

Status: Surplus  
 GSA Number: 9-B-CA-1673-AB  
 Comments: 2.21 acres, mineral rights, utility easements  
 Drill Site #6  
 null  
 Ford City CA 93268  
 Landholding Agency: GSA  
 Property Number: 54201040006  
 Status: Surplus  
 GSA Number: 9-B-CA-1673-AC  
 Comments: 2.13 acres, mineral rights, utility easements  
 Drill Site #9  
 null  
 Ford City CA 93268  
 Landholding Agency: GSA  
 Property Number: 54201040007  
 Status: Surplus  
 GSA Number: 9-B-CA-1673-AH  
 Comments: 2.07 acres, mineral rights, utility easements  
 Drill Site #20  
 null  
 Ford City CA 93268  
 Landholding Agency: GSA  
 Property Number: 54201040008  
 Status: Surplus  
 GSA Number: 9-B-CA-1673-AD  
 Comments: 2.07 acres, mineral rights, utility easements  
 Drill Site #22  
 null  
 Ford City CA 93268  
 Landholding Agency: GSA  
 Property Number: 54201040009  
 Status: Surplus  
 GSA Number: 9-B-CA-1673-AF  
 Comments: 2.07 acres, mineral rights, utility easements  
 Drill Site #24  
 null  
 Ford City CA 93268  
 Landholding Agency: GSA  
 Property Number: 54201040010  
 Status: Surplus  
 GSA Number: 9-B-CA-1673-AE  
 Comments: 2.06 acres, mineral rights, utility easements  
 Drill Site #26  
 null  
 Ford City CA 93268  
 Landholding Agency: GSA  
 Property Number: 54201040011  
 Status: Surplus  
 GSA Number: 9-B-CA-1673-AA  
 Comments: 2.07 acres, mineral rights, utility easements  
 Seal Beach RR Right of Way  
 West 19th Street  
 Seal Beach CA 90740  
 Landholding Agency: GSA  
 Property Number: 54201140015  
 Status: Surplus  
 GSA Number: 9-N-CA-1508-AF  
 Comments: 8,036.82 sq. ft.; current use: vacant lot  
 Seal Beach RR Right of Way  
 East 17th Street  
 Seal Beach CA 90740  
 Landholding Agency: GSA  
 Property Number: 54201140016  
 Status: Surplus  
 GSA Number: 9-N-CA-1508-AB

Comments: 9,713.88 sq. ft.; current use: private home  
 Seal Beach RR Right of Way  
 East of 16th Street  
 Seal Beach CA 90740  
 Landholding Agency: GSA  
 Property Number: 54201140017  
 Status: Surplus  
 GSA Number: 9-N-CA-1508-AG  
 Comments: 6,834.56 sq. ft.; current use: vacant  
 Seal Beach RR Right of Way  
 West of Seal Beach Blvd.  
 Seal Beach CA 90740  
 Landholding Agency: GSA  
 Property Number: 54201140018  
 Status: Surplus  
 GSA Number: 9-N-CA-1508-AA  
 Comments: 10,493.60 sq. ft.; current use: vacant lot  
 Seal Beach RR Right of Way  
 Seal Beach  
 Seal Beach CA 90740  
 Landholding Agency: GSA  
 Property Number: 54201210006  
 Status: Surplus  
 GSA Number: 9-N-CA-1508-AH  
 Comments: 4,721.90 sf.; current use: vacant lot between residential bldg.  
 Seal Beach RR Right of Way  
 Seal Beach  
 Seal Beach CA 90740  
 Landholding Agency: GSA  
 Property Number: 54201210007  
 Status: Surplus  
 GSA Number: 9-N-CA-1508-AJ  
 Comments: 6,028.70 sf.; current use: vacant lot between residential bldgs.  
*Suitable/Unavailable Properties*  
 Land  
 Illinois  
 former Outer Marker Compass  
 2651 West 83rd Place  
 Chicago IL  
 Landholding Agency: GSA  
 Property Number: 54201220002  
 Status: Excess  
 GSA Number: 1-U-I-797  
 Comments: .22 acres; current use: airport outer maker  
 Massachusetts  
 FAA Site  
 Massasoit Bridge Rd.  
 Nantucket MA 02554  
 Landholding Agency: GSA  
 Property Number: 54200830026  
 Status: Surplus  
 GSA Number: MA-0895  
 Comments: approx 92 acres, entire parcel within MA Division of Fisheries & Wildlife Natural Heritage & Endangered Species Program  
 Missouri  
 Whiteman ILS Outer Marker Anne  
 Hwy 23 North, 9 miles S. of Knob Noster  
 Knob Noster MO 65336  
 Landholding Agency: GSA  
 Property Number: 54201220010  
 Status: Unutilized  
 GSA Number: 7-D-MO-0428-2  
 Directions: previously reported by Air Force under property #18200940001

Comments: .75 acres +/-; fenced grassy area  
 Long Branch Lake  
 30174 Visitor Center Rd.  
 Macon MO 63552  
 Landholding Agency: GSA  
 Property Number: 54201230006  
 Status: Surplus  
 GSA Number: 7-D-MO-0579  
 Comments: 7.60 acres  
 Nevada  
 RBG Water Project Site  
 Bureau of Reclamation  
 Henderson NV 89011  
 Landholding Agency: GSA  
 Property Number: 54201140004  
 Status: Surplus  
 GSA Number: 9-I-AZ-0562  
 Comments: water easement (will not impact conveyance); 22+/-acres; current use: water sludge disposal site; lead from shotgun shells on <1 acre.  
 North Dakota  
 Vacant Land of MSR Site  
 Stanley Mickelsen  
 Nekoma ND  
 Landholding Agency: GSA  
 Property Number: 54201130009  
 Status: Surplus  
 GSA Number: 7-D-ND-0499  
 Comments: 201.2 acres; recent use: unknown  
 Pennsylvania  
 approx. 16.88  
 271 Sterrettania Rd.  
 Erie PA 16506  
 Landholding Agency: GSA  
 Property Number: 54200820011  
 Status: Surplus  
 GSA Number: 4-D-PA-0810  
 Comments: vacant land  
 [FR Doc. 2012-28717 Filed 11-29-12; 8:45 am]  
**BILLING CODE 4210-67-P**

**DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**

[Docket No. FR-5675-N-01]

**Regulatory and Administrative Waivers Granted for Public and Indian Housing Programs To Assist With Recovery and Relief in Superstorm Sandy Disaster Areas**

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

**ACTION:** Notice.

**SUMMARY:** This notice advises the public of HUD regulations and other administrative requirements governing HUD's Office of Public and Indian Housing (PIH) programs that have been waived in order to facilitate the delivery of decent, safe, and sanitary housing under these programs to families and individuals who have been displaced from their housing by Superstorm Sandy. Entities that administer PIH programs, which include public housing

agencies (PHAs), Indian and tribally designated housing entities (TDHEs), and local and tribal governments, and are located in an area declared by the President to be a federal disaster area as a result of Superstorm Sandy, may defer compliance with the regulations and other requirements listed in this notice for an initial period of 12 months or such other period as may be specified in this notice, and must provide notice to HUD of their decision to do so as described in Section II.A. below. PIH program administrations not located within a federal disaster area but assisting with Superstorm Sandy recovery and relief may request to defer compliance with these regulations and other requirements for the same period of time through the expedited waiver process described in Section II.B. below.

This notice applies only to PIH programs or to cross-cutting regulatory or administrative requirements that are applicable to PIH program administrators.

**DATES:** November 15, 2012.

**FOR FURTHER INFORMATION CONTACT:** PIH Disaster Relief Officer, Office of Policy Programs and Legislation, Office of Public and Indian Housing, Department of Housing and Urban Development, 490 L'Enfant Plaza SW., Suite 2206, Washington, DC 20024, telephone number (202) 402-5774 or (202) 402-5467. Persons with hearing or speech impairments may access this number via TTY by calling the Federal Information Relay Service at (800) 877-8339.

**SUPPLEMENTARY INFORMATION:**

**I. Background Information**

In late October 2012, Superstorm Sandy hit the east coast of the United States, causing loss of life, significant damage to property, and displacement of individuals and families from their homes and communities. The President has called upon all federal agencies to do everything in their power to assist the victims of Superstorm Sandy and to eliminate or reduce "red tape" that will impede the delivery of federal financial assistance and other needed benefits. To that end, this notice identifies HUD regulations and other administrative requirements governing HUD's PIH programs that may be waived or temporarily suspended or deferred in an area declared by the President to be a federal disaster area as a result of Superstorm Sandy ("disaster area") or for other PIH entities impacted by the storm or providing assistance with Superstorm Sandy recovery and relief efforts.

HUD's Office of Public and Indian Housing (PIH) examined the regulations governing PIH programs and recommended waiver or temporary suspension or deferral of those regulations that the office believes could impede PIH program administrators in their effort to expeditiously assist with housing current PIH program participants who lost housing as a result of Superstorm Sandy as well as others who now need housing assistance under PIH programs as a result of the Superstorm. For the majority of the regulations and administrative requirements listed in this notice and for which a waiver may be granted, HUD did not waive the requirements entirely but deferred compliance until such time as compliance may be feasible; for example, in many cases HUD extended deadlines for reports or other documents that PIH program administrators must submit to HUD. HUD is relying on its experienced partners in the HUD housing-assistance programs who are in the front-line of recovery efforts to meet the challenge of providing decent, safe, and sanitary housing as expeditiously as possible and to comply to the extent possible with the regulations that promote that goal. HUD does not want the time and resources of PHAs, Indian tribes, and TDHEs diverted by requirements that are important but can be deferred until such time as a degree of normalcy in operations returns to the disaster areas.

In addition to the waiver of regulatory requirements, some statutory provisions contain built-in waiver provisions that allow administrative waiver of the statutory requirements for cause. Certain of those provisions are included in Section III.A of this notice.

This notice lists all HUD regulatory and administrative requirements that PIH determined needed to be waived or temporarily deferred or suspended during the Superstorm Sandy recovery period. If PHAs, Indian tribes, TDHEs, or other PIH program administrators identify other regulations that they believe should be waived, they should seek a waiver by submitting a waiver request as specified in Section II.C.

**II. Waiver Process**

*A. For PIH Program Administrators in Declared Disaster Areas*

PIH program administrators in the Superstorm Sandy disaster areas may defer or suspend compliance with the regulations or other administrative requirements upon the effective date of this notice, for an initial period of 12 months or for such other period as may be specified in this notice. These

entities, however, should notify HUD within two weeks of determination of the need to utilize the waived requirements in this notice, or as soon as possible, by contacting HUD in the manner detailed in the following paragraph.

An official of the PHA, TDHE, tribal or local government that seeks the suspension of compliance with requirements listed in this notice must contact HUD in writing (email communication is allowed) and identify the requirements they have chosen to waive using the checklist provided by HUD for this purpose. This checklist is available at <http://portal.hud.gov/hudportal/HUD?src=/sandy>. The instructions on the checklist require the PHA, TDHE, tribal or local government to select the desired provisions and to submit the completed checklist by email to [PIH\\_Disaster\\_Relief@hud.gov](mailto:PIH_Disaster_Relief@hud.gov). If you are a PHA, this email should also include either the Field Office Public Housing Director or the Program Center Coordinator as a recipient. For the Office of Native American Program's (ONAP) grantees, this email should also be addressed to [Kevin.Fitzgibbons@hud.gov](mailto:Kevin.Fitzgibbons@hud.gov). This email notification process will remain open for use for 75 days after the publication date of this notice.

This is a notification process only, and HUD asks that this notification be made to HUD before a PHA begins to rely on one or more or all of the waived or suspended requirements in this notice. While, as noted earlier, HUD does not want to impose additional administrative requirements on PIH program administrators located in the disaster areas during this period, it is important and helpful for HUD to know how these entities are administering their PIH programs during the recovery period. Thus, HUD has tried to make this notification process as easy as possible. HUD will maintain information on the names of the PHAs, Indian tribes, or TDHEs that have deferred compliance with certain regulatory and administrative requirements in accordance with this notice. The regulation or administrative requirement will remain inapplicable for a period of 12 months, or for the period specified below, and will be considered waived or suspended by HUD. If an extension is necessary, this extension may be made available for an additional three months upon notification to HUD following the same notification process described above.

### *B. For PIH Program Participants in Non-Disaster Declared Areas*

PIH program administrators that are not located in a Superstorm Sandy disaster area but were impacted by the storm or are contributing to relief and recovery efforts may request a waiver of the regulations or administrative requirements listed below by sending the checklist referenced in Section II.A. above to the

*PIH\_Disaster\_Relief@hud.gov* email address. The submission must specify the need, including justification, for the waiver of the requirement in the space provided. Waiver requests submitted through this email address will receive priority processing. This email notification process will remain open for use for 75 days after the publication date of this notice.

### *C. Regulations and Requirements Not Waived in This Notice*

Based on experience to date with Superstorm recovery efforts, PIH believes that this notice contains a comprehensive list of waivers that will assist with relief efforts. However, for any regulation or other administrative requirement not listed for which a PIH program administrator seeks waiver or suspension, the program administrator may seek a waiver by sending a request to the *PIH\_Disaster\_Relief@hud.gov* email address. The request must specify the need, including justification, for the waiver of the requirement. As noted earlier, waiver requests submitted through this email address will receive priority processing, and HUD will respond to the requestor by email.

The expedited waiver process is provided only for waiver or suspension of requirements that will assist with the Superstorm Sandy relief and recovery efforts. HUD will not respond to any waiver requests submitted to this email address that are unrelated to relief and recovery of the disaster areas. This email notification process will remain open for use for 75 days after the publication date of this notice.

### **III. Authority To Grant Waivers**

Generally, waivers of HUD regulations are handled on a case-by-case basis. Under statutory requirements set forth in section 7(q) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(q)) and its implementing regulations, 24 CFR 5.110., a regulated party that seeks a waiver of a HUD regulation must request a waiver from HUD in writing and the waiver request must specify the need for the waiver. HUD then responds to the request in writing and, if the

waiver is granted, HUD includes a summary of the waiver granted (and all regulatory waivers granted during a three-month period) in a **Federal Register** notice that is published quarterly. Since the damage to property and the displacement of families and individuals in the disaster areas is widespread, and the need for regulatory relief in many areas pertaining to HUD-assisted housing is readily apparent, HUD is suspending its usual regulatory waiver protocols for the disaster areas and has substituted an expedited process that meets the requirements of section 7(q) and 24 CFR 5.110.

In a quarterly notice of regulations waived, HUD will identify the PIH program administrators in the disaster areas that are utilizing one or more of the waived regulations in this notice or other regulations for which a waiver was requested or granted. The quarterly notice will also identify PIH program administrators located in non-federally declared disaster areas that are either impacted by the storm or contributing to Superstorm Sandy relief and recovery efforts that requested and were granted waivers in accordance with the expedited waiver process provided in this notice.

The regulatory and administrative requirements set forth in Section III of this notice have been waived or temporarily deferred or suspended as provided in this notice. This action was determined necessary to assist PIH program administrators in the disaster areas in facilitating the identification and delivery of housing for families and individuals displaced from their homes by Superstorm Sandy. PIH program administrators referenced in Section III of this notice (e.g., PHAs, TDHEs), even if, at times, not specifically described as PIH program administrators located in a disaster area, refer only to administrators located in disaster areas.

#### *A. Statutory Requirements With Built-in Waiver Authority*

*1. Extension of Deadline for Obligation and Expenditure of Capital Funds.* Section 9(j)(2) of the U.S. Housing Act of 1937 (42 U.S.C. 1437g(j)(2)) (1937 Act) authorizes the Secretary to extend the time period for obligation of Capital Funds by PHAs, as set forth in section 9(j)(1), for such period as the Secretary determines necessary if the Secretary determines that the failure of the agency to obligate assistance in a timely manner is attributable to, among other criteria listed, an event beyond the control of the PHA, or any other reason established by the Secretary by notice published in the **Federal Register**.

Pursuant to section 9(j)(1) of the 1937 Act, PHAs are required to obligate Capital Funds not later than 24 months after the date on which the funds became available, or the date on which the PHA accumulates adequate funds to undertake modernization, substantial rehabilitation, or new construction of units, plus the period of any extension approved under section 9(j)(2). The occurrence of Superstorm Sandy was beyond the control of the PHAs located in the disaster areas and caused widespread destruction and displacement. Thus, all Capital Fund Grants with undisbursed balances and FY 2013 Capital Fund Grants' obligation deadlines under section 9(j)(1) of the 1937 Act, are hereby extended pursuant to section 9(j)(2) of the 1937 Act an additional 12 months for PHAs located in the areas declared a federal disaster area for all Capital Fund Grants with undisbursed balances that had not reached the expenditure end date prior to Superstorm Sandy and for FY 2013 Capital Fund Grants. Capital Fund grants include Replacement Housing Factor grants.

For Capital Fund grants whose obligation end date has been approved for extension under section 9(j)(2), the expenditure period under section 9(j)(5) is accordingly also extended in the affected areas for 12 months to include the extension approved under section 9(j)(2). The extension of the section 9(j) obligation and extension deadlines made in this notice also apply to the implementing regulation for section 9(j) at 24 CFR 905.120.

*2. Waiver of ICDBG 50 Percent Downpayment Assistance Limitation for Low- and Moderate-Income Homebuyers.* Section 122 of the Housing and Community Development Act of 1974 (42 U.S.C. 5321) authorizes the Secretary to suspend requirements for activities to address the damage in a Presidentially declared disaster area. Section 105(a)(24)(D) of the Housing and Community Development Act of 1974 (42 U.S.C. 5305) permits a grantee to provide downpayment assistance to low- and moderate-income homebuyers, but limits the assistance to 50 percent of the amount of downpayment the homebuyer must provide. Because of the extraordinary need for housing among low- and moderate-income evacuees, HUD finds good cause to permit downpayment assistance of up to 100 percent for the purchase of homes in the disaster area.

*3. Waiver of Indian Housing Plan (IHP) Submission Deadline.* Section 101(b)(1) of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C.



4111(b)(1)) requires that an Indian Housing Plans (IHP) must be submitted by an Indian Housing Block Grant (IHBG) recipient no later than 75 days prior to the start of the recipient's program year. Section 101(b)(2) of NAHASDA authorizes HUD to waive the IHP submission requirements Section 101(b)(1) for up to 90 days if the Secretary determines that the recipient has not complied with, or is unable to

comply with, the IHP submission requirements due to exigent circumstances beyond the control its control. HUD recognizes that Superstorm Sandy has caused significant disruption in operations. Because of the exigent circumstances created by Superstorm Sandy, HUD finds good cause to extend the IHP submission deadline, for those recipients impacted by Superstorm

Sandy, by 90 days from the recipient's original IHP submission deadline.

The chart provided below indicates when each IHP is due by calendar quarter. If the IHP "Sandy Waiver" submission deadline falls on a weekend or holiday, the IHP will be due on the working day immediately after the weekend or holiday.

Recipient program year	Original IHP submission deadline	IHP submission "Sandy waiver" deadline
April 1, 2013 .....	January 17, 2013 .....	April 17, 2013.
July 1, 2013 .....	April 17, 2013 .....	July 16, 2013.
October 1, 2013 .....	July 18, 2013 .....	October 16, 2013.
January 1, 2014 .....	October 18, 2013 .....	January 16, 2014.

4. *Waiver of ICDBG 15 Percent (%) Cap on Public Services to assist displaced individuals due to Superstorm Sandy.* Section 105(a)(8) of the Housing and Community Development Act of 1974 (42 U.S.C. 5305(a)(8)) authorizes the use of ICDBG grant funds for public services, including but not limited to those concerned with employment, crime prevention, child care, and health. The Act sets a 15 Percent (%) per grant cap on the amount of funds that can be spent on public services. Section 122 of the Act states that for funds designated by a grantee to address the damage in areas where the President has declared a disaster under title VI of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170 et seq), HUD may suspend all requirements except for those related to public notice of funding availability, nondiscrimination, fair housing, labor standards, and requirements that activities benefit persons of low- and moderate-income (42 U.S.C. 5321).

In order to assist grantees in providing needed services to individuals impacted by Superstorm Sandy, particularly displaced individuals and households, ICDBG grantees may request that HUD suspend the ICDBG 15 Percent (%) cap on public services. Upon the granting of this waiver, ICDBG grantees may expend up to 100% of their ICDBG grant funds on public services. This applies only to ICDBG funds designated by a grantee to address Superstorm Sandy-related damage in the Presidentially declared disaster areas.

**B. Regulatory Requirements.**

1. *24 CFR 5.512(c) (Verification of Eligible Immigration Status; Secondary Verification).* Section 5.512 provides the process by which verification of eligible immigration status must be undertaken

for families seeking assistance under certain HUD programs. While the declaration of eligibility and this verification process is required by statute and cannot be waived, HUD does have the authority to waive certain deadlines. Section 5.512(d) provides the time frame under which a secondary verification must be requested of the Immigration and Customs Enforcement (ICE), by the responsible entity when the primary verification (the automated verification system) is not conclusive of immigration status. The responsible entity must request ICE to undertake a secondary verification within 10 days of receipt of the results of the primary verification, and must provide the ICE with all records on the applicant evidencing citizen or eligible immigration status that the applicant has provided to the responsible entity. This notice provides that the time frame under which a secondary verification must be requested is expanded from 10 days of the date of the results of the primary verification to 90 days from such date.

2. *24 CFR 5.801(c) and 5.801(d)(1) (Uniform Financial Reporting Standards (UFRS); Reporting Due Date).* These sections establish uniform financial reporting standards for PHAs and other owners and administrators of HUD-assisted housing. Section 5.801(c) establishes the financial information requirements. Section 5.801(d)(1) establishes the filing deadline for financial information and provides that PHAs must submit their unaudited financial information no later than 60 days after the end of their fiscal year. This deadline is changed from 60 days to 180 days after the end of the PHA's fiscal year for PHAs with fiscal years ending September 30, 2012, December 31, 2012, March 31, 2013, and June 30, 2013. Section 5.801(d)(1) further

requires that PHAs submit their audited financial information no later than nine months after the PHA's fiscal year end. For PHAs with fiscal years ending March 31, 2012, June 30, 2012, September 30, 2012, and December 31, 2012, this deadline is changed from nine months to 13 months after the end of the PHA's fiscal year. Although PHAs are still required to submit unaudited and audited financial information pursuant to UFRS, as more fully discussed in Section III.B.3 below, they will not be scored under the Public Housing Assessment System (PHAS).

3. *24 CFR part 902 (Public Housing Assessment System (PHAS)).* Part 902 sets out the indicators by which HUD measures the performance of a PHA. The indicators measure a PHA's physical condition, financial condition, management operations, and Capital Fund performance. For PHAs in the areas declared a federal disaster area, beginning with fiscal year end September 30, 2012, through and including fiscal year end June 30, 2013, and with fiscal years ending March 31, 2012, and June 30, 2012, that have not yet received their physical condition inspections for fiscal year 2012, the PHAS score of record will be the PHA's previous year PHAS score. All affected PHAs, however, are still required to submit unaudited and audited information in accordance with Section III.B.2. above.

4. *24 CFR 903.5 (Annual Plan Submission Deadline).* Section 5A(h)(2) of the 1937 Act (42 U.S.C. 1437c-1(h)(2)) and 24 CFR 903.5 provide that a PHA Annual Plan must be submitted no later than 75 days before the commencement of a PHA's fiscal year. Each PHA affected may have a different fiscal year and for those PHAs that are approaching this submission deadline, this requirement may be impossible to

meet because the PHAs are not operating. This requirement is a statutory one and not waivable by HUD without further authority. However, HUD will accept as a submission a letter from the PHA stating that HUD should consider its existing annual plan to be the plan for the next year or until it submits another annual plan. For Capital Fund activities, PHAs may obligate their Capital Funds for any activity listed in their existing and approved 5-year plan. PHAs should also submit amendments to their 5-year plan to the extent necessary.

5. *24 CFR 905.10(i) (Capital Fund Formula; Limitation of Replacement Housing Funds to New Development)*. Section 905.10 describes the Capital Fund formula. Section 905.10(i) limits the use of replacement housing funds to the development of new public housing. This section is waived to allow all Capital Fund Replacement Housing Factor Grants with undisbursed balances and FY 2013 Capital Fund Replacement Housing Factor Grants to be used for two additional areas, public housing modernization and homeownership for public housing families. This waiver will help address housing needs as a result of the displacement caused by Superstorm Sandy.

6. *24 CFR 941.306 (Maximum Project Cost)*. Section 941.306 establishes the calculation of maximum project cost and the calculation of the total development cost. In order to facilitate the use of Capital Funds for repairs and construction for needed housing in the disaster areas, HUD has waived the total development cost (TDC) and housing cost cap limits for all work funded by the Capital Fund (Capital Fund Grants with undisbursed balances and FY 2013 Capital Fund Grants; including Replacement Housing Factor Fund grants), Choice Neighborhood, and HOPE VI funds until issuance of 2014 TDC levels. Until 2014 TDC levels are issued, PHAs should strive to keep housing costs reasonable given local market conditions.

7. *24 CFR 965.302 (Requirements for Energy Audits)*. This section establishes the requirement that all PHAs complete an energy audit for each PHA-owned project under management, not less than once every five years. PHAs that are required to conduct or update an audit this year are given an additional 12 months after September 30, 2012, to complete the audit. HUD is relieving PHAs of this administrative burden so that they may focus on the more urgent need to house impacted families.

8. *24 CFR 982.54 (Administrative Plan)*. This section provides that a PHA

must adopt a written administrative plan that establishes local policies for the administration of the Housing Choice Voucher Program in accordance with HUD requirements. In order to allow PHAs to exercise maximum flexibility with program administration as a result of Superstorm Sandy, the PHA may temporarily revise the administrative plan to address unique circumstances without PHA Board of Commissioners approval or other authorized PHA official approval if such Board or officials also waive this requirement.

9. *24 CFR 982.206 (Waiting List; Opening and Public Notice)*. This section requires a PHA to give the public notice that families may apply for tenant-based assistance. The regulation requires a PHA to publish a notice of the opening of the list in a local newspaper of general circulation, and also by minority media and other suitable means. The requirement to publish in a newspaper of general circulation and also by minority media is waived, and a PHA may provide such information on its Web site and at any of its offices and in a voice mail message for any callers that may inquire whether a list is opened.

10. *24 CFR 982.401(d) (Housing Quality Standards: Space Requirements)*. By regulation, section 982.401 establishes housing quality standards. Section 982.401(d) provides, among other things, the requirement for adequate space for the family. With respect to space, this section provides that each dwelling unit must have at least one bedroom or living/sleeping room for each two persons. The spacing requirements of this section can be waived only if the family understands and consents to a waiver of this provision. The waiver of this regulation does not represent a long-term change but rather a temporary suspension of requirements to address emergency needs.

11. *24 CFR 984.303 (Contract of Participation; Family Self-Sufficiency (FSS) Program; Extension of Contract)* and *24 CFR 984.105 (Minimum Program Size)*. Part 984 of HUD's regulations provide the requirements for the Section 8 and Public Housing FSS Program. Section 984.303 sets out the requirements for the contract of participation and section 984.303(d) allows for an extension of the FSS program for a period not to exceed two years. For those families at the end of their initial contract term, the two-year limitation is waived and PHAs may provide an extension for a period not to exceed three years. This additional time period would account for any time lost

on the FSS contract as a result of the displacement of families participating in the FSS program. Section 984.105 sets out the requirements for minimum FSS program size. The minimum program size requirement provision is also waived; PHAs are exempt from the minimum program size (§§ 984.105(a) and (b)) for a period of two years.

12. *24 CFR part 985 (Section 8 Management Assessment Program (SEMAP))*. Part 985 sets out the requirements by which section 8 tenant-based assistance programs are assessed. Similar to the action that HUD has taken with respect to the PHAs regulations in 24 CFR part 902 (see Section III.B.3.), PHAs administering a section 8 tenant-based assistance program are eligible to defer compliance with the SEMAP certification requirements for a period of 12 months. HUD will defer issuing the PHA a new SEMAP score and overall performance rating based on PHA submissions during the waiver period.

13. *24 CFR 990.145 (Dwelling Units with Approved Vacancies)*. Section 990.145 of the Operating Fund Program regulation (79 FR 54984, September 19, 2005) lists the categories of vacant units that are eligible to receive operating subsidy and, therefore, are considered approved vacancies. PHAs that had vacant units during the reporting period that were not "approved" vacancies pursuant to section 990.145, but were available for occupancy, may treat those units as approved vacancies if: (1) the PHA anticipates the units will be occupied by families and individuals affected by the disaster during the upcoming funding year, or (2) the PHA is holding the units vacant for families and individuals affected by the disaster.

14. *24 CFR 982.503(b) and (c) (Waiver of payment standard limit; Establishing Payment Standard Amounts, HUD approval of exception payment standard amount)*. For Disaster Area PHAs only. Section 982.503(b) limits the payment standard amount a PHA may establish without HUD approval to no greater than 110 percent of the published fair market rent (FMR). Section 982.503(c) sets forth the requirement for HUD approval of an exception payment standard that is higher than the 110 percent of FMR limitation. In order to expand the housing available to families displaced by Superstorm Sandy and to prevent the displacement of assisted families where rents may be increasing significantly as the result of the loss of rental housing stock, PHAs in disaster areas may establish payment standards amounts up to 120 percent of the published FMR for part or all of their jurisdiction by requesting a waiver of 24 CFR

982.503(b) and (c). This waiver will allow the PHA to establish the exception payment standard up to 120 percent of the FMR in an expedited manner by waiving the requirement at 24 CFR 982.503(b) that the PHA must request HUD approval to establish a payment standard that is higher than the basic range. The requirement at 24 CFR 982.503(c)(2) that exception payment standards above 110 percent to 120 percent of the published FMR must be justified by either the median rent method or the 40th or 50th percentile rent method will also be waived. Finally, the requirement at 24 CFR 982.503(c)(2) that the PHA must present statistically representative rental housing survey data to justify HUD approval will be waived as well. Please note: the exception payment standard established by the PHA under this notice may only be applied to the area of PHA's jurisdiction that falls within the Presidentially Declared Disaster Area in the case of multi-county or Statewide PHAs.

PHAs must keep in mind that although this waiver will allow the PHA to establish payment standards up to 120 percent of the FMR, it does not increase the PHA's program funding. The PHA must continue to manage its program within its budgetary constraints, and the increased costs resulting from the exception payment standards may require the PHA to reduce the number of families it is assisting through attrition or to take other actions to stay within its funding limitations. In addition, it is important to note that the rent reasonableness requirements apply to all housing choice voucher units, regardless of whether the PHA receives an exception payment standard through this expedited waiver process.

Higher exception rents above 120 percent of the FMR may be requested through the expedited waiver process by PHAs located in disaster areas but must be justified by rental housing data. However, the requirement at 24 CFR 982.503(c)(4)(ii) that HUD will only approve an exception payment standard amount above 120 percent of the FMR after six months from the date of HUD approval of an exception payment standard above 110 percent to 120 percent of the FMR is waived for PHAs in disaster areas.

15. *PIH Notice 2012-10 (Verification of Social Security Numbers (SSNs), Social Security (SS) and Supplemental Security Income (SSI) Benefits; and Effective Use of the Enterprise Income Verification (EIV) System's Identity Verification Report)*. Section 8(c) of PIH Notice 2012-10 requires that a PHA

submit form HUD-50058 to HUD no later than 30 days after receiving SSN information from applicants or participants. This 30-day requirement is extended to 90 days for all families.

16. *24 CFR 1000.156 and 1000.158 (IHBG Moderate Design Requirements for Housing Development)*. The IHBG program regulations at §§ 1000.156 and 1000.158 require that housing developed with IHBG funds must be of moderate design. Under these regulatory sections, IHBG recipients must either adopt written moderate design standards or comply with the TDC limits issued by HUD. In recognition of the higher development costs in communities affected by Superstorm Sandy, and to facilitate the development of housing for families in these communities, these moderate design requirements are waived for IHBG recipients until issuance of new TDC levels. Until new TDC levels are issued, IHBG recipients should strive to keep housing costs reasonable given local market conditions.

17. *24 CFR 1000.514 (Annual Performance Report (APR) Submission Deadline)*. 24 CFR 1000.514 establishes the due date for submission of the APR to HUD no later than 90 days of the end of the recipient's program year. 1000.514 also states that if a justified request is submitted by the recipient, the Area ONAP may extend the due date for submission of the APR. Due to the disruption of normal operations and damage caused by Superstorm Sandy HUD has determined that Tribes and TDHE's located in the disaster area are justified in requesting up to an additional 90 days for submission of the APR to HUD for program years ending September 30, 2012 and December 31, 2012. HUD may also consider additional requests for APR deadline extensions if justification is shown.

18. *24 CFR 1003.400(c) and Section I.C. of FY 2012 Indian Community Development Block Grants (ICDBG) Program Notice of Funding Availability (NOFA) (Grant Ceilings for ICDBG Imminent Threat Applications)*. The application funding ceiling for ICDBG Imminent Threat (IT) grants in the FY 2012 NOFA is \$450,000, if the applicant is not located in a Presidentially declared disaster area, and \$900,000, if the applicant is located in a Presidentially declared disaster area. In order to maximize the availability of ICDBG IT grants to Indian tribes, HUD is waiving these caps to enable all applicants located in areas impacted by Superstorm Sandy to request funds to quickly address critical and emergency needs. HUD reserves the right to award a lesser amount than requested by an

applicant based on available funds and if it receives multiple applications from applicants located in the areas impacted by this disaster.

19. *24 CFR 1003.401 and Section I.C. of FY 2012 Indian Community Development Block Grants (ICDBG) Program Notice of Funding Availability (NOFA) (Application Requirements for ICDBG Imminent Threat Funds)*. Section I.C.2 of the FY 2012 ICDBG NOFA requires applicants of Imminent Threat grants to include the following documentation in its application for funding: independent verification from a third party of the existence of the threat (such as the Indian Health Service, or the Bureau of Indian Affairs); the threat must not be recurring in nature; the threat must impact an entire service area; and it must be established that funds are not available from other tribal or federal sources. Because obtaining this documentation can lead to delays in requesting emergency IT assistance, these provisions and the related regulatory provisions in 24 CFR 1003.400 are waived to permit Indian tribes located in areas affected by Superstorm Sandy to more expeditiously request and receive ICDBG imminent threat funds without having to obtain extensive documentation. Applicants in these areas are still required to submit an application for imminent threat assistance to HUD which includes the following: HUD 424 (Application for Federal Assistance); a brief description of the project; HUD-4123 (Cost Summary); and HUD-4125 (Implementation Schedule) in accordance with Section 1003.401 and the NOFA after the letter to proceed has been sent to the applicant.

20. *24 CFR 1003.604 (ICDBG Citizen Participation Requirements)*. 24 CFR 1003.604 requires ICDBG applicants to involve residents in the development of their grant applications. Applicants must: furnish residents with information about the amount of funds available and the range of activities that may be undertaken; hold one or more meetings to obtain the views of residents on the needs; publish a statement of needs; and afford residents an opportunity to review the applicant's performance under previous ICDBG awards. The holding of one or more public meetings may be time consuming and result in delays to any relief effort. To quickly meet the demand for funds impacted by Superstorm Sandy, 24 CFR 1003.604(a)(2) is waived so that the tribe will not have to hold one or more meetings to obtain the views of residents on community development and housing needs. Tribes will be



required to meet the remaining citizen participation requirements by publishing or posting information on their plans to use ICDBG funds and soliciting comments on such plans.

Dated: November 15, 2012.

**Sandra B. Henriquez,**

*Assistant Secretary, Public and Indian Housing.*

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## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. 5677-N-01]

### Regulatory and Administrative Waivers Granted for Multifamily Housing Programs To Assist With Recovery and Relief in Sandy Disaster Areas

**AGENCY:** Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

**ACTION:** Notice.

**SUMMARY:** This Notice advises the public of HUD regulations and other administrative requirements governing HUD's Office of Multifamily Housing programs that have been waived in order to facilitate the delivery of decent, safe, and sanitary housing under these programs to families and individuals who have been displaced from their housing by Sandy. Owners of HUD project-based Section 8 properties located in an area declared by the President to be a federal disaster area as a result of Sandy may defer compliance with the regulations listed in this notice for a period up to 60 days (December 2012 and January 2013). Owners must provide notice of their decision to HUD as described below. Housing assistance payments made for November 2012 will remain unchanged.

**DATES:** *Effective Date:* November 26, 2012.

**FOR FURTHER INFORMATION CONTACT:** Catherine M. Brennan, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street SW., Room 6138, Washington, DC 20410, telephone number (202) 708-3000. Persons with hearing or speech impairments may access these numbers via TTY by calling the Federal Relay Service at 1 (800) 877-8339 or by visiting <http://federalrelay.us/> or <http://www.federalip.us/>.

#### SUPPLEMENTARY INFORMATION:

##### I. Background Information

In late October 2012, Hurricane Sandy hit the east coast of the United States

causing significant damage to property, loss of life, and displacement of individuals and families from their homes and communities. The President has called upon all federal agencies to do everything in their power to assist the victims of Hurricane Sandy and to eliminate or reduce "red tape" that will impede the delivery of federal financial assistance and other needed benefits. To that end, this Notice identifies HUD regulations and other administrative requirements governing HUD's project-based Section 8 programs that may be waived, temporarily suspended, or deferred in an area declared by the President to be a federal disaster area as a result of Hurricane Sandy. This Notice is not applicable to the Rent Supplemental (Rent Supp) and RAP programs.

##### II. Request To Exercise Option To Receive Vacancy Claims

Multifamily Hub Directors in the Sandy disaster areas may defer or suspend compliance with the regulations or other administrative requirements upon the effective date of this Notice. An owner who wishes to exercise his/her option to receive vacancy claims in accordance with the requirements listed in this Notice must contact the Hub Director in writing (email communication is encouraged) with that request. If an owner wishes to receive vacancy claims for both December 2012 and January 2013, two separate written requests, one for each month, must be made to the Hub Director. The Hub Director will then verify that the units are uninhabitable based on phone and physical assessment (if available) and, once verified, approve the request. Hub Directors will provide the owner's request form to HUD Headquarters for tracking.

##### III. Business Interruption Insurance

In many cases, an owner may have insurance to protect against a loss of profits during a period of total or partial suspension of business activity. Owners who have such insurance, must decide whether to exercise the option to receive vacancy claims as described in this Notice or to receive insurance payments. An owner should not voucher under this waiver if they are/will receive vacancy insurance payments for the same time for the same unit.

##### IV. Pass-Through Payments

Owners with residents under a project-based Section 8 contract whose unit was rendered uninhabitable can temporarily lease a unit in another

building that is habitable under Uniform Physical Condition Standards. The owner can sign a temporary lease on behalf of the displaced Section 8 resident and begin to voucher for the contract rent for that temporary unit. The owner will then pay the contract rent on the temporary dwelling until the resident's permanent rental unit has been restored to a habitable condition and the owner notifies the resident that he/she may resume occupancy of the unit. The resident is still responsible for the resident's share for the temporary unit.

Once the original unit is fully repaired and ready for occupancy, all Section 8 provisions apply. This arrangement calls for close contact and cooperation between the owner and the resident as the displaced resident has first right of refusal for the unit. Further information relating to pass-through payments can be found in Housing Handbook 4350.1, Chapter 38.

##### V. November 2012 Housing Voucher Payments and Tenant Rent Payments

Housing Assistance Payments made to an owner for November 2012 will remain unaffected. Owners are encouraged to refund tenant rental payments received for the month of November 2012 from any tenant whose unit was deemed uninhabitable.

##### VI. Regulatory Requirements Which Have Been Waived

a. *24 CFR 880.611 Conditions for receipt of vacancy payments.* Section 880.611 provides conditions for when owners are able to receive vacancy payments. Owners that have units that are deemed uninhabitable due to Sandy can choose to exercise their option to receive vacancy claims in the amount of 80 percent of the contract rent for up to 60 days (December 2012 and January 2013).

b. *24 CFR 881.501 The contract.* Section 881.501 provides conditions for when owners are able to receive vacancy payments. Owners that have units that are deemed uninhabitable due to Hurricane Sandy can choose to exercise their option to receive vacancy claims in the amount of 80 percent of the contract rent for up to 60 days (December 2012 and January 2013).

c. *24 CFR 884.106 Housing assistance payments to owners.* Section 884.106 provides conditions for when owners are able to receive vacancy payments. Owners that have units that are deemed uninhabitable due to Sandy can choose to exercise their option to receive vacancy claims in the amount of 80 percent of the contract rent for up to