

# **Administration for Children and Families**



## **Emergency and Disaster Waivers and Flexibilities Frequently Asked Questions**

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# Administration for Children and Families Emergency and Disaster Waivers and Flexibilities Frequently Asked Questions

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- I. Purpose: To provide information on ACF program flexibilities and waivers that are available to States, Tribes and grantees during emergencies and disasters. The FAQ document provides programmatic and administrative guidance for each ACF program that has emergency flexibilities and waivers. The information provided emphasizes an all-hazards approach, meaning the flexibilities and waivers may apply to any potential disaster (e.g. flooding, tornado, fire). Unless otherwise noted, program flexibilities and waivers do not require a Federal disaster or emergency declaration. However, certain flexibilities and waivers may require prior ACF approval and/or may include certain requirements (e.g. submittal of a plan amendment). Please note that there are ACF programs that do not have applicable flexibilities/waivers for emergencies and disasters and are not listed.

Definitions of Flexibilities and Waivers: As used in this document, the term “flexibilities” refers to authorities available to grantees under existing law that may be used to provide services or otherwise operate their Federally-funded programs to prepare for or respond to an emergency or disaster. Flexibilities typically do not require prior departmental approval or plan amendments.

Some examples of flexibilities:

- o Child abuse prevention services funds may be reprogrammed to families and children affected by a disaster.
- o Community Action Agencies can use existing funds to support disaster response.

By contrast, the term “waivers” refers to U.S. Department of Health and Human Services’ (HHS) dispensations from rules or penalties that can assist grantees in preparing for or responding to an emergency or disaster. Waivers require the express prior approval of HHS for costs to be allowable or for a grantee to be excused from compliance with certain requirements.

Some examples of waivers:

- o Head Start may reduce the non-Federal share or increase the Federal share for Head Start agencies affected by a major disaster.
- o The Office of Family Assistance may decide to reduce a State's work participation penalty in the TANF program for failure to meet required work participation rates, if noncompliance is due to extraordinary circumstances such as a natural disaster.

- II. About ACF: ACF is responsible for Federal programs that promote the economic and social well-being of families, children, individuals and communities. ACF objectives are to:
- a. Empower families and individuals to increase their own economic independence and productivity;
  - b. Encourage the development of strong, healthy and supportive communities that have a positive impact on the quality of life and development of children;
  - c. Partner with individuals, front-line service providers, communities, American Indian tribes, Native communities, states and Congress to achieve solutions which transcend traditional agency boundaries;
  - d. Plan, reform and integrate services to improve needed access; and
  - e. Commit to working with people with developmental disabilities, refugees and migrants to address their needs, strengths and abilities.

- III. ACF Role and Responsibilities: As defined in the National Response Framework, the purpose of Emergency Support Function-6 (ESF-6) during Federally declared disasters: *Mass Care, Emergency Assistance, Housing and Human Services* is to coordinate the delivery of Federal mass care, emergency assistance, housing and human services when local, State,

and Tribal response and recovery needs exceed their capabilities. The Federal Emergency Management Agency (FEMA) is responsible for overall ESF-6 coordination and oversight. The Department of Health and Human Services is a support agency to ESF-6 that provides guidance, coordination, assistance, expertise and deployable assets to FEMA and other governmental and non-governmental partners upon request. Within HHS, ACF leads ESF-6 preparedness and tactical response activities.

ACF is responsible for overall coordination of ESF-6 preparedness, planning, and policy activities with HHS Human Services Operating/Staff Divisions, Federal partners and non-Federal partners. During disasters, ACF leads tactical response activities under the direction of the Regional Administrator through regional offices while the Assistant Secretary for Preparedness and Response leads overall operations for HHS. Among ACF's disaster responsibilities, ACF program offices also lead a critical role by supporting impacted States by facilitating timely enrollments into Federally funded programs for those newly qualified and reconnecting existing beneficiaries, supporting States hosting relocated populations by extending existing programs and benefits or taking other actions as needed consistent with program authorities, maintain and assist grantees, as well as other activities to allow continuity of services.

#### IV. Frequently Asked Questions – ACF Program Offices

##### A. Administration on Developmental Disabilities (ADD)

The **Administration on Developmental Disabilities** is responsible for the implementation of the Developmental Disabilities Assistance and Bill of Rights Act of 2000, known as the DD Act. ADD works to improve and increase services to individuals with disabilities and ensure that they have opportunities to make their own choices, contribute to society, have supports to live independently, and are free of abuse, neglect, financial and sexual exploitation, and violations of their legal and human rights. Developmental disabilities are physical or mental impairments that begin before age 22, and alter or substantially inhibit a person's capacity to do at least three of the following:

- 1) Take care of themselves (dress, bathe, eat, and other daily tasks)
- 2) Speak and be understood clearly
- 3) Learn
- 4) Walk/ Move around
- 5) Make decisions
- 6) Live on their own
- 7) Earn and manage an income

ADD provides funding through State Councils on Developmental Disabilities, University Centers for Excellence on Developmental Disabilities, and Protection & Advocacy Agencies. State Councils on Developmental Disabilities: State Councils pursue systems change, advocacy, and capacity building to promote independence, self-determination, productivity, integration and inclusion of people with developmental disabilities in all facets of community life. Protection and Advocacy (P&A) systems: One in each State, P&As protect the legal and human rights of individuals with developmental disabilities. P&A strategies include legal, administrative, and other remedies; information and referral; investigation of incidents of abuse and neglect; and education of policy-makers. University Centers of Excellence on Developmental Disabilities (UCEDDs): The national network of UCEDDs creates a bridge from research to practice using a variety of strategies, including formal preparation of future professionals, community training and service, research, and information brokering.

- a. What waivers are available?
  - i. The DD Act does not include waivers applicable to disasters.
- b. What flexibilities are available?
  - i. ADD may tailor their service provisions to respond to disasters and emergencies as they deem appropriate, within the terms and conditions of their grant awards.
- c. How are the flexibilities activated?
  - i. There is no authorization needed.
- d. Contact for more information:
  - i. Commissioner of the Administration on Developmental Disabilities  
(202) 690-6590

B. Administration for Native Americans (ANA)

The **Administration for Native Americans** promotes economic and social self-sufficiency for American Indians, Alaska Natives, Native Hawaiians, and other Native Pacific Islanders. ANA provides community-based project funding to improve the lives of Native children and families. ANA's program areas of interest are focused on strengthening children, families, and communities through community-based organizations, Tribes, and village governments. ANA can provide emergency assistance to help fill the gaps that the communities need in two program areas:

- o Social and Economic Development Strategies (SEDS). Eligible activities include, but are not limited to:
  - Projects to plan and coordinate emergency response services within the community and with State and local governments to protect against acts of nature and other catastrophic events such as fire, floods and environmental catastrophes
  - Projects to improve the delivery of human services
  - Projects to develop and implement community volunteer projects
  - Projects to address problematic periods and goal setting for independent young adults
- o Environmental Regulatory Enhancement. Eligible activities include, but are not limited to:
  - Projects that promote environmental training and education of Tribal employees
  - Projects that develop technical and program capability to meet Tribal and Federal regulatory requirements.
- a. What waivers are available?
  - i. Waiver of 20% non-Federal match, if it would further purposes of the Act and grantee meets regulatory criteria.
  - ii. Waiver of maintenance of effort, if it would result in unnecessary hardship or otherwise be inconsistent with Act's purposes and grantee meets regulatory criteria.
  - iii. Waiver of notice and public procedure for proposed interpretive rule or policy statement determined by the Secretary for "good cause".
- b. How are the waivers activated?
  - i. The first two are activated by the Commissioner of the Administration for Native Americans. The third waiver can only be implemented by the Secretary of Health and Human Services.
- c. What flexibilities are available?
  - i. No other program flexibilities are available.
- d. Contact for more information:
  - i. Commissioner of The Administration for Native Americans  
(877) 922-9262

## C. Children's Bureau

The **Child Abuse Prevention and Treatment Act (CAPTA)** State Grants provide funds for States to improve their Child Protective Service systems (CPS). Reauthorized by the Keeping Children and Families Safe Act of 2003, the program requires States to provide assurances in their five-year Child and Family Services Plan that the State is operating a Statewide child abuse and neglect program that includes several new programmatic requirements such as: policies and procedures that address the needs of drug-exposed infants; triage procedures for referral of children not at imminent risk of harm to community or preventative services; notification of an individual who is the subject of an investigation about the allegations made against them; training for CPS workers on their legal duties and parents' rights; and provisions to refer children under age three who are involved in a substantiated case to early intervention services under the Individuals with Disabilities Education Act Part C.

- a. What waivers are available?
  - i. CAPTA does not include waivers applicable to disasters.
- b. What flexibilities are available?
  - i. ACYF-CB-PI-07-05: Grantee agencies have various degrees of flexibility with use of Title IV-B Parts I and II, Court Improvement Program funds, Child Abuse Prevention and Treatment Act and Community Based Child Abuse Prevention. The flexibility mostly takes the form of prioritizing disaster recovery focused activities (e.g., training, trauma support for staff and managing logistics related to providing services to displaced families) over non-disaster related activities. [www.acf.hhs.gov/programs/cb/laws\\_policies/policy/pi/2007/pi0705.htm](http://www.acf.hhs.gov/programs/cb/laws_policies/policy/pi/2007/pi0705.htm)
  - ii. IM-05-09 "Title II CAPTA and Hurricane Relief Efforts:" To remind States of flexibility in the Title II program to provide family support and child abuse prevention services that may help them serve vulnerable children and families who have been affected by Hurricanes Katrina and Rita or other disaster. [http://www.acf.hhs.gov/programs/cb/laws\\_policies/policy/im/2005/im0509.htm](http://www.acf.hhs.gov/programs/cb/laws_policies/policy/im/2005/im0509.htm)
- c. How are flexibilities activated?
  - i. CAPTA does not include an emergency trigger; however, the funds can be used in a flexible manner to support children and families during an emergency.
- d. Contact for more information:
  - i. Associate Commissioner of the Children's Bureau  
(614) 732-4609

The **Foster Care Title IV-E** program helps States to provide safe and stable out-of-home care for children until the children are safely returned home, placed permanently with adoptive families or placed in other planned arrangements for permanency. Funds are available for: monthly maintenance payments to eligible foster care providers; administrative costs to manage the program; training staff and foster parents; foster parent recruitment; and other related expenses. Administrative costs are also available for candidates for foster care when the child meets the statutory criteria. (see Child Welfare Policy Manual, sec. 8.1D)

- a. What waivers are available?
  - i. Title IV-E does not include waivers applicable to disasters.
- b. What flexibilities are available?
  - i. IM-05-06 "Title IV-E and Hurricane Katrina": To remind States of flexibility in the title IV-E program that may help them serve vulnerable children and families who have been affected by a disaster.
  - ii. IM-06-05 "Provisions of New Legislation: Child and Family Services Improvement Act of 2006": (addressing, among other things, requirements related to State disaster plans).

- iii. Meeting children's needs in foster care maintenance payments: States may claim transportation costs for reasonable travel to a child's home or other location for visitation. These costs may be claimed as a foster care maintenance payment (see CWPM at 8.3B.1#4). Foster care maintenance payments to providers can include an allowance for the child's personal incidentals such as: items related to personal hygiene; cosmetics; over-the-counter medications and special dietary foods; infant and toddler supplies, including high chairs and diapers; and fees related to activities (see CWPM at 8.3B.1 #9).
  - iv. Licensing and recruiting foster care providers: States may need to license or approve new foster family homes to accommodate children displaced by a disaster. States currently have the flexibility to waive non-safety related licensing requirements to allow foster care placements of children with their relatives. These requirements must be waived on a case-by-case basis (see CWPM at 8.3A.8.c #1). States may claim title IV-E administrative costs for items such as beds or cribs to help recruit and approve foster family homes or adoptive homes (see CWPM at 8.1 #3). As States attempt to manage the overwhelming effects of a disaster, licenses for foster homes and child-care institutions may lapse. If a foster family home or child-care institution is licensed for a portion of a month, the State may claim FFP for the entire month when an otherwise eligible child has resided in that home or institution for the entire month. The State must prorate any claims when the otherwise eligible child has resided in the home or institution for a portion of the month (see CWPM at 8.1C #4).
  - v. CWPM at 8.1F #3: Providing the match for Federal funds: States may claim FFP for allowable title IV-E costs paid with funds donated to support specific activities (see 45 C.F.R. 92.24(a) and (b); CWPM at 8.1F #3). The following conditions must be met if a State wishes to use donated funds to meet Federal cost-sharing requirements: The donated funds must be used to pay for allowable title IV-E expenditures. The donor may specify the activities to be supported with its donations but cannot be a sponsor or operator of a program that provides such activities. The donor may specify the geographic area in which the activity is to be provided.
  - vi. Case review requirements: Although periodic reviews and permanency hearings are important protections for children in foster care, we remind States that neither is a title IV-E eligibility requirement and therefore, delays in conducting these activities will not adversely affect a child's eligibility for title IV-E.
  - vii. Judicial determinations: States also may establish alternative procedures for obtaining judicial determinations regarding contrary to the welfare and reasonable efforts, including reasonable efforts to achieve permanency, as there is no Federal requirement that these determinations be made at a court hearing. These judicial determinations are required to establish a child's eligibility for title IV-E.
- c. How are flexibilities activated?
    - i. Title IV-E does not include an emergency trigger but flexibilities can be activated through various provisions (see examples above) applicable to disasters. States are eligible for title IV-E funds in accordance with the Social Security Act and implementing regulations.
  - d. Contact for more information:
    - i. Associate Commissioner of the Children's Bureau  
(614) 732-4609

The **Promoting Safe and Stable Families (PSSF)** program prevents the unnecessary separation of children from their families, improves the quality of care and services to children and their families, and ensures permanency for children by reuniting them with their parents, by adoption or by another permanent living arrangement. Title IV-B, subparts 1 and 2, provide

flexible funds for States and Tribes to: protect and promote child welfare; prevent child abuse, neglect and exploitation; support at-risk families; and to train their workforce. States and Tribes must receive approval for their title IV-B State plan and agree to abide by the programmatic and administrative requirements of title IV-B.

- a. What waivers are available?
  - i. The PSSF program does not include waivers applicable to disasters.
- b. What flexibilities are available?
  - i. ACYF-CB-PI – 07-05: The grantee agencies have various degrees of flexibility with use of Title IV-B Parts I and II (Child Welfare Services and Promoting Safe and Stable Families), Court Improvement Program (CIP) funds, Child Abuse prevention and treatment Act (CAPTA) and Community Based Child Abuse Prevention (CBCAP). The flexibility mostly takes the form of prioritizing disaster recovery focused activities (e.g., training, trauma support for staff and managing logistics related to providing services to displaced families) over non-disaster related activities. Prioritized services are updated in the State's Annual Progress and Services Report.
- c. How are flexibilities activated?
  - i. Title IV-B does not include an emergency trigger but flexibilities can be activated through various provisions (see examples above) applicable to emergency/disaster situations. State and/or Tribes receiving title IV-B funds should work with their Regional Office representative to update their Annual Progress and Services Report accordingly.
- d. Contact for more information:
  - i. Associate Commissioner of the Children's Bureau  
(614) 732-4609

The **Community-Based Child Abuse Prevention (CBCAP)** program provides funding to States to develop, operate, expand, and enhance community-based, prevention-focused programs and activities designed to strengthen and support families to prevent child abuse and neglect. Preventive direct services under CBCAP are beneficial activities aimed at preventing child abuse and neglect. Such activities may be directed at the general population or specific populations identified as being at increased risk of abusing or neglecting their children. The primary focus of these activities is to better strengthen and support families by increasing protective factors and reducing the risk factors that can reduce the likelihood of abuse or neglect.

- a. What waivers are available?
  - i. The CBCAP program does not include waivers applicable to disasters.
- b. What flexibilities are available?
  - i. IM-05-09 "Title II CAPTA and Hurricane Relief Efforts": To remind States of flexibility in the Title II program to provide family support and child abuse prevention services that may help them serve vulnerable children and families who have been affected by Hurricanes Katrina and Rita or other disaster. [http://www.acf.hhs.gov/programs/cb/laws\\_policies/policy/im/2005/im0509.htm](http://www.acf.hhs.gov/programs/cb/laws_policies/policy/im/2005/im0509.htm)
  - ii. The 2005 CBCAP Program Instruction (ACYF-CB-PI-05-03): The 2005 CBCAP Program Instruction (ACYF-CB-PI-05-03) Section 201(b) of CAPTA provides that funds made available to States under the CBCAP program can be used for the following activities related to hurricane relief efforts (see pages 5-6 of ACYF-CB-PI-05-03): Developing, operating, expanding and enhancing community-based, prevention-focused programs and activities designed to strengthen and support families to prevent child abuse and neglect (through networks where appropriate)



that are accessible, effective, and culturally appropriate, and build upon existing strengths that: A) Offer assistance to families; B) Provide early, comprehensive support for parents; C) Increase family stability; D) Improve family access to other formal and informal resources and opportunities for assistance available within communities; E) Support the additional needs of families with children with disabilities through respite care and other services; F) Provide referrals to early health and developmental services.

- c. How are flexibilities activated?
  - i. CBCAP under CAPTA does not include emergency provisions; however, grantees may utilize program funding flexibilities to meet the needs of children and families in the event of a disaster consistent with Title II of CAPTA.
- d. Contacted for more information:
  - i. Associate Commissioner of the Children's Bureau  
(614) 732-4609

D. Office of Family Assistance (OFA)/Child Care Bureau

The **Child Care and Development Fund (CCDF)** provides financial assistance to low-income families, families receiving Temporary Assistance for Needy Families (TANF), and those transitioning from TANF, to help pay for child care so they can work or attend training and/or education.

CCDF provides two programs:

- o Subsidized Child Care Assistance for Families: Child care services funded through CCDF are available to eligible families through certificates (vouchers) or contracts with providers. Parents may select any legally operating child care provider. Child care providers serving children funded by CCDF must meet basic health and safety requirements.
  - o Child Care Quality Improvement Activities: Lead Agencies must use a minimum of 4% of CCDF funds to improve the quality of child care. In addition, CCDF includes targeted funds for specific purposes: 1) quality expansion and improvement targeted funds; 2) targeted funds to improve the quality of care for infants and toddlers; and 3) targeted funds to improve school-age care and child care resource and referral services.
- a. What waivers are available?
    - i. There is no existing authority within the Child Care Development Fund to provide waivers.
  - b. What flexibilities are available?
    - i. CCDF is allocated on a formula basis, meaning there are no additional funds available to respond to Federal or State declared emergency situations. However, CCDF does provide States affected by emergency situations with some options to continue providing child care services despite disruptions to families and providers. For example, States have flexibility to define eligible populations and set priority rules for the program. Some of these options would require the State to submit a CCDF Plan amendment. The State has up to 60 days after the effective date of a change to submit a Plan amendment. Information about the options available are listed below and at <http://www.acf.hhs.gov/programs/ccb/law/guidance/current/im0503/im0503.htm>
  - c. How are the flexibilities activated?
    - i. There is no authorization needed for CCDF Lead Agencies to use the flexibility in the CCDF program as described in ACYF-IM-CC-05-03 to provide services to families

impacted by a disaster. However, Lead Agencies should consult with their ACF Regional Office to determine if any amendments to the CCDF Plan are required within 60 days.

- d. Contact for more information:
  - i. Director of the Child Care Bureau  
(202) 690-6782

E. Family and Youth Services Bureau (FYSB)

The **Basic Centers** provide food, clothing, medical care, or other services that youth need (offered either directly or by referral); individual, group, and family counseling; recreation programs; outreach targeting both youth who may need assistance and other public or private agencies that work with youth and families; and aftercare services for youth after they leave the shelter.

The **Street Outreach Program** services include: street-based education and outreach; access to emergency shelter; survival aid; individual assessments; treatment and counseling; prevention and education activities; information and referrals; crisis intervention; and follow-up support

The **Transitional Living Center** provides funds to address the longer term needs of older homeless youth and assists such youth in developing skills and resources to promote independence and prevent future dependency on social services. Housing and a range of services are provided for up to 18 months for youth ages 16-21 who are unable to return to their homes.

- a. What waivers are available?
  - i. There is no existing authority within FYSB to provide waivers.
- b. What flexibilities are available?
  - i. During a disaster, the Regional Office can approve additional days for clients in Basic Centers or Transitional Living Programs; and can also adjust monitoring schedules due to a disaster.
- c. How are flexibilities activated?
  - i. Submit request to the Regional Office RHY Program Manager.
- e. Contact for more information:
  - i. Associate Commissioner of the Family and Youth Services Bureau  
(202) 205-2360

The **Family Violence Prevention and Services (FVPS)** program funds a range of discretionary grants each year for the purposes of: (1) preventing family violence; (2) protecting victims and their dependents; (3) improving the design, delivery, and coordination of services to address family violence; (4) gathering information on the incidences of family; and (5) increasing knowledge and understanding of issues through research, demonstration and evaluation projects.

- a. What waivers are available?
  - i. Although there have been no recent waivers, supplemental funds were provided to the Gulf Coast, State Domestic Violence Coalitions in FY 2006 for the support of the Katrina Hurricane victims.
- b. What flexibilities are available?
  - i. The FVPS program does not include flexibilities applicable to disasters.
- c. Contact for more information:
  - i. Associate Commissioner of Family and Youth Services Bureau  
(202) 205-2360

F. Office of Community Services (OCS)

**Social Services Block Grant (SSBG)** funds enable each State to furnish social services best suited to meet the needs of the individuals residing within the State. Services may be, but are not limited to: daycare for children or adults; protective services for children or adults; special services to persons with disabilities; adoption; case management; health-related services; transportation; foster care for children or adults; substance abuse; housing; home-delivered meals; independent/transitional living; employment services or any other social services found necessary by the State for its population.

- a. What waivers are available?
  - i. While waivers are not specifically available, Section 2002 of Title XX of the Social Security Act [42U.S.C.1397a(c)]. Congress may make available one-time supplemental funds to address emergency/disaster situations through the Social Service Block Grant programs. Section 2002 of Title XX of the Social Security Act [42U.S.C.1397a(c)] requires States to expend SSBG funds within the same fiscal year, or the succeeding fiscal year. In Fiscal Year 2006, a one-time SSBG allotment was made available to each State to support social services as under the regular SSBG program, as well as health and mental health services, and facility repair and construction for the populations and areas affected by the 2005 Gulf Coast hurricanes (Pub. L. No. 109-148).
  - ii. In Fiscal Year 2008, additional funding was made available, limited to States for which the President declared a major disaster during 2008, and from Hurricanes Katrina and Rita, to support services under the regular SSBG program, as well as health and mental health services, and for repair and construction of health care facilities (including mental health facilities), child care centers, and other social service facilities. Further details on the FY2006 SSBG emergency supplemental funds can be found at [http://www.acf.hhs.gov/programs/ocs/ssbg/docs/ssbg\\_funds\\_questions.doc](http://www.acf.hhs.gov/programs/ocs/ssbg/docs/ssbg_funds_questions.doc).
- b. How are the waivers activated?
  - i. Congress approves if emergency funding will be appropriated through SSBG. If emergency funds are appropriated, States are required to submit an amended pre-expenditure report (intended use plan) to access allotted funds. The amended report (plan) is submitted by a stated deadline as a separate section to the regular block grant pre-expenditure report (plan) specifying uses of the supplemental funding allotment.
- c. What flexibilities are available?
  - i. No other program flexibilities are available.
- d. Contact for more information:
  - i. Director of the Office of Community Services  
(202) 401-9333

The **Low Income Home Energy Assistance Program (LIHEAP)** assists low income households, particularly those with the lowest incomes that pay a high proportion of household income for home energy, primarily in meeting their immediate home energy needs. Some forms of assistance available to low income households through State LIHEAP programs include: financial assistance towards a household's energy bill; emergency assistance if a household's home energy service is shut off or about to be shut off; and a range of other energy-related services that States may choose to offer, such as weatherization improvements, utility equipment repair and replacement, budgeting counseling and so forth.

- a. What waivers are available?
  - i. LIHEAP does not include waivers applicable to disasters.

- b. What flexibilities are available?
  - i. Supplemental emergency funding is available that is not specifically a program flexibility. The Human Services Amendments of 1994 (Public Law 103-252) amended Section 2602(e) of the LIHEAP statute to provide for a permanent authorization of an emergency contingency fund. Under this provision, up to \$600,000,000 may be made available each fiscal year, in addition to other funds that may be appropriated, "to meet the additional home energy assistance needs of one or more States [grantees] arising from a natural disaster or other emergency." Funds appropriated under this section are considered to be emergency requirements under the terms of Section 251(b) (2) (D) of the Balanced Budget and Emergency Deficit Control Act of 1985, and are to be made available only after the President submits a formal budget request to the Congress for all or a part of the funds appropriated under this section, providing the request designates the amount requested as such an emergency requirement. The President is authorized to release emergency funds.
  - ii. IM-2005-14: LIHEAP funds, regardless of whether they are general block grant or emergency contingency monies, may be used for any purpose authorized by statute, including heating and cooling assistance, crisis assistance, weatherization, and administrative costs, subject to normal LIHEAP restrictions. Under law, LIHEAP grantees must have some mechanism in place to handle emergencies, to respond within 48 hours, or within 18 hours in life threatening situations; however, the 48/18 hour time frames do not apply when a State is affected by a natural disaster. The response does not necessarily require the state/tribe to solve the problem at hand, but can include moving people away from the crisis situation (for example, into hotels or shelters). Anything with costs associated with mitigating further loss, or to prevent loss of life is allowable.
- c. How are these flexibilities activated?
  - i. Additional Emergency Funds appropriated under this section are considered to be emergency requirements under the terms of Section 251(b) (2) (D) of the Balanced Budget and Emergency Deficit Control Act of 1985, and are to be made available only after the President submits a formal budget request to the Congress for all or a part of the funds appropriated under this section, providing the request designates the amount requested as such an emergency requirement. The President is authorized to release emergency funds.
  - ii. No additional authorization is needed to use existing LIHEAP funds to respond to emergencies.
- d. Contact for more information:
  - i. Director of the Office of Community Services  
(202) 401-9333

The **Rural Community Facilities Discretionary Grant** program assists low-income communities in developing affordable, safe water and wastewater treatment facilities. The program provides training and technical assistance to low-income rural communities in developing and managing affordable, safe water and wastewater treatment facilities. The program also supports and promotes water and wastewater treatment systems safety through security and emergency preparedness training and technical assistance to small community water and wastewater utility staff and local officials. Six Regional grantees and one Tribal grantee provide services to multiple states. While the program does not pay to construct or upgrade facilities, grantees assist communities in accessing funds for these purposes.

- a. What waivers are available?
  - i. There are no flexibilities or waivers in this program. Congress would need to appropriate emergency funding to supplement existing grantees in impacted areas.

- b. Additional information:
  - i. If available or obtainable, making additional funds available to Rural Facilities grantees in the affected area(s) for the hiring of certified water and wastewater treatment operators and engineers is critical. The number of water and wastewater systems that can be damaged or destroyed in a disaster is high, and a large population would be impacted by a lack of clean drinking water and raw sewage treatment. In the immediate aftermath of a disaster, grantees work with health agencies to sample water sources to determine potability and, if not, to determine whether residents and businesses can avoid evacuation.
- c. Contact for more information:
  - i. Director of the Office of Community Services  
(202) 401-9333

The **Community Services Block Grant (CSBG)** program provides States and Indian Tribes with funds to lessen poverty in communities. The program reduces poverty in communities through a range of services and activities to assist the needs of low-income individuals including the homeless, migrants and the elderly. Grantees receiving funds under the CSBG program are required to provide services and activities addressing employment, education, better use of available income, housing, nutrition, emergency services and/or health.

- a. What waivers are available?
  - i. The CSBG program does not include waivers applicable to disasters.
- b. What flexibilities are available?
  - i. In a disaster, states may consider circumstances where individuals may have been made low-income by the disaster, though they would not have been considered so before. States are encouraged to streamline the eligibility determination process following a disaster.
  - ii. CSBG-IM90 & CSBG-IM91. In a disaster, Community Action Agencies are encouraged to provide services to low-income individuals, children and families that are impacted and support Federal, state and local relief efforts. See IMs: <http://www.acf.hhs.gov/programs/ocs/csbg/guidance/im90.html> and <http://www.acf.hhs.gov/programs/ocs/csbg/guidance/im91.html>. Individuals who receive CSBG-funded services must qualify as low-income.
  - iii. Additional funding is not possible unless Congress makes a special appropriation; however, any remaining CSBG funding the state has may be used to support disaster response, as long as it aligns with the statutory allowable activities.
- c. How are flexibilities activated?
  - i. State CSBG-designated organizations do not have to request a Federal waiver to utilize their existing CSBG funding to support disaster response and assistance to eligible low-income individuals and families.
- d. Contact for more information?
  - i. Director of the Office of Community Services  
(202) 401-9333

#### G. Office of Family Assistance (OFA)

The **Temporary Assistance for Needy Families (TANF)** program provides assistance and work opportunities to needy families by granting States, Territories and Tribes the Federal funds and wide flexibility to develop and implement their own welfare programs. The assistance is time-limited and promotes work, responsibility and self-sufficiency. The program provides grant funds to States, Territories, and Tribes to assist families in any manner that is reasonably calculated to accomplish the purposes of this program. The purposes are: to help needy families with children so that the children can be cared for in their own homes or the homes of relatives; to end the dependence of needy parents on government benefits by

promoting job preparation, work and marriage; to prevent and reduce the incidence of out-of-wedlock pregnancies; and to encourage the formation and maintenance of two-parent families.

- a. What waivers are available?
  - i. Section 409(b) of the Social Security Act, 42 U.S.C. § 609(b) and the implementing TANF regulations at 45 CFR 262.5 allow the Office of Family Assistance (OFA) to grant a reasonable cause exception for most of the TANF penalties [exceptions: failure to meet cost sharing (MOE) requirement; failure to remit Federal contingency funds if the State failed to meet its contingency fund MOE requirement; failure to expend additional State TANF funds to make up loss of Federal TANF funds due to a penalty]. The TANF implementing regulations at 45 CFR 262.5 give the general factors States may use to claim reasonable cause. One reasonable cause factor involves natural disasters and other calamities (e.g., hurricanes, earthquakes, fire) whose disruptive impact was so significant as to cause the State's failure to comply with a requirement.
  - ii. Per section 409(a)(3)(C) Social Security Act; [42 U.S.C. § 609(a)(3)(C)] and the implementing TANF regulations at 45 C.F.R. 261.50 (d), OFA may decide to reduce a State's work participation penalty for failure to meet required work participation rates, if noncompliance is due to extraordinary circumstances such as a natural disaster.
- b. How are waivers activated?
  - i. 45 C.F.R. 262.5 declares that a State subject to a penalty may submit a request claiming that it had good cause for the violation, such as if there has been a natural disaster or calamity. This regulatory provision is triggered when OFA imposes a financial penalty on a State for violating certain TANF requirements.
  - ii. The actions contained in TANF-ACF-PI-2007-08 are triggered by the Federal or State disaster declaration. <http://www.acf.hhs.gov/programs/ofa/policy/pi-ofa/2007/200708/PI200708.htm>
  - iii. These actions are triggered by the Federal or State disaster declaration. Affected families should contact their local TANF offices to inquire about services, as procedures and available assistance differ between States.
- c. What flexibilities are available?
  - i. TANF-ACF-PI-2007-08, dated Nov. 28, 2007 describes in detail the flexibilities available: <http://www.acf.hhs.gov/programs/ofa/policy/pi-ofa/2007/200708/PI200708.htm>
  - ii. States may streamline the application process to expedite eligibility and payment determinations.
  - iii. States may relax or waive their residency requirements for families affected by a disaster.
  - iv. States may also have a temporary residency policy.
  - v. State may consider families to have good cause for not participating in work activities.
  - vi. States may continue TANF assistance (includes commingled funds) for a child who is temporarily absent from the home in which s/he resides.
- d. Contact for more information:
  - i. Director of the Office of Family Assistance  
(202) 205-8324

H. Office of Child Support Enforcement (OCSE)

**Child Support** services are available to a parent with custody of a child whose other parent is living outside the home. Services are available automatically for families receiving assistance under the Temporary Assistance for Needy Families (TANF) program. Services include locating non-custodial parents, establishing paternity, establishing support orders, collecting support payments and services for non-custodial parents.

- a. What waivers are available?
  - i. 45 C.F.R. § 309.130(e): In the event of an emergency or natural disaster, Tribal child support enforcement grantee can request a waiver for all or part of non-federal share.
  - ii. Flexibility can be offered to States with regard to submission of annual Advance Planning Document (APD) updates used in the decision process on Federal Financial Participation approval for information technology procurements. Existing regulatory authority permits waiving Federal prior approval of purchase of emergency equipment and any other APD or functional systems requirement. Specific regulatory authority for emergency situations is at 45 CFR 95.624. APD documents are expected to provide information on computer equipment and services purchased under emergency authority to replace equipment lost and damaged (e.g., during Hurricanes Katrina and Rita).
- b. How are the waivers activated?
  - i. First waiver: the Tribal grantee may submit the waiver request to OCSE and it is subject to the Commissioner's approval.
  - ii. Second waiver: An unanticipated need to acquire IT services to continue the operation of a program can serve as the trigger for a State request to OCSE for a waiver of prior approval of IT acquisitions or services.
- c. What flexibilities are available?
  - i. No other program flexibilities are available.
- d. Contact for more information:
  - i. Commissioner of the Office of Child Support Enforcement  
(202) 690-1244.

I. Office of Head Start (OHS)

**Head Start** is a national program that promotes school readiness of low-income children from birth to age five. This includes the Early Head Start program that serves families of economically disadvantaged children from birth to three years of age and pregnant women. Head Start enhances children's cognitive, social and emotional development through the provision of health, educational, nutritional, social and other necessary services. Head Start also provides comprehensive child development services to economically disadvantaged children and families, with a special focus on helping preschoolers develop the skills they need to be successful in school.

- a. What waivers are available?
  - i. Section 640(b)(4) of the Head Start Act, 42 U.S.C. § 9835(b)(4); 45 C.F.R. §1301.21(b): Authorizes reduction in the amount of the required non-federal match under certain circumstances, including for communities adversely affected by a major disaster.
  - ii. Section 640(b)(4) of the Head Start Act, 42 U.S.C. § 9835(b)(4); 45 C.F.R. § 1303.8(c)(4): Procedural requirements pertaining to appeals and opportunities to show cause may be waived.

- iii. Section 644 of the Head Start Act, 42 U.S.C. § 9839(b); 45 C.F.R. § 1301.32(g): In any case where the Secretary determines that the cost of administering a Head Start program does not exceed 15 percent of such total costs but is, in the judgment of the Secretary, excessive, the Secretary shall require the recipient of such financial assistance to take steps to eliminate excessive administrative cost, including the sharing by one or more Head Start agencies of a common director and other administrative personnel. The Secretary may waive the limitation prescribed by this subsection for specific periods of time not to exceed 12 months whenever the Secretary determines that such a waiver is necessary in order to carry out the purposes of this subchapter.
  - b. How are waivers activated?
    - i. The above waivers are enacted by the Secretary, the Office of Head Start or another responsible HHS official.
    - ii. The Secretary or responsible HHS official may reduce the non-Federal share or increase the Federal share of discretionary funds for Head Start agencies adversely affected by a major disaster.
  - c. What flexibilities are available?
    - i. No other program flexibilities are available.
  - d. Contact for more information:
    - i. Director of the Office of Head Start  
(202) 260-6656

J. Office of Refugee Resettlement (ORR)

The **Cash and Medical Assistance (CMA)** program provides assistance and services to refugees, asylees, certain Amerasian immigrants, Cuban and Haitian entrants, and victims of human trafficking (henceforth referred to collectively as “refugees”). The program provides reimbursement to States and alternative refugee assistance programs for 100 percent of Refugee cash Assistance (RCA), Refugee Medical Assistance (RMA), and Unaccompanied Minors program services, provided to refugees and other eligible persons, as well as associated administrative costs.

- a. What waivers are available?
  - i. The CMA program does not include waivers applicable to disasters.
- b. What flexibilities are available?
  - i. As a direct part of this program State agencies or their designees have latitude to issue emergency cash assistance to refugees based on urgent need. Initial payments may be issued on an emergency basis per 45 C.F.R. 400.52.
- c. How are the flexibilities activated?
  - i. States and replacement designees with approved State Plans may use their own discretion in issuing emergency cash assistance.
- d. Contact for more information:
  - i. Director of the Office of Refugee Resettlement  
(202) 401-4845

The **U.S. Repatriation** program is committed to helping eligible repatriates referred from the U.S. Department of State (DOS) by providing them with effective and efficient temporary assistance necessary for their transition and reestablishment in the United States. Individuals who are referred by the U.S. Department of State as having to be returned to the U.S. because of destitution, illness, war, threat of war and similar crises, and have no resources immediately available to cover their immediate needs, are eligible for temporary assistance. Temporary assistance is defined as money payments, medical care, temporary shelter, transportation, and other goods and services necessary for the health or welfare of



individuals. This assistance may be provided to eligible repatriates for up to 90 days and is provided in the form of a loan repayable to the Federal government.

- a. What waivers are available?
  - i. The Repatriation program does not include waivers applicable to disasters.
- b. What flexibilities are available?
  - i. An emergency program is available that is not specifically a program flexibility. Individuals repatriated from overseas during an emergency situation are provided with necessary assistance to cover their immediate needs. Individuals who have received temporary assistance are required to repay, in accordance with their ability, any or all of the cost of such assistance to the United States, unless they meet certain exceptions. States are reimbursed for all administrative and direct services provided as long as they are reasonable, allocable and allowable, with the total amount of temporary assistance within a fiscal year not to exceed \$1 million.
- c. How are flexibilities activated?
  - i. The massive case provision is activated by the Department of State or presidential declaration whenever there is a war or crisis that endangers the lives of US citizens overseas. Services can be provided in the absence of a Presidential declaration of emergency. The National Emergency Repatriation Plan/Operational Plan is activated by ORR Director or his/her designee; and can approve financial waivers. The Repatriation Program Coordinator/designee approves temporary services extensions
- d. Contact for more information:
  - i. Director of the Office of Refugee Resettlement  
(202) 401-4845

The **Unaccompanied Alien Children (UAC)** program provides a safe and appropriate environment for unaccompanied alien children from the time the minor is placed into ORR custody until his/her reunification with family members or sponsors in the U.S. or until he/she is removed to his/her home country by DHS immigration officials. The UAC program cares for alien children who are under 18 years old, have no lawful immigration status in the US, are in immigration proceedings, and have no parent or guardian in the U.S. or no parent or guardian in the U.S. available to provide care. Once referred by DHS, ORR temporarily places children in ORR-funded shelters, group homes, staff-secure shelters, secure shelters, foster care or residential treatment centers, depending on the needs of the particular child. ORR also funds UAC programs that provide specialized services including: Medical, Individualized Assessment, Education, Recreation/Leisure, Mental Health, etc.

- a. What waivers are available?
  - i. There are no flexibilities or waivers in this program.
- b. Contact for more information:
  - i. Director of the Office of Refugee Resettlement  
(202) 401-4845

The **Division of Community Resettlement (DCR)** provides assistance through public and private non-profit agencies to support the economic and social integration of refugees, asylees, certain Amerasian immigrants, Cuban and Haitian Entrants, and Victims of Human Trafficking (henceforth referred to collectively as “refugees”). DCR administers the following programs for newly arrived refugees and other groups: Wilson Fish Alternative program provides cash and medical assistance and social services; Voluntary Agency Matching Grant Program provides cash assistance and employment services; Survivors of Torture Program provides rehabilitative services to torture survivors; Microenterprise and Individual Development Account Programs provide business loans and matching funds for asset development; Supplemental Services for Recently Arrived Refugees Program provides social

services to refugees in localities impacted by new arrivals; Preferred Communities Program provides enhanced case management to refugees with special needs and promotes early employment; Ethnic Community Self Help Program supports ethnic organizations that assist with the long-term integration of refugees in their communities; and Refugee Agricultural Partnership Program provides opportunities for refugee families to sustain a livelihood in agriculture and the food sector business.

- a. What waivers are available?
  - i. There are no flexibilities or waivers available applicable to disasters.
- b. Contact for more information:
  - i. Director of the Office of Refugee Resettlement  
(202) 401-4845

**Human Trafficking:** HHS/ACF/ORR is the sole Federal agency authorized to certify adult foreign victims of human trafficking and to provide eligibility letters to minors who are foreign victims of human trafficking. ORR certifies victims of a severe form of trafficking in persons and these individuals are eligible to receive federally funded benefits and services to the same extent as refugees. ORR promotes public awareness and assists in the identification of trafficking victims by educating the public and persons likely to encounter victims, such as social service providers, public health officials, and legal organizations, as well as ethnic, faith-based, and community organizations.

- a. What waivers are available?
  - i. There are no flexibilities or waivers available applicable to disasters.
- b. Contact for more information:
  - ii. Director of the Office of Refugee Resettlement  
(202) 401-4845

V. General Waiver Authorities: The Public Health Services Act and the Stafford Act provide some waiver authority that is not specific to ACF. The ACF Regional Office is available to answer questions regarding these waivers.

1) The Public Health Services Act

- a. What is a Public Health Emergency?
  - i. The Secretary of HHS can declare a Public Health Emergency under provisions of section 319 of the Public Health Services Act to enact waivers.
- b. What waivers are available under the Public Health Services Act?
  - i. Sanctions relating to submission of data or reports required under laws administered by the Secretary, and that as a result of a public health emergency, entities are unable to timely comply with deadlines for such data or reports.
- c. What is an example of such reports?
  - i. Under 42 USC 247d, OCSE could extend deadlines and/or waive sanctions resulting from failing to meet deadlines for submission of performance data required in 45 CFR 305.32, 305.34.
- d. How are these waivers triggered?
  - i. By declaration of a Public Health Emergency by the Secretary of HHS.
- e. What is the duration of the waivers?
  - i. Until the termination of the Public Health Emergency.

2) Stafford Act

- a. What is the Stafford Act?
  - i. This Act constitutes the statutory authority for most Federal disaster response activities, especially as they pertain to FEMA and FEMA programs.
- b. What can be waived under the Stafford Act?

- i. Administrative conditions if, as a result of a major disaster, compliance with such conditions would prevent the giving of assistance. This waiver is limited to administrative, and not substantive, conditions.
  - c. What is an example of the Administrative conditions that could be waived?
    - i. Under 42 USC 5141, ANA may waive the conditions precedent (or regulatory criteria) for receiving a waiver of the non-Federal match in 45 CFR 1336.50(b)(3) or the Maintenance of Effort requirement in 45 CFR 1335.50(c).
  - d. How are the waivers enacted?
    - i. The State must request the waivers.

VI. Additional Emergency Preparedness Resources

- HHS Disasters & Emergencies  
<http://www.hhs.gov/emergency>
- U.S. Government – Avian and Pandemic Flu Website (managed by HHS)  
<http://pandemicflu.gov>
- Department of Homeland Security  
<http://www.ready.gov>
- Federal Emergency Management Agency (FEMA): Emergency Preparedness  
<http://www.fema.gov/plan/index.shtm>
- FEMA: Continuity of Operations (COOP) Programs  
<http://www.fema.gov/government/coop/index/shtm>
- Special Populations: Emergency and Disaster Preparedness  
<http://sis.nlm.nih.gov/outreach/specialpopulationsanddisasters.html#a0>
- Early Childhood Learning and Knowledge Center  
<http://eclkc.ohs.acf.hhs.gov/hslc/resources/Emergency%20Preparedness>
- National Child Care Information and Technical Assistance Center  
<http://www.nccic.acf.hhs.gov/emergency>