



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-7000

PRINCIPAL DEPUTY ASSISTANT SECRETARY
FOR COMMUNITY PLANNING AND DEVELOPMENT

October 26, 2022

The Honorable Bob Dallari
1101 E 1st Street
Sanford, FL 32771-1468

Dear Commissioner Dallari:

I offer my best wishes for all Floridians impacted by Hurricane Ian. As authorized by 42 U.S.C. 11364a(c)(1), HUD has determined to make a special allocation of Emergency Solutions Grants (ESG) funding to Seminole County (the Recipient) to address the needs of homeless individuals or families or individuals or families at risk of homelessness in areas affected by a major disaster declared pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) on or after December 20, 2019, whose needs are not otherwise served or fully met by existing Federal disaster relief programs, including the Transitional Sheltering Assistance (TSA) program under such Act (42 U.S.C. 5170b). Specifically, HUD is allocating this funding as a result of the President's major disaster declaration dated September 29, 2022, DR-4673-FL, in response to Hurricane Ian, and Federal Emergency Management Agency's (FEMA's) determination that this disaster was severe enough to activate its TSA program.

Given the unique nature of this funding, HUD is calling it the Rapid Unsheltered Survivor Housing under the ESG Program (RUSH). Through RUSH, HUD is making available \$386,784 in ESG disaster funding to Seminole County. This initial allocation was determined using a formula that is based on 42 U.S.C. 11364a(c)(1) and that takes into account the number of persons experiencing sheltered or unsheltered homelessness (based on the most recent Point-in-Time count) in counties or local municipalities for which TSA is made available and the Fair Market Rent for a 1-bedroom apartment in those areas. Subject to availability of funding, HUD may make a second allocation of RUSH funding, based on data that becomes available on unmet needs and other factors consistent with 42 U.S.C. 11364a(c)(1).

This RUSH funding will be subject to the same Federal requirements that apply to annual ESG funding, except as otherwise outlined below:

Special RUSH Grant Requirements

1. Statutory limitations on eligible projects/program participants:

- a. RUSH funds must be used for the purpose specified by 42 U.S.C. 11364a(c)(1). To be eligible for assistance provided with RUSH funds, an individual or family must: (1) be homeless or at-risk of homelessness; (2) have been residing in an area affected by a major disaster declared pursuant to the Stafford Act on or after December 20, 2019 (e.g., an area covered by DR-4673-FL, dated September 29, 2022); and (3) have needs that will not be

served or fully met by the TSA Program (42 USC 5170b) and other existing Federal disaster relief programs (including both Federal and non-Federal cost share).

- b. A household will not be required to re-qualify as homeless or at risk of homelessness for purposes of RUSH funds if the household was already determined to meet the ESG definition of homeless or at risk of homelessness and was receiving ESG assistance when the disaster occurred.
- c. For purposes of RUSH funding, HUD understands “existing Federal disaster relief programs” to mean Federal programs that provide assistance for the purpose of disaster relief and are permanently authorized as of the date of the RUSH award.

2. *Suspension of match and changes to program income requirements:*

- a. HUD has determined to suspend all matching requirement for this RUSH funding in accordance with the authority provided by 42 U.S.C. 11364a(c)(2).
- b. In addition, because this suspension prevents costs paid with program income from counting toward match as provided by 24 CFR 576.201(f) and 576.407(c)(1), HUD is providing prior approval for program income to be used as provided by 2 CFR 200.307(e)(2). Accordingly, program income may be treated as an addition to the Recipient’s grant (or the subrecipient’s subgrant, if the income is generated by the subrecipient’s activities), provided that the program income is used in accordance with the purposes and conditions of that grant or subgrant. Otherwise, program income, as defined under 24 CFR 576.2, must be deducted from allowable costs as provided by 2 CFR 200.307(e)(1).
- c. Finally, due to the substantial increase in the Recipient’s administrative and financial burden as a result of Hurricane Ian, HUD finds good cause to waive the program income definition at 24 CFR 576.2 as authorized by 24 CFR 5.110 so that costs that are incidental to generating program income and not charged to the RUSH grant or subgrant may be deducted from gross income to determine program income, as allowed under 2 CFR 200.307(b).

3. *Pre-award costs.* In accordance with 2 CFR 200.458, HUD is providing prior approval of pre-award costs, subject to the following conditions:

- a. The pre-award costs must satisfy all allowable criteria under 2 CFR 200.403, except that the pre-award costs may be incurred on any date between and including the date of this letter notifying the Recipient of their initial RUSH allocation and the date immediately preceding the start date of the period of performance/budget period for the grant.
- b. The pre-award costs must be necessary for efficient and timely performance of eligible RUSH activities.

- c. Before committing to use RUSH funds to reimburse each pre-award cost, the Recipient must either make a written determination that the pre-award cost is for an activity that is exempt from environmental review or categorically excluded and not subject to review under related environmental laws and authorities under 24 CFR part 58, or part 50 if applicable, or verify that the applicable environmental review has been completed and a Request for Release of Funds has been approved in accordance with 24 CFR part 58, if applicable.
 - d. Although the pre-award costs may consist of costs incurred by the Recipient or its subrecipient(s), the subrecipient must receive the Recipient's prior written approval before incurring any pre-award costs and that written approval must be consistent with all of HUD's conditions for prior approval of pre-award costs.
 - e. The documentation supporting each pre-award cost reimbursed with RUSH funds must show compliance with each of these conditions for HUD's prior approval of pre-award costs.
 - f. The Recipient must assume the risk of all pre-award costs it incurs or approves before executing its RUSH grant agreement with HUD. HUD will not be required to reimburse pre-award costs if for any reason the Recipient does not receive a RUSH grant, if the grant is less than anticipated and inadequate to cover such costs, or if the pre-award costs do not meet the conditions listed above.
4. *Previously granted regulatory waivers.* In accordance with the authority provided at 24 CFR 5.110, the same waivers HUD made available on October 3, 2022, with respect use of ESG funds in response to Hurricane Ian are made available for the same justifications and subject to the same conditions with respect to the RUSH funding allocated to the Recipient.
5. *Duplication of Benefits.* Section 312 (42 U.S.C. 5155) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended (42 U.S.C. 5121 et seq.) prohibits duplication of benefits for programs that provide financial assistance to people or entities suffering losses because of a major disaster or emergency. "Duplication of benefits" occurs when Federal financial assistance is provided to a person or entity through a program to address losses resulting from a Federally-declared emergency or disaster, and the person or entity has received (or would receive, by acting reasonably to obtain available assistance) financial assistance for the same costs from any other source (including insurance), and the total amount received exceeds the total need for those costs. The Recipient must establish and maintain adequate procedures to prevent any duplication of benefits with RUSH funds. HUD will issue additional guidance to facilitate compliance with this requirement.
6. *Environmental Review Process During Emergencies Following Disasters:*
- a. Notwithstanding the provisions of 24 CFR 576.407(d), and in accordance with Sec. 100261(3) of MAP-21, activities funded under RUSH are subject to environmental review by responsible entities under 24 CFR part 58. "Responsible entities" (as defined in 24 CFR 58.2) must assume all of the responsibilities with respect to environmental review, decision

making, and action required under 24 CFR part 58. Also, as required by 24 CFR 58.4(a), when a State or local government distributes funds to a responsible entity, the State or local government must provide for appropriate procedures by which these responsible entities will evidence their assumption of environmental responsibilities.

- b. HUD's environmental review regulations in 24 CFR part 58 include two provisions that may be relevant to environmental review procedures for activities relating to disaster response and recovery. The first is 24 CFR 58.34(a)(10), which provides an exemption for certain activities undertaken to control or arrest the effects from disasters or imminent threats to public safety. Emergency activities for temporary or permanent improvements that do not alter environmental conditions and that are limited to protection, repair, or restoration activities necessary only to control or arrest the effects of the disaster may be considered exempt from the environmental review process (24 CFR 58.34(a)(10)).
- c. The second is a streamlined public notice and comment period in the regulation at 24 CFR 58.33(b), which may apply in some cases for emergency activities undertaken to respond to a Presidentially, and in some cases locally, declared disaster. Responsible entities make the determination whether activities meet the exemption criteria and document it in the environmental review record and should contact their HUD environmental officer for guidance on activities that may be considered exempt.

Submission requirements

1. *Consultation and Citizen Participation.* Subject to the qualifications and conditions described below, HUD is suspending the following consultation and citizen participation requirements as authorized by 42 U.S.C. 11364a(c)(2):
 - a. CoC consultation requirements in section 413(b) of the McKinney-Vento Homeless Assistance Act and 24 CFR 576.400(a); and
 - b. Consultation and citizen participations requirements under sections 105(e) and 107 of the Cranston-Gonzalez National Affordable Housing Act and 24 CFR 91.110, and 91.115.
2. *Consolidated Planning Submission.* For the RUSH allocation, the Recipient must (1) prepare and submit an amendment to their most recently approved Action Plan provided under 24 CFR Part 91; (2) submit the signed certifications required by 24 CFR 91.325(a) and the relevant program-specific certifications for the ESG Program, which are included as Attachments 1 and 2 to this letter; and (3) submit SF-424 and SF-424D forms.
 - a. Specifically, you must amend your most recently approved Action Plan to:
 - i. account for the new amount,
 - ii. indicate the existing Federal disaster relief program resources available to meet your jurisdiction's needs, and

- iii. how you will use this allocation of RUSH funds to meet needs that are not otherwise served or fully met by the TSA program or existing Federal disaster relief programs (including both Federal and non-Federal cost share) in accordance with 42 U.S.C. 11364a.
 - iv. include updates to the homeless needs portions of your consolidated plan to reflect your government's estimates of the needs of homeless individuals or families or individuals or families at risk of homelessness in areas affected by the Federally declared disaster.
- b. You can choose to make and submit one amendment and set of certifications to cover both the first and second allocation or to make and submit a separate amendment and set of certifications for each allocation.
- i. If you choose to make and submit a combined amendment and set of certifications, the following qualifications and conditions apply to HUD's suspension of consultation and citizen participation requirements:
 - (a) You must consult the applicable Continuum(s) of Care as required by 24 CFR 576.400(a);
 - (b) Consultation must be conducted as required under 24 CFR 91.100, except that the consultation may be conducted in-person or remotely
 - (c) You must comply with the citizen participation requirements under 24 CFR 91.105, except that the public comment period may be reduced to a 5-day period and the required public hearing may be in person or remote;
 - (d) This amendment and accompanying certifications must be received by the HUD field office within 90 days after the date of HUD's letter notifying you of the amount of your second allocation.
 - (e) If no second allocation is announced within 90 days of the first allocation, then the conditions provided below for submitting a separate amendment and set of certifications for each allocation will apply, except that your amendment and certifications for the first allocation will be due to the HUD field office within 180 days after the date of this letter.
 - ii. If you choose to make and submit a separate amendment and set of certifications for each allocation, the following conditions apply:
 - (a) Amendment to account for first allocation: You may prepare and submit your amendment without regard to the CoC consultation requirements in 24 CFR 576.400(a) or consultation and citizen participations requirements under 24 CFR 91.100 and 91.105, provided that you publish how you will use this allocation, at a minimum, on the Internet at the appropriate government website or through other electronic media. This publication must describe the activities you will fund with the RUSH funds and indicate whether, as of the date of that publication, the activity has already occurred or has yet to occur. In your notification and communication methods, you must also ensure effective communication with

individuals with disabilities and take reasonable steps to ensure meaningful access to persons with limited English proficiency. This amendment and accompanying certifications must be received by the HUD field office within 90 days after the date of this letter.

- (b) Amendment to account for the second allocation: You must consult the applicable Continuum(s) of Care as 24 CFR 576.400(a) requires. Consultation must be conducted as required under 24 CFR 91.100, except that the consultation may be conducted in-person or remotely. You must comply with the citizen participation requirements under 24 CFR 91.105, except that the public comment period may be reduced to a 5-day period and the required public hearing may be in person or remote. This amendment and accompanying certifications must be received by the HUD field office within 90 days after the date of HUD's letter notifying you of the amount of your second allocation.
- c. Each amendment submitted to HUD to receive RUSH funds will be subject to the review process set forth in 24 CFR 91.500, except that HUD will expedite its review.
- d. To make a change described in 24 CFR 576.200(b) after HUD's award of RUSH funding, including changing the allocation, distribution, or use of RUSH funds, the recipient must amend its consolidated plan as provided by 24 CFR 91.505 and 576.200(b), except that the recipient will not be required to comply with any consultation or citizen participation requirements with respect to the first RUSH allocation amount, provided that the recipient publishes its planned changes, at a minimum, on the Internet at the appropriate Government web site or through other electronic media.

HUD's Office of Community Planning and Development (CPD) is committed to continuing to work with your jurisdiction to successfully meet the urgent and complex challenges facing your community. If you or your staff have questions, please contact your local CPD Field Office Director.

Sincerely,



Marion Mollegen McFadden
Principal Deputy Assistant Secretary
for Community Planning and Development

Attachments

ATTACHMENT 1

GENERAL CERTIFICATIONS

In accordance with the applicable statutes and the regulations governing the consolidated plan regulations, the jurisdiction certifies that:

Affirmatively Further Fair Housing --The jurisdiction will affirmatively further fair housing.

Anti-displacement and Relocation Plan --It will comply with the acquisition and relocation requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, and implementing regulations at 49 CFR 24; and it has in effect and is following a residential anti-displacement and relocation assistance plan required under section 104(d) of the Housing and Community Development Act of 1974, as amended, in connection with any activity assisted with funding under the CDBG or HOME programs.

Anti-Lobbying --To the best of the jurisdiction's knowledge and belief:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of it, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement;
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, it will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions; and
3. It will require that the language of paragraph 1 and 2 of this anti-lobbying certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

Authority of Jurisdiction --The consolidated plan is authorized under State and local law (as applicable) and the jurisdiction possesses the legal authority to carry out the programs for which it is seeking funding, in accordance with applicable HUD regulations.

Consistency with plan --The housing activities to be undertaken with CDBG, HOME, ESG, and HOPWA funds are consistent with the strategic plan.

Section 3 --It will comply with section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) and implementing regulations at 24 CFR Part 75.

Signature of Authorized Official

Date

Title

ATTACHMENT 2

ESG Certifications

The Emergency Solutions Grants Program Recipient certifies that:

Major rehabilitation/conversion – If an emergency shelter’s rehabilitation costs exceed 75 percent of the value of the building before rehabilitation, the jurisdiction will maintain the building as a shelter for homeless individuals and families for a minimum of 10 years after the date the building is first occupied by a homeless individual or family after the completed rehabilitation. If the cost to convert a building into an emergency shelter exceeds 75 percent of the value of the building after conversion, the jurisdiction will maintain the building as a shelter for homeless individuals and families for a minimum of 10 years after the date the building is first occupied by a homeless individual or family after the completed conversion. In all other cases where ESG funds are used for renovation, the jurisdiction will maintain the building as a shelter for homeless individuals and families for a minimum of 3 years after the date the building is first occupied by a homeless individual or family after the completed renovation.

Essential Services and Operating Costs – In the case of assistance involving shelter operations or essential services related to street outreach or emergency shelter, the jurisdiction will provide services or shelter to homeless individuals and families for the period during which the ESG assistance is provided, without regard to a particular site or structure, so long the jurisdiction serves the same type of persons (e.g., families with children, unaccompanied youth, disabled individuals, or victims of domestic violence) or persons in the same geographic area.

Renovation – Any renovation carried out with ESG assistance shall be sufficient to ensure that the building involved is safe and sanitary.

Supportive Services – The jurisdiction will assist homeless individuals in obtaining permanent housing, appropriate supportive services (including medical and mental health treatment, victim services, counseling, supervision, and other services essential for achieving independent living), and other Federal State, local, and private assistance available for such individuals.

Confidentiality – The jurisdiction has established and is implementing procedures to ensure the confidentiality of records pertaining to any individual provided family violence prevention or treatment services under any project assisted under the ESG program, including protection against the release of the address or location of any family violence shelter project, except with the written authorization of the person responsible for the operation of that shelter.

Homeless Persons Involvement – To the maximum extent practicable, the jurisdiction will involve, through employment, volunteer services, or otherwise, homeless individuals and families in constructing, renovating, maintaining, and operating facilities assisted under the ESG program, in providing services assisted under the ESG program, and in providing services for occupants of facilities assisted under the program.

Consolidated Plan – All activities the jurisdiction undertakes with assistance under ESG are consistent with the jurisdiction’s consolidated plan.

Discharge Policy – The jurisdiction will establish and implement, to the maximum extent

practicable and where appropriate policies and protocols for the discharge of persons from publicly funded institutions or systems of care (such as health care facilities, mental health facilities, foster care or other youth facilities, or correction programs and institutions) in order to prevent this discharge from immediately resulting in homelessness for these persons.

Signature of Authorized Official

Date

Title