

FLORIDA'S LEGAL ASSISTANCE  
DISASTER MANUAL  
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## INTRODUCTION

When a catastrophic disaster strikes, a local legal aid program is faced with a vast number of problems in addition to the ones it deals with ordinarily. Some of these problems may be old ones, such as clients' lack of income, food and housing, but in far greater numbers and possibly more intractable situations than previously encountered. Other problems will be new, such as how to deliver legal services in an area in which all of the buildings have been destroyed and there is no electricity, and how to make sure that people are advised of their legal rights when none of the usual means of mass communication are functioning. Some of these problems will call for new applications of familiar legal rights, such as tenant and consumer protection statutes. Other problems will call for poverty law practitioners to learn a whole new body of law known as disaster benefits law.

In the past, each legal aid office impacted by a hurricane has reacted to the disaster on an *ad hoc* basis. However, the 2004 hurricane season which engendered four severe disasters within a one-month span and impacted legal aid programs throughout Florida, taught us that we need to have a concerted plan. Following statewide consultation with legal aid staff, the Florida Bar Foundation decided to compile this loose-leaf manual to serve as the basis for development of a disaster plan by each legal aid organization, as well as the primary resource guide for training attorneys in advance of the hurricane season (annual training) and following

catastrophic disasters (post-disaster training).

This manual therefore sets out issues that Florida legal aid programs should consider in developing their own disaster plan including the post-disaster steps that a legal aid office located in a disaster impacted community should take to address the needs of its clients. The manual contains material on administrative and service delivery issues, describes the ABA Young Lawyers' Division (YLD) *pro bono* disaster program, provides the names of contact people and agencies, lists the staffing and resource issues facing legal aid offices after a disaster, describes the annual and post-disaster training provided by the Florida Bar Foundation, and comprises a chronological checklist of disaster-related tasks for Legal Services staff. In addition, the manual sets out a synopsis of federal disaster assistance law and an outline of long-term rebuilding legal issues, and . contains sections on the rights of tenants after a disaster, insurance law and consumer protection measures, particularly regarding home repair contracts. The materials on substantive law may be used to train both legal aid attorneys and private attorneys willing to provide *pro bono* services for disaster victims.

## II

### YOUR PROGRAM'S DISASTER PLAN

When disaster strikes there are two groups of challenges to legal aid programs: the continuation/restoration of the office(s) and equipment, and services to clients. To be prepared it is imperative that each program have an updated disaster plan in place before each new hurricane season. While a disaster plan may be modeled on those of other programs, an effective response requires each program to assess its own needs and those of its clients. Although management plays a major role in the formulation of any plan, it is essential that all segments of the staff be involved in the process because disasters affect the entire program in all of its functions. All staff should be knowledgeable regarding the implementation of the plan.

At a minimum, a legal aid program's disaster plan should address the following :

- A. Staffing and Personnel;
- B. Office Space and Equipment;
- C. Communication;
- D. Baseline Housing Survey; and
- E. Delivery of Legal Services.

#### **A. Staffing and Personnel**

A legal aid program's disaster plan should include the following related to staffing and personnel:

1. Identify at least two<sup>1</sup> disaster “point” people who will lead the disaster team: one for administrative issues and another for issues regarding the delivery of legal services. These point people will attend the annual pre-disaster-season training, participate in the FLS disaster listserv, and will serve as the main communicators of information regarding disaster issues internally with program staff and externally with FLS, the Florida Bar Foundation and others.

2. Identify such additional program staff as are needed to develop and implement all parts of the plan, and list their responsibilities.

3. Address who has the authority to close and re-open office(s) and whether the closing/opening of offices is tied to other events, such as local courthouse operations.

4. Specify disaster personnel policies with regard to postponement of scheduled vacations, personal leave for personal issues arising from disaster such as day care and transportation, and cash assistance for impacted staff.<sup>2</sup>

5. Include copies of any disaster-contingent cooperative agreements with other legal aid programs or private firms for borrowing/lending clerical assistance and/or printing of community education flyers.

## **B. Office Space and Equipment**

A legal aid program’s disaster plan should include the following related to office

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<sup>1</sup> The number of people who will be involved in different roles should depend on the size of the program, the number and function of any existing management teams, and the number of program offices.

<sup>2</sup> For example, one program gave each staff member \$50 to assist with restocking refrigerator items lost during power failure. Other programs provided mileage reimbursements to office sites that were different than the regular office and to support car pooling.

space and equipment:

1. Include copies of all insurance policies, and contain an updated determination that insurance coverage is adequate in the event of disaster damage or destruction of buildings, equipment and continuation of business as appropriate.<sup>3</sup>

2. Include an updated inventory of office equipment that contains the date of purchase and any maintenance contracts, as well as a current vendor list. In addition, the computer equipment inventory ( including desktops, laptops, servers, peripherals, printers, and network devices) should contain serial numbers, model, brand, assignment, and physical location.

3. Describe the program's protocol for backing up computer files and maintaining backed-up files offsite.

1. Describe the disaster-preparation protocol for protection of office(s), computers, other office equipment and files.<sup>4</sup>

5. Include copies of any cooperative agreements with other legal aid programs or law firms for borrowing/lending computer and telephone equipment, and/or borrowing/lending of office space.

### **C. Communications**

A legal aid program's disaster plan should include the following related to communications:

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<sup>3</sup> Insurance is available to protect the program against losses resulting from a temporary shutdown because of fire or other insured peril. The insurance may provide for the payment of certain expenses.

<sup>4</sup> A sample procedure for safeguarding offices and computers prior to a disaster is attached.

1. Describe an emergency communication plan, listing key personnel and alternates responsible.

2. List any arrangements with other legal aid programs and/or law firms for forwarding calls in the event an office is destroyed or disabled, and include copies of any cooperative agreements.

3. If available and desirable, outline how to arrange a voice mail system with two mail boxes on which messages can be left: one for staff and one for clients and others.

4. Include an updated staff contact list that contains cell phones and emergency contacts.

5. Include a list of public service announcement contacts at local radio, television and print media outlets, and identify staff responsible for making these contacts.

#### **D. Baseline Housing Survey:**

A legal aid program's disaster plan should include the following related to baseline housing survey:

1. Include an updated survey of affordable housing in the geographical area covered by the program. Please see section on Long-Term Recovery for resources and an explanation of how to conduct the survey.

#### **E. Delivery of Legal Services:**

A legal aid program's disaster plan should include the following related to delivery of legal services:

1. Outline responsibilities and a protocol for maintaining a program wide docket and calendar containing at least basic information regarding each case.

2. Contain a list of local resources, including voluntary agencies, religious organizations, local emergency management agencies, the local FIND group, the contact person from each, and the legal aid staff person who has established a relationship with each.

3. Contain a list of agencies to receive post-disaster consumer flyers, such as law enforcement, clerks' offices, local offices of state agencies, local government offices, and the above listed resource organizations.

4. Include model client flyers in the appropriate languages regarding disaster issues.<sup>5</sup>

5. Assign responsibilities among staff or via referrals for handling the additional caseload caused by a disaster, i.e., FEMA and other disaster benefits cases, landlord/tenant, insurance, and building contractor problems.

6. Assign responsibility among staff for handling the issue of long-term rebuilding.

7. Assign responsibility among staff for coordination of people who volunteer to help the program after a disaster.

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<sup>5</sup> Model English language flyers are attached.

**ATTACHMENT A**  
**SIGNIFICANT PRE-DISASTER ACTION STEPS**

1. Designate “point” persons
2. Prepare disaster plan
3. Attend annual training
4. Inform and train all program staff regarding disaster plan
5. Participate in local Florida Interfaith Network in Disaster (FIND) or similar local disaster-preparedness network in your program’s geographic area
6. Enter into cooperative agreements with other legal aid programs and/or law firms re: sharing computers, telephones, and office space after a disaster
7. Complete pre-disaster survey of affordable housing in your program’s geographic area
8. Complete:           List of local disaster resources;  
                              Distribution list for post-disaster consumer flyers; and  
                              Public service announcement contact list.

## ATTACHMENT B

### SAMPLE COVER LETTER TO COMMUNITY ORGANIZATIONS

Date

Address

Dear **[Agency Head]**:

**[Program name]**, is a private nonprofit 501(c)(3) corporation that provides free civil legal assistance to low-income people in **[DESCRIBE PROGRAM SERVICE AREA]**.

**[Program name]** has a plan to provide legal services to people who have legal problems resulting from the storm. We have enclosed some flyers for disaster victims and ask that you make them available to visitors at your workplace. These flyers provide information regarding **[LIST SUBJECT MATTERS]**. We also ask that you refer to us anyone with whom your agency has had contact who may need legal help. Contact information for our program is listed in the enclosed flyers.

In addition, if you are aware of particular disaster-related needs of low-income people that are not being met, please contact **[INSERT NAME AND EXTENSION OF CONTACT PERSON]** in our office as soon as possible. Thank you for helping us provide free legal assistance to low-income people in **[Program service area]**.

Sincerely,

Executive Director

C:\Documents and Settings\Michelle\Local Settings\Temp\Attachment B - Sample Letter  
- final.wpd

**Attachment C**

**Local Resources**

Agency	Agency Contact Person	Phone	Program Staff Liason	Website
County Emergency Management Preparedness				
Cit(ies) Police Department(s)				
Sheriff (or County Law Enforcement				
Fire Department (City(ies) and/or County)				
Health Department				
Local Offices of DCF				
Local Offices of Agency for Developmental Disabilities				
Public School System				
Red Cross				
Salvation Army				
Other voluntary agencies				
Local Faith Based Groups				
Local FIND Network				



## <sup>1</sup>Attachment D

### **1. Designate Protected Locations and for Hardware Equipment**

Rooms which are walled with strong doors with no false ceilings and no windows are the best option for storage of the equipment.

To protect equipment from flooding a shelf or furniture must be brought into the rooms that will hold all servers and computer components (which have been wrapped with double plastic bags and sealed with packing tape).

#### **Labeling Users Computer Equipment**

Before the users pack and wrap their computer equipment, all computer devices (CPU BOX, MONITOR, MOUSE, KEYBOARD, SPEAKERS, POWER STRIPS/BATTERY BACKUP, AND PRINTER) must be labeled with the user's name, and office room where they are located.

#### **Backup Tape**

Before closing the office and leaving, make sure you take the backup tape from the previous night is taken off site. Make sure any other backup tapes safely stored off-site.

Any work done the day of the closing should be saved on diskettes, CDs, or memory sticks, and the C drives of the individual computers, in addition to network folders. This is because there will be no backup of the work done the day of closing. If there is some damage to the hardware, then with the backup tapes that cover through the previous night, and the current day's work saved on the external media and the C: hard drives will provide a much higher likelihood that everything can be restored.

These precautions apply to all files including financial and personnel records.

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<sup>1</sup> Adopted from LSGMI's manual.

Your Logo

# Your Legal Services Program Name

## KEKSYON YO MANDE ANPIL – BENEFIS POU KATASTWOF (FEMA)

### 1. Ki kalite benefis FEMA bay?

Ajans Federal ki asiste nan ka ijans (FEMA) se yon oganizasyon ki rasanble ansanm benefis eta-a epi tou ak benefis gouvènman federal pou moun ki viktim nan katastwof. Se FEMA ki deside tou ki moun ki kalifye pou pwogram ki gen pou yon moun osinon tout yon fanmi (IHP). IHP gen 2 pati: Asistans pou kay epi tou Asistans Finansye pou lòt bezwen.

### 2. Konbe kòb FEMA kapab ba ou?

Ou pa ka jwenn plis pase 25,000 dola nan pwogram IHP a, ladan genyen tou Asistans pou kay lè gen ijans epi tou “Asistans finansye pou ede kouvri lòt bezwen.” Gen anpil moun ki jwenn pi piti tou. Pou ou kapab aplike, rele FEMA nan [insert telephone no.] (moun ki pa tande osinon ki pa kapab pale byen. [insert TDY no.]).

### 3. Eske se pou mwen yon sitwayen meriken pou'm jwenn benefis FEMA?

Non. Ou pa bezwen sitwayen meriken pou ou aplike pou benefis FEMA. Si ou se imigran ki ponkò sitwayen meriken ou kapab kalifye si ou gen grenn kat, si ou gen estati refijè, osinon si ou gen azil, osinon si ou te lage sou pawòl pou yon ane, si ou te antre nan pwogram Kiben-Aysien, si yo te kanpe depòtasyon osinon si ou se yon viktim violans domestik. Si ou kalifye, ou kapab aplike pou fanmi ou menm si tout manm fanmi lan pa kalifye.

### 4. Kimoun ki kalifye pou Asistans Kay lè gen Dezas (DHA)?

Ou kalifye si se dezaz la ki lakòz ou pa ka viv nan kay ou te rete-a. Si ou gen asirans ou bezwen moutre tout efò ou fè pou ou jwenn benefis asirans la menm lè sa pat mache. Fòk ou dakò pou ou peye FEMA si ou vini jwenn benefis asirans ou pita.

### 5. Ki kalite Asistans mwen kapab jwenn pou Kay?

Asistans pou kay nan ka dezaz se yon chèk ki kouvri 3 mwa lwaye. Si kay la se pou ou, ou kapab jwenn lajan tou pou ou repare domaj asirans pa kouvri, men tou fòk reparasyon sa yo pa koute pi plis pase 5,000 dola. Si ou pa kabap jwenn yon kay pou ou lwe, FEMA kapab ba ou yon kay mobil.

### 6. Kimoun ki kalifye pou “Asistans Finansye pou ede yo ak lòt bezwen”?

“Asistans Finansye pou ede ak lòt bezwen” se pou moun ki gen depans nesèsè ak lòt bezwen serye ki pa kouvri pa okenn lòt mwayen, asirans osinon si moun sa yo pa ka jwenn lajan prete. Si FEMA deside ou kapab kalifye pou yo prete ou lajan, wap blije aplike pou pou sa. Men, si yo refize ou, se lè sa-a ou kapab jwenn “Asistans Finansye pou Lòt Bezwen.”

### 7. Ki kalite èd mwen kapab jwenn nan pwogram pou “Lòt Bezwen”?

“Asistans Finansye pou Lòt Bezwen” se youn chèk ki kouvri depans nesèsè osinon bezwen serye pou:

- A. Depans medikal ak pou dan dezas la lakòz
- B. Depans pou entere moun dezas la touye
- C. Repare osinon ranplase bagay pèsone ki domaje osinon detwi nan dezas la
- D. Repare osinon ranplase yon machinn ki te domaje osinon kraze nan dezas la, osinon peye pou transpòtasyon piblik
- E. Lòt depans tankou brote pou mete nan estoraj, osinon lajan pou kouvri yon plan asirans pou delij

**8. Eske benefis IHP kapab anpeche'm kalifye pou SSI, TANF, Medicaid, osinon Food Stamps?**

Non. Pwogram benefis pou yon moun osinon pou tout yon fanmi pa kab sèvi tankou revni pou yo decide si yon moun kalifye pou lòt pwogram gouvènman federal sipòte.

**9. Si mwen dwe lajan, eske moun mwen dwe kapab sezi benefis IHP mwen?**

Non. Lwa federal pwoteje benefis IHP. Yo pa kabab ni sezi yo pou okenn rezon, kelkeswa rezon-an. Yo pakab decide pou transfere osinon voye li bay yon lòt moun.

**10. Kimoun ki kalifye pou jwenn lajan prete pou ouvri Yon ti Biznis nan ka dezas?**

SBA prete moun ak biznis ki te frape pa yon dezas lajan. Pou ou kapab kalifye pou prete lajan ak yon ti interè tou piti, ou bezwen moutre kay ou, osinon byen pèsone ou osinon biznis ou te domaje nan dezas la, epi tou ou gen posiblite pou ou peye lajan sa-a.

**Lòt Bagay Inpòtan Ou Bezwen Konnen:**

- **APLIKE LAPOULA! FEMA bay yon dèlè 60 jou pou aplikasyon lè gen dezas,**
- **poutèt sa yon moun nan fanmi ou dwe aplike nan 60 jou sa yo apre dezas la**
- **(Se sèlman si yo pwolonje dèlè sa-a ou kapab pran plis tan pou ou aplike)!**
- **OU BEZWEN ASIRE OU OU GEN YON KOPI APLIKASYON-AN. FEMA ta**
- **dwe voye yon kopi aplikasyon-an ba ou lè ou fin'n rele pou ou aplike. Si ou pa**
- **resevwa yon kopi, PA APLIKE ANKÒ! Tanpri kontakte FEMA osinon Biwo nou.**
- **SE SELMAN YON MOUN NAN FANMI OU KI KAPAB APLIKE! Se pou yon**
- **fanmi yo bay benefis FEMA, men se pa yon sèl moun. Si plizye moun kap viv nan**
- **menm kay aplike pou benefis, FEMA ap chache fè moun ki te aplike andènye-a remèt lajan.**

Si ou gen lòt keksyon, tanpri kontakte biwo nou ki pi pre ou pou ou kapab jwenn infòmasyon.

## Your Legal Services Office Contact Information

Your Logo

# Your Legal Services Program Name

## FREQUENTLY ASKED QUESTIONS – DISASTER RELIEF (FEMA)

### 1. What kind of benefits does FEMA provide?

The Federal Emergency Management Agency (FEMA) is an umbrella agency that coordinates state and federal government benefits for disaster victims. FEMA also decides who is eligible for the **Individual and Household Program (IHP)**. IHP has two parts: **Housing Assistance** and **Financial Assistance to Address Other Needs**.

### 2. How much money can I get from FEMA?

You cannot receive more than \$25,000 altogether from the IHP program, including Disaster Housing Assistance and “Financial Assistance to Meet Other Needs.” Most people receive much less. To apply, call FEMA at [insert telephone no.] (hearing/speech impaired [insert TDY no.]).

### 3. Do I have to be a U.S. citizen to get FEMA benefits?

No. Qualified aliens are also eligible to apply for FEMA benefits. If you are an immigrant who has not yet become a U.S. citizen, you will qualify if you are a permanent resident with a green card, a refugee, an asylee (an asylum applicant who has been granted asylum), a parolee for at least 1 year, a Cuban/Haitian entrant, a person whose deportation has been withheld, or a victim of domestic violence. If you qualify, you can apply on behalf of your family even if not all family members qualify.

### 4. Who is eligible for Disaster Housing Assistance (DHA)?

You are eligible if your primary residence has been made unlivable because of the disaster. If you have insurance you must also show that you have made reasonable efforts to obtain insurance benefits and that you have not been successful. You must also agree to repay FEMA if you later get insurance benefits.

### 5. What kind of Housing Assistance help can I get?

Disaster Housing Assistance is usually a check to cover the cost of rent for a 3 month period.

If you own your home, you can also get money for repairs if the damage is not covered by insurance and the cost of the repairs is not more than \$5,000.

When there is no housing available to rent, FEMA may also give out mobile homes or trailers.

### 6. Who is eligible for “Financial Assistance to Meet Other Needs”?

“Financial Assistance to Meet Other Needs” is for people who have disaster related necessary expenses or serious needs that are not covered by any other means, including insurance and a disaster loan from the SBA. If FEMA decides that you may qualify for a disaster loan from the SBA, you will have to apply for this and be denied before you can get “Financial Assistance to Meet Other Needs.”

### 7. What kind of help can I get from the “Other Needs” program?

“Financial Assistance to Meet Other Needs” is a check to cover necessary expenses or serious needs for:

- A. Disaster caused medical and dental expenses
- B. Funeral expenses for disaster related deaths
- C. Repair or replacement of personal property damaged or destroyed through the disaster
- D. Repair or replacement of a car that was damaged or destroyed through the disaster, or payment for public transportation
- D. Other expenses such as disaster-related moving and storage expenses, or the cost of a Group Flood Insurance Policy

**8. Will IHP benefits affect my eligibility for SSI, TANF, Medicaid, or Food Stamps?**

No. Individual and Household Program benefits cannot be counted either as income or resources in determining your eligibility for any income-tested programs supported by the federal government.

**9. If I owe money, can my IHP benefits be taken by my creditor?**

No. IHP benefits are protected by federal law from garnishment, seizure, encumbrance, levy, execution, pledge, attachment, release, or waiver. They also cannot be assigned or transferred away from you to someone else.

**10. Who is eligible for Small Business Administration (SBA) disaster loans?**

The SBA gives personal loans as well as business loans after a disaster, to people and businesses that were affected by the disaster. To qualify for a low interest loan, you must show that the home you own, your personal property, or your business was damaged by the disaster, and that you have the ability to repay the loan.

**Other Important Things You Should Know:**

- **APPLY RIGHT AWAY! FEMA has a 60-day deadline for disaster applications, so someone in your household *must* apply within 60 days after the disaster (unless the deadline has been extended)!**
- **MAKE SURE YOU GET A COPY OF YOUR APPLICATION! FEMA should mail you a copy of your application soon after you call to apply. If you *don't* receive this copy, DON'T APPLY AGAIN! Please contact FEMA or our office.**
- **ONLY ONE PERSON FROM YOUR HOUSEHOLD SHOULD APPLY! FEMA benefits are given to *households*, not to *individuals*. If more than one person living at your same address applies for benefits, FEMA will try to get the money back from the person who applied later.**

If you have other questions, please contact our nearest office for more information.

## Your Legal Services Office Contact Information

**Your Logo**

# **Your Legal Services Program Name**

## **Preguntas Frecuentes Sobre el Programa – ALIVIO DE DESASTRES (FEMA)**

### **1. Que tipo de beneficios provee FEMA?**

La Agencia Gerencial de Emergencia Federal (FEMA) es una rama de la agencia que coordina el estado y el gobierno federal para ayudar a víctimas de desastres. FEMA también decide quien es elegible para el Programa del **Individuo y la Vivienda, conocido también con las siglas IHP**. IHP consiste de dos partes: **La Asistencia de Vivienda y La Asistencia Financiera Para Asistir Otras Necesidades**.

### **2. Cuánto dinero podría conseguir de FEMA?**

Usted no puede recibir más de \$25,000 dólares en total, incluyendo la Asistencia del Desastre de Vivienda y la “Asistencia Financiera Para Asistir Otras Necesidades”. La mayoría de personas reciben menos. Para aplicar, llama a FEMA al **(PHONE NUMER)** y para personas con problemas auditivos, llamar al **(PHONE TDY NUMBER)**.

### **3. Tengo que ser Ciudadano Americano para recibir los beneficios de FEMA?**

No. Extranjeros calificados tambien son elegibles para los beneficios de FEMA. Si Usted es un inmigrante que todavía no se ha naturalizado ciudadano Americano, Usted podrá calificar si es Residente Permanente con, Refugiado, Asilado (Un Asilado que le han otorgado el Asilo), Parolee con por lo menos 1 ano, un entrante Cubano/Haitiano, una persona con orden de deportación retenida, o es víctima de violencia doméstica. Si Usted califica, Usted puede aplicar de parte de sus familiares, aunque ellos no califiquen.

### **4. ¿Quién es elegible para la Asistencia de Desastre de Vivienda?**

Usted es elegible si su domicilio primario ha sido afectado por algún desastre. Si Usted tiene seguro, Usted debe probar que ha hecho esfuerzos razonables para obtener los beneficios del seguro, y que Usted no ha podido lograrlo. Usted también debe acordar volver a pagarle a FEMA si Usted recibe beneficios de su seguro.

### **5. ¿Qué tipo de Asistencia de Vivienda puedo obtener?**

El programa de Desastres de la Vivienda es un cheque que cubre los gastos por un periodo de tres meses. Si Usted es dueño de una vivienda, Usted también puede obtener dinero por reparaciones y daños que el seguro no cubre, sólo si los reparos no sobrepasan los \$5,000.

Si no hay alguna vivienda para alquilar, FEMA le podrá otorgar casas rodantes o trailers.

### **6. ¿Quién es Elegible para “Asistencia Financiera para Asistir Otras Necesidades?”**

“Asistencia Financiera Para Asistir Otras Necesidades” es para personas que han sufrido algún desastre y que estos gastos no están cubiertos por otros medios, incluyendo seguro y préstamos del SBA. Si FEMA decide que Usted califica para un préstamo de desastres de SBA, Usted tendrá que aplicar y ser rechazado por el SBA para obtener los beneficios de FEMA.

### **7. ¿ Qué tipo de Ayuda puedo conseguir del Programa, “Otras Necesidades?”**

Asistencia Financiera para Asistir Otras Necesidades” es un cheque que cubre los gastos necesarios o problemas serios para:

- A. Desastres médicos o dentales
- B. Gastos de Funeraria o relacionados con muerte.
- C. Reparación o reemplazo de propiedad propia afectada o destruida por algún desastre.
- D. Reparación o reemplazo de carro que fue afectado o destruido por algún desastre, o pago para transporte público.
- E. Otros gastos que estén relacionados con la mudanza o almacenamiento de pertenencias causadas por algún desastre.

### **8. Los Beneficios del IHP afectaran mi elegibilidad para SSI, TANF, Medicaid o Sello de Comida?**

No. Los beneficios del Programa del Individuo y Vivienda no pueden afectar o ser contado como ingresos para determinar su elegibilidad para hacer pruebas de ingresos que estén afiliadas con el gobierno.

### **9. Si debo dinero, los beneficios del IHP pueden ser tomados por mi acreedor?**

No. Los beneficios del IHP son protegidos por Ley Federal de embargo, detención, encumbramiento, recaudar, ejecución, compromiso, unión, o renuncia. No pueden ser asignados o transferidos a otra persona.

### **10. ¿Quién es elegible para los préstamos de la Administración de Las Empresas Pequeñas, también conocido como SBA?**

El SBA otorga préstamos personales y a pequeñas empresas después de desastres, a personas o negocios que han sido afectados por algún desastre. Para calificar a estos préstamos de bajos intereses, Usted debe mostrar que si dueño de una casa, propiedad privada, o negocio, esta ha sido afectada por algún desastre, y Usted no puede pagarlo.

## **DATOS IMPORTANTES QUE USTED TIENE QUE SABER:**

**APLIQUE AHORA! FEMA TIENE UNA FECHA LIMITE DE 60 DIAS PARA LAS APLICACIONES DE DESASTRES, ASÍ QUE DEBE APLICAR A MAS TARDAR 60 DÍAS DESPUÉS QUE OCURRIÓ EL DESASTRE.**

**TOME UNA APLICACIÓN! FEMA LE MANDARA UNA COPIA POR CORREO APENAS USTED APLIQUE. SI NO RECIBE LA APLICACIÓN, CONTÁCTESE CON FEMA LO ANTES POSIBLE.**

**SOLO UNA PERSONA DE SU HOGAR PUEDE APLICAR. FEMA otorga beneficios a hogares y no a individuos. Si más de una persona aplica de la misma dirección, FEMA tratará de recibir el dinero que le dio a la segunda persona que aplicó.**

**SI TIENE ALGUNA PREGUNTA, NO DUDE EN CONTACTARNOS A NUESTRAS OFICINAS PARA MAS INFORMACIÓN.**

## Your Legal Services Office Contact Information

**Your Logo**

# **Your Legal Services Program Name**

## **KEKSYON YO MANDE ANPIL – FOOD STAMPS**

### **Kimoun ki kalifye pou Food Stamps apre yon dezas**

Apre yon dezas, gen 3 kalite food stamps ou kapab jwenn:

**Food Stamps kòm Ranplasman:** pou ranplase food stamps ki pèdi osinon manje ki gate;

**Food Stamps pou Dezas:** paske yon dezas te frape ou; epi

**Food Stamps pou ka Nesesite:** paske ou gen yon bezwen ijan.

Daprè sikonstans pa ou, epi tou ak ki kalite food stamps ki disponib, ou kapab kalifye pou youn, osinon 2, osinon toule 3, konsa tou ou gen dwa pa kalifye pou anyen menm. Me kisa 3 kalite food stamps sa yo vle di epi tou kouman ou kapab kalifye pou yo.

### **Food Stamps kòm Ranplasman**

**1. Mwen ap resevwa food stamps, men tout manje'm te gate lè kouran te koupe nan dezas la. Kisa mwen kapab fè?**

Ou kapab kalifye pou Ranplasman Food Stamps pou ede ou ranplase manje ou ki te gate. Tanpri kontakte moun ki ap travay sou ka ou-a osinon ninpòt lòt moun nan biwo lokal Depatman Timoun ak Lafanmi / Department of Children and Families pou plis infòmasyon sou kouman pou ou aplike.

### **Food Stamps nan Ka Dezas**

**1. Kisa food stamps pou dezas ye?**

Gouvènman federal kapab deside bay Food Stamps lè shop manje yo rewouvè apre yon dezas ki te anpeche yo delivre manje ba yo.

**2. Kimoun ki kalifye pou food stamps apre yon dezas?**

Sa repoze sou desizyon gouvènman. Apre yon dezas, fanmi ki nan zòn dezas la kapab kalifye pou Food Stamps sa-a menm lè li pa tap kalifye pou yon lot kalite food stamps.

### **Food Stamps Pou Ka Nesesite**

**1. Kisa food stamps pou ka nesessite ye?**

Food stamps pou ka nesessite se pou moun ki nan gwo bezwen, epi yo kapab resevwa li 7 jou apre yo fin'n aplike. Lè ou aplike pou food stamps odinè, yo va poze ou kèk keksyon pou yo wè si ou kalifye pou food stamps pou moun ki nan gwo nesessite..

**2. Kouman pou'm fè konnen si mwen kalifye pou food stamps pou ka nesessite?**

Pou ou kalifye pou food stamps pou ka gwo neseseite ou bezwen ranpli youn nan kondisyon sa yo:

A. Fanmi ou touche antou pi piti pase 150 dola anvan taks, epi tou nou gen pi piti pase 100 dola cache osinon nan yon bank, osinon:

B. Ou se yon migran osinon yon manm fanmi ki travay nan jaden kèk fwa, ki gen pi piti pase 100 dola cache, epi tou ou pa espere touche plis lajan nan mwa ou aplike-a; osinon:

C. Lajan nou peye pou lwaye ak mòguej chak mwa ak lòt bil tankou limyè ak telefòn plis pase sa nou touché ansanm anvan takss, mete ansanm ak cache ak lajan nou gen nan bank.

### **3. Eske imigran kapab kalifye pou food stamps pou ka neseseite?**

Anpil imigran tankou refijè, moun ki gen azil, moun ki antre tankou Kiben/Aysien, moun ki gen grenn kat, epi ki travay nan peyi Etazini pou yon bon bout tan, manm tribi Endien gouvènman federal rekonèt, veteran, manm lame kapab kalifye pou food stamps nan ka neseseite.

### **4. Ki verifikasyon mwen bezwen pou'm jwenn food stamps pou ka neseseite?**

Ou dwe kapab moutre ou se moun ou di ou ye-a, sa vle di moutre dokiman ki gen nom ou sou yo, osinon pwezante ak moun ki kapab di yo konnen ou.

### **5. Eske mwen gen lot kondisyon pou mwen ranpli pou mwen kapab kalifye?**

Yo ap mande ou pou ou verifye estati imigrasyon ou, nimewo sekirite sosyal ou, pwev sa ou touché ak sa ou depanse nan moman ou aplike-a. Men, menm si ou pa kapab bay tou pwev yo mande ou, ou kapab kalifye pou food stamps pou ka neseseite apre 7 jou ou te fè aplikasyon-an.

### **6. Si mwen pa kalifye pou food stamps pou ka neseseite, eske mwen kapab aplike pou food stamps odinè?**

Oui, yo dwe etidye aplikasyon ou-a, epi yo dwe ekri ou nan 30 jou pou fè ou konnen si ou kalifye ak kantite benefis yo ap ba ou. Si yo refize ou benefis sa-a epi ou konnen yo dwe ba ou li, tanpri kontakte biwo Legal Sèvis ki pi pre ou.

Pou plis infomasyon ak asistans, tanpri kontakte biwo nou ki pi pre ou..

## **Your Legal Services Office Contact Information**

**Your  
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# **Your Legal Services Program Name**

## **FREQUENTLY ASKED QUESTIONS – FOOD STAMPS**

### **Who Is Eligible for Food Stamps After a Disaster**

After a disaster, there are 3 different kinds of food stamps that you may be able to get:

**Replacement Food Stamps** to replace lost or spoiled food;

**Disaster Food Stamps** because you were caught in the disaster; and

**Expedited Food Stamps** because you are in immediate need.

Depending on your circumstances and the kind of food stamps that are made available, you may be eligible for only one kind, or you may be eligible for two kinds, all three, or none. Here is a description of the three kinds of food stamps and how you can qualify.

### **Replacement Food Stamps**

**1. I am getting food stamps, but all my food spoiled when the power went out during the disaster. What can I do?**

You may be eligible for Replacement Food Stamps to help you replace the spoiled food. Please contact your case worker or someone else at your local office of the Department of Children and Families for more information on how to apply.

### **Disaster Food Stamps**

**1. What are disaster food stamps?**

The federal government can decide to give out Disaster Food Stamps when grocery stores are open for business again, after a disaster has kept food from being delivered to them.

**2. Who is eligible for disaster food stamps?**

That depends on what the government decides after each disaster. Households in the disaster area may be eligible for Disaster Food Stamps even if they would usually not be eligible for food stamps.

### **Expedited Food Stamps**

**1. What are expedited food stamps?**

Expedited food stamps are for very needy people, and are given within 7 days after they apply. When you apply for regular food stamps, you will be asked questions to see if you qualify for expedited food

stamps.

**2. How do I know if I am eligible for expedited food stamps?**

To be eligible for expedited food stamps you must show either that:

- A. Your household has less than \$150 in monthly income before taxes and \$100 or less in cash and in bank accounts; or
- B. You are a migrant or seasonal farmworker household with less than \$100 in cash and you will not be getting any more income during the month you apply; or
- C. Your household's monthly rent or mortgage and utilities are more than your combined monthly income before taxes and the amount you have in cash and bank accounts.

**3. Are immigrants eligible for expedited food stamps?**

Many immigrants including refugees, asylees, Cuban/Haitian entrants, lawful permanent residents (green card holders) with 40 quarters of work in the U.S., members of federally recognized Indian tribes, veterans, members of the armed services. eligible.

**4. What verification do I need to get expedited food stamps?**

You must be able to verify that you are who you say you are by showing documents with your name on them, or by having someone say they know you.

**5. Do I have to meet any other eligibility requirements?**

You will be asked for verification of your immigration status, your social security number, your income and your expenses at the time you apply. But even if you cannot give all of the verification, you will be eligible for expedited food stamps within 7 days after you apply.

**6. If I do not qualify for expedited food stamps, can I still get regular food stamps?**

Yes, your food stamp application must be processed and you must receive a written decision within 30 days stating whether you are eligible, and the amount of benefits to which you are entitled. If you are denied benefits, but you believe you are entitled to them, contact the Legal Services office closest to you.

For more information or assistance, please contact our nearest office.

## **Your Legal Services Office Contact Information**

**Your Logo**

# **Your Legal Services Program Name**

## **¿Quién es elegible para Sellos de Comida después de un Desastre?**

Después de un desastre, existen 3 tipos de diferentes tipo de Sellos de Comida que Usted puede conseguir:

**Reemplazo de Sellos de Comida-** para reemplazar comida perdida o expirada.

**Sellos de Comida de Desastre-** porque Usted estuvo afectado por un desastre y

**Sellos de Comida Inmediato-** porque Usted esta en necesidad inmediata.

Despendiendo en sus circunstancias y el tipo de sellos de comida que estén disponibles, Usted puede ser elegible para solo un tipo de sello de comida, dos tipos, tres tipos o talvez ninguna. Aquí esta la descripción de los tres tipos de sellos de comida y como Usted puede calificar.

### **Sellos de Comida de Reemplazo**

#### **1. Estoy recibiendo sellos de comida, pero toda mi comida se malogro o daño cuando la electricidad fallo durante el desastre. ¿Qué puedo hacer?**

Usted puede ser elegible para sellos de comida de reemplazo que ayudará a reemplazar la comida que se le dañó. Por favor contacte a la oficina local del Departamento de Niños y Familias para más información de cómo aplicar.

### **Sellos de Comida por Desastres**

#### **1. ¿Qué son los sellos de comida por desastres?**

El gobierno federal puede otorgar sellos de comida cuando las tiendas de alimentos pueden abrir nuevamente, después de que los alimentos no han podido ser entregados a ellos.

#### **2. ¿Quién es elegible para los Sellos de Comida?**

Eso depende en la decisión del gobierno después de cada desastre. Familias en la zona del desastre pueden ser elegibles así no sean elegibles para sellos de comida.

## Sellos de Comida Inmediato

### **1. ¿Qué son los sellos de comida inmediata?**

Los sellos de comida inmediata son para personas que están en necesidad, y son otorgadas después de 7 días en que Usted aplica. Cuando Usted aplica a los Sellos de Comida regularmente, se le preguntará si usted califica para sellos de comida inmediata.

### **2. ¿Cómo sé si yo soy elegible para los sellos de comida inmediata?**

Usted puede ser elegible para los sellos de comida inmediata si puede demostrar que:

- A. Si su hogar tiene menos de \$150 de ingresos mensuales antes de impuestos y \$100 o menos en dinero en efectivo o en cuentas bancarias.
- B. Usted es un inmigrante o trabajador agricultor temporal con menos de \$100 en dinero en efectivo y Usted no recibirá otro ingreso durante el mes que aplica, o;
- C. Los gastos de su hogar, incluyendo la hipoteca o la renta con las utilidades son más altos que su ingreso mensual después de impuestos y el dinero que tiene en efectivo o en el banco.

### **3. ¿Son los inmigrantes elegibles para los sellos de comida inmediata?**

Muchos inmigrantes, incluyendo los refugiados, asilados, entrantes Cubanos o Haitianos, residentes permanentes (que tengas la tarjeta verde) con más de 40 trimestres de trabajo en los Estados Unidos, o miembros de tribus Indígenas reconocidos federalmente, Veteranos, o miembros de las fuerzas armadas son elegibles.

### **4. ¿Qué verificación necesito para que me den los sellos de comida inmediata?**

Usted debe verificar que Usted es la persona que dice ser, mostrando alguna identificación con su nombre o que alguien diga que lo conoce.

### **5. ¿Tengo que calificar con otros requisitos?**

Usted tendrá que probar su estatus inmigratorio, su número de seguro social, sus ingresos y sus gastos en el momento. Pero así Usted no pueda verificar todos estos requisitos, Usted será elegible para los sellos de comida inmediata en 7 días.

### **6. ¿Si no califico para los sellos de comida inmediata, puedo calificar para los sellos de comida?**

Si, su aplicación para los sellos de comida debe ser procesada y usted recibirá una respuesta en 30 días diciendo si es elegible o no, y el monto de beneficios que recibirá. Si se le niegan los beneficios, y cree que está en su derecho, contacte a las oficinas de Servicios Legales.

**Para más información, contáctanos a la oficina más cercana.**

## **Your Legal Services Office Contact Information**

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# **Your Legal Services Program Name**

## **KEKSYON YO MANDE ANPIL POU YO ASISTE** **MOUN KI PAP TRAVAY** **APRE YON KATASTWÒF**

**1. Mwen pèdi travay mwen apre dezas la. Eske mwen kalifye pou Asistans Chomay?**

Si ou pap travay akòz dezas la, ou kapab kalifye pou Asistans Chomay menm lè ou pa tap kalifye pou Benefis Chomay si pat gen dezas la. Ou kapab kalifye pou Asistans Chomay si:

- A. Se dezas la direktman ki kòz ou pèdi travay ou; osinon
- B. Dezas la fè ou pa kapab ale nan travay ou; osinon
- C. Ou ta pral koumanse yon lòt travay, men dezas la kòz ou pèdi travay sa-a; osinon
- D. Se ou kap pran swen moun ki nan kay la paske moun ki tèt kay la mouri nan dezas la; osinon
- E. Ou pa kapab travay paske ou te fraktire nan dezas la.

**2. Eske mwen kapab kalifye pou Asistans Chomay apre yon dezas si map travay ak tèt mwen?**

Oui, si wap travay ak tè ou, ou kapab kalifye pou Asistans Chomay si:

- A.. Si se dezas la direktman ki kòz ou pèdi travay ou; osinon
- B. Dezas la kòz ou pa kapab ale kote ou kon'n ale bay sèvis; osinon
- C. Ou ta pral koumanse travay ak tèt ou, men dezas la kòz ou pa gen kote pou ou ale; osinon
- D. Ou pa kapab travay paske ou fraktire nan dezas la.

**3. Ki lòt bagay mwen bezwen moutre pou'm kapab kalifye pou benefis chomay?**

Wap bezwen moutre:

- A. Ou te travay ase lane pase; epi tou.
- B. Ou rejistre pou travay nan yon sant lokal, epi ou gen tan pare pou ou travay, sòv:
  - 1. Si ou te fraktire nan siklòn nan epi frakti sa-am kòz ou pa kapab travay; osinon
  - 2. Ou tap travay ak tèt ou anvan siklòn nan, epi wap chache mete biznis ou sou pie ankò.

**4. Eske imigran kapab kalifye pou Asistans Chomay?**

Oui, si papye travay ou ponkò fini, epi tou si ou se sitwayen meriken, osinon ou gen grenn kat, osinon ou se refije, ou te gen azil, ou te antre tankou Kiben-Aysien, yo telage ou sou pawòl pou yon lane osinon pi plis pase yon lane, si ou te antre sou kondisyon, ou te viktim violans domestik, osinon yo te kanpe depòtasyon ou.

**5. Ki kote mwen kapab aplike pou Asistans Chomay apre yon Katastwòf?**

Gen 2 jan ou kapab aplike:

- a. Nan telefòn - Rele 1-800-204-2418.
- b. Nan Intènèt - nan [www.fluidnow.com](http://www.fluidnow.com). Ou kapab itilize konpitè nan Sant ki pre ou-a pou ou aplike.

Kèlkeswa jan ou aplike, ou dwe fè yo konnen sa.

**6. Kilè mwen kapab aplike pou benefis chomay apre yon dezas?**

**Ou kapab aplike nan 30 jou apre dezas la**, sòv si yo pwolonje dèle aplikasyon-an. Ou ta dwe pwese aplike paske wap gen pou ou tann 3 senmenn anvan ou resevwa pwemye chèk la. Si ou pat kapab aplike anvan dèle-a fini, tanpri kontakte biwo nou pou nou kapab ede ou.

**7. Pou konbe tan mwen kapab resevwa benefis chomay apre yon dezas?**

Ou ka resevwa benefis sa-a pou 26 senmenn (6 mwa) apre yon dezas.

**8. Ki sa'm kapab fè si yo di mwen pa kalifye pou benefis chomay apre yon dezas?**

Ou gen dwa mande pou yo revize desizyon sa-a, men ou gen 20 jou pou fè sa soti nan dat yo te pran desizyon-an. Yo va ba ou yon randevou pou yo kapab tanda ka ou. Si ou bezwen moun pou tradwi pou ou, se pou ou mande yo sa lamenn. Nan odians sa-a, wap gen pou ou eksplike ofisye-a poukisa desizyon-an pa bon, epi tou pou ou moutre li ou gen dwa pou yo ba ou Asistans Chomay la. Ou kapab mennen temwen ak ou, epi tou pote kèk dokiman pou soutni demand ou-a.

Si ou gen kèk lòt Keksyon osinon si ou bezwen èd pou ou reklame Asistans sa-a, kontakte biwo ki pi pre ou.

## **Your Legal Services Office Contact Information**

**Your  
Logo**

# **Your Legal Services Program Name**

## **DISASTER UNEMPLOYMENT ASSISTANCE** **FREQUENTLY ASKED QUESTIONS**

### **1. I lost my job after the disaster. Am I eligible for Disaster Unemployment Assistance (DUA)?**

If you are unemployed because of the disaster, you may be eligible for Disaster Unemployment Assistance (DUA) even if you do not qualify for regular Unemployment Compensation (UC). For example, you may be eligible for DUA if:

- A. You became unemployed as a direct result of the disaster; or
- B. You are unable to reach your workplace because of the disaster; or
- C. You were supposed to start work at a new job, but you lost the job because of the disaster; or
- D. You became the breadwinner for your household after the head of household died because of the disaster; or
- E. You cannot work because of an injury caused by the disaster.

### **2. Can I qualify for Disaster Unemployment Assistance if I am self-employed?**

Yes, if you are self-employed, you may qualify for DUA if:

- A.. You became unemployed as a direct result of the disaster; or
- B. You are unable to reach the place where you perform your services; or
- C. You were supposed to start self-employment but you don't have a place to perform the work because of the disaster; or
- D. You cannot work because of an injury caused by the disaster.

### **3. What else do I need to show to be eligible for DUA benefits?**

You will also need to show that:

- A. You worked enough during the last calendar year; and
- B. You have registered for work at your local One-Stop Center and are able and available for work, unless:
  - 1. You were injured as a result of the hurricane and are unable to work because of the injury; or
  - 2. You were self-employed before the hurricane, and you are trying to get your business back in order.

#### **4. Are immigrants eligible for DUA?**

Yes, if you have valid work papers and are a U.S. citizen, lawful permanent resident (green card holder), refugee, asylee, Cuban/Haitian entrant, parolee for one year or more, conditional entrant, victim of domestic violence, or you have been granted withhold of deportation.

#### **5. Where do I apply for Disaster Unemployment Assistance?**

There are two ways to apply:

- a. By telephone - Call 1-800-204-2418.
- b. On the internet - at [www.fluidnow.com](http://www.fluidnow.com). The One-Stop Center nearest you has a computer you can use to apply.

Either way, make sure to let them know that you are filing a disaster-related claim.

#### **6. When should I apply for DUA?**

**You must file for DUA within 30 days after the disaster**, unless the application deadline is extended. You should apply as soon as possible since you may have to wait three weeks before your first check is sent to you. If you were not able to apply before the deadline, please contact our office for help.

#### **7. How long can I receive DUA benefits?**

You can only receive DUA benefits for 26 weeks (6 months) after a disaster.

#### **8. What if I am told that I am not eligible for DUA benefits?**

You have the right to appeal the decision within twenty (20) days from the date on the Notice of Determination. Your case will be scheduled for a hearing before an Appeals Referee. If you need a translator, you should ask for one right away. At the hearing, you will need to explain to the Appeals Referee why the decision was wrong and you are entitled to DUA. You should bring witnesses and documents with you to prove your case.

If you have other questions or would like help with your unemployment claim, please contact our nearest office.

## **Your Legal Services Office Contact Information**

**Your  
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# **Your Legal Services**

## **Ayuda en caso de desempleo por un desastre** **PREGUNTAS FRECUENTES**

### **1. Perdí mi trabajo después del desastre. Soy elegible para la ayuda en caso de desempleo por un desastre (DUA)?**

Si estas desempleado/a por consecuencia de un desastre, puedes ser elegible para la ayuda en caso de desempleo por un desastre (DUA) aún cuando no califiques para la compensación de desempleo regular (UC). Por ejemplo, puedes ser elegible para DUA si:

- A. Te encuentras desempleado/a como resultado directo de un desastre; o
- B. No puedes llegar a tu lugar de trabajo a causa del desastre; o
- C. Tenías que empezar un nuevo trabajo, pero perdiste dicho trabajo por el desastre; o
- D. Te volviste el proveedor de la familia ya que el jefe de la familia murió a consecuencia del desastre; o
- E. No puedes trabajar por haberte herido durante el desastre.

### **2. Califico para la ayuda en caso de desempleo por un desastre si hago trabajos independientes?**

Sí, si trabajas por tu cuenta puedes calificar para DUA si:

- A. Te encuentras desempleado/a como resultado directo de un desastre; o
- B. No puedes llegar a tu lugar de trabajo a causa del desastre; o
- C. Tenías que empezar un nuevo trabajo, pero perdiste dicho trabajo por el desastre; o
- D. Te volviste el proveedor de la familia ya que el jefe de la familia murió a consecuencia del desastre; o
- E. No puedes trabajar por haberte herido durante el desastre.

### **3. Qué más necesito para probar ser elegible para los beneficios de DUA?**

También deberás mostrar que :

- A. Trabajaste lo suficiente durante el último año; y,
- B. Te hayas registrado para trabajar en el tu centro local “One-Stop Center” y estés disponible para trabajar, a menos que:

1. Sufriste un accidente a causa del huracán y no puedes trabajar por dicho accidente; o
2. Trabajabas independientemente antes del huracán y estás tratando de poner en orden tu negocio.

#### **4. Los inmigrantes son elegibles para DUA?**

Sí, si tienes papeles válidos de trabajo y eres ciudadano americano, residente permanente, refugiado, asilado, entrante cubano-haitiano, tienes un parole por un año o más, eres un entrante condicional, víctima de violencia doméstica o se te ha otorgado una orden de deportación o proceso de deportación.

#### **5. Dónde puedo aplicar para DUA?**

Hay dos maneras de aplicar:

- a. Por teléfono - Llama al 1-800-204-2418
- b. O en el internet - en [www.fluidnow.com](http://www.fluidnow.com). El centro “ One-Stop Center” más cercano a tu hogar tiene computadoras donde puedes aplicar.

De cualquier forma debes avisarles que estás aplicando para la ayuda por causa de un desastre.

#### **6. Cuándo debo aplicar para DUA?**

Debes aplicar para DUA dentro de 30 días después de ocurrido el desastre, a menos que la fecha límite de la aplicación sea extendida. Debes aplicar tan pronto te sea posible ya que deberás esperar tres semanas antes que el primer cheque te sea enviado. Si no pudiste aplicar antes de la fecha límite, deberás llamar a nuestra oficina para obtener ayuda.

#### **7. Por cuánto tiempo puedo recibir los beneficios de DUA?**

Solo puedes recibir beneficios DUA por 26 semanas (6 meses) después del desastre.

#### **8. Que pasa si me dicen que no soy elegible para los beneficios de DUA?**

Tienes derecho a apelar la decisión dentro de veinte (20) días desde la fecha de la notificación de determinación. El caso será citado a una audiencia frente a un árbitro de apelaciones. Si necesitas un traductor, deberás solicitar uno de inmediato. Al momento de la audiencia, deberás explicar al árbitro de apelaciones por que la decisión está equivocada y si calificas para DUA. Deberás traer testigos y documentos que prueben tu caso.

Si tiene otras preguntas o desea ayuda con su petición de desempleo, por favor comuníquese con nuestra oficina.

## **Your Legal Services Office Contact Information**

### III

## BEFORE AND AFTER A DISASTER: CHRONOLOGICAL CHECKLIST OF TASKS

### WHAT TO DO - AND WHEN TO DO IT

#### PRE-HURRICANE PROCEDURES - BY JUNE 1 OF EACH YEAR:

##### **Program Administration:**

Identify staff (including "point" persons) to serve on disaster team  
Schedule meeting(s) of disaster team & prepare or update disaster plan  
Schedule full staff meeting(s) for presentation of disaster plan by disaster team  
Meet with other legal aid programs to enter into or update cooperative disaster agreements  
Participate in annual Florida Bar Foundation disaster training or update as assigned

##### **Program Staff:**

Participate in annual Florida Bar Foundation disaster training or update as assigned  
Participate in disaster team meeting(s) & help prepare or update disaster plan as assigned  
Update client disaster flyers as assigned

#### IMMEDIATELY BEFORE DISASTER STRIKES:

##### **Program Administration:**

Ensure office(s), computer equipment and hard files are secured  
Ensure all work is backed-up and back-up tapes are secured off-site  
Distribute updated staff contact list and office re-opening protocol

##### **Casehandlers:**

Ensure list of all active cases & deadlines is complete & download hard copy  
Ensure all computer files are backed-up off-site  
Ensure personal office space, computer equipment and hard files are secured

#### IMMEDIATELY AFTER DISASTER:

##### **Program Administration:**

Contact staff to determine injury/damage to staff and their homes  
Assess damage to office(s) and equipment, and feasibility of re-opening office(s)  
Give staff instructions re: returning to work  
Activate Disaster Team and appoint head of Disaster Team

**Disaster Team:**

Contact courts and administrative agencies re: their functioning  
Contact FLS to obtain copy of Presidential Declaration of Disaster & names and contact information of federal & state disaster officials  
Begin surveying client community to determine how impacted by disaster

**FIRST WEEK AFTER THE HURRICANE****Program Administration:**

Provide necessary support to staff whose personal lives have been impacted  
Take steps to salvage office files and equipment in damaged offices  
Contact FLS & FBF to give them a picture of disaster's impact on program and clients

**Disaster Team:**

Survey low-income communities to determine:  
    Extent of damage to low-income housing, in particular public housing and trailer parks  
    If information re: disaster assistance is reaching them  
    If additional forms of assistance (e.g. food stamps, mobile homes) are needed  
In concert with FLS, contact federal & state disaster officials, voluntary agencies, and Fla. Bar Young Lawyers' Division  
Contact local voluntary agencies  
Coordinate volunteers

**WEEKS 2 TO 4****Program Administration:**

Coordinate with Florida Bar Foundation to arrange for post-disaster training  
Assess need for additional staff, office space and/or equipment & begin necessary arrangements  
Activate cooperative agreements with other legal aid programs or law offices as necessary  
In collaboration with other impacted legal aid programs, seek additional funding

**Disaster Team:**

Print and distribute client disaster flyers & activate public service announcement network  
Visit DRCs and Voluntary Agencies & meet with federal officials & voluntary agencies as needed  
In concert with FLS, advocate for additional types of disaster assistance as needed  
Assess need for outreach intake for legal aid clients (can clients get to legal aid program offices?)  
Receive post-disaster training from Florida Bar Foundation

## **WEEKS 5 TO 13**

### **Program Administration:**

Work collaboratively with other programs to obtain additional funds as needed  
Hire, house and equip additional staff as needed  
Locate additional and/or substitute working space and/or repair damaged space as needed  
Furnish and equip new or damaged office space as needed

### **Disaster Team:**

Establish outreach intake schedule if needed and publicize among client community  
Disseminate disaster assistance information to clients via flyers and public service announcements  
Assess need for extension of application deadlines & work with FLS to advocate for extensions  
Represent individual clients on disaster related issues  
Identify & contact groups forming in community to rebuild

## **FOLLOWING WEEKS:**

### **Program Administration:**

Meet with Disaster Team to assess need for additional staff for long-term rebuilding effort  
Work collaboratively with other programs to obtain additional funds as needed  
Hire, house and equip additional staff as needed

### **Disaster Team:**

Participate in community groups dealing with long-term rebuilding  
Represent individual clients on disaster related issues  
Assess need for extension of application deadlines and advocate for extension through FLS  
Assess need for disaster Section 8 vouchers and advocate for issuance as needed

## V

### DISASTER TRAINING

#### WHO, WHAT & WHEN

The Florida legal aid community's Disaster Plan includes regular training for program administrative and legal staff. Programs are asked to identify disaster point persons from their legal and administrative staff who will commit to (1) attending yearly training sessions and (2) providing initial coordination of the program's response following a disaster.

##### **A. Annual Trainings**

Annual trainings and/or updates will be provided by June 30<sup>th</sup> of each year to legal staff and a deputy director or other administrative person from programs throughout the state who will act as disaster point persons. Trainings will be held yearly to account for staff turnover and changes in the law, and will be held by June 30<sup>th</sup> so that programs will be prepared before major hurricanes are expected.

Annual trainings will include sections from the following areas: Federal disaster assistance law and long-term rebuilding efforts, the rights of tenants following a disaster, insurance law, and consumer protection law regarding home repairs, as well as suggestions on how legal aid programs can best prepare for and handle their work should a disaster strike. Attending staff will be given an updated disaster manual for use in upgrading their program's disaster plan and as a resource following a disaster. Annual trainings will also serve as opportunities for regional collaborative meetings, a

refresher on administrative considerations for disaster preparedness, a forum for programs to rethink their program-specific disaster plans, and an opportunity to update regional understandings and agreements. Programs will be reminded of the necessity of working together to meet the needs of disaster victims, of updating hurricane brochures and staff contact lists, and of making an inventory of functioning portable equipment such as laptops, portable printers, and cell phones.

### **B. Post Disaster Trainings and Support**

Post-disaster trainings will be provided regionally to staff of disaster-impacted legal aid programs. Trainings will be held at sites convenient to the impacted programs and will ideally serve as a one-day mini-retreat to help the program(s) move forward in a constructive and unified way to rebuild their community(ies) for the benefit of clients. Post-disaster trainings will include more in-depth presentations of federal disaster assistance law and long-term rebuilding efforts, tenants' rights following a disaster, insurance law, and consumer protection law regarding home repairs.

Post-disaster trainings will also help programs assess the impact of the catastrophe on their office(s) and the client community, muster their resources (including assistance from other legal services providers within the region), and comprise a problem-solving session that culminates in a disaster work plan. Trainers will lend their experience and expertise to the process, provide information regarding the disaster list-serv, and identify experts for further assistance in particular legal areas. Written training materials will be provided to all attendees, and electronic copies of the client flyers and brochures will be shared.

## VI

### Helpful Federal and State Contacts

During the 2004 Hurricane season there were many websites established. Some of them are no longer operating. However, it is anticipated that should the need arise new sites will be opened.

#### **Federal Resources:**

Agency	Phone	Website	Comment
Federal Emergency Management Agency	800-621-FEMA (3362)  Disaster Information Helpline  800-525-0321  Teleregistration for assistance:  Not available as of the date of this manual  Regional Office:  3003 Chamblee-Tucker Rd Atlanta, GA 770- 220 - 5200	<a href="http://www.fema.gov">www.fema.gov</a>  <a href="http://www.fema.gov/about/process/">www.fema.gov/about/process/</a>	Can apply for relief on line. Follow links from main site  Applicants guide in English and Spanish  A line answered by a person
Department of Health and Human Services		<a href="http://www.hhs.gov">www.hhs.gov</a>	Numerous links to information on wide range of disasters and services

Government Benefits Search		<a href="http://www.govbenefits.gov/govbenefits/benefits">www.govbenefits.gov/govbenefits/benefits</a>	Includes links to Florida benefits including eligibility criteria
Center for Disease Control	800-CDC-INFO (232-4636)	<a href="http://www.bt.cdc.gov">www.bt.cdc.gov</a>	Numerous links to information related to personal and public health
Administration on Aging	202-619-0724  <b>Region IV:</b> AL, FL, GA, KY, MS, NC, SC, TN Percy Devine Regional Administrator Atlanta Federal Center 61 Forsyth Street, SW - Suite 5M69 Atlanta, GA 30303-8909 Phone: 404-562-7600 Fax: 404-562-7598	<a href="http://www.aoa.gov">www.aoa.gov</a>	Follow links at bottom of Home Page - Topics - Disaster Assistance
Small Business Administration	<a href="tel:8006592955">800-659-2955</a>	<a href="http://www.sba.gov">www.sba.gov</a>	
Rural Development Department of Agriculture	800-414-1226  TDD:  800-438-1832	<a href="http://www.rurdev.usda.gov/rd/disasters/disassistance.html">www.rurdev.usda.gov/rd/disasters/disassistance.html</a>	Disaster assistance in rural areas
USDA Food and Nutrition Services	Website has numerous telephone numbers including administrators of programs	<a href="http://www.fns.usda.gov/fns">www.fns.usda.gov/fns</a>	Useful information about various programs
Federal Information Center	<a href="tel:8003334636">800-333-4636</a>	<a href="http://www.info.gov/">www.info.gov/</a>	General Information and links to federal agencies

Social Security Administration	1-800-772-1213	<a href="http://www.ssa.gov">www.ssa.gov</a>	Significant information about social security benefits
Veterans Affairs	800-414-1226 (Benefits)  TDD:  800-827-1000	<a href="http://www.index.va.gov/v/">www.index.va.gov/v/</a>	Search disasters for information on health and mental health services
National Volunteer Organizations Active in Disaster (NOVAD)	Florida contact:  <b>Florida VOAD</b> Glenn A. Kasper, Sr., Chair  contact information: Florida State Director Christian Contractors Association, Inc. PO Box 15615 Brooksville, FL 34604  Office - 352-799- 7856 FAX - 352-799- 8391  E-mail:  <a href="mailto:glennk@christiancontractorsassociation.org">glennk@christiancontractorsassociation.org</a>	<a href="http://www.nvoad.org">www.nvoad.org</a>	Numerous links to helpful information

**Florida Resources:**

Florida Legal Services	850-385-7900	<a href="http://www.floridalegal.org">www.floridalegal.org</a>	See the disaster information tab
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State of Florida		<a href="http://www.myflorida.com">www.myflorida.com</a>	Links to all Florida governmental agencies
Florida Division of Emergency Management	During 2004 there was a volunteer donation line. Presumably one will open if necessary	<a href="http://www.floridadisaster.org">www.floridadisaster.org</a>	Much information and many links
Department of Children and Families - Economic Services		<a href="http://www.dcf.state.fl.us/ess">www.dcf.state.fl.us/ess</a>	Information on state benefit programs including food stamps,
Florida Department of Financial Services	800-342-2762	<a href="http://fldfs.com">fldfs.com</a>	Insurance information
Agency for Workforce Innovation	(850) 245-7105	<a href="http://www.floridajobs.org">www.floridajobs.org</a>	Emergency information as well as general information
Attorney General Price Gouging Information	Hotline (850) 245-7105	<a href="http://myfloridalegal.com">myfloridalegal.com</a>	search "price gouging" for FAQ
Florida Department of Transportation	866-374-FDOT (3368).	<a href="http://www.dot.state.fl.us">www.dot.state.fl.us</a>	Travel information

**Non-Profit Agencies:**

American Red Cross	Information for disaster victims  866-GET-INFO (428-4636)	<a href="http://www.redcross.org">www.redcross.org</a>	Significant information and links
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Salvation Army - Florida	813- 962-6611	<a href="http://www.salvationarmyflorida.org">www.salvationarmyflorida.org</a>	Disaster tab
Red Cross - Tallahassee	850-878-6080	<a href="http://www.tallytown.com/redcross">www.tallytown.com/redcross</a>	Comprehensive disaster information
Florida Interfaith Networking in Disaster	Jody Hill, Executive Director p: (866) 286-2232 f: (407) 317-7051 e: <a href="mailto:JodyHill@findflorida.org">JodyHill@findflorida.org</a>  Florida Interfaith Networking in Disaster 934 North Magnolia, Suite 239 Orlando, Florida 32803	<a href="http://www.findflorida.org">www.findflorida.org</a>	coalition of faith-based organizations, partnered with allied agencies and each other, which promotes networking to prepare Florida's communities for the effects of disaster, and in the aftermath facilitates spiritual and long term practical aid.  Links to local FIND participants

**Legal Resources:**

The Florida Bar	Disaster Hotline not in effect. Presumably will be reactivated if necessary.	<a href="http://www.flabar.org">www.flabar.org</a>	
Young Lawyers Division - Florida Bar			

## VII

### LEGAL REPRESENTATION IN DISASTER ASSISTANCE CASES

The following materials provide an overview of disaster assistance under the Stafford Disaster Relief and Emergency Assistance Act (Stafford Act),<sup>1/</sup> the steps that a legal assistance program should take to help ensure that this assistance reaches low-income disaster victims, and practice pointers to guide the advocate in representing clients.

#### I. INITIAL ADVOCACY

Low income people are usually the individuals most severely affected by disasters. FEMA is prohibited by federal law from discriminating based on race, ethnicity and income in administering the Stafford Act.<sup>2/</sup> However, FEMA is not always sensitive to the realities of the living situations and the needs of low-income people, or to those of racial and language minorities. Much of the responsibility for ensuring that disaster benefits are made equally available to low-income people and people of racial or language minorities will therefore fall on legal assistance programs.

Following a disaster, the legal aid advocate can safeguard the rights of low-income people by (1) getting to know the officials and other players involved in providing disaster assistance, (2) advocating quickly for emergency and other programs

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<sup>1/</sup> 42 U.S.C. §§5121, *et seq.*

<sup>2/</sup> 42 U.S.C. §5151; 44 C.F.R. §206.11.

needed by low-income disaster victims, (3) ensuring that helpful information and services are reaching low-income disaster victims, (4) advocating for needed extensions of application deadlines, and (5) providing legal representation to enforce the rights of low-income disaster victims to disaster assistance.

### **A. Contacting Officials and Other Players**

Immediately after the Declaration of Disaster, Florida Legal Services (FLS) will contact the FEMA Regional Office to determine the name(s) and telephone numbers(s) of the Federal Coordinating Officer (FCO) and the Disaster Recovery Manager (DRM). FLS will obtain the name(s) and telephone number(s) of the State Coordinating Officer (SCO) and the Governor's Authorized Representative (GAR) from the Governor's office. Finally, FLS will secure the name and telephone number of the attorney from the Young Lawyer's Division (YLD) of the American Bar Association (ABA) who is responsible for coordinating volunteer lawyers from either the local YLD or YLD headquarters in Virginia. FLS will transmit all of this information to the director of each impacted legal aid program and to the program's identified disaster point persons.

#### **1. Obtaining Background Information**

FLS will also obtain and transmit to local programs a copy of the Declaration of Disaster, and any amendments, along with a copy of the FEMA-State Agreement, which is required to be published in the Federal Register.<sup>3/</sup> From these documents, local legal aid programs can obtain: The date of the Declaration, the incident period (losses must be sustained during this period of time in order to be

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<sup>3/</sup> Additional likely sources are the FEMA Regional Office, the FEMA website, [www.fema.gov](http://www.fema.gov), the Governor's office, and the website of the Florida Division of Emergency Management, [www.floridadisaster.org](http://www.floridadisaster.org).

compensable under disaster relief programs), the geographical area of the disaster, and the types of disaster assistance authorized. If the Declaration states that Financial Assistance to Address Other Needs will be available, FLS will also determine whether FEMA or the state will be administering this program.<sup>4/</sup> If the state will be administering this program, FLS will obtain and provide to you a copy of the State Administration Plan (SAP), and the name and telephone number of the official who will be responsible for its overall administration.

## **2. Additional Necessary Contacts**

FLS will also obtain the name and telephone number of the state official(s) responsible for setting up the Disaster Food Stamp program, the Disaster Unemployment Assistance program, and the Crisis Counseling program. Since there is considerable latitude in setting up these programs, either FLS will contact the identified state officials as quickly as possible in order to determine the manner in which they intend to implement the programs in the disaster area(s). The most important data to obtain are (1) the eligibility criteria, (2) any deadlines for applying, (3) the way in which the benefits will be publicized, (4) where people can apply, and (5) how the benefits will be distributed. The local legal aid program will obtain the name and telephone number of the local official(s) responsible for setting up and/or administering the Disaster Food Stamp program, the Disaster Unemployment Assistance program, and the Crisis Counseling program in their localities. Since there is considerable latitude in setting up these programs, the local program should contact the identified local officials as quickly

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<sup>4/</sup> As of the 2004 hurricane season, FEMA is administering the Financial Assistance to Meet Other Needs program.

as possible in order to determine the manner in which they intend to implement the programs in their areas.

In addition, the local legal aid program should contact the local Public Housing Authority and HUD to find out what type of disaster housing programs, such as Section 8 Disaster Vouchers, will be authorized for residents of public housing and for other disaster victims. If public housing has been destroyed or damaged, the legal aid program should also find out from the appropriate public housing authority what arrangements will be made for providing emergency shelter to these residents.

## **B. Advocating for Emergency and Other Disaster Programs**

### **1. Assessing Your Community's Needs**

Legal aid programs will need to begin surveying the community as soon as possible to assess the community's needs for the various types of disaster assistance available under the Stafford Act. For instance, as staff travel around the disaster area, they should begin noting the condition of low-income and public housing, with the goal of compiling a list of destroyed or uninhabitable units, as well as remaining habitable units.<sup>5/</sup> While driving, staff should also note whether grocery stores and convenience stores within the disaster area are open, and determine whether any large employers are closed due to disaster caused destruction. Also, when interviewing clients, legal aid staff should ask them about the condition of the housing in which they live and of the housing around them, as well as whether they are in need of food, and whether they have lost a job as a result of the disaster.

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<sup>5/</sup> See section IV.A. for suggestions and resources in conducting a census of affordable housing.

With respect to establishing the need for disaster Food Stamps, legal aid staff should find out how long electricity has been interrupted and in what geographic area(s) (to determine the need for Replacement Food Stamps by documenting spoilage of food due to loss of refrigeration). Staff should also ascertain the extent of interruption in the usual means and corridors of transportation, e.g., road passability, bus service, destruction of automobiles, operation of vehicle repair shops as well as the extent of interruption in basic communication channels such as newspaper delivery and radio and television broadcasts (to document the need for Disaster Food Stamps, the need for DCF to advertise the program, and the need to extend the Disaster Food Stamp program).

Immediately after obtaining the most basic information, local programs should begin to work with FLS to advocate on behalf of low-income disaster victims to obtain appropriate emergency assistance. In particular, legal aid programs should address any issues arising under Disaster Food Stamps immediately, since these benefits are generally awarded within the first few days after the disaster.<sup>6/</sup>

***a. Advocacy for Additional Programs***

As soon as the local program has information regarding the unmet needs of low-income disaster victims, staff should work in conjunction with FLS to advocate for the implementation of any program that will meet these needs but has not yet been authorized by FEMA or some other agency. Low-income housing in particular is likely

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<sup>6/</sup> See section III.A.4. re: advocating for Disaster Food Stamps.

to have suffered extensive damage. Local programs should therefore immediately begin documenting (1) the extent to which low-income housing has been destroyed or rendered uninhabitable, and (2) whether there is sufficient habitable affordable housing within reasonable commuting distance to meet the needs of dislocated low-income families. If the answer to (2) is no, legal aid staff should begin advocating as soon as possible for mobile homes to provide temporary housing for low-income disaster victims.<sup>7/</sup> If sufficient housing is available nearby, but it is not affordable, legal aid staff should advocate for Section 8 Disaster Vouchers to be made available to low-income disaster victims.

Requests for additional types of assistance must be addressed to the Governor's Authorized Representative(GAR), since such assistance must be requested from FEMA by the Governor or the GAR.<sup>8/</sup> The request must be justified by verified assessments by state and local governments as to the need for the assistance and the inability of state and local government to meet the need.<sup>9/</sup> Because of its knowledge of the low-income community, the legal aid program may be able to provide valuable information to assist the state in requesting additional assistance. Intervention by federal legislators may also be helpful.

### ***b. Advocacy Regarding the DRCs***

Legal aid programs should visit the Disaster Recovery Centers (DRCs) as

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<sup>7/</sup> See section III.D.4.a, *infra* re: the criteria used by FEMA to determine the necessity for mobile homes and travel trailers.

<sup>8/</sup> 44 C.F.R. §206.40(c)

<sup>9/</sup> *Id.*

soon as possible after they begin to open, and make contact with the FEMA DRC Coordinator. Issues of immediate concern are the locations of the DRCs (FEMA may tend to locate the DRCs outside of low-income communities), publicity regarding the location of the DRCs (FEMA may not provide publicity in a form or in locations that are accessible to low-income people), and, if there are a significant number of language minorities, the number and training of bilingual staff or translators provided at the DRCs (even if staff fluent in a minority language are hired, such staff may not be adequately trained either with respect to their responsibilities as translators, with respect to disaster benefits, and/or regarding FEMA's administrative process).

### **C. Ensuring that Low-Income People Receive Information**

#### **1. Advocacy Regarding Publicity**

Ordinary means of communication are often severely disrupted by a disaster. Since low-income people are likely to be especially badly affected by this, legal aid programs should carefully examine the manner in which FEMA publicizes disaster benefits. Depending on how each type of medium has been affected by the disaster, legal aid staff may need to watch for newspaper, television and radio announcements concerning disaster assistance to make sure that FEMA's public information campaign addresses the needs of the community's low-income people. For example, if a large portion of the low-income community speaks another language besides English, FEMA should make announcements in their language and use radio and television stations listened to or viewed by them. Also, if the housing of many low-income people has been destroyed, they will have little ability to access information

through mass media. In this case, FEMA should distribute flyers at mass feeding sites, tent cities or other sites at which displaced low-income residents gather.

Legal aid programs may also want to make their own public service announcements on radio or television, and to develop and disseminate their own informational flyers. In affected rural areas, it may be necessary to distribute flyers in several languages on a door-to-door basis, something that FEMA is unlikely to do. Since FEMA typically does not widely publicize information regarding application deadlines or the types of disaster assistance that are available, legal aid program flyers that include such information can be very useful to the low-income community.

## **2. Notice Regarding Disaster Housing Assistance**

It is particularly crucial that low-income disaster victims be aware of the types of housing assistance that are available. FEMA can provide either cash rental assistance or mobile homes if both types of housing assistance are allowed under the Declaration of Disaster. But FEMA issues mobile homes only if the disaster victim would be unable to make use of rental assistance.<sup>10/</sup> If much of the affordable housing stock within the community has been rendered uninhabitable, it is crucial that low-income disaster victims be told of the mobile home option and the need to show that they would be unable to use cash rental assistance because of the lack of available housing.

## **3. Development of Written Informational Material**

Information regarding the range of disaster benefits is one of the most

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<sup>10/</sup> 44 C.F.R. §206.117(1)(ii).

important services a legal assistance office can provide to its client population immediately after a catastrophic disaster. As soon as legal aid staff have gathered some of the most necessary information, they should begin preparing disaster flyers outlining the availability of benefits, and pamphlets regarding legal rights. Included in this manual are model flyers.

#### **4. Dissemination of Materials**

Legal aid programs should distribute the flyers and pamphlets they develop as soon as possible at shelters, mass feeding sites, DRCs, and through community and volunteer agencies and churches. In largely destroyed areas, it may require a great deal of effort just to locate these sites. People in rural areas may be particularly isolated and in need of information.

Legal aid programs should also rely on local media such as radio, newspapers and television stations, especially ethnic radio and television stations and ethnic community newspapers in order to better reach more insular communities such as immigrants.

Local programs may also want to use the large number of people who often volunteer to assist after a disaster. These volunteers can (1) go out into the low-income communities to locate mass distribution sites as well as isolated communities, and (2) physically deliver the flyers and pamphlets to these sites.

## **II. APPLICATION FOR DISASTER ASSISTANCE**

To apply for disaster assistance, people must either go to a FEMA Disaster

Recovery Center (DRCS) or apply by telephone. In either case, a FEMA interviewer takes information from the disaster victim, and fills out a one-page application which the applicant is required to sign. The applicant is then given a copy of the application for his/her records. If the application is taken by telephone, a copy is mailed to the applicant. The FEMA application is the basis for determinations of eligibility for the Individual and Household Assistance program. Applicants are referred to other agencies located at the DRC as determined appropriate by the FEMA interviewer.

### **A. Application Deadlines**

A disaster victim must usually “register” for Individual and Household Assistance within 60 days after the Declaration of Disaster; however, FEMA accepts late registrations for an additional 60 days beyond the deadline, if the registrant produces documentation to justify the delay.<sup>11/</sup> The application deadlines for other programs may be shorter. The application deadline and other standards of eligibility for Disaster Food Stamps are established by the Secretary of Agriculture soon after the disaster.<sup>12/</sup> Disaster Unemployment Assistance must be applied for within 30 days of the Declaration, but can be applied for later if the applicant shows good cause for late filing.<sup>13/</sup> The application deadline for the Disaster Loan program administered by the SBA is published in the Federal Register following the disaster. The SBA will accept applications beyond the deadline based on a finding of substantial causes beyond the

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<sup>11/</sup> 44 C.F.R. §206.112.

<sup>12/</sup> 7 C.F.R. §280.1.

<sup>13/</sup> 20 C.F.R. §625.8(a).

control of the applicant.<sup>14/</sup>

All application deadlines may be extended, unless this would result in an extension of the application deadline beyond the benefit period. The Regional Director or Disaster Recovery Manager (DRM) may extend the registration deadline for Individual and Household Assistance when the state requests more time, or to establish the same deadline for contiguous counties or states.<sup>15/</sup> Generally, the Governor's Authorized Representative (GAR) must request a modification of the FEMA-State Agreement in order to extend filing deadlines. Modifications must be approved by the FEMA Regional Director, or the Disaster Recovery Manager (DRM).

### **B. Inspection of the Disaster Dwelling**

The homes of all disaster victims who apply for Individual and Household Assistance must be inspected by FEMA-hired inspectors to determine if they can be lived in, and the extent of any damage to the dwelling and/or personal property. In addition to determining the condition of the dwelling and its contents, the inspector also makes a determination as to whether the applicant is an owner or a renter, and whether the applicant is the "head of household." The registration and the inspection report are the sole documents used to make initial determinations of eligibility and the type and amount of assistance for Individual and Household Assistance.

### **C. Eligibility of Immigrants**

Written FEMA policy requires that applicants for disaster food stamps, disaster

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<sup>14/</sup> 13 C.F.R. §123.3(b).

<sup>15/</sup> 44 C.F.R. §206.112(b).

unemployment benefits, disaster housing assistance and assistance to meet other needs must be either U.S. citizens or “qualified aliens” as defined under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA).<sup>16/</sup> A copy of FEMA’s policy is attached as Appendix B.

As anyone who has dealt with the “qualified alien” definition in the welfare context will acknowledge, making a determination that someone meets the definition of “qualified alien” is an extremely complex and often time consuming process. It is particularly ill-suited to the type of quick ad-hoc decision making required in a disaster setting. FEMA, which directly administers the disaster housing assistance and usually the assistance to meet other needs as well, is organized to get help to those in need and is antagonistic to rules that hinder that service. As a result, the workers on the ground often used various generalized interpretations of the rule to provide assistance. For example, it was generally accepted by many FEMA workers that a social security card was proof of “qualified alien status” while absence of a social security card/number demonstrated failure to achieve the status. Similarly FEMA instructed workers that they could help an entire family (at least with in kind assistance) if any member of the family, including a child was eligible. Certainly these were all well intentioned efforts to help families in desperate need. Whether FEMA will make any attempt to recoup the benefits provided in these situations remains to be seen.<sup>17/</sup>

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<sup>16/</sup> Codified at 42 U.S.C. §§601, *et seq.*

<sup>17/</sup> Please see Section III.D.4.d. below for a discussion of FEMA’s recoupment process.

### III. TYPES OF DISASTER ASSISTANCE AND SPECIFIC LEGAL ISSUES

#### A. FOOD STAMPS

Food stamps are available in three different situations following a disaster. First, people who are destitute or whose housing expenses are greater than their gross income are entitled to **expedited food stamps**.<sup>18/</sup> Second, households are entitled to **replacement food stamps** if they were participating in the Food Stamp Program at the time of the disaster and their food was destroyed as a result of the disaster.<sup>19/</sup> And, third, disaster victims may be eligible for **disaster food stamps** following a disaster, under criteria developed for that particular disaster.<sup>20/</sup> All three types of food stamps are provided through the state welfare agency.

The availability of **replacement food stamps** and **disaster food stamps** is governed by decisions made by the Food and Nutrition Service of the U.S. Department of Agriculture in conjunction with the state welfare agency following each disaster. In order for Department of Agriculture to authorize issuance of replacement and disaster food stamps, it must find that: (1) the disaster has disrupted commercial channels of food distribution, (2) disaster victims are in need of temporary food assistance, and (3) commercial channels of food distribution have again become available.<sup>21/</sup>

Administrative decisions regarding whether to make **replacement food stamps**

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<sup>18/</sup> 7 U.S.C. §2020(e)(9); 7 C.F.R. §273.2(i).

<sup>19/</sup> 7 U.S.C. §2014(h)(3)(A); 7 C.F.R. §280.1.

<sup>20/</sup> 7 U.S.C. §2014(h)(1); 7 C.F.R. §280.1.

<sup>21/</sup> *Id.*

and **disaster food stamps** available are made within the first few days after the disaster. Because the time frame is so short, FLS will take the lead role in working with state and federal agencies to advocate for this type of assistance. However, local legal aid offices will need to provide FLS with as much background information regarding local conditions as necessary to support FLS advocacy efforts. In addition, because many decisions on implementing the **replacement** and **disaster food stamp** programs are left to local agency discretion, local legal aid programs will need to take the lead role in advocating with local agencies for replacement and disaster stamps in their area(s), for effective notice to potentially eligible households, and for adequate time frames for disaster victims to respond and obtain the food stamps.

### **1. Expedited Food Stamps**

Expedited food stamps are available to needy people, whether or not a disaster has occurred. An eligible applicant must receive food stamps within seven calendar days of application.<sup>22/</sup> To be eligible, a person must either have less than \$150 in gross monthly income and \$100 or less in liquid resources, have a combined gross household income that is less than the household's housing expenses, or be a destitute migrant or seasonal worker.<sup>23/</sup>

### **2. Replacement Food Stamps**

Following a declaration of disaster, the Secretary of Agriculture must provide for issuance of replacement food stamps to households receiving food stamps

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<sup>22/</sup> 7 C.F.R. §273.2(i)(3)(i).

<sup>23/</sup> 7 C.F.R. §273.2(i)(1); *see also* 7 C.F.R. §273.10(e)(3)(describing destitute migrant or seasonal farm worker households).

at the time of the disaster to replace food destroyed during the disaster.<sup>24/</sup> Replacement food stamps should be at least equal to the amount of food lost but may not be greater than the applicable maximum monthly allotment for the household's size.<sup>25/</sup>

### **3. Disaster Food Stamps**

After consultation with the Federal Coordinating Officer (FCO), the Secretary may also authorize issuance of food stamps to all disaster victims in households found to be in need of temporary food assistance.<sup>26/</sup> The eligibility criteria for this type of food stamps are determined by the Secretary after the disaster and may be very broad, so that persons who would not ordinarily be eligible for food stamps are rendered eligible for disaster food stamps.<sup>27/</sup> The Secretary typically dispenses with normal income and resource criteria and authorizes the maximum food stamp allotment to each disaster-affected household based on its size. The Secretary is also required to establish a Food Stamp Disaster Task Force to assist states in implementing and operating the disaster food stamp program, and may send members of the Task Force to the disaster area.<sup>28/</sup>

### **4. Advocacy Issues**

Since the Department of Agriculture has broad authority to establish

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<sup>24/</sup> 7 U.S.C. §2014(h)(3); 7 C.F.R. §280.1.

<sup>25/</sup> *Id.*

<sup>26/</sup> 7 U.S.C. §2014(h)(1); 7 C.F.R. §280.1.

<sup>27/</sup> *Id.* During a Disaster Food Stamp program, DCF often suspends strict verification requirements because identity papers, including immigration documents, are unavailable after a disaster.

<sup>28/</sup> 7 U.S.C. §2014(h)(2).

standards of eligibility for disaster food stamps for each disaster, it is important to have input into decision-making process as early as possible. The local legal aid program should immediately assess the need for them, collaborate with local officials and agencies to advocate for Disaster Food Stamps, and collaborate with FLS to contact the U.S. Department of Agriculture and the Federal Coordinating Officer as soon as possible to assure that the needs of low-income disaster victims are considered in whether and how to make these benefits available.

Once these benefits are authorized, legal aid staff should work closely with local officials and agencies and the USDA's Food and Nutrition Service to ensure that the Disaster Food Stamp program is adequately advertised, available for a meaningful time, and administered in a manner that low-income people learn about and receive the food stamps for which they are eligible. Federal law requires the Secretary to adjust issuance methods and other application requirements in accordance with conditions in the disaster area.<sup>29/</sup> In particular, the Secretary must consider conditions that make reliance on electronic benefit transfers impracticable, and any disruption in transportation and communications.<sup>30</sup> Since flyers in the appropriate language may be the only effective means of getting information out to low-income people after a catastrophic disaster, legal aid staff may want to advocate for their dissemination, and/or attempt to disseminate them themselves.

Finally, local legal aid programs should work collaboratively with FLS as needed

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<sup>29/</sup> 7 U.S.C. §2014(h)(3)(B).

<sup>30/</sup> *Id.*

to press the state coordinating officer to request an extension of the Disaster Food Stamp program because of difficulties in disseminating and receiving information, transportation problems, and the need for disaster victims to take care of more immediate needs, such as shelter.

## **B. DISASTER UNEMPLOYMENT ASSISTANCE**

Disaster Unemployment Assistance (DUA) may be made available following a major disaster to anyone who has become unemployed as a result of the disaster but who is not eligible for ordinary unemployment compensation benefits (UCB).<sup>31/</sup> Legal aid advocates should check the Declaration of Disaster to determine if DUA was designated as a disaster benefit. If it was not, staff should begin gathering information to establish the need for these benefits, and work through FLS to urge the governor to request that this assistance be authorized.

In Florida, at the current time, DUA is administered by the Agency for Workforce Innovation (AWI). It is available for the length of time prescribed in the Declaration of Disaster, but for a period no longer than 26 weeks following the declaration, as long as the applicant's disaster-caused unemployment continues.<sup>32/</sup> A disaster victim must apply to the state employment security office for DUA within 30 days of the declaration of disaster, but can apply beyond the deadline if s/he shows good cause for late filing.<sup>33/</sup> However, the victim cannot apply after the expiration of the DUA benefit period.

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<sup>31/</sup> 42 U.S.C. §5177(a).

<sup>32/</sup> 42 U.S.C. §5177(a).

<sup>33/</sup> 20 C.F.R. §625.8(a).

## **1. Eligibility**

Applicants for DUA must show that their unemployment is a direct result of the disaster.<sup>34/</sup> As with ordinary UC, applicants must generally be able and available to work.<sup>35/</sup> However, both individuals who are unable to work because of an injury caused by the disaster and self-employed individuals performing activities for the purpose of enabling them to resume self-employment are deemed to meet this requirement.<sup>36/</sup> In addition, an applicant is considered unemployed for purposes of DUA if any of the following occur: (a) the applicant lost a job as a result of the disaster (whether the job had already begun or did not commence as a result of the disaster); (b) the applicant is unable to reach the place of employment because of the disaster; or (c) the applicant has become the family breadwinner as a result of the disaster-caused death of the head of the household.<sup>37/</sup>

## **2. Re-employment Assistance**

Federal law also requires a State to provide re-employment assistance services to people rendered unemployed by a major disaster,<sup>38/</sup> whether or not they apply for DUA.<sup>39/</sup>

## **3. Advocacy Issues**

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<sup>34/</sup> 20 C.F.R. §625.4(d); 20 C.F.R. §625.5(c).

<sup>35/</sup> 20 C.F.R. §625.4(g).

<sup>36/</sup> 20 C.F.R. §625.4(g); 20 C.F.R. §625.5(a)(5).

<sup>37/</sup> 20 C.F.R. §625.5(a)(2)-(4).

<sup>38/</sup> 42 U.S.C. §5177(b).

<sup>39/</sup> 20 C.F.R. §625.3.

There are three areas of systemic advocacy that require attention: publicity regarding DUA and re-employment assistance, and extensions of the application deadline. First, because DUA eligibility criteria are much broader than for ordinary UC, legal aid clients must be notified that they may be eligible for these benefits. Legal aid programs may wish to distribute flyers widely and to urge the state unemployment compensation office that administers the benefits to publicize them on available local media.

Second, the 30-day deadline for applications is extremely short, especially if a catastrophic disaster has occurred. Local legal aid programs should work collaboratively with FLS to press the state coordinating officer to request an extension of this deadline because of difficulties in disseminating and receiving information, transportation problems, and the need for disaster victims to take care of more immediate needs, such as food and shelter.

Third, even disaster victims who do not qualify for DUA are eligible for re-employment services if they have become unemployed because of the disaster.<sup>40/</sup> Services that must be provided include counseling, job referrals, and training to assist unemployed disaster victims to obtain re-employment as soon as possible.<sup>41/</sup> It is therefore important to widely disseminate information on the availability of these services to low-income disaster victims.

### **C. ASSISTANCE TO LOW-INCOME MIGRANT/SEASONAL FARM WORKERS**

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<sup>40/</sup> 42 U.S.C. §5177(b); 20 C.F.R. §625.3(a).

<sup>41/</sup> 20 C.F.R. §625.3(a).

Following a federal state or local emergency or disaster, the Secretary of Agriculture may make grants to provide emergency services to low-income migrant and seasonal farm workers.<sup>42/</sup> The grants must be awarded to public agencies or private non-profit organizations that have experience in providing emergency services to low-income migrant and seasonal farm workers.<sup>43/</sup> Before awarding grants, the Agriculture Department must first determine that an emergency or disaster has caused low-income migrant or seasonal farm workers either (1) to lose income, (2) to be unable to work, or (3) to stay home or return home in anticipation of work shortages.<sup>44/</sup> “Low-income migrant or seasonal farm workers” are people who (1) performed farm work for wages 12 consecutive months during the past 2 years, (2) had an annual family income during those 12 consecutive months less than the poverty level or 70 percent of the lower living standard income level, whichever is higher; and (3) received at least half of their income or worked at least half-time in farm work.<sup>45/</sup>

The authority to make grants, administer the grant program and determine the types of assistance to be provided to aid low-income migrant and seasonal farm workers impacted by an emergency or disaster has been delegated to the Administrator, Rural Housing Service.<sup>46/</sup>

#### **D. INDIVIDUAL AND HOUSEHOLD PROGRAM (IHP)**

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<sup>42/</sup> 42 U.S.C. 5177a(a).

<sup>43/</sup> *Id.*

<sup>44/</sup> *Id.*

<sup>45/</sup> 42 U.S.C. §5177a(b).

<sup>46/</sup> 7 C.F.R. §2.49(a)(3).

The Individual and Household Program contains two parts: Housing Assistance,<sup>47/</sup> and Financial Assistance to Address Other Needs.<sup>48/</sup> The maximum amount of assistance that an individual or household may receive under both programs is \$25,000, adjusted yearly for inflation.<sup>49/</sup>

To be eligible for IHP, a disaster victim must “register” either by calling the FEMA tele-registration number or applying in person at a disaster recovery center (DRC) within the registration period. The initial registration period is usually 60 days from the date of the disaster, but this period can be extended by FEMA.<sup>50/</sup> Although IHP assistance is a need-based benefit, there are no income or resource eligibility guidelines. In order to be eligible, applicants must establish that they have incurred a disaster-related serious need in the state in which the disaster has been declared.<sup>51/</sup> Residency in the state is not required,<sup>52/</sup> but in order to qualify for housing assistance, the applicant must show that the disaster-related damage is to the applicant’s primary residence.<sup>53/</sup>

Applicants who live in a special flood hazard area may not receive FEMA assistance for construction or repair of real property or to purchase insurable contents, unless the local community participates in the National Flood Insurance Program

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<sup>47/</sup> 44 C.F.R. §206.117. This program was formerly known as the Temporary Housing Assistance (THA) Program.

<sup>48/</sup> 44 C.F.R. §206.119. This program was formerly known as the Individual and Family Grant (IFG) Program.

<sup>49/</sup> 44 C.F.R. §206.110(b).

<sup>50/</sup> 44 C.F.R. §206.112.

<sup>51/</sup> 44 C.F.R. §206.113(a).

<sup>52/</sup> 44 C.F.R. §206.113(a)(1).

<sup>53/</sup> 44 C.F.R. §206.113(a)(8),(9).

(NFIP).<sup>54/</sup> Applicants in a special flood hazard area who receive assistance due to flood damage must maintain flood insurance on the property at least in the amount of the disaster assistance.<sup>55/</sup> When assistance is received to repair or construct a home, the flood insurance requirement is transferred to any subsequent owner.<sup>56/</sup>

IHP assistance may not be counted as income or resources for purposes of determining eligibility for or the amount of benefits under federally-funded income assistance or resource-tested benefit programs.<sup>57/</sup> IHP assistance is exempt from garnishment, levy, seizure, encumbrance, execution, pledge, attachment, release, and waiver.<sup>58/</sup>

## **1. IHP HOUSING ASSISTANCE**

The housing assistance portion of the Individual and Household Program (IHP) is administered directly by FEMA. The program provides financial assistance or actual housing to victims whose primary residences were destroyed, made uninhabitable or inaccessible as a result of the disaster.<sup>59/</sup> There are four forms of disaster housing assistance: (1) money for renting alternate housing, (2) rent-free occupancy in federally provided temporary housing, (3) money for repair of owner-occupied housing, and (4)

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<sup>54/</sup> 44 C.F.R. §206.110(k)(1), (2). If the community is not participating at the time of the disaster, but enters the NFIP during the six months following the declaration, FEMA may process assistance applications if the GAR requests a time extension.

<sup>55/</sup> 44 C.F.R. §206.110(k)(3).

<sup>56/</sup> 44 C.F.R. §206.110(k)(3)(i)(A).

<sup>57/</sup> 42 U.S.C. §5155(d); 44 C.F.R. §206.110(f).

<sup>58/</sup> 44 C.F.R. §206.110(g).

<sup>59/</sup> 44 C.F.R. §206.113(a)(8),(9).

money for replacement of owner-occupied housing.<sup>60/</sup> FEMA determines the appropriate type of housing assistance based on cost effectiveness, convenience to the disaster victims, and the suitability and availability of assistance.<sup>61/</sup> Disaster victims are expected to accept the first offer of housing assistance, and unwarranted refusal can result in forfeiture of housing assistance.<sup>62/</sup>

**a. Eligibility**

To obtain IHP housing assistance, applicants must show that (1) as a direct result of a major disaster or emergency, (2) their home was destroyed, made uninhabitable, or made inaccessible or unavailable, and (3) that the housing assistance needed (i.e., temporary rental assistance, mobile home, repair of the home, or its replacement) is either not covered by the applicant's insurance policy, or that the amount of insurance is insufficient to cover the damage.<sup>63/</sup>

During the initial interview, the FEMA representative makes an initial determination of whether the applicant has insurance coverage and marks the application form accordingly. Applicants with insurance coverage must establish either that (1) the proceeds of the insurance policy are less than the amount of their disaster-related damages and also less than the maximum amount that FEMA can authorize, or

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<sup>60/</sup> 42 U.S.C. §5174(c); 44 C.F.R. §206.117(b). Previously, FEMA administered a program of rental and mortgage assistance for individuals and households who remained in their pre-disaster housing but were unable to pay the rent or mortgage as a result of the disaster. That program no longer exists, and the mere inability to pay the mortgage or rent no longer qualifies a household for assistance. However, if the lack of money is due to loss of employment, they may qualify for disaster unemployment assistance (DUA).

<sup>61/</sup> 42 U.S.C. §5174(b)(2)(A); 44 C.F.R. §206.110(c).

<sup>62/</sup> *Id.*

<sup>63/</sup> 44 C.F.R. §206.113(a).

(2) that they have been unable to obtain payment from their insurance company (denial of claim or significant delay in receiving proceeds).<sup>64/</sup> Applicants with adequate insurance coverage who refuse insurance proceeds are ineligible.<sup>65/</sup>

During the initial interview, the FEMA representative also makes a determination of who is in the household. A “household” consists of all the people “who lived in the pre-disaster residence who request assistance,” as well as people “expected to return during the assistance period.”<sup>66/</sup> FEMA provides assistance for one temporary housing residence for each household unless they find that the size or the nature of the household requires more than one residence.<sup>67/</sup>

### ***b. Types of Assistance***

(i) *Financial Assistance.* The primary type of housing assistance provided by FEMA following a disaster is money to rent alternate housing.<sup>68/</sup> FEMA typically provides eligible applicants with a check to cover rental housing for one to three months. FEMA does not pay security deposits and pays utility costs only if they are part of the rental charge.<sup>69/</sup>

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<sup>64/</sup> 44 C.F.R. §206.113(a)(2),(3),(4). Even fully insured disaster victims are eligible for IHP temporary housing assistance benefits if they have made reasonable efforts to secure payment from their insurance company but have been unable to do so, and they have agreed to repay FEMA from any insurance proceeds they later receive. 44 C.F.R. §206.113(a)(3).

<sup>65/</sup> 44 C.F.R. §206.113(b)(6).

<sup>66/</sup> 44 C.F.R. §206.111.

<sup>67/</sup> 44 C.F.R. §§206.117(b)(1)(i)(A); 206.117(b)(ii)(B).

<sup>68/</sup> 44 C.F.R. §206.117(b)(1)(i). FEMA may also provide cash assistance to pay for transportation, utility hookups, or installation of manufactured housing units to be used for housing. *Id.*

<sup>69/</sup> 44 C.F.R. §206.117(b)(1)(i)(C).

(ii) *Direct Assistance.* FEMA may provide temporary housing units, usually in the form of mobile homes, to disaster victims whose homes are destroyed or rendered uninhabitable and who would be unable to make use of cash rental assistance.<sup>70/</sup> Mobile homes must be placed on FEMA approved sites.<sup>71/</sup> FEMA does not pay utility costs unless utility services are part of the site rental.<sup>72/</sup> This type of assistance is generally available only for a maximum of 18 months, but this period may be extended under extraordinary circumstances if an extension would be in the public interest.<sup>73/</sup> FEMA may charge fair market rent to people remaining in units after 18 months.<sup>74/</sup>

FEMA regulations provide that they may terminate the provision of actual housing if: (1) the 18 month period of assistance has expired and not been extended; (2) Adequate alternative housing has become available; (3) The occupant obtained the housing assistance through fraud or misrepresentation; (4) The occupant fails to comply with the lease or other site rules; or (5) The occupant fails to provide evidence showing that they are working towards a permanent housing plan.<sup>75/</sup> The regulations also state that FEMA will provide 15 days notice of the termination, and specify the reason for the

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<sup>70/</sup> 42 U.S.C. §5174(c); 44 C.F.R. §206.117(b)(1)(ii).

<sup>71/</sup> 44 C.F.R. §206.117(b)(1)(ii)(C), (E).

<sup>72/</sup> 44 C.F.R. §206.117(b)(1)(ii)(D).

<sup>73/</sup> 42 U.S.C. §5174(c)(1)(B)(ii); 44 C.F.R. §206.110(e).

<sup>74/</sup> 42 U.S.C. §5174(c)(B)(iii); 44 C.F.R. §206.117(b)(F).

<sup>75/</sup> 44 C.F.R. §206.117(b)(1)(ii)(G).

termination and the process to be followed on appeal.<sup>76/</sup> If a client is being dispossessed in this manner, advocates should consider initiating an action in a court of competent jurisdiction for violation of state landlord/tenant law.

(iii) *Grants for Home Repairs and Hazard Mitigation.* If the Disaster Declaration provides for it, FEMA may make available a limited amount of money for repairs to uninsured disaster-related damages to an owner's primary residence, utilities, and residential infrastructures such as private access routes, as well as assistance for hazard mitigation measures that reduce the likelihood of future damage to damaged residences, utilities or infrastructure.<sup>77/</sup> This assistance is available only if (1) the damage to the home is disaster related; (2) the home is owner occupied; (3) the damage is not covered by insurance; and (4) the cost of repairs does not exceed \$5,000 adjusted annually for inflation.<sup>78/</sup> Repairs must conform to local and state building codes.<sup>79/</sup> Money for repairs may not be used for improvements or additions to the pre-disaster condition of the property unless these are required to comply with local and state ordinances or eligible mitigation measures.<sup>80/</sup>

Although recipients of home-repair or hazard-mitigation grant under the IHP housing assistance program must show that the damage for which they seek assistance is not covered by insurance, they cannot be required to show that they are unable to

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<sup>76/</sup> 44 C.F.R. §206.117(b)(1)(ii)(H).

<sup>77/</sup> 42 U.S.C. §5174(c)(2)(A); 44 C.F.R. §206.117(b)(2)(i),(iii).

<sup>78/</sup> 42 U.S.C. §206.5174(c)(2); 44 C.F.R. §206.117(b)(2).

<sup>79/</sup> 44 C.F.R. §206.117(b)(2)(v).

<sup>80/</sup> 44 C.F.R. §206.113(b)(5).

obtain assistance from any other means.<sup>81/</sup> In particular, and in contrast to Financial Assistance to Address Other Needs,<sup>82/</sup> an uninsured homeowner cannot be required to show that s/he is ineligible for an SBA disaster loan in order to qualify for home-repair or hazard-mitigation assistance.<sup>83/</sup> In fact, a homeowner may be eligible for IHP housing assistance to cover emergency repairs, and may also qualify for an SBA loan for more extensive repairs. However, the owner is required to use the proceeds of the SBA loan to repay the IHP grant if it was used for repairs or measures also eligible for an SBA loan.<sup>84/</sup>

*(iv) Replacement of Primary Residence.* If the disaster declaration so provides, FEMA may award up to \$10,000 (adjusted annually for inflation) for replacement of a primary residence that incurred more than \$10,000 (adjusted annually for inflation) in disaster-related damage.<sup>85/</sup> This type of assistance must be individually approved by the Associate Director of FEMA. The applicant may either purchase a replacement residence for \$10,000, or apply the grant toward the purchase of a more costly home.<sup>86/</sup>

## 2. FINANCIAL ASSISTANCE TO ADDRESS OTHER NEEDS

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<sup>81/</sup> 42 U.S.C. §5174(c)(2)(B); 44 C.F.R. §206.117(2)(iv).

<sup>82/</sup> See Part , below.

<sup>83/</sup> 42 U.S.C. §5174(a)(2), (c)(2)(B); 44 C.F.R. §206.117(b)(2)(iv).

<sup>84/</sup> 13 C.F.R. §123.101(c); see also, 42 U.S.C. §5155(a),(b); .

<sup>85/</sup> 44 C.F.R. §206.117(b)(3). Replacement assistance may be provided to applicants with damages less than \$10,000 in extraordinary circumstances, based on a finding that replacement assistance is more appropriate than other forms of housing assistance. *Id.*

<sup>86/</sup> *Id.*

The Financial Assistance to Address Other Needs part of the IHP program must be requested by the Governor, and listed as a designated type of assistance in the Declaration of Disaster.<sup>87/</sup> The purpose is to assist disaster victims in replacing personal property and paying for transportation, disaster-related medical, dental, funeral and other necessary expenses and serious needs.<sup>88/</sup> The amount of assistance cannot exceed \$25,000 (adjusted annually for inflation) less the amount of any IHP Housing Assistance received.<sup>89/</sup>

Depending on the arrangement chosen by the state, the “Other Needs” portion of the IHP program may be administered by the state or by FEMA.<sup>90/</sup> If the state chooses to administer the program, it must have in place an approved State Administrative Plan (SAP).<sup>91/</sup> If the state will be administering the “Other Needs” portion of the IHP program, legal aid advocates should obtain a copy of the SAP from FLS or the State Coordinating Officer (SCO) as soon as possible.<sup>92/</sup>

The State Administrative Plan must include procedures for (1) notifying potential applicants of the availability of the program (including application deadlines, program

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<sup>87/</sup> 42 U.S.C. §5174(f); 44 C.F.R. §206.40(a).

<sup>88/</sup> 42 U.S.C. §5174(e); 44 C.F.R. §206.119(a),(b).

<sup>89/</sup> 42 U.S.C. §5174(h); 44 C.F.R. §206.110(b).

<sup>90/</sup> 44 C.F.R. §206.120(a),(b). As of the 2004 hurricane season, Florida has chosen to allow FEMA to administer the “Other Needs” program.

<sup>91/</sup> 44 C.F.R. §206.120(c). The State Administrative Plan (SAP) should be in place before the disaster. By November 30 of each year, the state is required to submit to FEMA the SAP, an annual update, or a letter stating that the SAP is still current, for FEMA’s review and approval by December 31. *Id.*

<sup>92/</sup> Other likely sources of the SAP are the Governor’s office, the office of the Governor’s Authorized Representative (GAR), the FEMA Regional Office, and/or the Disaster Field Office (DFO).

descriptions and eligibility guidelines), (2) registration and acceptance of applications and late applications, (3) damage inspections,(4) eligibility determinations, (5) notification of eligibility, (6) payment of grants, (7) appeal processing, and (8) protection of applicant privacy.<sup>93/</sup>

**a. Eligibility Requirements**

Like IHP housing assistance, IHP “Other Needs” assistance is need based, but not means or resource tested. To be eligible, applicants must show that they incurred necessary expenses or have serious needs as a result of the disaster for which they cannot obtain relief through other means, including a Disaster Loan from the SBA.<sup>94/</sup> An applicant must exhaust all other sources of potential assistance by applying for insurance reimbursement and/or for assistance from the SBA Disaster Loan Program.<sup>95/</sup> With respect to insurance, if the disaster-related expense is covered by an insurance policy, the applicant must demonstrate either that the proceeds will be insufficient to cover the necessary expense or serious need and are less than the maximum amount of assistance available through FEMA,<sup>96/</sup> or that the insurance payment has been unduly delayed and the applicant has agreed to repay FEMA from insurance proceeds.<sup>97/</sup> With respect to an SBA Disaster Loan, the applicant must show that s/he has applied and either been denied, or that the loan will

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<sup>93/</sup> 44 C.F.R. §206.120(d)(3).

<sup>94/</sup> 44 C.F.R. §§206.110(a); 206.119(a)(1),(2),(3).

<sup>95/</sup> *Id.*

<sup>96/</sup> 44 C.F.R. §206.113(a)(4).

<sup>97/</sup> 44 C.F.R. §206.113(a)(3).

be insufficient to cover the necessary expenses or serious needs.<sup>98/</sup>

***b. Application Process***

At the time of the initial interview, the FEMA representative determines whether the applicant, based on the applicant's income, is potentially eligible for an SBA loan.<sup>99/</sup> If the applicant is found ineligible for an SBA loan at the time of the initial interview, the application form is so marked, and the applicant is referred to the "Other Needs" portion of the IHP program.

The extent of an applicant's real and personal property losses are determined by a FEMA inspector during an on-site visit. The "Other Needs" portion of the IHP program bases its findings of eligibility and the amount of the grant on the FEMA inspector's report. "Other Needs" grants may be used only to repair or replace the damaged or destroyed items listed in the award letter.

The conditions engendered by a disaster, particularly a catastrophic disaster, result in many errors in FEMA inspection reports. Therefore, whenever possible, advocates should advise disaster victims to take photographs of the damage to their homes or personal property. In cases of disagreement with the inspection report, the applicant should support an appeal with photographs as well as sworn statements from landlords, neighbors, or friends regarding the extent of the damage.

***c. Types of Assistance.***

"Other Needs" grants are available in any amount for which the applicant

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<sup>98/</sup> 44 C.F.R. §206.119(a).

<sup>99/</sup> See 44 C.F.R. §206.119(a).

qualifies, so long as the \$25,000 maximum (adjusted for inflation) for all types of IHP assistance to an individual or household is not exceeded.<sup>100/</sup> Covered items include medical, dental and funeral expenses for disaster related injury or death, disaster related damage or destruction of personal property (including automobiles), and money for transportation and specific other expenses.<sup>101/</sup>

*(i) Medical and Dental Expenses.* Medical expenses are generally limited to medical costs, dental costs and repair or replacement of medical equipment.<sup>102/</sup>

*(ii) Funeral Expenses.* This coverage is generally limited to the cost of funeral services, burial or cremation and other related funeral expenses.<sup>103/</sup>

*(iii) Repair or Replacement of Personal Property.* This assistance is generally limited to coverage of (1) clothing, (2) household items, furnishings and appliances, (3) tools, specialized or protective clothing, and equipment required by an employer as a condition of employment,<sup>104/</sup> (4) computers, uniforms, school books and supplies required for educational purposes, and (5) cleaning or sanitizing eligible personal property items.<sup>105/</sup>

*(iv) Transportation.* This coverage is generally limited to repairing or replacing vehicles and financial assistance for public transportation and any other

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<sup>100/</sup> 42 U.S.C. §5174(h); 44 C.F.R. §206.110(b).

<sup>101/</sup> 44 C.F.R. §206.119(b)(1), (2).

<sup>102/</sup> 44 C.F.R. §206.119(c)(3).

<sup>103/</sup> 44 C.F.R. §206.119(c)(4).

<sup>104/</sup> This assistance is not available to a self-employed applicant, 44 C.F.R. §206.113(b)(9), who will need to rely instead on an SBA disaster loan.

<sup>105/</sup> 44 C.F.R. §206.119(c)(1).

transportation related costs or services.<sup>106/</sup>

(v) *Other Expenses*. This category includes (1) moving and storage expenses to avoid additional disaster damage, (2) purchase of a Group Flood Insurance Policy, and (3) other miscellaneous items or services determined to be necessary expenses and serious needs.<sup>107/</sup>

### **3. IHP APPEALS**

Any decision regarding eligibility for assistance or its amount may be appealed within 60 days after the applicant receives notice of the decision.<sup>108/</sup> In addition to denials and insufficient awards, appealable decisions include recoupment of assistance, denial of continued housing assistance, termination of direct housing assistance, denial of a request to purchase a FEMA housing unit, and the sale price of a FEMA housing unit.<sup>109/</sup> The appeal must be in writing and signed by the appellant or his/her representative.<sup>110/</sup> Applicants or their representatives may request copies of their files.<sup>111/</sup> FEMA must issue a decision within 90 days of receipt of the notice of appeal.<sup>112/</sup>

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<sup>106/</sup> 44 C.F.R. §206.119(c)(2).

<sup>107/</sup> 44 C.F.R. §206.119(c)(5), (6).

<sup>108/</sup> 42 U.S.C. §5189a; 44 C.F.R. §206.115(a).

<sup>109/</sup> 44 C.F.R. §206.115(a)(1)-(9).

<sup>110/</sup> 44 C.F.R. §206.115(b). If the appeal is filed by a representative, the applicant must submit a signed statement authorizing the representation. *Id.*

<sup>111/</sup> 44 C.F.R. §206.115(d). If the request is filed by a representative, the applicant must submit a signed statement authorizing the representation. *Id.*

<sup>112/</sup> 42 U.S.C. §5189a(b); 44 C.F.R. §206.115(f).

FEMA's decision is final.<sup>113/</sup>

If the State administers the "Other Needs" portion of the IHP program, the State Administrative Plan (SAP) is required to set forth the state's procedures for interacting with applicants, including procedures for appeals by applicants.<sup>114</sup> At a minimum, the state must consider appeals on all issues which FEMA is required to consider.<sup>115/</sup>

#### **4. ADVOCACY ISSUES**

##### ***a. Availability of Rental Housing: The Need for Direct Assistance.***

When massive destruction creates a situation in which there is no housing available to rent, rental assistance is not a useful form of assistance. In this situation, FEMA is authorized to provide mobile homes, travel trailers or other manufactured housing units to people who "lack available housing resources"<sup>116/</sup> and would be "unable to make use of" rental assistance.<sup>117/</sup> Therefore, after a catastrophic disaster, advocates should begin assessing the availability of intact rental units right away, and begin to urge that mobile homes be provided as soon as it is apparent that rental property is not

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<sup>113/</sup> 44 C.F.R. §206.115(f).

<sup>114/</sup> 44 C.F.R. §206.115(d)(3)(viii).

<sup>115/</sup> *Id.*

<sup>116/</sup> "Alternate housing resources" is defined as "housing that is available or can quickly be made available in lieu of permanent housing construction and is cost-effective when compared to permanent construction costs. Some examples are rental resources, mobile homes and travel trailers." 44 C.F.R. §206.111.

"Adequate, alternate housing" is defined as "housing that accommodates the needs of the occupants; is within the normal commuting patterns of the area or is within reasonable commuting distance of work, school, or agricultural activities that provide over 50 percent of the household income; and is within the financial ability of the occupant." 44 C.F.R. §206.111.

"Reasonable commuting distance" is defined as "a distance that does not place undue hardship on an applicant." 44 C.F.R. §206.111.

<sup>117/</sup> 44 C.F.R. §206.117(b)(1)(ii).

available. Time is particularly of the essence because FEMA may deny mobile homes to applicants who have previously received rental assistance, but if an applicant refuses rental assistance, s/he may be denied all housing assistance.<sup>118/</sup>

FEMA may also fail to provide or adequately disseminate information on the availability of mobile homes and how to obtain them, especially among the low-income community. This may be information that mobile homes are available or information on the criteria being used to determine eligibility for them. Advocates should urge FEMA to provide adequate information to disaster-affected populations as to the availability of mobile homes and the eligibility criteria for obtaining them. Legal aid programs may also want to disseminate this information themselves through flyers or public service announcements.

***b. Implementation of the “Household” Rule: The “Head of Household” Issue.***

FEMA provides assistance to “households,” which consists of all the people “who lived in the pre-disaster residence who request assistance,” as well as people “expected to return during the assistance period.”<sup>119/</sup> FEMA typically issues one check in the name of the “head of household” and/or one mobile home per pre-disaster household.<sup>120/</sup> If the person whom FEMA has determined to be the “head of household” fails to share the assistance, other household members are effectively denied all IHP

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<sup>118/</sup> 44 C.F.R. §206.110(c). In order to deny all housing assistance because of a refusal of the first offer, FEMA must also find that the refusal was unwarranted. *Id.*

<sup>119/</sup> 44 C.F.R. §206.111.

<sup>120/</sup> 44 C.F.R. §206.117(b)(1)(i)(A).

assistance.<sup>121/</sup> Since many very low-income people share housing in order to be able to afford it, this can result in some disaster victims receiving no assistance. For instance, if two families are sharing a two-bedroom pre-disaster dwelling, one family may apply for disaster benefits and be granted housing assistance for a two bedroom apartment in the form of a check for several months rent. When the second family applies, they will ordinarily be denied because assistance has already been provided to the first family.<sup>122/</sup>

However, FEMA regulations also allow the Regional Director to determine that “the size or nature of the household requires” that FEMA provide assistance for more than one residence.<sup>123/</sup> Legal aid advocates can therefore serve an important function by alerting FEMA during the early stages of disaster recovery to the prevalence of shared housing situations among members of the low-income community. If FEMA is aware of these shared housing situations at the time it determines the type and amount of assistance, it may either issue a check in the names of all adults in the household, separate checks for each family or individual, or mobile homes to each, depending on the size or nature of the household.

If FEMA denies assistance to an individual or household in a shared housing situation, legal representatives can nevertheless advocate for their coverage, by showing that their clients did not receive the assistance provided to the “head of the

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<sup>121/</sup> The initial determination of who is the “head of household” of a particular dwelling unit is made by the FEMA inspector who visits the applicant’s pre-disaster dwelling to assess the extent of damage; it is generally based on who has the legal obligation to pay the rent or mortgage for the dwelling.

<sup>122/</sup> A similar situation can occur if several unrelated individuals are sharing a small rental unit, and FEMA issues a check to one of them. Another situation in which one disaster victim may be denied assistance while another gets more than s/he is entitled to involves a couple that splits up after the disaster.

<sup>123/</sup> 44 C.F.R. §206.117(b)(1)(i)(A).

household” through no fault of their own. After Hurricane Andrew in 1992 and the institution of the *Locket v. FEMA* litigation,<sup>124/</sup> FEMA gave disaster housing assistance to applicants who were previously denied if they could show either that: (1) the head of household used the assistance to obtain housing that was too small to accommodate the applicant or too far from the applicant’s work or school or (2) the head of household’s whereabouts were not known to the applicant.

***c. Termination of Mobile Home Assistance***

If FEMA determines that a disaster victim is ineligible for a mobile home after the victim has already been placed in the mobile home, the victim is entitled to the substantive and procedural protections outlined under federal regulations.<sup>125/</sup> The tenant must be given 15 days’ notice of the termination of the lease agreement<sup>126/</sup> and has a right to appeal the decision within 60 days of such notice.<sup>127/</sup> The eviction notice must specify the reasons for termination, the date of termination, the procedure for appealing, and the occupant’s liability for additional charges after the termination date.<sup>128/</sup> The occupant may ask for a copy of the information in his or her file.<sup>129/</sup>

FEMA can terminate leases or other direct mobile home assistance for reasons that include, but are not limited to (1) The 18 month period of assistance has expired

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<sup>124/</sup> 836 F.Supp. 847 (S.D. Fla. 1993).

<sup>125/</sup> 44 C.F.R. §§206.117(b)(1)(ii)(G),(H); 206.115(a)(7).

<sup>126/</sup> 44 C.F.R. §206.117(b)(1)(ii)(H).

<sup>127/</sup> 44 C.F.R. §206.115(a)(7).

<sup>128/</sup> 44 C.F.R. §206.117(b)(1)(ii)(H).

<sup>129/</sup> 44 C.F.R. §206.115(d).

and not been extended; (2) Adequate alternative housing has become available;<sup>130/</sup> (3) The occupant obtained the housing assistance through fraud or misrepresentation; (4) The occupant failed to comply with the lease or other site rules; (5) The occupant failed to provide evidence showing that s/he is working towards a permanent housing plan.<sup>131/</sup>

In addition to requiring FEMA to abide by its own procedural and substantive rules regarding eviction, the advocate should also insist that FEMA must also follow applicable state law and obtain an order from a court of competent jurisdiction in order to legally evict a tenant from a mobile home.

#### ***d. Recoupment Issues***

After an initial phase of awarding benefits, FEMA begins an extensive process of review of the grants it has awarded in order to determine if recipients were eligible. If it determines that an applicant was ineligible, FEMA initiates recoupment procedures. Under these procedures, FEMA staff make ample use of letters and telephone calls to pressure recipients to enter into repayment agreements.<sup>132/</sup> This can be very intimidating to low-income people, especially among the elderly and newly arrived immigrants. Such people may enter into repayment agreements despite valid defenses or the availability of debt forgiveness. Advocates should warn disaster-assistance recipients not to enter into repayment agreements without consulting an

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<sup>130/</sup> “Adequate alternate housing” is defined as “housing that accommodates the needs of the occupants; is within the normal commuting patterns of the area or is within reasonable commuting distance of work, school, or agricultural activities that provide over 50 percent of the household income; and is within the financial ability of the occupant.” 44 C.F.R., §206.111.

<sup>131/</sup> 44 C.F.R. §206.117(b)(1)(ii)(G).

<sup>132/</sup> 44 C.F.R. §11.42.

attorney. It may also be necessary for advocates to advise FEMA staff not to initiate contact with represented recipients.

If recoupment is based on the disaster victim receiving a rental-assistance check initially and later receiving a mobile home, the advocate may be able to argue that disaster victims should not be penalized for their having been erroneously given a rental check when no rental housing was actually available. If recoupment is based on FEMA erroneously providing two rental-assistance checks, the advocate may be able to establish that the recipient required continued assistance beyond the initial eligibility period.

FEMA regulations also allow for the termination of collection actions if no substantial recovery is possible, the debtor cannot be located, the cost of collection will exceed the recovery, the claim is legally without merit, or the claim cannot be substantiated by evidence.<sup>133/</sup> Finally, the advocate should argue statutory immunities such as the general prohibition against alienation of social security and SSI benefits.<sup>134/</sup>

### **E. SBA DISASTER LOANS**

The Disaster Loan Program is administered by the Small Business Administration (SBA), in coordination with FEMA.<sup>135/</sup> Three types of SBA loans may be made available following a declaration of disaster: disaster home loans, business disaster loans, and economic injury disaster loans.<sup>136/</sup> Disaster home loans are available to individuals,

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<sup>133/</sup> 44 C.F.R. §11.51(b).

<sup>134/</sup> 42 U.S.C. §§407, 1383(d).

<sup>135/</sup> 15 U.S.C. §636(b); 13 C.F.R. Part 123.

<sup>136/</sup> 13 C.F.R. §123.5.

whereas business disaster loans and economic injury loans are provided to businesses. This article addresses disaster home loans only. SBA disaster home loans are available to disaster victims whenever the disaster declaration authorizes IHP Assistance.<sup>137/</sup> Such loans can be used to repair or replace uninsured or under-insured privately owned real or personal property damaged or destroyed as a result of the disaster.<sup>138/</sup>

## **1. Application Process**

When someone applies for disaster benefits, FEMA makes an initial “desk determination” of the applicant’s eligibility for an SBA loan based on income and family size. Applicants who are “desk denied” (their FEMA application states that an SBA application has been refused) are automatically referred for a grant from the “Other Needs” portion of the IHP program. Although applicants who are desk denied may nevertheless submit applications for SBA loans, doing so will delay their consideration for IHP “Other Needs” assistance.<sup>139/</sup>

Applicants who are not summarily determined ineligible for an SBA loan are given an SBA loan application packet that must be completed and returned to SBA before the published deadline. SBA applications submitted after the deadline will be accepted only if SBA determines that the late filing is due to “substantial causes” beyond the applicant’s control.<sup>140/</sup>

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<sup>137/</sup> 13 C.F.R. §123.3(1)

<sup>138/</sup> 15 U.S.C. §636(b)(1); 13 C.F.R. §123.2.

<sup>139/</sup> 44 C.F.R. §206.119(a).

<sup>140/</sup> 13 C.F.R. §123.3(b). SBA publishes a notice of the disaster declaration, including the kinds of assistance available, the date of the disaster, and the deadline and location for filing loan applications in the Federal Register. *Id.*

Applicants who relocate after a disaster are responsible for insuring that SBA is informed of their current address and telephone number. Applicants should file promptly with SBA because SBA will not verify the loss until after the application is received, and delays may make verification of loss difficult. If SBA is unable to conduct a verification or cannot reach an applicant, the application will be denied, no benefits will be disbursed, and the applicant's case will not be referred to the "Other Needs" portion of the IHP program for consideration of a grant. This situation can be corrected by requesting a reconsideration in writing.<sup>141/</sup>

## **2. Eligibility**

Loans are available to repair or replace primary residences or personal property.<sup>142/</sup> An applicant must establish (1) a verifiable disaster-related physical loss to personal or real property owned by the applicant, (2) that is not covered by insurance, and (3) the ability to repay a loan.<sup>143/</sup> A completed application received by SBA is reviewed by a loan officer to determine if the individual is able to repay a loan and, if so, the amount of the loan and the terms that should be offered. Age is not a factor in determining eligibility for an SBA loan, but the applicant must be an adult.<sup>144/</sup>

Loans for the repair or replacement of real property may be made only to

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<sup>141/</sup> 13 C.F.R. §123.13. A request for reconsideration must be received by the SBA office that declined the original application within six months of the date of the declined notice. *Id.*

<sup>142/</sup> 13 C.F.R. §123.7.

<sup>143/</sup> 13 C.F.R. §§123.6, 123.100.

<sup>144/</sup> 15 U.S.C. §636c.

homeowners, and beneficial owners.<sup>145/</sup> Home disaster loans may not be used to repair or replace a secondary home.<sup>146/</sup> Individuals living in a disaster-damaged dwelling who are not dependents of the owner-occupant may qualify for personal property loans.<sup>147/</sup> Such loans may not be used to repair or replace a vehicle of a type normally used for recreational purposes.<sup>148/</sup>

### **3. Other Requirements**

Flood insurance is required for all loans made for the repair or replacement of property located in a flood zone.<sup>149/</sup> In addition, the SBA loan authorization generally requires applicants for home-repair loans to carry homeowner's insurance as a condition of receipt. However, both of these requirements can be relaxed by SBA in accordance with the applicant's circumstances and the conditions following the disaster.

### **4. Amount of Loans**

A loan for repair or replacement of household or personal effects may not exceed \$40,000.<sup>150/</sup> A loan for repair or replacement of a primary residence may not exceed \$200,000.<sup>151/</sup> SBA does not require collateral for home loans of \$10,000 or less. For loans larger than this amount, the applicant must provide a lien on the damaged or

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<sup>145/</sup> 13 C.F.R. §123.100(b).

<sup>146/</sup> 13 C.F.R. §123.101.

<sup>147/</sup> 13 C.F.R. §123.100(a)(2).

<sup>148/</sup> 13 C.F.R. §123.101(f).

<sup>149/</sup> 13 C.F.R. §123.17.

<sup>150/</sup> 13 C.F.R. §123.105(a)(1).

<sup>151/</sup> 13 C.F.R. §123.105(a)(2).

replacement property and/or a security interest in personal property.<sup>152/</sup>

## **5. Terms of Loans**

Home disaster loans may be granted for up to 30 years and may cover 100 percent of the verified loss, subject to the applicable limit of \$200,000.<sup>153/</sup> Loan interest rates are established by regulation, and are lower for applicants who cannot obtain credit elsewhere.<sup>154/</sup> SBA determines each applicant's loan maturity and installment terms based on the borrower's needs and ability to pay.<sup>155/</sup> Monthly installment payments beginning five months after the signing of the note are usual, but variations in these terms may be arranged.<sup>156/</sup> Payment amounts may be modified if the economic conditions of the borrower change. There is no penalty for prepayment of a loan.<sup>157/</sup>

## **6. Misapplication of Funds**

In order to verify that loan proceeds are used in accordance with their stated purpose, SBA requires borrowers to save receipts for a period of three years from the date of last disbursement.<sup>158/</sup> Willful use, without SBA approval, of any part of an SBA loan in a manner contrary to the loan authorization and agreement subjects the borrower to a fine in the amount of one and one-half times the original

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<sup>152/</sup> 13 C.F.R. §123.11.

<sup>153/</sup> 13 C.F.R. §123.105(a),(c).

<sup>154/</sup> 13 C.F.R. §123.104.

<sup>155/</sup> 13 C.F.R. §123.105(c).

<sup>156/</sup> *Id.*

<sup>157/</sup> 13 C.F.R. §123.105(c).

<sup>158/</sup> 13 C.F.R. §123.12.

principal amount.<sup>159/</sup>

## **7. Advocacy Issues**

### ***a. Refusal or Rescission of an SBA Loan***

An eligible applicant who refuses an SBA loan will be precluded from obtaining an “Other Needs” award from the IHP program.<sup>160/</sup> Applicants who believe they should be found ineligible for an SBA loan because of inability to repay the loan should ask the SBA to reconsider and establish that the award of the loan was a mistake by showing that their income is offset by high debt and existing obligations. Even applicants who have already signed an SBA loan agreement may be allowed to rescind their agreement if they were required to pledge collateral for their loan.<sup>161/</sup> Such applicants may then be found ineligible by the SBA program and referred to the “Other Needs” portion of the IHP program on the condition that they agree to repay any portion of the SBA loan they have expended with the IHP award.

### ***b. Need for Both SBA Loan and IHP Other Needs Assistance***

Disaster victims may qualify for both an SBA loan and an “Other Needs” IHP grant by showing that they continue to have “unmet needs” after receiving the maximum SBA loan for which they are eligible.<sup>162/</sup> Unmet needs must be documented and presented to SBA for review. SBA may certify the amount of the individual’s unmet needs and refer the case to the IHP “Other Needs” program for award of a grant.

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<sup>159/</sup> 13 C.F.R. §123.9.

<sup>160/</sup> 44 C.F.R. §206.119(a).

<sup>161/</sup> 13 C.F.R. §123.15.

<sup>162/</sup> 44 C.F.R. §206.119(a)(3).

***c. Modification of the Terms of the Loan***

Borrowers whose economic circumstances change may request that SBA modify the terms of a loan by extending the life of the loan or decreasing the amount of the monthly payments.<sup>163/</sup> Borrowers may obtain an increase in the amount of their loan within two years of approval by showing that the cost of repair or replacement increased after loan approval due to circumstances beyond their control.<sup>164/</sup> Borrowers who wish to use a loan for a purpose different from that originally authorized may request modification of the purpose of a loan, subject to the limitation that physical home disaster loans must be used to restore or replace the applicant's disaster-damaged primary home and/or personal property.<sup>165/</sup>

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<sup>163/</sup> 13 C.F.R. §123.16(b).

<sup>164/</sup> 13 C.F.R. §§123.18, 123.20.

<sup>165/</sup> 13 C.F.R. §123.7.

**DATE: March 2, 1998**

**Response and Recovery Directorate Policy No. 4430.140 C**

**TITLE:** Policy on Verification of Citizenship, Qualified Alien Status and Eligibility for Disaster Assistance.

**PURPOSE:** To provide guidance for implementing Title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, P.L. 104-193.

**SCOPE and AUDIENCE:** This policy prescribes a process to effectively comply with the intent of Congress to prohibit providing a "federal public benefit" to persons who are not United States citizens, non-citizen nationals, or "qualified aliens." It is to be applied to all disasters declared on or after February 28, 1998. All FEMA Regional Offices, National Processing Service Centers, and Disaster Field Offices are expected to follow this policy.

**DESCRIPTION:** When Congress passed the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, P.L. 104-193, Title IV of the Act requires that federal public benefits only be provided to United States citizens, non-citizen nationals, and qualified aliens. Under the Act, specific sections of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, P.L. 93-288, as amended, are considered federal public benefits. The following policy outlines FEMA's compliance with Title IV of P.L. 104-193.

**PROCEDURES:** The Federal Emergency Management Agency (FEMA) will implement new policy and procedures to comply with the requirements of Title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (the "Act"), P.L. 104-193, as amended by the Illegal Immigration Reform and Immigration Responsibility Act of 1996 (IIRAIRA), P.L. 104-208, which amended the Immigration and Nationality Act (INA).

Effective for all disasters declared on or after February 28, 1998, this new policy will replace the October 18, 1995, Response and Recovery Procedure No. 4430.140 C, Prohibition of Assistance to Those Not Lawfully in the United States.

The Act provides that, with certain exceptions, only United States citizens, United States non-citizen nationals and "qualified aliens" (and sometimes only particular categories of qualified aliens) are eligible for federal, state, and local public benefit. Additionally, the Act requires the Attorney General, by February of 1998, to promulgate final regulations requiring verification that an applicant is a qualified alien eligible to receive federal public benefits under the Act.

As FEMA must adhere to new standards with this Act, "qualified alien" and "federal public benefit," in the provision of disaster assistance, the Individual and Family Grant (IFG) program is now subject to Title IV. With this Act, a State is **not** permitted to provide the IFG program, a federal public benefit, to persons who are not U. S. citizens, non-citizen nationals, or qualified aliens. A **federal public benefit** is defined as:

Any grant, contract, loan, professional license, or commercial license provided by an agency of the United States or by appropriated funds of the United States; or

Any retirement, welfare, health disability, public or assisted housing, post-secondary education, food assistance, unemployment benefits, or any similar benefit for which payments or assistance are provided to an individual, household, or family eligibility unit by an agency of the United States or by appropriated funds of the United States.

Under the previous Supplemental Appropriations of 1994 and 1995, "lawfully present in the United States" was the standard and it was permissible for a State to provide IFG assistance to persons not lawfully present in the United States.

The Act's verification requirement **does not** apply to short-term, non-cash, in-kind emergency disaster relief. FEMA has interpreted this to mean programs that provide for: search and rescue; emergency medical care; emergency mass care; emergency shelter; clearance of roads and construction of temporary bridges necessary to the performance of emergency tasks and essential community services; warning of further risk or hazards; dissemination of public information and assistance regarding health and safety measures; provision of food, water, medicine, and other essential needs, including movement of supplies or persons; or reduction of immediate threats to life, property, and public health and safety.

The Act's verification requirement **does apply**, as these programs meet the definition of a federal public benefit, to the following programs of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, P.L. 93-288, as amended:

- Section 408, Temporary Housing Assistance
- Section 410, Unemployment Assistance
- Section 411, Individual and Family Grant Programs
- Section 412, Food Coupons and Distribution

All applicants who apply for assistance under Section 408, Temporary Housing Assistance, and Section 411, Individual and Family Grant (IFG) Programs, must sign the Declaration of Applicant, see attached revised FEMA Form 90-69D, and provide a form of identification prior to the receipt of such assistance.

All applicants who apply for assistance under Section 410, Unemployment Assistance, and Section 412, Food Coupons and Distribution, will be required to adhere to the policies developed by the agencies administering the programs for compliance with this Act.

Whether applications are taken by phone or in person, the person taking the application is responsible for informing the applicant of the Declaration of Applicant requirement. The application taker is to inform the applicant that, at the time of the FEMA inspection, FEMA will require the applicant, or another adult who resides in the same damaged structure and lived in the structure at the time of the disaster, to sign FEMA Form 90-69 D. Additionally, the person taking the application is to further explain that no FEMA Disaster Housing and/or IFG assistance will be provided unless FEMA Form 90-69D is signed.

By signing the 90-69D, the signer attests to his or her being a United States citizen, a non-citizen national, or a qualified alien in the United States. The signer is also to provide the FEMA inspector with a form of identification to confirm his or her identity.

To assure that all applicants have signed the Declaration of Applicant prior to receipt of assistance, the FEMA housing inspector, at the time of the FEMA housing inspection, will have the applicant, or another adult who resides in the same damaged structure and lived in the structure at the time of the disaster, sign the FEMA Form 90-69D and present a form of identification. The FEMA inspector will obtain the signature on FEMA Form 90-69D when the individual traditionally signs the Applicant Statement/Authorization, FEMA Form 90-69B.

NOTE: In cases where an applicant is applying for IFG assistance from any category that does not require a FEMA inspection, it will be the responsibility of the State administering the IFG program to send the applicant a FEMA Form 90-69D. The State must be in receipt of the signed Declaration of Applicant, and a copy of an identity document from the applicant, prior to disbursing any funds for IFG eligible items.

In cases where an applicant is applying for assistance from a category that does require a FEMA inspection and the applicant applies for IFG assistance from any category that does not require a FEMA inspection, both the State and FEMA will be responsible for obtaining a signed FEMA Form 90-69D in accordance with the above procedure.

The Declaration of Applicant is printed on three-ply paper. The FEMA inspector is responsible for writing the FEMA Control Number and Disaster Number on the 90-69D. Once signed, one copy is provided to the person providing the signature, one copy is for the inspector's records, and the inspector forwards one copy to the NPSC processing the

disaster. Regardless of whether the applicant signs the 90-69D or does not sign the 90-69D, the FEMA inspector is to complete the inspection.

If the applicant refuses to sign the Declaration of Applicant, the FEMA inspector indicates in the comments section of the Automated Construction Estimating (ACE) system that no FEMA Form 90-69D was signed by using **"NO SELF D"** in the comments section of ACE and will identify this inspection for ACE Host Review.

When the FEMA inspector up-loads the inspections to the NPSC, all FEMA inspections which do not have a signed 90-69D, are identified and withdrawn so that no further processing occurs.

Once the names and FEMA Control Numbers of applicants who have not signed the Declaration of Applicant have been identified and withdrawn, the NPSC Computer Operations Department (COPS) provides this information to the 403 Audit Department in the NPSC.

The 403 Audit Department will then attempt to contact the applicant, by phone, and inform him or her that no FEMA Disaster Housing and/or IFG assistance will be provided unless the Declaration of Applicant is signed. After the applicant signs the 90-69D and the NPSC is in receipt of the form, and a copy of an identity document from the applicant, his or her application for assistance will be reinstated.

For each disaster declared on or after February 28, 1998, the universe list of applicants to be sampled is run sixty (60) days from the last day of the application period. Shortly after the sixtieth (60<sup>th</sup>) day, the disaster will be audited using the existing 403 Audit Procedures.

Title IV of the Act prohibits FEMA from providing a federal public benefit to persons who are not U.S. citizens, U.S. non-citizen nationals, or qualified aliens. An identity document and a signed 90-69D are sufficient for the purpose of providing a federal public benefit.

The following are definitions and documentary evidence for these categories. When an applicant has been randomly selected for audit, documentary evidence, for these categories, is provided by an applicant, to the 403 Audit Department of a NPSC, to prove he or she is a U.S. citizen, a non-citizen national, or a qualified alien.

### **UNITED STATES CITIZEN OR NON-CITIZEN NATIONAL DEFINITION**

- A person (other than the child of a foreign diplomat) born in one of the 50 States or in the District of Columbia, Puerto Rico, Guam, the U.S. Virgin Islands, or the Northern Mariana Islands who has not renounced or otherwise lost his or her citizenship;
- A person born outside of the United States to at least one U.S. citizen parent (sometimes referred to as a "derivative citizen");
- A naturalized U.S. citizen; or
- As a general matter, a United States non-citizen national is a person born in an outlying possession of the United States (American Samoa or Swain's Island) on or after the date the U.S. acquired the possession, or a person whose parents are U.S. non-citizen nationals (subject to certain residency requirements).

### **UNITED STATES CITIZEN OR NON-CITIZEN NATIONAL DOCUMENTARY EVIDENCE OF STATUS**

NOTE: The document(s) listed below will, when combined with satisfactory proof of identity, (which will come from the document itself if it bears a photograph of the person to whom it relates), establish that an applicant is a U.S. citizen or non-citizen national for the purposes of the Act, as amended by the Illegal Immigration Reform and Immigration Responsibility Act of 1996 (IIRAIRA).

#### **PRIMARY EVIDENCE:**

- A birth certificate showing birth in one of the 50 States the District of Columbia, Puerto Rico (on or after January 13, 1941), Guam, the U.S. Virgin Islands (on or after January 17, 1917), American Samoa, Swain's Island or the Northern Mariana Islands, unless the person was born to foreign diplomats residing in such a jurisdiction. NOTE: If documents show that the individual was born in Puerto Rico, the U.S. Virgin Islands or the Northern Mariana Islands before these areas became part of the U.S., the individual may be a collectively naturalized citizen)
- United States passport (except limited passports, which are issued for periods of less than five years);
- Report of birth abroad of a U.S. citizen (FS-240) (issued by the Department of State to U.S. citizens);
- Certificate of birth (FS-545) (issued by a foreign service post) or a Certification of Report of Birth (DS-1350) (issued by the Department of State), copies of which are available from the Department of State);

- Certificate of Naturalization (N-550 or N-570) (issued by the Immigration and Naturalization Service (INS) through a Federal or State court, or through administrative naturalization after December 1990 to individuals who are individually naturalized; the N-570 is a replacement certificate issued when the N-550 has been lost or mutilated or the individual's name has changed);
- Certificate of Citizenship (N-560 or N-561) (issued by the INS to individuals who derive U.S. citizenship through a parent; the N-561 is a replacement certificate issued when the N-560 has been lost or mutilated or the individual's name has changed);
- United States Citizen Identification Card (I-197) (issued by the INS until April 7, 1983 to U.S. citizens living near the Canadian border or Mexican border who need it for frequent border crossings) (formerly Form I-179, last issued in February of 1974);
- Northern Mariana Identification Card (issued by the INS to collectively naturalized citizens of the U.S. who was born in the Northern Mariana Islands before November 3, 1986);
- Statement provided by a U.S. consular officer certifying that the individual is a U.S. citizen (this is given to an individual born outside the U.S. who derives citizenship through a parent but does not have an FS-240, FS-545 or DS-1350; or
- American Indian Card with a classification code "KIC" and a statement on the back (identifying U.S. citizen members of the Texas Band of Kickapoos living near the U.S./Mexican border).

#### SECONDARY EVIDENCE:

NOTE: If the applicant cannot present one of the documents previously mentioned under PRIMARY EVIDENCE, the following may be relied upon to establish U.S. citizenship or nationality:

- Religious record recorded in one of the 50 States, the District of Columbia, Puerto Rico (on or after January 13, 1941), Guam, the U.S. Virgin Islands (on or after January 17, 1917), American Samoa, Swain's Island or the Northern Mariana Islands (unless the person was born to foreign diplomats residing in such a jurisdiction) within three months after birth showing that the birth occurred in such jurisdiction and the date of birth or the individual's age at the time the record was made;
- Evidence of civil service employment by the U.S. government before June 1, 1976;
- Early school records (preferably from the first school) showing the date of admission to the school, the child's date and place of birth, and the name(s) and place(s) of birth of the parent(s);

- Census record showing name, U.S. citizenship or U.S. place of birth, and date of birth or age of applicant;
- Adoption Finalization Papers showing the child's name and place of birth in one of the 50 States, the District of Columbia, Puerto Rico (on or after January 13, 1941), Guam, the U.S. Virgin Islands (on or after January 17, 1917), American Samoa, Swain's Island or the Northern Mariana Islands (unless the person was born to foreign diplomats residing in such a jurisdiction) or, where an adoption is not finalized and the State or other jurisdiction listed above in which the child was born will not release a birth certificate prior to final adoption, a statement from a state-approved adoption agency showing the child's name and place of birth in one of such jurisdictions (NOTE: the source of the information must be an original birth certificate and must be indicated in the statement); or
- Any other document that establishes a U.S. place of birth or in some way indicates U.S. citizenship (e.g., a contemporaneous hospital record of birth in that hospital in one of the 50 States, the District of Columbia, Puerto Rico (on or after January 13, 1941), Guam, the U.S. Virgin Islands (on or after January 17, 1917), American Samoa, Swain's Island or the Northern Mariana Islands (unless the person was born to foreign diplomats residing in such a jurisdiction)).

#### COLLECTIVE NATURALIZATION:

NOTE: If the applicant cannot present one of the documents listed under PRIMARY or SECONDARY EVIDENCE, the following will establish U.S. citizenship for collectively naturalized individuals.

#### (PUERTO RICO)

- Evidence of birth in Puerto Rico on or after April 11, 1899, and the applicant's statement that he or she was residing in the U.S., a U.S. possession or Puerto Rico on January 13, 1941; or
- Evidence that the applicant was a Puerto Rican citizen and the applicant's statement that he or she was residing in Puerto Rico on March 1, 1917, and that he or she did not take an oath of allegiance to Spain.

#### (U.S. VIRGIN ISLANDS)

- Evidence of birth in the U.S. Virgin Islands, and the applicant's statement of residence in the U.S., a U.S. possession or the U.S. Virgin Islands on February 25, 1927;
- The applicant's statement indicating residence in the U. S. Virgin Islands as a Danish citizen on January 17, 1917, and residence in the U.S., a U.S. possession or the U.S.

Virgin Islands on February 25, 1927, and that he or she did not make a declaration to maintain Danish citizenship; or

- Evidence of birth in the U.S. Virgin Islands and the applicant's statement indicating residence in the U.S., a U.S. possession or territory or the Canal Zone on June 28, 1932.

(NORTHERN MARIANA ISLANDS) (NMI) (formerly part of the Trust Territory of the Pacific Islands (TTPI):

- Evidence of birth in the NMI, TTPI citizenship and residence in the NMI, the U.S., or a U.S. territory or possession on November 3, 1986, (NMI local time) and the applicant's statement that he or she did not owe allegiance to a foreign state on November 4, 1986, (NMI local time);
- Evidence of TTPI citizenship, continuous residence in the NMI since before November 3, 1981, (NMI local time), voter registration prior to January 1, 1975, and the applicant's statement that he or she did not owe allegiance to a foreign state on November 4, 1986, (NMI local time); or
- Evidence of continuous domicile in the NMI since before January 1, 1974, and the applicant's statement that he or she did not owe allegiance to a foreign state on November 4, 1986, (NMI local time).

NOTE: If a person entered the NMI as a nonimmigrant and lived in the NMI since January 1, 1974, this does not constitute continuous domicile and the individual is not a U.S. citizen.

#### DERIVATIVE CITIZENSHIP:

NOTE: If the applicant cannot present one of the documents previously mentioned under PRIMARY EVIDENCE, SECONDARY EVIDENCE, or COLLECTIVE NATURALIZATION, the following may be relied upon to determine derivative U.S. citizenship in the following situations:

- Applicant born abroad to two U.S. citizen parents: Evidence of the U.S. citizenship of the parents and the relationship of the applicant to the parents, and evidence that at least one parent resided in the U.S. or an outlying possession prior to the applicant's birth.
- Applicant born abroad to a U.S. citizen parent and a U.S. non-citizen national parent: Evidence that one parent is a U.S. citizen and that the other is a U.S. non-citizen national, evidence of relationship of the applicant to the U.S. citizen parent, and evidence that the U.S. citizen parent resided in the U.S., a U.S. possession, American Samoa or Swain's Island for a period of at least one year prior to the applicant's birth.

- Applicant born out of wedlock abroad to a U. S. citizen mother: Evidence of the U.S. citizenship of the mother, evidence of the relationship to the applicant and, for births on or before December 24, 1952, evidence that the mother resided in the U.S. prior to the applicant's birth or, for births after December 24, 1952, evidence that the mother had resided, prior to the child's birth, in the U.S. or U.S. possession for a period of one year.
- Applicant born in the Canal Zone or the Republic of Panama: A birth certificate showing birth in the Canal Zone on or after February 26, 1904 and before October 1, 1979 and evidence that one parent was a U.S. citizen at the time of the applicant's birth; or A birth certificate showing birth in the Republic of Panama on or after February 26, 1904 and before October 1, 1979 and evidence that at least one parent was a U.S. citizen and employed by the U.S. government or the Panama Railroad Company or its successor in title.

When an applicant claims to have U. S. citizenship or nationality and submits documents, but his or her claim or documents do not meet or fall within one of the categories of PRIMARY EVIDENCE, SECONDARY EVIDENCE, COLLECTIVE NATURALIZATION, or DERIVATIVE CITIZENSHIP, please consult the Human Services Division, Response and Recovery Directorate, at FEMA Headquarters, for appropriate determination or referral.

#### QUALIFIED ALIEN DEFINITION

- an alien admitted for permanent residence under the Immigration and Nationality Act ("INA");
- an alien granted asylum under § 208 of the INA;
- a refugee admitted to the U.S. under § 207 of the INA;
- an alien paroled into the U.S. under § 212 (d) (5) of the INA for at least one year;
- an alien whose deportation is being withheld under § 243 (h) of the INA as in effect prior to April 1, 1997, or whose removal is being withheld under § 241 (b) (3) of the INA;
- an alien granted conditional entry pursuant to § 203 (a) (7) of the INA as in effect prior to April 1, 1980;
- an alien who is a Cuban or Haitian entrant as defined in § 501 (e) of the Refugee Education Assistance Act of 1980; or
- an alien who (or whose child or parent) has been battered or subjected to extreme cruelty in the U.S. and otherwise satisfies the requirements of § 431 (c) of the Act.

## QUALIFIED ALIEN DOCUMENTARY EVIDENCE OF STATUS

NOTE: The document(s) listed below will, when combined with satisfactory proof of identity, (which will come from the document itself if it bears a photograph of the person to whom it relates), establish that an applicant falls within one of the categories of qualified alien for the purposes of the Act, as amended by the Illegal Immigration Reform and Immigration Responsibility Act of 1996 (IIRAIRA).

### ALIEN ADMITTED FOR PERMANENT RESIDENCE:

- INS Form I-551 (Alien Registration Receipt Card, commonly known as a "green Card"); or
- Unexpired Temporary I-551 stamp in foreign passport or on INS Form I-94.

### ASYLEE:

- INS Form I-94 annotated with stamp showing grant of asylum under § 208 of the INA;
- INS Form I-688B (Employment Authorization Card) annotated "274a.12(a)(5)"; or
- INS Form I-766 (Employment Authorization Document) annotated "A5";
- Grant letter from the Asylum Office of INS; or
- Order of an immigration judge granting asylum.

### REFUGEE:

- INS Form I-94 annotated with stamp showing admission under § 207 of the INA;
- INS FORM I-688B (Employment Authorization Card) annotated "274a.12(a)(3)";
- INS Form I-766 (Employment Authorization Document) annotated "A3"; or
- INS Form I-571 (Refugee Travel Document).

### ALIEN PAROLED INTO U.S. FOR AT LEAST ONE YEAR:

- INS Form I-94 with stamp showing admission for at least one year under §212(d)(5) of the INA. (Applicant cannot aggregate periods of admission for less than one year to meet the one-year requirement.)

**ALIEN WITH DEPORTATION OR REMOVAL WITHHELD:**

- INS Form I-688B (Employment Authorization Card) annotated "274a.12(a)(10)";
- INS Form I-766 (Employment Authorization Document) annotated "A10; or
- Order from an immigration judge showing deportation withheld under § 243(h) of the INA as in effect prior to April 1, 1997, or removal withheld under § 241(b)(3) of the INA.

**ALIEN GRANTED CONDITIONAL ENTRY:**

- INS Form I-94 with stamp showing admission under § 203(a)(7) of the INA;
- INS Form I-688B (Employment Authorization Card) annotated "274a.12(a)(3)"; or
- INS Form I-766 (Employment Authorization Document) annotated "A3."

**CUBAN/HAITIAN ENTRANT:**

- INS Form I-551 (Alien Registration Receipt Card, commonly known as a "green card") with the code CU6, CU7, CH6;
- Unexpired temporary I-551 stamp in foreign passport or on INS Form I-94 with the code CU6 or CU7; or
- INS Form I-94 with stamp showing parole as "Cuban/Haitian Entrant" under Section 212(d)(5) of the INA.

**ALIEN WHO HAS BEEN BATTERED OR SUBJECT TO EXTREME CRUELTY:**

NOTE: Certain categories of aliens who have been subjected to battery or extreme cruelty in the United States by a family member with whom they resided are qualified aliens eligible for federal public benefits under this Act. An alien whose child or an alien child whose parent has been abused is also a qualified alien.

INS guidance, for this category of qualified alien, is very extensive and will be provided on a case by case basis when the alien seeking such federal public benefits identifies his or her documentary evidence of status to be within this category and of this nature.

If an applicant has a disability limiting his or her ability to provide the required evidence of citizenship, nationality, or immigration status (e.g., mental retardation, amnesia, or other cognitive, mental or physical impairment), every effort should be made to assist the applicant to obtain the required evidence.

For additional information regarding the Title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, P.L. 104-193, please contact Marcia Hodges, of the Human Services Division at FEMA Headquarters, at 202-646-2653.

**KEY WORDS:** Prohibition of assistance; federal public benefit; qualified alien; Welfare Reform Act; 403 Audit; Declaration of Applicant, FEMA Form 90-69D

**SUPERSESSON:** Response and Recovery Directorate Procedure No. 4430.140 C, October 15, 1995

**AUTHORITIES:** Public Law 104-193, Title IV

**ORIGINATING OFFICER:** Human Services Division, R&R Directorate

**REVIEW DATE:** February 1, 2000

**SIGNATURE:** (signed) 03-02-98  
Lacy E. Suiter  
Executive Associate Director  
Response and Recovery Directorate

**DISTRIBUTION:** Human Services Officers: FEMA Regions I-X,  
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Executive Associate Director, Response and Recovery  
Directorate (2)  
Office of Emergency Information and Media Affairs  
Office of Congressional and Legislative Affairs  
Office of General Counsel  
Office of Inspector General

Attachment

## APPENDIX B

### OVERVIEW OF FEDERAL DISASTER MANAGEMENT

#### A. Declaration of an Emergency or Disaster

Both disaster assistance and emergency assistance under the Stafford Disaster Relief and Emergency Assistance Act (Stafford Act)<sup>1/</sup> are triggered by a Presidential Declaration. A Presidential Declaration of Emergency or Disaster is initiated by a request from the governor of the state in which the disaster has occurred.<sup>2/</sup>

##### 1. Disaster and Emergency Distinguished

A “major disaster” is a catastrophe that the President determines has caused damage of sufficient severity and magnitude to warrant federal disaster assistance to supplement state and local resources.<sup>3/</sup> The full range of disaster assistance under the Stafford Act may be made available if a disaster is declared.<sup>4/</sup> An “emergency” is generally declared by the President before a disaster occurs in order to help state and local governments prevent loss of life or property or lessen the impact of an impending catastrophe.<sup>5/</sup> Assistance authorized by an emergency declaration is limited to immediate and short term assistance.<sup>6/</sup>

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<sup>1/</sup> The Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. §§5121 *et seq.*

<sup>2/</sup> 42 U.S.C §5170; 44 C.F.R. §§206.35, 206.36.

<sup>3/</sup> 42 U.S.C. §5122(2).

<sup>4/</sup> 42 U.S.C. §§5170a, 5170b, 5170c.

<sup>5/</sup> 42 U.S.C. §5122(1).

<sup>6/</sup> 44 C.F.R. §206.63; *see* 42 U.S.C. §5192 for types of assistance.

## **2. The Declaration Process**

The Governor's request for a declaration of either a major disaster or an emergency should be made through the Regional Director for the Federal Emergency Management Administration (FEMA) for the region in which the state is located, and must ordinarily be made within 30 days of the catastrophe or incident.<sup>7/</sup> The Director of FEMA (Director) must arrive at a recommendation concerning the declaration and forward this recommendation to the President along with the Governor's request.<sup>8/</sup>

The President may either grant or deny the Governor's request, or, in the case of a request for a declaration of major disaster, may declare an emergency instead.<sup>9/</sup> The Director must notify the Governor promptly of the President's decision or declaration, and of the types of assistance available and of the geographic areas eligible for assistance.<sup>10/</sup> The Governor may appeal the denial of a declaration within 30 days of the date of denial.<sup>11/</sup>

## **3. Types and Geographic Areas of Assistance**

Both the designation of the disaster-impacted area, and the types of disaster assistance to be provided are usually included in the Presidential Declaration sent to the Governor.<sup>12/</sup> The Associate Director has the authority to decide what additional forms of

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<sup>7/</sup> 44 C.F.R. §§ 206.36, 206.35.

<sup>8/</sup> 44 C.F.R. § 206.37(c).

<sup>9/</sup> 42 U.S.C. §5170; 44 C.F.R. §206.38.

<sup>10/</sup> 44 C.F.R. §206.39.

<sup>11/</sup> 44 C.F.R. §206.46

<sup>12/</sup> 44 C.F.R. §206.40(a). A copy of the Declaration of Disaster may be obtained from either FEMA or the Governor's office.

assistance will be provided at the request of the Governor.<sup>13/</sup> The designation of the geographical area(s) which are considered impacted by the disaster must be published in the Federal Register.<sup>14/</sup> The Governor, or the Governor's Authorized Representative, may request additional types of disaster assistance, and/or that additional areas be declared eligible for assistance, within 30 days of the declaration.<sup>15/</sup>

### **3. The FEMA-State Agreement**

Following the declaration, the Director and the governor must execute a FEMA-State Agreement setting forth the incident period for which disaster assistance will be made available, the type and extent of federal assistance to be provided, and the commitment of the state and local governments.<sup>16/</sup>

### **B. State and Federal Roles**

FEMA has two major roles in the provision of disaster and emergency assistance:

(1) **coordination** of the relief efforts of federal, state and local governments and of non-governmental disaster assistance organizations,<sup>17/</sup> and

(2) **direct administration** of the Individual and Household Assistance program,<sup>18/</sup>

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<sup>13/</sup> *Id.*

<sup>14/</sup> 44 C.F.R. §206.40(b). Any modifications of the Declaration of Disaster are also published in the Federal Register.

<sup>15/</sup> 44 C.F.R. §206.40(c),(d).

<sup>16/</sup> 44 C.F.R. §206.44.

<sup>17/</sup> 42 U.S.C. §§5170a(2), 5170b; 44 C.F.R. §206.42(3).

<sup>18/</sup> 42 U.S.C. §5174; 44 C.F.R. §§206.117, 206.119. Part of this program may be administered by the state, as explained below.

of the Public Assistance program for state and local governments,<sup>19/</sup> and of Emergency programs such as temporary public transportation,<sup>20/</sup> debris removal,<sup>21/</sup> and clearance of roads and construction of bridges.<sup>22/</sup>

Other individual assistance disaster programs authorized under the Stafford Act are administered by state agencies and other federal agencies and coordinated by FEMA. These include the Disaster Unemployment Assistance program,<sup>23/</sup> Disaster Food Stamps and Food Commodities programs,<sup>24/</sup> Emergency Grants to Low-Income Migrant and Seasonal Farmworkers,<sup>25/</sup> Disaster Legal Services,<sup>26/</sup> and Crisis Counseling Assistance.<sup>27/</sup> Finally, the Small Business Administration (SBA) Disaster Loan program is administered separately by the SBA under its own statutory and regulatory authority,<sup>28/</sup> although in coordination with FEMA.

## **1. Federal Disaster Officers**

Immediately after a Declaration of Disaster, the Director of FEMA appoints a Federal

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<sup>19/</sup> 42 U.S.C. §5172; 44 C.F.R. §206.203.

<sup>20/</sup> 42 U.S.C. §5186.

<sup>21/</sup> 42 U.S.C. §5170b(3)(A) ; 44 C.F.R. §206.224.

<sup>22/</sup> 42 U.S.C. §5170b(3)(C).

<sup>23/</sup> 42 U.S.C. §5177; 44 C.F.R. §206.141.

<sup>24/</sup> 42 U.S.C. §5179; 44 C.F.R. §206.151.

<sup>25/</sup> 42 U.S.C. §5177a.

<sup>26/</sup> 42 U.S.C. §5182; 44 C.F.R. §206.164. Disaster Legal Services are provided by *pro bono* attorneys through the Young Lawyers Division (YLD) of the American Bar Association (ABA).

<sup>27/</sup> 42 U.S.C. §5183; 44 C.F.R. §206.171.

<sup>28/</sup> 15 U.S.C. §636(b)(1); 13 C.F.R., Part 123.

Coordinating Officer (FCO), and the Regional Director of FEMA appoints a Disaster Recovery

Manager (DRM).<sup>29/</sup> The FCO is required to coordinate all relief activities in the disaster area, and to establish field offices for the administration of this relief.<sup>30/</sup> The DRM serves as the representative of the Regional Director of FEMA and exercises all of the Regional Director's authority with respect to the disaster.<sup>31/</sup>

## **2. The State Disaster Officers**

Following a declaration of disaster, the Governor must appoint a State Coordinating Officer (SCO) to coordinate state and local disaster assistance with that provided by the federal government and to ensure that all local jurisdictions are informed of the declaration, the types of assistance authorized, and the areas eligible to receive assistance,<sup>32/</sup> and a Governor's Authorized Representative (GAR) to administer federal disaster assistance programs on behalf of state and local governments, and to ensure state compliance with the FEMA-State agreement.<sup>33/</sup>

## **C. Disaster Field Offices and Recovery Centers**

Following a disaster declaration, the FCO must establish a Disaster Field Office (DFO) and Disaster Recovery Centers (DRCs) in consultation with the SCO.<sup>34/</sup>

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<sup>29/</sup> 42 U.S.C. §5143(a); 44 C.F.R. §206.41.

<sup>30/</sup> 42 U.S.C. §5143(b); 44 C.F.R. §206.42(a).

<sup>31/</sup> 44 C.F.R. §206.41(b).

<sup>32/</sup> 42 U.S.C. §5143(b); 44 C.F.R. §§206.41(c), 206.42(b).

<sup>33/</sup> 44 C.F.R. §206.41(d).

<sup>34/</sup> 44 C.F.R. §206.42(a)(2).

## **1. The Disaster Field Office (DFO)**

The DFO serves as the local headquarters for FEMA. Its purpose is to coordinate and monitor disaster assistance programs. It may house other disaster agencies such as the SBA and or the state agencies administering other disaster relief programs. The DFO is generally in existence for the duration of the disaster, and is the work station for the FCO, and other FEMA officials such as the Individual Assistance Officer (IAO), the Public Assistance Officer (PAO), and the Public Information Officer. The DFO is generally the office that an advocate must contact in order to advocate either on behalf of individual clients, or regarding systems issues such as outreach, or the administration of disaster programs.

## **2. The Disaster Recovery Centers (DRCs)**

The DRCs are application centers set up in the disaster area, at which disaster victims can typically apply for all available individual benefits, whether administered by FEMA or some other agency. They also serve as an information center for victims regarding available disaster assistance. The DRCs remain in existence only during the application period, and may be closed and reopened in new locations as determined by the FCO, in coordination with the SCO. They should be sufficient in location and number to disseminate information, accept applications, and counsel individuals, families and businesses concerning available assistance.<sup>35/</sup>

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<sup>35/</sup> 44 C.F.R. §206.42(a)(2).



JEB BUSH  
GOVERNOR

STATE OF FLORIDA

# Office of the Governor

THE CAPITOL  
TALLAHASSEE, FLORIDA 32399-0001

[www.flgov.com](http://www.flgov.com)  
850-488-7146  
850-487-0801 fax

September 2, 2004

The Honorable George W. Bush  
President  
The White House  
1600 Pennsylvania Avenue  
Washington, D.C.

Through: Ms. Mary Lynne Miller  
Director, Region IV  
Federal Emergency Management Agency

Dear Mr. President:

Under the provisions of Section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (the "Stafford Act"), as implemented by 44 C.F.R. § 206.36, I request that you declare a major disaster for the entire State of Florida due to the statewide impact of Hurricane Frances. According to current predictions by the National Hurricane Center, this event will inflict substantial damage to the coastal communities in eastern Florida from storm surge, high winds, torrential rainfall, inland flooding, and tornadoes, very much as Hurricane Charley did three weeks ago in southwestern and central Florida. I request 100 percent direct federal assistance, assistance under Categories A and B statewide, 100 percent assistance for debris removal and emergency protective measures in the first 72 hours (Categories A and B), and the Hazard Mitigation Grant Program for the entire State of Florida. I also request Public Assistance (Categories A-G) and Individual Assistance for the following counties lying in or near the path of Hurricane Frances that are likely to experience hurricane force winds: Brevard, Broward, Citrus, Glades, Hernando, Highlands, Indian River, Lake, Martin, Miami-Dade, Okeechobee, Orange, Osceola, Palm Beach, Pasco, Polk, St. Lucie and Sumter Counties. I am requesting the full complement of Individual Assistance programs, to include the Individuals and Households Program, Disaster Unemployment Assistance, Crisis Counseling, Disaster Legal Services, and the Small Business Administration Disaster Loans Program.



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At present, nearly half of Florida's 67 counties have opened shelters or have them standing by. In addition, more than a dozen counties have issued evacuation orders; the resulting evacuation has already put over twice the normal number of vehicles on the highways of Florida, transporting hundreds of thousands of evacuees seeking refuge. The only available routes for many of the evacuees will take them westward to shelters in sections of the State ravaged only three weeks ago by Hurricane Charley, where the communities hit by that hurricane are still trying to recover. Several counties closed schools and more will close tomorrow. Several hospitals have been evacuated, and government offices and courthouses are closed in eleven counties. Local states of emergency have been declared in a majority of counties.

As you know, Hurricane Charley has caused substantial losses of life and property in Florida already. According to the latest weather information, Hurricane Frances is likely to come ashore sometime on September 4, 2004. It is now apparent that Hurricane Frances will strike coastal Florida, where population densities are among the highest in the southeastern United States. Due to the large populations of these coastal communities, it is essential to begin the evacuations at once for those members of the public who live in low-lying areas, as well as hospital patients and other vulnerable members of the public. I therefore issued Executive Order 04-192 yesterday to declare a state of emergency and activate the State Comprehensive Emergency Management Plan in support of the evacuation from these communities (Attachment 1). An evacuation of the general public from these communities begins today, and the State Emergency Operations Center was activated at Level 1 at 7:00 a.m. on September 1, 2004.

In addition to the other dangers posed by Hurricane Frances to some of the most densely populated areas in Florida, the telling characteristics of the storm itself foreshadow destruction on a much larger scale than that caused by Hurricane Charley. Hurricane Frances has five times the diameter of Hurricane Charley, which was a more compact system. If it retains its present diameter, Hurricane Frances will cause a swath of destruction from hurricane-force winds eighty miles wide, with gale-force winds extending outward an additional eighty or ninety miles (Attachment 2). Moreover, current projections show Hurricane Frances slowing in its forward movement to less than ten miles per hour as it approaches land. This slower movement will increase the rainfall from the hurricane to from ten to twenty inches as it moves over land. This abnormal rainfall will cause flooding in rivers that are already above normal levels due to heavy rainfalls earlier in the summer that were exacerbated by Hurricane Charley. According to estimates based on the demographic and economic data available, if Hurricane Frances stays on its present course it may generate 900,000 tons of debris and inflict damage on an unprecedented scale.

The State Coordinating Officer has requested a FEMA Emergency Response Team-A at the State Emergency Operations Center for this event. All five Water Management Districts are monitoring the flood stages of the rivers in the State, and are prepared to take action as needed. Other state agencies are putting their resources forward in response to this event. Emergency Support Function 8 (Health and Medical) is working with the County Health Departments to secure additional facilities and medical staffing for special needs shelters. Emergency Support Function 11 (Food and Water) is locating USDA commodities for distribution to the affected

communities. As with Hurricane Charley, we anticipate power outages on a large scale, and Emergency Support Function 12 (Energy) will be working with our utilities to restore power to as many customers as possible once the hurricane has passed. Emergency Support Function 14 (Public Information) has opened the Florida Emergency Information Line to give residents a source of reliable information concerning the emergency. Emergency Support Function 16 (Law Enforcement and Security) is working to prepare its resources for deployment as needed to ensure security in the affected communities. The personnel, who run these and other functions have been working since August 10, 2004 when the State Emergency Operations Center went to Level 1 for Hurricane Charley, and will continue to work through this storm without interruption.

I have determined, in accordance with 44 C.F.R. § 206.35, that this incident is of such severity and magnitude that effective response and recovery actions are beyond the capabilities of the State and the affected local governments, and that supplemental federal assistance is necessary to save lives, protect property, public health and safety, or to lessen or avert the threat of a disaster. In response to the situation, I have taken appropriate actions under state law and directed the execution of the provisions of the State Comprehensive Emergency Management Plan for the duration of this event.

In accordance with 44 C.F.R. § 206.208, the State of Florida agrees that with respect to direct federal assistance it will do the following:

1. Provide, without cost to the United States, all lands, easements and rights of way necessary to accomplish the approved work;
2. Hold and save the United States free from damages due to the requested work, and indemnify the United States from any claims resulting from such work;
3. Provide reimbursements to FEMA for the nonfederal share of the cost of such work in accordance with the FEMA-State Agreement; and
4. Assist the performing federal agency in all support and local jurisdictional matters.

In addition, I anticipate the need for debris removal, which poses an immediate threat to lives, public health and safety. Pursuant to Sections 403 and 407 of the Stafford Act, the State agrees to indemnify and hold harmless the United States for any claims arising from the removal of debris or wreckage for this disaster. The State agrees that debris removal from public and private property will not occur until the landowner signs an unconditional authorization for the removal of debris.

The Honorable George W. Bush  
September 2, 2004  
Page Four

I further hereby certify that State and local obligations and expenditures for this disaster will comply with all applicable cost sharing requirements. I have designated W. Craig Fugate, Director, Department of Community Affairs, Division of Emergency Management, as the State Coordinating Officer for this request. He will work with the Federal Emergency Management Agency on damage assessments and is authorized to provide any further information, assurances, requests or justification on my behalf.

# STATE OF FLORIDA

## OFFICE OF THE GOVERNOR

### EXECUTIVE ORDER NUMBER 04-192

#### (Emergency Management)

**WHEREAS**, on August 10, 2004, the Governor issued Executive Order 04-182 to declare a state of emergency because of Hurricane Charley; and

**WHEREAS**, Hurricane Charley came ashore in the southwestern portion of the State as a Category 4 hurricane and devastated communities in the southwestern and central portions of the State; and

**WHEREAS**, the State is now trying to recover from the impact of Hurricane Charley, although it may take years to do so; and

**WHEREAS**, on September 1, 2004, the National Hurricane Center advised that Hurricane Frances has continued to strengthen into a Category 4 hurricane, with sustained surface winds exceeding 135 mph, and that it may strengthen even further; and

**WHEREAS**, Hurricane Frances threatens a number of communities in the State of Florida with extreme weather conditions which pose an immediate danger to the lives and property of persons in those communities; and

**WHEREAS**, it is likely that Hurricane Frances will strike those communities within a matter of days, making the orderly evacuation of persons from those communities vital to the safety of the residents; and

**WHEREAS**, special equipment, personnel and other resources in addition to those needed for Hurricane Charley may be required in order to ensure the timely evacuation of

persons from the threatened communities and the safe movement of the evacuees to other communities in the State acting as destinations for the evacuees; and

**WHEREAS**, emergency measures in addition to those needed for Hurricane Charley may be needed to protect the lives and property of persons in the threatened communities, and the general welfare of the State of Florida; and

**WHEREAS**, central coordination and direction of the use of such resources for the local evacuation measures are needed to ensure the timely evacuation of the threatened communities;

**NOW, THEREFORE, I, JEB BUSH**, as Governor of Florida, by virtue of the authority vested in me by Article IV, Section 1(a) of the Florida Constitution and by the Florida Emergency Management Act, as amended, and all other applicable laws, do hereby promulgate the following Executive Order, to take immediate effect:

Section 1. Because of the foregoing conditions, I hereby find that Hurricane Frances, alone and in combination with the destruction by Hurricane Charley, threatens the State of Florida with a catastrophic disaster. I therefore declare that a state of emergency exists in the State of Florida, and that the evacuation of multiple counties in the State may be necessary because of Hurricane Frances. I further find that central authority over the evacuation of these counties is needed to coordinate these evacuations, that these evacuations exceed the capability of the local governments in these communities, and that shelters in other counties are needed to accommodate the evacuees. I therefore declare that a state of emergency also exists in all destination counties that open shelters to accommodate evacuees from the communities threatened by Hurricane Frances.

Section 2. I hereby incorporate Executive Order 04-182, as amended, by reference into this Executive Order, and all mission assignments and orders issued by the State

Coordinating Officer and Deputy State Coordinating Officers in connection with Hurricane Charley under the authority of Executive Order 04-182, as amended, are hereby ratified and extended as if issued on this date. Executive Order 04-182, as amended, is also hereby extended, so that its date of expiration will coincide with the expiration of this Executive Order.

Section 3. I hereby designate the Director of the Division of Emergency Management as the State Coordinating Officer for the duration of this emergency and as my Authorized Representative. In exercising the powers delegated by this Executive Order, the State Coordinating Officer shall confer with the Governor to the fullest extent practicable. In accordance with Sections 252.36(1)(a) and 252.36(5), Florida Statutes, I hereby delegate to the State Coordinating Officer the following powers, which he shall exercise as needed to meet this emergency:

- A. The authority to activate the Comprehensive Emergency Management Plan;
- B. The authority to invoke and administer the Statewide Mutual Aid Agreement, and the further authority to coordinate the allocation of resources under that Agreement so as best to meet this emergency;
- C. The authority to invoke and administer the Emergency Management Assistance Compact and other Compacts and Agreements existing between the State of Florida and other States, and the further authority to coordinate the allocation of resources from such other States that are made available to the State of Florida under such Compacts and Agreements so as best to meet this emergency;
- D. The authority to seek direct assistance from any and all agencies of the United States Government as may be needed to meet the emergency;
- E. The authority to distribute any and all supplies stockpiled to meet the emergency;

F. In accordance with Sections 252.36(5)(a) and 252.46(2), Florida Statutes, the authority to suspend existing statutes, rules, ordinances, and orders for the duration of this emergency to the extent that literal compliance with such statutes, rules, ordinances, and orders may be inconsistent with the timely performance of disaster response functions;

G. The authority to direct all state, regional and local governmental agencies, including law enforcement agencies, to identify personnel needed from those agencies to assist in meeting the needs created by this emergency, and to place all such personnel under the direct command of the State Coordinating Officer to meet this emergency;

H. The authority to activate the Continuity of Operations Plans of all state, regional and local governmental agencies;

I. The authority to seize and utilize any and all real or personal property as needed to meet this emergency, subject always to the duty of the State to compensate the owner;

J. The authority to order the evacuation of all persons from any portions of the State threatened by the disaster, the authority to direct the sequence in which such evacuations shall be carried out, and the further authority to regulate the movement of persons and traffic to, from, or within any location in the State to the extent needed to cope with this emergency;

K. The authority to reverse the flow of traffic on any and all highways or portions of highways of the State Highway System as needed to facilitate the evacuation of the affected communities;

L. The authority to regulate the return of the evacuees to their home communities;

M. The authority to designate such Deputy State Coordinating Officers as the State Coordinating Officer may deem necessary to cope with the emergency; and

N. The authority to enter such orders as may be needed to implement any or all of the foregoing powers.

Section 4. I hereby order the Adjutant General to activate the Florida National Guard for the duration of this emergency, and I hereby place the National Guard under the authority of the State Coordinating Officer for the duration of this emergency.

Section 5. I hereby direct each county in the State of Florida, at the discretion of the State Coordinating Officer, to activate its Emergency Operations Center and its County Emergency Management Plan, as needed to ensure an immediate state of operational readiness, and I further direct each county in the State, at the discretion of the State Coordinating Officer, to open and activate all shelters to accommodate all evacuees.

Section 6. I hereby direct all state, regional and local agencies to place any and all available resources under the authority of the State Coordinating Officer as needed to meet this emergency.

Section 7. I hereby designate all state, regional and local governmental facilities including, without limiting the generality of the foregoing, all public elementary and secondary schools, all Community Colleges, and all State Universities, for use as shelters to ensure the proper reception and care of all evacuees.

Section 8. I find that the special duties and responsibilities resting upon some state, regional and local agencies and other governmental bodies in responding to the disaster may require them to deviate from the statutes, rules, ordinances, and orders they administer, and I hereby give such agencies and other governmental bodies the authority to take formal action by emergency rule or order in accordance with Sections 120.54(4) and 252.46(2), Florida Statutes,

to the extent that such actions are needed to cope with this emergency. Without limiting the generality of the foregoing, I hereby order the following:

A. I hereby give all agencies of the State, including the collegial bodies within those agencies, the authority to suspend the effect of any statute, rule, ordinance, or order of any state, regional, or local governmental entity, to the extent needed to procure any and all necessary supplies, commodities, services, temporary premises, and other resources, to include, without limiting the generality of the foregoing, any and all statutes and rules which affect budgeting, printing, purchasing, leasing, and the conditions of employment and the compensation of employees, but any such statute, rule, ordinance, or order shall be suspended only to the extent necessary to ensure the timely performance of disaster response functions.

B. I hereby direct the Department of Transportation to waive the collection of tolls and other fees and charges for the use of the Turnpike and all other transportation facilities, regardless of whether such facilities are components of the State Highway System, to the extent such waiver may be needed to facilitate the evacuation of the affected communities; to reverse the flow of traffic on any and all highways or portions of highways of the State Highway System as may be needed to facilitate the evacuation of the affected communities; to close any and all highways or portions of highways as may be needed for the safe and efficient transportation of evacuees to those counties the State Coordinating Officer may designate as destination counties for evacuees in this emergency; to waive fuel taxes levied on vehicles registered in other States that are owned or operated by governmental agencies of those States, or by public utility companies or parties under contract with them, and to waive by special permit the registration requirements and the hours of service requirements for such vehicles; to waive the size and weight restrictions for divisible loads on any vehicles transporting emergency equipment,

services and supplies, and by special permit to designate alternate size and weight restrictions for all such vehicles for the duration of the emergency; and to waive by special permit the warning signal requirements in the Utility Accommodations Manual to accommodate public utility companies from other jurisdictions which render assistance in restoring vital services, to the extent such waivers are needed to meet this emergency.

C. At the request of the Director of Emergency Management of any county, I hereby direct the Department of Health to take over the operation of all shelters in that county that are intended for use by those evacuees with special personal, medical or psychological needs, and to station licensed medical professional and paraprofessional personnel at those shelters as needed to provide appropriate reception and care for such evacuees.

D. I hereby give all agencies of the State the authority to allow overnight stays by employees of the State who travel a distance of less than fifty (50) miles for the performance of official duties in connection with this emergency, and the authority to allow employees of the State reimbursement for the cost of meals during Class C travel incurred in connection with this emergency.

E. I hereby give all agencies of the State responsible for the use of state buildings and facilities the authority to close such buildings and facilities in those portions of the State affected by the emergency, to the extent needed to meet this emergency.

F. I hereby give all agencies of the State, including the collegial bodies within those agencies, the authority to abrogate the time requirements, notice requirements, and deadlines for final action on applications for permits, licenses, rates, and other approvals under any statutes or rules under which such applications are deemed to be approved unless disapproved in writing by

specified deadlines, and all such time requirements that have not yet expired as of the date of this Executive Order are hereby suspended and tolled to the extent needed to meet this emergency.

G. I hereby give all agencies of the State with employees certified by the American Red Cross as disaster service volunteers within the meaning of Section 110.120(3), Florida Statutes, the authority to release any such employees for such service as requested by the American Red Cross as needed to meet the emergency.

Section 9. I hereby find that the demands placed upon the funds appropriated to the agencies of the State of Florida and to local agencies may be inadequate to pay the costs of this disaster. In accordance with Section 252.37(2), Florida Statutes, to the extent that funds appropriated to the agencies of the State and to local agencies may be inadequate to defray the costs of this disaster, I hereby direct the transfer of sufficient funds from any unappropriated surplus funds, or from the Working Capital Fund, or from the Budget Stabilization Fund.

Section 10. Medical professionals and workers, social workers, and counselors with good and valid professional licenses issued by States other than the State of Florida shall be allowed to render such services in the State of Florida during this emergency for persons affected by the disaster, with the condition that such services be rendered to such persons free of charge, and with the further condition that such services be rendered under the auspices of the American Red Cross.

Section 11. In accordance with Sections 501.160(2) and 501.160(3), Florida Statutes, I hereby place all persons on notice that it is unlawful for any person in the State of Florida to rent or sell, or offer to rent or sell at an unconscionable price, any essential equipment, services, or supplies whose consumption or use is necessary because of the emergency. Such services shall include, without limiting the generality of the foregoing, any rental of hotel, motel, or other

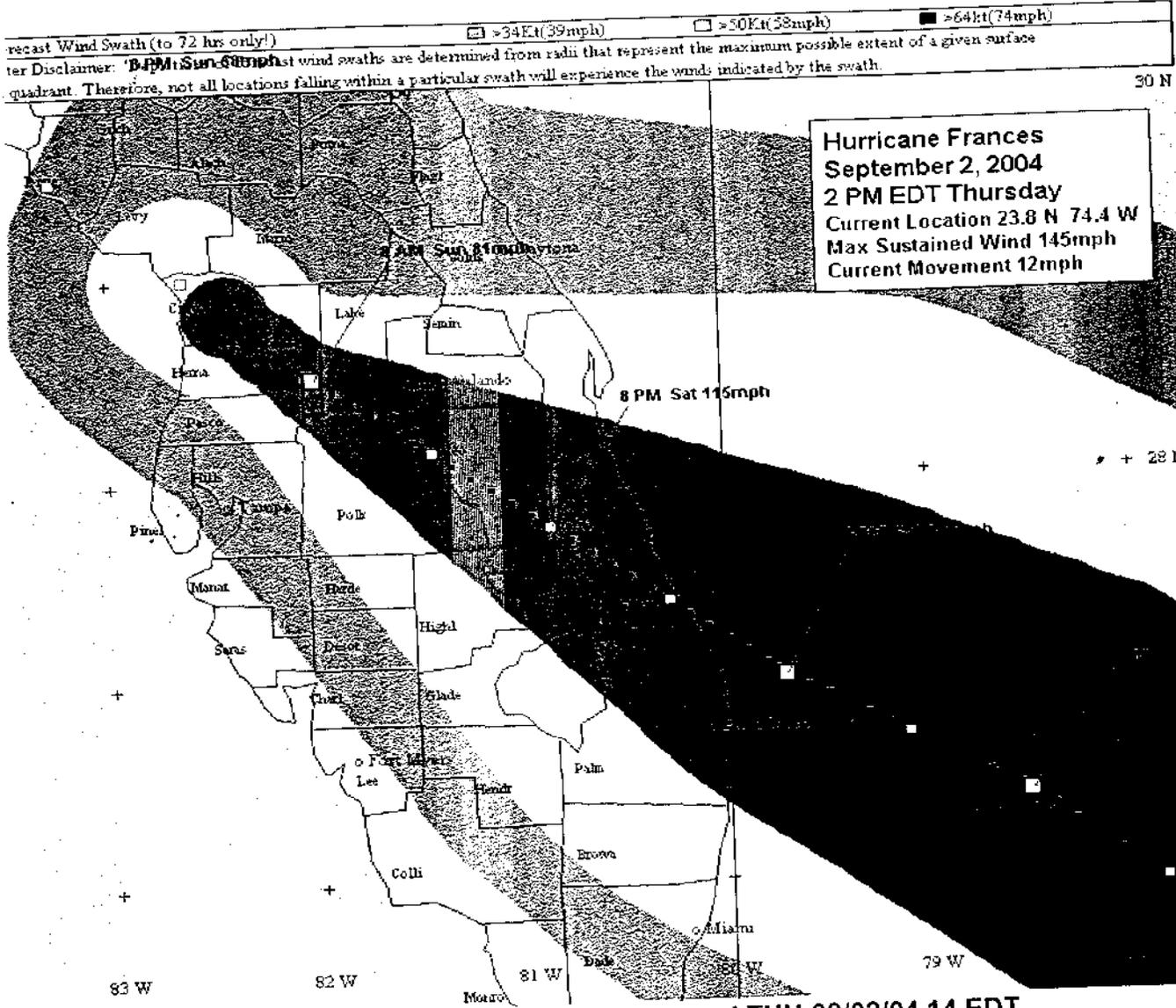
transient lodging facilities, and any rental of storage facilities. In accordance with Section 501.160(1)(b), Florida Statutes, any price exceeding the average price for such essential equipment, services, or supplies for the thirty (30) days immediately preceding the date of this Executive Order shall create a presumption that the price is unconscionable unless such increase is caused by actual costs incurred in connection with such essential equipment, services, or supplies, or is caused by national or international economic trends.

Section 12. All state agencies that enter emergency final orders or rules, or take other final actions based on the existence of this emergency shall advise the State Coordinating Officer in writing of the action taken as soon as practicable, but in no event later than the expiration of sixty (60) days from the date of this Executive Order.

Section 13. This Executive Order shall be deemed to have taken effect on September 1, 2004, and all actions taken by the Director of the Division of Emergency Management with respect to Hurricane Frances before the issuance of this Executive Order are hereby ratified. This Executive Order shall expire sixty (60) days from the date hereof unless extended.



IN TESTIMONY WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Florida to be affixed, at Tallahassee, the Capitol, this 1st day of September, 2004.



Forecast track shown (dots) is based on Advisory issued THU 09/02/04 14 EDT

Wind Swaths shown here, are the official Hurricane Center Advisory for the storm and advisory number shown above. These forecasts are subject to errors smaller in the first hours, becoming greater with each hour.

Forecast error = at 12hours..47 miles 24hrs..88 mi. 36hrs..127 mi. 48hrs..166 mi. 72hrs..249 mi.)

**DEPARTMENT OF HOMELAND SECURITY****Federal Emergency Management Agency**

[FEMA-1545-DR]

**Florida; Amendment No. 1 to Notice of a Major Disaster Declaration**

**AGENCY:** Federal Emergency Management Agency, Emergency Preparedness and Response Directorate, Department of Homeland Security.

**ACTION:** Notice.

**SUMMARY:** This notice amends the notice of a major disaster declaration for the State of Florida (FEMA-1545-DR), dated September 4, 2004, and related determinations.

**EFFECTIVE DATE:** September 5, 2004.

**FOR FURTHER INFORMATION CONTACT:** Magda Ruiz, Recovery Division, Federal Emergency Management Agency, Washington, DC 20472, (202) 646-2705.

**SUPPLEMENTARY INFORMATION:** The notice of a major disaster declaration for the State of Florida is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of September 4, 2004:

Broward, Citrus, Glades, Hernando, Highlands, Lake, Miami-Dade, Okeechobee, Orange, Osceola, Pasco, Polk, and Sumter Counties for Individual Assistance (already designated for debris removal and emergency protective measures (Categories A and B) and direct Federal assistance at 100 percent Federal funding of the total eligible costs for the first 72 hours.)

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund Program; 97.032, Crisis Counseling; 97.033, Disaster Legal Services Program; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance; 97.048, Individual and Household Housing; 97.049, Individual and Household Disaster Housing Operations; 97.050 Individual and Household Program—Other Needs, 97.036, Public Assistance Grants; 97.039, Hazard Mitigation Grant Program.)

**Michael D. Brown,**

*Under Secretary, Emergency Preparedness and Response, Department of Homeland Security.*

[FR Doc. 04-20572 Filed 9-10-04; 8:45 am]

**BILLING CODE 9110-10-P**

**DEPARTMENT OF HOMELAND SECURITY****Federal Emergency Management Agency**

[FEMA-1545-DR]

**Florida; Major Disaster and Related Determinations**

**AGENCY:** Federal Emergency Management Agency, Emergency Preparedness and Response Directorate, Department of Homeland Security.

**ACTION:** Notice.

**SUMMARY:** This is a notice of the Presidential declaration of a major disaster for the State of Florida (FEMA-1545-DR), dated September 4, 2004, and related determinations.

**EFFECTIVE DATE:** September 4, 2004.

**FOR FURTHER INFORMATION CONTACT:** Magda Ruiz, Recovery Division, Federal Emergency Management Agency, Washington, DC 20472, (202) 646-2705.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given that, in a letter dated September 4, 2004, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121-5206 (the Stafford Act), as follows:

I have determined that the damage in certain areas of the State of Florida resulting from Hurricane Frances beginning on September 3, 2004, and continuing is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121-5206 (the Stafford Act). I, therefore, declare that such a major disaster exists in the State of Florida.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Individual Assistance in the designated areas, assistance for debris removal and emergency protective measures (Categories A and B) under the Public Assistance program in all counties in the State, and Hazard Mitigation statewide, and any other forms of assistance under the Stafford Act you may deem appropriate subject to completion of Preliminary Damage Assessments. Direct Federal assistance is authorized.

Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance, Hazard Mitigation, and the Other Needs Assistance under Section 408 of the Stafford Act will be limited to 75 percent of the total eligible costs. For the first 72 hours, you are authorized to fund direct Federal assistance and assistance for debris removal and emergency protective measures at 100 percent of the total eligible costs.

Further, you are authorized to make changes to this declaration to the extent allowable under the Stafford Act.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Under Secretary for Emergency Preparedness and Response, Department of Homeland Security, under Executive Order 12148, as amended, William L. Carwile III, of FEMA is appointed to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of Florida to have been affected adversely by this declared major disaster:

Brevard, Indian River, Martin, Palm Beach, and St. Lucie Counties for Individual Assistance.

Debris removal and emergency protective measures (Categories A and B) and direct Federal assistance for all counties in the State of Florida at 100 percent Federal funding of the total eligible costs for the first 72 hours.

All counties within the State of Florida are eligible to apply for assistance under the Hazard Mitigation Grant Program.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund Program; 97.032, Crisis Counseling; 97.033, Disaster Legal Services Program; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance; 97.048, Individual and Household Housing; 97.049, Individual and Household Disaster Housing Operations; 97.050 Individual and Household Program—Other Needs, 97.036, Public Assistance Grants; 97.039, Hazard Mitigation Grant Program.)

**Michael D. Brown,**

*Under Secretary, Emergency Preparedness and Response, Department of Homeland Security.*

[FR Doc. 04-20574 Filed 9-10-04; 8:45 am]

**BILLING CODE 9110-10-P**

**DEPARTMENT OF HOMELAND SECURITY****Federal Emergency Management Agency**

[FEMA-1542-DR]

**Indiana; Major Disaster and Related Determinations**

**AGENCY:** Federal Emergency Management Agency, Emergency

**VIII**  
**LONG TERM RECOVERY**  
from  
**CATASTROPHIC DISASTERS**

In addition to emergent and short term assistance to families displaced or injured by the disaster, there is also a long term impact on the community. It is often those neighborhoods in the community most depended upon by low income households that are most severely damaged. Affordable housing, particularly older market rate housing and older mobile homes, are frequently decimated by hurricanes and floods. However, in rebuilding efforts, while there is significant attention to the immediate needs of the low income families displaced by the storm, there is often much less attention focused on preserving or restoring their housing and communities. As a result a significant amount of post disaster advocacy for resources must be devoted to insuring that housing and community development efforts focused on very low and extremely low income households receive at least the same amount of attention as those focused on higher income households and their communities.

However, unlike the immediate needs of the displaced tenants and homeowners - food, clothing, shelter, and health care - needs which FEMA and other emergency agencies are specifically designed to address - long term needs are as varied as the disasters themselves. Likewise, as opposed to the programmatic rules governing FEMA assistance, disaster Food Stamps, disaster Unemployment Compensation and

the like, many of the issues arising during the long term disaster response are simply disaster-specific applications of much broader legal and policy issues. Each of these issues could deserve a manual on its own and it is impossible to fully treat them within the scope of this manual.

What follows is an attempt to alert the reader to the existence of these issues, provide some overview as to identification and response and, finally, to point the direction in addressing a solution.

## I **AFFORDABLE HOUSING RECOVERY**

Without question the most serious and fruitful long term housing advocacy strategy for low income households is insuring that as much as possible of the existing low income housing is repaired and returned to the market as housing, affordable to low income households. This includes not only subsidized housing but also low income market rate housing.

There are a number of reasons, including but certainly not limited to disaster related damage, that may result in the long term loss of that housing. Owners of properties with significantly appreciated underlying land values may attempt to manipulate the disaster related damage in an effort to convince the regulatory agency to remove any low income housing restrictions. Local governmental agencies may attempt to use the disaster related damage as a type of urban renewal, trying to discourage the return of unwanted affordable housing. And finally, many owners of older affordable market rate housing may simply be uninsured or under-insured and

thus unable to fully repair the damage.

While every disaster is unique in its range, severity and types of damage, there are certain common themes that emerge during the recovery effort. These suggestions attempt to provide some guidance as to various tasks and advocacy efforts that can be undertaken in response to any serious disaster. Specifically, it is initially vitally important to identify all of the affordable housing resources affected by the disasters and, to the extent possible, shepherd them back to occupancy. This involves ongoing contact and communication with owners, regulators and tenants. It is also important to undertake advocacy to access and target new resources so that they might be made available to extremely low income households. Finally it is important to work with local governments to insure that new resources can work for the most needy of households and to prevent “redevelopment” efforts designed to prevent the return of our clients to the “new” city.

## **1. Identification of Low Income Housing Resources**

The first step in any effort to insure that losses of affordable housing is minimized is identifying the affordable housing resources that existed prior to the disaster. While it is possible to do this after the disaster hits, it is far more efficient to conduct a census of subsidized affordable housing long before any disaster strikes and to periodically update the census. When a disaster hits, the tenants are scattered. To the extent there is a realistic list of preexisting subsidized units, those scattered tenants can be organized based on their prestorm addresses and can become a

powerful force for requiring the restoration and repair of those buildings.

**a. Subsidized Housing**

**(i) Federal** - Identifying subsidized housing is particularly difficult because there are so many different sources of subsidy and there are few centralized databases listing subsidized. While the properties can be roughly categorized by the type of subsidy, units are often subsidized by more than one type of assistance. It is beyond the scope of this manual to describe all of the possible sources of subsidies. An excellent reference for federal subsidy programs is HUD Housing Programs: Tenants' Rights (3d ed.), pp. 1/22 et seq., available from the National Housing Law Project.

**(ii) State** - Florida also has state subsidy programs, funded through the Sadowski Act Housing Trust Fund, Fla. Stat., 420.0001, et seq. and administered by the Florida Housing Finance Corporation. The Corporation administers the principal state financed rental program, SAIL (see Fla. Stat. 420.5087) , in a consolidated funding cycle with federal Low Income Housing Tax Credits and HOME funds. An explanation of the Florida state programs is available at the Corporation's website, <http://www.floridahousing.org> and the rules governing their administration are available in the Fla. Adm. Code, 67-48.

**(iii) Local** - Several counties and many cities also have locally administered affordable housing programs which result in subsidized units with recorded regulatory agreements.

Even after you have listed all of the possible subsidy programs, obtaining the

exact addresses of all subsidized units is a difficult and tedious task, best performed before a disaster when timely responses to public records requests are possible. However, there are several sources which when combined can provide a relatively complete listing of subsidized units.

(A) The Shimberg Center at the University of Florida has an excellent website with information on housing programs in the State of Florida. The website includes an “assisted housing inventory” and “public housing inventory” which attempts to list all subsidized projects within the State of Florida, sorted by County and listed by address. The website is available at [www.flhousingdata.shimberg.ufl.edu/](http://www.flhousingdata.shimberg.ufl.edu/)

(B) A list of all units assisted with Low Income Housing Tax Credits can be found at <http://lihtc.huduser.org> .

(C) U.S. HUD maintains a database of Project Based Section 8 and HUD assisted multifamily properties at <http://www.hud.gov/offices/hsg/mfh/exp/mfhdiscl.cfm>

#### **b. Market Rate Affordable Housing**

In addition to subsidized housing most communities have significant amounts of *affordable market rate housing*, i.e., housing which rents, without subsidy, for a rate that is affordable to low income households. This group includes older mobile home parks, as well as older, unsubsidized but affordable rentals. In addition, it includes owner occupied homes, often occupied by elderly couples who have paid off any existing mortgage. While this housing is far more difficult to identify and quantify and is often

overlooked in disaster recovery, it is often a far more significant resource (in terms of numbers of units) than subsidized units and far more at risk in a disaster.

## **2. Interim Policy Advocacy on Behalf of Displaced Tenants**

### **a. Coordination and Communication Among Affordable Housing**

#### **Providers**

It is vital that there be communication between advocates, owners and regulatory bodies on an ongoing basis during the recovery period. While the regulatory agencies will often be in touch with their developers, advocates are frequently excluded unless they proactively join the conversations. It is essential that certain policies be determined at the outset to guide the recovery efforts. The following are examples of the type of cooperative policies that might be considered by such a group.

(i) **Rent Rolls** - It is vital that current rent rolls be obtained on every damaged project as soon as possible. Tenants will be scattered by the disaster and the rent rolls are often the most accurate picture of who occupied the units at the time of the disaster. The regulatory agencies, such as the Florida Housing Finance Corporation or U.S. HUD, can be useful in obtaining this information from the owners. Advocates and tenants can similarly apply pressure on local Housing Authorities to preserve the rent rolls. Housing Authority rent rolls are public records and can be requested by advocates to insure that the information is preserved.

(ii) **Right of Return** - It is important that the developers, regulators,

landlords and advocates agree on a common overall “right of return” policy. The basic policy should be that the tenants who relocated due to the storm did so temporarily and have an absolute right to return when all necessary repairs are completed. After Hurricane Andrew, U.S. HUD issued a directive to its owners, requiring them to recognize the “right of return” of its tenants.

This “right of return” policy accomplishes several goals. First, it allows for an initial communication with the tenants as to their rights (during the early period following the storm when they are still visiting the storm damaged site.) Second, it ties the tenants to the projects during the interim recovery period. Third, it prevents landlords from “rescreening” tenants at the time of return. Essentially, tenants should be permitted to return just as they were on the day before the storm. If something occurred in the interim period that might be cause for eviction - they should be permitted to return and then be subjected to an eviction proceeding.

**(iii) *Tenant Communication*** - It is also important that owners maintain communication with their tenants and, to the greatest extent possible, secure forwarding addresses. If the former tenants cannot be located at the time the building is repaired any rights they might have to return will be forfeited once the building has been filled. By obtaining an early “right of return” commitment, it is possible to provide tenants with an initial friendly communication from the landlord - which will keep lines of communication open. In addition, having an accurate rent roll list allows for cross checking names with FEMA and other assisting agencies to insure that families, who may be in temporary shelters, are informed when their former apartments are ready to

be reoccupied.

**(iv) Ongoing Adaptive Policy Determination and Development -**

Housing program policy is not made with disasters in mind. Each disaster is *sui generis*, creating its own unique need for ad hoc policy determinations. While establishing a “right of return” policy answers a number of policy questions, the disintegration of families during the stress of relocation will present a myriad of issues. For example, how do developers accommodate families who have separated in the interim and now need two smaller units? Ongoing communication between the regulatory agencies, the owners and tenant advocates creates a forum for discussing these ad hoc policies and attempting to create some regularity of decision making.

**3. Insuring the Restoration of All Affordable Housing**

**a. Establish Complete Restoration as the Goal**

Complete restoration of all affordable housing, including all public housing, must be the norm - the standard - for all advocacy efforts. All of the previously described advocacy efforts - obtaining rent rolls, fostering communication, establishing a right of return - are designed to both operate with and to independently encourage the complete restoration of all affordable units.

If there is an ongoing communication effort, then it will be easier to distinguish and focus on those few projects for which complete restoration is most problematic. There are several possible reasons for a failure to repair and each has to be focused on

separately.

(i) ***Insufficient Funds*** - Most regulated projects should be fully insured as a condition of their governmental assistance. Therefore, it should be rare that a governmentally subsidized privately owned project fails to have sufficient insurance to fully repair. Any argument that a project is under-insured should be very closely examined. Public Housing projects, on the other hand, may have such a great deal of deferred maintenance that restoration overwhelms the resources of the local housing authority. Therefore, it may be important to insure that any state or federal affordable housing disaster assistance program include funds specifically designed to address the needs of under-insured projects.

(ii) ***Economic Disincentives to Repair*** - For certain private subsidized developers, the disaster could provide an excuse for exiting the affordable housing restrictions on their units. Project Based Section 8 developments, for example, who are committed to long term contracts with U.S. HUD at fixed rents, it may be far more lucrative to rebuild the units as market rate rentals or condominiums. For such developers, there are strong incentives to exaggerate their damages and the futility of repair in the hope that U.S. HUD will simply release them from any restrictions. Depending on the circumstances, any such efforts by owners, with or without HUD complicity should be challenged. I am not aware of any disaster specific legal challenges. Thus advocates must use the same challenges that would be available without a disaster - adapted to the disaster context. An excellent description of the legal tools available for fighting attempts by owners or HUD to relieve themselves of low

income housing restrictions is contained in HUD Housing Programs: Tenants' Rights (3d ed.), *supra.*, at Section 15.3, *et seq.* (for HUD subsidized projects) and at Section 15.4, *et seq.* (for Project Based Section 8 Projects).

For certain Public Housing Authorities, a similar disincentive to repair exists as they may wish to use the disaster as an excuse to demolish and "voucher out" a damaged (and unwanted) public housing project. As with other federally assisted housing the same challenges would be available as are available without a disaster. An excellent description of the legal tools available for fighting attempts by Public Housing Authorities to demolish existing public housing is contained in HUD Housing Programs: Tenants' Rights (3d ed.), *supra.*, at Section 15.2, *et seq.*

## II PARTICIPATION IN POST DISASTER RESOURCE ADVOCACY

After a serious disaster, every community will organize to focus advocacy for sufficient resources to respond and recover. This organizational effort may be organized privately or by the government. The Hurricane Andrew post disaster resource advocacy effort, called "We Will Rebuild", was organized in Miami-Dade County by private and public community leaders. The post 2004 Hurricane season state wide rebuilding effort was spearheaded by Governor Bush's Hurricane Housing Working Group, working out of the Governor's Office.

In either case it is vital that advocates for the needs of extremely low income households be part of these housing advocacy efforts. Extremely low income families, less than 30% AMI, consistently have some of the most severe housing needs as a

result of the hurricanes in Florida. These families frequently reside in structures less able to withstand the storm, have few, if any, personal or family resources to assist with recovery, and are often at the mercy of others, landlords or mobile home park owners, regarding restoring or replacing their damaged homes.

The needs of these families are as diverse as they are. They include households that were homeless before the storm, as well as the many thousands of working poor, including contingent workers, migrant workers and the unemployed, as well as the elderly and the disabled. Many of these households are the workforce for our most important industries - tourism, agriculture, personal services. Therefore, providing diverse types of housing assistance for these families is a significant challenge in the post disaster recovery period.

It is important to remember, even after emergency shelter is provided, these households will have both "interim" and "long term" needs, and both of these needs must be addressed. Many of these households will be without adequate housing months after the storms and will not be able to wait the one or two years for the development of new subsidized housing opportunities. The families immediate needs must be addressed if they are to take advantage of the long term programs.

The following are some of the principal types of assistance that can be requested as part of any post disaster advocacy efforts<sup>1</sup>:

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<sup>1</sup> These suggestions for resource advocacy were taken from suggestions made to the Governor's Hurricane Housing Working Group, established by Governor Bush after the hurricane season of 2004.

## **1. Increased Availability of Housing Vouchers and Rental Assistance**

**(i) Federal Vouchers** - The federal Section 8 housing voucher program is currently the single largest resource for housing the extremely low income and very low income families in Florida. Every effort should be made to seek any additional federal vouchers that may be available. There is often a disincentive to request vouchers as the destruction of affordable rental housing can sometimes render them virtually useless in the short term. However, the private rental stock will almost certainly return more quickly than any new construction. Moreover, much of the new construction is often HOME financed or Low Income Housing Tax Credit financed, resulting in rents that are generally unaffordable to extremely low income households. Section 8 vouchers is the single housing resource which is guaranteed to provide affordable housing for extremely low income households.

**(ii) Interim State Voucher Program** - After the 2004 Hurricane season, Florida developed a short term supplemental housing voucher program that could provide a “bridge” to permit poor workers to remain in their communities as they await the development of longer term solutions.

**(iii) Relocation Expense Subsidy** - Needy families living in housing damaged by hurricanes often need relocation expenses such as security deposits, utility payment deposits, and first or last months rent which are not provided for by FEMA. Such a fund can also be used for temporary storage of household furnishings, moving costs, etc.

**(iv) Increased Availability of Interim FEMA Trailer Assistance** -

FEMA trailers are one of the few sources of “interim housing” in areas where there are no units to rent with vouchers. Assuming that the newly constructed subsidized units will take 18 months to two years to come on line, the only interim resources for extremely low income households will be rent subsidy programs or FEMA Trailers. After Hurricane Andrew, the FEMA trailers were vital in providing a housing resource until the long term subsidized housing resources began to return. FEMA should be urged to make maximum use of trailers in situations where long term housing is not available.

## **2. Prioritization of Funding**

### ***(i) Targeting Extremely Low Income Households Must Be the Top Priority -***

After every disaster, significant amounts of one time funds are identified. Housing advocates must advocate not only with respect to the amount of these funds but, more importantly, with respect to the prioritization of their expenditure. One of the highest priorities must be rental housing for the extremely low and very low income households. After a severe storm or series of storms, privately owned, unsubsidized affordable housing will often virtually cease to exist in the areas hit hardest by the hurricanes. That housing cannot be replaced at the same rents without significant subsidies.

### ***(ii) We must Advocate for Development of Imaginative Deep Subsidy Programs to Assist the Lowest Income Households -*** One of the objections to programs targeted exclusively to the lowest income households is that they fail in the absence of an ongoing operating subsidy. While this notion should be confronted

directly, the desperate and difficult situations after a serious disaster can sometimes be utilized to gain acceptance for programs and policies that might otherwise be rejected as too highly targeted, or too novel. The following are a few programs that were suggested to the Governor's Hurricane Housing Working Group following the 2004 storms:

**(iii) *Community Land Trust*** - It was suggested that Florida should provide subsidies to impacted counties for the purpose of purchasing mobile home park properties to be used for housing extremely and very low income families for a term of no less than 50 years. Priority could be given for the purchase of properties that suffered damage in the hurricanes and are in danger of being converted to uses which do not serve the extremely and very low income. Local governments could transfer title to the properties to community land trusts (nonprofit organizations that could be set-up with the assistance of the local government). This program could greatly assist in stemming the widespread loss of mobile home park properties due to the combination of market forces and the hurricanes, with the displacement of thousands of extremely and very low income Floridians.

**(iv) *Manufactured Home Loan Guarantee Fund*** - It was suggested that Florida could establish a manufactured home loan guaranty program to be used as a credit enhancement for the financing of individual manufactured homes, to enable the buyer to obtain the same interest rate and closing fees on a manufactured home (built to post 1994 standards, with adequate tie downs) as a stick built home. The manufactured home would be required to be located on property owned by the buyer prior to or at closing. This program could also be supplemented with a down payment

and closing cost assistance program. This program should to a substantial extent be targeted to rural areas and could result in ownership opportunities for extremely low income households.

(v) ***Extremely Low Income Targeted Development Subsidy*** - Florida should provide a deep subsidy to developers using bonds with 4% tax credits to set-aside 15% of the units for extremely low income families and 10% of the units for very low income families for a term of no less than 50 years. This serves the purpose of using the much available bond money with 4% federal tax credits to create permanent housing for the extremely low income in a mixed income development. The Florida Housing Finance Corporation could administer these monies with the multifamily mortgage revenue bond program.

(vi) ***Capacity Building among Community Based Developers*** - Often a hurricane can result in a huge surge in reconstruction and construction of affordable housing in a damaged community. It is important that the influx of funds be accompanied with some funding to assist local community based nonprofit developers to have a fair chance to access those funds.

### **3. Advocates must Maintain Vigilance over Local ReBuilding and Planning Efforts to Insure that Former Low Income Residents are Included in the Post Disaster Community.**

#### **a. The Redevelopment Syndrome**

Just as it is important to be part of the larger resource advocacy efforts, so to it is vitally important to participate in local government post disaster planning efforts.

Frequently, particularly in smaller jurisdictions, local governments attempt to use the

destruction caused by hurricanes as a type of “redevelopment” selectively rebuilding or refusing to rebuild housing based on the perceived attractiveness of its potential inhabitants. Any such effort when based on considerations of race, ethnicity or family size is subject to challenge as a violation of Title VIII of the Civil Rights Act of 1968, 42 U.S.C. §§ 3601, et seq.; the Equal Protection Clause of the Fourteenth Amendment to the U.S. Constitution. For an excellent discussion of the law challenging discriminatory zoning and land use decisions see, James A. Kushner, Fair Housing, Discrimination in Real Estate, Community Development and Revitalization, 2d Ed., Ch. 7, §§ 7.02 through 7.14.

**b. Mobile Home Parks**

Mobile home parks are frequently one of the least desirable land uses in the wake of a hurricane. Often local governments will take action to prevent them from being rebuilt or restored after the storm. Mobile home parks, however, provide one of the more affordable market rate housing options for extremely low income households. Therefore, advocacy efforts should be directed at the maintaining affordable mobile home parks whenever possible. If there is any evidence that the mobile home park is being closed due to the race, ethnicity or family size of the residents (or former residents) then the action of the local government may be subject to challenge as a violation of Title VIII of the Civil Rights Act of 1968, 42 U.S.C. §§ 3601, et seq.; the Equal Protection Clause of the Fourteenth Amendment to the U.S. Constitution. For an excellent discussion of the law challenging discriminatory zoning and land use decisions see, James A. Kushner, Fair Housing, Discrimination in Real Estate, Community Development and Revitalization, 2d Ed., Ch. 7, §§ 7.02 through 7.14.

In addition, if the mobile home park is closed due to rezoning or other land use change during the period of post storm vacancy, then the advocate should review Fla. Stat., 723.083 which prohibits any local agency from approving any rezoning or taking “any other official action which would result in the removal or relocation of mobile home owners residing in a mobile home park without first determining that adequate mobile home parks or other suitable facilities exist for the relocation of the mobile home owners.”

**c. Unmet Needs Consortium**

A very positive and extremely useful local planning effort is the Unmet Needs Consortium. This is an informal assembly of social service, housing and other local emergency needs providers, each of whom have caseworkers working with storm victims. After obtaining waivers of confidentiality, they present particularly difficult or complex cases to the entire group who combine their resources in responding to each individual case worker’s presentation. As a result, storm victims are given access to a large panoply of services and funds which they otherwise would be unable to obtain from a single agency.