

## DR-4277 DR-4263 Louisiana Flood Victims request review of Task Force public comment policy and other issues.



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Citizens request for assistance from HUD to review Action Plan Amendment 9 processing by the Louisiana Office of Community Development - Disaster Recovery Unit under the direction of Patrick Forbes.

What authority does the Louisiana Homeowners Assistance Task Force have to vote on, and effectively grant \$682 million of CDBG-DR funds that were allocated to serve the unmet needs of those most impacted by the floods of 2016 to be held until such time congress and HUD offer guidance to how the state is to handle homeowners with SBA Disaster Loans. From APA 9: "...the state may hold the balance until Congress and HUD issue updated and definitive guidance on how to treat SBA loans when calculating eligible award amounts to serve that potential unmet need"

The state of Louisiana Task Force has voted and passed Action Plan Amendment 9 that places a hold on \$682 million of CDBG-DR funds. The Task Force was informed by OCD-DRU director Patrick Forbes that the hold would allow the program to pay for repair and reimbursement estimates of homeowners that received SBA Disaster Loans. This process would actually repeat known issues identified and outlined in the [OIG SBA Report Number 10-13 dated September 2, 2010](#).

It is also a concern that policy waiving public comment periods and HUD approval were not clearly stated or read into record when the chair person Mr. Durbin ask if this "hold" needed public comment or HUD approval.

According to our Action Plan 1 which was approved by HUD on March 31, 2017 and identifies notice 81 FR 83254, substantial amendments are defined by a change in program benefits. A rational thinking person may find this "hold" on funds is a change that offers additional benefits to SELECT program beneficiaries and not all program beneficiaries. This would then constitute a program change as well as a program benefit increase to select individuals and groups.

The State OCD-DRU has increased the reimbursement percentage from 50% to 100% and the state of Louisiana estimates that it will cost \$649 million of the homeowners assistance CDBG-DR funds to cover all solutions and income levels for this increase. This action plan (9) amendment did not ask for a public comment period. Per 81 FR 83254, substantial amendments are defined by a change in program benefits. The state clearly identified the benefit for the program would be \$649 million additional funds not previously allocated to this selective group of grant beneficiaries.

Remedy: We ask that you request the state of Louisiana OCD-DRU redact the action plan amendment 9 based on the fact public comments are required when benefits are changed. In both changes identified we find that funding increased for selective program groups, selective homeowner types and SBA Disaster Loan recipients and only benefit those that have either completed their repairs or have the financial resources provided by other disaster assistance programs such as the SBA disaster loan program to complete their repairs. The two combined totals of these new benefit changes completely exhaust all funds available for other groups that still have unmet needs. Reference 6 "Per 81 FR 83254,substantial amendments are defined by a change in program benefit or eligibility criteria" Action Plan Amendment 1 and approved by HUD March 31, 2017.

Remedy: We ask that HUD issue a directive and / or guidance to the state of Louisiana OCD-DRU regarding Public Law 115-123 which is listed in the HUD Exchange public notices web page. Public Law 115-123 was passed Feb. 9, 2018 "That with respect to any such duplication of benefits, the Secretary and any grantee under this section shall not take into consideration or reduce the amount provided to any applicant for assistance from the grantee where such applicant applied for and was approved, but declined assistance related to such major declared disasters that occurred in 2014, 2015, 2016, and 2017 from the Small Business Administration under section 7(b) of the Small Business Act (15 U.S.C. 636(b)):". Following this law and creating a directive and/or guidance instructing the Grantee State of Louisiana Office of Community Development - Disaster Recovery Unit to follow the Public Law 115-123 as publish would directly assist today nearly 5,000 Louisiana Flood Victims and clear a backlog of issues for the years identified. Issuing Guidance and/or Directive would also prevent current disaster victims in Texas, Florida, Puerto Rico, US Virgin Islands, California and future victims from the stressful environment placed on those denied for disaster relief solely based on SBA Disaster Loan approvals. We must keep in mind that the SBA will approve Low and Moderate income households according to SOP 50 30 9 minimum income requirements. Secured loans on collateral offered in 2016 did not take into consideration living expenses, insurances, utilities and is identified as the most serious issues the SBA faces this year. Reference 2 SBA OIG report Feb. 2018.

Resources:

1. Louisiana Action Plan 9 voted and approved by the Louisiana Task Force July 13, 2018.
2. The SBA OIG report February 2018 titled "[Most Serious Management and Performance Challenges Facing the Small Business Administration in Fiscal Year 2018](#)" has identified that the lending practices of the SBA during the 2010 to 2017 disaster periods ignore or neglected to take into account the homeowners living and life expenses when qualifying a SBA disaster loan.
3. [Louisiana OCD-DRU Action Plan Amendment 9](#)
4. [H.R. 1892 Bipartisan Budget Act of 2018 Public Law 115-123 as published in Federal Register and HUD Notice.](#)
5. [Video archive of July 13, 2018 Louisiana Task Force meeting](#) that provided the votes for Action Plan Amendment 9
6. D. Amendments to the Disaster Recovery Action Plan
  1. Substantial Amendments

Per 81 FR 83254,substantial amendments are defined by a change in program benefit or eligibility criteria the addition or deletion of an activity or the allocation or reallocation of a monetary threshold specified by the grantee. For purposes of this allocation of funding, the state will define the threshold for a substantial

amendment as the greater of a re-allocation of more than \$5 million dollars or a reallocation which constitutes a change of 15 percent or greater of a program budget.

Only those amendments that meet the definition of a substantial amendment are subject to the citizen participation process.

*Definitions:*

Supplement, not supplant (SNS) is one of the three fiscal tests in Title I, Part A. The purpose is to ensure that Title I funds add to (supplement) and do not replace (supplant) state and local funds. Title I funds should not be used to provide services that would be supported with state or local funds in the absence of Title I dollars.

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