



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-7000

OFFICE OF COMMUNITY PLANNING
AND DEVELOPMENT

MAR 4 2013

MEMORANDUM FOR: Regional Environmental Officers
Field Environmental Officers

FROM: *Danielle Schopp*
Danielle Schopp, Director, Office of Environment and Energy, DGE

SUBJECT: Adoption of FEMA and Other Federal Environmental Reviews and
Processing for Hurricane Sandy Supplemental Appropriation (H.R.
152) Activities

Under the Disaster Relief Appropriations Act, 2013 (P.L. 113-2), also known and referred to herein as the Hurricane Sandy Supplemental Appropriation (H.R. 152), HUD grantees are permitted to adopt environmental reviews performed by other Federal agencies when the HUD grantee is providing supplemental assistance to actions performed under sections 402, 403, 404, 406, 407, or 502 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act. The Hurricane Sandy Supplemental Appropriation also allows the Secretary to immediately approve funds that are subject to this adoption provision or are Categorically Excluded under the National Environmental Policy Act (NEPA). This document provides the language covering these provisions, contains frequently asked questions to explain the use of the adoption provision, discusses the immediate approval provision, and features charts explaining the comment periods applicable to different types of assistance.

Frequently Asked Questions about Adoption of Other Federal Reviews under the Hurricane Sandy Supplemental Appropriation

1. What does this provision of the supplemental appropriation and HUD's Notice of Allocation (http://portal.hud.gov/hudportal/documents/huddoc?id=CDBG-FR_Sandy_Notice.PDF) allow?

The Hurricane Sandy Supplemental Appropriation states:

Provided further, That, notwithstanding the preceding proviso, recipients of funds provided under this heading that use such funds to supplement Federal assistance provided under section 402, 403, 404, 406, 407, or 502 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) may adopt, without review or public comment, any environmental review, approval, or permit performed by a Federal agency, and such adoption shall satisfy the responsibilities of the recipient with respect to such environmental review, approval or permit.

The above provisions allow the recipient of supplemental assistance under this NOFA to adopt another Federal agency's review if the other Federal agency performed an environmental review for assistance under sections 402, 403, 404, 406, 407, or 502 of the Stafford Act. The review may only be adopted where the HUD assistance supplements the Stafford Act funding. The other agency's environmental review must cover all project activities funded by the HUD recipient for each project.

The recipient does not need to supplement the other agency's environmental review to comply with HUD regulations. The recipient's environmental review obligations are considered complete when the recipient adopts another agency's review.

2. What must be done by the grantee for adoption to occur?

The grantee must obtain a completed electronic or paper copy of the Federal agency's review and retain a copy in its environmental records. The grantee must notify HUD or the State (if the State is acting as HUD under 24 CFR 58.18) that another Federal agency review is being used. The notification must be stated on a Request for Release of Funds (RROF) Form 7015.15. The RROF must indicate that another Federal agency's review is being adopted and include the name of the other Federal agency, the name of the project, and the date of the project's review as prepared by the other Federal agency.

3. Which forms of HUD assistance allow grantees to adopt reviews performed by other agencies?

The adoption provision only applies to HUD funds under the Hurricane Sandy Supplemental Appropriation. Only environmental reviews performed by other Federal agencies under the Stafford Act may be adopted. The environmental review must cover all project actions.

If HUD funds are being used from other appropriations or programs, then HUD or the responsible entity must perform an environmental review to cover activities assisted by those funds. HUD or the responsible entity may use information from the other Federal agency's review, but the environmental review cannot be adopted without independent review and public comment as allowed under the above provisions.

If HUD or non-HUD funds used by participants in the development process are being used for project activities that exceed the scope of the other agency's review, a new review must be performed. However, the information contained within the prior review may be used in the new review.

4. Does the grantee have to publish notices?

No. The grantee is adopting the environmental review record of the other Federal agency. All notice requirements should have been fulfilled by the other Federal agency's review.

5. Can other Federal agencies adopt HUD or responsible entities' reviews?

No. HUD recipients are allowed to adopt other Federal reviews without notices or comments, but the other Federal agencies are not permitted to adopt HUD or responsible entity reviews under this provision. Outside of this provision, Federal agencies may adopt reviews consistent with CEQ and agency regulations.

HUD Secretary's Immediate Approval of Release of Funds under the Hurricane Sandy Supplemental Appropriation

The Hurricane Sandy Supplemental Appropriation states:

[N]otwithstanding section 104(g)(2) of the Housing and Community Development Act of 1974 (42 U.S.C. 5304(g)(2)), the Secretary may, upon receipt of a request for release of funds and certification, immediately approve the release of funds for an activity or project assisted under this heading if the recipient has adopted an environmental review, approval or permit under the preceding proviso or the activity or project is categorically excluded from review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

Under this provision, the Secretary may immediately release funds without holding the Request for Release of Funds (RROF) (Form 7015.15) for the 15 days required by Section 104(g) of the Housing and Community Development Act of 1974 (42 U.S.C. 5304(g)) and 24 CFR 58.73 if the action is supplemental assistance for which the recipient has adopted another agency's review under the Hurricane Sandy Supplemental Appropriation, as discussed above, or if the project is Categorical Excluded under NEPA. HUD may immediately accept the RROF and issue an Authority to Use Grant Funds (AUGF) (Form 7015.16) or equivalent letter. This provision is unique to the Hurricane Sandy Supplemental Appropriation.

Comment Period Comparison by Funding Source

Normal Public Comment Periods for Non-Hurricane Sandy Supplemental Appropriation Assistance under 24 CFR 58.45 and 58.73:

(a) Notice of Finding of No Significant Impact (FONSI)	15 days when published or, if no publication, 18 days when mailing and posting
(b) Notice of Intent to Request Release of Funds (NOI-RROF)	7 days when published or, if no publication, 10 days when mailing and posting
(c) Concurrent or combined notices	15 days when published or, if no publication, 18 days when mailing and posting
(d) HUD approval period for objections	15 days

Hurricane Sandy Supplemental Appropriation Assistance (when Sandy CDBG assistance is used as supplemental assistance to another Federal agency and the CDBG grantee has adopted another Federal agency's environmental review):

(a) Notice of Finding of No Significant Impact (FONSI)	0 days no publication or posting required
(b) Notice of Intent to Request Release of Funds (NOI-RROF)	0 days no publication or posting required
(c) Concurrent or combined notices	0 days no publication or posting required
(d) HUD approval period for objections	0 days

Categorically Excluded Activities for Hurricane Sandy Supplemental Appropriation (when not adopting another federal review):

(a) Notice of Intent to Request Release of Funds (NOI-RROF)	7 days when published or, if no publication, 10 days when mailing and posting
(b) HUD approval period for objections	0 days