

CHAPTER 24
COMMUNITY SERVICES BLOCK GRANT FLOOD RELIEF PROGRAM

427—24.1(PL103-75) Purpose. The Emergency Supplemental Appropriations Act of 1993, P.L. 103-75, appropriated funds in response to flooding along the Mississippi River and its tributaries. A portion of these funds has been awarded to the state of Iowa for the community services block grant (CSBG) flood relief program. This program is intended to support services as authorized by the Community Services Block Grant Act, P.L. 97-35, for individuals and families directly affected by the flood disaster.

427—24.2(PL103-75) Definitions. For the purpose of these rules, unless otherwise defined, the following shall govern:

“CAA” means community action agency.

“Community action agency” shall mean any organization which was officially recognized as a community action agency or a community action program under the provision of Public Law 97-35, Subtitle B, Section 673(l), and Iowa Code section 216A.91.

“CSBG” shall mean the community services block grant program.

“DCAA” means the division of community action agencies of the state department of human rights.

“Directly affected by the flood disaster” means there is a primary relationship between the flood and the problem being addressed with program funds. For example, persons whose homes, automobiles, jobs, or businesses were directly and negatively impacted could be assisted if otherwise eligible.

“FEMA” shall mean the Federal Emergency Management Agency.

“Poverty level” means the official poverty line established by the director of the federal Office of Management and Budget. The Secretary of the Department of Health and Human Services revises the poverty line annually and this poverty line multiplied by 125 percent shall be used as a criterion of eligibility in the community services block grant flood relief program.

“Suspension” means temporary withdrawal of the CAA’s authority to obligate funds pending corrective action by the CAA.

“Termination” means permanent withdrawal of the CAA’s authority to obligate funds before that authority would otherwise expire. If a CAA’s authority to obligate funds is terminated, no funds may be obligated by the CAA after the effective date of the termination. It may also mean the voluntary relinquishment of this authority by the CAA.

427—24.3(PL103-75) Apportionment distribution.

24.3(1) Formula. Subgrantee funds shall initially be awarded on a noncompetitive basis to the existing community action agencies using the following formula: 75 percent on the basis of the relative share of the state’s flood damage in the community action area as determined by the number of applications for assistance received by the Federal Emergency Management Agency for the disaster housing assistance program and the individual and family grants program; 25 percent on the basis of the relative share of the state’s poverty population in the community action area as determined by the 1990 U.S. Census.

24.3(2) Reallocation of unobligated funds. The DCAA shall review the amount of unobligated funds and the unmet needs reported by each CAA as of March 31, 1994, and shall reallocate funds among the CAA areas in order to release any unobligated funds to areas demonstrating unmet needs. Additionally, CAAs may voluntarily release unobligated funds for reallocation by the DCAA at any time.

24.3(3) State administrative costs. The DCAA shall reserve for its administrative expenses of the program no more than 3 percent of the state’s apportioned amount.

427—24.4(PL103-75) Program period. Contracts in support of the program shall be effective from July 9, 1993, through September 30, 1994. All funds must be expended by September 30, 1994. The program shall have five quarterly reporting periods for program and fiscal reports, with the first quarter ending September 30, 1993.

427—24.5(PL103-75) Eligible individuals. Individuals and families assisted with these funds must meet the following criteria:

1. The problem to be addressed must be the direct result of the flood disaster.
2. Individuals and families who receive direct benefits must have incomes at or below 125 percent of the poverty level.

427—24.6(PL103-75) Eligible use of funds.

24.6(1) CSBG Act uses. All funds shall be treated as funds allotted to carry out the purposes of the CSBG Act as delineated in Section 675(c)(11) of Title VI, Subtitle B, Public Law 97-35 for the benefit of low-income, flood-affected individuals and families. Any of these activities, if otherwise allowable, are acceptable program activities:

- a.* To provide a range of services and activities having a measurable and potentially major impact on causes of poverty in the community or those areas of the community where poverty is a particularly acute problem;
- b.* To provide activities designed to assist low-income participants including the elderly poor:
 - (1) To secure and retain meaningful employment;
 - (2) To attain an adequate education;
 - (3) To make better use of available income;
 - (4) To obtain and maintain adequate housing and a suitable living environment;
 - (5) To obtain emergency assistance through loans or grants to meet immediate and urgent individual and family needs including the need for health services, nutritious food, housing, and employment-related assistance;
 - (6) To remove obstacles and solve problems which block the achievements of self-sufficiency;
 - (7) To achieve greater participation in the affairs of the community; and
 - (8) To make more effective use of other programs related to the purposes of this program;
- c.* To provide on an emergency basis for the provision of supplies and services, nutritious foodstuffs, and related services, as may be necessary to counteract conditions of starvation and malnutrition among the poor;
- d.* To coordinate and establish linkages between governmental and other social services programs to ensure the effective delivery of services to low-income individuals; and
- e.* To encourage the use of entities in the private sector of the community in efforts to ameliorate poverty in the community.

24.6(2) Anticipated uses of funds. The DCAA, in consultation with CAAs, has developed an application for federal funds which outlines many of the activities, more narrowly targeted to the flood disaster, which are expected to be conducted with CSBG flood relief funds. This outline shall serve as the framework for programmatic and financial reporting. The outline follows:

- a.* Category 1—Outreach, assessment, information and referral, and follow-up. This includes activities such as outreach and identification of persons with flood-caused poverty conditions, comprehensive assessments of persons' needs, case management, coordination, information and referral and follow-up to solve problems.
- b.* Category 2—Home repair fund. This includes activities such as engineering assessments, structural repairs, foundation repairs, basement backfill with sand, adding furnace rooms, wells, septic tanks, lead abatement, furnace repair, furnace replacement, water heater repair, water heater replacement, sump pumps, fresh water pumps, and asbestos removal.
- c.* Category 3—Assistance to obtain permanent housing. This includes such activities as moving expenses, deposits, utility connection fees, down payment assistance and mortgage payments.
- d.* Category 4—Family restart program. This component is intended to fill gaps to reestablish suitable living conditions, reestablish transportation, and ensure that children can fully participate in school. This includes such activities as emergency food, emergency shelter, clothing, furniture, appliances, auto repair and gasoline, household goods, school fees, school supplies and emergency child care.

e. Category 5—Repair of CAA offices. This activity includes costs associated with the repair, relocation, cleaning and repair or replacement of flood-damaged office contents. Insurance claims and FEMA resources must be exhausted prior to using funds for this purpose.

f. Category 6—Other. This area consists of activities eligible under the CSBG Act provided to individuals and families directly impacted by the flood disaster which do not fit categories 1 through 5 above.

427—24.7(PL103-75) Ineligible uses of funds. Ineligible uses of funds include, but are not limited to:

24.7(1) Political activity. Any political activity defined in Chapter 15, Title 5, United States Code (“Political Activity by Certain State and Local Employees”). Any nonprofit private organization receiving assistance under this program which has responsibility for planning, developing, and coordinating community antipoverty programs shall be deemed to be a state or local agency. For purpose of clauses (1) and (2) of Section 1502(a) of Title 5, any organization receiving assistance under this program shall be deemed to be a state or local agency.

24.7(2) Voter assistance. Any activities to provide voters and prospective voters with transportation to the polls or provide similar assistance in connection with an election or any voter registration activity.

427—24.8(PL103-75) Federal and state laws and regulations. Each CAA shall adhere to all applicable federal and state guidelines, laws and regulations in implementing the CSBG flood relief program.

427—24.9(PL103-75) Coordination and relationship to related programs. Each CAA shall coordinate its efforts with federal, state and local disaster relief officials to ensure the targeting of resources to populations of greatest need and to avoid duplication of services or activities. Coordination should include, but not be limited to, consultation and planning with Area Aging Agencies, Department of Human Services, Federal Emergency Management Agency, Regional Councils of Government, Salvation Army and American Red Cross.

427—24.10(PL103-75) Use of qualified technicians. When conducting activities under the home repair fund or the repair of CAA offices, CAAs shall use technicians who are professionally qualified to conduct the type of work being financed.

427—24.11(PL103-75) Waivers for land and buildings. The CAA is required to request a waiver for the use of funds for the purchase or improvement of land, the purchase of buildings or other facilities or major home construction, except that no waiver is required for the use of funds for residential home repairs to ensure that flood victims have adequate heating, i.e., the installation of furnaces and stoves. If waivers are requested, the CAA must certify to the DCAA that there is no potential for future insurance claims and that FEMA resources have been exhausted.

427—24.12(PL103-75) Program reports. CAAs shall submit program reports to the DCAA as prescribed in the program contract.

427—24.13(PL103-75) Expenditure reports. CAAs shall submit financial reports as prescribed in the program contract.

427—24.14(PL103-75) Audits and records. Each recipient shall be responsible for the maintenance of appropriate accounting records necessary for the protection of program funds and shall arrange and pay for an annual audit of each grant made under this program, to be submitted within 90 days of the end of the recipient’s fiscal year. Audits shall be performed in accordance with generally accepted auditing standards including the standards published by the general accounting office “Standard for Audit of Governmental Organizations, Programs, Activities and Functions.” The audit report shall conform to the audit format established for community action agencies by the state auditor. Audit procedures shall conform to OMB Circular A-128, “Audits of State and Local Governments.” In addition, DCAA may

request more frequent audits or examinations of financial records of the recipient in order to ensure adequate financial controls are in place and operating.

427—24.15(PL103-75) Suspension of CSBG flood relief funding.

24.15(1) *Suspension in general.* The division administrator of DCAA may suspend CSBG flood relief funds to a CAA if monitoring, evaluation, or audits reveal significant noncompliance with established state or federal policies, contract requirements, DCAA directives, fiscal procedures, program performance targets, or other willful or negligent failure on the part of the CAA to perform its responsibilities. Action to suspend funding will only be taken after less drastic remedies have been tried unless DCAA determines that immediate action is necessary due to the seriousness of the violation or is necessary to protect funds or property. Serious violations would include, but would not necessarily be limited to, evidence of fraud, embezzlement, or gross mismanagement.

24.15(2) *Written notification of suspension.* DCAA shall provide a written “notification of suspension” by certified mail to the chairperson of the governing board of the CAA to effectuate the process of suspension. The “notification of suspension” shall specify the reason(s) for the suspension and the effective date of the suspension. In all but extreme cases, the CAA will be given a reasonable period of time (but in no case more than 60 days) to make necessary improvements, whereupon funding may resume. In extreme cases, when the division administrator of DCAA has determined termination of funding is appropriate in accordance with rule 427—24.6(PL103-75), the “notification of suspension” shall be accompanied by a “notification of intent to terminate” as described in this subrule.

427—24.16(PL103-75) Termination of CSBG flood relief funding.

24.16(1) *Termination in general.* The division administrator of DCAA may terminate CSBG flood relief funds to a CAA after suspension of funding in any of the following instances:

- a. The division administrator determines that the governing board of the CAA cannot or will not take the necessary action to bring the eligible entity into compliance within the time allowed by DCAA.
- b. The division administrator determines that the nature or event of noncompliance is extreme and warrants immediate termination of funding.
- c. The entity is no longer officially recognized as a CAA by DCAA as a result of termination of affiliation procedures in 427 IAC 22.11(216A).

24.16(2) *Written notification of intent to terminate.* DCAA shall provide a written “notification of intent to terminate” by certified mail to the chairperson of the governing board of the entity to effectuate the termination of funding. The “notification of intent to terminate” shall include:

- a. The reason(s) for the termination;
- b. A notice of a hearing to be held to consider the intended termination including:
 - (1) A statement of the date, time, place, nature, and manner of the hearing;
 - (2) A statement of the legal authority and jurisdiction under which the hearing is to be held;
 - (3) Reference to the particular sections of the statutes, rules, or regulations involved;
 - (4) A short, plain statement of the matters asserted. If the state is unable to recite the matter in detail at the time the notice is given, the notice may be limited to a statement of the issues involved;
 - (5) A statement informing all parties of their opportunity at a hearing:
 1. To request rescheduling of the hearing for good cause;
 2. To be represented by an attorney or other representative of their choice;
 3. To introduce into the record documentary evidence and bring witnesses to the hearing;
 4. To have records or documents relevant to the issues produced by the parties’ custodian when the records or documents are kept by or for the state, contractor or its subcontractor in the ordinary course of business and where prior reasonable notice has been given to the presiding officer;
 5. To question any witnesses or parties; and
 - (6) A final written decision provided by the division administrator of DCAA within 30 days of the hearing.

24.16(3) *Prehearing subpoena and discovery rights and procedures.* The presiding officer shall, upon request, issue subpoenas in accordance with the provisions of Iowa Code section 17A.13.

24.16(4) Conduct of hearing.

- a. The hearing shall be held within 30 days of the date of the “notification of intent to terminate.”
- b. The hearing may be conducted in whole or in part by telephone. When it is impractical for the state to conduct an in-person hearing, unless either party objects, a telephone hearing may be scheduled.
- c. After the presiding officer has called the hearing to order, the parties may be given an opportunity to present opening statements; thereafter the parties shall present their evidence in sequence determined by the presiding officer.
- d. When a witness is introduced to provide testimony or evidence in a contested case hearing, the witness shall, prior to testifying, be identified by name and address and shall take an oath or affirmation administered by the presiding officer.
- e. The rules of evidence and the contents of the record shall be allowed under Iowa Code sections 17A.12(7) and 17A.14.

24.16(5) Decision. The decision shall conform to the following requirements:

- a. The presiding officer shall within 20 days following the hearing provide the division administrator of DCAA with a proposed decision.
- b. The division administrator of DCAA shall within 30 days following the hearing issue a final decision on behalf of the state.
- c. A proposed or final decision shall include findings of fact and conclusions of law, separately stated. Findings of fact shall be based solely on the evidence in the record and on matters officially noticed in the record and, if set forth in statutory language, shall be accompanied by a concise and explicit statement of underlying facts supporting the findings. Each conclusion of law shall be supported by cited authority or by reasoned opinion.

24.16(6) Review by the Secretary of Health and Human Services. In accordance with Public Law 97-35 the Secretary of the U.S. Department of Health and Human Services shall be requested by the state to review any termination of funding to a community action agency. As stated in Public Law 97-35 the review shall be conducted promptly and shall be based upon the record. No decision shall become effective until a finding by the Secretary of Health and Human Services confirming the state’s finding of cause for termination.

These rules are intended to implement Public Law 103-75.

[Filed emergency 12/3/93—published 12/22/93, effective 12/3/93]