

DEPARTMENT OF COMMUNITY AFFAIRS

Division of Housing and Community Development

Rule Title:

Rule No:

Community Development Block Grant Disaster Recovery Initiative

9BER06-1

SPECIFIC REASONS FOR FINDING AN IMMEDIATE DANGER TO THE PUBLIC HEALTH, SAFETY AND WELFARE:

The expenditure of the funds in the disaster stricken areas where housing, infrastructure, and businesses were severely damaged or destroyed is essential to the health, safety and welfare of the public.

REASONS FOR CONCLUDING THAT THE PROCEDURE IS FAIR UNDER THE CIRCUMSTANCES:

Promulgation of Rule Chapter 9BER06-1, using emergency rule procedures, is the only available mechanism that adequately provides for the expeditious disbursement and use of the federal funds to provide disaster relief, long-term recovery and infrastructure restoration.

SUMMARY:

This rule enables the Department of Community Affairs to distribute and administer CDBG disaster recovery funds as expeditiously as possible.

THE PERSON TO BE CONTACTED REGARDING THIS EMERGENCY RULE IS:

Monya Newmyer, Administrator, Division of Housing and Community Development, Department of Community Affairs, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100, telephone (850) 487-3644.

THE FULL TEXT OF THE EMERGENCY RULE IS:

9BER06-1 Community Development Block Grant Disaster Recovery Funding.

(1) The objective of this emergency rule is to address disaster relief, long-term recovery and infrastructure restoration of communities, particularly those persons who are of low and moderate income, that suffered damage or loss as a result of Hurricanes Katrina and Wilma. This emergency rule applies to all grant recipients, whether Urban Entitlements or participants of the Florida Small Cities CDBG Program.

(2) In order to expedite recovery measures, all portions of Rule Chapter 9B-43, F.A.C., are abrogated by this emergency rule, except the following: Rule 9B-43.0031 (Definitions) and Rule 9B-43.0051 (2), (3), (4) and (8) (Selected portions of Grant Administration and Project Implementation). In addition, the following emergency rule provisions are applicable.

(3) The following definition is provided for clarification.

(a) "Service area" means the total geographical area to be served by an activity. A service area will encompass all beneficiaries who are reasonably served or would be reasonably served by an activity.

(4) Interlocal Agreements. Eligible applicants proposing eligible activities in other eligible jurisdictions will enter into an Interlocal Agreement with the following provisions or submit documentation of an established relationship between eligible jurisdictions which includes the following provisions.

(a) Includes as parties all local governments whose jurisdictions are included in the project and/or service area(s);

(b) Authorizes the applicant to undertake the activities in all jurisdictions included in the interlocal agreement; and

(c) Affirms that all activities are consistent with each local government's comprehensive plan and provides documentation which includes applicable excerpts of each local government's comprehensive plan in the supporting documentation section of the application.

(5) Units of general local government may utilize up to 3% of the funds allocated for administrative costs as specified in 24 CFR 570.206. This does not include staff and administrative costs directly related to carrying out activities eligible under 24 CFR 570 since those costs are eligible as part of those activities.

(6) Expenditures and Limitations.

(a) Local governments operating on a reimbursement of funds basis must submit at least one request for funds each quarter which reflects actual project expenditures for the quarter.

(b) Local governments may maintain no more than \$25,000 of cash-on-hand to meet daily cash needs. Amounts greater than \$25,000 shall be expended within 14 days or refunded to the Department.

(c) Escrow Accounts. Local governments may draw down CDBG funds and deposit them into an interest-bearing escrow account for restoration of affordable housing. An escrow account may be established when direct grants or loans are made to owners of private property for the purpose of restoration of affordable housing. The local government must track the requirements for, receipt of, and disbursement of all funds for each housing unit.

1. Funds may be requested only after approval of the contractor and amount of the contract by the local government. If funds are received by the local government prior to the execution of a contract that obligates those funds, those funds will be returned to the Department within seven days of their receipt.

2. Funds requested and escrowed for use on housing units shall not be used for any other purpose.

3. Funds requested and escrowed for a housing unit must be expended on that housing unit within 45 days from date of deposit in the escrow account or be returned to the Department.

4. Interest earned on escrow accounts shall be reported quarterly to the Department.

(7) Program Income. Any program income earned as a result of activities funded under this grant must be reported to the Department, but may be retained for the life of the grant by the

local government and used to continue the CDBG disaster recovery activity from which the funds were generated. Contractual agreements will provide additional guidelines for utilization of program income funds.

(8) Applicants and/or beneficiaries must provide documentation of funds received from other sources which were applied toward the costs of the project funded by these disaster recovery funds.

(9) Amendments. All proposed amendments must be approved by the Department.

(a) Documentation Required. All requests for subgrant agreement amendments shall include the following written documentation for review by the Department:

1. A cover letter signed by the Chief Elected Official or his or her designee which describes the need for the proposed changes and their effect upon the approved project.

2. All application forms that would be changed by the proposed amendment.

3. If applicable, a revised activity work plan.

4. If applicable, a revised budget showing the current and amended budget.

5. If there is a change in activity location, a legible map which indicates the proposed change.

6. If applicable, a copy of the minutes of the meeting of the Citizen's Advisory Task Force (CATF) when the proposed amendment was reviewed.

7. If applicable, a copy of the public notice for the public hearing at which the amendment was approved.

8. Signature of the Chief Elected Official on Form DCA 07.02, Request for Amendment, provided by the Department upon request, which is hereby incorporated by reference, or documentation from the local governing body authorizing the proposed amendment.

(b) The amendment must be received by the Department at least 45 days prior to the end of the subgrant agreement. If the amendment is extending the subgrant agreement period, it must be received by the Department at least 90 days prior to the end of the subgrant agreement.

(c) If the local government requests administrative closeout prior to the termination date of the subgrant agreement, any amendment affecting closeout and requiring Department approval must be included with the closeout.

(d) Time Extensions to Subgrant Agreements. Any proposed amendment extending the termination date of the subgrant agreement must be approved by the Department. The local government must explain any delay affecting project completion and must justify the need for the extension.

(10) Subgrant Closeout.

(a) At the time of submission of the closeout report, the local government must have available documentation which verifies its certification that all construction has been completed, inspected and approved by all parties prior to the subgrant agreement end date and submission of the administrative closeout.

(b) An administrative closeout may be submitted only when the local government has no more than \$5,000 in total funds on hand. All funds drawn from the Department and not expended that exceed \$5,000 must be returned to the Department prior to or with the submission of the closeout. If the local government has transferred funds from the regular CDBG administrative account or the escrow account and these funds remain under the control of the local government, the funds are not considered expended for purposes of administrative closeout.

(c) Upon completion of the activities contained in the local government's CDBG subgrant agreement, including any amendments, the local government shall submit to the Department a closeout which, at a minimum, gives the final statement of costs, certifies that the project and all non-administrative activities are completed and accepted, that all costs except those reflected on the closeout have been paid and reports demographics of the program's beneficiaries.

(d) If any change has been made since the application map or the last map amendment, the closeout shall also contain a revised map of the activities completed during the term of the CDBG contract.

(e) The closeout for Housing contracts shall, at a minimum, include a list of the households assisted by the contract and certify that they were within the local government's jurisdiction. Additional information required by HUD may be requested.

(f) For activities where hookups or connections are required for beneficiary access to the public improvement, evidence at the time of closeout must show:

1. The total number of persons in all households in the service area;
2. The number of low and moderate income persons in households connected to the infrastructure; and
3. Projects meeting the LMI national objective must document that the number of LMI persons in households connected to the infrastructure divided by the total number of beneficiaries in the service area equals at least 51 percent or higher.

(g) The closeout must contain original signatures. Facsimile (FAX) submissions are not acceptable.

(h) If a local government fails to meet contractual requirements on time, the Department reserves the right to require that a local government financially (not administratively) close out a subgrant agreement in order to meet federal requirements for the timely distribution of funds set by HUD.

(i) The closeout is due within 45 days after expiration or termination of the subgrant agreement.

(11) Beneficiaries of Public Improvements. For activities where hookups or connections are required for beneficiary access to CDBG-funded infrastructure, low and moderate income benefit shall be determined by the number of low and moderate income persons in households connected to and able to use the water, sewer or other infrastructure at the time of

administrative closeout. For activities where hookups or connections are required as a condition for beneficiary access to a CDBG funded infrastructure, no hookup or connection fees shall be charged to very-low, low or moderate-income beneficiaries. Further, no portion of the project construction costs shall be charged to very-low, low or moderate-income beneficiaries.

(12) Housing Rehabilitation Standards. Upon completion of the housing rehabilitation program, all housing units addressed with CDBG funds must be in compliance with the subgrantee's local housing code and the HUD Section 8, Housing Quality Standards. This requirement does not apply if the construction activity is limited to water hookups, sewer hookups, the abandonment of wells, or the abandonment of septic systems with no internal or external modifications to the housing structure.

(13) If manufactured housing units are used for replacement housing, they must meet the following specifications:

- (a) Manufactured housing units must be built to HUD post-1994 construction standards.
- (b) The units must be new, previously uninstalled manufactured housing units.
- (c) Units must bear HUD compliance certification meeting HUD wind resistance construction standards for wind zone 3.
- (d) The county shall inspect and approve the installation of all manufactured housing units.
- (e) Units must be installed to the manufacturer's installation instructions.
- (f) These funds may not be used for furniture or interior design costs, insurance, financing points, or add-on structures.
- (g) Replacement units may be placed on leased land or resident-owned land.
- (h) Site location must meet minimum safety criteria (e.g., not located in floodplain, not in high velocity wind zone, etc.).
- (i) Units must be for owner-occupancy.
- (j) The costs of each manufactured housing unit must not exceed the appraised value of the unit

per the Fannie Mae/Freddie Mac manufactured housing appraisal guidelines currently in effect
(e.g., Fannie Mae, Announcement 03-06, Appraisal Guidelines for Manufactured

Specific Authority: 290.044, FS. Law Implemented: 290.0401-.048, FS. History -- New.

THIS RULE SHALL TAKE EFFECT IMMEDIATELY UPON BEING FILED WITH THE
DEPARTMENT OF STATE.

Effective Date: _____.

CERTIFICATION OF THE DEPARTMENT OF COMMUNITY AFFAIRS
EMERGENCY RULES FILED WITH THE
DEPARTMENT OF STATE

I hereby certify that an immediate danger to the public health, safety or welfare requires emergency action and that the attached rule is necessitated by the immediate danger. I further certify that the procedures used in promulgation of this emergency rule were fair under the circumstances and the rule otherwise complies with subsection 120.54(4), Florida Statutes. The adoption of the rules was authorized by me as the head of the agency and this rule is hereby adopted upon its filing with the Department of State, pursuant to the provision of section 120.54(4)(d), Florida Statutes.

Rule No. 9BER06-1

Under the provision of section 120.54(4)(d), Florida Statutes, this rule takes effect upon filing unless a later time and date less than 20 days from filing is set out below:

Effective Date: __ (Month) __ (Day) 2006 (Year)

Thaddeus L. Cohen, AIA, Secretary

Number of Pages Certified 8