

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-5018-N-01]

**Regulatory and Administrative Waivers
Granted for Public and Indian Housing Programs to Assist with Recovery
and Relief in Hurricane Katrina Disaster Areas**

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice.

SUMMARY: This notice advises the public of HUD regulations and other administrative requirements governing HUD's Office of Public and Indian Housing (PIH) programs that have been waived in order to facilitate the delivery of safe and decent housing under these programs to families and individuals who have been displaced from their housing by Hurricane Katrina. Entities that administer PIH programs, which include public housing agencies (PHAs), Indian and tribally designated housing entities (TDHEs), and local and tribal governments, and are located in an area declared by the President to be a federal disaster area as a result of Hurricane Katrina, may defer compliance with the regulations and other requirements listed in this notice for an initial period of 12 months or such other period as may be specified in this notice. PIH program administrators that are not located in a disaster area but assisting with Hurricane Katrina recovery and relief may request waiver of the regulations and administrative requirements listed in this notice, and HUD review and response is available through an expedited waiver request and response process. PIH program administrators, located in an area declared a federal disaster area as a result of Hurricane Katrina, or PIH program administrators not located in such an area but assisting with Hurricane Katrina relief and recovery efforts, may request waiver of a

regulation or other administrative requirement through the expedited waiver process provided in this notice.

This notice applies only to PIH programs or to cross-cutting regulatory or administrative requirements that are applicable to PIH program administrators.

DATES: September 27, 2005.

FOR FURTHER INFORMATION CONTACT: PIH Disaster Relief Officer, Office of Policy Programs and Legislation, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW, Room 4116, Washington, DC 20410-5000, telephone number (202) 708-4016, extension 4245, or (202) 708-0713, extension 7651. Persons with hearing or speech impairments may access this number via TTY by calling the Federal Information Relay Service at (800) 877-8339.

SUPPLEMENTARY INFORMATION:

I. Background Information

In late August 2005, Hurricane Katrina hit the Gulf Coast area of the United States, causing unprecedented and catastrophic damage to property, significant loss of life, and the displacement of tens of thousands of individuals and families from their homes and communities. The President has called upon all federal agencies to do everything in their power to assist the victims of Hurricane Katrina, with the top priority being to save and sustain lives. With recognition that shelter is key to saving and sustaining lives, and following the President's direction to eliminate or reduce "red tape" that will impede the delivery of federal financial assistance and other needed benefits, this notice identifies HUD regulations and other administrative requirements governing HUD's PIH programs that are waived or temporarily suspended or deferred in an area declared by the President to be a federal disaster area as a result

of Hurricane Katrina ("disaster area"). In addition, HUD will provide an expedited review process to waive the requirements listed in this notice upon request from PIH program administrators that are not located in disaster areas but are assisting with Hurricane Katrina recovery and relief efforts.

HUD's Office of Public and Indian Housing examined the regulations governing PIH programs and recommended waiver or temporary suspension or deferral of those regulations that the office believes could impede PIH program administrators in their effort to expeditiously assist with housing current PIH program participants who lost housing as a result of Hurricane Katrina as well as others who now need housing assistance under PIH programs as a result of the hurricane. PIH program administrators that are located in a disaster area may defer compliance with the requirements listed in this notice for an initial period of 12 months under the notification process described in this notice. The requirements listed in this notice that have been deferred, or temporarily suspended by waiver include regulatory and other administrative provisions that require periodic reporting and other information delivery by PHAs, Indian tribes, and TDHEs. While such reporting is important to ensure effective and efficient administration of PIH programs, these requirements have been waived in order that PIH program administrators may focus their time and resources on identifying and providing decent and safe housing during this period of unparalleled displacement of families and individuals.

For the majority of the regulations and administrative requirements listed in this notice and for which a waiver was granted, HUD did not waive the requirements entirely but deferred compliance until such time as compliance may be feasible; for example, in many cases HUD extended deadlines for reports or other documents that PIH program administrators must submit to HUD. Because the devastation caused by Hurricane Katrina is unprecedented, and the need

for housing and other basic life saving and sustaining relief is widespread and immediate, HUD is relying on its experienced partners in the HUD housing-assistance programs who are in the front-line of recovery efforts to meet the challenge of providing decent, safe, and sanitary housing as expeditiously as possible and to comply to the extent possible with the regulations that promote that goal. HUD does not want the time and resources of PHAs, Indian tribes, and THDEs diverted by requirements that are important but can be deferred until such time as a degree of normalcy in operations returns to the disaster areas. As the recovery period proceeds, HUD may identify other regulations for which waiver or temporary deferral or suspension is needed or determine that other alternative requirements may be necessary to assist with facilitation of delivery of housing to those most in need. Any additional HUD waivers or suspensions or other alternative requirements will be announced by direct notice to PIH program administrators and by Federal Register publication.

PIH program administrators that are not located in a disaster area but are assisting with Hurricane Katrina recovery and relief efforts may request waiver of the regulations and administrative requirements listed in this notice through the expedited waiver request and response process set forth in this notice.

In addition to the waiver of regulatory requirements, some statutory provisions contain built-in waiver provisions that allow administrative waiver of the statutory requirements for cause. Certain of those provisions are included in Section III.A of this notice.

This notice lists HUD regulatory and administrative requirements that the Office of PIH determined needed to be waived or temporarily deferred or suspended during the Hurricane Katrina recovery period. If, PHAs, Indian tribes, and TDHEs, and other PIH program administrators identify other regulations that they believe should be waived, they should seek a

waiver by submitting a waiver request, which specifies the need for a waiver, to the email address provided below in Section II, which describes the expedited waiver process.

II. Waiver Process

A. For PIH Program Administrators in Declared Disaster Areas.

Entities that administer public or Indian housing or voucher programs and are located in the areas declared a federal disaster area as a result of Hurricane Katrina may defer or suspend compliance with the regulations and other administrative requirements listed in this notice, with the exception of the waiver of the provision in Section III.B.12, upon the effective date of this notice, for an initial period of 12 months or for such other period as may be specified in this notice. These entities, however, should notify HUD within two weeks of determination of the need to utilize the waived requirements in this notice, or as soon as possible, by contacting HUD in the manner detailed in the following paragraph.

An official of the PHA, TDHE, tribal or local government that seeks the suspension of compliance with requirements listed in this notice must contact HUD in writing (email communication is allowed) and identify the requirements by section and number utilized in this notice (e.g., Section III.A.2. Section III.B. 1, 2, 3, etc, or “all of the waived or suspended requirements in Section III.”). The following email address has been established in order to expedite the process: PIH_Disaster_Relief@hud.gov. In addition, a checklist of the waived or suspended requirements is available at HUD's website at www.hud.gov/katrina/proguidance.cfm, and an eligible PHA can use this checklist to identify the waived or suspended requirements that it will utilize.

This is a notification process only, and HUD asks that this notification be made to HUD no later than two weeks after a PHA determines the need to rely on one or more or all of the

waived or suspended requirements in this notice. While, as noted earlier, HUD does not want to impose additional administrative requirements on PIH program administrators located in the disaster areas during this period, it is important for HUD to know (and helpful for HUD to know) how these entities are administering their PIH programs during the recovery period, as HUD has tried to make this notification process as easy as possible. HUD will maintain information on the names of the PHAs, Indian tribes, or TDHEs that have deferred compliance with certain regulatory and administrative requirements in accordance with this notice. The regulation or administrative requirement will remain inapplicable for a period of 12 months and will be considered waived or suspended by HUD for an additional three months upon notification to HUD following the same notification process described above.

B. For PIH Program Participants in Non-Disaster Declared Areas.

PIH program administrators that are not located in a disaster area but are contributing to Hurricane Katrina relief and recovery efforts may request a waiver of the regulations or administrative requirements listed in this notice by sending a request for a waiver to the PIH_Disaster_Relief@hud.gov email address. The request must specify the need for the waiver of the requirement. Waiver requests submitted through this email address will receive priority processing.

C. Regulations and Requirements Not Waived in this Notice.

For any regulation or other administrative requirement not listed in this notice for which a PIH program administrator seeks waiver or suspension, the program administrator may seek a waiver by sending a request to the PIH_Disaster_Relief@hud.gov email address. The request must specify the need for the waiver of the requirement. As noted earlier, waiver requests

submitted through this email address will receive priority processing, and HUD will respond to the requestor by email.

The expedited waiver process is provided only for waiver or suspension of requirements that will assist with the Hurricane Katrina relief and recovery efforts. HUD will not respond to any waiver requests submitted to this email address that are unrelated to relief and recovery of the disaster areas.

III. Authority to Grant Waivers

Generally, waivers of HUD regulations are handled on a case-by-case basis. Under statutory requirements set forth in section 7(q) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(q)), a regulated party that seeks a waiver of a HUD regulation must request a waiver from HUD in writing and the waiver request must specify the need for the waiver. HUD then responds to the request in writing and, if the waiver is granted, HUD includes a summary of the waiver granted (and all regulatory waivers granted during a three-month period) in a Federal Register notice that is published quarterly. Since the damage to property and the displacement of families and individuals in the disaster areas is massive, and the need for regulatory relief in many areas pertaining to HUD-assisted housing is readily apparent, HUD is suspending its usual regulatory waiver protocols for the disaster areas and has substituted an expedited process that meets the requirements of section 7(q).

In a quarterly notice of regulations waived, HUD will identify the PIH program administrators in the disaster areas that are utilizing one or more of the waived regulations in this notice or other regulations for which a waiver was requested or granted. The quarterly notice will also identify PIH program administrators that are located in non-federally declared disaster

areas and are contributing to Hurricane Katrina relief and recovery efforts that requested and were granted waivers in accordance with the waiver process provided in this notice.

The regulatory and administrative requirements set forth in Section III of this notice have been waived or temporarily deferred or suspended as provided in this notice. This action was determined necessary to assist PIH program administrators in the disaster areas in facilitating the identification and delivery of housing for families and individuals displaced from their homes by Hurricane Katrina. PIH program administrators referenced in Section III of this notice (e.g., PHAs, TDHEs), even if, at times, not specifically described as PIH program administrators located in a disaster area, refer only to administrators located in disaster areas.

A. Statutory Requirements with Built-In Waiver Authority.

1. Extension of Deadline for Obligation and Expenditure of Capital Funds. Section 9(j)(2) of the U.S. Housing Act of 1937 (42 U.S.C. 1437g(j)(2)) (1937 Act) authorizes the Secretary to extend the time period for obligation of capital funds by PHAs, as set forth in section 9(j)(1), for such period as the Secretary determines necessary if the Secretary determines that the failure of the agency to obligate assistance in a timely manner is attributable to, among other criteria listed, an event beyond the control of the PHA, or any other reason established by the Secretary by notice published in the Federal Register. Pursuant to section 9(j)(1) of the 1937 Act, PHAs are required to obligate capital funds not later than 24 months after the date on which the funds became available, or the date on which the PHA accumulates adequate funds to undertake modernization, substantial rehabilitation, or new construction of units, plus the period of any extension approved under section 9(j)(2). The occurrence of Hurricane Katrina was beyond the control of the PHAs located in the disaster areas and caused such massive and widespread destruction and displacement that the obligation deadline under section 9(j)(1) of the

1937 Act is hereby extended pursuant to section 9(j)(2) of the 1937 Act for an additional 12 months for PHAs located in the areas declared a federal disaster area.

In addition, section 9(j)(5)(A) of the 1937 Act requires a PHA to expend capital funds not later than four years after the date on which the funds become available for obligation, plus the period of any extension approved under section 9(j)(2). The expenditure period under section 9(j)(5) is accordingly also extended in the affected areas for 12 months to include the extension approved under section 9(j)(2). The extension of the section 9(j) obligation and extension deadlines made in this notice also apply to the implementing regulation for section 9(j) at 24 CFR 905.120.

2. Waiver of ICDBG 50 Percent Downpayment Assistance Limitation for Low- and Moderate-Income Homebuyers. Section 122 of the Housing and Community Development Act of 1974 (42 U.S.C. 5321) authorizes the Secretary to suspend requirements for activities to address the damage in a Presidentially declared disaster area. Section 105(a)(24)(D) (42 U.S.C. 5305) permits a grantee to provide downpayment assistance to low- and moderate-income homebuyers, but limits the assistance to 50 percent of the amount of downpayment the homebuyer must provide. Because of the extraordinary need for housing among low- and moderate-income evacuees, HUD finds good cause to permit downpayment assistance of up to 100 percent for the purchase of homes in the disaster area.

B. Regulatory Requirements.

1. 24 CFR 5.216(g)(5) (Disclosure and Verification of Social Security and Employer Identification Numbers). Section 5.216 addresses the disclosure and verification of Social Security Numbers and employer identification numbers of applicants for assistance under certain HUD assisted housing programs. Section 5.216(g) imposes special documentation requirements

on applicants, and subsection (g)(5) establishes the time limit for submission of this documentation. The time period required for submission of verification documents is waived for a period of three months in the case of all families and for a period not to exceed 12 months with approval.

2. 24 CFR 5.512(c)(Verification of Eligible Immigration Status; Secondary Verification). Section 5.512 provides the process by which verification of eligible immigration status must be undertaken for families seeking assistance under certain HUD programs. While the declaration of eligibility and this verification process is required by statute and cannot be waived, HUD does have the authority to waive certain deadlines. Section 5.512(d) provides the time frame under which a secondary verification must be requested of the Immigration and Customs Enforcement (ICE) by the responsible entity when the primary verification (the automated verification system) is not conclusive of immigration status. The responsible entity must request ICE to undertake a secondary verification within 10 days of receipt of the results of the primary verification, and must provide the ICE with all records on the applicant evidencing citizen or eligible immigration status that the applicant has provided to the responsible entity. This notice provides that the time frame under which a secondary verification must be requested is expanded from 10 days of the date of the results of the primary verification to 90 days from such date.

3. 24 CFR 5.801(c) and 5.801(d)(1) (Uniform Financial Reporting Standards (UFRS); Reporting Due Date). These sections establish uniform financial reporting standards for PHAs and other owners and administrators of HUD-assisted housing. Section 5.801(c) establishes the financial information requirements and § 5.801(d)(1) establishes the filing deadline for financial information and provides that PHAs must submit their unaudited financial

information no later than 60 days after the end of their fiscal year. This deadline is changed from 60 days to 180 days after the end of the PHA's fiscal year. In addition, § 5.801(d)(1) requires that PHAs submit their audited financial information no later than nine months after the PHA's fiscal year end. For PHAs with fiscal years ending December 31, 2004, and March 31, 2005, this deadline is changed from nine months to 13 months after the end of the PHA's fiscal year.

Although PHAs are still required to submit unaudited and audited financial information pursuant to UFRS, they will not be scored under the Public Housing Assessment System (PHAS), as more fully discussed in Section III.B.4. below.

4. 24 CFR part 902 (Public Housing Assessment System (PHAS)). Part 902 sets out the indicators by which HUD measures the performance of a PHA. These indicators measure a PHA's physical condition, financial condition, management operations, and resident service and satisfaction. For PHAs in the areas declared a federal disaster area beginning with fiscal year end September 30, 2005, and for those with fiscal years ending March 31, 2005, and June 30, 2005, that have not yet received their physical condition inspections for 2005, the PHAS score will be the same as their previous year score. However, PHAs are still required to submit unaudited and audited information in accordance with Section III.B.3.

5. 24 CFR 903.5 (Annual Plan Submission Deadline). Section 5A(h)(2) of the 1937 Act (42 U.S.C. 1437c-1(h)(2)) and 24 CFR 903.5 provide that a PHA Annual Plan must be submitted no later than 75 days before the commencement of a PHA's fiscal year. Each PHA affected may have a different fiscal year and for those PHAs that are approaching this submission deadline, this requirement may be impossible to meet because the PHAs are not operating. Since this requirement is a statutory one and not waivable by HUD without further authority, HUD is seeking legislative relief. However, HUD will accept as a submission a letter

from the PHA stating that HUD should consider its existing annual plan to be the plan for the next year or until it submits another annual plan. For Capital Fund activities, PHAs may obligate their Capital Funds for any activity listed in their existing and approved 5-year plan. PHAs should also submit amendments to their 5-year plan to the extent necessary.

6. 24 CFR 905.10(i) (Capital Fund Formula; Limitation of Replacement Housing Funds to New Development). Section 905.10 describes the Capital Fund formula. Section 905.10(i) limits the use of replacement housing funds to the development of new public housing. This section is waived to allow replacement housing funds to be used for two other areas, public housing modernization and homeownership for public housing families, which will help address housing needs as a result of the displacement caused by Hurricane Katrina.

7. 24 CFR 941.306 (Maximum Project Cost). Section 941.306 establishes the calculation of maximum project cost and the calculation of the total development cost. In order to facilitate the use of capital funds for repairs and construction for needed housing in the disaster areas, HUD has waived the total development cost (TDC) and housing cost cap limits for all work funded by the Capital Fund and HOPE VI funds until issuance of new TDC levels. Until new TDC levels are issued, PHAs should strive to keep housing costs reasonable given local market conditions.

8. 24 CFR 965.302 (Requirements for Energy Audits). This section establishes the requirement that all PHAs complete an energy audit for each PHA-owned project under management, not less than once every five years. PHAs that are required to conduct or update an audit this year are given an additional 12 months after September 30, 2005, to complete the audit. HUD is relieving PHAs of this administrative burden so that they may focus on the more urgent need to house impacted families.

9. 24 CFR 982.54 (Administrative Plan). This section provides that a PHA must adopt a written administrative plan that establishes local policies for the administration of the Housing Choice Voucher Program in accordance with HUD requirements. In order to allow PHAs to exercise maximum flexibility with program administration as a result of Hurricane Katrina, the PHA may temporarily revise the administrative plan to address unique circumstances without PHA Board of Commissioners approval or other authorized PHA official approval if such Board or officials also waive this requirement.

10. 24 CFR 982.206 (Waiting List; Opening and Public Notice). This section requires a PHA to give the public notice that families may apply for tenant-based assistance. The regulation requires a PHA to publish a notice of the opening of the list in a local newspaper of general circulation, and also by minority media and other suitable means. The requirement to publish in a newspaper of general circulation and also by minority media is waived, and a PHA may provide such information on its website and at any of its offices and in a voice mail message for any callers that may inquire whether a list is opened.

11. 24 CFR 982.401(d) (Housing Quality Standards: Space Requirements). By regulation, § 982.401 establishes housing quality standards. Section 982.401(d) provides, among other things, the requirement for adequate space for the family. With respect to space, this section provides that each dwelling unit must have at least one bedroom or living/sleeping room for each two persons. The spacing requirements of this section can be waived only if the family understands and consents to a waiver of this provision. Again, as noted from the outset, the waiver of these regulations does not represent a long-term change but rather a temporary suspension of requirements to address emergency needs.

12. 24 CFR 982.503(b) (Waiver of payment standard limit; Establishing Payment Standard Amounts). [Waiver of this Provision Available through Waiver Request.]

Section 982.503(b) imposes a cap on the amount a PHA may establish as its payment standard amount at 110 percent of the published fair market rent (FMR). In order to expand the housing available to families displaced by Hurricane Katrina, PHAs in disaster areas may establish separate payment standards amounts up to 120 percent of the published FMR. Higher exception rents above 120 percent may be requested through the described expedited waiver process, but must be justified by rental housing data. In all cases, the actual gross rent for the unit leased by the family may not exceed what is charged for comparable unassisted units in the area.

Note that areas whose rental housing markets have been significantly affected by families displaced by Hurricane Katrina may request a waiver through the expedited waiver review process, set forth in Section II of this notice, for approval of payment standards in excess of 110 percent of the published FMRs. However, the PHA must provide information indicating that (1) they have a significant number of displaced families and (2) area rents have increased.

13. 24 CFR 984.303 (Contract of Participation; Family Self-Sufficiency (FSS) Program; Extension of Contract) and 24 CFR 984.105 (Minimum Program Size). Part 984 of HUD's regulations provide the requirements for the Section 8 and Public Housing FSS Program. Section 984.303 sets out the requirements for the contract of participation and § 984.303(d) allows for an extension of the FSS program for a period not to exceed two years. For those families at the end of their initial contract term, the two-year limitation is waived and PHAs may provide an extension for a period not to exceed three years. This additional time period would account for any time lost on the FSS contract as a result of the displacement of families participating in the FSS program. Section 984.105 sets out the requirements for

minimum FSS program size. This notice exempts PHAs from the minimum program size (§§ 984.105(a) and (b)) for a period of two years.

14. 24 CFR part 985 (Section 8 Management Assessment Program (SEMAP)). Part 985 sets out the requirements by which section 8 tenant-based assistance programs are assessed. Similar to the action that HUD has taken with respect to the PHAS regulations in 24 CFR part 902, PHAs administering a section 8 tenant-based assistance program are eligible to defer compliance with the SEMAP requirements for a period of 12 months.

15. 24 CFR 990.145 (Dwelling Units with Approved Vacancies). Section 990.145 of the revised Operating Fund Program regulation (79 FR 54984, September 19, 2005) lists the categories of vacant units that are eligible to receive operating subsidy and, therefore, are considered approved vacancies. PHAs that had vacant units during the reporting period that were not “approved” vacancies pursuant to § 990.145, but were available for occupancy, may treat those units as approved vacancies if: (1) the PHA anticipates the units will be occupied by families and individuals affected by the disaster during the upcoming funding year, or (2) the PHA is holding the units vacant for families and individuals affected by the disaster.

16. 24 CFR 1000.156 and 1000.158 (IHBG Moderate Design Requirements for Housing Development). The IHBG program regulations at §§ 1000.156 and 1000.158 require that housing developed with IHBG funds must be of moderate design. Under these regulatory sections, IHBG recipients must either adopt written moderate design standards or comply with the TDC limits issued by HUD. In recognition of the higher development costs in communities affected by Hurricane Katrina, and to facilitate the development of housing for families in these communities, these moderate design requirements are waived for IHBG recipients until issuance

of new TDC levels. Until new TDC levels are issued, IHBG recipients should strive to keep housing costs reasonable given local market conditions.

17. 24 CFR 1000.214 (Indian Housing Plan (IHP) Submission Deadline). To receive an IHBG formula allocation, an Indian tribe or its TDHE must annually submit an IHP to HUD describing the affordable housing activities the Indian tribe or TDHE will undertake. Section 1000.214 requires that the IHP must be submitted to HUD no later than July 1 of each year. This section is waived to permit tribes and TDHEs to undertake affordable housing activities on behalf of families displaced by Hurricane Katrina, although these activities may not have been identified in the IHP originally submitted by the tribe or TDHE.

18. 24 CFR 1003.400(c) and Section I.C. of FY 2005 Indian Community Development Block Grants (ICDBG) Program Notice of Funding Availability (NOFA) (Grant Ceilings for ICDBG Imminent Threat Applications). The ICDBG regulations at § 1003.400(c) provide that HUD will establish grant ceilings for imminent threat applications. On March 21, 2005 (70 FR 13655), HUD published its FY 2005 ICDBG NOFA as part of HUD's FY2005 SuperNOFA. Section I.C. of the FY2005 ICDBG NOFA specifies that the grant ceiling for ICDBG imminent threat requests for FY2005 is \$425,000. This grant ceiling is waived to permit applicants to request imminent threat funding in excess of \$425,000 if necessary to address disaster-related needs in their communities.

19. 24 CFR 1003.401 and Section I.C. of FY 2005 ICDBG NOFA (Application Requirements for ICDBG Imminent Threat Funds). The ICDBG regulations at Section 1003.401 provide that, in response to applications for assistance, HUD may make ICDBG funds available to applicants to address imminent threats to health and safety. The regulation further provides that applications must contain the information specified in the annual ICDBG NOFA.

The required information that must be contained for imminent threat applications for FY 2005 is located in Section I.C. of the FY 2005 ICDBG NOFA. These application requirements are waived to permit Indian tribes located in areas affected by Hurricane Katrina to more expeditiously request and receive ICDBG imminent threat funds. Applicants located in these areas are still required to submit a request for imminent threat assistance to HUD in accordance with Section 1003.401 and the FY 2005 ICDBG NOFA, but it is no longer necessary for the request to contain the information listed in section I.C. of the NOFA.

20. 24 CFR 1003.604 (ICDBG Citizen Participation Requirements). The ICDBG regulations at § 1003.604 require applicants to consult with residents prior to submitting their funding applications. The consultation requirements have the potential to delay the ability of ICDBG recipients to address urgent housing, health, and safety needs of persons displaced by Hurricane Katrina. Accordingly, this section is waived to permit eligible ICDBG applicants to address disaster-related needs without the need for prior resident consultation.

Dated: September 27, 2005

Roy A. Bernardi, Deputy Secretary