duplication of benefits as defined by section 312 of the Stafford Act, ensure timely expenditure of funds, maintain comprehensive Web sites regarding all disaster recovery activities assisted with these funds, and detect and prevent waste, fraud, and abuse of funds;

- Grantee publishes its Action Plan for Disaster Recovery on the grantee's official Web site for no less than 7 calendar days to solicit public comment;

- Grantee responds to public comment and submits its Action Plan (which includes Standard Form 424 (SF-424) and certifications) to HUD no later than 90 days after the effective date of this Notice;

- HUD expedites review of Action Plan (allotted 45 days from date of receipt; however, completion of review is anticipated much sooner) and approves the Plan according to criteria identified in the March 5, 2013, Notice;

- HUD sends an Action Plan approval letter, grant conditions, and signed grant agreement to the grantee. If the Action Plan is not approved, a letter will be sent identifying its deficiencies; the grantee must then re-submit the Action Plan within 45 days of the notification letter;

- Grantee ensures that the HUD-approved Action Plan is posted on its official Web site;

- Grantee signs and returns the fully executed grant agreement;

- HUD establishes the proper amount in a line of credit for the grantee;

- Grantee requests and receives DRGR system access (if the grantee does not already have it);

- If it has not already done so, grantee enters the activities from its published Action Plan into DRGR and submits it to HUD within the system (funds can be drawn from the line of credit only for activities that are established in DRGR);

- The grantee may draw down funds from the line of credit after the Responsible Entity completes applicable environmental review(s) pursuant to 24 CFR part 58 and, as applicable, under the clarifying note in paragraph 20.a at 78 FR 14343, receives from HUD or the State an approved Request for Release of Funds and certification;

- Grantee begins to draw down funds within 60 days of receiving access to its line of credit;

- Grantee amends its published Action Plan to include its projection of expenditures and outcomes within 90 days of the Action Plan approval; and

- Grantee updates its full consolidated plan to reflect disaster-related needs no later than its Fiscal Year 2015 consolidated plan update.

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

The Appropriations Act authorizes 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 the use by the recipient of these funds (except for requirements related to fair housing, nondiscrimination, labor standards, and the environment). Waivers and alternative requirements are based upon a determination by the Secretary that good cause exists and that the waiver or alternative requirement is not inconsistent with the overall purposes of title I of the HCD Act. Regulatory waiver authority is also provided by 24 CFR 5.110, 91.600, and 570.5.

This section describes the rules, statutes, waivers, and alternative requirements that apply to grantees receiving an allocation under this Notice. It also clarifies requirements and other information provided in the April 16, 2012, Notice—applicable to all CDBG-DR grantees in receipt of an allocation under section 239 of the Department of Housing and Urban Development Appropriations Act, 2012 (Pub. L. 112-55, approved November 18, 2011). Grantees may request additional waivers and alternative requirements from HUD as needed to address specific needs related to their recovery activities. Under the requirements of the Appropriations Act, regulatory waivers must be published in the **Federal Register** no later than five days before the effective date of such waiver.

1. *Incorporation of waivers, alternative requirements, and statutory changes previously described.* The waivers and alternative requirements provided in the March 5, 2013, Notice, as clarified or modified by the April 19, 2013, Notice apply to each grantee receiving an allocation of funds under this Notice, except as modified herein. These waivers and alternative requirements provide additional flexibility in program design and implementation to support full recovery following the disasters of 2011 and 2012, while also ensuring that statutory requirements unique to the Appropriations Act are met. The following clarifications or modifications apply to grantees in receipt of an allocation under this Notice:

a. All submission deadlines regarding the Secretary's certification or the Action Plan, referenced in this Notice or previous notices, are triggered by the effective date of this Notice.

b. Paragraph 1(a)(1) of the March 5, 2013, Notice, at 78 FR 14333 is hereby amended by striking the contacts listed for other Federal agencies. Grantees seeking updated information about assistance provided by other Federal agencies or remaining unmet needs should contact their CPD Representative.

c. Paragraph 1(a)(6) of the March 5, 2013, Notice, at 78 FR 14334 is hereby amended by deleting that paragraph and replacing it in its entirety with the following: A description of how the grantee will identify and address (if needed) the rehabilitation (as defined at 24 CFR 570.202), reconstruction, and replacement of the following types of housing affected by the disaster: Public housing (including administrative offices), HUD-assisted housing (defined at subparagraph (1) of the March 5, 2013, Notice, at 78 FR 14332), McKinney-Vento funded shelters and housing for the homeless—including emergency shelters and transitional and permanent housing for the homeless, and private market units receiving project-based assistance or with tenants that participate in the Section 8 Housing Choice Voucher Program. As part of this requirement, each grantee must work with any impacted Public Housing Authority (PHA), located within its jurisdiction, to identify the unmet needs of damaged public housing. If unmet needs exist once funding under this Notice becomes available to the grantee, the grantee must work directly with the impacted PHA(s) to identify necessary costs, and ensure adequate funding is dedicated to the recovery of the damaged public housing. Grantees are reminded that public housing is eligible for FEMA Public Assistance; thus, they must ensure that there is no duplication of benefits when using CDBG-DR funds to assist public housing.

d. Paragraph 1(l) of the March 5, 2013, Notice, at 78 FR 14337 is hereby amended by adding the following to the existing language: Grantees that have previously projected expenditures and outcomes, in a format consistent with prior guidance issued by HUD, may use and update those projections with HUD approval. HUD will work with the grantee to determine the most efficient way of submitting these projections while still ensuring transparency. Revised projections must still be incorporated into the published Action Plan within 90 days of the Action Plan approval.

e. Any waiver or alternative requirement (described in the March 5, 2013, or April 19, 2013, Notices) that is restricted to one or more grantees cited by the waiver or alternative

requirement, is only applicable to the cited grantee(s).

2. *Acquisition of real property and flood buyouts.* To ensure consistency between allocations of CDBG–DR funds, and to give grantees greater flexibility to respond to disaster recovery needs, paragraph 27 of the April 16, 2012, Notice, at 77 FR 22594 is hereby amended by deleting that paragraph and replacing it in its entirety with the following:

“27. *Acquisition of real property and flood buyouts.* Grantees under this notice are able to carry out property acquisition for a variety of purposes. However, the term “buyouts” as referenced in this Notice refers to acquisition of properties located in a floodway or floodplain that is intended to reduce risk from future flooding. HUD is providing alternative requirements for consistency with the application of other Federal resources commonly used for this type of activity.

a. *Buyout requirements:*

(1) Any property acquired, accepted, or from which a structure will be removed pursuant to the project will be dedicated and maintained in perpetuity for a use that is compatible with open space, recreational, or wetlands management practices;

(2) No new structure will be erected on property acquired, accepted or from which a structure was removed under the acquisition or relocation program other than (a) a public facility that is open on all sides and functionally related to a designated open space (e.g., a park, campground, or outdoor recreation area); (b) a rest room; (c) a flood control structure that the local floodplain manager approves in writing before the commencement of the construction of the structure;

(3) After receipt of the assistance, with respect to any property acquired, accepted, or from which a structure was removed under the acquisition or relocation program, no subsequent application for additional disaster assistance for any purpose will be made by the recipient to any Federal entity in perpetuity;

(4) Grantees have the discretion to determine an appropriate valuation method (including the use of pre-flood value or post-flood value as a basis for property value). However, in using CDBG–DR funds for buyouts, the grantee must uniformly apply whichever valuation method it chooses;

(5) All buyout activities must be classified using the “buyout” activity type in the DRGR system; and

(6) Any State grantee implementing a buyout program or activity must consult with affected UGLGs.

b. *Redevelopment of acquired properties.*

(1) Properties purchased through a buyout program may not typically be redeveloped, with a few exceptions. See subparagraph a(2), above.

(2) Grantees may redevelop an acquired property if: (a) the property is not acquired through a buyout program, and (b) the purchase price is based on the property’s post-flood fair market value (the pre-flood value may not be used). In addition to the purchase price, grantees may opt to provide relocation assistance to the owner of a property that will be redeveloped if the property is purchased by the grantee or subgrantee through voluntary acquisition, and the owner’s need for additional assistance is documented.

(3) In carrying out acquisition activities, grantees must ensure they are in compliance with their long-term redevelopment plans.”

c. The language in this paragraph that replaces language in the April 16, 2012, Notice at 77 FR 22594 applies to buyout acquisitions contracted after the effective date of this Notice.

**VI. Duration of Funding**

The Appropriations Act requires that HUD obligate all funds provided under Chapter 9, Community Development Fund, not later than September 30, 2017. Concurrently, section 904(c) of the Appropriations Act requires that all funds be expended within two years of the date HUD obligates funds.

Therefore, each grantee must expend all funds within two years of the date HUD signs the grant agreement with the grantee. Note that if a grantee amends its Action Plan to program additional funds that HUD has allocated to it, the grant agreement must also be revised. The requirement for each grantee to expend funds within two years is triggered by each amendment to the grant agreement. That is, each grant amendment has its own expenditure deadline. Pursuant to section 904(c) of the Appropriations Act, grantees or HUD may request waivers of the two-year expenditure deadline from the Office of Management and Budget. For any funds that the grantee believes will not be expended by the deadline and that it desires to retain, it must submit a letter to HUD not less than 30 days in advance of the deadline justifying why it is necessary to extend the deadline for a specific portion of funds. The letter must detail the compelling legal, policy, or operational challenges for any such waiver, and must also identify the date by when the specified portion of funds will be expended. Funds remaining in the grantee’s line of credit at the time of

this expenditure deadline will be returned to the U.S. Treasury.

**VII. Catalog of Federal Domestic Assistance**

The Catalog of Federal Domestic Assistance number for the disaster recovery grants under this Notice is as follows: 14.269.

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

Dated: May 22, 2013.

**Mark Johnston,**

*Deputy Assistant Secretary for Special Needs Programs.*

**Appendix A—Allocation Methodology**

Public Law 113–2 states:

For an additional amount for “Community Development Fund”, \$16,000,000,000, to remain available until September 30, 2017, for necessary expenses related to disaster relief, long-term recovery, restoration of infrastructure and housing, and economic revitalization in the most impacted and distressed areas resulting from a major disaster declared pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) due to Hurricane Sandy and other eligible events in calendar years 2011, 2012, and 2013, for activities authorized under title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.):

*Provided,* That funds shall be awarded directly to the State or unit of general local government as a grantee at the discretion of the Secretary of Housing and Urban Development:

*Provided further,* That the Secretary shall allocate to grantees not less than 33 percent of the funds provided under this heading within 60 days after the enactment of this provision based on the best available data:

*Provided further,* That prior to the obligation of funds, a grantee shall submit a plan to the Secretary for approval detailing

the proposed use of all funds, including criteria for eligibility and how the use of these funds will address long-term recovery and restoration of infrastructure and housing and economic revitalization in the most impacted and distressed areas:

The legislation specifies that the CDBG-DR funds are to be used “for necessary expenses related to disaster relief, long-term recovery, restoration of infrastructure and housing, and economic revitalization in the most impacted and distressed areas resulting from a major disaster” and further specifies that the funds are not to be used for activities reimbursable by or for which funds are made available by FEMA or the Corps of Engineers.

The language also calls for HUD to use “best available” data to make its allocation. For this allocation, similar to prior allocations, HUD made a determination of unmet needs by estimating unmet needs related to the main intended uses of the funds:

- “restoration of . . . housing”. HUD made an estimate with best available data on the amount of housing damage not likely to be covered by insurance, SBA disaster loans, or FEMA housing assistance. To target the “most impacted and distressed areas”, the calculation limits the need calculation only to homes with high levels of individual damage (see below) in counties and parishes with severe housing and business needs of \$10 million or greater.
- “economic revitalization”. HUD made an estimate with best available data on the amount of damage to businesses declined for an SBA loan, usually because of inadequate credit or income to support the needed loan amount.
- “restoration of infrastructure”. HUD calculated infrastructure need as the match required to address the FEMA estimates for repair of permanent infrastructure in the FEMA Public Assistance program (categories C to G).
- “in the most impacted and distressed areas”. To target the funds to the most impacted and distressed areas, HUD limited its calculation to “severe needs in areas of concentrated damage”:
  - Severe Needs: Only homes and businesses categorized as severe or major-high damage were included in the calculation (see below).
  - Concentration: Only counties and parishes with greater than \$10 million in severe housing and business needs were included for the calculation. The \$10 million threshold was established looking at a “natural break” in the distribution of impacted counties or parishes when ordered from most to least severe needs. Note, if a county or parish had been designated as “most impacted” in the 2012 allocation, it is included even if the adjusted methodology calculated a lower amount with the new data.
  - Overall size of the need: Again using the concept of a natural break, HUD established an aggregate of \$25 million or more of severe unmet housing, business, and infrastructure needs in counties and parishes with over \$10

million in severe housing and business needs to be eligible to receive a grant.

#### Methodology for Calculating Unmet Needs

##### Available Data

The “best available” data HUD staff identified as being available to calculate unmet needs at this time for the targeted disasters come from the following data sources:

- FEMA Individual Assistance program data on 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 Public Assistance program data on public infrastructure damage;

##### 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 Small Business Administration data from its Disaster Loan Program. HUD calculated “unmet housing needs” as the number of housing units with unmet needs times the estimated cost to repair those units less repair funds already provided by FEMA, where:

- Each of the FEMA inspected owner units were categorized by HUD into one of five categories:
  - Minor-Low: Less than \$3,000 of FEMA inspected *real property* damage
  - Minor-High: \$3,000 to \$7,999 of FEMA inspected *real property* damage
  - Major-Low: \$8,000 to \$14,999 of FEMA inspected *real property* damage
  - Major-High: \$15,000 to \$28,800 of FEMA inspected *real property* damage and/or 4 to 6 feet of flooding on the first floor.
  - Severe: Greater than \$28,800 of FEMA inspected *real property* damage or determined destroyed and/or 6 or more feet of flooding on the first floor.

To ensure funds are used in “most impacted” areas as required by statute, homes were included in the calculation if they were categorized as having sustained “major-high” or “severe” damage. That is, they have a real property FEMA inspected damage of \$15,000 or flooding over 4 foot. Furthermore, for purposes of this calculation, a homeowner is assumed to have unmet needs if they have received a FEMA grant to make home repairs. For homeowners with a FEMA grant and insurance for the covered event, HUD assumed an unmet need “gap” of 20 percent of the difference between total damage and the FEMA grant.

- FEMA does not inspect rental units for real property damage so personal property damage was used as a proxy for unit damage. Each of the FEMA inspected renter units were categorized by HUD into one of five categories:
  - Minor-Low: Less than \$1,000 of FEMA inspected *personal property* damage

- Minor-High: \$1,000 to \$1,999 of FEMA inspected *personal property* damage
- Major-Low: \$2,000 to \$3,499 of FEMA inspected *personal property* damage
- Major-High: \$3,500 to \$7,499 of FEMA inspected *personal property* damage or 4 to 6 feet of flooding on the first floor.
- Severe: Greater than \$7,500 of FEMA inspected *personal property* damage or determined destroyed and/or 6 or more feet of flooding on the first floor.

For rental properties, to ensure funds are allocated to “most impacted” areas as required by statute, homes were included in the calculation if they were categorized as having sustained “major-high” or “severe” damage. That is, they received a FEMA personal property damage assessment of \$3,400 or greater or flooding over 4 feet. Furthermore, landlords were presumed to have adequate insurance coverage unless the unit was occupied by a renter with income of \$30,000 or less. Units occupied by a tenant with income less than \$30,000 were used to calculate likely unmet needs for affordable rental housing. For those units occupied by tenants with incomes under \$30,000, HUD estimated unmet needs as 75 percent of the estimated repair cost.

- 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 Small Business Administration for its disaster loan program for the subset of homes inspected by both SBA and FEMA. Because SBA inspects for full repair costs, HUD presumed that SBA assessments reflect the full cost to repair the home. SBA estimates generally exceed the FEMA estimates of the cost to make the home habitable. If fewer than 100 SBA inspections were made for homes within a FEMA damage category, HUD applied a cap to the estimated damage amount in the category for that disaster at the 75th percentile of all damaged units for that category for all disasters and applied a floor at the 25th percentile.

##### Calculating Unmet Infrastructure Needs

• To best proxy unmet infrastructure needs, HUD used data from FEMA’s Public Assistance program on the state match requirement (usually 25 percent of the estimated public assistance needs). This allocation methodology used 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 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 for which CDBG funds are generally used. Because Public Assistance damage estimates are available only statewide (and not at the county or parish level), estimates of unmet infrastructure needs were sub-allocated to counties, parishes, and local jurisdictions based on each jurisdiction’s proportion of unmet housing and business needs.

*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 was adjusted upward by the proportion of applications that were received for a disaster for which SBA did not calculate content and real property loss because the applicant had inadequate credit or income. For example, if a state had 160 applications for assistance, 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  $(1 + 10/160) \times$  calculated unmet real content loss.
- Because applications denied for poor credit or income are a likely indication of applicants requiring the type of assistance available with CDBG recovery funds, the calculated unmet business needs for each state were 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. Similar to housing, estimated damage was used to determine what unmet needs would be used to identify most impacted areas. Only properties with total real estate and content loss in excess of \$65,000 are categorized as having sustained severe damage and counted for purposes of identifying the most impacted areas.

- Category 1: real estate + content loss = below 12,000
- Category 2: real estate + content loss = 12,000–30,000
- Category 3: real estate + content loss = 30,000–65,000
- Category 4: real estate + content loss = 65,000–150,000
- Category 5: real estate + content loss = above 150,000
- To obtain unmet business needs, the amount for approved SBA loans is subtracted out of the total estimated damage. Since SBA

business needs are best measured at the county or parish level, HUD estimates the distribution of needs to local entitlement jurisdictions based on the distribution of all unmet housing needs.

**Methodology for Determining the Amount a Grantee Must Expend in Most Impacted and Distressed Counties or Parishes**

In total, 80 percent of the funds allocated in to state must be expended in the most impacted counties or parishes. In states where there are direct grantees, HUD requires the direct grantee to spend 100 percent of their funds in the most impacted county or parish, thus reducing the share of funds the state needs to expend in the most impacted county or parish. For example, because of the large grant to Joplin, there is no minimum requirement for the State of Missouri. In contrast, Vermont which has no direct grantees, must spend 80 percent of its funds in the most impacted counties of Windsor, Washington, and Windham. See the below table for further explanation:

			80% of Total state allocation	Percent spent in most impacted county(ies) or parish(es)
MO .....	Direct Grantees .....	113,276,000	.....	100
	State Grant .....	11,844,000	.....	0
	Total .....	125,120,000	100,096,000	.....
AL .....	Direct Grantees .....	70,571,000	.....	100
	State Grant .....	49,157,000	.....	51
	Total .....	119,728,000	95,782,400	.....
ND .....	Direct Grantees .....	35,056,000	.....	100
	State Grant .....	6,576,000	.....	0
	Total .....	41,632,000	33,305,600	.....
LA .....	Direct Grantees .....	40,380,000	.....	100
	State Grant .....	66,398,000	.....	68
	Total .....	106,778,000	85,422,400	.....
PA .....	Direct Grantees .....	17,395,000	.....	100
	State Grant .....	29,986,000	.....	68
	Total .....	47,381,000	37,904,800	.....
TX .....	Direct Grantees .....	.....	.....	100
	State Grant .....	5,061,000	.....	80
	Total .....	5,061,000	4,048,800	.....
TN .....	Direct Grantees .....	7,464,000	.....	100
	State Grant .....	13,810,000	.....	69
	Total .....	21,274,000	17,019,200	.....
MA .....	Direct Grantees .....	21,896,000	.....	100
	State Grant .....	7,210,000	.....	19
	Total .....	29,106,000	23,284,800	.....
VT .....	Direct Grantees .....	.....	.....	100
	State Grant .....	17,932,000	.....	80
	Total .....	17,932,000	14,345,600	.....

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**DEPARTMENT OF THE INTERIOR****Office of the Secretary**

[A10-2006-1010-000-00-0, 2015200]

**Notice of Availability of the Final Environmental Impact Statement/ Environmental Impact Report for Klamath Facilities Removal****AGENCY:** Office of Environmental Policy and Compliance, Interior.**ACTION:** Notice of availability.

**SUMMARY:** The Department of the Interior and the California Department of Fish and Wildlife have prepared a final environmental impact statement and environmental impact report (EIS/EIR) evaluating the potential effects of removing four privately owned dams on the Klamath River in southern Oregon and northern California should the Secretary of the Interior determine that removal will advance restoration of salmonid fisheries in the Klamath Basin and is in the public interest. The Department of the Interior has released the final EIS/EIR pursuant to the requirements of the National Environmental Policy Act and the Klamath Hydroelectric Settlement Agreement. The California Department of Fish and Wildlife is not releasing the document at this time, therefore there is no action under California Environmental Quality Act at this time. Additionally, no decision on the potential removal of these facilities is being made with the release of this document.

**DATES:** Under the terms of the Klamath Hydroelectric Settlement Agreement, congressional authorization is necessary prior to a decision on the proposed action. Because Congress has not enacted the legislation necessary to authorize a Secretarial Determination, the Department of the Interior will not make a final decision on the proposed action at this time.

**ADDRESSES:** The final EIS/EIR may be viewed and electronically downloaded at <http://klamathrestoration.gov>. To request a compact disc of the final EIS/EIR, please contact Ms. Elizabeth Vasquez, Bureau of Reclamation, 2800 Cottage Way, Sacramento, CA 95825; email [KlamathSD@usbr.gov](mailto:KlamathSD@usbr.gov); or telephone 916-978-5040. See the Supplementary Information section for locations where copies of the final EIS/EIR are available for public review.

**FOR FURTHER INFORMATION CONTACT:** Ms. Elizabeth Vasquez, Bureau of Reclamation, 916-978-5040, [evasquez@usbr.gov](mailto:evasquez@usbr.gov). For public involvement information, please contact Mr. Matt Baun, U.S. Fish and Wildlife Service, 530-841-3119, [Matt\\_Baun@fws.gov](mailto:Matt_Baun@fws.gov).

**SUPPLEMENTARY INFORMATION:** The Department of the Interior (Department) and the California Department of Fish and Wildlife (CDFW) have prepared an EIS/EIR for Klamath Facilities Removal. The EIS/EIR evaluates potential effects of the proposed removal of four PacifiCorp dams on the Klamath River in southern Oregon and northern California. The proposed removal would be in accordance with the Klamath Hydroelectric Settlement Agreement (KHSA). The KHSA established a process for studies and environmental review, leading to a Secretarial Determination on whether removal of the dams will accomplish the following:

- (1) Advance restoration of salmonid (salmon, steelhead, and trout) fisheries of the Klamath River Basin; and
- (2) Be in the public interest, including, but not limited to, consideration of potential impacts on affected local communities and Tribes.

The Klamath Basin Restoration Agreement (KBRA) provides for restoration of native fisheries and sustainable water supplies throughout the Klamath River Basin. Together, these two agreements attempt to resolve long-standing conflicts in the Klamath River Basin.

The KHSA, pursuant to its terms, requires certain criteria to be met prior to a determination as to whether these privately owned dams should be removed. One such criterion is for the enactment of legislation by the Congress authorizing the Secretary of the Interior (Secretary) to make this decision. Because legislation has not been enacted, the Department is not making any decision regarding the potential removal of these privately owned facilities. Nonetheless, the Department also believes that release of this final EIS/EIR will help inform public discourse at the federal, state and local levels.

While CDFW has participated in the development of this joint EIS/EIR, the release of this document at this time is solely pursuant to NEPA. Questions regarding the application of CEQA to this EIS/EIS should be directed to CDFW.

**Statement of Purpose and Need and Proposed Action**

The proposed action is to remove the four lower PacifiCorp dams on the

Klamath River in accordance with the KHSA. The need for the proposed action is to advance restoration of the salmonid fisheries in the Klamath Basin consistent with the KHSA and the connected KBRA. The purpose is to achieve a free-flowing river condition and full volitional fish passage as well as other goals expressed in the KHSA and KBRA. Under the terms of the KHSA, the Secretary will determine whether the proposed action is appropriate and should proceed. In making this determination, the Secretary will consider whether removal of the four private facilities will advance the restoration of the salmonid fisheries of the Klamath Basin, and is in the public interest, which includes, but is not limited to, consideration of potential impacts on affected local communities and Tribes.

The EIS/EIR and its related processes were developed to accomplish the following:

- Inform the Secretary's decision on whether to approve the proposed removal of the four PacifiCorp dams, consistent with the KHSA and the connected KBRA;
- Provide meaningful opportunities for involvement by Tribes, agencies, and the public;
- Analyze and disclose the effects of the proposed action and alternatives on the human and physical environment, including, but not limited to, effects on biological resources, historic and archaeological resources, geomorphology, flood hydrology, water quality, air quality, public safety, hazardous materials and waste, visual resources, socioeconomics, real estate, tribal trust, recreation, and environmental justice;
- Meet the requirements of Section 106 of the National Historic Preservation Act, in lieu of the procedures set forth in 36 CFR §§ 800.3 through 800.6, pursuant to 36 CFR 800.8; and
- Comply with NEPA and the California Environmental Quality Act (CEQA).

The public review period of the draft EIS/EIR opened with a Notice of Availability of the draft EIS/EIR, published in the **Federal Register** on Thursday, September 22, 2011 (76 FR 58833). A second notice was published on Thursday, December 1, 2011 to provide the public an additional 30 days to submit written comments (77 FR 74804). The public review period ended on December 30, 2011. During the public review period, six public meetings were held in California and Oregon to solicit comments. Over 4,000 verbal and written comments were