



FEMA

March 28, 2006

Keith E. Gottfried
General Counsel
Office of General Counsel
U.S. Department of Housing and Urban Development
Washington, D.C. 20410-0500

Dear Mr. Gottfried:

This is in response to your letter dated December 29, 2005, requesting clarification about the effect on FEMA disaster assistance, if any, of local governments' using HUD HOME funds to provide emergency assistance to victims of Hurricane Katrina. My letter dated November 2, 2005 addressed CDBG funds only and did not extend to HUD HOME funds.

If another federal agency's authority to provide funding is more specific than FEMA's, then FEMA defers to that federal agency and does not provide disaster assistance for that activity. Community Development Block Grant funds can be used for many purposes and are therefore less specific than FEMA's authority to provide emergency sheltering and other emergency assistance. HUD HOME funds, however, are more specific to housing. In addition, according to HUD guidance, HUD waived certain HOME regulations and suspended certain HOME statutory requirements to assist those displaced by Hurricane Katrina.

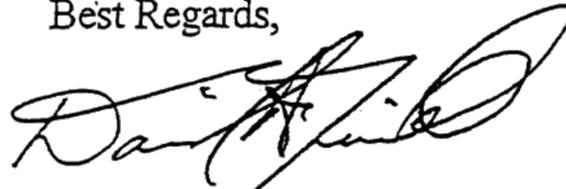
Despite HUD's use of HOME funds to assist victims of Hurricane Katrina, I have concluded that FEMA's authority to provide emergency shelter under Section 403 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act), 42 U.S.C. 5121-5206, is more specific than the HOME program's authority to expand the supply of affordable housing for low-income Americans through new construction, reconstruction, or rehabilitation of non-luxury housing. Therefore if a community used its HOME funds for emergency sheltering, it may still be eligible for reimbursement of these costs through FEMA's public assistance program.

The HOME program seems intended to provide permanent housing solutions for low-income Americans. The allocation of funds is based on factors such as the number of low-income people, overcrowding, and other housing-related needs. It is generally used for rental and homeownership opportunities. It may be used to purchase or rehabilitate manufactured housing as well, but it must be connected to permanent utility hookups. It is therefore more akin to FEMA's temporary housing assistance program and may overlap with aspects of the public assistance and hazard mitigation programs. It is

distinct, however, from FEMA's emergency assistance under Section 403 of the Stafford Act. Please note that FEMA's emergency sheltering program under Section 403 ended on March 1. Therefore, eligible costs would need to have been incurred prior to that date.

If you have any further questions or concerns, please contact Amy Weinhouse at (202) 646-3005. Thank you.

Best Regards,

A handwritten signature in black ink, appearing to read "David A. Trissell". The signature is fluid and cursive, with a large, stylized initial "D".

David A. Trissell
FEMA Chief Counsel

cc: David Garratt