

Appendix VI

Disaster Waivers and Special Provisions Affecting Single Audits

Changes to Compliance Requirements

Recipients affected by Hurricanes Katrina and Rita in 2005, either directly or indirectly, may be covered by waivers and/or special provisions that modify the terms and conditions of their awards, including the types of compliance requirements described in this Compliance Supplement. In some cases, the waiver or special provision may apply to Hurricane Wilma as well. This Appendix provides updated information on the waivers and special provisions granted by Federal agencies. A “waiver,” for purposes of this Appendix, is elimination of or change in a substantive compliance requirement. A “special provision,” for purposes of this Appendix, is extension of a due date or deadline for an action that is otherwise unchanged.

This Appendix includes information to assist the auditor in determining what, if any, changes they need to be aware of when performing an audit that covers the period during which requirements may have been lifted or modified. Auditors engaged to perform single audits should consult the resources described here to determine if a particular recipient or program is covered by a waiver. While most of the Hurricane Katrina and Rita waivers affect entities in Louisiana, Mississippi, Alabama, and Florida, they also affect numerous other States and entities that provided services to displaced individuals. However, because this Appendix is a resource that provides generally applicable information only, auditors also should inquire of auditee officials whether they are aware of any special provisions or waivers affecting their awards. Because some State or local governments may have issued waivers (i.e., a waiver of out-of-state tuition for hurricane victims that might impact student financial needs calculations), the auditor also should inquire of auditee officials whether they are aware of any State or local waiver that might impact Federal requirements. In most cases, copies of waivers and special provisions issued by the Federal Government also are available on Federal agency websites. Unless modified by waivers or special provisions, compliance requirements of law and regulation are applicable to grantees affected by disasters.

Availability of Other Information

Auditors also should refer to the Office of Management and Budget waiver at http://www.whitehouse.gov/omb/financial/fin/katrina_admin_relief_093005.pdf and to <http://www.gao.gov/govaud/hurricanedocument.pdf> for temporary exemptions and guidance issued by the Government Accountability Office related to the governmental auditing standards.

Suggested Audit Procedures

For grantees affected by Hurricanes Katrina, Rita, or Wilma, as applicable, auditors should perform the following procedures to determine if modifying provisions or waivers apply:

1. Inquire of the auditee whether it is aware of any disaster-related special provisions, including any specific waivers available as a result of Hurricane Katrina or Rita or, where applicable, Wilma. Obtain and examine these provisions/waivers.

2. Consult Parts 4 and 5 of this Compliance Supplement for information about any additional special disaster-related provisions affecting individual programs.
3. Also, for each major Federal program, consult the home page for the department/agency and/or program for information about waivers and special provisions.
4. In performing the audit, the auditor will use Parts 4, 5, or 7 as appropriate. For any modifying provision or waiver, whether explained or referenced in this Appendix or made known to the auditor by the auditee, the auditor should review and evaluate the content, validity, scope, and applicability of the provision or waiver, with particular attention to when it was in effect, and determine whether it excuses the grantee from complying with the compliance requirement(s) at issue.
5. If there are no valid disaster-related special provisions or waivers that modify a compliance requirement, and the requirement has not been adhered to, the auditor must report a finding of non-compliance in accordance with the requirements of OMB Circular A-133, Paragraph __.510. However, if the auditee and/or auditor are of the opinion that circumstances resulting from the cited natural disasters caused or contributed to the non-compliance, such circumstances should be explained in the description of the audit finding and/or the views of responsible officials included with the audit findings. Audit resolution officials will consider such causes in their resolution action, in accordance with the applicable statute and regulations.

PART 4 – AGENCY PROGRAM REQUIREMENTS

Following is a table that indicates which programs are affected by waivers and special provisions and whether they are ones included in Parts 4 or 5 of this Compliance Supplement.

CFDA Number	Waiver/Special Provision	Part 4 or 5
14.218	Waiver	Part 4
14.228	Waivers	Part 4
14.231	Waivers	Part 4
14.239	Waivers	Part 4
14.182		
14.195		
14.850		
14.854		
14.856	Waiver and Special Provisions	Part 4
14.862		
14.866		
14.867		
14.871		
14.872		
84.000		
84.002		
84.010		
84.011		
84.027		
84.173		
84.041	Waivers and Special Provisions	Part 4
84.042		
84.044		
84.047		
84.066		
84.217		
84.048		
84.181		
84.186		
84.282		
84.287		
84.298		
84.318		
84.357		
84.365		
84.366		
84.367		
84.032 (Guaranty Agencies)	Waivers and Special Provisions	Part 4
84.126	Waiver	Part 4

CFDA Number	Waiver/Special Provision	Part 4 or 5
93.575/93.596	Waivers and Special Provisions	Part 4
97.036	Emergency Declarations	Part 4
97.039	Waiver	Part 4
SFA Cluster	Waivers	Part 5

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)**CFDA 14.218 COMMUNITY DEVELOPMENT BLOCK GRANTS/ENTITLEMENT GRANTS**

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WAIVER - On September 5, 2005, HUD issued a statutory suspension of the 15 percent public service expenditure cap applicable to Community Development Block Grant (CDBG) funds for purposes related to Hurricane Katrina assistance efforts. This suspension was extended to Hurricane Rita recovery efforts on October 13, 2005.

HUD Waivers for the City of Moss Point, Mississippi

On December 21, 2005, HUD issued a series of regulatory waivers and statutory suspensions to the City of Moss Point, Mississippi, to help the City recover from the effects of Hurricane Katrina. The waivers and suspensions are as follows:

WAIVER – HUD waived the 15 percent public service cap for Moss Point contained at 24 CFR section 570.201, and acknowledges that the City will utilize the statutory suspension of the 15 percent cap contained in Section 105(a)(8) of the Housing and Community Development Act of 1974, as amended, that was suspended on September 5, 2005.

WAIVER – HUD waived 24 CFR section 570.207(b)(1) to allow the City to purchase generators for sanitary and water systems and similar public purposes.

WAIVER – HUD suspended Section 105 of the Housing and Community Development Act of 1974, as amended, to permit the City to use CDBG funds for new housing construction. HUD also has waived 24 CFR section 570.207(b)(3) to permit the city to utilize CDBG funds for new construction activities. This waiver and suspension are effective through September 30, 2007.

HUD Waivers for the City of Gulfport, Mississippi

On December 21, 2005, HUD issued a series of regulatory waivers and statutory suspensions to the City of Gulfport, Mississippi, to help the City recover from the effects of Hurricane Katrina. The waivers and suspensions are as follows:

WAIVER – HUD waived the 15 percent public service cap for Gulfport contained at 24 CFR section 570.201, and acknowledges that the city will utilize the statutory suspension of the 15 percent cap contained in Section 105(a)(8) of the Housing and Community Development Act of 1974, as amended, that was suspended on September 5, 2005.

WAIVER – HUD waived 24 CFR section 570.208(a)(4)(ii) to remove the requirement that to retain jobs the recipient must document that jobs would actually be lost without CDBG assistance.

WAIVER – HUD waived 24 CFR sections 570.208(a)(4)(iv)(A)(1) and (B) and (a)(4)(v) to allow the City to presume that any census tract meets the criteria of paragraph (a)(4)(v) if at least 51 percent of the residents of the tract are of low- and moderate-income, according to either the latest low- and moderate-income summary data or a more recent survey.

WAIVER – HUD has suspended the provisions of Section 106 of National Affordable Housing Act and waives 24 CFR section 91.225(a)(6) and 24 CFR section 570.903 through December 31, 2006 to give the City relief from the consolidated plan requirement that housing activities undertaken with CDBG funds be consistent with the City’s consolidated plan for the most recent program year and that such performance be reviewed by HUD annually.

WAIVER – HUD has suspended Section 105(a) of the Housing and Community Development Act of 1974, as amended, to permit the City to use CDBG funds for new housing construction. HUD also has waived 24 CFR section 570.207(b)(3) to permit the city to utilize CDBG funds for new construction activities. This waiver and suspension are effective through December 31, 2006.

HUD Waivers for the City of Biloxi, Mississippi

On December 21, 2005, HUD issued regulatory waivers and statutory suspensions to the City of Biloxi, Mississippi, to help the City recover from the effects of Hurricane Katrina. The waivers and suspensions are as follows:

WAIVER - HUD waived the 15 percent public service cap for Gulfport contained at 24 CFR section 570.201, and acknowledges that the city will utilize the statutory suspension of the 15 percent cap contained in Section 105(a)(8) of the Housing and Community Development Act of 1974, as amended, that was suspended on September 5, 2005.

HUD Waiver for Hattiesburg, Jackson, and Pascagoula, Mississippi, and Mobile, and Mobile County, Alabama

On February 10, 2006, HUD issued a regulatory waiver to the aforementioned jurisdictions to help them recover from the effects of Hurricanes Katrina and Rita. The waiver is as follows:

WAIVER – HUD has waived the 30-day public comment requirements of 24 CFR section 91.105(c)(2) and will permit grantees to provide a 10-day minimum public comment period for substantial amendments to the consolidated plan. The waiver will remain in effect through the end of each grantee’s 2006 CDBG program year.

HUD Waivers for the City of Baton Rouge – Parish of East Baton Rouge, Louisiana

On February 14, 2006, HUD issued a series of regulatory waivers and statutory suspensions to the City of Baton Rouge- Parish of East Baton Rouge, Louisiana, to help the City recover from the effects of Hurricane Katrina. The waivers and suspensions are as follows:

WAIVER – HUD has suspended 42 USC 5305(a)(24)(D) to allow the City and Parish to provide up to 100 percent of the down payment required for low- and moderate-income homebuyers. In support of this suspension, HUD has waived 24 CFR section 570.201(n). The relief granted by this suspension and waiver shall remain in effect through the end of the grantee’s 2007 program year and may be utilized solely for the benefit of low- and moderate-income homebuyers in support of Hurricane Katrina relief efforts.

WAIVER – HUD has suspended 42 USC 5305(a) to permit the City and Parish to use CDBG funds for new housing construction. HUD has waived 24 CFR section 570.207(b)(3) to permit the City to utilize CDBG funds for new housing construction activities. The waiver and suspension are effective through the end of the grantee’s 2007 program year and may be utilized solely for the benefit of low- and moderate-income homebuyers in support of Hurricane Katrina relief efforts.

Compliance Requirements Affected - III.A, “Activities Allowed or Unallowed,” and III.G.3.c, “Matching, Level of Effort, Earmarking – Earmarking”

Additional Information - The waivers can be found on the Internet at <http://www.hud.gov/offices/cpd/library/katrina/revkatpswaive.pdf>, and http://www.hud.gov/offices/cpd/library/katrina/CDBGwaiver_ext.pdf.

CFDA 14.228 COMMUNITY DEVELOPMENT BLOCK GRANTS/STATE’S PROGRAM (State-Administered Small Cities Program)

WAIVER - On September 5, 2005, HUD issued a statutory suspension of the 15 percent public service expenditure cap applicable to CDBG funds for purposes related to Hurricane Katrina assistance efforts. This suspension was extended to Hurricane Rita recovery efforts on October 13, 2005.

HUD Waivers for the States of Louisiana and Mississippi.

On October 13, 2005 and November 9, 2005, HUD issued a series of statutory suspensions and regulatory waivers to the States of Louisiana and Mississippi, respectively, to help the States’ recovery from the effects of Hurricane Katrina. The waivers are as follows:

WAIVER - HUD suspended 42 USC 5305(a) to permit new construction of housing (see III.A.1, “Activities Allowed or Unallowed”)

WAIVER - HUD has granted a waiver modifying the provisions of 24 CFR sections 570.483(b)(4)(iv)(A)(1) and (b)(4)(v) regarding the criteria for locations in which a person may be presumed to be of low or moderate income. For job-retention activities, in addition to the presumptions currently allowed, the State may accept any census tract as meeting the criteria of paragraph (b)(4)(v), if at least 51 percent of the residents of the tract are of low and moderate income, according to either the latest Low/Moderate Income Survey Data or a more recent survey; and the tract is located in a parish eligible for both Individual and Public Assistance under disaster declaration FEMA-1603-DR or any comparable declaration issued pursuant to Hurricane Rita (see III.A.2, “Activities Allowed or Unallowed”).

WAIVER - HUD waived the provisions of 24 CFR sections 570.483(b)(1)(v)(D) and (e)(5)(i) regarding job retention activities meeting the low- and moderate-income benefit criteria on an area benefit basis when undertaken pursuant to a community revitalization strategy. This waiver lifted the requirement that a unit of general local government have an approved community revitalization strategy for purposes of paragraph (e)(5)(i). For job-retention activities, this waiver lifted the requirement for units of general local government to obtain prior HUD case-by-case approval under paragraph (b)(1)(v)(D), if at least 51 percent of the residents of the unit of general local government are of low and moderate income, according to either the latest Low/Moderate Income Survey Data or a more recent survey; and the unit of general local government is located in a parish eligible for both Individual and Public Assistance under disaster declaration FEMA-1603-DR or any comparable declaration issued pursuant to Hurricane Rita (see III.A.2, “Activities Allowed or Unallowed”).

WAIVER - HUD suspended 42 USC 5306(d)(3)(A), (d)(5), and (d)(6) (as revised and renumbered by Pub. L. No. 108-199, Section 423 and formerly codified as 42 USC 5306(d)(3)(A) and (d)(5)), and waived 24 CFR sections 570.489(a)(1)(i) and (iii), which cap State administration expenditures and require a dollar-for-dollar match of State funds for administrative costs exceeding \$100,000 (see III.G.3.b, “Matching, Level of Effort, Earmarking – Earmarking”). The suspension and waiver regarding State administrative costs and cost matching applies to any State administrative expenses incurred between the date of disaster declaration FEMA-1603-DR (August 29, 2005) and the end of Louisiana’s 2006 program year (March 31, 2007). The suspension regarding the limit on Technical Assistance activities applies to Federal fiscal year 2005 and 2006 funding, as well as to any prior fiscal years for which the State has funds remaining that are not under contract to units of general local government.

WAIVER - HUD suspended the provision of 42 USC 5304(j) that prohibits the State from requiring certain program income to be returned to the State, and waived the same provision in 24 CFR section 570.489(e)(3) (see III.G.3.b, “Matching, Level of Effort, Earmarking - Earmarking”). For any activities funded with Federal fiscal year 2006 or prior year funding that is not under contract to units of general local government as of the date of this letter, the State may require all program income to be returned to the State.

WAIVER - HUD suspended 42 USC 5304(d)(2) and (d)(3) to remove the one-for-one replacement requirements for occupied and vacant occupiable lower-income dwelling units that may be demolished or converted to a use other than for housing; and to remove the relocation benefits requirements contained in Section 104(d) of the Housing and Community Development Act (42 USC 5304(d)) to the extent they differ from those of the Uniform Relocation Act. HUD waived 24 CFR section 42.375 to remove the requirements implementing the aforementioned statutory requirements regarding replacement of housing and 24 CFR section 42.350 to remove the requirements implementing the aforementioned Housing and Community Development Act relocation benefits requirements, to the extent these regulations differ from the Uniform Relocation Assistance Act regulations contained in 49 CFR part 24 (see III.K, “Real Property Acquisition and Relocation Assistance”).

WAIVER - For the State of Louisiana, HUD suspended 42 USC 5305(a)(24)(D) to remove the 50 percent downpayment assistance cap for direct homeownership assistance to low-and moderate-income homebuyers (see III.A.1, “Activities Allowed or Unallowed”).

WAIVER - For the State of Louisiana, HUD waived the provisions of 24 CFR sections 91.325(b)(4)(ii) and 570.484 to allow the State of Louisiana to change its certification of compliance with the 70 percent overall low-and moderate-income benefit requirement (42 USC 5304(b)(3)(A)) retroactively, if the State so chooses, to a 2- or 3-year period (see III.G.3.a, “Matching, Level of Effort, Earmarking - Earmarking”). Thus, if the State of Louisiana wishes to change its existing certifications to cover Federal fiscal years 2003-2005, 2004-2006 or 2005-2007 funding, it may do so, as long as it informs HUD of the new certification period. (The period must cover consecutive years.)

WAIVER - For the State of Mississippi, HUD suspended 42 USC 5305(a) to permit use of funds to purchase generators (see III.A.1, “Activities Allowed or Unallowed”).

HUD Waivers for the State of Louisiana

On January 20, 2006, HUD issued a series of regulatory waivers and statutory suspensions to the State of Louisiana to help the State recover from the effects of Hurricane Katrina. The waivers and suspensions are as follows:

WAIVER – For the purposes of the Louisiana Bridge Loan Program, HUD has suspended the provisions of (1) 42 USC 5304(a)(1) requiring that the State’s method of distribution may only provide that funds be distributed to units of general local government; (2) 42 USC 5306(d)(1) requiring that the State’s CDBG funds shall be for use in non-entitlement areas; (3) 42 USC 5306(d)(2) requiring that State CDBG funds are to be distributed only to units of general local government located in non-entitlement areas of the State; and (4) 42 USC 5306(d)(2)(D), to remove the requirement that the State certify that each unit of general local government to which funds are to be distributed will identify its housing and community development needs. To implement the aforementioned suspensions, HUD has waived the provisions of (1) 24 CFR section 91.320(c) and (g)(1) requiring that the State’s method of distribution only provide funds that will be distributed to units of general local government; (2) 24 CFR section 91.325(b)(2)(v), to eliminate the certification under 42 USC 5306(d)(2)(D), (see above); and (3) 24 CFR section 570.486(b) regarding the requirement that units of general local government determine that the activity is meeting its needs in accordance with 42 USC 5306(d)(2)(D).

WAIVER – For the purposes of the Louisiana Bridge Loan Program, HUD has suspended the provisions of 42 USC 5305(e)(3), which require the State to demonstrate that the public benefit provided by the activity is appropriate relative to the amount of assistance provided with the grant. To implement this suspension, HUD has waived 24 CFR section 570.482(f)(6), which requires the State and its grant recipients to demonstrate the level of public benefit.

WAIVER – For the purposes of the Louisiana Bridge Loan Program, HUD has waived the provisions of 24 CFR section 570.483(d) regarding required certifications by the unit of general local government to support the classification of activities as meeting the urgent need national objective.

Compliance Requirements Affected - The following compliance requirements have been affected by the waivers listed above:

III.A, “Activities Allowed or Unallowed;” III.G.3.a, b, and d, “Matching, Level of Effort, Earmarking - Earmarking;” III.K, “Real Property Acquisition and Relocation Assistance”

Additional Information – Information on these and other waivers issued by HUD can be found on the Internet at: <http://www.hud.gov/offices/cpd/library/katrina/>, <http://www.hud.gov/offices/cpd/library/katrina/revkatpswaive.pdf>, <http://www.hud.gov/offices/cpd/library/katrina/modCPwaiver.pdf>, and http://www.hud.gov/offices/cpd/library/katrina/CDBGwaiver_ext.pdf.

CFDA 14.231 EMERGENCY SHELTER GRANTS PROGRAM

WAIVER - The definition of “emergency shelter” has been waived so that it is not limited to “facilities.” The current definition prevents the use of conventional housing owned by private-sector landlords from being used as short-term emergency and transitional shelter resources. Because of the scope of this disaster, HUD provided maximum flexibility to grantees to meet their emergency housing needs (24 CFR section 576.3).

WAIVER - The obligation and expenditure requirements listed in 24 CFR sections 576.35(a) and (b) are waived for a period of up to one year (subject to any applicable statutory limitations). Within 24 CFR section 576.35, (a) refers to States and (b) refers to Formula cities and counties, territories, and Indian tribes. States must currently make the funds available for use within 65 days, obligate them within 180 days, and spend them within 24 months. Entitlement communities must spend funds within 24 months. This waiver will enable grantees to retain their funds while homeless providers and their communities seek to rebuild service-delivery systems in the wake of the Katrina and Rita disasters (24 CFR section 575.35).

Compliance Requirements Affected - III.A, “Activities Allowed or Unallowed,” III.H, “Period of Availability of Federal Funds,” and III.N.2, “Special Tests and Provisions – Funding”

Additional Information – The waivers cited in this section are listed at the following website: <http://www.hud.gov/offices/cpd/library/katrina/ESGWaiver.pdf>.

CFDA 14.239 HOME INVESTMENT PARTNERSHIPS PROGRAM

WAIVER - The requirements in 24 CFR sections 92.203(a)(1) and (2) and 24 CFR section 92.610(c) that require that initial income determinations be made using source documentation are waived. This waiver will permit the Participating Jurisdiction (PJ) to use self-certification of income, as provided in 24 CFR section 92.203(a)(1)(ii), in lieu of source documentation to determine eligibility of beneficiaries for HOME and American Dream Downpayment Initiative (ADDI) assistance who are unable to provide such documentation because their homes were severely damaged or they were displaced by Hurricane Katrina or Rita. The PJ must retain the income self-certification. This waiver also applies to any “receiving community” for persons displaced by Hurricane Katrina or Rita who are registered with the Federal Emergency Management Agency (FEMA) (see III.E.1.a and b, “Eligibility - Eligibility for Individuals”).

WAIVER - The requirements in 24 CFR section 92.207 that limit the amount of HOME funds that a PJ may use for administrative and planning costs to 10 percent of allocation plus program income received are waived. This waiver is intended to enable the PJ to expend up to 20 percent of its Federal fiscal year 2004, 2005, and 2006 allocations and program income received for administrative and planning costs (See III.G.3.d, “Matching, Level of Effort, Earmarking – Earmarking”).

WAIVER - The requirements in 24 CFR sections 92.209(b), (c), (h), (i), (j) and (k) that govern the operation of a HOME Tenant-Based Rental Assistance (TBRA) program have been waived in the provisions of: (b) General requirement (certification); (c) Tenant selection; (h) Maximum subsidy; (i) Housing quality standards; (j) Definition of Security deposit; and (k) Program operation. (HUD cannot suspend requirements with respect to low-income status of beneficiaries.) (See III.A.1, “Activities Allowed or Unallowed;” III.E.1.b and c, “Eligibility - Eligibility for Individuals;” and III.N.1 and 2, “Special Tests and Provisions - Maximum Per Unit Subsidy and Drawdown of HOME Funds.”)

WAIVER - The requirements in 24 CFR section 92.209(h)(3) of the HOME final rule provide two options for PJs in establishing rent standards for their TBRA programs. The TBRA payment may not exceed the difference between the rent standard and 30 percent of the families’ adjusted income. In many housing markets there is a limited stock of vacant units that charge rents within the rent standards and evacuees receiving TBRA would be required to pay more than 30 percent of their income toward rent. This waives the HOME rent standard requirement and permits PJs to establish rent standards, by unit size, that are reasonable based upon rents being charged for comparable unassisted units in the area, taking into account the location, size, type, quality, amenities, facilities, management, and maintenance of each unit. This rent standard is to be used in calculating the TBRA subsidy for persons displaced by Hurricane Katrina or Rita. PJs are required to determine rent reasonableness in accordance with 24 CFR section 92.209(f). This waiver expires on October 4, 2007. This waiver also applies to any “receiving community” for persons displaced by Hurricane Katrina or Rita (see III.E.1.a and b, “Eligibility - Eligibility for Individuals”).

WAIVER - The matching requirements in 24 CFR section 92.222(b) are reduced for the PJ by 100 percent with respect to any HOME funds expended during Federal fiscal years 2006 and 2007. The requirement that the PJ must submit a copy of the disaster declaration is waived (see III.G.1, “Matching, Level of Effort, Earmarking – Matching”).

WAIVER - The requirements in 24 CFR sections 92.250(a) and 92.612(a) regarding the maximum subsidy amount of HOME and ADDI funds that the PJ may invest per unit have been waived. For the State of Texas, this waiver is limited to counties declared disaster areas under the Stafford Act. (See III.G.3.a, “Matching, Level of Effort, Earmarking - Earmarking.”)

WAIVER - The requirements in 24 CFR sections 92.251 and 92.612(b) that require that housing assisted with HOME or ADDI funds meet property standards based on the activity undertaken, i.e., HUD housing quality standards (HQS) in 24 CFR section 982.109 for tenant-based rental assistance and homebuyer assistance and state and local standards and codes or model codes for rehabilitation and new construction, are waived. Property standard requirements are waived for repair of properties damaged by Hurricane Katrina or Rita and for units occupied by tenant-based rental assistance recipients that were displaced by Katrina or Rita. Units must meet State and local health and safety codes. The lead housing safety regulations established in 24 CFR part 35 are not waived. For the State of Texas, this waiver is limited to counties declared disaster areas under the Stafford Act. (See III.N.3, “Special Tests and Provisions - Housing Quality Standards.”)

WAIVER - The requirements in 24 CFR sections 92.209(i) and 92.251(d) provide that units occupied by recipients of HOME TBRA meet the Housing Quality Standards (HQS) established at 24 CFR section 982.401. This property standard requirement is waived for units occupied by TBRA recipients who were displaced by Hurricane Katrina or Rita and are registered with FEMA. PJs must ensure that these units, at a minimum, meet state and local health and safety codes within 30 days of occupancy. The lead hazard safety regulations at 24 CFR part 35, subpart M, which require the PJ to perform a visual assessment for deteriorated paint surfaces when a child under age 6 will occupy a unit using a TBRA subsidy, remain in effect. This waiver also applies to any “receiving community” for persons displaced by Hurricane Katrina or Rita. (See III.N.3, “Special Tests and Provisions - Housing Quality Standards.”)

WAIVER - The requirements in 24 CFR section 92.253(d) requiring an owner of rental housing assisted with HOME funds to adopt written tenant selection policies and procedures are waived. For the State of Texas, this waiver is limited to counties declared disaster areas under the Stafford Act. (See III.E.1, “Eligibility - Eligibility for Individuals.”)

WAIVER - The requirements in 24 CFR section 92.300(a)(1) establish a set-aside for Community Housing Development Organizations (CHDOs). The requirement that the PJ use 15 percent of its allocation for housing owned, developed, or sponsored by CHDOs is suspended for the PJ’s Federal fiscal year 2005 and 2006 allocations (see III.G.3.c, “Matching, Level of Effort, Earmarking – Earmarking”).

WAIVER - The requirements in 24 CFR sections 92.353(e) and 42.375 requiring a PJ to replace occupied and vacant occupiable lower-income dwelling units that are demolished or converted to a use other than as lower-income dwelling units in connection with a development project assisted with HOME are waived. For the State of Texas, this waiver is limited to counties declared disaster areas under the Stafford Act. (See III.A.1, “Activities Allowed or Unallowed.”)

WAIVER - The requirement in 24 CFR section 92.602(e) that limits the amount of ADDI assistance that may be provided to an assisted homebuyer to the greater of: (1) 6 percent of the sales price; or 2) \$10,000 have been waived. The waiver will relieve the PJ of the burden of finding other sources of financing for families affected by Hurricane Katrina or Rita. The waiver is limited to households affected by the disaster. (See III.A.1, “Activities Allowed or Unallowed.”)

WAIVER - The requirement in 24 CFR section 92.254(a)(2) that the sales price or maximum after-rehabilitation value of HOME-assisted housing may not exceed 95 percent of the area median sales price has been waived. The waiver will provide PJs with flexibility to assist low-income homebuyers to purchase available, standard housing in the local market area. The waiver is limited to households affected by Hurricane Katrina or Rita. (See III.N.1, “Special Tests and Provisions – Maximum Per Unit Subsidy.”)

Compliance Requirements Affected - III.A.1, “Activities Allowed or Unallowed;” III.E.1.a, b, and c, “Eligibility;” III.G.1 and G.3.a, c, and d, “Matching, Level of Effort, Earmarking;” and III.N.1, 2, and 3, “Special Tests and Provisions”

Additional Information – The waivers cited in this section are HOME statutory requirements that were suspended and HOME regulatory requirements that were waived by HUD on September 9, September 14, and October 14, 2005, for Participating Jurisdictions (PJ) affected by Hurricane Katrina or Rita. A copy of the waivers can be found on the Internet at <http://www.hud.gov/offices/cpd/library/katrina/>.

The following waivers and special provisions apply to the Public and Indian Housing (PIH) programs listed below as well as to PIH funding under CFDA 14.182, which is a Community Planning and Development program.

- 14.182 SECTION 8 NEW CONSTRUCTION AND SUBSTANTIAL REHABILITATION**
- 14.195 SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM - SPECIAL ALLOCATIONS**
- 14.850 PUBLIC AND INDIAN HOUSING**
- 14.854 PUBLIC AND INDIAN HOUSING DRUG ELIMINATION PROGRAM**
- 14.856 LOWER INCOME HOUSING ASSISTANCE PROGRAM - SECTION 8 MODERATE REHABILITATION**
- 14.862 INDIAN COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM**
- 14.866 DEMOLITION AND REVITALIZATION OF SEVERELY DISTRESSED PUBLIC HOUSING (HOPE VI)**
- 14.867 INDIAN HOUSING BLOCK GRANTS**
- 14.871 SECTION 8 HOUSING CHOICE VOUCHERS**

14.872 PUBLIC HOUSING CAPITAL FUND (CFP)

WAIVERS – The requirement for PHAs to obligate capital funds for modernization, substantial rehabilitation, or new construction has been extended to allow an additional 12 months beyond 24 months after the date on which the funds become available for obligation for modernization, or the date on which the PHA accumulates adequate funds to undertake modernization, substantial rehabilitation, or new construction. In addition, the requirement for capital funds to be expended not later than 4 years after the date on which the funds become available for obligation, plus the period of any extension approved under Section 9(j)(2), has been extended by 12 months in the affected areas. These extensions are for areas affected by Hurricane Katrina or Rita and are authorized by Section 9(j)(5) of the U.S. Housing Act of 1937 (42 USC 1437g(j)(2)). (See III.H, “Period of Availability of Federal Funds.”)

SPECIAL PROVISIONS – The filing deadline established in 24 CFR section 5.801 for a PHA to submit unaudited financial information is changed from 60 to 180 days after the end of the PHA’s fiscal year. In addition, for PHAs with fiscal years ending December 31, 2004 and March 31, 2005, the deadline for submitting audited financial information is changed from 9 months to 13 months. (See II, “Program Procedures.”)

Additional Information – Waivers issued for Public and Indian Housing programs can be found on the Internet at: <http://www.hud.gov/offices/pih/publications/katrinapihadminwaiv.pdf>; and <http://www.hud.gov/offices/pih/publications/ritapihadminwaiv.pdf>.

DEPARTMENT OF EDUCATION (ED)

- CFDA 84.000 ED CROSS-CUTTING SECTION**
- CFDA 84.002 ADULT EDUCATION -- STATE GRANT PROGRAM**
- CFDA 84.010 TITLE I GRANTS TO LOCAL EDUCATIONAL AGENCIES (LEAs)
(Title I, Part A of ESEA)**
- CFDA 84.011 MIGRANT EDUCATION -- STATE GRANT PROGRAM (Title I, Part
C of ESEA)**
- CFDA 84.027 SPECIAL EDUCATION -- GRANTS TO STATES (IDEA, Part B)**
- CFDA 84.173 SPECIAL EDUCATION -- PRESCHOOL GRANTS (IDEA Preschool)**
- CFDA 84.041 IMPACT AID**
- CFDA 84.042 TRIO -- STUDENT SUPPORT SERVICES**
- CFDA 84.044 TRIO -- TALENT SEARCH**
- CFDA 84.047 TRIO -- UPWARD BOUND**
- CFDA 84.066 TRIO -- EDUCATIONAL OPPORTUNITY CENTERS**
- CFDA 84.217 TRIO -- MCNAIR POST-BACCALAUREATE ACHIEVEMENT**

CFDA 84.048	VOCATIONAL EDUCATION -- BASIC GRANTS TO STATES (Perkins III)¹
CFDA 84.181	SPECIAL EDUCATION -- GRANTS FOR INFANTS AND FAMILIES WITH DISABILITIES
CFDA 84.186	SAFE AND DRUG-FREE SCHOOLS AND COMMUNITIES -- STATE GRANTS
CFDA 84.282	CHARTER SCHOOLS
CFDA 84.287	TWENTY-FIRST CENTURY COMMUNITY LEARNING CENTERS
CFDA 84.298	STATE GRANTS FOR INNOVATIVE PROGRAMS
CFDA 84.318	EDUCATION TECHNOLOGY STATE GRANTS
CFDA 84.357	READING FIRST STATE GRANTS
CFDA 84.365	ENGLISH LANGUAGE ACQUISITION GRANTS
CFDA 84.366	MATHEMATICS AND SCIENCE PARTNERSHIPS
CFDA 84.367	IMPROVING TEACHER QUALITY STATE GRANTS

WAIVERS/SPECIAL PROVISIONS - The above programs may be affected by waivers or special provisions issued by ED for ED Elementary and Secondary Education Programs. ED has issued guidance to States with LEAs and schools accepting students from the Gulf States impacted by Hurricanes Katrina and Rita (see web sites below).

Compliance Requirements Affected - Auditors should review the ED websites for any waivers or special provisions that affect the compliance requirements for programs being audited.

Additional Information – Guidance and information on waivers and special provisions related to Hurricanes Katrina and Rita for ED Elementary and Secondary Education Programs is available at: <http://hurricanehelpforschools.gov/letters/index.html>. Auditors should review these websites for waivers or changes in compliance requirements.

WAIVERS/SPECIAL PROVISIONS - Under Pub. L. No. 109-148, Title IV, Subtitle B, Higher Education Hurricane Relief Act of 2005, the Secretary of Education is to provide additional authority to waive requirements. In providing any grant or other assistance, directly or indirectly, to an entity in an affected State in which a major disaster has been declared in accordance with section 401 of the Robert T. Stafford Relief and Emergency Assistance Act (42 USC 5170), related to Hurricane Katrina or Hurricane Rita, in order to ease fiscal burdens, the Secretary of Education may waive or modify for fiscal year 2006 any requirement related to:

¹ This was the name of the program at the time of the hurricanes.

- Maintenance of effort - If the Secretary grants a waiver or modification under this section waiving or modifying a requirement relating to maintenance of effort for fiscal year 2006, the level of effort required for fiscal year 2007 shall not be reduced because of the waiver or modification.
- The use of Federal funds to supplement, not supplant, non-Federal funds, or
- Any non-Federal share or capital contribution required to match Federal funds provided under Department of Education programs.

This provision does not waive or modify any provision of the Individuals with Disabilities Education Act (IDEA) (20 USC 1400 *et seq.*).

CFDA 84.032 FEDERAL FAMILY EDUCATION LOANS - (Guaranty Agencies)

WAIVERS/SPECIAL PROVISIONS - ED has issued guidance applicable for guaranty agencies that are insuring loans for students at schools in the geographic area directly affected by Hurricane Katrina or Rita, and applicable for schools accepting students from that geographic area.

Compliance Requirements Affected - Auditors should review the ED website for any waivers or special provisions that affect the compliance requirements for programs being audited.

Additional Information - Guidance is available on the Internet at:

<http://ifap.ed.gov/eannouncements/katrina.html>, then link on the particular Hurricane, Katrina or Rita. This will take you to a separate page which on the left shows “Lenders, Servicers, and Guaranty Agencies.” (Some information is also provided relating to counties affected by Hurricane Wilma.) ED will post any additional guidance on the above website as required.

CFDA 84.126 REHABILITATION SERVICES--VOCATIONAL REHABILITATION GRANTS TO STATES

WAIVER – Pub. L. No. 109-082, Assistance for Individuals with Disabilities Affected by Hurricane Katrina or Rita Act of 2005, enacted on September 30, 2005, granted affected States in the Gulf region waivers of the State matching requirements for Federal fiscal year (FY) 2005 funds awarded during the FY 2005 reallotment process and for FY 2005 funds restored to Louisiana. Louisiana would have relinquished these funds due to a failure to provide matching funds. The States benefiting were Alabama, Louisiana, Mississippi, and Texas. Grant award notifications that accompanied the FY 2005 reallotment awards specified the amount of the waiver granted for each of the affected Vocational Rehabilitation agencies. The affected regulatory guidance is 34 CFR section 361.60.

WAIVER – Pub. L. No. 109-148, Title IV, Subtitle A, provided the Secretary of Education the authority to grant waivers of requirements related to matching of Federal funds and maintenance of effort. Section 105 stipulates that a waiver granted by the Secretary for this program is limited to FY 2006 grant funds. Section 105 further states that, if the Secretary grants a waiver related to the maintenance of effort requirement for FY 2006, the affected State’s level of effort for FY 2007 shall not be reduced on account of the FY 2006 waiver.

Compliance Requirement Affected - III.G.1, “Matching, Level of Effort, Earmarking - Matching”**CFDA 93.575 CHILD CARE AND DEVELOPMENT BLOCK GRANT (CCDBG)****CFDA 93.596 CHILD CARE MANDATORY AND MATCHING FUNDS OF THE CHILD CARE AND DEVELOPMENT FUND (CCDF)**

WAIVER – The Emergency Supplemental Appropriations Act to Address Hurricanes in the Gulf of Mexico and Pandemic Influenza of 2006 (Pub. L. No. 109-148) provided the Secretary of Health and Human Services with temporary authority to waive certain provisions of the Child Care and Development Block Grant (CCDBG) Act of 1990 (42 USC 9858 *et seq.*), as amended, for States affected by the Gulf hurricane disasters and those States serving significant numbers of individuals affected by the Gulf hurricane disasters. This waiver authority expired September 30, 2006. Eligible States could request waivers from the following requirements of the CCDBG Act: requirement that eligible families have income no greater than 85 percent of State Median Income; requirement that eligible families be working or in training or educational programs; requirement that States spend at least four percent of their CCDF allotment on quality activities; provisions of the CCDBG Act that could be construed to prevent children designated as evacuees from receiving priority for child care services (except that children residing in a State and currently receiving services should not lose such services in order to accommodate evacuee children); and requirements related to State match. Further information on the CCDF waivers authorized in response to the Gulf hurricane disasters may be found in a program instruction on the subject issued by the Child Care Bureau (ACYF-PI-CC-06-01), which may be found on the Child Care Bureau website at http://www.acf.hhs.gov/programs/ccb/law/state_byyear.htm.

Louisiana’s Office of Family Support requested and was granted the following waivers: (1) from the entire capital contribution required to draw down Louisiana’s allotment of FY 2006 Federal CCDF matching funds; (2) from any capital contribution required to draw down Louisiana’s share of additional Federal CCDF matching funds that may be redistributed pursuant to 45 CFR section 98.64; and (3) from the CCDBG Act provisions requiring States to spend at least four percent of their CCDF allotment on quality activities.

Mississippi’s Department of Human Services requested and was granted the following waivers with respect to the additional allotment of funds appropriated by the Deficit Reduction Act (DRA) of 2005 (Pub. L. No. 109-171): (1) from that portion of the capital contribution required to draw down those additional CCDF matching funds; and (2) from the CCDBG Act provisions requiring States to spend at least four percent of their CCDF allotment on quality activities. As noted, these waivers do not apply to the entire FY 2006 allotment, but only to those additional funds made available in January 2006.

The Texas Workforce Commission requested and was granted waivers: (1) from the capital contribution required to draw down \$30,730,811 in FY 2006 Federal CCDF matching; and (2) from the capital contribution required to draw down up to \$4,469,189 in additional Federal CCDF matching funds that may be redistributed pursuant to 45 CFR section 98.64.

Compliance Requirements Affected - III.E.1, “Eligibility - Eligibility for Individuals,” and III.G, “Matching, Level of Effort, Earmarking - Matching.”

SPECIAL PROVISIONS - In response to Hurricanes Katrina and Rita, the Child Care Bureau issued guidance on Flexibility in Spending CCDF Funds in Response to Federal or State Declared Emergency Situations (ACYF-IM-CC-05-03), which may be found on the Child Care Bureau’s website: <http://www.acf.hhs.gov/programs/ccb/policy1/current/im0503/im0503.htm>. The guidance details existing flexibility in the CCDF program that States could use in responding to child care needs in emergency situations. Since this flexibility is currently provided in statute or regulations, there is no expiration date for these special provisions.

The Child Care Bureau’s guidance offered the options under existing statute and regulations to help States use CCDF funds assist victims of Hurricanes Katrina and Rita. Some of these options included (1) using CCDF quality dollars to provide immediate assistance to displaced families; (2) revising eligibility conditions or priority rules (e.g., defining “working” to include families seeking employment, participating in community service, or a similar activity and adding additional eligibility conditions or priority rules as a method of targeting programs); (3) broadening the definition of protective services to permit emergency eligibility; (4) examining the State’s income eligibility threshold and what the State counts as income; and (5) using quality dollars to provide supply-building grants to providers.

The guidance noted that exercising some options would require the State to submit an amendment to their State Plan, but that such amendments could be submitted up to 60 days after the effective date of a change, and that States desiring to take advantage of options afforded by the CCDF statute and regulations could act immediately.

Compliance Requirements Affected - III.A, “Activities Allowed or Unallowed,” and III.E.1, “Eligibility - Eligibility for Individuals”

DEPARTMENT OF HOMELAND SECURITY

97.036 DISASTER GRANTS - PUBLIC ASSISTANCE (PRESIDENTIALLY DECLARED DISASTERS)

As a result of Hurricane Katrina, 42 States received Emergency Declarations. The policies in “Emergency Declarations for Sheltering,” “Debris Removal on Private Property in Specific Counties,” and “Warehousing of Donations” include Katrina-specific information on allowable activities. The full text of the policies is located at <http://www.fema.gov/government/grant/pa/policy.shtm>

Compliance Requirements Affected: III.A, “Activities Allowed or Unallowed”

97.039 HAZARD MITIGATION GRANT PROGRAM (HMGP)

WAIVER - A waiver from prior-approval requirements in OMB Circular A-87 applicable to pre-award costs has been granted for HMGP funding provided to the States of Louisiana and Mississippi for the specific disasters declared for Hurricanes Katrina and Rita. Information is posted on www.dhs.gov “Open for Business.”

Compliance Requirements Affected: III.A, “Activities Allowed or Unallowed”**PART 5 – STUDENT FINANCIAL ASSISTANCE CLUSTER**

WAIVERS – The Department of Education has issued guidance to schools directly affected by Hurricane Katrina, Rita, or Wilma and schools accepting students from the Gulf States impacted by the hurricanes.

Additional Information -Guidance for schools is available at:
<http://ifap.ed.gov/eannouncements/katrina.html>. For specific information at this site, link to the individual hurricane.

General guidance for Title IV participants is located at: <http://ifap.ed.gov/>.