

Board of County Commissioners

Leon County, Florida

Policy No. 97-13

Title: CDBG Hazard Mitigation Grant Funds Program

Date Adopted: BCC: May 27, 1997; DCA: July 3, 1997

Effective Date: May 28, 1997

Reference: Public Law 103-327; Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA), 49 CFR 24 and HUD Handbook 1378 (all as amended and waived by HUD subsequent to Public Law 103-327); 24 CFR 55; 24 CFR 85; and Uniform Standards of Professional Appraisal Practice

Policy Superseded: Policy No. 97-1 "CDBG Hazard Mitigation Grant Funds Program" adopted February 25, 1997

It shall be the policy of the Board of County Commissioners of Leon County, Florida, to adhere to all applicable state and federal regulations concerning the use of the appropriated funds, and further that:

The Leon County Board of County Commissioners is committed to providing relief to the greatest possible number of property owners affected by the flooding of 1994, utilizing the special Community Development Block Grant (CDBG) funds appropriated by the U.S. Congress. The funds are administered by the Florida Department of Community Affairs (DCA) in accordance with the contract agreement with Leon County and the DCA policy document ARequirements for Hazard Mitigation Activities Conducted with Community Development Block Grant (CDBG) Funds Appropriated Pursuant to Public Law 103-327."

PROGRAM SCOPE:

The "Revised Final Statement of Objectives and Certifications" submitted by DCA to the U. S. Department of Housing and Urban Development in April 1995 specified the fund distribution for Leon County in accordance with the priorities set by the Board of County Commissioners on February 14, 1995. The projects to be funded include home acquisition, elevation, and flood proofing, and the Lake Munson Stormwater Management Project. Flood proofing will include access improvements, stormwater facility improvements on-site, and any other cost-effective alternatives which could minimize the need to remove residents.

LAKE MUNSON STORMWATER MANAGEMENT PROJECT:

The Lake Munson Stormwater Management Project will remove the sediment delta at the inflow of the lake and sediment upstream in Munson Slough, including the restoration of Lake Henrietta, to assist in flood control by increasing upstream storage and allowing greater manipulation of the lake level in advance of large storms. The project will include property acquisition and demolition (if necessary) along Munson Slough in addition to the sediment removal. Eminent domain powers can be used with the Lake Munson Stormwater Management Project, if necessary, to obtain sites for reconstructing Lake Henrietta and disposing of spoil materials.

PROPERTY OWNER ASSISTANCE:

Direct assistance to property owners under the hazard mitigation program will be in accordance with the Florida DCA policies and procedures and applicable state and federal regulations for projects funded under the special congressional appropriation. Participation in the hazard mitigation program is voluntary. Property owners will not be required to sell or retrofit their property if they do not accept the offer made by Leon County, nor will Leon County be required to purchase property if flood proofing is feasible and cost-effective. Eminent domain powers will not be used with this portion of the hazard mitigation program.

Appeal Process:

Appeals regarding relocation benefits shall comply with HUD Handbook 1378 section 1-33. All other appeals/complaints will comply with the procedures outlined in chapter 12 of the DCA 1997 Implementation Manual.

Prioritization of Applications

Documentation of private property flooding damage during the 1994 events will be required for participation in the hazard mitigation program. Applications will be categorized first to identify private residences, rental units, businesses, and vacant land. Vacant lands that abut and are part of a residential property owner's land shall have the same priority as the parcel with the residential structure and shall be included in the offer to purchase with the land that contains the residence. Private residences will have priority over other land uses. Applicants who owned property during the 1994 floods will be considered for assistance before any applicant with property purchased after the 1994 flooding. Applications for assistance will be reviewed and ranked by County staff based on the following criteria:

| Structure | Points |
|--|---------------|
| Repeat flooding of developed site - | 5 |
| Lot fully flooded - | 4 |
| Vacant property - | -1 |
| Access blocked by flood waters for greater than 24 hours - | 2 |
| Water inside structure- | 5 |
| Structural damage caused by water standing against it - | 3 |
| Structure does not meet current building code - | 3 |
| Located in the 10-year flood-plain - | 5 |
| Located in the 25-year flood-plain - | 3 |
| Located in the 100-year flood-plain - | 1 |
| Septic tank inundated for greater than 24 hours - | 1 |
| Well contaminated for greater than 24 hours - | 1 |
| Permanent well contamination - | 1 |
| | |
| Household Make up: | |
| Handicapped/Disabled - | 3 |
| Severe medical problems - | 2 |
| Elderly - | 2 |
| Low income - | 3 |
| Moderate income - | 1 |

Once the ranking is complete, each property will be evaluated to determine the minimum level of assistance required to protect residents and maintain safe access.

Threshold Standards for Eligibility:

The focus of the hazard mitigation program will be addressing the need in the flood areas, rather than only buying-out residents to remove them from the floodplain. Removal of residents is the final option to be considered, after determining there are no technically feasible, cost-effective, and cost-reasonable alternatives to protect the structures. For flood proofing and on-site relocation, the structures will be evaluated to ensure compliance with current building codes. The cost of rehabilitation to comply with codes will be included when evaluating cost-effectiveness. The following minimum criteria must be met to qualify for the specified hazard mitigation activity:

Retrofit: A property will be considered for retrofit/elevation which contains a structure affected by the 1994 flooding to a minimal extent, where access can be reestablished within 14 days after a flooding event, and floodwaters do not remain longer than 14 days.

On-site Relocation: A property will be considered for relocation on-site which contains a structure affected by the 1994 flooding, sufficient land lies outside of the 100-year floodplain, and access to the property can be reestablished within 14 days after a flooding event.

Acquisition: A property will be considered for acquisition which contains a structure affected by the 1994 flooding, the property lies wholly within the 100-year floodplain, access cannot be reestablished within 14 days after a flooding event and no other flood proofing options are feasible or cost-effective. Sale of the property must be voluntary.

ACQUISITION:

Acquisition Compensation Guidelines:

State requirements for acquisition provide that residents who owned the property during the 1994 floods will receive the “replacement cost new” for their homes. (This will not apply to business properties.) This is defined as “the cost of creating a building or improvement having the same or equivalent utility, on the basis of current prices and using current standards of material and design,” and is intended to ensure that residents can afford to relocate from the floodplain after satisfying outstanding mortgages or other loans. Replacement cost will be based on the actual improvements on the site at the time of the 1994 floods. An example of this will be a residence appraised at \$35,000 pre-flood condition which would cost \$50,000 to replace with the same square footage and basic features. The property owner will receive \$50,000 as the value of their property, minus any outstanding loans, mortgages, or federal assistance, unless the SBA grants a waiver to allow for equity transfers to the newly purchased property. In the above scenario, if the “replacement cost new value” was \$50,000 and the property owner had an outstanding mortgage of \$20,000 and a Small Business Administration (SBA) loan in the amount of \$10,000, the property owner would be offered \$20,000. **In accordance with Florida DCA policies, Leon County shall make no acquisition offer which exceeds the replacement cost new of the structure and improvements and the pre-flood market value of the land as approved or established by the review appraiser.**

However, in order to maximize the number of beneficiaries of this grant, since the low to moderate income requirements were waived, by Grant Amendment Number 1 on March 7, 1996, it shall be the policy of the Board of County Commissioners that if the “replacement cost new” value exceeds \$220,000 for retrofit or acquisition, the County will offer 80% of the “replacement cost new” value or \$220,000, whichever is greater.

The “replacement cost new” provision does not apply to property which was vacant within 180 days of the floods or was purchased after the floods. Property owners who purchased the property after the floods will receive the appraised pre-flood value of the structure, improvements, and land or the actual amount paid by the current owner for the damaged property, **whichever is less.** Property which was vacant or unused for the 180 days prior to July 1, 1994, shall be acquired at the appraised pre-flood value for the structure, improvements, and land.

Duplication of Federal Assistance Benefits:

Federal assistance provided to property owners during the flooding must be deducted from acquisition assistance provided under this program. Reductions are not required if the property owner can demonstrate that structural repairs were actually made. All Small Business Administration loans are required to be repaid at the time of closing on the property, unless the SBA grants a waiver to allow for equity transfers to the newly purchased property.

ACQUISITION GUIDELINES:

Decision to Acquire:

The owner and any tenant shall be notified with a Preliminary Acquisition Notice if the County decides to purchase a property. The owner shall receive a written offer from the County, or its representative, and will then have 30 days to accept or decline the offer. If the property owner accepts the County’s offer to purchase, any real property not identified as salvage will then be considered property of Leon County for disposal as the County sees fit, in accordance with local, state, and federal regulations.

From the time the offer is made the owner will have 90 days to clear any title problems identified during the County’s title search. Once the property owner has decided to accept the written offer and can provide fee simple title to the County, they may request an advance of their relocation benefits to assist them in moving, provided the property owner submits the request in writing. The amount requested shall be based on either a commercial move where estimates are obtained from at least three professional moving companies, or scheduled (self) move based on the following moving cost schedule.

| State | Occupant owns furniture | | | | | | | | | Occupant does not own furniture | |
|---------|------------------------------|-------|-------|-------|---------|---------|---------|---------|----------------|---------------------------------|---------|
| | Number of rooms of furniture | | | | | | | | Each add. Room | 1st Rm. | add. Rm |
| | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | | | |
| Florida | \$450 | \$600 | \$775 | \$950 | \$1,075 | \$1,200 | \$1,325 | \$1,450 | \$125 | \$300 | \$50 |

If funds are requested and advanced, the property owner must sign a purchase agreement stating that if they decide not to sell, any and all funds advanced to them will be repaid to the County within one week, or a lien will be placed against their property until the advanced funds are repaid.

Documentation of expenses must be submitted prior to closing, to allow for adjustments to be made at closing. The owner and any tenant will be required to vacate the premises prior to closing, per the DCA policy document ARequirements for Hazard Mitigation Activities Conducted with Community Development Block Grant (CDBG) Funds Appropriated Pursuant to Public Law 103-327."

Acquisition of Property subject to Easements/prescriptive rights:

Should the County acquire property that is subject to easements, the County will request that the easements be relocated when possible. Acquisition of property subject to prescriptive rights is allowed. The County will not prohibit present use of the property, but no improvements will be allowed.

Decisions Not to Acquire:

The owner shall be notified in writing if the County decides not to purchase a property any time after the Preliminary Acquisition Notice is sent. A written notification will be sent to the owner and any tenant occupying the property. This notice shall state the County’s decision not to acquire

the property. Any person moving from the property after the receipt of a “Notice Not to Acquire” will not be eligible for relocation payments and assistance.

For example, a “Notice Not to Acquire” would be sent if the property owner could not provide clear title to the County in the time allowed (**90 days from the written offer**). The property owner can file a written appeal/complaint.

ACQUISITION OF MOBILE HOMES:

The Leon County Board of Commissions has established a policy to consider occupied/unoccupied mobile homes as real or personal property, as defined by Florida Statutes. If the mobile home is purchased as real property, then all owners/occupants will be eligible to receive replacement housing assistance as prescribed in the CDBG Flood Hazard Mitigation Program’s Optional Relocation Assistance Policy (ORAP). The tenant/occupant of the mobile home is eligible for rental assistance.

If the mobile home is classified as personal property, then all owners/occupants will not be eligible to receive replacement housing assistance as prescribed in the CDBG Flood Hazard Mitigation Program ORAP, they would only receive allowable moving expenses as described in HUD 1378 3-2. The tenant/occupant of the mobile home is eligible for rental assistance.

APPRAISALS

Appraisal Requirements:

Leon County will utilize the appraisal procedure outlined in the DCA guidance document section entitled “Method of Establishment of Just Compensation,” summarized as follows. A State certified property appraiser shall establish an appraised value for each property designated for acquisition, elevation, or other retrofitting activities. The County shall procure a review appraiser (also State certified) to assess the methodological accuracy, standards used, mathematical calculations, and other factors relevant to the appraisal, including the replacement cost adequacy. If a property owner so chooses, the property owner may procure an independent State certified property appraiser to conduct an appraisal, **at the property owner’s expense**, which shall be submitted to the review appraiser for evaluation. If the property owner decides to procure an independent appraisal, they must notify the County in writing, within one week of the written offer. The property will have 30 days to procure and submit an independent appraisal to the County’s review appraiser. Following the review appraisers final decision, the property owner will have one week to accept or decline the County’s offer. Any decision to appeal the offer and procure an independent appraisal, will not be cause for an extension of the 90 days to clear title.

Appraisal Guidelines:

The owner of a real property improvement is permitted to retain it for removal from the project site. If this option is chosen, the property owner must identify the items at the time of the appraisal

so that a value can be set for the items being removed. The items must be removed by the time of closing unless other provisions have been made in writing with Leon County. The amount to be offered for the interest in the real property to be acquired shall be the difference between the amount determined to be just compensation for the owner's entire interest in the real property and the salvage value, as defined in HUD Handbook 1378 1-21, of the retained items. If the property owner decides to retain the entire structure, the County will follow the procedure outlined in paragraph K under "Acquisition Policies," in the DCA policy document "Requirements for Hazard Mitigation Activities Conducted With CDBG Funds Appropriated Pursuant to Public Law 103-327"

The Leon County Board of Commissioners has established a policy to notify all affected landowners of their right to accompany the Fee Appraiser during the valuation process and specify any improvements to be retained. The Fee Appraiser will establish the Salvage Value of any improvement to be retained. The Salvaged item and the Salvage Value will be described in an attachment to the Purchase Agreement. The landowner will be required to remove the salvaged improvements from the acquired property at the vacate date. Only those items identified in the purchase agreement may be removed.

Confidentiality of Appraisal Reports:

The Leon County Board of Commissioners has established a policy of confidentiality for Fee Appraisal Reports on all affected properties. The Board further states that the owner shall be given a written Summary Statement of Value along with the initial written purchase offer. At the owner's requests, the full appraisal report will be made available for their review.

Relocation Benefits for Owners and Tenants:

The Board of County Commissioners of Leon County adopted an Optional Relocation Assistance Program by Resolution 95-28 on November 14, 1995. The Program specifies the conditions for payment of permanent relocation assistance to owner-occupants and tenants affected by property acquisition or temporary relocation assistance to owner-occupants and tenants affected by flood proofing activities.

The Leon County Board of Commissioners has established a policy to provide each displacee with a 90-day notice along with the notice of eligibility for relocation assistance or before being notified of the availability of a comparable replacement dwelling. The notice must specify the date by which the property must be vacated or if the date is unknown, indicate the earliest date that the displacee may be required to move. If no date is specified in the 90-day notice, the displacee must be informed that they will receive at least 30 days advance written notice of the specific date of the move.

On-Site Relocation or Flood proofing:

Each property will be evaluated by state licensed or registered professionals to determine the technical feasibility, cost-effectiveness, and cost reasonableness of retrofitting or relocating structures. Leon County shall certify to the Florida DCA that the following requirements are met.

- a. Retrofit or relocation must be technically feasible, and provide a permanent and practicably implementable solution to flooding.
- b. The cost to retrofit or relocate a structure must not exceed the sum of the pre-flood land value and 50 percent of the replacement cost new of the structure.
- c. The cost to retrofit or relocate a structure must be reasonable relative to the cost of those same activities which have been conducted recently in time and of comparable scope.

Leon County will utilize State certified or registered professional contractors to flood proof structures and abandon/reestablish wells and septic tanks.

Payment of Contractors:

Contracts of \$6,000 or less will not be paid until the contractor has completed the job and obtained a certificate of occupancy. Contracts in excess of that amount may be paid through partial payments upon completion of 60 percent or more of the work with a 20 percent retainage held until completion.

The approval of a partial payment requires the following documentation:

1. Approval of the work by the property owner;
2. Inspection and agreement by County staff;
3. An affidavit from the contractor stating that either (a) there are no claims for unpaid goods and services connected with the job and all laborers, suppliers and subcontractors have received just compensation for their work up to the date of the request; or (b) a list of all unpaid parties and the amounts owed to each with the payment request.

The approval of final payment requires:

1. Acceptance of all work by the property owner and the County;
2. Submission of all manufacturer's and other warranties;
3. Waivers of liens from all subcontractors, all parties who were unpaid when the contractor received partial payment, and any other party supplying notice;
4. A certificate of occupancy or final approval from the Building Inspector to show compliance of the rehabilitation with the locally adopted and other applicable codes;
5. Owner occupancy for a minimum of three days to have elapsed; and
6. An affidavit from the contractor stating that all bills have been paid and there are no claims for subcontracted jobs or materials.

If the owner refuses to authorize payment due to a dispute with the contractor, the Engineering Services Director may recommend disbursement without the owner's approval if the claim is shown to be without merit or inconsistent with the policies and goals of the hazard mitigation program. Such disbursement shall only be issued after the Engineering Services Director has reviewed the facts and circumstances involved in the dispute and has determined that the owner's

refusal to issue payment is without just cause. A record of all pertinent information shall be kept in the property owner's file. The owner's right to stop work, the settlement of disputes and the termination of the contract shall be as authorized in the Contract for Flood proofing.

After the completion of the contract, it is the owner's responsibility to notify the contractor in writing of any defect in the work or material. The owner is also requested to notify the Stormwater Engineering Section of any complaints so that assistance in follow-up can be provided. If the contractor does not respond to the owner's written complaint within a reasonable time frame and in a satisfactory manner, a representative of the Stormwater Engineering Section will verify the complaint. If, in his/her opinion the complaint is valid, he/she will send a written request for warranty service to the contractor via certified mail. The contractor will then take action as monitored by the Stormwater Engineering Section. Upon receiving notice from the owner that the complaint has been satisfied, a Stormwater Engineering representative will inspect the work and make such note in the case file. Failure to resolve complaints shall be justification for removing a contractor from participation in the hazard mitigation program.