

# DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-5554-N-01]

## Additional Waiver Granted for the State of New York's CDBG Disaster Recovery Grants—The Drawing Center

**AGENCY:** Office of the Assistant Secretary for Community Planning and Development, HUD.

**ACTION:** Notice.

**SUMMARY:** This notice advises the public of an additional waiver applicable to the Community Development Block Grant (CDBG) disaster recovery grants provided to the State of New York for the purpose of assisting in the recovery from the September 11, 2001, terrorist attacks on New York City. As described in the **SUPPLEMENTARY INFORMATION** section of this notice, HUD is authorized by statute and regulations to waive statutory and regulatory requirements and specify alternative requirements for this purpose upon the request of the grantee. HUD previously published **Federal Register** notices applicable to these grants on January 28, 2002, February 7, 2002, March 18, 2002, May 22, 2002, May 16, 2003, and April 12, 2004.

**DATES:** Effective Date: August 29, 2011.

**FOR FURTHER INFORMATION CONTACT:** Scott Davis, Director, Disaster Recovery and Special Issues Division, Office of Block Grant Assistance, Department of Housing and Urban Development, 451 7th Street, SW., Room 7286, Washington, DC 20410, telephone number 202-708-3587. Persons with hearing or speech impairments may access this number via TTY by calling the Federal Information Relay Service at 800-877-8339. Facsimile inquiries may be sent to Mr. Davis at 202-401-2044. (Except for the "800" number, these telephone numbers are not toll-free.)

### SUPPLEMENTARY INFORMATION:

#### Authority To Grant Waivers

The three grants covered by this Notice are governed by the fifth proviso under the 2001 Emergency Supplemental Appropriations Act for Recovery from and Response to Terrorist Attacks on the United States (Pub. L. 107-38, approved September 18, 2001); by section 434 of title IV of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 2002 (Pub. L. 107-73, approved November 26, 2001 (Fiscal Year (FY) 2002 HUD Appropriations Act); by chapter 13 of division B of the Department of Defense and Emergency

Supplemental Appropriations for Recovery From and Response to Terrorist Attacks on the United States Act, 2002 (Pub. L. 107-117, approved January 10, 2002) (FY 2002 Department of Defense Appropriation); and by chapter 13 of title II of the 2002 Supplemental Appropriations Act for Further Recovery From and Response to Terrorist Attacks on the United States (Pub. L. 107-206, approved August 2, 2002) (FY 2002 Recovery and Response to Terrorist Attacks Supplemental).

The third proviso of section 434 of the FY 2002 HUD Appropriations Act and the fourth proviso of the FY 2002 Recovery and Response to Terrorist Attacks Supplemental authorize the Secretary to waive, or specify alternative requirements for, any provision of any statute or regulation that the Secretary administers in connection with the obligation by the Secretary or use by the recipient of these grant funds, except for requirements related to fair housing, nondiscrimination, labor standards, and the environment, upon a finding that such waiver is required to facilitate the use of such funds.

#### Waiver Justification

Upon a request from the State of New York, this notice waives 42 U.S.C. 5305(a)(2) to the extent necessary to allow for an additional eligible activity: retirement of short-term debt service for costs incurred in the amount not to exceed \$2,000,000, by The Drawing Center, a Lower Manhattan-based nonprofit organization, for the expansion of its site at 35 Wooster Street, New York, NY 10013. With this waiver, the short-term debt will not be forgiven, but will be fully retired. No portion of this debt was incurred prior to the supplemental appropriation to the State of New York under the Community Development Block Grant Disaster Recovery Program. When the space adjacent to The Drawing Center's existing facility recently became available, the organization purchased it with a short-term commercial loan. Due to the extraordinarily fast and competitive nature of the Lower Manhattan real estate market and the cost savings experienced with expansion of the existing facility into an adjacent site rather than relocation or new construction at a new site, HUD has considered this request and finds that the retirement of the short-term debt presents a cost savings versus the alternative of expansion into a new facility that is not adjacent to the existing facility. Further, the expanded facility would provide space for educational and public programs and expand gallery space which provides for

public benefit. The following waiver (together with previously granted waivers and alternative requirements) is necessary to facilitate the use of these funds. HUD also agrees that it is consistent with the overall purposes of the Housing and Community Development Act of 1974 and the Cranston-Gonzalez National Affordable Housing Act, as amended.

#### Applicable Rules, Statutes, Waivers, and Alternative Requirements

1. *Expiration of waivers and alternative requirements.* In **Federal Register** notices published on January 28, 2002 (67 FR 4164), February 7, 2002 (67 FR 5845), March 18, 2002 (67 FR 12042), May 22, 2002 (67 FR 36017), May 16, 2003 (68 FR 26640), and April 12, 2004 (69 FR 19211), the Department promulgated waivers and alternative requirements necessary to facilitate the use of \$700 million in disaster recovery funds awarded to New York's Empire State Development Corporation and \$2.0 billion and \$783 million awarded to New York's Lower Manhattan Development Corporation. In combination with today's waiver, these waivers and alternative requirements will be in effect until all CDBG disaster recovery funds have been expended and the grants have been officially closed.

2. *Applicability of State CDBG requirements.* Except for those waivers and alternative requirements published in prior notices and this notice, statutory and regulatory provisions governing the Community Development Block Grant program for states, including those at 24 CFR subpart I, shall apply to the use of these funds.

3. *Retirement of short-term debt service.* 42 U.S.C. 5305(a)(2) and the implementing regulation at 24 CFR 570.482(a) are waived to the extent necessary to allow for an additional eligible activity: retirement of short-term debt service for costs incurred by The Drawing Center, for the expansion of its site at 35 Wooster Street, New York, NY 10013.

#### Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance numbers for the disaster recovery grants under this notice are as follows: 14.218; 14.228.

#### Finding of No Significant Impact

A Finding of No Significant Impact (FONSI) with respect to the environment has been made in accordance with HUD regulations at 24 CFR part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332). The FONSI is available for public inspection

between 8 a.m. and 5 p.m. weekdays in the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, Room 10276, 451 7th Street, SW., Washington, DC 20410-0500. Due to security measures at the HUD Headquarters building, an advance appointment to review the docket file must be scheduled by calling the Regulations Division at 202-708-3055 (this is not a toll-free number). Hearing or speech-impaired individuals may access this number through TTY by calling the toll-free Federal Relay Service at 800-877-8339.

Dated: July 29, 2011.

**Mercedes Márquez,**  
Assistant Secretary, Community Planning and Development.

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**BILLING CODE 4210-67-P**

## DEPARTMENT OF THE INTERIOR

### Office of the Secretary

#### Privacy Act of 1974, as amended; Notice of a New System of Records

**AGENCY:** Office of the Secretary, Interior.

**ACTION:** Notice of Creation of a New Privacy Act System of Records.

**SUMMARY:** Pursuant to the provisions of the Privacy Act of 1974, as amended, the Department of the Interior is issuing a public notice of its intent to create the Office of the Secretary "Debarment and Suspension Program" system of records. The system contains information including, but not limited to, names and addresses of business entities, organizations and individuals covered by the system of records, evidence and information obtained in support of Action Referral Memoranda and Case Closure Memoranda, action determinations, administrative agreements, and monitoring reviews of debarment or suspension administrative agreements. This newly established system will be included in the Department of the Interior's inventory of record systems.

**DATES:** Comments must be received by October 3, 2011. This new system will be effective October 3, 2011.

**ADDRESSES:** Any person interested in commenting on this notice may do so by: submitting comments in writing to the OS/NBC Privacy Act Officer, Office of the Secretary, U.S. Department of the Interior, 1951 Constitution Avenue, NW., Mail Stop 116 SIB, Washington, DC 20240; hand-delivering comments to the OS/NBC Privacy Act Officer, Office

of the Secretary, U.S. Department of the Interior, 1951 Constitution Avenue, NW., Mail Stop 116 SIB, Washington, DC 20240; or e-mailing comments to [privacy@nbc.gov](mailto:privacy@nbc.gov).

#### FOR FURTHER INFORMATION CONTACT:

Karen Burke, OS/NBC Privacy Act Officer, Office of the Secretary, U.S. Department of the Interior, 1951 Constitution Avenue, NW., Mail Stop 116 SIB, Washington, DC 20240.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

The Department of the Interior (DOI) maintains the Debarment and Suspension Program system of records. The primary purpose of this system of records is to assist DOI in conducting and documenting debarment and suspension proceedings to ensure that Federal procurements and Federal discretionary assistance, loans, and benefits are awarded to presently responsible business entities, organizations, and individuals. Additional purposes of the system are: to promote understanding of the case decision path and concerns addressed by the debarring and suspending official in reaching a decision; to promote the submission of relevant arguments in contested cases; to educate the public as to the kinds of mitigating factors and remedial measures that demonstrate present responsibility; and to enhance the transparency of decision making.

The system will be effective as proposed at the end of the comment period (the comment period will end forty (40) days after the publication of this notice in the **Federal Register**) unless comments are received which would require a contrary determination. DOI will publish a revised notice if changes are made based upon a review of the comments received.

##### II. Privacy Act

The Privacy Act of 1974, as amended, embodies fair information principles in a statutory framework governing the means by which Federal Agencies collect, maintain, use, and disseminate individuals' personal information. The Privacy Act applies to information that is maintained in a "system of records." A "system of records" is a group of any records under the control of an agency for which information is retrieved by the name of an individual or by some identifying number, symbol, or other identifying particular assigned to the individual. The Privacy Act defines an individual as a United States citizen or lawful permanent resident. As a matter of policy, DOI extends administrative Privacy Act protections to all

individuals. Individuals may request access to their own records that are maintained in a system of records in the possession or under the control of DOI by complying with DOI Privacy Act Regulations, 43 CFR part 2.

The Privacy Act requires each agency to publish in the **Federal Register** a description denoting the type and character of each system of records that the agency maintains, the routine uses that are contained in each system in order to make agency record keeping practices transparent, to notify individuals regarding the uses of their records, and to assist individuals to more easily find such records within the agency. Below is the description of the DOI Debarment and Suspension Program system of records.

In a notice of proposed rulemaking, which is published separately in the **Federal Register**, DOI is proposing to exempt records maintained in this system from certain provisions of the Privacy Act pursuant to 5 U.S.C. 552a(k)(2) and (k)(5).

In accordance with 5 U.S.C. 552a(r), DOI has provided a report of this system of records to the Office of Management and Budget and to Congress.

##### III. Public Disclosure

Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment, including your personal identifying information, may be made public at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: August 11, 2011.

**Karen Burke,**  
OS/NBC Privacy Act Officer.

#### SYSTEM NAME:

Debarment and Suspension Program, DOI-11

#### SYSTEM LOCATION:

Office of Acquisition and Property Management, U.S. Department of the Interior, 1849 C Street, NW., Mail Code 2607-MIB, Washington, DC 20240.

Records may also be located in files maintained by the Office of the Solicitor, Mail Code 6456-MIB, 1849 C Street, NW., Washington, DC 20240, and the Office of Inspector General, Recovery and Oversight Office, Acquisition Integrity Unit, Department of the Interior, 1849 C Street, NW., Mail Stop 4428-MIB, Washington, DC 20240.