#### Section I

# Notice of Development of Proposed Rules and Negotiated Rulemaking

#### DEPARTMENT OF FINANCIAL SERVICES

#### **Division of Accounting and Auditing**

RULE NOS.: RULE TITLES:

69I-22.002 Definitions Applicable to Chapter 69I-22

69I-22.003 Procedures

PURPOSE AND EFFECT: The purpose is to update the rules and to incorporate by reference the Employee Direct Deposit Authorization Form and the Retiree Direct Deposit Authorization Form. All beneficiaries filing a Direct Deposit Authorization Form for salary or retirement benefits will now be required to provide the Department with a copy of a valid driver's license or legible copy of a photographic identification issued by the United States or foreign nation, state or territory of the United States or foreign nation, or a political subdivision or agency.

SUBJECT AREA TO BE ADDRESSED: Direct deposit authorization of employee salary or retirement benefits.

RULEMAKING AUTHORITY: 17.075(2), 17.14, 17.29 FS. LAW IMPLEMENTED: 17.075(2), 17.076, 17.14, 17.29 FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW:

DATE AND TIME: October 21, 2014, 1:30 p.m.

PLACE: Room B103, Fletcher Building, 101 E. Gaines Street, Tallahassee, FL

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Rachael Lieblick at (850)413-3537 or Rachael.Lieblick@MyFloridaCFO.com. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Rachael Lieblick, Assistant Director, Division of Accounting and Auditing, 200 E. Gaines Street, Tallahassee, FL 32399-0318, (850)413-3537 or Rachael.Lieblick@MyFloridaCFO.com. The text of the proposed rules is also available on the Department's website: http://www.MyFloridaCFO.com/Division/LegalServices/RuleWorkshopMeetings/default.asp

DEVELOPMENT IS AVAILABLE AT NO CHARGE FROM THE CONTACT PERSON LISTED ABOVE.

THE PRELIMINARY TEXT OF THE PROPOSED RULE

### Section II Proposed Rules

#### AGENCY FOR HEALTH CARE ADMINISTRATION

#### **Health Facility and Agency Licensing**

RULE NOS.: RULE TITLES:

59A-33.002 Licensure, Application Process, General

Requirements

59A-33.006 Certificates of Exemption and Exempt

Status

59A-33.007 AHCA Forms Availability, Information and

Website

59A-33.008 Medical or Clinic Director

59A-33.012 Survey Requirements and Process

PURPOSE AND EFFECT: Chapter 59A-33, F.A.C. will undergo rule development to update the application form reference; update the financial forms incorporated by reference and remove the surety bond option as an alternative to financials; remove outdated language and language found in uniform licensing Chapter 59A-35, F.A.C.; amend rule to implement assessment fee and new accreditation requirements; add provisions for licensees whose accreditation no longer meets the statutory requirements.

SUMMARY: Chapter 59A-33, F.A.C., is amended to update the Rule Chapter Title to remove "Index to Proposed Rules". Chapter 59A-33.002, F.A.C., is amended to update the application form reference, update the financial forms incorporated by reference and removing the surety bond option as an alternative to financials; Removing outdated language and language found in uniform licensing rule; Amend rule to implement new accreditation requirements; add provisions for licensees whose accreditation no longer meets the statutory requirements. Rule 59A-33.006, F.A.C., is amended to update the application form reference. Rule 59A-33.007, F.A.C., is amended to update phone information. Rule 59A-33.008, F.A.C., is amended to update statutory reference to correct statute numbers and removing outdated language and language found in uniform licensing rule. Rule 59A-33.012, F.A.C. is amended to update statutory references to correct statute numbers.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION: The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the Agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: A SERC has not been prepared by the agency. For rules listed where no SERC was prepared, the Agency prepared a checklist for each rule to determine the necessity for a SERC. Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 400.991(1), 400.991(7)(d), 400.995(3), 400.9925, 408.809, 408.810(8), 408.819 FS.

LAW IMPLEMENTED: 120.54, 120.60(6), 400.9905(5), 400.9915(3), 400.991(1)(a), (4), (7)(d), 400.9925, 400.993(6), 400.9935(1)(a)-(g), (3), 400.995(1), (6), (8), 408.809, 408.810(8), 408.819, 435.04 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW:

DATE AND TIME: October 27, 2014, 10:00 a.m. – 11:00 a.m. PLACE: Agency for Health Care Administration, Ft. Knox Bldg. 3, Conference Room C, 2727 Mahan Drive, Tallahassee, FL 32308

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 7 days before the workshop/meeting by contacting: Tom Jones, Bureau of Health Facility Regulation, 2727 Mahan Drive, Tallahassee, Florida, (850)412-4404. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Tom Jones, (850)412-4404, email: tom.jones@ahca.myflorida.com

THE FULL TEXT OF THE PROPOSED RULE IS:

## INDEX TO PROPOSED RULES FOR HEALTH CARE CLINIC LICENSURE

59A-33.002 Licensure, Application Process, General Requirements.

(1) The <u>applicant or</u> licensee or prospective licensee shall make application for an initial, change of ownership, or renewal license to operate a health care clinic and shall provide all of the information required by this rule and Chapter 400, Part X, F.S., on the Health Care Licensing Application, Health Care Clinics, AHCA Form 3110-0013, <u>July 2014</u>, <u>Application for Health Care Clinic Licensure July 2006, which is incorporated herein</u>

by reference and available at <a href="http://www.flrules.org/Gateway/reference.asp?No=Ref-XXXXX">http://www.flrules.org/Gateway/reference.asp?No=Ref-XXXXX</a> and available from the Agency for Health Care Administration website at: <a href="http://ahca.myflorida.com/HQAlicensureforms">http://ahca.myflorida.com/HQAlicensureforms</a>.

The following shall be included with the application:

- (a) License Fee. A nonrefundable \$2,000 application fee payable to AHCA; and
- (b) Fictitious Name. When an applicant intends to operate under a fictitious name, a copy of an Affidavit of Compliance with Fictitious Name pursuant to Section 865.09, F.S., or a copy of a registration form from the Division of Corporations, Secretary of State, showing registration of the applicant's fictitious name; and
- (c) Evidence of Incorporation. When an applicant is a corporation or other entity, a copy of the registration of the applicant entity on file with the Division of Corporations, Secretary of State, State of Florida; and
- (d) Financial Projections. Proof of financial ability to operate for the first year of licensure. Proof of financial ability to operate must be demonstrated for initial licensure and change of ownership applications as required in Section 408.810(8), F.S. and Rule 59A-35.062, F.A.C. This proof shall include evidence that the applicant has sufficient assets, credit, and projected revenues to cover liabilities and expenses. The applicant must submit a projected income and expense statement and projected balance sheet that have been prepared according to generally accepted accounting principals and signed by a certified public accountant. As a convenience, the applicant may submit the required information on AHCA Form 3110 0013, July 2006, Schedule 2, Projected Income and Expense, and Schedule 3, Projected Balance Sheet, which form is incorporated by reference. As an alternative, and not in addition to providing a projected income and expense statement and projected balance sheet, the applicant may submit a surety bond in the amount of \$500,000 payable to the Agency for Health Care Administration. For a Surety Bond the applicant must submit AHCA Form 3110 0013, Health Care Clinic surety bond, July 2006, which is incorporated by reference; and
- (e) Accreditation. Each clinic engaged in magnetic resonance imaging ("MRI") services shall provide documentation that it is accredited by a national accrediting organization that is approved by the Centers for Medicare and Medicaid Services for magnetic resonance imaging and advanced diagnostic imaging services within 1 year after licensure or one year after beginning MRI services to patients or placing a new magnet for an existing MRI. This period may be extended in accordance with Section 400.9935(7)(a), F.S. Clinics that are accredited by the Accreditation Association for Ambulatory Health Care prior to July 1, 2013, shall be accredited by an approved accreditating organization on or before July 1, 2014; and

(f)(e) Background Screening. Applicants must submit evidence of compliance with level 2 background screening requirements as required in Section 400.991, F.S. and Section 408.809, F.S. All information required by this paragraph (e) to enable the Agency to evaluate and determine compliance with the Act regarding background screening. This information must include the identification of all individuals who must be the subject of Level 2 background screening under standards established in Chapter 435, F.S., and in Section 400.991(7)(d), F.S., as required on AHCA Form 3110 0013, July 2006, Application for Health Care Clinic Licensure, adopted by reference.

1. Individuals required to meet background screening requirements include individuals owning or controlling, directly or indirectly, 5% or more of an ownership interest in the health care clinic; the medical or clinic director, or similarly titled person responsible for the day to day operation of the health care clinic; the financial officer or similarly titled individual responsible for the financial operation of the health care clinic, and all licensed health care practitioners employed by or under contract to the health care clinic that have been issued a license, registration or certification by the Florida Department of Health.

2. For each individual not previously screened within the last 5 years who passed background screening in accordance with the Act in such previous background screening, the applicant for licensure shall submit an original completed applicant (meaning that individual) fingerprint card (blue and white card) from any authorized agency or law enforcement office in the United States plus the applicable processing fee established by the Florida Department of Law Enforcement (FDLE); provided however, an individual who owns an interest in a health care clinic, where such ownership interest is less than a 10% interest, shall not be required to submit a fingerprint card. This latter proviso shall not preclude the Agency from determining through means other than through the examination of fingerprints, whether any such individual has a criminal record that precludes issuance of a health care clinic license to the applicant for licensure.

3. Within thirty (30) days of receipt by the Agency of the results of background screening by FDLE and by the Federal Bureau of Investigation (FBI), the Agency will notify the applicant in writing if the determination is other than compliant ("HCC OK"). Within twenty one (21) days of such notice by the Agency to the licensure applicant, with the Agency's accompanying request for additional information, the applicant shall provide the additional information to the Agency to enable the Agency to make a final determination regarding whether a disqualifying criminal record exists for any such individual that would preclude issuance of the license to the applicant. The Agency will notify the applicant for the license in writing of a final disqualifying criminal record and the right to formally contest the determination.

4. Any applicant that fails to provide requested criminal or other necessary information within twenty one (21) days after the notice to the applicant of the need for such information regarding any particular individual, or that otherwise fails to respond to the notice in a manner that resolves the problem in determining the disqualifying nature of the criminal record of a particular individual, shall be subject to having the applicant's pending license application withdrawn or an existing license revoked for such failure.

5. Individuals directly or indirectly owning or controlling 5% or more of an interest in a health care clinic means the natural persons owning or controlling stock, directly or indirectly, in the applicant entity or owning or controlling 5% or more interest in a company or companies directly or indirectly related to the applicant entity through inter company ownership or control. For example: When a parent company or companies own 100% of the outstanding stock or controls the applicant entity, any individual owning or controlling a 5% or more interest in the parent company is required to undergo background screening in accordance with the Act.

6. No license will be issued to any health care clinic until all of the required background screening responses from FDLE and from the FBI have been received by the Agency and the individuals screened have been determined cleared in accordance with the Act and with this rule. Documentation that resolves background screening issues is required documentation pursuant to Section 400.991(4), F.S. A license that is granted, notwithstanding the existence of a pending criminal charge against an individual whose criminal case will not be resolved within the time specified in this rule, and which criminal charge may result in the establishment of a criminal record that would have precluded licensure if established prior to issuance of the license, shall be subject to periodic review by the Agency specifically as to the disposition of that individual's criminal charge. The licensee shall promptly notify the Agency of such disposition upon learning of it.

(g) Medical/Clinic Director Attestation, AHCA Form 3110-1028 (Sept 2014), incorporated herein by reference and available at <a href="http://www.flrules.org/Gateway/reference.asp?No=Ref-XXXXX">http://www.flrules.org/Gateway/reference.asp?No=Ref-XXXXX</a> and available from the Agency for Health Care Administration website at: <a href="http://ahca.myflorida.com/HQAlicensureforms">http://ahca.myflorida.com/HQAlicensureforms</a>.

(2) All forms and these rules may be obtained by contacting the Agency as shown in Rule 59A 33.007, F.A.C.

<u>Rulemaking</u> Specific Authority 400.991(1), 400.991(7)(d), 400.995(3), 400.9925, 408.809, 408.810(8) FS. Law Implemented 400.9925, 400.991(1)(a), (4), (7)(d), 408.809, 408.810(8), 435.04 FS. History—New 8-28-06, Amended

59A-33.006 Certificates of Exemption and Exempt Status.

(1) Facilities and entities exempt from health care clinic license requirements are set forth in Section 400.9905(4), F.S.

A facility is not required to have, but may voluntarily apply for a certificate of exemption.

- (2) Facilities that claim an exemption, either by filing an application for a certificate of exemption with the Agency and receiving a certificate of exemption, or self-determining, must maintain an exempt status at all times the facility is in operation.
- (3) When a change to the exempt status occurs to an exempt facility or entity that causes it to no longer qualify for an exemption, any exempt status claimed or reflected in a certificate of exemption ceases on the date the facility or entity no longer qualifies for a certificate of exemption. In such case, the health care clinic must file with the Agency a license application under the Act within 5 days of becoming a health care clinic and shall be subject to all provisions of the Act applicable to unlicensed health care clinics. Failure to timely file an application for licensure within 5 days of becoming a health care clinic will render the health care clinic unlicensed and subject the owners, medical or clinic directors and the health care clinic to sanctions under the Act.
- (4) A facility becomes a "clinic" as defined in Section 400.9905 (4), F.S., when it does not qualify for an exemption, provides health care services to individuals and bills third party payers for those services.
- (5) Change of Exempt Status. When exempt status changes are discovered, the Agency will notify a facility or entity applying for, obtaining or self-determining exempt status, that the exempt status is no longer valid, giving the grounds therefore, the date of the change, when known, and the statutory and rule provisions applicable. The Agency shall give the facility or entity notice of unlawful health care clinic operation, the statutory and rule requirements of becoming a health care clinic and sanctions for operating without a valid license for the owners, medical or clinic directors and the location. The Agency shall also provide information to the facility or entity believed to be operating without exempt status of the licensing procedures and the Agency filings necessary to meet licensure requirements.
- (6) The applicant for a certificate of exemption must affirm, without reservation, the exemption sought pursuant to Section 400.9905(4), F.S., and the qualifying requirements for obtaining and maintaining an exempt status; the current existence of applicable exemption-qualifying health care practitioner licenses; qualified ownership, qualified certifications or registration of the facility or owners; federal employer identification number; services provided; proof of legal existence and fictitious name, when the entity and name are required to be filed with the Division of Corporations, Department of State; plus other satisfactory proof required by form adopted by this rule.
- (7) The fee for issuance of a certificate of exemption shall be \$100 and submitted to the Agency with the application.

- (8) Within 30 calendar days after application receipt, the Agency shall determine whether the application is complete. If the application is deemed incomplete, the Agency shall request in writing from the applicant specific information necessary for the application to be deemed complete. Only one such request will be made by the Agency. If the applicant does not provide the specific additional information required by the statute and rule in writing to the Agency within 21 calendar days of receipt of the Agency's request, the application will be deemed incomplete and the certificate of exemption shall be withdrawn from further consideration. The applicant's response must be received by the Agency no later than 5:00 p.m., E.S.T., on the omissions due date. An application for a certificate of exemption from health care clinic licensure shall be granted or denied by the Agency within 90 days of receipt of a fully completed application on the Application for Exemption from Licensure as a Health Care Clinic, AHCA Form 3110-0014, July 2014 July 2006, which is incorporated by reference-and http://www.flrules.org/ obtained may be Gateway/reference.asp?No=Ref-XXXXX and available from the Agency for Health Care Administration web address at: http://ahca.myflorida.com/HOAlicensureforms in accordance with Rule 59A 33.007, F.A.C.
- (9) The Agency shall rely upon the address given on the application as the official address to which correspondence may be sent. It is the duty of the applicant to notify the Agency in writing at least 10 days in advance of any change of the current mailing address by contacting the Agency according to Rule 59A-33.007, F.A.C.
- (10) Certificates of exemption are not moveable or transferable, directly or indirectly. They are valid only for the applicant, qualifying owners, licenses, registrations, certifications and services provided under specific statutory exemptions and are valid only to the specific exemption claimed and granted. In order for a certificate of exemption to be valid the applicant must apply for and receive a new certificate of exemption for changes of location and any qualifying statutory or rule requirement of an exemption.

  Rulemaking Authority 400.9925 FS. Law Implemented 400.9905(4), 400.9935(2), (9) FS. History–New 8-28-06, Amended\_\_\_\_\_\_.

59A-33.007 AHCA Forms Availability, Information and Website.

All forms and corresponding instructions, copies of these rules, the Health Care Clinic Act and other information necessary for licensure and exemption that are incorporated by reference into this chapter, may be obtained from the Health Care Clinic Unit website:

http://www.fdhc.state.fl.us/MCHQ/Health\_Facility\_Regulatio n/HealthCareClinic/index.shtml or may be obtained by written request addressed to: AHCA, Health Care Clinic Unit, 2727

Mahan Drive, MS #53, Tallahassee, FL 32308 or by telephone at (850)412-4404 488 1365 for mailing or inquiry.

<u>Rulemaking Specific</u> Authority 400.9925 FS. Law Implemented 120.54 FS. History–New 8-28-06, <u>Amended</u>

#### 59A-33.008 Medical or Clinic Director.

- (1) A licensed health care clinic may not operate or be maintained without the day-to-day supervision of a single medical or clinic director as defined in Section 400.9905(5), F.S. The health care clinic responsibilities under Sections 400.9935(1)(a)-(<u>i</u>)(<del>g</del>), F.S., cannot be met without an active, appointed medical or clinic director. Failure of an appointed medical or clinic director to substantially comply with health care clinic responsibilities under Rule 59A-33.012, F.A.C., and Sections 400.9935(1)(a)-(<u>i</u>)(<del>g</del>), F.S., shall be grounds for the revocation or suspension of the license and assessment of a fine pursuant to Section 400.995(1), F.S.
- (2) By statutory definition in Section 400.9905(5), F.S., a medical director is a health care practitioner that holds an active and unencumbered Florida physician's license in accordance with Chapters 458 (medical physician), 459 (osteopathic physician), 460 (chiropractic physician) or 461 (podiatric physician), F.S. A suspended or non-renewed license is considered an encumbered license, as is a license that restricts the license holder from performing health care services in a manner or under supervision different from a license holder without board or Department of Health restrictions.
- (3) The Agency shall issue an emergency order suspending the license of any health care clinic operated or maintained without a medical or clinic director as required by the Act and this rule for such period of time as the health care clinic is without a medical or clinic director. The Agency shall assess a civil fine of up to \$5,000 for operating or maintaining a health care clinic without a medical or clinic director. Each day of operation following receipt of Agency notice is considered a separate offense. Operation and maintenance of a health care clinic without a medical or clinic director shall be grounds for revocation of the license in addition to the assessment of fines pursuant to Section 400.995 (1), F.S.
- (4) Unless otherwise exempted by law, an application for a change in the medical or clinic director shall be accompanied by a fingerprint card of the new medical or clinic director together with the required processing fee for background screening of that individual.

Rulemaking Authority 400.9925(1), (2) FS. Law Implemented 120.542, 120.60(6), 400.9905(5), 400.9915(3), 400.993, 400.9935(1) (a)-(g), 400.9935(3), 400.995(1), (6) FS. History–New 8-28-06, Amended

59A-33.012 <u>Inspection</u> Survey Requirements and Process.

- (1) An applicant for health care clinic licensure must demonstrate compliance with the requirements in Ch. 400, Part X, Florida Statutes (F.S.), Ch. 408, Part II, F.S., Chapters 59A-35 and 59A-33, Florida Administrative Code (F.A.C.) during an inspection as required in Sections 408.806 and 408.811, F.S. The survey process is an onsite inspection and review of the health care clinic facility or administrative office, by authorized Agency employees to determine the health care clinic's compliance with the minimum standards established by the Act, its statutory references and rules regulating the operation and licensure of health care clinics. Inspections Surveys will be conducted as part of the review process for initial, renewal, change of ownership and complaint investigations and may be unannounced. The purpose of the survey is to verify information provided on an application as well as inspect, review, interview, document and determine that the minimum health care delivery system attributes for a health care clinic, as required by the Act and these rules are in place and operational or will be operational after commencing business.
  - (2) A survey will be conducted for:
  - (a) Initial applications for licensure; and
  - (b) Applications for renewal licenses; and
  - (c) Applications for a change of ownership;
  - (d) Complaints filed with the Agency.
- (2)(3) The surveyor will request the health care clinic to demonstrate how it is meeting or will meet the minimum requirements for licensure. The medical or clinic director must attend the survey entrance conference and be available when the survey is conducted for the surveyor to determine compliance with minimum standards and requirements for licensure. Other key personnel required include the financial director, a representative of management or ownership and persons responsible for patient records and billing.
- (4) At the entrance conference, each surveyor will identify himself or herself and will discuss the survey process and what is expected of the health care clinic during the survey. At the exit conference, surveyors will inform health care clinic representatives of the findings of the survey. When deficiencies are found, the surveyor will discuss them with the persons then in attendance and discuss the criteria for determining the level of sanctions in accordance with Sections 400.995(1)(a) (d), F.S. The field office shall inform the health care clinic in writing of its recommendations and shall require a plan of correction to be prepared and delivered to the field office within 10 days of receipt to correct deficiencies when minimum health care delivery system requirements have not been met. Implementation and Agency verification of a successful plan of correction does not prohibit the field office from recommending sanctions. Sanctions shall include the assessment of fines, suspension, moratorium, emergency order of suspension and revocation.

- (3)(5) To facilitate a licensure survey, the health care clinic shall have the following materials readily available for review at the time of the survey:
- (a) The professional license or facsimile of the license for the medical or clinic director.
- (b) Copy of medical or clinic director's written agreement with the health care clinic assuming the responsibilities for the statutory activities in Sections 400.9935(1)(a)-(i)(g), F.S. If the medical or clinic director signs the Medical/Clinic Director Attestation, AHCA Form 3110-1028 (Sept 2014), referenced in Rule 59A-33.002, F.A.C. application or change of medical or clinic director form, acknowledging these responsibilities as specified in Section 400.9935, F.S., this requirement is met.
- (c) Written policies, protocols, guidelines and procedures used or to be used by the facility staff in day-to-day operations. This includes, but is not limited to protocols for physician assistants and advanced registered nurse practitioners plus a copy of the supervision form submitted to the Department of Health by the physician supervisor.
- (d) Any policies, procedures, guidelines, checklists and/or means that are used in the systematic creation and maintenance of the health care clinic's medical record system.
- (e) Any policies, procedures, guidelines, checklists that demonstrate compliance with the medical records retention, disposition, reproduction, and disclosure requirements of the medical or clinic director's practice act.
- (f) Any policies, procedures, guidelines, checklists that demonstrate compliance with the office surgery requirements of the practice acts for services performed at the facility.
- (g) Any policies, procedures, guidelines, checklists that demonstrate compliance with adverse incident reporting requirements and injury disclosure.
  - (h) Personnel files.
- (i) Logs, charts or notes demonstrating day-to-day oversight of health care clinic activities by the medical or clinic director.
- (j) Copies of professional licenses issued by the respective boards and the Department of Health under the several practice acts
- (k) Any patient referral contracts or agreements of the health care clinic that are in writing and a disclosure to the surveyor of any such agreements that are not in writing including the names of the parties to the agreement, the date and the essential terms of agreement.
- (l) For health care clinics that are in operation at the time of the survey, the surveyor will select a sample of at least five (5) patient medical records from the previous 6 months of operation with at least one Medicaid file, if certified as a Medicaid provider, plus the five (5) billing records that correspond with the five patient records.

- (m) Description of means by which the health care clinic conducts a systematic review of billings that ensures billings are not fraudulent or unlawful. A sample must be reviewed by the medical director or clinic director at least once every 30 days and a record maintained by the health care clinic for at least three years identifying the records reviewed and when and what action was taken to correct fraudulent or unlawful billings. A log of systematic reviews shall be kept and maintained in a discrete file at the health care clinic for review on request of the Agency during the retention period.
- (n) List of services provided or a general descriptor of scope, level and complexity of care for services provided.
- (o) Current diagnostic and treatment equipment records showing equipment certification when such equipment must have regulatory certification. This requirement is met with presentation of a current maintenance agreement.
- (p) An organizational flow chart with lines of authority and names of key individuals and positions.
- (q) An all-inclusive and up to date listing of original signatures and initials of all persons entering information on billing and patient records, the printed name and medical designation, if any, such as PA, RN, MD, etc. The log shall be kept and concurrently maintained at the health care clinic. Information required by this rule shall be stored and maintained by the health care clinic for a period of 5 years.
- (r) Log of all natural persons required and who have been screened under Level 2 criteria of Chapter 435 and Section 400.991, F.S.
- (s) Documentation for the past two years or from the date of licensure, whichever is earlier, demonstrating in writing compliance, when, and what action was taken by the medical or clinic director to perform the functions, duties and clinic responsibilities under Sections 400.9935(1)(a)-(i)(g), F.S. Such documentation shall be made available to authorized agency personnel upon request.

<u>Rulemaking Specific</u> Authority 400.9925, 408.806, 408.811 FS. Law Implemented 120.542, 120.60(6), 400.9905(5), 400.9915(3), 400.993(6), 400.9935(1)(a)-(<u>i)(g)</u>, 400.9935(3), 400.995(1), (6), (8), 408.806, 408.811 FS. History–New 8-28-06, Amended\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Tom Jones

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Elizabeth Dudek

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 15, 2014

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: July 22, 2014

#### DEPARTMENT OF HEALTH

#### **Board of Osteopathic Medicine**

RULE NO.: RULE TITLE:

64B15-14.007 Standard of Care for Office Surgery

PURPOSE AND EFFECT: The proposed rule amendments are intended to clarify several of the requirements with regard to office surgery, including clarification of the various levels of office surgery; updating of the anesthesia monitoring guidelines; clarification of required training; and updating and clarification of equipment and supplies.

SUMMARY: The proposed rule amendments clarify the various levels of office surgery; update the anesthesia monitoring guidelines; clarify the training requirements and provide updates and clarifications to required equipment and supplies.

**SUMMARY** OF **STATEMENT** OF **ESTIMATED** REGULATORY COST AND **LEGISLATIVE** RATIFICATION: The agency, after conferring with representatives of the Florida Society of Anesthesiologists and interested physicians, determined that the rules in question may very well have some adverse impact on office surgery facilities that will qualify as small business. A SERC has been prepared by the agency. The agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs. In summary, the rule is expected to require some offices performing Level I procedures to obtain additional equipment and supplies and to provide additional training to employees. However, as set forth in the SERC, many of these offices already have the requisite equipment, supplies, and training. Additionally, some Level I offices are exempt from the additional requirements because they perform only minor procedures. Level II and Level III offices will also have some additional impact with regard to the required list of medications and training. However, most of these offices are already in compliance with the proposed changes and will see minimal impact from the rule amendments. The requirement for Level III facilities to review policies and procedures will require additional staff time and will also result in additional costs to these offices. The SERC prepared by the Board staff estimates that the costs to small business to be approximately \$53,505 in one year and \$151,605 over five years.

Representatives from the Florida Society of Anesthesiologists, various risk management consultants, and others who perform office surgery procedures appeared and provided testimony to the Board of Medicine and Board of Osteopathic Medicine Office Surgery Joint Subcommittee at several meetings and submitted additional information regarding the economic impact and the various costs associated with the proposed changes in equipment, supplies and training.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 459.005, 459.015(1)(z), 459.026 FS.

LAW IMPLEMENTED: 459.015(1)(g), (x), (z), (aa), 459.026

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAR.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Christy Robinson, Executive Director, Board of Osteopathic Medicine/MQA, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256

#### THE FULL TEXT OF THE PROPOSED RULE IS:

64B15-14.007 Standard of Care for Office Surgery.

NOTHING IN THIS RULE RELIEVES THE SURGEON OF
THE RESPONSIBILITY FOR MAKING THE MEDICAL
DETERMINATION THAT THE OFFICE IS AN
APPROPRIATE FORUM FOR THE PARTICULAR
PROCEDURE(S) TO BE PERFORMED ON THE
PARTICULAR PATIENT.

- (1) Definitions.
- (a) Surgery. For the purpose of this rule, surgery is defined as any <u>manual or</u> operative procedure, including the use of lasers, performed upon the body of a living human being for the purposes of preserving health, diagnosing or curing disease, repairing injury, correcting deformity or defects, prolonging life, relieving suffering or any elective procedure for aesthetic, reconstructive or cosmetic purposes, to include, but not be limited to: incision or curettage of tissue or an organ; suture or other repair of tissue or organ, including a closed as well as an open reduction of a fracture; extraction of tissue including premature extraction of the products of conception from the uterus; insertion of natural or artificial implants; or an endoscopic procedure with use of local or general anesthetic.
  - (b) No change.
- (c) Equipment. For the purpose of this rule, implicit within the use of the term of equipment is the requirement that the specific item named must meet current performance standards according to manufacturer's guidelines.
- (d) Office surgery. For the purpose of this rule office surgery is defined as surgery which is performed outside of any facility licensed under Chapter 390 or 395, F.S. a hospital, an ambulatory surgical center, abortion clinic, or other medical facility licensed by the Department of Health, the Agency for Health Care Administration, or a successor agency. Office surgical procedures shall not be of a type that generally result

in blood loss of more than ten percent of estimated blood volume in a patient with a normal hemoglobin; require major or prolonged intracranial, intrathoracic, abdominal, or major joint replacement procedures, except for laparoscopic procedures; directly involve major blood vessels; or are generally emergent or life threatening in nature.

- (e) Pediatric patients are defined as those patients who are 13 years of age or under.
  - (2) General Requirements for Office Surgery.
- (a) The surgeon must examine the patient immediately before the surgery to evaluate the risk of anesthesia and of the surgical procedure to be performed. The surgeon may delegate the preoperative heart lung evaluation to a qualified anesthesia provider within the scope of the provider's practice and, if applicable, protocol. The surgeon must maintain complete records of each surgical procedure, as set forth in Rule 64B15-15.004, F.A.C., including anesthesia records, when applicable and the records shall contain written informed consent from the patient reflecting the patient's knowledge of identified risks, consent to the procedure, type of anesthesia and anesthesia provider, and that a choice of anesthesia provider exists, i.e., anesthesiologist, anesthesiologist assistant, appropriately trained physician as provided in this rule, certified registered nurse anesthetist, or physician assistant qualified as set forth in subparagraph 64B15-6.010(2)(b)6., F.A.C.
  - (b) No change.
- (c) The surgeon must maintain a log of all liposuction procedures where more than 1,000 cubic centimeters of supernatant fat is removed, and Level II and Level III surgical procedures performed, which must include a confidential patient identifier, time of arrival in the operating suite, documentation of completion of the the name of the physician who provided medical clearances as performed by the anesthesiologist or the operating physician, the surgeon's name, diagnosis, CPT Codes, patient ASA classification, and the type of procedure, the level of surgery, the anesthesia provider, the type of anesthesia used, the duration of the procedure, and any adverse incidents, as identified in Section 459.026, F.S. If not documented elsewhere in the patient record, the surgical log must note the type of post-operative care, duration of recovery, disposition of the patient upon discharge, and list of medications used during surgery, and recovery., and any adverse incidents, as defined in Section 459.026, F.S. The log and all surgical records shall be provided to investigators of the Department of Health upon request. The log and all surgical records shall be provided to investigators of the Department of Health upon request and must be maintained for six (6) years from the last patient contact.
  - (d) through (f) No change.
- (g) The Board of Osteopathic Medicine adopts the "Standards of the American Society of Anesthesiologists for

Basic Anesthetic Monitoring," approved by House Delegates on October 21, 1986, and last amended on October 20, 2010 21, 1998, as the standards for anesthetic monitoring by any qualified anesthesia provider.

- 1. through 2. No change.
- 3. Under extenuating circumstances, the responsible supervising osteopathic physician or anesthesiologist may waive the requirements marked with an asterisk (\*); it is recommended that when this is done, it should be so stated (including the reasons) in a note in the patient's medical record. These standards are not intended for the application to the care of the obstetrical patient in labor or in the conduct of pain management.
  - a. No change.
  - b. Standard II.
- I. During all anesthetics, the patient's oxygenation, ventilation, circulation and temperature shall be continually evaluated.

#### II. OXYGENATION.

(A) OBJECTIVE – To ensure adequate oxygen concentration in the inspired gas and the blood during all anesthetics.

#### (B) METHODS:

- (I) Inspired gas: During every administration of general anesthesia using an anesthesia machine, the concentration of oxygen in the patient breathing system shall be measured by an oxygen analyzer with a low oxygen concentration limit alarm in use.\*
- (II) Blood oxygenation: During all anesthetics, a quantitative method of assessing oxygenation such as a pulse oximetry shall be employed.\* When the pulse oximeter is utilized, the variable pitch pulse tone and the low threshold alarm shall be audible to the anesthesiologist or the anesthesia care team personnel.\* Adequate illumination and exposure of the patient are necessary to assess color.\*

#### III. VENTILATION.

(A) OBJECTIVE – To ensure adequate ventilation of the patient during all anesthetics.

#### (B) METHODS:

- (I) Every patient receiving general anesthesia shall have the adequacy of ventilation continually evaluated. Qualitative clinical signs such as chest excursion, observation of the reservoir breathing bag and auscultation of breath sounds are useful. Continual monitoring for the presence of expired carbon dioxide shall be performed unless invalidated by the nature of the patient, procedure or equipment. Quantitative monitoring of the volume of expired gas is strongly encouraged.\*
- (II) When an endotracheal tube or <u>supraglottic airway</u> laryngeal mask is inserted, its correct positioning must be verified by clinical assessment and by identification of carbon dioxide in the expired gas. Continual end-tidal carbon dioxide

analysis, in use from the time of endotracheal tube/supraglottic airway laryngeal mask placement, until extubation/removal or initiating transfer to a postoperative care location, shall be performed using a quantitative method such as capnography, capnometry or mass spectroscopy.\* When capnography or capnometry is utilized, the end tidal carbon dioxide alarm shall be audible to the anesthesiologist or the anesthesia care team personnel.\*

- (III) When ventilation is controlled by a mechanical ventilator, there shall be in continuous use a device that is capable of detecting disconnection of components of the breathing system. The device must give an audible signal when its alarm threshold is exceeded.
- (IV) During regional anesthesia (with no sedation) or local anesthesia (with no sedation) and monitored anesthesia care, the adequacy of ventilation shall be evaluated, at least, by continual observation of qualitative clinical signs. During moderate or deep sedation the adequacy of ventiliation shall be evaluated by continual observation of qualitative clinical signs. and Mmonitoring for the presence of exhaled carbon dioxide is recommended unless precluded or invalidated by the nature of the patient, procedure, or equipment.
  - IV. through V. No change.
  - (h) through (j) No change.
- (k) The surgeon shall report to the Department of Health any adverse incidents that occur within the office surgical setting. This report shall be made within 15 days after the occurrence of an incident as required by Section 459.026 497.026, F.S.
  - (l) through (m) No change.
  - (3) Level I Office Surgery.
  - (a) Scope. Level I office surgery includes the following:
- 1. Minor procedures such as excision of skin lesions, moles, warts, cysts, lipomas and repair of lacerations or surgery limited to the skin and subcutaneous tissue performed under topical or local anesthesia not involving drug-induced alteration of consciousness other than minimal pre-operative tranquilization of the patient. The patient's level of sedation is that of minimal sedation and anxiolysis. Minimal sedation and anxiolysis is a drug-induced state during which patients respond normally to verbal commands. Although cognitive function and physical coordination may be impaired, airway reflexes, and ventilatory and cardiovascular functions are unaffected.
  - 2. through 3. No change.
- 4. Anesthesia Pre operative medications not required or used other than minimal pre operative tranquilization of the patient; anesthesia is local, topical, or none, and preoperative medicines are limited to a single anxiolytic drug not in the opiate class. The cumulative dose of the anxiolytic drug shall not exceed the maximum recommended dose (as per the manufacturer's recommendation). No drug induced alteration

- of consciousness other than minimal pre operative tranquilization of the patient is permitted in Level I Office Surgery.
  - 5. No change.
  - (b) Standards for Level I Office Surgery.
- 1. Training Required. Surgeon's continuing medical education should include: proper dosages; management of toxicity or hypersensitivity to regional anesthetic drugs. One assistant must hold current certification in an American Heart Association approved Basic Life Support course, and the surgeon must hold current certification in an American Heart Association approved Advanced Cardiac Life Support course Basic Life Support Certification is recommended but not required.
- 2. Equipment and Supplies Required. <u>Intravenous access</u> <u>supplies, oxygen, oral airways, and a Oxygen, positive pressure ventilation device shall be available in the office, along with the following medications, stored per manufacturer's recommendations:, Epinephrine (or other vasopressor), Corticoids, Antihistamine and Atropine if any anesthesia is used.</u>
  - (a) Atropine 3 mg;
  - (b) Diphenhydramine 50 mg;
  - (c) Epinephrine 1 mg in 10 ml;
  - (d) Epinephrine 1 mg in 1 ml vial, 3 vials total; and
  - (e) Hydrocortisone 100 mg.
- 3. When performing minor procedures such as excision of skin lesions, moles, warts, cysts, lipomas, and repair of lacerations or surgery limited to the skin and subcutaneous tissue performed under topical or local anesthesia, physicans are exempt from subparagraphs (3)(b)1. and 2., above. Current Basic Life Support certification is recommended but not required.
- <u>4.3.</u> Assistance of Other Personnel Required. No other assistance is required, unless the specific surgical procedure being performed requires an assistant.
  - (4) Level II Office Surgery.
  - (a) Scope.
- 1. Level II Office Surgery is that in which peri operative medication—and—sedation—are—used—intravenously, intramuscularly, or rectally, thus making intra—and—post-operative monitoring necessary. Such procedures shall include, but not be limited to: hemorrhoidectomy, hernia repair, reduction of simple fractures, large joint dislocations, breast biopsies, colonoscopy, and liposuction involving the removal of up to 4000cc supernatant fat.
- 2. Level II Office Surgery includes any surgery in which the patient patient's level of sedation is that of moderate sedation and analgesia or conscious sedation. Moderate sedation and analgesia or conscious sedation is a drug-induced depression of consciousness during which patients respond

purposefully to verbal commands, either alone or accompanied by light tactile stimulation. No interventions are required to maintain a patent airway, and spontaneous ventilation is adequate. Cardiovascular function is maintained. Reflex withdrawal from a painful stimulus is not considered a purposeful response is placed in a state which allows the patient to tolerate unpleasant procedures while maintaining adequate eardiorespiratory function and the ability to respond purposefully to verbal command and/or tactile stimulation. Patients whose only response is reflex withdrawal from a painful stimulus are sedated to a greater degree than encompassed by this definition.

- (b) Standards for Level II Office Surgery.
- 1. Transfer Agreement Required. The physician, or the facility where the procedure is being performed, must have a transfer agreement with a licensed hospital within reasonable proximity if the physician <u>performing the procedure</u> does not have staff privileges to perform the same procedure as that being performed in the out-patient setting at a licensed hospital within reasonable proximity. "Reasonable proximity" is defined as not to exceed thirty (30) minutes transport time to the hospital.
  - 2. Training Required.
- <u>a.</u> The surgeon must have staff privileges at a licensed hospital to perform the same procedure in that hospital as that being performed in the office setting or must be able to document satisfactory completion of training such as Board certification or Board eligibility by a Board approved by the American Osteopathic Association, the American Board of Medical Specialties, the Accreditation Council on Graduate Medical Education or any other board approved by the Board of Osteopathic Medicine or must be able to establish comparable background, training, and experience. <u>Such Board certification or comparable background</u>, training and experience must also be directly related to and include the procedure(s) being performed by the physician in the office surgery facility.

b. One (1) assistant must be currently certified in and by an American Heart Associaton approved Basic Life Support course and the surgeon must be currently certified in and by an American Heart Associaton approved Advanced Cardiac Life Support course.

The surgeon and one assistant must be currently certified in Basic Life Support and the surgeon or at least one assistant must be currently certified in Advanced Cardiac Life Support or have a qualified anesthesia provider practicing within the scope of the provider's license manage the anesthesia.

- 3. Equipment and Supplies Required.
- a. Full and current crash cart at the location the anesthetizing is being carried out. <u>Medicines shall be stored per</u> the manufacturer's recommendations and multi-dose vials shall

<u>be dated once opened.</u> The crash cart must include, at a minimum, the following <u>intravenous or inhaled</u> <u>resuscitative</u> medications:

- (I) Adenosine 18 mg 6 mg/2 ml x 3
- (II) Albuterol 2.5 mg with small volume nebulizer Inhaler
- (III) Amiodarone 300 mg 150 mg x 2
- (V) Atropine 3 mg 0.4 mg/ml; 3 ml
- (V) Calcium chloride 1 gram 10%; 10 ml
- (VI) Dextrose 50%; 50 ml
- (VII) Diphenhydramine 50 mg
- (VIII) Dopamine 200 mg minimum
- (IX) Epinephrine 1 mg in 1:10,000 dilution; 10 ml
- (X) Epinephrine 1 mg in 1 ml vial, 3 vials total 1:1000 dilution; 1 ml x 3
  - (XI) Flumazenil 1 mg 0.1 mg/ml; 5 ml x 2
  - (XII) Furosemide 40 mg
- (XIII) Hydrocortisone <u>100 mg</u> o<del>r Methylprednisolone or</del> <del>Dexamethasone</del>
  - (XIV) Lidocaine 100 mg
  - (XV) Magnesium sulfate 2 grams 1 gm x 2
- (XVI) Naloxone 1.2 mg Narcan (naloxone) 0.4 mg/ml; 3 ml
  - (XVII) A beta blocker class drug
  - (XVIII) Sodium bicarbonate 50 mEq/50 ml
  - (XIX) Short acting muscle relaxant Succinylcholine 1 vial
  - (XX) Vasopressin 40 20 units x 2
- (XXI. A calcium channel blocker class drug Verapamil 5 mg x 2

(XXII) Intralipid 20% 500 ml solution (only if non-neuraxial regional blocks are performed)

In the event of a drug shortage, the physician is allowed to substitute a therapeutically equivalent drug that meets the prevailing standard of care. The office must maintain documentation of its unsuccessful efforts to obtain the required drug.

- b. A Benzodiazepine must be <u>present in the office</u> stocked, but not on the crash cart.
  - c. through f. No change.
- g. Defibrillator <u>with defibrillator pads or defibrillator gel</u>, or an Automated External Defibrillator unit (AED).
- h. Sufficient back up power is required to allow the physician to safely terminate the procedure and to allow the patient to emerge from the anesthetic, all without compromising the sterility of the procedure or the environment of care. Emergency power source able to produce adequate power to run required equipment for a minimum of two (2) hours.
  - i. through j. No change.
- 4. Assistance of Other Personnel Required. The surgeon must be assisted by a qualified anesthesia provider as follows: An Anesthesiologist, Certified Registered Nurse Anesthetist, Anesthesiologist Assistant, or Physician Assistant qualified as

set forth in subparagraph 64B15-6.010(2)(b)6., F.A.C., or a registered nurse may be utilized to assist with the anesthesia, if the surgeon is ACLS certified. An assisting anesthesia provider cannot function in any other capacity during the procedure. If additional assistance is required by the specific procedure or patient circumstances, such assistance must be provided by a physician, osteopathic physician, registered nurse, licensed practical nurse, or operating room technician. A physician licensed under Chapter 458 or 459, F.S., a licensed physician assistant, a licensed registered nurse with post-anesthesia care unit experience or the equivalent, credentialed by an American Heart Association approved in Advanced Cardiac Life Support course or, in the case of pediatric patients, by an American Heart Association approved Pediatric Advanced Life Support course and, must be available to monitor the patient in the recovery room until the patient is recovered from anesthesia.

- (5) Level IIA Office Surgery.
- (a) No change.
- (b) Standards for Level IIA Office Surgery.
- 1. No change.
- 2. Assistance of Other Personnel Required. During the procedure, the surgeon must be assisted by a physician or physician assistant who is licensed pursuant to Chapter 458 or 459, F.S., or by a licensed registered nurse or a licensed practical nurse. Additional assistance may be required by specific procedure or patient circumstances. Following the procedure, a physician or physician assistant who is licensed pursuant to Chapter 458 or 459, F.S., or a licensed registered nurse must be available to monitor the patient in the recovery room until the patient is recovered from anesthesia. The monitor must be certified by an American Heart Association approved in Advanced Cardiac Life Support course, or, in the case of pediatric patients, by an American Heart Association approved Pediatric Advanced Life Support course.
  - (6) Level III Office Surgery.
  - (a) Scope.
- 1. Level III Office Surgery is that surgery in which the patient's level of sedation is that of deep sedation and analgesia or general anesthesia. Deep sedation and analgesia is a druginduced depression of consciousness during which patients cannot be easily aroused but respond purposefully following repeated or painful stimulation. The ability to independently maintain ventilatory function may be impaired. Patients may require assistance in maintaining a patent airway, and spontaneous ventilation may be inadequate. Cardiovascular function is usually maintained. Reflex withdrawal from a painful stimulus is not considered a purposeful response. General anesthesia is a drug-induced loss of consciousness during which patients are not arousable, even by painful stimulation. The ability to independently maintain ventilatory function is often impaired. Patients often require assistance in

maintaining a patent airway, and positive pressure ventilation may be required because of depressed spontaneous ventilation or drug-induced depression of neuromuscular function. Cardiovascular function may be impaired. The use of spinal or epidural anesthesia shall be considered Level III. which involves, or reasonably should require, the use of a general anesthesia or major conduction anesthesia and pre operative sedation. This includes the use of:

- a. Intravenous sedation beyond that defined for Level II office surgery;
- b. General Anesthesia: loss of consciousness and loss of vital reflexes with probable requirement of external support of pulmonary or cardiac functions; or
  - c. Major Conduction anesthesia.
- 2. Only patients classified under the American Society of Anesthesiologist's (ASA) risk classification criteria as Class I or II are appropriate candidates for Level III office surgery.
  - a. No change.
- b. For all ASA II patients above the age of 40, the surgeon must obtain, at a minimum, an EKG and a complete workup performed prior to the performance of Level III surgery in a physician office setting. If the patient is deemed to be a complicated medical patient, the patient must be referred to an appropriate consultant for medical optimization an independent medical clearance. This requirement may be waived after evaluation by the patient's anesthesiologist.
- (b) Standards for Level III Office Surgery. In addition to the standards for Level II Office Surgery, the surgeon must comply with the following:
  - 1. Training Required.
- a. The surgeon must have staff privileges at a licensed hospital to perform the same procedure in that hospital as that being performed in the office setting or must be able to document satisfactory completion of training such as Board certification or Board qualification by a Board approved by the American Osteopathic Association, the American Board of Medical Specialties, the Accreditation Council on Graduate Medical Education or any other board approved by the Board of Osteopathic Medicine or must be able to demonstrate to the accrediting organization or to the Department comparable background, training and experience. Such Board certification or comparable background, training and experience must also be directly related to and include the procedure(s) being performed by the physician in the office surgery facility. In addition, the surgeon must have knowledge of the principles of general anesthesia.
- b. <u>One The surgeon and one</u> assistant must be currently certified <u>by an American Heart Association approved</u> in Basic Life Support <u>course</u> and the surgeon or at least one assistant must be currently certified <u>by an American Heart Association approved</u> in Advanced Cardiac Life Support <u>course</u>.

- 2. Emergency <u>policies and</u> procedures related to serious anesthesia complications <u>shall</u> <u>should</u> be formulated, periodically reviewed, practiced, updated, and posted in a conspicuous location. <u>Topics to be covered shall include the following:</u>
  - a. Airway Blockage (foreign body obstruction);
  - b. Allergic Reactions;
  - c. Bradycardia;
  - d. Bronchospasm;
  - e. Cardiac Arrest;
  - f. Chest Pain;
  - g. Hypoglycemia;
  - h. Hypotension;
  - i. Hypoventilation;
  - j. Laryngospasm;
  - k. Local Anesthetic Toxicity Reaction; and
  - 1. Malignant Hyperthermia.
  - 3. Equipment and Supplies Required.
- a. Equipment <u>and</u>, medication, including at least <u>720 mg</u> <del>36</del> <del>ampules</del> of dantrolene on site <u>(if halogenated anesthetics or succinylcholine are utilized)</u>, and monitored post-anesthesia recovery must be available in the office.
  - b. No change.
- c. Blood pressure monitoring equipment; EKG; end tidal CO<sub>2</sub> monitor; pulse oximeter, <del>precordial or esophageal</del> stethoscope, emergency intubation equipment and a temperature monitoring device.
  - d. No change.

#### e. IV solutions and IV equipment.

4. Assistance of Other Personnel Required. An Anesthesiologist, Certified Registered Nurse Anesthetist, Anesthesiologist Assistant, or Physician Assistant qualified as set forth in subparagraph 64B15-6.010(2)(b)6., F.A.C., must administer the general or regional anesthesia and an M.D., D.O., Registered Nurse, Licensed Practical Nurse, Physician Assistant, or Operating Room Technician must assist with the surgery. The anesthesia provider cannot function in any other capacity during the procedure. A physician licensed under Chapter 458 or 459 F.S., a licensed anesthesiologist assistant, a licensed physician assistant, or a licensed registered nurse with post-anesthesia care unit experience or the equivalent, and credentialed by an American Heart Association approved in Advanced Cardiac Life Support course, or in the case of pediatric patients, by an American Heart Association approved Pediatric Advanced Life Support course, must be available to monitor the patient in the recovery room until the patient has recovered from anesthesia.

Rulemaking Authority 459.005, 459.015(1)(z), 459.026 FS. Law Implemented 459.015(1)(g), (x), (z), (aa), 459.026 FS. History–New 11-29-01, Amended 2-23-03, 11-2-05, 6-4-09, 8-30-10, 3-20-13, 10-3-13.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Medicine and Board of Osteopathic Medicine Joint Office Surgery Subcommittee

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Osteopathic Medicine

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 22, 2014

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: September 18, 2014

#### DEPARTMENT OF HEALTH

#### **Division of Environmental Health**

RULE NOS.: RULE TITLES: 64E-4.001 Registration Definitions

64E-4.011 Notification and Reports of Incidents

64E-4.015 Report to Department

PURPOSE AND EFFECT: To update and provide current contact information and addresses for the Department, update references for applicable national standards, forms and federal regulations in the rule, and update forms for laser machine registration and reporting criteria for notifying the department about laser light shows.

SUMMARY: Updates required forms for laser registration, updates standards for safe operation and use of lasers, reporting of laser light shows to the Department, updates and specifies the editions of Title 21 CFR part 1040 that are applicable to laser machines generally and applicable to laser machines when they are manufactured. Updates contact information for interacting with the Department.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION: The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the Agency.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 501.122 FS.

LAW IMPLEMENTED: 501.122(2), 501.122(2)(a), (c), (d) FS. IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAR.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Brenda Andrews, Bin C21, 4052 Bald Cypress Way, Tallahassee, FL 32399-1741, (850)245-4266, Brenda.Andrews@FLHealth.gov

#### THE FULL TEXT OF THE PROPOSED RULE IS:

64E-4.001 Registration.

- (1) No change.
- (2) A separate registration is required for each location with a laser device, on DH Form 1605, 09/14 Jul 96, which is herein incorporated by reference and which is available from or www.FloridaHealth.gov/radiation the internet at department. Laser manufacturers must register on DH Form 1604, 09/14 Jul 96, which is herein incorporated by reference and which is available from the internet at www.FloridaHealth.gov/radiation <del>department</del>. Subsequent registrations for each facility or mobile laser facility are required whenever additional laser devices are installed or previously registered laser devices are disposed of, altered, destroyed or moved to new locations. Subsequent registrations for each manufacturer are required only when the description of the laser devices manufactured by the manufacturer changes.
  - (3) through (4) No change.
- (5) Completed registration forms or other correspondence or reports required by Chapter 64E-4, F.A.C., to be sent in writing to the Department can be mailed to Florida Department of Health, Bureau of Radiation Control, 4052 Bald Cypress Way, Bin C-21, Tallahassee, Florida 32399-1741; or faxed to (850)487-0435; or scanned and emailed to RadiationControl@FlHealth.gov in PDF, JPG, or TIF format. Rulemaking Authority 501.122(2) FS. Law Implemented 501.122(2) FS. History–New 9-6-84, Amended 5-7-96, 12-12-96, Formerly 10D-89.101, Amended

64E-4.002 Definitions.

As used in these rules:

- (1) No change.
- (2) "Accessible emission limit" means the maximum accessible emission level permitted within a particular class as set forth in 21 C.F.R. Part 1040 (see subsection 64E-4.002(59), F.A.C.) and ANSI.
  - (3) No change.
  - (4) "Act" means Section 501.122, Florida Statutes (F.S.).
- (5) "American National Standards Institute (ANSI)" means ANSI Z136.1-2007, American National Standard for Safe Use of Lasers, which is herein incorporated by reference and which is available from the Laser Institute of America at www.lia.org—(ANSI Z136.1-1980) national standards for safe use of lasers. This publication may be examined and inspected at the Florida Department of Health, Bureau of Radiation Control at Building 4042, Suite 210, Tallahassee, Florida 32399-1741, and at the Florida Department of State at Room 701, The Capitol, Tallahassee, Florida 32399-0250.
  - (6) through (8) No change.

- (9) "Certified laser product" means that the product is certified by a manufacturer pursuant to the requirements of 21 C.F.R. Part 1040 in effect at the time of manufacture.
  - (10) through (58) No change.
- (59) "21 C.F.R. Part 1040" means Title 21 of the Code of Federal Regulations, sections 1040.10 and 1040.11 that were in effect at the time of manufacture for those laser products certified by a manufacturer to be compliant with these sections on the date of manufacture. For all other laser products, it means Title 21 of the Code of Federal Regulations, sections 1040.10 and 1040.11, April 1, 2013 edition, which is herein incorporated by reference and is available from the internet at or <a href="http://www.gpo.gov/fdsys/pkg/CFR-2013-title21-vol8/pdf/CFR-2013-title21-vol8-part1040.pdf">http://www.gpo.gov/fdsys/pkg/CFR-2013-title21-vol8-part1040.pdf</a> or <a href="http://www.FloridaHealth.gov/radiation.">http://www.FloridaHealth.gov/radiation.</a>

Rulemaking Authority 501.122(2) FS. Law Implemented 501.122(1) FS. History–New 9-6-84, Amended 5-7-96, 12-12-96, Formerly 10D-89.102, Amended 10-8-00,

64E-4.011 Notification and Reports of Incidents.

- (1) Immediate Notification. Each registrant shall notify the Department immediately by telephone at (407) 297-2095 of any incident involving any source of laser or collateral radiation possessed by the registrant and which has or may have caused:
- (a) An exposure to an individual of greater than 100 times the MPE or 21 C.F.R. Part 1040 limits of laser or collateral radiation; or
  - (b) through (c) No change.
- (2) Twenty-four Hour Notification. Each registrant shall notify the Department by telephone at (407) 297-2095 within 24 hours of any incident involving any source of laser or collateral radiation possessed by the registrant and which has or may have caused:
- (a) An exposure to an individual of greater than five times the MPE or 21 C.F.R. Part 1040 limits of laser or collateral radiation; or
  - (b) No change.
- (3) Each registrant shall make a report in writing within 30 days to the Department of:
- (a) Each exposure of an individual to laser and collateral radiation in excess of the MPE limits or 21 C.F.R. Part 1040,
  - (b) No change.
  - (4) through (6) No change.

Rulemaking Authority 501.122(2) FS. Law Implemented 501.122(2)(d) FS. History–New 9-6-84, Amended 5-7-96, Formerly 10D-89.124, Amended \_\_\_\_\_\_.

64E-4.015 Report to Department About Laser Light Shows.

In addition to the requirements of Rule 64E-4.005, F.A.C., before the laser light show is permitted to operate either at a

permanent or temporary job site, the laser light show operator or an authorized representative shall provide the Department with sufficient information, data, and measurements to establish that the requirements of Rules 64E-4.013 and 64E-4.014, F.A.C., above criteria will be met during use. This shall include sketches showing the location of laser, operators, performers, viewers, beam paths, viewing screens, walls, mirror balls, and other reflective or diffuse surfaces which may be struck by laser beam, scanning beam patterns, scanning velocity and frequency in occupied areas and where beam strikes wall or other structure, radiometric measurement data including output power and location of all measurements. In the case of open air shows where a laser beam is projected into the sky, the information submitted shall also include beam spot size, beam divergence, and beam power measured at the projector, and a copy of the notification provided to the Federal Aviation Administration.

Rulemaking Authority 501.122(2) FS. Law Implemented 501.122(2)(a), (b), (c), (d) FS. History–New 9-6-84, Formerly 10D-89.133, Amended\_\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Cynthia Becker, Bureau Chief, Bureau of Radiation Control NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: John H. Armstrong, MD, FACS, Surgeon General & Secretary

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 27, 2014

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: April 25, 2014

#### DEPARTMENT OF FINANCIAL SERVICES

#### **Division of State Fire Marshal**

RULE NOS.: RULE TITLES:

69A-37.039 Prescribed Forms for Training and

Certification

Programs of Study and Vocational Courses 69A-37.065 PURPOSE AND EFFECT: Section 633.128(1)(e), F.S., requires the Division to issue certificates of competency to persons who, by reason of experience and completion of basic in-service training, advanced education, or specialized training, are especially qualified for particular aspects or classes of firefighting duties. Section 633,406(2), F.S., authorizes the Division to establish by rule additional certificates that the Division may award in recognition of special training or education received by an individual, authorizing that individual to perform specialized firefighting services or provide specialized firefighting instruction, such as hazardous materials and urban search and rescue. Section 633.508(2), F.S., authorizes the Division of State Fire Marshal to adopt rules for the purpose of ensuring safe working conditions for all firefighter employees by authorizing the enforcement of effective standards, by assisting and encouraging firefighter employers to maintain safe working conditions, and by providing for education and training in the field of safety.

SUMMARY: The rule will establish a voluntary certification program for firefighters who desire to perform the duties of a safety officer. The safety officer is the person who is qualified to manage different elements of a fire department safety and health program. A person who completes the program will receive an Incident Safety Officer Certificate of Completion, a Health and Safety Officer Certificate of Completion, or a Safety Officer Certificate of Completion, This program is based on the National Fire Protection Association (NFPA) 1521, Standard for Fire Department Safety Officer, 2015 edition.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION: The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the Agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: The Department conducted an economic analysis of the potential impact of the proposed rule and determined that there will be no adverse economic impact or regulatory increases that would require legislative ratification.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 633.104, 633.128, 633.216(9), 633.406, 633.418(1), 633.508(2) FS.

LAW IMPLEMENTED: 633.112(1), 633.128, 633.138, 633.216, 633.406, 633.408, 633.412, 633.418, 633.508(2) FS. IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):

DATE AND TIME: November 6, 2014, 1:00 p.m. – 3:00 p.m. PLACE: Boca Raton Resort, Galleria South Room, 501 East Camino Real, Boca Raton, FL 33432.

You may participate in the hearing via teleconference by calling (850)413-1558 and using Conference ID No. 195816.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Bill Wentlandt at (352)369-2829 or Bill.Wentlandt@myfloridacfo.com. If you are hearing or

speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Bill Wentlandt, Assistant Superintendent, Bureau of Fire Standards and Training, 11655 NW Gainesville Rd., Ocala, FL 34482, (352)369-2829 or Bill.Wentlandt@myfloridacfo.com

#### THE FULL TEXT OF THE PROPOSED RULE IS:

- 69A-37.039 Prescribed Forms for Training and Certification.
  - (1) No change.
- (2) The following forms are hereby adopted and incorporated by reference in this rule:
  - (a) through (dd) No change.
- (ee) DFS-K4-2138, "Health and Safety Officer Task Book," eff. 08/14.
- (ff) DFS-K4-2139, "Incident Safety Officer Task Book," eff. 08/14.
- (gg) DFS-K4-2140, "Application for Health and Safety Officer Certificate of Completion," eff. 08/14.
- (hh) DFS-K4-2141, "Application for Incident Safety Officer Certificate of Completion," eff. 08/14.
- (ii) DFS-K4-2142, "Application for Safety Officer Certificate of Competency," eff. 08/14.

Rulemaking Authority 633.104, 633.128(<del>2)(a)</del>, 633.216(9), 633.406(2), 633.418(1), 633.508(2) FS. Law Implemented 633.112(1), 633.128, 633.138, 633.216, 633.406, 633.408, 633.412, 633.418, 633.508(2) FS. History–New 9-7-81, Formerly 4A-37.20, 4A-37.39, Amended 11-26-85, 1-3-90, 6-30-91, 3-20-95, 9-13-98, 12-10-01, Formerly 4A-37.039, Amended 3-19-09, 8-27-12, 8-20-13, 11-18-13.

69A-37.065 Programs of Study and Vocational Courses. The following programs of study are developed and revised by the Florida State Fire College, pursuant to Sections 633.128 and 633.216, F.S.:

- (1) through (5) No change.
- (6) Safety Officer Program. This is an advanced training and certification program designed for individuals having health and safety responsibilities. This program is based on the National Fire Protection Association (NFPA) 1521, Standard for Fire Department Safety Officer. This program is intended to prepare individuals for service as fire department health and safety, and incident safety officers. The applicant may provide proof of equivalent education and training approved by the Bureau of Fire Standards and Training and meeting the criteria outlined under this subsection (6).

- (a) Incident Safety Officer Certificate of Completion. The Division shall issue an Incident Safety Officer Certificate of Completion to a firefighter who meets the program requirements of this paragraph (a), and the qualifications for Incident Safety Officer set forth by the Division and based on the 2015 edition of the National Fire Protection Association (NFPA) 1521, "Standard for Fire Department Safety Officer," which is hereby incorporated by reference.
- 1. Program Requirements. To qualify for this certificate, a candidate must complete the prerequisite course titled "Courage to be Safe" or a course determined by the Division to be equivalent. This program shall consist of not less than 90-hours of training. Each course shall be no less than 45-hours in duration. This program shall consist of the following course or those of equivalent interactive instruction, as approved by the Bureau of Fire Standards and Training.
  - a. Florida Incident Safety Officer.
- 2. Incident Safety Officer Certificate of Completion. To be eligible to receive an Incident Safety Officer Certificate of Completion, the applicant shall:
  - a. Successfully complete all required course work; and
- b. Possess an active Firefighter Certification of Compliance issued by the Division or have met the curriculum requirements for Firefighter Part I as defined in subsection 69A-37.055(1), F.A.C.; and
- c. Possess an active Fire Officer Certification issued by the Division; and
- d. Meet the qualifications for Incident Safety Officer set forth by the Division and based on the 2015 edition of the National Fire Protection Association (NFPA) 1521, "Standard for Fire Department Safety Officer," which is hereby incorporated by reference; and
- e. Submit the required Form DFS-K4-2141, "Application for Incident Safety Officer Certificate of Completion," which is incorporated by reference in subsection 69A-37.039(2), F.A.C., and can be obtained where indicated in subsection 69A-37.039(1), F.A.C., to the Bureau of Fire Standards and Training.
- (b) Health and Safety Officer Certificate of Completion. The Division shall issue a Health and Safety Officer Certificate of Completion to an individual who meets the program requirements of this paragraph (b), and the qualifications for Health and Safety Officer set forth by the Division and based on the 2015 edition of the National Fire Protection Association (NFPA) 1521, "Standard for Fire Department Safety Officer," which is hereby incorporated by reference.
- 1. Program Requirements. To qualify for this certificate, a candidate must complete the prerequsite course titled "Courage to be Safe" or a course determined by the Division to be equivalent. This program shall consist of not less than 90-hours of training. Each course shall be no less than 45-hours in

duration. This program shall consist of the following courses or those of equivalent interactive instruction, as approved by the Bureau of Fire Standards and Training.

- a. Legal Issues for Safety Officers.
- b. Florida Health and Safety Officer.
- 2. Health and Safety Officer Certificate of Completion. To be eligible to receive a Health and Safety Officer Certificate of Completion, the applicant shall:
  - a. Successfully complete all required course work; and
- b. Meet the qualifications for Health and Safety Officer set forth by the Division and based on the 2015 edition of the National Fire Protection Association (NFPA) 1521, "Standard for Fire Department Safety Officer," which is hereby incorporated by reference; and
- c. Submit the required Form DFS-K4-2140, "Application for Health and Safety Officer Certificate of Completion," which is incorporated by reference in subsection 69A-37.039(2), F.A.C., and can be obtained where indicated in subsection 69A-37.039(1), F.A.C., to the Bureau of Fire Standards and Training.
- (c) Safety Officer Certificate of Competency. The Division shall issue a Safety Officer Certificate of Competency to a firefighter who meets the program requirements of this paragraph (c), and the qualifications for Safety Officer set forth by the Division and based on the 2015 edition of the National Fire Protection Association (NFPA) 1521, "Standard for Fire Department Safety Officer," which is hereby incorporated by reference.
- 1. Program Requirements. To be eligible to receive a Safety Officer Certificate of Competency, the applicant shall:
- a. Possess an active Firefighter Certificate of Compliance issued by the Division or have met the curriculum requirements for Firefighter Part I as defined in subsection 69A-37.055(1), F.A.C.; and
- b. Possess an active Fire Officer Certification issued by the Division; and
- c. Possess a Incident Safety Officer Certificate of Completion issued by the Division; and
- d. Possess a Health and Safety Officer Certificate of Completion issued by the Division; and
- e. Meet the qualifications for Safety Officer set forth by the Division and based on the 2015 edition of the National Fire Protection Association (NFPA) 1521, "Standard for Fire Department Safety Officer," which is hereby incorporated by reference; and
- f. Submit the required Form DFS-K4-2142, "Application for Safety Officer Certificate of Competency," which is incorporated by reference in subsection 69A-37.039(2), F.A.C., and can be obtained where indicated in subsection 69A-37.039(1), F.A.C., with all supporting documentation and fees, to the Bureau of Fire Standards and Training; and

- g. Pass the Safety Officer state examination with a score of 70% or higher.
- 2. Approved Courses. Courses under this subsection (6) must be approved by the Bureau of Fire Standards and Training within the Division and meet the curriculum requirements of the program. Approved courses are delivered by the Division; or
- <u>a. A provider whose course is registered in the Florida</u>

  <u>Department of Education Statewide Course Numbering</u>

  System; or
- <u>b. The United States Fire Administration National Fire Academy; or</u>
- c. A regionally accredited or nationally accredited college or university as outlined in subsections 69A-37.084(5) and (5), F.A.C.; or
- d. A provider whose course is determined by the Division to be equivalent to the required course.
- 3. Instructor Qualifications. An instructor providing training under this subsection (6) must be qualified by the Bureau of Fire Standards and Training within the Division. Qualified instructors are:
- a. Instructors with requisite faculty credentials for the academic institution that is registered in the Florida Department of Education Statewide Course Numbering System to teach the course; or
- b. Instructors with requisite faculty credentials as determined by the United States Fire Administration National Fire Academy; or
- c. Instructors with requisite faculty credentials as determined by the respective regionally accredited or nationally accredited university, college or school; or
- d. Instructors who hold an active Single Course Exemption Certification issued by the Division as outlined in subsection 69A-37.059(4), F.A.C.; or
- e. Instructors who hold an active Safety Officer Certificate of Competency issued by the Division and an active Instructor I Certification issued by the Division; or
- f. Instructors who hold an active Fire Officer Certification issued by the Division and an active Instructor I Certification issued by the Division, and have completed the courses entitled "Florida Incident Safety Officer," "Legal Issues for Safety Officers," and "Florida Health and Safety Officer." This instructor qualification expires on December 31, 2015.
- (d) Copies of the above referenced NFPA standards can either be: (i) viewed during regular business hours at the Division of State Fire Marshal, 325 John Knox Road, The Atrium, Third Floor, Tallahassee, Florida; (ii) accessed in a read-only, non-printable, non-downloadable format at the NFPA's website at http://www.nfpa.org/codes-and-standards/free-access; or (iii) purchased by writing to the NFPA at 1 Batterymarch Park, Quincy, Massachusetts 02269-9101.

- (e) Courses submitted for equivalency under subparagraphs (6)(a)1. and (6)(b)1. shall be reviewed by the Bureau of Fire Standards and Training. The Bureau of Fire Standards and Training shall approve any course which meets the cirteria provided in this paragraph (6)(d). Requests for approval shall be submitted in writing to the Bureau, 11655 North West Gainesville Road, Ocala, Florida 34482-1486. The following factors shall be used to determine course equivalency: course title, course grade or record of course completion, number of academic credits earned, course hours attended, course description, course syllabus, student learning outcomes, and course objectives. All requests for course equivalency shall include, at a minimum:
  - 1. Name of course;
  - 2. Passage scores and rates;
  - 3. An educational agenda or syllabus;
  - 4. Required number of classroom hours;
- <u>5. Description of the course objectives, student learning outcomes, or job performance requirements covered.</u>
- (f) Safety Officer Certificates of Competency issued under paragraph (6)(c), unless renewed, shall expire four (4) years after the issuance, reissuance, or last renewal date of the certificate, whichever date is later. To renew a Safety Officer Certificate of Competency, an individual shall successfully complete the eight-hour "Safety Officer Refresher Course" during the four-year period before the certificate's expiration date. This course completion shall be recorded in the Bureau's database for continuing education.
- (6) through (7) renumbered (7) through (8) No change. Rulemaking Authority <u>633.104</u>, <u>633.128(2)(a)</u>, <u>633.406(2)</u>, <u>633.406</u>, <u>633.418</u>, <u>633.508(2)</u> FS. Law Implemented <u>633.128(1)</u>, <u>633.406</u>, <u>633.408</u>, <u>633.418</u>, <u>633.508(2)</u> FS. History–New 12-10-01, Formerly 4A-37.065, Amended 8-27-12, 11-18-13.\_\_\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Bill Wentlandt, Assistant Superintendent, Florida State Fire College

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Jeff Atwater, Chief Financial Officer and State Fire Marshal

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 29, 2014

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: July 15, 2014

#### DEPARTMENT OF ECONOMIC OPPORTUNITY

#### **Division of Workforce Services**

RULE NO.: RULE TITLE:

73B-10.032 Employing Unit Records

PURPOSE AND EFFECT: The purpose of the rule is to allow large agents to have access to the reemployment tax data of their clients without having to first produce a Power of Attorney

("POA") to the Department of Revenue. Federal reemployment tax rules, as incorporated into Chapter 443, Florida Statutes, allow the release of confidential tax data to the agent of an employer when it is impractical to first obtain a POA.

SUMMARY: Disclosure of reemployment tax data to agents of employers. Agents often need reemployment tax data quickly to properly fill out Department of Revenue ("DOR") forms and returns and do not always have quick access to a power of attorney ("POA") signed by their client. Large agents in particular often have difficulty quickly submitting a POA for their many clients to DOR. This rule will allow the Department to release confidential reemployment tax data to large agents (those with over 100 clients) without having to first produce a POA. The agreement that will be signed by the agents before DOR releases any information, confirms that the agent has a POA with their client employer and will submit it upon request to DOR.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION: The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the Agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: The agency has performed a review of the statutory requirements and has determined that its proposed rules, Chapter 73A-2, F.A.C., have no adverse impact or regulatory costs which exceed any of the criteria established in Section 120.541(2)(a), Florida Statutes. The rules are therefore expected be able to take effect without the need of being ratified by the Legislature.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 443.1317 FS.

LAW IMPLEMENTED: 443.071(2), (3), 443.141(2), 443.171 FS

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAR.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 2 days before the workshop/meeting by contacting: Michael Golen, Office of the General Counsel, Department of Economic Opportunity, 107 East Madison

Street, Tallahassee, Florida 32399-4128, (850)245-7150. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Michael Golen, Office of the General Counsel, Department of Economic Opportunity, 107 East Madison Street, Tallahassee, Florida 32399-4128, (850)245-7150

#### THE FULL TEXT OF THE PROPOSED RULE IS:

73B-10.032 Employing Unit Records.

- (1) through (4) No change.
- (5) Reemployment Tax Agent.
- (a) An employing unit may authorize its reemployment tax agent to directly receive confidential tax information from DOR. The employing unit must submit a Power of Attorney and Declaration of Representative (Form DR-835) to its reemployment tax agent. The reemployment tax agent must:
  - 1. Serve as an agent for more than 100 employing units;
- 2. Maintain the power of attorney executed by the employing unit and provide a copy to DOR upon request;
- 3. Restrict access to the confidential reemployment tax information to specifically authorized personnel in compliance with the provisions of Section 443.1715, F.S.:
- 4. Notify DOR by electronic means within 30 days when the agent no longer represents an employing unit; and
- 5. Execute a Reemployment Tax Data Release Agreement (Form RT-19, incoporated by reference in Rule 73B-10.037, F.A.C.).
- (b)1. To terminate a Reemployment Tax Data Release Agreement, the reemployment tax agent must provide written notice to DOR to the following address:

Account Management, Mail Stop 1-5730

Florida Department of Revenue

5050 W. Tennessee Street

Tallahassee, FL 32399-0160

- 2. The termination of a Reemployment Tax Data Release Agreement will take effect 15 days after receipt of the written notice to terminate.
- 3. DOR may terminate a Reemployment Tax Data Release Agreement by providing written notice to the reemployment tax agent. The termination of the agreement is effective upon the date of issuance by DOR.

Rulemaking Authority 443.1317 FS. Law Implemented 443.071(2), (3), 443.141(2), 443.171 FS. History–New 8-25-92, Formerly 38B-2.032, Amended 1-19-03, 7-18-06, 12-27-06, Formerly 60BB-2.032, Amended 6-2-14, \_\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: David Hagen, Division of Workforce Services

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Jesse Panuccio

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 22, 2014

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: August 27, 2014

#### DEPARTMENT OF ECONOMIC OPPORTUNITY

#### **Division of Community Development**

RULE NOS.:	RULE TITLES:
73C-23.0031	Definitions
73C-23.0035	Eligibility
73C-23.0041	Application Process and Administrative
	Requirements
73C-23.0045	Specific Requirements for Competitive
	Categories
73C-23.0048	Specific Requirements for Economic
	Development
73C-23.0051	Grant Administration and Project
	Implementation
73C-23.0061	Emergency Set-aside Assistance
73C-23.0071	Section 108 Loan Guarantee Program
73C-23.0081	Nonrecurring CDBG Funding
DUDDOGE AND EFFECT TIL 1 1: 11 1:	

PURPOSE AND EFFECT: This rulemaking will address changes that the Florida Legislature made during the 2011 and 2013 legislative sessions to Sections 290.044 through 290.0475, Florida Statutes. The rulemaking will also resolve conflicts between the rule and other sections of Florida Statutes and incorporate a revised process for environmental reviews required by the U.S. Department of Housing and Urban Development. Finally, the rulemaking will make it easier for local governments to understand the application process, find information related to economic development grants, and know what is required of them if they receive funding.

SUMMARY: The rule covers how local units of government are determined to be eligible for Community Development Block Grant funding; the application process; the national objectives that must be met; what program categories are funded; the administrative requirements of subgrants, including financial management, environmental review, program implementation, procurement, audit and reporting requirements, and modifying and closing out subgrant agreements; the emergency set-aside program, and Section 108 loans.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION: The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in

the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the Agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: The Agency has performed a review of the statutory requirements and has determined that its proposed rules in Chapter 73C-23, F.A.C., have no adverse impact or regulatory costs which exceed any of the criteria established in Section 120.541(2)(a), Florida Statutes. The rules are therefore expected be able to take effect without the need of being ratified by the Legislature.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 290.044, 290.046, 290.048 FS.

LAW IMPLEMENTED: 290.042, 290.043, 290.044, 290.0455, 290.046, 290.047, 290.0475, 290.048 FS.

A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW:

DATE AND TIME: Friday, October 31, 2014, 8:45 a.m.

PLACE: Florida Department of Transportation District Office 2, Madison Room, 1109 South Marion Avenue, Lake City, Florida

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Roger Doherty, Division of Community Development, Department of Economic Opportunity, 107 East Madison Street, MSC 400, Tallahassee, Florida 32399, (850)717-8417. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Roger Doherty, Division of Community Development, Department of Economic Opportunity, 107 East Madison Street, MSC 400, Tallahassee, Florida 32399, (850)717-8417

#### THE FULL TEXT OF THE PROPOSED RULE IS:

(Substantial rewording of Rule 73C-23.0031 follows. See Florida Administrative Code for present text.)

73C-23.0031 Definitions.

The Florida Small Cities Community Development Block Grant (CDBG) Program is governed by definitions provided in

- the Housing and Community Development Act of 1974, as amended; Title 24 Code of Federal Regulations (CFR) Part 570, Subparts A, C, I, J, K, M and Appendix A; 24 CFR Part 8; 24 CFR Part 85; 24 CFR Part 91; 24 CFR Part 135; 29 CFR Part 5; and 49 CFR Part 24; incorporated herein by reference for use throughout this chapter. These and other documents referenced in this rule are available either on the Department's Small Cities CDBG Program website, on the U.S. Government Printing Office website www.gpo.gov, or upon request from the CDBG program office. The following additional definitions are provided for clarification.
- (1) "Addressed need" means the activities that the Applicant proposes to complete with the funds requested in its Small Cities Community Development Block Grant Application for Funding.
- (2) "Administrative closeout" means the written notification to a Recipient by the Department that all applicable administrative actions and all required work of a subgrant have been completed, with the exception of the submission and approval of the final Office of Management and Budget (OMB) Circular A-133 audit.
- (3) "Administrative costs" include the payment of all reasonable costs of management, coordination, monitoring, and evaluation, and similar costs and carrying charges, related to the planning and execution of community development activities which are funded in whole or in part under the Small Cities CDBG Program. Administrative costs shall include all costs of administration, including general administration, planning and urban design, and project administration costs. Excluded from administrative costs are:
- (a) Architectural, engineering and associated construction observation;
  - (b) Force account crews performing construction work;
- (c) Title searches, appraisals and costs of surveys for acquisition activities.
- (4) "Application cycle" means the 45-day period during which applications will be accepted by the Department for competitive scoring for a specified federal fiscal year's funds. The application cycle is announced in the Notice of Funding Availability for each federal fiscal year.
- (5) "Applicant" means a unit of local government that applies for CDBG funding.
- (6) "Architectural and engineering services" means the "basic services" required to be performed by an architect or engineer licensed by the State of Florida including preliminary engineering, design services and services during construction. The following are considered "additional engineering services:"
- (a) Site surveys for water treatment plants, sewage treatment works, dams, reservoirs, and other similar special surveys as may be required, such as route surveys.

- (b) Laboratory tests, well tests, borings, and specialized geological soils, hydraulic, or other studies recommended by the engineer.
- (c) Property surveys, detailed description of sites, maps, drawings, or estimates related to them, assistance in negotiating for land and easement rights.
  - (d) Necessary data and filing maps for water rights.
- (e) Redesigns ordered by the owner after final plans have been accepted by the owner and the local government, except redesigns to reduce the project cost to within the funds available and projects which received "readiness to proceed" points or a planning and design grant.
- (f) Appearances before courts or boards on matters of litigation or hearings related to the project.
- (g) Preparation of environment assessments or environmental impact statements.
- (h) Performance of detailed staking necessary for construction of the project in excess of the control staking.
- (i) Provision of the operation and maintenance manual for a facility.
- (j) Activities required to obtain state and federal regulatory agency construction permits.
  - (k) Design of hookups.
- (l) Cost of engineering specialties such as electrical; hydrogeological services; biologists; and heating, ventilation, and air conditioning (HVAC).
- (7) "Authorized signature" means the original signature of the Chief Elected Official or a person designated by charter, resolution, code, ordinance or another official action of the local government to sign CDBG-related documents. If a signature other than that of the Chief Elected Official is submitted, a copy of the authorizing document must accompany the signature.
- (8) "Biddable construction plans and specifications" means construction plans and specifications, certified by an engineer or architect as complete, that include all addressed need service areas and all addressed need work activities outlined in the application. Biddable construction plans and specifications that are submitted with the application must contain all of the documents, forms and information that a contractor needs to submit a bid, except for a wage decision and the CDBG Supplemental Conditions. These documents must be consistent with the project description in the application and the proposed budget and scope of work.
- (9) "Business incubator" is a multi-tenant building that provides affordable, flexible space along with a variety of office and professional services to small and/or new businesses. The purpose of an incubator is to create an atmosphere conducive to the creation and growth of fledgling businesses.
- (10)"CATF" means Citizen's Advisory Task Force pursuant to Section 290.046(6), F.S. The CATF shall be comprised of at least five residents of the Applicant's

- jurisdiction. None of the members shall be an elected official of the Applicant, and no more than one shall be an employee of the local government. The purpose of the CATF is to provide recommendations on all phases of the local CDBG program.
- (11) "Complementary activities" are eligible activities, as provided in Section 290.042, F.S., required by the primary activity or project scored in the CDBG application for which grant funds are being requested and which do not, except for Economic Development projects, exceed 35 percent of the cost of the primary activity or project.
- (12) "Completeness letter" means the letter that the Department sends an Applicant following a site visit. The letter either states that the application is complete or lists the additional documentation that is needed to make the application eligible for funding.
- (13) "Completeness period" means the 21-day period that the Applicant has to respond to any requests for additional information related to its Application for Funding. The 21-day period starts on the day that the Applicant receives its Certified Mail, Return Receipt Requested Completeness Letter from the Department.
- (14) "Concern" means an issue that, if not addressed or corrected, may result in a finding in a Department monitoring report.
- (15) "Department" means the Department of Economic Opportunity.
- (16) "Direct Benefit" is CDBG assistance that promotes or enhances individual well-being, such as housing rehabilitation, sewer and water hookups, or job creation by a Participating Party. Activities that only meet a national objective through an area-wide benefit do not confer direct benefit.
- (17) "Engineer" means a person meeting the qualifications in Section 471.005(5), F.S.
- (18) "Final Closeout" means the written notification to a Recipient by the Department that the final required audit or an attestation statement that a Single Audit is not required for an administratively closed subgrant has been approved by the Department. The date that the Department issues the notice of subgrant final closeout starts the six-year records retention period for subgrant files.
- (19) "Finding" means a specific issue of noncompliance with federal or state regulatory requirements, including the CDBG subgrant contract provisions, that is identified in a monitoring report produced by the Department.
- (20) "Fundable range" means the range of application scores in the Economic Development, Neighborhood Revitalization, Housing Rehabilitation and Commercial Revitalization categories from the top application score in each category to the score of the highest ranked application in each category for which funds are not available plus 0.01 points. For example, if the top application score in the Neighborhood

- Revitalization category is 724.15 and the score of the highest ranked unfunded Neighborhood Revitalization application is 624.15, then the fundable range for Neighborhood Revitalization applications would be 724.15 624.16.
- (21) "Funding cycle" means the time period from the starting date of one application cycle through the last day before the starting date of the next application cycle.
- (22) "Household" means all individuals residing in a dwelling unit, regardless of their relationship.
- (23) "Household Income" means the income of all individuals aged 18 and above residing in a dwelling.
- (24) "Income" means annual income as defined by the U.S. Department of Housing and Urban Development as set forth in 24 CFR 570.3, incorporated herein by reference.
- (25) "Job creation location" means the geographic location in the project area where job creation activities of the Participating Party and expenditure of non-public funds will occur.
- (26) "Jobs created" means non-public sector jobs created in Florida that were not in existence prior to the provision of the CDBG assistance and which would not be created without CDBG assistance. In cases where an employer both creates and eliminates jobs, "jobs created" means the difference between the new jobs created and the old jobs eliminated.
- (27) "Jobs permanent" means full-time jobs (2,000 hours annually) or full-time equivalent jobs (2,000 hours annually) as set forth in the application which are necessary to the overall goals and objectives of a business and which have no known end.
- (28) "Jobs retained" means jobs that without CDBG assistance, would be abolished by layoffs, plant closing, or other severe economic or natural conditions or as otherwise clarified in 24 CFR 570.483(b)(4), incorporated herein by reference.
- (29) "Jurisdiction" means the corporate limits of a local government.
- (30) "Leverage" includes local government funds, non-CDBG grants and loans to the local government, funds expended by other entities for the project (including by a Participating Party in an Economic Development project), fee waivers, or donated land required for the project. Special CDBG allocations awarded separately from the annual allocation, such as disaster recovery funding, may be used as leverage. Leverage funds must be spent on activities that are eligible for CDBG reimbursement in the program category that is being funded to receive leverage points for the respective application.
- (31) "Liquidated damages" are funds paid to a local government by a contractor, vendor, or any other party pursuant to a CDBG-funded contract when such payment is triggered by non-performance or failure to perform in accordance with

- contractual requirements. This definition is applicable whether such funds are withheld by the local government or repaid or rebated to the local government by the contractor, vendor or third party.
- (32) "Local government" means a unit of general purpose local government, such as county governments and municipal governments (incorporated cities, towns and villages) within the State of Florida.
- (33) "Low- and moderate-income (LMI) household" means a household whose annual income does not exceed 80 percent of the median income for the area as most recently determined by HUD.
- (34) "Low- and moderate-income persons" means members of low- and moderate-income households.
- (35) "Low-income (LI) household" means a household whose annual income does not exceed 50 percent of the median income for the area as most recently determined by HUD.
- (36) "Microenterprise" is a commercial enterprise that has five or fewer employees, one or more of whom owns the enterprise.
- (37) "Minority" means an individual who is Black/African American, American Indian/Alaskan Native, Asian, Native Hawaiian/Pacific Islander or Multi-Racial.
- (38) "One hundred year floodplain" or "100-year floodplain" means the area subject to a one percent or greater chance of flooding in any given year as specified in 24 CFR 55.2(b)(1), incorporated herein by reference, and used throughout this chapter.
- (39) "On schedule" means the local government's performance on an open CDBG subgrant agreement is in accordance with the expenditure rates and accomplishments described in the contract's Activity Work Plan. Expenditures shall be considered "on schedule" if the local government has received at least 90 percent of the amount projected in the work plan's schedule of expenditures. Accomplishments shall be considered "on schedule" if an activity identified in the work plan is not more than two months past the scheduled completion date.
- (40) "On-time performance" means the local government has not received one or more extensions to the subgrant agreement period totalling 12 months or more, except for time extensions required for an Economic Development project to track additional job creation when contractual job creation commitments have been met, but the cost per job exceeds \$10,000. An Economic Development project that is generating program income and has met all contractual obligations shall be considered on time if it is extended more than 12 months solely to expend the program income. For a subgrant initially funded only for planning and design, the subgrant shall be considered on time unless it is extended more than 24 months from the

- effective date of the modification which provides the construction phase funding.
- (41) "Open subgrant" for the purposes of Applicant eligibility is a CDBG agreement that has not been administratively closed.
- (42) "Participating Party" means a private, for-profit business or non-governmental private not-for-profit entity responsible for creating or retaining permanent jobs as part of a proposed Economic Development project. A governmental entity cannot be a Participating Party.
- (43) "Program income" means gross income received by a unit of local government that was generated from the use of CDBG funds.
- (44) "Project area" means the site or sites upon which all subgrant-related construction activities take place, without respect to funding source.
- (45) "Public notice" is an advertisement published in a local newspaper of general circulation at least five days and no more than 20 days prior to the day of the event for which the notice was placed. The calculation of the time period shall include the date of publication of the notice but not the day of the event.
- (46) "Recipient" or "Subgrantee" means a unit of local government that has been awarded CDBG funding.
- (47) "Readiness to Proceed Points" are awarded in the Commercial Revitalization and Neighborhood Revitalization categories for projects that have biddable construction plans and specifications completed by the application deadline for all "addressed need" activities that require plans and specifications. All required permit applications for infrastructure activities must also have been submitted to the proper agencies by the application deadline.
- (48) "Section 3" means Section 3 of the Housing and Community Development Act of 1974, as amended, incorporated herein by reference, and the implementing regulation, 24 CFR 135, incorporated herein by reference, relating to employment and other economic opportunities for low- to moderate-income persons.
- (49) "Service area" means the total geographic area to be directly or indirectly served by a subgrant project that addresses the Low- and Moderate-Income National Objective, where at least 51 percent of the residents are low- and moderate-income persons. A service area must include all, and only those, beneficiaries who are reasonably served or would be reasonably served by an activity.
- (50) "Subgrant Agreement" means the contract that is executed between an Applicant and the Department to award CDBG funding for completing the Addressed Need activities that were included in the Applicant's Small Cities CDBG Application for Funding.

- (51) "Time period" or "days" means calendar days. All time periods specified in this rule, the application, the agreement and all correspondence to and from the Department refer to calendar days unless otherwise specified.
- (52) "Unaddressed need" means the activities that the Applicant listed in its Small Cities CDBG Application for Funding for which funds were not budgeted in the application. Unaddressed need activities can be added to a subgrant agreement through the modification process if CDBG funds are available after all addressed need activities have been procured. All addressed need activities must be completed before a local government can be reimbursed for unaddressed need activities.
- (53) "Very low-income (VLI) household" is a household whose annual income does not exceed 30 percent of the median income for the area as most recently determined by HUD.

  Rulemaking Authority 290.048 FS. Law Implemented 290.042, 290.043 FS. History–New 5-23-06, Amended 6-6-10, Formerly 9B-43.0031, Amended \_\_\_\_\_\_.

#### 73C-23.0035 Eligibility.

(1) Eligibility.

- The U. S. Department of Housing and Urban Development (HUD) determines which communities in Florida are eligible to receive funding through the Florida Small Cities CDBG Program. HUD publishes a list of eligible "non-entitlement" local governments annually, which the Department posts on its website. Non-entitlement communities eligible to receive funding include:
- (a) Counties with populations (in the unincorporated area) under 200,000, and
- (b) Cities, towns and villages with populations under 50,000 that have not opted to participate in an entitlement program with a larger community nor have they received special designation from HUD as an entitlement community.
  - (2) National Objective.
- (a) All local governments receiving CDBG funding must meet one of the three National Objectives with the funds that they receive. The National Objectives are:
  - 1. Benefiting low- and moderate-income (LMI) persons,
  - 2. Preventing or eliminating slum or blight, or
- 3. Meeting other community development needs having a particular urgency because existing conditions pose a serious and immediate threat to the health or welfare of the community and other financial resources are not available to meet such needs.
- (b) When LMI benefit is used as the National Objective, at least 51% of the persons receiving benefit must be LMI.
- (c) When using urgent need as the National Objective, the condition posing a threat to health or welfare must have occurred within 18 months of the application's submission.

(d) At least 70% of all CDBG funds received by the state must be spent on activities that benefit low- and moderate-income persons.

Rulemaking Authority 290.048 FS. Law Implemented 290.042, 290.043 FS. History–New

(Substantial rewording of Rule 73C-23.0041 follows. See Florida Administrative Code for present text.)

73C-23.0041 Application Process <u>— General Information and Administrative Requirements</u>.

- (1) Application Cycle.
- (a) Unless otherwise directed by budgetary or administrative constraints, the Florida Department of Economic Opportunity shall annually initiate an application cycle to receive applications for Community Development Block Grant assistance from "non-entitlement" units of local government that are eligible to apply for funding. This 45-day cycle is the time period during which the Department will accept applications for all program areas for competitive scoring for the annual federal fiscal year allocation. If the 45<sup>th</sup> day of the cycle falls on a weekend or state holiday, the cycle shall be extended to the next regular business day.
- (b) An annual application cycle will be announced for each federal award. The Department shall publish a Notice of Funding Availability (NOFA), which announces the starting date and the deadline date and time for submission of applications. The NOFA shall list the allocations for each funding category from the Annual Action Plan submitted to HUD. The NOFA shall be published in the Florida Administrative Register at least 30 days in advance of the starting date of the cycle.
  - (2) Funding Categories.
- (a) The Department provides funding opportunities in the following program areas:
  - 1. Economic Development.
  - 2. Neighborhood Revitalization
  - 3. Commercial Revitalization
  - 4. Housing Rehabilitation
- (b) Funding levels for each category are determined annually based on the allocation that the Department receives from HUD. These levels are included in the Annual Action Plan that is submitted to HUD and in the NOFA.
- (c) If funding allows, the Department may include funding for planning and design activities in the Annual Action Plan for the Neighborhood Revitalization funding category. Upon successful completion of the planning and design phase, the Department shall modify the award to provide construction funding, not to exceed the ceiling amount for which the Recipient is eligible, as soon as funds are available.
  - (3) Subgrant Ceilings.

- (a.) The Department shall establish limits on the amount of funds that may be requested in an application.
- (b) The limits for Neighborhood Revitalization, Commercial Revitalization and Housing Rehabilitation subgrants shall be based on the most recently available U.S. Census of Population data. In the case of county government Applicants, the population shall include only the unincorporated areas of the county. Population groupings are based on HUD-modified census figures summarizing low- and moderate-income population as the following chart shows:

LMI Population Subgrant Ceiling

1 - 499 - \$600,000

500 - 1,249 - \$650,000

1,250 - 3,999 - \$700,000

4,000 and above - \$750,000

- (c) The funding limit for Economic Development subgrants shall be based on the number of jobs to be created by the participating parties. The maximum subgrant amount shall be \$1,500,000. No more than \$34,999 may be requested for each full time equivalent job to be created.
- (d) A Neighborhood Revitalization subgrant, initially awarded for Planning and Design costs only, shall not exceed \$70,000.
  - (4) Eligible Applicants.
- (a) Non-entitlement local governments that do not have an open Small Cities CDBG subgrant are eligible to apply for Housing Rehabilitation, Neighborhood Revitalization, Commercial Revitalization or Economic Development funding.
- (b) Non-entitlement local governments that do not have an open Housing Rehabilitation, Neighborhood Revitalization, or Commercial Revitalization subgrant are eligible to apply for Housing Rehabilitation, Neighborhood Revitalization, or Commercial Revitalization funding.
- (c) To be eligible to apply for a Housing Rehabilitation, Neighborhood Revitalization, or Commercial Revitalization subgrant, a non-entitlement local government with an open but completed Housing Rehabilitation, Neighborhood Revitalization, or Commercial Revitalization subgrant shall submit an administrative closeout package which must be received by the Department no later than 5:00 p.m. Eastern Time on the business day prior to the advertised opening of the application cycle. The Department will respond to the closeout request by either:
- 1. Approving the closeout request and mailing an administrative closeout notification, or
- 2. If there are unresolved issues with the subgrant, a Notice of Outstanding Closeout Issues (NOCISS) letter will be sent to the local government within 21 days of receiving the closeout package. If the local government receives a NOCISS letter, it must respond to the issues, and the response must be received by the Department at least 10 days before the application cycle

deadline. If the response clears the issues in the NOCISS letter, the local government shall be eligible to apply for funding.

- (d) Non-entitlement local governments with an open Housing Rehabilitation, Neighborhood Revitalization, or Commercial Revitalization subgrant, whose activities and expenditures are on schedule and on time, are eligible to apply for an Economic Development subgrant, but not for a Housing Rehabilitation, Neighborhood Revitalization, or Commercial Revitalization subgrant.
- (e) Non-entitlement local governments with only an open Economic Development subgrant whose activities and expenditures are on schedule and on time as of the opening of the application cycle are eligible to apply for a Housing Rehabilitation, Neighborhood Revitalization, or Commercial Revitalization subgrant.
- (f) Non-entitlement local governments with an open Economic Development subgrant from a previous funding cycle whose activities and expenditures are on schedule and on time are eligible to apply for an additional Economic Development subgrant in each subsequent funding cycle.
- (g) Non-entitlement local governments with an open Economic Development subgrant whose activities or expenditures are not on schedule or not on time shall be ineligible to apply for another CDBG subgrant until the Department has received the administrative closeout package for the subgrant.
- (h) A non-entitlement local government whose initial Economic Development application is rejected or loses its funding reservation may submit up to two additional Economic Development applications during a funding cycle. The local government may resubmit the initial application or submit an application for a different Economic Development project. Local governments may only receive one Economic Development subgrant per funding cycle.
  - (5) Citizen Participation Requirements.
- (a) The Applicant shall adopt a Citizen Participation Plan that complies with the requirements found in 24 CFR 570.486(a). The plan shall include a Citizen Complaint Policy which provides citizens the address, phone number, and times for submitting complaints and grievances, and provides for timely written answers to written complaints and grievances within 15 working days where practicable, as required by 24 CFR 570.486(a)(7).
- (b) The local government must inform and involve its citizens in the project planning and selection, and decision-making process regarding all CDBG-funded projects. Each Applicant shall certify that it is following its Citizen Participation Plan and the citizen participation requirements of this rule. The Applicant shall document that the citizen participation requirements outlined in 24 CFR 570.486(a), this rule, and Section 290.046(5), F.S., have been satisfied, with

public notice provided in accordance with subsection 73C-23.0031(45), F.A.C.

- (c) Citizen participation shall include at a minimum:
- 1. At least one public hearing shall be held to obtain citizens' views regarding community development needs prior to an Application for Funding being drafted. This shall be known as the First Public Hearing. A public notice shall be published in a local newspaper at least five days and no more than 20 days before the day of the hearing as defined in subsection 73C-23.0031(45), F.A.C., of this rule. The notice shall include the federal fiscal year (FFY) for which an application is being considered, the range of activities that may be undertaken with CDBG funding and the amount for which the community can apply.

The public hearing must be conducted by a member of the governing body of the applying local government or by a duly authorized employee of that local government at a time and location convenient to potential beneficiaries. Citizens shall be allowed to comment at the hearing as required by 24 CFR 570.486(a)(5), and the citizen input from this hearing should be considered when the application is being prepared. The local government must document all citizen participation at the hearing.

- 2. After an Application for Funding has been drafted, citizens shall be given the opportunity to express their views regarding the proposed application. This opportunity shall include the following:
- a. A notice for a second public hearing shall be published in a local newspaper at least five days prior to and no more than 20 days before the date of the second public hearing. The notice shall include a summary of the draft application and the date, time and address of a public hearing on the draft application. The summary shall include, at a minimum, the following:
- (I) A description of the activities that will be undertaken with CDBG funding;
- (II) A budget that lists the specific CDBG dollar amounts that will be allocated for each activity;
- (III) The National Objective that will be met by each activity, except administration and engineering; and
- (IV) For Neighborhood Revitalization, Commercial Revitalization and Economic Development projects, the specific locations of the proposed activities, including street names or road numbers (e.g., County Road 50).
- The notice shall also state where and when a copy of the draft application will be available for citizen review and how citizens can submit written comments on the draft application. Failure to include all of the required information in the public hearing notice shall result in the application being rejected as provided in Section 290.0475(6), F.S.
- b. The public hearing on the draft application must be conducted by a member of the governing body of the Applicant

or by a duly authorized employee of that local government at a time and location convenient to potential beneficiaries. This shall be known as the Second Public Hearing. Citizens shall be allowed to comment on the draft application at the hearing, and the citizen input from this hearing should be considered before the application is finalized and submitted to the Department. The local government must document all citizen participation at the hearing.

- c. Copies of the public notices, affidavits of publication, certified minutes and sign-in sheets/speaker cards for both public hearings shall be included in Part 9, Appendix D, of the Application for Funding. The application shall be rejected if the affidavit of publication or certified minutes for either public hearing are not provided by the end of the Completeness Period.
- (d) The Applicant may appoint a Citizens Advisory Task Force (CATF) to make recommendations on community needs prior to drafting an Application for Funding and to provide input during the implementation of any subgrants that the Applicant receives. An Applicant can claim up to 10 points on its Application for Funding if it has an active CATF. To claim points for having CATF participation in the application process, the following conditions must be met:
- 1. The task force shall be comprised of at least five residents of the Applicant's jurisdiction, and at least 51% of the members must be from low- to moderate-income households.
- 2. No more than one employee of the Applicant can serve on the CATF, and no elected officials of the Applicant can serve as members of the task force.
- 3. The CATF shall conduct at least one meeting prior to the notice for the second public hearing being published to discuss community needs and to provide recommendations to the local governing body. The meeting shall be advertised in accordance with subsection 73C-23.0031(45), F.A.C. A minimum of 51% of the members must participate in the meeting. If the Applicant is claiming points for having an active CATF, copies of the public notice, affidavit of publication, meeting minutes and sign-in sheet shall be included in Part 9, Appendix D, of the Application for Funding. If the affidavit is not available by the application deadline, it must be provided by the end of the "completeness period" to retain the points.

#### (6) Applications.

(a) Application Form. The Florida Small Cities Community Development Block Grant Application for Funding, Form SC-60, is hereby incorporated into this rule by reference. The application form has nine parts, and these parts include scoring guidelines and documentation requirements for the CDBG application. Parts 1-9 of the application are available for download on the Department's website - www.FloridaJobs.org/CDBGApplicantInfo. Copies of the electronic form will be made available upon request.

- (b) During each application cycle, "non-entitlement" local governments that are eligible to apply can submit applications in the following categories:
- 1. Either Housing Rehabilitation, Neighborhood Revitalization or Commercial Revitalization. If an Applicant submits an Application for Funding in more than one of these categories, only the first application logged in by the Department will be scored. The other application(s) will be rejected; and
  - 2. Economic Development.
- (c) An Applicant cannot be awarded more than one subgrant in any funding cycle from the following categories: Housing Rehabilitation, Neighborhood Revitalization, or Commercial Revitalization. An Applicant cannot be awarded more than one Economic Development subgrant in any funding cycle.
  - (d) Architectural and Engineering Costs.
- 1. The maximum percentage of CDBG funds that may be spent on architectural and engineering design costs, excluding additional engineering services, shall be based on the total initial construction budget for eligible subgrant activities, which require architectural and engineering design. These costs shall not exceed the Rural Development/Rural Utility Service (RD/RUS) fee schedule in Florida, incorporated herein by reference, RUS Bulletin 1780-9 (rev. 10/2009), hereby incorporated into this rule by reference. Architectural and engineering inspection services during construction shall not exceed the RD/RUS fee schedule in Florida, incorporated by reference, RUS Bulletin 1780-9 (rev. 6/2007), hereby incorporated into this rule by reference.
- a. If more than one design professional is needed for an activity or activities (i.e., a landscape architect in addition to an engineer for sidewalk construction in a commercial revitalization project), the local government shall not exceed the appropriate RD/RUS fee curve for each activity covered by each design professional negotiated separately.
- b. For projects involving both Table I and II activities, engineering costs shall be pro-rated appropriately.
- c. For each additional engineering service as defined in subsection 73C-23.0031(6), F.A.C., and for preliminary engineering, the local government shall negotiate a reasonable fee for the service following procurement procedures in 24 CFR 85.36, incorporated herein by reference.
- d. Preliminary engineering costs not to exceed one-half of one percent of the estimated construction cost may be paid with CDBG funds over and above the amounts included the RD/RUS fee schedule.
- e. If "Readiness to Proceed" points are part of the final application score, then CDBG subgrant funds for engineering costs shall not include preliminary engineering and shall not exceed \$10,000 plus the percentage in the fee schedule for Table IA, Table IIA, or a prorated amount of both tables for projects involving activities included in both tables. Also, CDBG funds shall not be used to fund any additional

<u>design or redesign costs</u>, even if the "Readiness to Proceed" points are <u>subsequently removed from the application after a subgrant award.</u>

#### (e) Administrative Costs.

- 1. For Commercial Revitalization, Economic Development and Neighborhood Revitalization applications, administrative costs to be reimbursed by the subgrant cannot exceed eight percent of the total CDBG funds requested.
- 2. For Housing Rehabilitation projects, administrative costs to be reimbursed by the subgrant cannot exceed 15 percent of the total CDBG funds requested.
  - (f) Consistency with Local Comprehensive Plan.
- 1. The application shall include affirmations from all jurisdictions in which activities will take place that the proposed activities are not inconsistent with the applicable elements of the adopted local comprehensive plan.
- 2. If the Department determines that an application is inconsistent with the adopted local comprehensive plan, the Applicant shall be advised of that determination in the completeness review letter. If after review of the Applicant's response the Department reaffirms its determination of inconsistency, the application shall be rejected.
  - (g) Readiness to Proceed:
- Points for "Readiness to Proceed" can be claimed for Commercial Revitalization and Neighborhood Revitalization projects if the following are submitted with the Application for Funding before 5 p.m. on the final day of the application cycle:
- 1. Biddable construction plans and specifications as defined in subsection 73C-23.0031(8), F.A.C. The plans must be signed and sealed by the engineer responsible for developing them;
- 2. Documentation that all required permit applications for infrastructure activities were submitted to the applicable agencies prior to the CDBG application deadline. If the only agency that must issue permits for the activities is the Applicant, then documentation to that effect must be included in the application; and;
- 3. A written certification from the engineer or architect who prepared the plans and specifications to the Chief Elected Official of the Applicant. The certification must list the date that the biddable construction documents were completed and state that all required permit applications for all infrastructure activities have been submitted to the applicable agencies. If the Applicant is the only permitting agency, this fact must be included in the certification.
- Deficiencies with the readiness to proceed documentation cannot be cured after the application deadline for the purpose of getting the points. The Department will review the plans and specifications for completeness during the application review process, but the plans and specifications cannot be accepted by the Department until the Applicant has been issued the environmental release of funds for the project.
  - (h) Application Submission.
- 1. Applications shall be received by the Department in Tallahassee by 5:00 p.m. Eastern Time, on the date specified in the NOFA. Except as noted in paragraph 73C-23.0048(2)(b), F.A.C., applications received after the specified deadline shall not be considered.
- 2. By the application deadline, one copy of Part 2 and Part 3 from the Small Cities CDBG Application for Funding shall be sent to the Regional Planning Council that serves the Applicant.

- (7) National Objective and Public Benefit Documentation.
- (a) Achievement of national objectives. Applications must demonstrate that the proposed activities meet the criteria specified in 24 CFR 570.483 for complying with a national objective and meeting public benefit standards and that they address community need as outlined in Sections 290.046(3)(a)-(d), F.S.
- (b) Public Benefit Achievement. Determination of benefit to persons of low- to moderate-income is established through the following methods:
- 1. HUD Census Data LMI benefit can be documented by using HUD-provided Census Data where the service area geographically corresponds with block groups, census tracts, or local government geographical limits. A jurisdiction-wide activity using census data rather than a survey to establish the national objective of benefit primarily to low- and moderate-income persons can score VLI points by calculating a percentage of VLI benefit using census data. VLI beneficiaries are calculated by totaling, for each block group in each census tract, the numbers shown in the PVLOW column. The total of VLI beneficiaries is divided by the total beneficiaries in the LOWMODUNIV column to establish the VLI percentage for scoring the appropriate VLI beneficiary points.
- If a service area contains an entire block group or census tract and portions of other groups or tracts, the data from the block group or tract that is contained entirely in the service area can be used, but the remaining portion(s) of the service area must be surveyed to get LMI and VLI data.
- 2. Random Sample Survey Methodology A sample-based survey of the beneficiaries must use the Household Income Certification Form, (Form SC-49), which is included in the Application for Funding and also is available on the CDBG website. The survey methodology must correspond with the random sampling requirements established by HUD in Notice CPD-14-013, issued on September 23, 2014, and incorporated herein by reference. The survey methodology must include a confidence level of 95%.
- a. The survey process must verify eligibility of any proposed direct benefit activities, certify the number of projected very low, low-and moderate-income households and beneficiaries, and the total number of beneficiaries.
- b. When the sample-based survey results appear to substantially overstate the proportion of persons with low or moderate income in a service area when compared to census data, the Department will require the local government to provide supporting evidence substantiating the survey data. If the survey results are found to be inaccurate, the application shall be rejected.
- c. Section III of Form SC-49 does not have to be completed if the Applicant is using the survey for scoring purposes only and plans to use census data for reporting the racial makeup of beneficiaries upon completion of the project.
- 3. Small Service Area Survey Methodology For surveys of service areas with fewer than 50 households, all households must be surveyed using Form SC-49.
- a. Any non-responding household must be assumed to be above income.
- b. Section III of Form SC-49 shall be completed for reporting the racial makeup of beneficiaries in a small service area.

- 4. The number of household members for non-responding households in a survey shall be based on the average household size for all responding households.
- 5. A survey approved by the Department for a funded CDBG application remains valid for the same geographic service area for up to five years from the date the survey was completed.
- 6. A survey that was submitted as part of a previous CDBG application that was not funded can be submitted as part of a new application package if the survey was completed less than 5 years prior to the application submission date. The survey will be subject to Department review and approval. If the survey is found to be inaccurate or does not document that a national benefit will be met, the application shall be rejected.
- 7. Only the methods of LMI benefit determination provided for in this rule shall be used.
  - (8) Beneficiaries of Public Improvements.
- (a) For activities where hookups or connections are required for beneficiary access to the CDBG-funded improvement, 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. The percentage of low- and moderate-income benefit shall be calculated by dividing the number of LMI persons connected to the CDBG-funded infrastructure by the total number of persons who could be connected to it.
- (b) CDBG-funded activities may not extend beyond the location of the last LMI beneficiary, except where it is required for sound engineering, operation, or design reasons as certified by a licensed engineer.
- (c) For activities where hookups or connections are required as a condition for beneficiary access to a CDBG funded public improvement, hookup or connection fees shall not be charged to very low-, low- or moderate-income beneficiaries. Further, none of the project construction costs shall be charged to very low-, low- or moderate-income beneficiaries. All very low-, low- and moderate-income beneficiaries in a Neighborhood Revitalization project service area with hookups as an activity shall be hooked up unless they, or the property owner in the case of rental property, provide written notice that they do not desire a hookup. If such written notice cannot be obtained, the Household Income Certification Form shall note such refusal to provide written notice.
- (d) Where non-LMI beneficiaries will have to pay a one-time fee (i.e., assessment, impact fee) to connect to or access the CDBG funded public improvement, and where a periodic service fee (i.e., water bill, sewer bill) will be charged, the proposed non-LMI beneficiaries will be advised of the estimated cost of the one-time fee and all beneficiaries will be advised of the estimated amount of any periodic service fee. The application narrative and budget must outline the estimated costs to be paid by non-LMI beneficiaries.
- (e) Surveyed beneficiaries shall be advised of both fees in writing with signature acknowledgement of receipt and understanding prior to application submission. If census data is used, a random sample representing ten percent of the beneficiaries must be advised in writing with signature acknowledgement of receipt and understanding prior to application submission. If a household refuses to provide signature acknowledgement, the refusal shall be noted on the form.

- (9) Interlocal Agreements for Applicants with Activities Outside Their Jurisdiction.
- (a) Prior to application submission, a written interlocal agreement shall be executed by all local governments in whose jurisdictions the CDBG activities will be undertaken. The interlocal agreement must authorize the applying local government to undertake the activities outside its jurisdiction, giving the concurrence of the other local government(s) with the activity and committing resources by one or more local governments, or some other entity which has provided written assurance, to maintain the activity. Such an interlocal agreement must be submitted with the Application for Funding.
- (b) Each local government signing an interlocal agreement shall affirm that all activities, project areas, service areas, and job creation locations are not inconsistent with its comprehensive plan.
- (c) The application shall contain excerpts of the comprehensive plans of all local governments in whose jurisdiction activities will take place. The excerpts must document that the activities, project areas, service areas, and job creation locations are not inconsistent with the local government's comprehensive land use plan.
- (d) An eligible Applicant's activities can extend beyond its jurisdiction, provided the areas outside its jurisdiction are eligible. The Applicant must have legal authority to provide such services or undertake such activities and be supported by a signed interlocal agreement executed by both eligible local governments. Except for Economic Development projects, no more than 25 percent of the service area beneficiaries may reside outside the Applicant's jurisdiction unless all CDBG funded work is taking place within the Applicant's jurisdiction or on property owned by the Applicant. When all work will take place within the Applicant's jurisdiction or on property owned by the Applicant, up to 50 percent of the beneficiaries may reside outside the Applicant's jurisdiction.
- (e) Pursuant to 24 CFR 570.486(b), an eligible individual Applicant may apply to undertake a portion of an eligible Neighborhood Revitalization activity in an otherwise eligible location outside its jurisdiction or service area, if it can provide written documentation that the activity is required by an engineer or by a state or federal agency having regulatory authority over the activities. Any benefit to persons outside the jurisdiction or service area must not be a Direct Benefit and may only be incidental to the activity undertaken within the jurisdiction or service area.
  - (10) Application Reviews.
- (a) Prior to reviewing the applications, the Department will publish on its website a listing of all Neighborhood Revitalization, Housing Rehabilitation, and Commercial Revitalization applications received during the open application cycle. The listing will include the Applicants' self-scores. If the Department receives Economic Development funding requests equal to or in excess of available funding, those self-scores shall also be published.
- (b) The Department will complete a threshold review on all applications to determine that the local government, the application, and all proposed activities are eligible to receive funding.
- (c) The Department will undertake a completeness review of all applications that it deems likely to be in the fundable range. The review will determine if the application is mathematically correct and contains all required documentation. This review will generate a list of issues to be addressed at site visit. If an application drops out of the fundable range as a result of a completeness review, the highest ranking

application outside of the fundable range will be added to those receiving a completeness review.

- (d) Except for the Community-Wide Needs Score, any scoring item left blank in Parts 2-7 of the Application for Funding will be scored as zero. This zero score cannot be changed because of information contained elsewhere in the application or as a result of documentation presented at a site visit. The Department shall correct mathematical errors made by the Applicant. The Department shall adjust scores claimed in Parts 2-7 of the Application for Funding if the documentation provided in the application does not support the points claimed. In instances where the Department has corrected mathematical errors or adjusted scores in Parts 2-7, the Department shall adjust the corresponding scores on the Application Scoring Summary page in Part 8. In instances where the Applicant claimed points in Parts 2-7 but failed to transfer the points to the Application Scoring Summary, the Department shall insert the points and adjust the score accordingly.
  - (11) Application Site Visits and Completeness Letters.
- (a) The Department shall conduct site visits to communities whose applications are in the fundable range after the applications have been reviewed.
- (b) The Department shall notify the Chief Elected Official in writing of the date and time that the site visit will take place. The letter shall include a list of application support documents and CDBG-required policies that will be reviewed at the site visit.
- (c) At the site visit, the Department shall examine all documentation referenced in the Application for Funding and listed in the site visit letter. If an Applicant that is selected for funding has not adopted a required CDBG policy by the site visit, the Department will add a special condition to the Applicant's subgrant agreement requiring that the policy be adopted within a specified time period after the award.
- (d) For Commercial Revitalization, Housing Rehabilitation and Neighborhood Revitalization applications, the Department shall request in writing by return receipt mail corrected copies of all application support documentation found to be unavailable or inadequate at the site visit. This request shall be referred to as the "completeness letter." Applicants shall have 21 days from the date that the completeness letter is received to provide the requested information to the Department. Responses to completeness letters must be received by the Department no later than 5:00 p.m. Eastern Time of the 21st day. If the response to a completeness letter is received late or does not resolve an issue, the following points shall be deducted from the Applicant's total score:
- 1. Revisions that were requested to any of the required maps were not submitted or were incomplete 250 points;
- 2. A required interlocal agreement is incomplete or not in compliance 250 points; and

- 3. Points claimed in the Application for Funding for which adequate documentation was not provided to prove that the Applicant was entitled to the points.
  - (12) Application Scoring.
- (a) Once an application is submitted to the Department, a local government shall not amend its application to add activities or beneficiaries for the purpose of improving the score or broadening the scope of the project, except as allowed in subparagraph 73C-23.0051(4)(a)2, F.A.C.
- (b) The maximum score possible in each category is 1,000 points. These points shall be divided among three program factors as specified below.
  - 1. Community-wide needs: 250 points
  - 2. Program impact: 660 points
- 3. Outstanding performance in equal opportunity employment and fair housing: 90 points
- (c) Community-Wide Need Scores (CWNS) for All Categories. The Department shall calculate the CWNS from the most recent and uniformly available Federal and State data for all jurisdictions eligible to apply. Current decennial U.S. Census data shall be used unless otherwise noted. Data shall be further defined as:
- 1. For municipal government Applicants, the data relevant for the entire incorporated area shall be used;
- 2. For county government Applicants, the data relevant for only the unincorporated areas within the county shall be used;
- 3. For municipalities incorporated since the most recent census, the block group or census tract data for the area that was incorporated shall be used where available; otherwise a proportion of the county's census data shall be used to calculate the CWNS.
- 4. Factors. Three factors shall be used to determine the CWNS with the following maximum points available for each:
  - a. Poverty Level
- (I) Number of persons below poverty level according to the latest HUD census figures: 50 points
- (II) Percentage of persons below poverty level according to the latest HUD census figures: 50 points
- b. Number of year-round housing units with 1.01 or more persons per room according to the latest HUD census: 50 points; and
  - c. LMI Population
- (I) Number of persons in the low- and moderate-income population according to the latest HUD census figures: 50 points.
- (II) Percentage of persons in the low- and moderate-income population according to the latest HUD census figures: 50 points.
  - 5. Method of Calculation.
- a. Prior to calculating actual CWNS, the Department prepares a spreadsheet that reflects the above information (number and percentage of persons below poverty, number of housing units with 1.01+ persons per room and LMI population and percentage of population that is LMI) for each non-entitlement local government. Each non-entitlement local government is first compared with all other

non-entitlement governments in their LMI population group using the three above factors.

LMI Population:

1 - 499

500 - 1,249

1,250 - 3,999

4,000 - 10,549

10,550 and above

Population groupings are based on HUD modified census figures summarizing low- and moderate-income population.

Calculating each Applicant's score includes the following steps:

The highest statistic in each population group for each factor is the basis for relative comparison of all other eligible local governments in the population group. For each eligible local government, the percentage calculated is then multiplied by the maximum number of points available for that particular factor. The score for factors are summed for each eligible local government to determine the CWNS.

b. For each eligible local government, the percentage calculated shall then be multiplied by the maximum number of points available for that particular factor.

<u>percent x maximum points available = score for eligible local</u> government on factor.

c. The CWNS factors shall be summed for each eligible local government for the overall CWNS. Each local government awarded subgrant funds shall have its CWNS reduced by one point for every \$20,000 or fraction thereof, of contracted funding. If \$20,000 or more in funding is deobligated at the time the administrative closeout is approved by the Department, the CWNS will be increased by one point for each \$20,000 deobligated.

No funding-related adjustments shall be made to the Community-Wide Need Scores during the first application cycle in which the new census data is used to update the CWNS. All adjustments for subgrant funds received shall be based on subgrants received in all application cycles after the most recent census data was first used. This calculation shall be based on all funds contracted as of the end of the month prior to the opening date of the application cycle. The adjusted CWNS cannot be less than zero. No deduction shall be made to the CWNS for Emergency Set-Aside funding.

- (d) Further point breakdowns for Program Impact, Equal Opportunity and Fair Housing are found in the rule or in the appropriate section of the application form.
- (e) Applications with scores in the fundable range following appeals and that meet all other requirements contained herein shall be awarded funds for eligible activities. The Department shall not award funds for ineligible activities.
- (f) In the event that two or more applications receive the same final score, the application addressing the highest State priority goal as reflected by the goal points for application activities shall receive first consideration. If a tie still exists, then the Applicant with the highest CWNS shall receive first consideration.
- (g) The Department may offer partial funding to the highest scoring non-funded Applicant when insufficient funds are available to fully fund the Applicant's request provided that all of the beneficiaries in the application can be served. If additional funds become available after a partial funding is awarded, the Applicant can request a modification to fully fund the project.

If partial funding has not been offered and additional funds become available to fully fund a project, the highest scoring non-funded Applicant will be awarded a subgrant.

- (h) Leverage. For scoring purposes, the Applicant must certify that leveraged funds shall be expended after the date of site visit and prior to submission of the administrative closeout. The Applicant also must provide documentation that leveraged funds were committed to the project prior to the application deadline.
- (i) Penalty Points for Past Performance. A penalty shall be assessed against future subgrant applications based on prior contractual performance on subgrant agreements, including those subgrants which have submitted an administrative closeout prior to application deadline. This penalty will apply regardless of whether the subgrant has been amended to permit the reduction in accomplishments. If the subgrant is terminated with no expenditures or is terminated with expenditures for administration and/or engineering only, no penalty shall be assessed. This penalty expires two years from the date of administrative closeout. The penalty points in effect on the date of the application deadline will be subtracted from the Applicant's score found on the Application Scoring Summary.

1. In the Housing Rehabilitation category, a penalty of five points per housing unit shall be assessed for failure to rehabilitate or address any low- or moderate-income housing units scored in the original application. The penalty shall be 10 points per unit for failure to address any very low-income housing unit scored in the original application. The maximum penalty shall be 50 points.

- 2. A penalty of five points per low- and moderate-income household not served or business facade not addressed as geographically displayed on the original application maps (as modified, if necessary, during the completeness process) in the Neighborhood Revitalization or the Commercial Revitalization categories up to a maximum of 50 points. All direct benefit proposed in the application (i.e., water hookups) must be completed to avoid this penalty per house or facade. No penalty shall be assessed for failure to provide a water or sewer hookup if the hookup is not possible because the home is vacant or became damaged or destroyed after application submission, the homeowner refused the hookup or became non-LMI after the survey, and there are no other homes in the service area identified in the application which can qualify for a hookup.
- 3. The Department will waive these penalties if the local government is unable to meet subgrant requirements due solely to a state or federally declared natural disaster or emergency.
  - (13) Application Rejection.
- (a) Applications that do not meet the minimum requirements as outlined in Section 290.0475, F.S. shall be rejected.
- (b) An application shall be rejected if survey results included in the application are inaccurate or cannot be substantiated.

  Rulemaking Authority 290.044, 290.046, 290.048 FS. Law

Implemented 290.044, 290.046, 290.047, 290.0475 FS. History–New 5-23-06, Amended 2-26-07, 6-6-10, Formerly 9B-43.0041, Amended \_\_\_\_\_\_.

(Substantial rewording of Rule 73C-23.0045 follows. See Florida Administrative Code for present text.)

- 73C-23.0045 Specific Requirements for <u>Neighborhood</u> Revitalization, Commercial Revitalization and Housing Rehabilitation Competative Categories.
- (1) Program Requirements for Neighborhood Revitalization.
- (a) The primary objective of the Neighborhood Revitalization category is to preserve and revitalize declining, primarily residential, low- and moderate-income service area neighborhoods by addressing the major infrastructure problems contributing to such decline.
- (b) Measurement of Program Impact. Specific criteria used to calculate the total 660 points for Program Impact are found in the Neighborhood Revitalization section of the application.
  - (c) Service Area Requirements.
- 1. An activity conducted in a primarily residential service area will be considered to benefit low-and moderate-income persons when at least 51 percent of the residents of that service area are low- and moderate-income persons. Such a service area must contain all households that will benefit from the activity. All activities shall meet the national objective of LMI benefit as specified in 24 CFR 570.483(b).
- 2. Any survey of the beneficiaries of a service area must correspond to the requirements established in paragraph 73C-23.0041(7)(b), F.A.C.
- 3. Sewer and water hookups shall only be provided in a service area where new or replacement sewer or water lines are being installed. Eligibility for a hookup shall be based on LMI certification of household income and sources not more than one year before the hookup is provided. If requested, LMIs shall provide verification of the household income. Hookup beneficiaries are reported by household.
- 4. For activities where hookups or connections are required for beneficiary access to the public improvement (Direct Benefit), 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 compared to the total number of persons who could be connected to the infrastructure. Evidence at the time of closeout must include:
- a. The total number of persons in households in the service area;
- b. The total number of low- and moderate-income persons in households connected to the infrastructure,
- c. The number of LMI persons in households connected to the infrastructure divided by the total number of beneficiaries for that activity in the service area equals at least 51 percent, or a larger percent if required to remain within the fundable range; and

- d. A list of all homes hooked up with subgrant funds.
- 5. Area benefit activities as defined in 24 CFR 570.483(b)(1)(i), addressing the needs of elderly, handicapped or homeless beneficiaries are presumed to provide 51 percent low- and moderate-income benefit for scoring purposes unless a survey of the service area of such activity documents a higher percentage of benefit.
- 6. CDBG funded activities may not extend beyond the location of the last LMI beneficiary except where it is required for sound engineering, operation, or design as certified by a licensed engineer.
- (d) Administrative Costs. Applicants shall utilize no more than eight percent of the total eligible subgrant amount for administrative costs.
- (e) Additional Completeness Review Items for Neighborhood Revitalization Applications.

During the completeness review period, the Department shall review applications that propose land assembly or site preparation for new housing construction for low- and moderate-income persons to determine whether documentation is provided to show:

- 1. Firm commitments for construction from the developer;
- 2. Documentation of ownership or an option on the land to control the sale to or ensure use by low- and moderate-income persons; and
  - 3. Documentation that the proposed site is properly zoned.
- (f) An Applicant for a Neighborhood Revitalization subgrant shall meet a national objective by demonstrating that its activities will be carried out in distinct service areas characterized by the concentration of persons of low- or moderate-income.
- (g) An Applicant for a Neighborhood Revitalization subgrant whose score is below the fundable range for full funding and did not receive Readiness to Proceeds points may be offered Planning and Design funding if the Department allocates funds for that purpose.
- 1. Funding for Planning and Design will be offered based on the rank-ordered scores of Neighborhood Revitalization Applicants that fell outside the fundable range.
- 2. Only those applications which meet all other program requirements will be considered.
- 3. A Neighborhood Revitalization subgrant initally awarded for Planning and Design costs shall not exceed \$70,000. Administration and engineering costs shall be as follows:
- a. Engineering costs funded from the subgrant shall not exceed the RUS fee schedule for engineering [RUS Bulletin 1780-9 (rev. 10/2009)], (Table I, Table II, or proration of these tables, depending on the nature of the project) and applicable additional engineering services as defined in this rule.

- b. Grant administrative costs for the Planning and Design phase of the subgrant shall not exceed five percent of the amount awarded.
- 4. After biddable construction plans and specifications are provided to the Department, the Recipient shall request a modification to increase the budget to include the construction costs for the project up to the maximum amount allowed for the jurisdiction. The modification will be approved upon acceptance of the plans by the Department and funding availability.
- <u>5. If biddable construction plans and specifications cannot be completed, the subgrant shall be closed out.</u>
- (2) Program Requirements for Commercial Revitalization. Applications submitted under this category shall be designed to revitalize commercial areas, which serve primarily low- and moderate-income persons, or to meet the National Objective of preventing or eliminating slum or blight. Applications addressing the slum and blight National Objective must conform to the requirements found in 24 CFR 570.483(c) and Section 163.340, Florida Statutes.
- (a) Eligible Activities. All activities must be geographically and physically located within the boundaries of the jurisdiction and the project area and be contiguous to or located on property that is primarily commercial as of the application deadline date. Unimproved property on which activities are proposed cannot be zoned for residential purposes only.
- (b) Funds requested and approved for Commercial Revitalization activities shall not be used as grants or loans for working capital, inventory or supplies, or for interior repairs and renovations, except for repairs necessary to correct code violations or for the removal of architectural barriers to handicap access.
- (c) Service Area Requirements for LMI Projects. Activities in Commercial Revitalization projects are considered to serve the entire jurisdiction in which they are to be undertaken, unless the Applicant can justify a smaller service area (e.g., a Community Redevelopment Area in a portion of a county). The Applicant shall document, using census data or a survey, that at least 51 percent of beneficiaries in the service area are low- and moderate-income persons. A survey shall comply with the requirements specified in paragraph 73C-23.0041(7)(b), F.A.C.
- (d) Requirements for Rehabilitation of Commercial Buildings. If CDBG funds will be used for rehabilitation of commercial buildings, the local government shall adopt a Commercial Rehabilitation Policy. The Department must approve the policy before funds can be requested for that activity. At a minimum, the following shall be included in the procedure:
- 1. Restrict the Rehabilitation of Commercial Buildings activity to commercial buildings within the project area

- pursuant to 24 CFR 570.202(a)(3). Properties upon which or adjacent to where CDBG activities are undertaken shall not be zoned for residential purposes only.
- 2. For projects using the national objective of benefiting low- and moderate-income persons, require all businesses receiving rehabilitation assistance to provide services, which are available to all the residents of the service area.
- 3. Specify the terms and conditions under which the rehabilitation assistance will be provided.
- 4. Provide that all buildings to be rehabilitated, except as provided in subparagraphs (3)(d)11. and 14. below, will be occupied at the time the assistance is provided or subject to a lease agreement such that the building will be occupied prior to closeout. The occupant shall be a legally constituted business with business, sales tax, and occupational licenses.
- 5. Provide that all contracts for rehabilitation over \$2,000 will comply with the Davis-Bacon Act.
- 6. Provide that businesses residing in a building rehabilitated with CDBG funds shall comply with the provisions of 24 CFR 8, (HUD's implementing regulation of Section 504 of the Rehabilitative Act of 1973 (29 U.S.C. Section 794), incorporated herein by reference, as it relates to employment discrimination and facility accessibility.
- 7. Provide that CDBG funds addressing those code violations specified in the application will be in compliance with all local and state building codes and standards.
- 8. Establish a process for recognizing potential conflicts of interest, making those conflicts publicly known, dealing with those conflicts on a local level, and requesting waivers of those conflicts when appropriate pursuant to 24 CFR 570.489 and Sections 112.311-112.3143, F.S. Additionally, provide that no building owner, lesser, lessee, tenant, or occupant, or employee or immediate relative of the same, either personally or corporately, shall serve as a contractor to be paid with CDBG funds for the rehabilitation of said building, nor shall they be paid for their own labor with CDBG funds for the rehabilitation of said building.
- 9. Establish a process for final inspection of a commercial structure after rehabilitation and a process for final acceptance of a contractor's work on any grant funded activity and before the local government considers the rehabilitation completed.
- 10. The expenditure of CDBG funds per façade shall not exceed \$22,000 in CDBG funds. A building on a corner containing a single business may be considered to have two facades. Buildings which have been previously subdivided or portioned may be addressed as separate facades only if the building is subdivided such that:
- a. There are separate primary entrances for each business; and
- <u>b. Each of the businesses has separate and distinct occupational and sales tax licenses.</u>

- 11. The façade of a vacant building may be addressed only if it is part of an overall building façade renovation effort in a contiguous area.
- 12. CDBG funds may be expended on the roof of a privately owned commercial building only after the issuance of a bonafide code violation report and only after the rehabilitation of the façade, the removal of architectural barriers to handicap access in the entrances and the bathroom areas, and the correction of other documented code violations.
- 13. CDBG funds for Commercial Revitalization activities shall not be used as grants or loans for working capital, inventory or supplies, or for interior repairs and renovations of existing businesses, except for repairs necessary to correct code violations or removal of architectural barriers to handicap access and correction of architectural barriers to handicap access in public buildings located in the project area pursuant to the requirements of 24 CFR Part 8, adopted herein by reference.
- 14. A property that poses a threat to public health or safety can be acquired, cleared, or rehabilitated with CDBG funds to eliminate spot blight. An environmentally contaminated property can be remediated. Dilapidated buildings can be demolished, rehabilitated, relocated or, if historically significant, preserved. If a privately owned blighted property is cleared to eliminate a health or safety hazard, the Recipient shall place a lien on the property to recover the CDBG cost of eliminating the blight.
- (e) Administrative Costs. Applicants under the Commercial Revitalization categories shall utilize no more than eight percent of the total eligible subgrant amount for administrative costs.
  - (3) Program Requirements for Housing Rehabilitation.
- (a) The primary objectives of the Housing Rehabilitation category are to improve housing conditions for low- and moderate-income persons. All housing units to be rehabilitated shall be located within the jurisdictional boundaries of the Recipient. For a county, all housing units to be rehabilitated shall be located in the unincorporated portion of the county.
- (b) Housing Rehabilitation subgrant Recipients must have a Department-approved Housing Assistance Plan addressing the activities specified in the application.
- (c) Low- and Moderate-Income Benefit for Housing Rehabilitation.
- 1. Selection of beneficiaries or housing units need not take place during the application process, but may take place at any time during the subgrant application or implementation process. All beneficiaries must be low- and moderate-income persons pursuant to 24 CFR 570.482.
- 2. Activities involving rehabilitation shall be considered to directly benefit low- and moderate-income persons only to the extent that such housing shall, upon completion, be occupied by

- low- and moderate-income persons, and for rental units, the units must be occupied by low- and moderate-income persons at affordable rents pursuant to 24 CFR 92.252, incorporated herein by reference.
- 3. Water or sewer hookups may be performed under this category as a complementary activity in conjunction with rehabilitation of a home.
- 4. Water or sewer hookup-only applications must be funded under this category. Related activities, such as abandonment of a septic tank or well or modification to a house's plumbing to complete the hookup, may be funded in a hookup-only grant. Beneficiaries are reported by households.
- (d) A Recipient shall adopt and implement procedures to fulfill regulatory and statutory requirements relating to Lead-Based Paint pursuant to 24 CFR 570.487 and 24 CFR 35, Subparts B, J, and R, incorporated herein by reference. A Recipient can request reimbursement from the housing rehabilitation line item of its budget for the cost of a lead-based paint inspection prior to the home's site specific environmental review being approved because the inspection is part of the environmental review process. The Recipient is required to:
  - 1. Prohibit the use of lead-based paint;
- 2. Notify potential beneficiaries of the hazards of leadbased paint;
- 3. Inspect properties built before 1978 prior to initiating rehabilitation to determine if lead-based paint is present;
- 4. Undertake appropriate protection of workers and occupants during abatement;
  - 5. Ensure proper clean up and disposal procedures are used;
- <u>6. Retain records of enforcement and monitoring for at least six years after final closeout of the subgrant.</u>
- (e) Rehabilitation of all housing units addressed in any way with CDBG funds must be in compliance with the current Florida Building Code for Existing Buildings, as well as local Building Codes and local Maintenance Codes. If housing units must be replaced, construction of new units must be in full compliance with current Florida Building Code.
- (f) When CDBG funds are expended to acquire property through a voluntary process for the purpose of assisting low-and moderate-income households to relocate out of a 100-year floodplain, the following shall apply:
- 1. Future development of the property acquired shall be prohibited, unless the use does not increase the property's impervious surface;
- 2. The local government may retain title to the property or transfer the title to a land conservancy agency or program, subject to Department approval;
- 3. The beneficiaries shall agree in writing to relocate outside a 100-year floodplain; and
- 4. Any beneficiaries who subsequently relocate into a 100year floodplain shall not be provided any direct benefit with

- CDBG funds at any future point in time, and this restriction shall be noted in the relocation document signed by the beneficiaries in subparagraph (2)(f)3. above.
- 5. All structures on the property shall be demolished or relocated out of the floodplain.
- (g) Administrative Costs. Applicants under the Housing Rehabilitation category shall utilize no more than 15 percent of the total eligible subgrant amount for administrative costs.

  Rulemaking Authority 290.048 FS. Law Implemented 290.043, 290.044, 290.046 FS. History–New 6-6-10, Formerly 9B-43.0045, Amended \_\_\_\_\_\_.
- <u>73C-23.0048 Specific Requirements for Economic</u> Development.
- (1) Applications submitted under this category shall be for the following:
- (a) The creation or retention of jobs, of which at least 51 percent are for low- and moderate-income persons,
- (b) The creation of jobs that are presumed to be low- and moderate-income under 24 CFR 570.483(b)(4)(iv) and (v), or
- (c) To assist a business that provides goods or services to low- and moderate-income persons in accordance with 24 CFR 570.482(f)(2)(ii).
- (2) Application Submission and Funding Reservation for Economic Development Projects.
- (a) An Economic Development Application for Funding may be submitted when the annual application cycle opens. Economic Development applications received by the application deadline will be scored and ranked if the total dollars requested exceeds the amount available in the category. If successful, they will be awarded until all available funds are committed.
- (b) If initial application requests not exceed the available funds, any Application for Funding received after the application deadline will be reviewed and awarded on a first-come, first-served basis until all funds are committed.
- (c) These funds shall include the annual Economic Development allocation and may include program income and deobligated funds from previous Economic Development subgrants, in accordance with the Annual Action Plan.
- (d) A local government may apply up to three times in an annual funding cycle.
- (e) A local government cannot submit an additional Economic Development Application for Funding in an annual funding cycle until any previously submitted Economic Development application for that annual funding cycle has been rejected by the Department, has lost its funding reservation, or has been withdrawn in writing by the Chief Elected Official or his or her designee.
- (f) Economic Development applications will be date stamped upon receipt by the Department's Community

- Development Block Grant Section. The date stamp and time received by the Section shall establish the date and time for funding reservation purposes. Date stamps from any other section of the Department shall not establish a funding reservation. Funds will be reserved in the order that the applications are received by date and time.
- (g) Once the Application for Funding is received, the local government will not be allowed to provide new documentation from a Participating Party to meet the initial Participating Party requirements in the application.
- (h) If sufficient funds are available to fully fund an application, that amount is reserved for the Applicant upon receipt of the Application for Funding. The application continues to have those funds reserved until a subgrant is executed or until there is a loss of funding reservation.
- (i) If insufficient funds are available to fully or partially fund applications with a funding reservation, those applications shall retain a position in the funding reservation line. The applications may be funded if additional funds are made available by additional allocations or by a loss of funding reservation by another Economic Development Applicant.
- (j) If partial funding is available, the Department may offer to partially fund an eligible application and will continue with the application review and scoring for partial funding. If the application remains eligible after review and scoring based on available funding, the Department will offer to partially fund it. There is no guarantee of full funding in such an offer, but a partially funded subgrant will be considered first if additional funds become available. The local government has the option of declining a partially funded offer.
- (k) The review and offer of funding will then be made to the next eligible pending application. If there are no other applications pending or if the amount of the funds available is too small for reasonable consideration, the partial funds can be held until additional funds are available.
  - (3) Prohibited Uses of Funds.
- (a) Funds shall not be used for working capital, inventory or supplies.
- (b) Direct assistance to a non-public entity shall not be in the form of a grant.
- (c) Funds cannot be used to purchase assets from any entity if any corporate officer(s) or principal(s) of the Participating Party owns an interest in that entity.
- (d) Funds cannot be used to build or develop infrastructure beyond that which is required as a prerequisite for the job creation by the Participating Party.
  - (e) Funds shall not be used to refinance existing debt.
- (f) Funds cannot be used for a loan to a non-public entity which is determined not to be appropriate as defined in 24 CFR. 570.482(e).

- (4) Economic Development Activity Outside the Applicant's Jurisdiction.
- (a) The Applicant can undertake activities outside its jurisdiction provided an interlocal agreement exists with the affected jurisdiction(s); and
- 1. The activity involves installing new infrastructure or connecting to existing infrastructure that is located outside the Applicant's jurisdiction and may be owned and operated by the Applicant, or another public or private entity, but the job creation site is located within the Applicant's jurisdiction;
- 2. The job creation site is located outside the Applicant's jurisdiction, but the activity involves connecting to infrastructure owned by the Applicant; or
- 3. The job creation site is located outside the Applicant's jurisdiction, but it is located in an Applicant-owned industrial/commercial site.
- (b) Liability for CDBG performance and compliance with all applicable rules and regulations rests with the Applicant.
  - (5) Eligibility Requirements for Loans.
- (a) Determining eligibility for loans to non-public entities. All Economic Development applications submitted to the Department shall be screened to determine if the amount of any loan assistance to a private, for-profit entity; a private, non-profit entity; a neighborhood based organization; a local development organization; or other non-profit entities is appropriate to carry out the Economic Development project. A financial underwriting analysis of the project shall be conducted to determine that the minimum amount of assistance is being requested, that the terms and interest rates are appropriate given the entity's debt service capacity, and that the entity has the ability to meet the proposed debt service, given historical financial statements, as well as data and reasonable projections of revenues and operating expenses, if applicable.
- (b) Applications which do not contain justification of the appropriateness of the assistance being requested shall be ineligible in accordance with federal law and federal guidelines and shall be ineligible for scoring as provided in Section 290.0475, F.S.
- (c) If the Department's review of the financial underwriting analysis for the assistance determines that the funds requested exceed the funds necessary, the funding request shall be reduced by the Department.
- (d) The local government shall provide a financial underwriting analysis and other Participating Party documentation to the Department that was not required at the time of application. The underwriting analysis must meet the requirements of 24 CFR 570.482(e), and Appendix A of 24 CFR 570. The underwriting analysis must be prepared by a certified public accountant, a commercial lending underwriter, a financial professional employed by the local government or the Participating Party, or some other financial or economic

- <u>development professional approved by the Department, and</u> shall verify:
  - 1. That all project costs are reasonable;
- 2. That all sources of funding included in the application document their commitment to the project through written offers to fund with all contingencies stated;
- 3. That to the extent practicable, CDBG funds are not substituted for readily available non-federal financial support;
  - 4. That the project is financially feasible;
- 5. That to the extent practicable, the return on owner's equity investment shall not be unreasonably high; and
- 6. That to the extent practicable, CDBG funds will be disbursed on a pro-rata basis with other finances provided to the project.
- (e) Once this financial underwriting analysis and other required documentation has been provided by the local government, any material change, including changes in corporate or ownership structure, which affects the underlying assumptions upon which the local government relied will require that the analysis be re-evaluated by the local government and any assistance requested for the Participating Party must be adjusted if a "material change" has occurred.
- (f) For CDBG loans only, CDBG funds may be used to fund up to 50 percent of the cost of eligible activities at the job creation location. The administrative cost shall not be included in this calculation. Applications which do not meet this requirement shall lose their funding reservation.
  - (6) Eligibility Requirements for Infrastructure Projects.
- (a) The eligibility for infrastructure projects shall be determined by:
  - 1. The type of activities proposed, and
- 2. Evidence that the activities will benefit primarily lowand moderate-income persons.
- (b) Applications shall also document that the entity proposing to create jobs is financially viable based on accepted industry standards.
- (c) The application shall include a letter from an engineer certifying that the route, scope, cost, and size of the components of the proposed infrastructure are the minimum necessary to provide for the needs of a Participating Party at a job creation location. The Applicant cannot request a modification to decrease the size of the proposed minimum infrastructure because of price or change in needs after an agreement is awarded. Any increase in cost shall be paid either by the Applicant or the Participating Party.
- (d) Job Commitment. Applicants shall document that the Participating Party has the financial capacity to meet its commitment to provide or retain the jobs specified in the application. Applications which do not contain evidence of the capacity to provide jobs shall lose their funding reservation.

- (e) Job Creation or Retention. At least one full time equivalent job must be created or retained for each \$34,999 in CDBG funds requested. Applications which do not meet the cost-per-job requirements shall lose their funding reservation.
- (f) Leveraging of CDBG Dollars. Non-CDBG public funds directly linked to the proposed project may be included for scoring purposes. Applicants shall include documentation that all funds to be used for leverage are available and committed to the project and will be in the form of cash, loans, or grants. For CDBG loans, funds expended on assets purchased prior to the date of the site visit shall not be counted to meet the 50 percent non-CDBG investment portion of the project costs. Leverage is not required for infrastructure only projects. In order to be eligible for scoring, leveraged funds must be expended after the date of the site visit and prior to the date of the submission of administrative closeout. The cost of CDBG application preparation paid by the local government is an exception to this provision.
  - (7) National Objective and Public Benefit Documentation.
- (a) An Applicant for an Economic Development project must meet a national objective by:
- 1. Creating or retaining jobs of which at least 51 percent are for persons from low- to moderate-income households or which meet the criteria contained in 24 CFR 570.483(b)(4)(iv) and (v), or
- 2. Providing goods and services to an area with a primarily low- to moderate-income clientele.
- (b) An Applicant for an Economic Development project must provide a public benefit by:
- 1. Creating or retaining full time equivalent jobs at a CDBG-funded cost per job of \$34,999 or less, or
- 2. Providing goods and services to low- to moderate-income persons at a cost of no more than \$350 per LMI beneficiary served.
- (c) In determining whether an activity will benefit low- and moderate-income persons, the net effect of the completed activity shall be considered. In the Economic Development category, each activity shall meet a national objective pursuant to 24 CFR 570.483(b)(4).
- 1. New jobs. The determination of actual benefit to lowand moderate-income persons shall be made based on the number and percent of persons who, at the time they were hired, were low- and moderate-income persons as defined herein.
- 2. Retained jobs. The determination of actual benefit to low- and moderate-income persons shall be made based on the number of low- and moderate-income employed in the jobs that would actually be lost to the labor market or the jobs that would reasonably be expected to turn over within the following two years and filled with LMI persons upon turn over. The calculation of jobs shall be determined as of the date the application is submitted.

- 3. Where job creation is the method of meeting a national objective for construction of a public improvement or facility, all jobs created or retained as a direct result of the construction of the public improvement or facility shall be considered. However, if the costs per job and the time period specified in 24 CFR 570.483(b)(4)(vi)(F)(2), are attained, only those jobs created by businesses included in the application must be counted for the purpose of meeting a national objective.
- (d) Determination of Availability of Jobs to Low- and Moderate-Income Persons. To determine that the created or retained jobs will be made available to low- and moderate-income persons, the local government or Participating Party shall ensure that:
- 1. Jobs will be created which do not require special skills that can only be acquired with substantial work experience, education beyond high school, or specialized work experience;
- 2. Training is provided to members of families of low and moderate income as necessary to equip them with the skills required to obtain and retain the job to be created and/or retained. Such training shall be provided at no cost to LMI persons; and
- 3. The advertising and recruiting efforts are directed toward low- and moderate-income persons.
- (e) If a national objective is attained under the provisions of 24 CFR 570.483(b)(4)(iv) or (v), incorporated by reference, demographic and/or census documentation must be provided with the application.
- (f) Public improvement activities are also subject to the requirements of 24 CFR 570.483(e)(1). Activities to address the needs of those beneficiaries listed in 24 CFR 570.483(b)(2)(ii)(A), will be presumed to meet the national objective of benefit to low- and moderate-income persons if they are directly related to the job creation or retention activities.
- (8) Program Impact Criteria for the Economic Development Category.
- <u>Program Impact Criteria for Economic Development shall be based on a maximum of 660 points.</u>
- (9) Site Visits and Completeness Letters for Economic Development Applications.
- (a) The Department shall conduct site visits to communities that submit economic development applications throughout the funding cycle as long as funds remain available for award.
- (b) The Department shall notify the Chief Elected Officer in writing of the date and time that the site visit will take place. The letter shall include a list of application support documents and CDBG-related policies that will be reviewed at the site visit. It shall also discuss any issues that were noted during the application review process that need to be addressed.

- (c) At the site visit, the Department shall examine all documentation referenced in the Application for Funding and listed in the site visit letter and, if applicable, review the Applicant's response to the issues that were noted during the application review process.
- (d) The Participating Party(ies) must participate in the site visit, or the Participating Party(ies) must come to Tallahassee to meet with Department staff within 30 days after the site visit. Should a Participating Party fail to meet with Department staff, the application must be withdrawn by the Applicant or the application will lose its funding reservation.
- (e) If the application remains eligible for funding following the site visit, the Department will send an "Award and Offer to Contract Letter" and a subgrant agreement electronically to the Applicant for execution.
- (f) If issues were generated during the site visit that were not resolved before the "Award and Offer to Contract Letter" was prepared, a list of additional questions or requests for information will be included with the letter. The Department will add special conditions to the Applicant's subgrant agreement, if necessary, to resolve the issues.
- (g) Within 60 calendar days of the Applicant's receipt of the "Award and Offer to Contract Letter" (the 60-day period), the Department must receive all documentation referenced in the letter, two copies of the signed subgrant agreement, and copies of the documents listed in the instructions for Part 5 of the application under the heading Award and Offer to Contract Documentation.
- (h) Two copies of the signed subgrant agreement and all required documentation must be received by the Department on or before 5:00 p.m. Eastern Time, of the 60th day. The day that the "Award and Offer to Contract Letter" is received by the local government shall not be included in the 60-day completeness period. All documents, except for the two copies of the subgrant agreement, may be submitted electronically to meet the 60-day requirement.
- (i) If all program requirements have been met, the Department will execute and return a signed copy of the subgrant agreement to the local government.
- (j) If CDBG Economic Development funds are unavailable, the eligible applications will be held in the order of their funding reservation as established in this section should additional funds become available.
  - (10) Administrative Costs.
- Applicants under the Economic Development category shall utilize no more than eight percent of the total eligible subgrant amount for administrative costs to a maximum of \$120,000.
- (11) Loss of Funding Reservation for Economic Development Applications:
- An Economic Development application shall lose its funding reservation if:

- (a) The Applicant is not eligible pursuant to subsection 73C-23.0041(4), F.A.C.
- (b) All activites are found to be ineligible. However, if not all activities are found to be ineligible, the funding reservation will be reduced. Only the funding for the eligible activities will be retained.
- (c) The application is missing a required item that is specified in the "Documentation Requirements" section of the application.
- (d) The local government withdraws the application in a letter signed by the Chief Elected Officer.
- (e) The Department does not receive all required documentation and the subgrant signed by the Chief Elected Officer or his or her designee within 60 days of the applying local government's receipt of the award and offer to contract letter. If the local government submits the required documentation and signed subgrant after the 60-day period has expired, the date that the subgrant and all required documents are received by the Department becomes the new funding reservation date. If the documentation is adequate and unreserved funds are available to fund the application, a subgrant will be executed by the Department.
- (f) A Participating Party withdraws prior to the execution of the subgrant by the Department, unless the subgrant remains within the fundable range with the remaining Participating Parties. Increasing the job creation numbers or leverage of the remaining Participating Parties beyond that referenced in the application shall not be allowed. Replacement of Participating Parties shall not be allowed without withdrawal and resubmission of the application.
  - (12) Change in Participating Party after Award.
- If an Economic Development contract must be modified because of withdrawal of a Participating Party or a reduction in leverage or job numbers, the local government must amend the contract and remain within the fundable range. Substitution of Participating Parties will be allowed only if the substitute is a business desiring to locate at the proposed job creation location or a location that will use the same infrastructure proposed in the application. The substitute Participating Party shall sign a Participating Party agreement which includes an obligation to create the same number of jobs. If the application was scored and ranked, it must remain in the fundable range.

Rulemaking Authority 290.048 FS. Law Implemented 290.043, 290.044, 290.046 FS. History–New

- 73C-23.0049 Funding for Special Economic Development Projects.
- (1) Special economic development projects can include the following:
  - (a) Business Incubators,
  - (b) Microenterprises, and

- (c) Revolving loan funds.
- (2) Maximum Funding for Special Economic Development Projects

The maximum amount that the Department may allocate annually for special economic development projects is \$750,000. Special economic development projects must be designed to provide job creation opportunities for "non-entitlement" local governments. The allocation shall be included in the Annual Action Plan submitted to HUD.

(3) Request for Proposals.

If funding for special economic development projects is allocated, the Department shall issue a NOFA announcing the funding availability through a Request for Proposals (RFP). The Department shall accept proposals from "non-entitlement" local governments during the time period listed in the NOFA.

(4) Review and Award.

The Department will review all proposals that are received during the advertised time period based on the criteria contained in the RFP, and funding will be awarded to the highest scoring proposal(s) until funds run out.

Rulemaking Authority 290.048 FS. Law Implemented 290.043, 290.044, 290.046 FS. History–New

(Substantial rewording of Rule 73C-23.0051 follows. See Florida Administrative Code for present text.)

73C-23.0051 Grant Administration and Project Implementation.

- (1) Financial Management.
- (a) CDBG subgrant Recipients shall establish a financial management system for administering subgrant funds that complies with Section 218.33, Florida Statutes, and 24 CFR 85.20. At a minimum, the system must address the following:
  - 1. Financial reporting,
  - 2. Accounting records,
  - 3. Internal control,
  - 4. Budget control,
  - 5. Allowable cost,
  - 6. Source documentation, and
  - 7. Cash management.
- (b) The Department shall not pay a Request for Funds for an amount less than \$5,000, unless it is a Recipient's final Request for Funds prior to administrative closeout.
- (c) If the Office of the Governor has determined that a Recipient is in a State of Financial Emergency as defined in Section 218.503, Florida Statutes, the Recipient shall provide the documentation listed in the Special Conditions section of the subgrant agreement with each Request for Funds to justify payment.
  - (2) Environmental Review.

- (a) CDBG subgrant Recipients must comply with the procedures set forth in 24 CFR Part 58, Environmental Review Procedures for Title I Community Development Block Grant Programs, incorporated herein by reference, and 40 CFR 1500-1508, National Environmental Policy Act Regulations, incorporated herein by reference.
- (b) For Commercial Revitalization, Economic Development, and Neighborhood Revitalization subgrants, Recipients shall submit four copies of the required environmental documents to the Florida State Clearinghouse before initiating any construction work. Along with the documents required by the federal regulations listed in paragraph (a) above, four copies of the following application documents shall be sent to the State Clearinghouse:
  - 1. Part 2: Application Profile and General Scoring Criteria;
- <u>2. Part 3: Sources and Uses of Non-CDBG Funds</u> (Leverage), if applicable;
- 3. Form C-1 from Part 4 (Commercial), Form E-2 from Part 5 (Economic Development) or Form N-1 from Part 7 (Neighborhood);
  - 4. Part 9: Appendix A: Maps; and
- 5. Part 9: Appendix D: Historic Preservation Documents, if applicable.

The address for the State Clearinghouse is:

Florida State Clearinghouse

Florida Department of Environmental Protection

3900 Commonwealth Blvd, M.S. 47

Tallahassee, Florida 32399-3000

- (c) One copy of the environmental documents shall be sent to the regional planning council that serves the Recipient's jurisdiction, and one copy of the documents shall be sent to Department along with HUD Form 7015.15 (Request for Release of Funds and Certification).
- (d) After receiving comments from the State Clearinghouse and the regional planning council, the Department will compile the comments and send them to the Recipient to address any unresolved issues. If there are no unresolved issues, the Department will issue HUD Form 7015.16 (Authority to Use Grant Funds) to the Recipient.
- (e) For Housing Rehabilitation subgrants, the Recipient shall submit environmental documentation for each house that will be rehabilitated to the State Historic Preservation Officer before initiating any construction work on the respective house. The environmental documents shall be submitted to the address below, either individually for each unit or combined into one submittal package:

State Historic Preservation Officer

Attn: Compliance Review

500 South Bronough Street

Tallahassee, Florida 32399-0250

Rehabilitation work cannot be initiated on a housing unit until the Department issues an environmental release for the housing unit.

- (3) Procurement.
- (a) Each subgrant Recipient shall adopt a local CDBG Procurement Policy that complies with the provisions of 24 CFR 85.36, incorporated herein by reference. For covered professional services contracts, the policy shall also comply with Section 287.055, F.S. (Consultants Competitive Negotiation Act).
- 1. The Department must approve the policy before the Recipient can request reimbursement of administrative costs exceeding \$5,000 or any construction costs. CDBG funds shall be used to obtain commodities and services only in accordance with the approved policy.
- 2. The Recipient shall submit procurements being paid with CDBG funds to the Department for desk monitoring. Submission shall be made in accordance with the requirements outlined in the Recipient's subgrant agreement.
- (b) Professional services. Any procurement which requires public notice in a newspaper based on the local CDBG procurement policy, shall be published in a newspaper of general circulation in the county where the Recipient is located. The following public notice criteria apply for the procurement process to be approved:
- 1. If the newspaper is located in an Office of Management and Budget (OMB) designated metropolitan statistical area (MSA), only one responsible and responsive bid or proposal is needed to complete the process.
- 2. If the newspaper is not located in a MSA, at least three responsible and responsive bids or proposals must be received by the local government.
- 3. Recipients, whose newspaper of general circulation is not located in a MSA, may advertise in both the local newspaper and a newspaper in a nearby MSA. Only one responsible and responsive bid or proposal would be needed to complete the process.
- 4. The procurement policy shall require at least 12 days for receipt of the proposals or bids after the date of publishing.
- (c) Construction. Public notice for construction procurement shall conform to Section 255.0525, F.S. If fewer than three responsible and responsive bids are received and the notice was not published in a MSA newspaper, the procurement must be readvertised.
- (d) Nothing in paragraph (3)(b) or (c) shall preclude a local government from using other media to solicit bids related to procurement of professional services and construction activities.
- (e) The Department must provide written approval prior to the Recipient awarding any contract exceeding \$25,000 resulting from a single source, a sole source, or a non-

competitive procurement. For contracts below \$25,000, the Recipient's files must document the justification for the procurement which complies with 24 CFR 85.36(b)(4).

If prior written approval is not obtained, the Department has no obligation to fund the contract unless the Department subsequently approves the procurement. Cost analysis is required for single and sole source contracts to comply with 24 CFR 85.36(f) and establish the reasonableness of the price even if competitive procurement was used.

- (f) In procuring services for subgrant administration, Recipients shall evaluate in writing any economies of scale or other means of securing efficiency that may be available as a result of the type, number and geographic distribution of subgrants to be administered by the Recipient or by a prospective subgrant administrator.
- (g) Under Section 290.047(5), F.S., a local government is permitted to contract with the same entity for more than one service, provided that the local government can document that the entity is either (i) the sole source or (ii) was determined, through the Request for Proposals process, to be the proposer most advantageous to the local government. Different services, such as, program administration, and engineering services, shall not be combined in a single contract except for design-build contracts procured in accordance with Section 287.055, F.S. If separate procurements result in one firm selected for application and administration services, those services may be combined into one contract provided there are separate scopes of work and a separate fee for each service.
- (h) All contracts for professional services shall conform to the following:
- 1. Any Request for Proposals which includes more than one service shall provide that:
- a. Proposals may be submitted for one or more of the services;
- b. Qualifications and proposals shall be separately stated for each service; and
- c. The evaluation of the proposals shall be separate for each service.
- 2. A written evaluation, such as a ranking sheet or narrative, shall be prepared for each proposal, ranking or comparing each proposal to the criteria in the published Request for Proposals. Based on those criteria, the written evaluation will document why the successful proposal was selected.
- 3. A separate professional services contract must be procured and executed between the local government and any professional services consultant for each CDBG subgrant, except as provided in paragraph (3)(i) below. Each advertisement for procurement of CDBG professional services, except for application preparation, must identify either the CDBG funding cycle by federal fiscal year or the CDBG subgrant number. In the absence of any identifier, the

procurement will be presumed to be for the CDBG funding cycle closest to the publication date of the advertisement or, if there is no advertisement, the date of receipt for proposals.

- 4. Each professional services contract must identify the CDBG contract number to which it is applicable.
- 5. No firm shall be precluded from submitting a bid or proposal for any work funded partially or wholly with CDBG funds based on a minimum experience requirement. A firm's experience can be addressed as an evaluation factor in the ranking for professional services and is a consideration in determining the "responsibility" of a firm when the determining the "low, responsive, responsible bidder" for services procurement through bids, as required by 24 CFR 85.36(d)(2)(ii)(D).
  - (i) Engineering and Administration Services.
- 1. If the procurement for administration or engineering services for a subgrant initially funded only for planning and design was accepted by the Department and the public notice or Request for Proposals stated that the firm awarded a contract for planning and design services would also, at the discretion of the local government, provide additional services during project construction, then a procurement for those services during construction is not required. If the Request for Proposals specifically included services during construction in the scope of work, then no additional procurement is required for those services.
- 2. A Recipient whose application received "Readiness to Proceed" points may use the design engineer for services during construction if the Department determines that the procurement for design services was competitive and the Request for Proposals specifically included services during construction in the scope of work.

## (i) Construction Contracts.

- 1. If CDBG and other sources of funding are jointly used to fund activities under a single contract, the activities to be paid for with CDBG funds must be shown separately so that the bid proposal identifies the CDBG activities and the amount of a contract to be paid from CDBG.
- 2. If after applying any specified deductive alternates, construction bids exceed available funds, the local government shall not negotiate with the low bidder unless there is only one bidder or unless all bidders are allowed to submit revised bids for the revised project. If the construction cost can be reduced by deleting entire bid line items or reducing quantities based on unit prices identified in the bid, the effect of such deletions or reduction on all bidders' prices shall be determined. Contract award shall be made to the low, responsive and responsible bidder for the revised project.
- 3. All contracts in excess of \$100,000 covered by Section 3 regulations shall contain the language required in 24 CFR 135.38, incorporated by reference.

- 4. All contracts in excess of \$100,000 shall include the following:
- a. A performance bond on the part of the contractor for 100 percent of the contract price; and
- b. A payment bond on the part of the contractor for 100 percent of the contract price.
- 5. All contracts shall include liquidated damages clause establishing a predetermined amount that must be paid if the contractor fails to perform as promised.
- (k) The provisions of this subsection shall not be construed to conflict with or supersede the requirements of Section 287.055, F.S., or any other applicable State or federal law.
  - (4) Modifications.
- (a) All proposed modifications to the subgrant agreement must be approved by the Department.

A Recipient shall not request a modification to add activities that would broaden the scope of the project beyond what was included in the original Application for Funding, except as allowed below. Unaddressed need activities that were included in the Application for Funding can be added to the subgrant agreement through a modification request if all addressed need activities have been procured and funds are available to complete the unaddressed need activities. Replacing a participating party that has withdrawn from an economic development project is not considered an activity.

If a modification request involves a reduction in the number of beneficiaries or accomplishments listed in the original Application for Funding, the Recipient shall conduct a public hearing to discuss the changes prior to submitting the modification request. The hearing must be noticed as defined in subsection 73C-23.0031(44), F.A.C., of this rule.

## A modification request shall be denied if:

- 1. The modification would result in the application score dropping below the fundable range for applications submitted in the same program category during the same application cycle; or
- 2. The modification request contains an activity that was not included in the Recipient's original Application for Funding. The only exception shall be that an activity designed to address Americans with Disabilities Act (ADA) violations that were discovered during Department monitoring can be approved provided funds are available after all bids related to addressed need have been procured.
- (b) Documentation Required. Requests for modification shall include the following written documentation for review by the Department:
- 1. A cover letter signed by the Chief Elected Officer or his or her designee which describes the need for the proposed changes and the effect of the changes upon the approved project. If the modification involves an extension of time, the Recipient must provide a justification for the extension.

- 2. Two copies of Form SC-44 Modification to the Subgrant Agreement signed by the Chief Elected Officer or person designated by resolution to sign modifications.
- 3. If applicable, copies of all revised application pages that would be changed if the proposed modification is approved showing the changes.
  - 4. If applicable, a revised Activity Work Plan.
- 5. If there are changes to the subgrant budget, including CDBG or leverage funds, beneficiaries or accomplishments, a signed copy of Form SC-35 Request for Amendment that shows current and proposed numbers. The grant manager will prepare a revised Project Budget based on the information on Form SC-35 and include it with the modification package.
- <u>6</u>. If there is a change in activity location, a map indicating the proposed changes.
- 7. If applicable, a copy of the public notice for the public hearing at which the modification was approved, documenting compliance with subsection 73C-23.0031(44), F.A.C. and a copy of the minutes from the hearing.
- (c) To allow the Department adequate time to process a modification before the contract end date, modification requests shall be received by the Department at least 45 calendar days prior to the contract end date. If a modification is received less than 45 calendar days before the contract end date, the following penalty points shall be assessed on future Small Cities CDBG applications:
- 1. For modification requests received 35-44 days before the contract end date, a 5-point penalty shall be assessed for two years from the date that the administrative closeout request is received by the Department;
- 2. For modification requests received 25-34 days before the contract end date, a 10-point penalty shall be assessed for two years from the date that the administrative closeout request is received by the Department;
- 3. For modification requests received 10-24 days before the contract end date, a 15-point penalty shall be assessed for two years from the date that the administrative closeout request is received by the Department;
- 3. For modification requests received 10-24 days before the contract end date that include a request to extend the contract period, a 20-point penalty shall be assessed for two years from the date that the administrative closeout request is received by the Department;
- 4. For modification requests received less than 10 days before the contract end date, a 25-point penalty shall be assessed for three years from the date that the administrative closeout request is received by the Department;
- 5. For modification requests received less than 10 days before the contract end date that include a request to extend the contract period, a 30-point penalty shall be assessed for three

- years from the date that the administrative closeout request is received by the Department;
- 6. If a modification request is received after the contract end date, a 40-point penalty shall be assessed for four years from the date that the administrative closeout request is received by the Department if the reinstatement is approved. A reinstatement shall only be approved if the Recipient can show that it will be able to complete any unfinished work before the new end date being requested and that all National Objective and Public Benefit requirements will be met.
- 7. If a Recipient requests more than one modification with less than 45 days remaining before the contract end date, the penalty points shall be cumulative.
- (d) The Department shall approve or reject a modification request in writing within 45 days of the Department's receipt of the Recipient's request. If the Department requests additional information needed to process the modification, the Department shall approve or reject the modification request within 45 days of receipt of the additional information.
- (e) Any necessary modifications must be received and approved by the Department prior to the local government submitting its administrative closeout package.
  - (5) Subgrant Agreement Closeout.
- (a) The Recipient shall submit a subgrant agreement closeout package to the Department within 45 days of the termination of the contract or within 45 days of the completion of all activities, including job creation for economic development projects. Recipients with an economic development project shall not submit an administrative closeout package until the cost per job is less than \$10,000 or until one year after the date that all CDBG-funded activities were completed, whichever comes first.
- (b) All funds drawn from the Department and not expended must be returned to the Department prior to submission of the closeout.
- (c) Upon completion of the activities contained in the local government's CDBG subgrant, including any amendments, the local government shall submit to the Department a closeout report and documentation which includes:
- 1. The final statement of costs and copies of the final construction invoices;
- 2. Certification that all construction has been completed, inspected and approved by all parties prior to the subgrant end date and submission of the administrative closeout;
- 3. Photos of project activities, maps, and documentation of fair housing activities and resolution of citizen complaints and outstanding monitoring issues:
- 4. Certification that all costs except those reflected on the closeout report have been paid;
  - 5. Documentation of the expenditure of any leverage;

- <u>6. A report of final beneficiary data and final accomplishments:</u>
  - 7. A list of the homes receiving direct benefit; and
- 8. Certification that each housing unit assisted was within the local government's jurisdiction for Housing Rehabilitation.
- (d) The closeout report must contain original signatures. Facsimile (FAX) and electronic submissions are not acceptable to meet submission requirements.
- (e) The Department will respond to a closeout request by mailing a Notice of Outstanding Closeout Issues (NOCISS) letter that identifies issues that must be resolved before the Department can approve the closeout or by mailing a Notice of Administrative Closeout.
- (f) If a Recipient fails to meet contractual requirements on time, the Department reserves the right to require that a Recipient financially (not administratively) close out a subgrant to meet federal requirements for the timely distribution of funds set by HUD.
- (g) If an audit report is past due, the subgrant cannot be administratively closed until the past due audit is received. If an audit report is owed but not past due, the administrative closeout can proceed. Final closeout shall not occur until all required audits are received.
  - (6) Performance.
- (a) Reporting. At a minimum, the local government shall provide the Department with:
  - 1. Quarterly progress reports,
  - 2. An annual Section 3 report,
- 3. A Semi-Annual Minority/Woman Business Enterprise report, and
  - 4. An administrative closeout report.
- (b) Monitoring by the Recipient. Each subgrant Recipient shall constantly monitor its own performance of project activities to ensure that time schedules are met, projected milestones are accomplished, and other performance goals are achieved in accordance with the Activity Work Plan of the subgrant agreement.
- (c) Monitoring by the Department. The Department shall periodically review the Recipient's implementation of the project to ensure compliance with the approved application, the subgrant agreement, the requirements of Sections 290.0401-048, F.S., this rule, and other applicable State laws and federal regulations.
- 1. Recipients shall supply data and make records available as necessary for the Department to complete an accurate evaluation of contracted activities. Recipients shall respond to any monitoring finding or concern that requires a response, within 45 days of the Recipient's receipt of the Department's monitoring report. The Department will reject any Request for Funds when a response to a monitoring report is late.

- 2. If the Department must take formal action under the terms of the subgrant to terminate it for cause following a monitoring, the Recipient will be assessed 150 penalty points against the score of future applications. This penalty expires two years from final closeout (not administrative closeout) of the terminated grant.
- (d) Remedies. When the Department determines on the basis of a review of the Recipient's performance that the terms of the subgrant are not being met, the Department shall:
- 1. Initiate actions as prescribed in 24 CFR 570.910(b), "Corrective and Remedial Actions" and 24 CFR 570.911, "Reduction, withdrawal, or adjustment of grant or other appropriate action."
- 2. The Department may unilaterally modify the agreement to delete an ineligible activity and deobligate any unencumbered funds if at any time after the effective date of a subgrant the Department determines that a funded activity is not eligible pursuant to 24 CFR 570.
- (e) Submission of inaccurate information in monitoring report responses; audit or audit finding responses; quarterly, closeout, program income, or other reports; or Requests for Funds may result in penalties if this inaccuracy results in subsequent official Department action (such as the granting of administrative or final closeout status, releasing funds, or clearance of findings).
- 1. In the case of inaccurate monitoring or audit responses, the closeout status, audit clearance, and/or monitoring report clearance shall be revoked.
- 2. If a penalty was avoided as a result of inaccurate information being reported, the penalty will be assessed.
- 3. If the subgrant was administratively closed as a result of inaccurate information, the subgrant shall be reopened and the Recipient shall be ineligible to apply for and receive additional CDBG funding in accordance with Section 290.046(2)(c)1., F.S. If a subgrant is reopened, the Department shall cancel any subsequently awarded subgrant and the Recipient shall repay any CDBG funds drawn under the nullified subgrant.
  - (7) Audit Requirements.
- A Single Audit under OMB Circular A-133, or an attestation statement that a Single Audit is not required, must be received from each Recipient with either an open or administratively closed contract the June 30 following the end of each Recipient fiscal year in which subgrant funds were expended or a penalty will be assessed. A 25-point penalty will be assessed for audits not received by the June 30 deadline. A 10-point penalty will be assessed for attestation statements not received by the June 30 deadline. The penalty will expire two years from the date that the audit report or attestation statement was received by the Department.

- (a) The annual audit report shall be accompanied by management letters and the Recipient's response to all findings, including corrective actions to be taken.
- (b) The annual financial audit report shall include a schedule of financial assistance specifically identifying all agreement and grant revenue by sponsoring department and agreement number.
- (c) The complete financial audit report, including all items specified in paragraph (7)(a) or (b) above, shall be sent directly to the addresses specified in the subgrant agreement.
- (d) If the audit shows that the entire funds, or any portion thereof, were not spent in accordance with the conditions of a CDBG subgrant or this rule, the Recipient shall be held liable for reimbursement to the Department of all funds not spent in accordance with applicable regulations and subgrant provisions within thirty (30) days after the Department has notified the Recipient of such noncompliance.
- (e) The Recipient shall retain all financial records, supporting documents, statistical records, and any other documents pertinent to a CDBG subgrant for a period of six years after receipt of final closeout notification from the Department. However, if litigation or an audit has been initiated prior to the expiration of the six year period, the records shall be retained until the litigation or audit findings have been resolved.
- (f) The Recipient shall have all audits completed by an independent certified public accountant (ICPA) who shall either be a certified public accountant or a public accountant licensed under Chapter 473, F.S. The ICPA shall state that the audit complied with the applicable provisions noted above.
  - (8) Displacement and Relocation.
- (a) Recipients are required to develop a written plan for assisting persons or businesses that may be displaced as a result of activities assisted with CDBG funds. The plan shall include actions that the Recipient shall take to mitigate any adverse effects resulting from CDBG-funded activities that may cause such displacement. This plan shall be in accordance with Section 104(d) of Title I of the Housing and Community Development Act of 1974, as amended, and is required even if displacement is not anticipated.
- (b) If the CDBG project involves the acquisition of real property by the local government, regardless of whether such acquisition is funded from the CDBG grant, or causes displacement of persons or businesses, the local government shall comply with 49 CFR 24 (the implementing regulation of the federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970) incorporated herein by reference. For activities resulting in displacement of persons or businesses that do not involve the acquisition of real property, and thus not subject to the "Uniform Act," the local

- government's local written policy shall identify the assistance it elects to provide for such persons or businesses.
- (c) The Recipient shall make its displacement and relocation policy available to the public.
  - (9) Records.

The local government shall maintain all subgrant files and records within a readily accessible site within its jurisdiction and under its control at all times until six years after receipt of final closeout notification from the Department. The local government shall provide all interested citizens with reasonable access to the subgrant records during normal business hours.

- (10) Program and Non-Program Income.
- (a) Liquidated damages, rebates, refunds, or any other "non-program income" received from any party previously paid (or from whom payment was withheld) shall be used to conduct additional eligible activities or returned to the Department. Additional direct and quantifiable costs (i.e., legal fees, court costs, engineering fees or administrative fees as defined in this rule) generated by the incident creating the liquidated damages may be deducted from the total liquidated damages prior to undertaking additional activities or returning funds to the Department. Use of the funds for additional eligible CDBG activities must be preceded by an amendment to the CDBG subgrant detailing their use.
- (b) Program income generated after closeout shall be returned to the Department. Program income generated prior to closeout of a subgrant shall be returned to the Department unless:
- 1. The program income is used to fund additional units of CDBG activities referenced in the subgrant under which the program income was generated; and
- 2. The Recipient amends the subgrant to encompass expenditure of the program income prior to administrative closeout; and
- 3. The funds are to be expended pursuant to the provisions of 24 CFR 570, Sections 290.046-.048, F.S., and this rule.
  - (11) Conflict of Interest.
- If CDBG funds are to be expended to assist or benefit any person listed in 24 CFR 570.489(h)(3), or listed in Section 112.3143, F.S., who is subject to a conflict described in 24 CFR 570.489(h)(2), a waiver of that conflict shall first be requested pursuant to 24 CFR 570.489(h)(4). Should CDBG funds be expended prior to the Department's approval of the waiver of the conflict of interest, the funds expended will not be considered an eligible expense and shall be subject to repayment.
  - (12) Direct Benefit.

The eligibility of households receiving direct benefit, including water or sewer hookups, shall be established no earlier than one year before the work is performed. Eligibility documentation

shall include third party documentation of household income and source(s) regardless of the value of the direct benefit.

Rulemaking Authority 290.048 FS. Law Implemented 290.044, 290.046, 290.047, 290.0475 FS. History–New 5-23-06, Amended 2-26-07, 6-6-10, Formerly 9B-43.0051, Amended

(Substantial rewording of Rule 73C-23.0061 follows. See Florida Administrative Code for present text.)

73C-23.0061 Emergency Set-aside Assistance. Applications will be accepted for the Emergency Assistance Set-aside in accordance with Section 290.044(5), F.S., and the following criteria:

- (1) The maximum funds available under this set-aside from each federal fiscal year's allocation shall be five percent of the funds and shall be available through March 31 of the following calendar year.
- (2) The funds shall be to meet serious, urgent community needs of low- and moderate-income residents resulting from a natural disaster. The area must have been declared to be in a state of emergency by executive order of the Governor as provided under Section 252.36, F.S. The National Objective to be met shall be Urgent Need or Low- and Moderate-Income benefit.
- (3) If more than one county is declared to be in a state of emergency as the result of a natural disaster, the Department shall rank the counties using damage estimates from the Federal Emergency Management Agency and/or the Florida Division of Emergency Management. A Notice of Funding Availability (NOFA) shall be issued for those eligible communities in the county that incurred the highest estimated damage amount.
- (4) Applications will only be accepted from eligible local governments, as defined in Section 290.042(5), F.S., from the county listed in the NOFA. A local government with an open subgrant in any other category is not precluded from applying for or receiving Emergency Set-aside funds because of the open subgrant or its status.
- (5) Sufficient documentation must be provided to show that the activities for which funding is being requested are directly related to the specific event covered by the Governor's executive order. The amount of funds requested shall be limited to that amount necessary to address the emergency need. As stated in Section 290.044(5), F.S., Emergency Set-aside funds may only be provided to a local government to fund eligible emergency-related activities for which no other source of federal, state, or local disaster funds is available.
- (6) All other provisions of this rule chapter shall apply to the Emergency Assistance Set-aside unless otherwise stated in the NOFA.
- (7) If the total requests for funding from the eligible communities in the county determined to have incurred the

- highest estimated damage exceed the amount of available funds, the Department shall allocate funds proportionately among all Applicants with eligible activities, not to exceed the amount available.
- (8) If an Applicant chooses not to accept the amount offered, that amount shall be redistributed to other eligible Applicants.
- (9) If any funds remain after the awards are made to all of the communities in the county with the highest estimated damage amount, a NOFA shall be issued for the communities in the county that incurred the second highest estimated damage amount. The remaining funds shall be allocated proportionately between the communities that apply.
- (10) If a state of emergency is not declared before March 31 of a state fiscal year, the emergency set-aside funds for that time period shall be reallocated in accordance with Section 290.044(5), F.S.

Rulemaking Authority 290.044 FS. Law Implemented 290.044 FS. History—New 5-23-06, Amended 6-6-10, Formerly 9B-43.0061, Amended\_\_\_\_\_\_.

(Substantial rewording of Rule 73C-23.0071 follows. See Florida Administrative Code for present text.)

73C-23.0071 Section 108 Loans Guarantee Program.

- (1) Eligibility.
- (a) Municipalities and counties on U.S. Department of Housing and Urban Development's (HUD) list of non-entitlement local governments in Florida are eligible to apply for Section 108 loans guaranteed by the State of Florida's current and future Small Cities Community Development Block Grant allocations.
- (b) Any project proposed for funding through the Small Cities Community Development Block Grant Loan Guarantee Program must be located within the jurisdictional boundaries of the non-entitlement local government that is applying for the loan.
- (c) Section 108 loan requests must meet one of the three National Objectives to be eligible for consideration.
  - (2) Application Process.
- (a) Eligible non-entitlement local governments wanting to receive assistance through the Small Cities Community Development Block Grant Loan Guarantee Program may apply at any time during the year. The following application process must be followed:
- 1. The non-entitlement local government completes the Section 108 Pre-Application Questionnaire (See Form SC-58.) and submits it to the Department for review.
- 2. Following the Department's review and acceptance of the local government's responses to the Section 108 Pre-Application Questionaire, the local government requests a

screening meeting with the Department. The meeting is held to determine if the proposed project meets all program requirements.

- 3. If the Department determines that the project is eligible for further consideration, the local government is invited to submit a Section 108 loan application. The local government must provide documentation to the Department that it has met the Citizen Participation requirements detailed in paragraph 73C-23.0041(5)(b), F.A.C., with the exception that it only has to provide a project summary and draft budget at the second public hearing.
- 4. The local government then prepares its Section 108 loan application and submits it to the Department for review. The application narrative must describe how the proposed project will meet a national objective and the public benefit standards, and it must document that the proposed activities are eligible for funding. The narrative shall also include a detailed budget showing all sources and uses of funds, a repayment (amortization) schedule, required local government certifications, proof of proper citizen's participation and site control (if applicable), background information on project partners, maps, and other supporting documentation to illustrate the specifics of the proposed project. Projects which propose a loan(s) to a third party(ies) shall include letters of commitment from all funding sources evidencing sufficient non-loan funds are available to complete the project. For economic development projects, these commitments shall include at a minimum those stated in the Economic Development section of the Small Cities CDBG Application for Funding (Form SC-60.5) under "Initial Participating Party Commitments."
- 5. Upon receipt of the application, the Department conducts a "due diligence and compliance" review of the application. The Department determines whether the application is eligible for funding and financially feasible, ineligible for funding, or financially infeasible.
- 6. The local government shall have a third party complete a detailed underwriting analysis of the proposed project in accordance with 24 CFR 570.482(e)(2) and Appendix A of 24 CFR 570.
- a. The Department shall retain the right to approve the third party underwriter and the method of analysis and to enforce adherence to the guidelines in 24 CFR 570.482(e)(2) and Appendix A. The Department may, as necessary, require additional underwriting standards, criteria or review.
- b. The client for the underwriter is the Department; however, the cost for the underwriting analysis is the responsibility of the applying local government or its partner(s).
- c. The Department shall be provided the underwriting analysis prior to the final application package being sent to HUD Office in Jacksonville. The Department reserves the right to require additional information from the local government, the

- underwriter and/or the third party to whom a loan is proposed. Once a financial underwriting analysis and other required documentation has been provided by the local government, any material change, including changes in corporate or ownership structure, which affects the underlying assumptions upon which the local government relied, will require that the underwriting analysis be re-evaluated by the local government and the underwriter and any assistance requested for the Participating Party must be adjusted if a material change has occurred.
- d. Should the project be approved and funded, the cost for underwriting analysis may be reimbursed from loan proceeds to the entity incurring the cost. This reimbursement requires an up-front letter of request to incur pre-agreement costs from the applying local government, delivered to the Department prior to incurring the costs.
- 7. Any application that is eligible for funding and financially feasible is forwarded to the HUD Office in Jacksonville, along with the underwriting analysis and a recommendation that the application be approved or denied. HUD staff reviews the application and underwriting analysis to ensure that the project is eligible and feasible and to verify that the proposed project meets a national objective, includes eligible activities and meets the public benefit standards. HUD's review also verifies that citizen's participation requirements were met and that all required certifications have been completed.
- 8. The Jacksonville HUD Office then forwards the application to the Section 108 staff at HUD headquarters, along with its recommendation for approval or disapproval of the project.
- 9. A HUD staff underwriter completes a detailed review of the application and examines the requested loan terms and additional security requirements. The staff underwriter may communicate with HUD Jacksonville, the Department, the applying local government, and the local underwriter in order to resolve questions, concerns or issues that may arise during the review.
- 10. Following completion of the HUD staff underwriter's review, a Project Review Panel (consisting of staff from headquarters and Jacksonville) examines the application, suggest ways to resolve issues, request additional information or recommend approval or disapproval. Applications that are approved are forwarded to the Secretary of HUD for final approval.
  - (3) Site Visit and Contracting Period.
- (a) The Department will conduct a site visit following review and acceptance of the final application package. For projects which propose loans to a third party(ies), a representative(s) of the third party(ies) shall attend the site visit or shall meet with Department staff within 30 days of the site visit at the CDBG Office in Tallahassee.

- (b) The local government shall submit a fully executed Participating Party Agreement(s) that meet(s) the requirements set out in the Economic Development section of the Small Cities CDBG Application for Funding (Form SC-60.5).
- (c) The local government and the Department shall execute an agreement that outlines the State's requirements for administering the Section 108 loan and includes a Program Budget and an Activity Work Plan.
- (d) The Department, HUD and the local government sign the HUD Section 108 Loan Guarantee Agreement.
  - (4) Administration and Reporting.
- (a) The local government shall copy the Department on all written correspondence with HUD, the underwriter, the Participating Party, and all other involved parties.
- (b) The local government shall provide the Department with quarterly progress reports until such time as the project is administratively closed. This report shall include documentation in a form acceptable to the Department of the project's draws and repayments, accomplishments to date, and updates on previous areas of concern as determined by the Department.
- (c) The local government shall provide documentation and reporting of Minority and Women Business Enterprise participation and Section 3 compliance until such time as the project is administratively closed.
- (d) The local government shall meet the requirements of subsection 73C-23.0051(8), F.A.C., pertaining to audits.
- (e) The Department shall monitor the local government and project partners to ensure compliance with a National Objective and the public benefit standards, as well as all applicable federal and state regulations.
- (f) The local government shall provide the Department with documentation of each loan payment made to HUD throughout the life of the Section 108 loan.

Rulemaking Authority 290.048 FS. Law Implemented 290.0455 FS. History–New 5-23-06, Amended 6-6-10, Formerly 9B-43.0071, Amended

(Substantial rewording of Rule 73C-23.0081 follows. See Florida Administrative Code for present text.)

73C-23.0081 Nonrecurring CDBG Funding.

(1) Funding.

When nonrecurring CDBG funds are awarded to the State of Florida by the U.S. Department of Housing and Urban Development (HUD) to address disaster recovery needs in Presidentially declared disaster areas, the Department will adhere to the following process:

(a) Submit an Action Plan to HUD which describes the proposed use of the funds.

- (b) Notify eligible Applicants of the availability of the funds, the eligible uses, and the manner in which they can be accessed.
- (c) Evaluate local government proposals for the use of the funds and make on-site visits to ensure compliance with federal guidelines.
- (d) Execute subgrant agreements with the local governments.
  - (2) Objective.

The objective of nonrecurring disaster funding is to address disaster relief, long-term recovery, to restore housing and infrastructure, and other activities allowed under the applicable Federal Register notice, particularly that which affects persons who are of low- and moderate-income that suffered damage or loss as a result of the disaster. Funds may be made available to both Urban Entitlements and participants of the Florida Small Cities CDBG Program, federally designated Indian Tribes and nonprofit organizations.

(3) Rule 73C-23.0031, F.A.C.

(Definitions, except the definitions of "application cycle," "business incubator," "fundable range" "funding cycle," "microenterprise" and "service area") and subsections 73C-23.0051(1), (3) and (9), F.A.C. (Selected portions of Subgrant Administration and Project Implementation) will apply to CDBG disaster recovery funding. All other portions of Rule Chapter 73C-23, F.A.C., are waived.

(4) Service area.

"Service area" is defined as 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.

(5) 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 applicable excerpts of each local government's comprehensive plan in the supporting documentation section of the application.
  - (6) Administrative Costs.

The State's Action Plan will limit the amount of funds that local governments may use for the administrative costs 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.

# (7) Program Income.

Any program income earned as a result of activities funded under a CDBG disaster recovery subgrant must be reported to the Department, but may be retained for the life of the subgrant by the local government and used to continue the activities from which the funds were generated. Contractual agreements will provide additional guidelines for utilization of program income funds.

### (8) Other Funds.

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

# (9) 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.

# (10) Modifications.

All proposed modifications to the subgrant agreement must be approved by the Department.

- (a) Documentation Required. All requests for modifications shall include the following written documentation for review by the Department:
- 1. A cover letter signed by the Chief Elected Officer or their 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 modification.
  - 3. If applicable, a revised Activity Work Plan.
- 4. If applicable, a revised budget showing the current and amended budget.
- <u>5. If there is a change in activity location, a legible map which indicates the proposed change.</u>
- 6. A copy of the minutes of the meeting at which the modification was approved.
- (b) The modification must be received by the Department at least 45 days prior to the end of the subgrant agreement. If the modification 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

- modification affecting closeout and requiring Department approval must be included with the closeout.
- (d) Time Extensions to Subgrant Agreements. Any proposed modification 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.

# (11) Subgrant Closeout.

- (a) At the time of submission of the closeout report form, 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 funds on hand. All funds drawn from the Department and not expended must be returned to the Department prior to, or with, the submission of the closeout documents.
- (c) Upon completion of the activities contained in the local government's CDBG subgrant agreement (including any modifications), the local government shall submit to the Department a closeout package which, at a minimum, gives the final statement of costs, certifies that the project and all non-administrative activities are completed and accepted, certifies that all costs except those reflected on the closeout forms 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 documents shall also contain a revised map of the activities completed during the term of the CDBG contract.
- (e) When housing assistance is provided, the closeout documents must, at a minimum, include a list of the households assisted by the contract. Additional information required by HUD may be requested by the Department at any time.
- (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 required to meet 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 or the percentage required by HUD at the time of the application.
- (g) The closeout documents 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) All closeout documentation is due within 45 days after expiration or termination of the subgrant agreement.

Rulemaking Authority <u>290.046(2)(b)2...,</u> 290.048 FS. Law Implemented 290.043 FS. History–New 6-6-10, Formerly 9B-43.0081, <u>Amended</u>.

NAME OF PERSON ORIGINATING PROPOSED RULE: Roger Doherty, Division of Community Development

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Jesse Panuccio

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 2, 2014

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: June 19, 2014

# Section III Notice of Changes, Corrections and Withdrawals

# **NONE**

# Section IV Emergency Rules

# **NONE**

# Section V Petitions and Dispositions Regarding Rule Variance or Waiver

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

State Boxing Commission

RULE NO.: RULE TITLE:

61K1-1.013 Judge; License and Duties

NOTICE IS HEREBY GIVEN that on October 1, 2014, the Florida State Boxing Commission received a petition for Variance or Waiver filed by Carlos A. Sucre. The Petitioner is seeking a permanent waiver or variance of subparagraph 61K1-1.013(2)(a)2., F.A.C., in regards to the requirement that the application for a professional judge licensure must include a certification from the executive director attesting that the applicant has completed the unofficial scoring of a minimum of

350 rounds of professional boxing or kickboxing held in this state and is in good standing.

Comments on this petition should be filed with the Florida State Boxing Commission, Northwood Center, 1940 North Monroe Street, Tallahassee, FL 32399-2202, within 14 days of publication of this notice.

A copy of the Petition for Variance or Waiver may be obtained by contacting: Paul Waters, Executive Director, Florida State Boxing Commission, at the above address or telephone: (850)488-8500.

# DEPARTMENT OF CHILDREN AND FAMILY SERVICES

Family Safety and Preservation Program

RULE NO.: RULE TITLE:

65C-14.060 Standards for Contracted Emergency Shelters NOTICE IS HEREBY GIVEN that on September 23, 2014, the Department of Children and Families received a petition for waiver of subsection 65C-14.060(3), Florida Administrative Code, from Children in Crisis. Subsection 65C-14.060(3), F.A.C., states contracted emergency shelters which accept male and female clients, age 12 or older, shall ensure that both male and female staff are on duty at all times.

A copy of the Petition for Variance or Waiver may be obtained by contacting: Agency Clerk, Department of Children and Families, 1317 Winewood Blvd., Bldg. 2, Room 204, Tallahassee, FL 32399-0700.

# Section VI Notice of Meetings, Workshops and Public Hearings

# DEPARTMENT OF STATE

Division of Cultural Affairs

The Division of Cultural Affairs announces a telephone conference call to which all persons are invited.

DATE AND TIME: Tuesday, October 14, 2014, 1:00 p.m.

PLACE: Conference call number: (773)945-1030, conference code: 478-291-365

GENERAL SUBJECT MATTER TO BE CONSIDERED: The Art Selection Committee for the new Florida Department of Health in Miami-Dade County Liberty City Clinic is meeting to review and discuss artist submissions.

A copy of the agenda may be obtained by contacting Lee Modica at (850)294-5445 or lee.modica@dos.myflorida.com.

# DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Consumer Services

The Florida Consumers' Council announces a telephone conference call to which all persons are invited.

DATE AND TIME: Tuesday, October 14, 2014, 1:30 p.m.

PLACE: Call-in number: 1(888)670-3525, participant code: 4220265671

GENERAL SUBJECT MATTER TO BE CONSIDERED: General meeting of the Florida Consumers' Council.

A copy of the agenda may be obtained by contacting: Tom Steckler, Director, Division of Consumer Services, (850)410-3800.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Tom Steckler at (850)410-3800. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

## REGIONAL PLANNING COUNCILS

Southwest Florida Regional Planning Council

The Southwest Florida Regional Planning Council announces a public meeting to which all persons are invited.

DATE AND TIME: Thursday, October 16, 2014, 8:15 a.m. PLACE: Southwest Florida Regional Planning Council, First Floor Conference Room, 1926 Victoria Avenue, Fort Myers GENERAL SUBJECT MATTER TO BE CONSIDERED: The SWFRPC's Legislative Affairs Committee will be meeting prior to the regular meeting to discuss legislative priorities.

A copy of the agenda may be obtained by contacting: Regional Counsel Sean McCabe at (239)338-2550, ext. 220, or smccabe@swfrpc.org.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 48 hours before the workshop/meeting by contacting: the SWFRPC's offices at (239)338-2550. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

If any person decides to appeal any decision made by the Board with respect to any matter considered at this meeting or hearing, he/she will need to ensure that a verbatim record of the proceeding is made, which record includes the testimony and evidence from which the appeal is to be issued.

For more information, you may visit the SWFRPC's website at www.swfrpc.org.

# REGIONAL PLANNING COUNCILS

Treasure Coast Regional Planning Council

The Treasure Coast Regional Planning Council announces a public meeting to which all persons are invited.

DATE AND TIME: November 6, 2014, 10:00 a.m.

PLACE: Martin County Public Safety Complex, Fire Rescue Training Room, 2nd Floor, 800 SE Monterey Road, Stuart, FL 34994

GENERAL SUBJECT MATTER TO BE CONSIDERED: To conduct the quarterly meeting of Council's Florida District X Local Emergency Planning Committee.

A copy of the agenda may be obtained by contacting: Kathryn Boer at (772)221-4060 or kboer@tcrpc.org.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 48 hours before the workshop/meeting by contacting: Kathryn Boer at (772)221-4060 or kboer@tcrpc.org. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

If any person decides to appeal any decision made by the Board with respect to any matter considered at this meeting or hearing, he/she will need to ensure that a verbatim record of the proceeding is made, which record includes the testimony and evidence from which the appeal is to be issued.

For more information, you may contact: Kathryn Boer at (772)221-4060 or kboer@tcrpc.org.

### WATER MANAGEMENT DISTRICTS

Suwannee River Water Management District

The Suwannee River Water Management District announces a public meeting to which all persons are invited.

DATE AND TIME: October 22, 2014, 1:30 p.m.

PLACE: District Headquarters, 9225 CR 49, Live Oak, FL

GENERAL SUBJECT MATTER TO BE CONSIDERED: The Lands Committee of the Governing Board will be holding a meeting to discuss the potential acquisition of lands and the management of District land interests.

A copy of the agenda may be obtained by contacting: Robin Lamm, rrl@srwmd.org or (386)362-1001, when agenda is available.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 2 days before the workshop/meeting by contacting: Robin Lamm, rrl@srwmd.org or (386)362-1001. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

For more information, you may contact: Jon Dinges, Assistant Executive Director at (386)362-1001.

### WATER MANAGEMENT DISTRICTS

Suwannee River Water Management District

The Suwannee River Water Management District announces a public meeting to which all persons are invited.

DATE AND TIME: Thursday, October 16, 2014, 9:00 a.m.

PLACE: City of Cedar Key Community Center, 809 6th Street, Cedar Key, FL 32625

GENERAL SUBJECT MATTER TO BE CONSIDERED: Governing Board Meeting to consider District business and conduct public hearings on regulatory and real estate matters, a workshop will follow the board meeting. On Friday, October 17, 2014, at 8:30 a.m., the Governing Board members will meet back at the Community Center and travel to a site visit at an agricultural operation. (Maps will be made available at the Community Center).

A copy of the agenda may be obtained by contacting: Lisa Cheshire at (386)362-1001 or 1(800)226-1066 (Florida only), or on the District's website: www.mysuwanneeriver.com.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 2 days before the workshop/meeting by contacting: Lisa Cheshire. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

If any person decides to appeal any decision made by the Board with respect to any matter considered at this meeting or hearing, he/she will need to ensure that a verbatim record of the proceeding is made, which record includes the testimony and evidence from which the appeal is to be issued.

#### DEPARTMENT OF MANAGEMENT SERVICES

**State Retirement Commission** 

The State Retirement Commission announces public meetings to which all persons are invited.

DATE AND TIME: October 16, 2014, 2:00 p.m.; October 17, 2014, 9:00 a.m.

PLACE: Orlando Marriott-Lake Mary, 1501 International Parkway, Lake Mary, Florida

GENERAL SUBJECT MATTER TO BE CONSIDERED: To conduct hearings pursuant to Section 121.23, Florida Statutes, and to consider other matters related to the business of the Commission.

A copy of the agenda may be obtained by contacting: Department of Management Services, State Retirement Commission, 4050 Esplanade Way, Suite 160, Tallahassee, Florida 32399-0950 or by telephone: (850)487-2410.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 15 days before the workshop/meeting by

contacting: Department of Management Services, State Retirement Commission, 4050 Esplanade Way, Suite 160, Tallahassee, Florida 32399-0950 or by telephone: (850)487-2410. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

If any person decides to appeal any decision made by the Board with respect to any matter considered at this meeting or hearing, he/she will need to ensure that a verbatim record of the proceeding is made, which record includes the testimony and evidence from which the appeal is to be issued.

For more information, you may contact: Department of Management Services, State Retirement Commission, 4050 Esplanade Way, Suite 160, Tallahassee, Florida 32399-0950 or telephone: (850)487-2410.

# DEPARTMENT OF MANAGEMENT SERVICES

Commission on Human Relations

The Florida Commission on Human Relations announces a telephone conference call to which all persons are invited.

DATE AND TIME: Wednesday, October 15, 2014, 9:30 a.m.

PLACE: Call 1(888)670-3525 and when prompted, enter passcode: 9988442611, followed by the # key

GENERAL SUBJECT MATTER TO BE CONSIDERED: Voting on the finalist for the Florida Civil Rights Hall of Fame nominees that will be submitted to the Governor.

ACCESS POINT: The FCHR office at 2009 Apalachee Parkway, Suite 100, Tallahassee, FL 32301, will serve as an access point for this meeting. Interested persons wishing to attend this meeting may also do so by appearing in person at this designated access point, at which location telephonic access to the meeting will be provided.

A copy of the agenda may be obtained by contacting Casey Snipes at (850)488-7082, ext. 1001 or casey.snipes@fchr.myflorida.com.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting Casey Snipes at (850)488-7082, ext. 1001 or casey.snipes@fchr.myflorida.com. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

If any person decides to appeal any decision made by the Board with respect to any matter considered at this meeting or hearing, he/she will need to ensure that a verbatim record of the proceeding is made, which record includes the testimony and evidence from which the appeal is to be issued.

For more information, you may contact Casey Snipes at (850)488-7082, ext. 1001 or casey.snipes@fchr.myflorida.com.

# DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

**Board of Professional Engineers** 

The Florida Board of Professional Engineers Traffic Rules Committee announces a telephone conference call to which all persons are invited.

DATE AND TIME: October 15, 2014, 10:00 a.m. or soon thereafter

PLACE: Florida Board of Professional Engineers, 2639 North Monroe St., Building B-112, Tallahassee, FL 32303

GENERAL SUBJECT MATTER TO BE CONSIDERED: General business of the committee. If you would like to participate in the call, please contact Rebecca Sammons at (850)521-0500, ext. 114, at least 48 hours prior to the date of the meeting.

A copy of the agenda may be obtained by contacting: Rebecca Sammons, rsammons@fbpe.org.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 48 hours before the workshop/meeting by contacting: Rebecca Sammons. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

If any person decides to appeal any decision made by the Board with respect to any matter considered at this meeting or hearing, he/she will need to ensure that a verbatim record of the proceeding is made, which record includes the testimony and evidence from which the appeal is to be issued.

For more information, you may contact: Rebecca Sammons.

# DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

State Boxing Commission

RULE NO.: RULE TITLE:

61K1-4.001 Amateur Sanctioning Organization Licensure, Criteria for Approval and Denial

The Florida State Boxing Commission announces a public meeting to which all persons are invited.

DATE AND TIME: October 17, 2014, 9:00 a.m.

PLACE: Department of Business and Professional Regulation, Board Conference Room, 1940 North Monroe Street, Tallahassee, Florida 32399, this meeting was previously noticed, please note the new passcode. Conference call number: 1(888)670-3525; passcode: 6740308491 then #

GENERAL SUBJECT MATTER TO BE CONSIDERED: To conduct a general business meeting, to review and consider applications for licensure, disciplinary matters, Chapter 61K1-4, F.A.C. and to conduct a rules workshop from 9:00 a.m. to 11:00 a.m. to discuss 61K1-3.023, 61K1-3.024, 61K1-3.025, 61K1-3.027, 61K1-3.028, 61K1-3.029, 61K1-3.030, 61K1-

3.031, 61K1-3.032, 61K1-3.033, 61K1-3.034, 61K1-3.035, 61K1-3.036, 61K1-3.037, 61K1-3.038, 61K1-3.039, 61K1-3.040, 61K1-3.041.

A copy of the agenda may be obtained by contacting: Lina Hurtado, (850)488-8500.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 24 hours before the workshop/meeting by contacting: Lina Hurtado, (850)488-8500. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice)

If any person decides to appeal any decision made by the Board with respect to any matter considered at this meeting or hearing, he/she will need to ensure that a verbatim record of the proceeding is made, which record includes the testimony and evidence from which the appeal is to be issued.

For more information, you may contact: Lina Hurtado, (850)488-8500.

## DEPARTMENT OF ENVIRONMENTAL PROTECTION

The Florida Department of Environmental Protection, Florida Coastal Office announces a public meeting to which all persons are invited.

DATE AND TIME: Monday, November 10, 2014, 9:00 a.m. – 5:00 p.m.

PLACE: Susan H. Johnson Auditorium, Wolf High-Technology Center, Indian River State College Chastain Campus, 2400 SE Salerno Road, Stuart, FL 34997

GENERAL SUBJECT MATTER TO BE CONSIDERED: The Coral Reef Conservation Program is holding a meeting of the Our Florida Reefs North Community Working Group in which working group members will continue developing a list of recommended management actions that will improve management and protection of Southeast Florida coral reefs.

A copy of the agenda may be obtained by contacting: Benjamin Wahle, by email: Benjamin.Wahle@dep.state.fl.us or by phone: (305)795-1223. The agenda will be posted at http://ourfloridareefs.org/events/ one week prior to the meeting date.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 48 hours before the workshop/meeting by contacting: Benjamin Wahle at (305)795-1223. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

### DEPARTMENT OF ENVIRONMENTAL PROTECTION

The Florida Department of Environmental Protection, Florida Coastal Office announces a public meeting to which all persons are invited.

DATE AND TIME: Wednesday, November 19, 2014, 9:00 a.m. – 5:00 p.m.

PLACE: 3rd Floor Auditorium, Center of Excellence for Coral Reef Ecosystem Research, Nova Southeastern University Oceanographic Center, 8000 North Ocean Drive, Dania Beach, FL 33004

GENERAL SUBJECT MATTER TO BE CONSIDERED: The Coral Reef Conservation Program is holding a meeting of the Our Florida Reefs South Community Working Group in which working group members will continue developing a list of recommended management actions that will improve management and protection of Southeast Florida coral reefs.

A copy of the agenda may be obtained by contacting: Benjamin Wahle, by email: Benjamin.Wahle@dep.state.fl.us or by phone: (305)795-1223. One week prior to the meeting date, the agenda will also be available online at: http://ourfloridareefs.org/events/.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 48 hours before the workshop/meeting by contacting: Benjamin Wahle at (305)795-1223. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

### DEPARTMENT OF HEALTH

The Florida Department of Health announces a public meeting to which all persons are invited.

DATE AND TIME: Tuesday, October 21, 2014, 9:00 a.m. – 10:00 a.m., EST

PLACE: Florida Department of Health, 2585 Merchants Row Blvd., Suite 345Q, Tallahassee, FL 32399 or by telephone, callin toll-free number: 1(877)568-4106, access code: 135-446-653 and by accessing the meeting online at https://global.gotomeeting.com/join/135446653, meeting ID: 135-446-653.

GENERAL SUBJECT MATTER TO BE CONSIDERED: The Information Clearinghouse on Developmental Disabilities Advisory Council will provide technical assistance to the Department of Health in the establishment of a website of resource information related to Down syndrome or other prenatally diagnosed developmental disabilities; support programs for parents and families; and developmental evaluation and intervention services.

A copy of the agenda may be obtained by contacting: Anna Simmons, (850)245-4465.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 2 days before the workshop/meeting by contacting: Anna Simmons, (850)245-4465. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

For more information, you may contact: Anna Simmons, (850)245-4465 or Anna.Simmons@flhealth.gov.

## DEPARTMENT OF HEALTH

**Board of Nursing** 

The Florida Board of Nursing Probable Cause Panel announces a telephone conference call to which all persons are invited.

DATE AND TIME: November 3, 2014, 10:00 a.m., EST

PLACE: Department of Health, Tallahassee at Meet Me number: 1(888)670-3525, code: 1135981458

GENERAL SUBJECT MATTER TO BE CONSIDERED: For cases previously heard by the panel.

A copy of the agenda may be obtained by writing Joe Baker, Jr., Executive Director, 4052 Bald Cypress Way, Bin #C02, Tallahassee, FL 32399-3257.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 48 hours before the workshop/meeting by contacting: the Board at (850)245-4125. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

If any person decides to appeal any decision made by the Board with respect to any matter considered at this meeting or hearing, he/she will need to ensure that a verbatim record of the proceeding is made, which record includes the testimony and evidence from which the appeal is to be issued.

# DEPARTMENT OF HEALTH

Division of Family Health Services

The Florida Department of Health, Division of Community Health Promotion, Florida Coordinating Council for the Deaf and Hard of Hearing/Web Subcommittee announces a telephone conference call to which all persons are invited.

DATE AND TIME: October 17, 2014, 10:00 a.m. – 11:00 a.m. PLACE: Conference call only

GENERAL SUBJECT MATTER TO BE CONSIDERED: Discussion of the Florida Coordinating Council for the Deaf and Hard Hearing website and other social media opportunities.

A copy of the agenda may be obtained by contacting: John Escoto, Florida Department of Health, (850)245-4913.

For more information, you may contact: Darcy Abbott, Florida Department of Health, (850)245-4365.

## DEPARTMENT OF HEALTH

Division of Emergency Medical Operations

The Bureau of Emergency Medical Oversight/Emergency Medical Services for Children Program announces a telephone conference call to which all persons are invited.

DATE AND TIME: October 22, 2014, 10:00 a.m.

PLACE: Teleconference: dial (toll free) 1(888)999-0073; access code: 971-151-909; audio PIN: shown after joining the session.

GENERAL SUBJECT MATTER TO BE CONSIDERED: EMS for Children Advisory Committee quarterly meeting.

A copy of the agenda may be obtained by contacting: Bonnie Newsome, by email: bonnie.newsome@flhealth.gov or by telephone: (850)245-4440, ext. 2686.

## FLORIDA ASSOCIATION OF COURT CLERKS

The Florida Local Government Investment Trust announces a public meeting to which all persons are invited.

DATE AND TIME: Friday, October 17, 2014, 10:30 a.m.

PLACE: the Offices of Nabors, Giblin & Nickerson, P.A., located at 2502 Rocky Point Drive, Suite 1060, Tampa, FL 33607

GENERAL SUBJECT MATTER TO BE CONSIDERED: General Administrative matters.

A copy of the agenda may be obtained by contacting Bryant Gries, (850)577-4521 or bgries@flclerks.com.

For more information, you may contact Bryant Gries, (850)577-4521 or bgries@flclerks.com.

## THE VALERIN GROUP, INC.

The Florida Department of Transportation (FDOT) announces a hearing to which all persons are invited.

DATE AND TIME: Tuesday, October 14, 2014, 5:00 p.m. – 7:00 p.m.

PLACE: Lakefront Park Marina, 1104 Lakeshore Boulevard, 2nd Floor, St. Cloud, FL 34769

GENERAL SUBJECT MATTER TO BE CONSIDERED: Financial Management No. 239683-1-52-01.

Project Description: US 192 (US 441/SR 500) Roadway Design Project.

The Florida Department of Transportation is hosting a public hearing to provide details regarding planned capacity improvements along US 192 (US 441/SR 500) in the City of St. Cloud. The project includes widening the roadway along US 192 (US 441/SR 500) from a four (4) lane to a six (6) lane roadway. The project extends from Eastern Avenue to Nova Road. It also involves adding five (5) foot sidewalks on the

north and south sides of US 192 (US 441/SR 500), median modifications, associated drainage and stormwater improvements. The project is funded for construction in 2015. A copy of the agenda may be obtained by contacting: a flyer will be distributed at the meeting.

For more information, you may contact: Storm Kazmierczak, P.E., FDOT Project Manager at (386)943-5346 or via email: Storm.Kazmierczak@dot.state.fl.us.

# Section VII Notice of Petitions and Dispositions Regarding Declaratory Statements

# DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Construction Industry Licensing Board

NOTICE IS HEREBY GIVEN that the Construction Industry Licensing Board has issued an order disposing of the petition for declaratory statement filed by Lapi West, LLC on May 12, 2014. The following is a summary of the agency's disposition of the petition:

The Notice of Petition for Declaratory Statement was published in Vol. 40, No. 99, of the May 21, 2014, Florida Administrative Register. The Petitioner withdrew the petition at the board meeting held on August 15, 2014, in Orlando, Florida. The Board issued an order on September 23, 2014, granting the withdrawal of the petition.

A copy of the Order Disposing of the Petition for Declaratory Statement may be obtained by contacting: Drew Winters, Executive Director, Construction Industry Licensing Board, 1940 North Monroe Street, Tallahassee, FL 32399-0783, telephone: (850)487-1395 or by electronic mail: Amanda.Wynn@myfloridalicense.com.

# DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Construction Industry Licensing Board

NOTICE IS HEREBY GIVEN that the Construction Industry Licensing Board has issued an order disposing of the petition for declaratory statement filed by Iseler Demolition, Inc., on May 5, 2014. The following is a summary of the agency's disposition of the petition:

The Notice of Petition for Declaratory Statement was published in Vol. 40, No. 105, of the May 30, 2014, Florida Administrative Register. The Petitioner withdrew the petition at the board meeting held on August 15, 2014, in Orlando, Florida. The Board issued an order on September 23, 2014, granting the withdrawal of the petition.

A copy of the Order Disposing of the Petition for Declaratory Statement may be obtained by contacting: Drew Winters, Executive Director, Construction Industry Licensing Board, 1940 North Monroe Street, Tallahassee, FL 32399-0783, telephone: (850)487-1395 or by electronic mail: Amanda.Wynn@myfloridalicense.com.

# DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Construction Industry Licensing Board

NOTICE IS HEREBY GIVEN that the Construction Industry Licensing Board has issued an order disposing of the petition for declaratory statement filed by Playmore Recreational Products and Services on May 5, 2014. The following is a summary of the agency's disposition of the petition:

The Notice of Petition for Declaratory Statement was published in Vol. 40, No. 105, of the May 30, 2014, Florida Administrative Register. The Petitioner withdrew the petition at the board meeting held on August 15, 2014, in Orlando, Florida. The Board issued an order on September 23, 2014, granting the withdrawal of the petition.

A copy of the Order Disposing of the Petition for Declaratory Statement may be obtained by contacting: Drew Winters, Executive Director, Construction Industry Licensing Board, 1940 North Monroe Street, Tallahassee, FL 32399-0783, telephone: (850)487-1395 or by electronic mail: Amanda.Wynn@myfloridalicense.com.

# Section VIII Notice of Petitions and Dispositions Regarding the Validity of Rules

Notice of Petition for Administrative Determination has been filled with the Division of Administrative Hearings on the following rules:

# **NONE**

Notice of Disposition of Petition for Administrative Determination has been filled with the Division of Administrative Hearings on the following rules:

## NONE

# Section IX Notice of Petitions and Dispositions Regarding Non-rule Policy Challenges

# **NONE**

# Section X

Annoucements and Objection Reports of the Joint Adminstrative Procedures Committee

# **NONE**

# Section XI Notices Regarding Bids, Proposals and Purchasing

DEPARTMENT OF EDUCATION

University of Florida

Indoor Football Practice Facility

NOTICE TO DESIGN/BUILDER:

The University of Florida Board of Trustees and University Athletic Association announce that Design/Build services will be required for the project listed below:

Project: UAA-35, Indoor Football Practice Facility (Main Campus)

University of Florida's Athletics Association (UAA) is considering the possibilities of providing an indoor practice field for the football program on its current practice site located immediately north of McKethan (baseball) Stadium on the University of Florida campus. Also, a new storage building will be built at the NE corner of the football practice field to provide space for a satellite athletic training space, hydration station, toilet, and field maintenance equipment storage.

The total project budget is \$11,900,000.00 including site improvements, underground utilities, fees, surveys & tests, total building comissioning, furnishings & equipment, and contingencies.

The contract for design/build services will consist of two parts. Part one services include design, construction administration, value engineering, constructability analyses, development of a cost model, estimating, and the development of a Guaranteed Maximum Price (GMP) proposal based on 60% Construction Documents, for which the design/builder will be paid a fixed fee

If the GMP is accepted, part two, the construction phase, will be implemented. In part two of the contract, the design/builder becomes the single point of responsibility for completion of the construction documents, performance of the construction of the project and shall publicly bid trade contracts. Failure to negotiate an acceptable fixed fee for part one of the contract, or to arrive at an acceptable GMP within the time provided in the agreement may result in the termination of the design/builder's contract.

Blanket design professional liability insurance will be required from the architect, mechanical, electrical, plumbing, fire protection and structural engineering sub-consultants for this project and will be provided as a part of Basic Services. Plans and specifications for University of Florida projects are subject to reuse in accordance with the provisions of Section 287.055, Florida Statutes.

Applicants will be evaluated on the basis of their past performance, experience, personnel, design and construction ability, references, bonding capacity, workload, and responses to questions posed both in the shortlist and interview phases. The Selection Committee may reject all proposals and stop the selection process at any time.

At the time of application, the applicant must be licensed to practice as a general contractor in the State of Florida and the applicant or its architectural, landscape architectural, and engineering consultants must possess current design licenses from the appropriate governing board and be properly registered to practice its profession in the State of Florida. If the applicant is a corporation, it must be chartered by the Florida Department of State to operate in Florida.

Applicants desiring to provide design/build services for the project shall submit a proposal only after thoroughly reviewing the facilities program, Project Fact Sheet, and other background information. The proposal shall be prepared as specified in the DBQS Instructions and shall include:

- A Letter of Application that concisely illustrates the applicant's understanding of the scope of services, schedule, and other goals and considerations as outlined in the Project Fact Sheet and facilities program.
- 2. Company information and signed certification.
- A completed, project-specific "Design/Builder Qualifications Supplement" (DBQS) proposal. Applications on any other form will not be considered.
- 4. Proof of the applicant's corporate status in Florida (if applicable) and copies of current licenses for all construction, architectural, landscape architectural, and engineering entities (applicant and consultants) from the appropriate governing board.
- 5. Proof of bonding capacity and proof of all design entities' or consultants' (architecture and engineering) ability to be insured for the level of professional liability coverage demanded for this project.

As required by Section 287.133, Florida Statutes, an applicant may not submit a proposal for this project if it is on the convicted vendor list for a public entity crime committed within the past 36 months. The selected design/builder must warrant that it will neither utilize the services of, nor contract with, any supplier, subcontractor, or consultant in excess of \$15,000.00 in connection with this project for a period of 36 months from the date of their being placed on the convicted vendor list.

Incomplete proposals will be disqualified. Submittal materials will not be returned.

Additional information to assist the applicant in preparing a complete proposal – including the project-specific DBQS forms, instructions, Project Fact Sheet, facilities program, UF Design Services Guide, UF Design and Construction Standards, standard University of Florida Owner-Design/Builder agreement, and other project and process information – can be found on the Planning Design & Construction website.

Finalists may be provided with supplemental interview requirements and criteria as needed.

Provide the number of copies prescribed in the Project Fact Sheet. Submittals must be received in the Planning Design & Construction office by 3:00 p.m. local time on Tuesday, November 4, 2014. Facsimile (FAX) submittals are not acceptable and will not be considered.

Planning, Design & Construction

Ben Hill Griffin Stadium

245 Gale Lemerand Drive

P.O. Box 115050

Gainesville, FL 32611-5050

Telephone: (352)273-4000 Internet: www.facilities.ufl.edu

### DEPARTMENT OF EDUCATION

University of Central Florida

Downtown Presence Consultant

# NOTICE TO PROFESSIONAL CONSULTANTS

The University of Central Florida, on behalf of its Board of Trustees, announces that Professional Services will be required for the project listed below:

Project No.: UCF-#578

Project and Location: UCF Downtown Orlando Campus Strategic Plan, Orlando, FL

The University of Central Florida has recently come to an agreement with the City of Orlando to partner in the development of the "Creative Village" - a development of approximately 65 acres, comprising the old Amway Arena site, the Bob Carr Theater, and the UCF Center for Emerging Media. It is envisioned to be a high-energy visualization arts, communications, and service learning hub that will serve UCF and the community. The 65-acre Creative Village site includes 22 acres for Education. UCF will establish a Downtown Campus within this development. Possible components envisioned for the site include state-of-the-art facilities for the College of Arts and Humanities' School of Visual Arts and Design, the College of Health and Public Affairs, WUCF TV, WUCF Radio, the College of Engineering, and the College of Sciences School of Communications, as well as parking and housing.

The University is seeking a Professional Services Consultant that will work with the University and other stakeholders to develop a comprehensive and multi-faceted Strategic Plan for the UCF Downtown Orlando Campus. This Plan will need to address and encompass the following aspects of the development:

- Campus Master Plan and Urban Design, both for the UCF portions and the overall development
- Discovery, planning and utilization of natural synergies among academic disciplines
- Assistance in exploring new teaching/learning environmental development
- Assistance in the development and operational implementation of overall visioning
- Development of trust and understanding between academic, facilities groups, and consultants
- Development of a Communications Plan for the UCF community, Orlando community, and government groups, including development of the graphics and narrative for communications related to the project
- Change Management Plan to assist in organizational, physical, and academic changes tied to the programming
- Programming and utilization of the overall site and individual components
- Development of Building Programs to meet state requirements
- Infrastructure and Technology Planning
- Development of Economic Impact projections and reporting documentation
- Architectural and Landscape Design to help envision the character of the buildings and the urban spaces that they create
- Environmental Graphics
- LEED for Neighborhood Development, Energy Modeling
- Life Cycle and Operations Modeling
- Economic, social, and demographic analysis
- Real Estate Assessment
- Space/Human Capital Analysis
- Investment, Financial, and Business Modeling
- Cost Estimating and Planning
- Development of presentational materials (brochures, slides, and videos) for internal and external groups
- Public Private Partnership Assessment

The Professional Services Consultant shall have relevant experience with Strategic Planning of the above items, and the ability to work with a highly diverse team within a University setting. UCF has elected to hire one (1) prime consultant firm. Additional sub-consultants to the prime consultant may be included if necessary. This is an open-ended contract for a period of one year, with an option to renew for nine additional one-year periods. Should the University elect to use Design Build as the delivery method of implementing the Strategic Plan, the selected firm will be precluded from award of such Design Build projects.

Instructions for submitting a proposal can be found on the Project Fact Sheet. The Project Fact Sheet and Professional Qualifications Supplement Form may be obtained by contacting: Mrs. Gina Seabrook, Phone: (407)823-5894, fax: (407)823-5141, email: gina.seabrook@ucf.edu or on our website www.fp.ucf.edu.

Five (5) bound copies of the proposal shall be submitted to: Mrs. Gina Seabrook, University of Central Florida, 3528 North Perseus Loop, Building 16, Orlando, FL 32816-3020. Submittals must be received by 5:00 p.m. local time October 24, 2014. Facsimile (FAX) submittals are not acceptable and will not be considered. Late submissions or additional documentation will not be accepted.

# REGIONAL PLANNING COUNCILS

North Central Florida Regional Planning Council

## REQUEST FOR BIDS

The North Central Florida Regional Planning Council, on behalf of The Original Florida Tourism Task Force, is seeking bids for printing a fold-out rack brochure. Requirements are described below. Interested parties should respond using only a bid form. Faxed and emailed responses will not be accepted. The bid forms must be submitted to:

Springs and More Brochure Bid North Central Florida Regional Planning Council 2009 NW 67th Place

Gainesville, FL 32653-1603

Bids must be received by the North Central Florida Regional Planning Council by 5:00 P.M. Eastern Daylight Savings Time, October 31, 2014.

Bids received after the above specified time and date will not be accepted.

The complete request for bids, which includes the bid form, is available at www.ncfrpc.org.

All bids received will be reviewed by The Original Florida Tourism Task Force or their designee. The North Central Florida Regional Planning Council reserves the right to accept or reject any bid and to award the contract in the best interest of the Council and The Original Florida Tourism Task Force.

If you have any questions concerning this matter, please call Steven Dopp at the Council office at (352)955-2200, extension 109 or email: dopp@ncfrpc.org.

# Section XII Miscellaneous

# DEPARTMENT OF HIGHWAY SAFETY AND MOTOR VEHICLES

Division of Motor Vehicles

Floridas Car Store, Inc. for the establishment of KANG motorcycles

Notice of Publication for a New Point Franchise Motor Vehicle Dealer in a County of More than 300,000 Population

Pursuant to Section 320.642, Florida Statutes, notice is given that Kandi USA, Inc., intends to allow the establishment of Floridas Car Store, Inc., as a dealership for the sale of motorcycles manufactured by Kandi (line-make KANG) at 2421 Northeast 4th Avenue, Pompano Beach, (Broward County), Florida 33064, on or after November 5, 2014.

The name and address of the dealer operator(s) and principal investor(s) of Floridas Car Store, Inc., are dealer operator(s): Angela Bianco, 2421 Northeast 4th Avenue, Pompano Beach, Florida 33064; principal investor(s): Angela Bianco, 2421 Northeast 4th Avenue, Pompano Beach, Florida 33064.

The notice indicates intent to establish the new point location in a county of more than 300,000 population, according to the latest population estimates of the University of Florida, Bureau of Economic and Business Research.

Certain dealerships of the same line-make may have standing, pursuant to Section 320.642, Florida Statutes, to file a petition or complaint protesting the application.

Written petitions or complaints must be received by the Department of Highway Safety and Motor Vehicles within 30 days of the date of publication of this notice and must be submitted to: Nalini Vinayak, Administrator, Dealer License Section, Department of Highway Safety and Motor Vehicles, Room A-312 MS 65, Neil Kirkman Building, 2900 Apalachee Parkway, Tallahassee, Florida 32399-0635.

A copy of such petition or complaint must also be sent by US Mail to: Tim Pei, Kandi USA, Inc., 10955 Arrow Route, Suite 101, Rancho Cucamonga, California 91730.

If no petitions or complaints are received within 30 days of the date of publication, a final order will be issued by the Department of Highway Safety and Motor Vehicles approving the establishment of the dealership, subject to the applicant's compliance with the provisions of Chapter 320, Florida Statutes.

# DEPARTMENT OF HIGHWAY SAFETY AND MOTOR VEHICLES

Division of Motor Vehicles

Victory Lane, LLC for the relocation of CLUB low speed vehicles

Notice of Publication for the Relocation of a Franchise Motor Vehicle Dealer in a County of More than 300,000 Population

Pursuant to Section 320.642, Florida Statutes, notice is given that Club Car LLC, intends to allow the relocation of Victory Lane LLC, d/b/a Gator Sports as a dealership for the sale of low-speed vehicles manufactured by Club Car LLC (line-make CLUB) from its present location at 10491 Corkscrew Commons Drive, Estero, (Lee County), Florida 33928, to a proposed location at 14580 Global Parkway, Ft. Myers, (Lee County), Florida 33913, on or after November 5, 2014.

The name and address of the dealer operator(s) and principal investor(s) of Victory Lane LLC, d/b/a Gator Sports are dealer operator(s): Dave Parker, 21727 Helmsdale Run, Estero, Florida 33928, principal investor(s): Dave Parker, 21727 Helmsdale Run, Estero, Florida 33928.

The notice indicates intent to relocate the franchise in a county of more than 300,000 population, according to the latest population estimates of the University of Florida, Bureau of Economic and Business Research.

Certain dealerships of the same line-make may have standing, pursuant to Section 320.642, Florida Statutes, as amended by Chapter 88-395, Laws of Florida, to file a petition or complaint protesting the application.

Written petitions or complaints must be received by the Department of Highway Safety and Motor Vehicles within 30 days of the date of publication of this notice and must be submitted to: Nalini Vinayak, Administrator, Dealer License Section, Department of Highway Safety and Motor Vehicles, Room A-312, MS 65, Neil Kirkman Building, 2900 Apalachee Parkway, Tallahassee, Florida 32399-0635.

A copy of such petition or complaint must also be sent by US Mail to: Michael Packer, Club Car LLC, 4125 Washington Road, Evans, Georgia, 30809.

If no petitions or complaints are received within 30 days of the date of publication, a final order will be issued by the Department of Highway Safety and Motor Vehicles approving the establishment of the dealership, subject to the applicant's compliance with the provisions of Chapter 320, Florida Statutes.

# DEPARTMENT OF HIGHWAY SAFETY AND MOTOR VEHICLES

Division of Motor Vehicles

Boca Scooters, LLC, for the establishment of KAIK motorcycles

Notice of Publication for a New Point Franchise Motor Vehicle Dealer in a County of More than 300,000 Population

Pursuant to Section 320.642, Florida Statutes, notice is given that Value Group Enterprises, Inc., d/b/a SSR Motorsports intends to allow the establishment of Boca Scooters, LLC, as a dealership for the sale of motorcycles manufactured by Zhejiang Kaikai Meiduo Locomotive Co., Ltd. (line-make KAIK) at 389 Northwest 1st Avenue, Boca Raton, (Palm Beach County), Florida 33432, on or after November 5, 2014.

The name and address of the dealer operator(s) and principal investor(s) of Boca Scooters, LLC, are dealer operator(s): Colton Ralston, 389 Northwest 1st Avenue, Boca Raton, Florida 33432; principal investor(s): Colton Ralston, 389 Northwest 1st Avenue, Boca Raton, Florida 33432.

The notice indicates intent to establish the new point location in a county of more than 300,000 population, according to the latest population estimates of the University of Florida, Bureau of Economic and Business Research.

Certain dealerships of the same line-make may have standing, pursuant to Section 320.642, Florida Statutes, to file a petition or complaint protesting the application.

Written petitions or complaints must be received by the Department of Highway Safety and Motor Vehicles within 30 days of the date of publication of this notice and must be submitted to: Nalini Vinayak, Administrator, Dealer License Section, Department of Highway Safety and Motor Vehicles, Room A-312, MS 65, Neil Kirkman Building, 2900 Apalachee Parkway, Tallahassee, Florida 32399-0635.

A copy of such petition or complaint must also be sent by US Mail to: Wendy Wang, Value Group Enterprises, Inc., 12825 Alondra Boulevard, Norwalk, California 90650.

If no petitions or complaints are received within 30 days of the date of publication, a final order will be issued by the Department of Highway Safety and Motor Vehicles approving the establishment of the dealership, subject to the applicant's compliance with the provisions of Chapter 320, Florida Statutes.

# AGENCY FOR HEALTH CARE ADMINISTRATION Certificate of Need

#### **EXEMPTION**

The Agency for Health Care Administration approved the following exemption on October 3, 2014 pursuant to Section 408.036(3), Florida Statutes:

ID #E140024 District: 11-1 (Miami-Dade County)

Applicant/Facility: Villa Maria Nursing & Rehabilitation Center, Inc./Villa Maria West Skilled Nursing Facility

Project Description: Transfer seven nursing home beds from St.

Anne's Nursing Center to the applicant's facility

Proposed Project Cost: \$125,408.57

## DEPARTMENT OF ENVIRONMENTAL PROTECTION

Notice of Receipt of Applications for Permit Coverage under the State's Generic Permit for MS4's

The Department announces receipt of the applications listed below for permit coverage under the Generic Permit for Stormwater Discharge from Phase II Municipal Separate Storm Sewer Systems for the City of Key West, Jacksonville Naval Station and Florida Agricultural & Mechanical University. The application is being processed and is available for public inspection during normal business hours, 8: 00 a.m. to 5:00 p.m., Monday through Friday, except legal holidays, at the Department of Environmental Protection in Tallahassee, Florida. Any comments related to noticed application, or objections to use the Generic Permit by any of the noticed applicants must be received by the Department within 14 days from the date of this notice. Comments may be mailed to the following address: Mr. Kenneth Kuhl, NPDES Stormwater Section, Department of Environmental Protection, 2600 Blair Stone Road, MS 3585, Tallahassee, FL 32399-2400.

# DEPARTMENT OF ENVIRONMENTAL PROTECTION NOTICE OF PROPOSED WATER QUALITY STUDY

Pursuant to subsection 62-650.500(6), Florida Administrative Code, the Florida Department of Environmental Protection (Department) gives notice of the intent of JEA to conduct a study of water quality in the Grander Creek Basin (Yulee Swamp and Lofton Creek), the receiving waters to which JEA's Nassau Regional Water Reclamation Facility currently discharges under its FDEP Permit No. FL0116793. The purpose of this phase of the study is to evaluate possible sources contributing to the observed nutrient concentrations in Yulee Swamp and Lofton Creek, and the purpose of the overall study is to establish appropriate nutrient Water Quality Based Effluent Limitations (WQBELs) for the discharge that will attain the narrative water quality standard for nutrients in Yulee Swamp and Lofton Creek.

Any interested person may submit written comments on the plan of study to Mr. Paul Steinbrecher, P.E., Director, Permitting and Regulatory Conformance, JEA 21 West Church

Street, Jacksonville, Florida 32202 and provide a copy to Jeff Martin, Wastewater Program, Florida Department of Environmental Protection, 8800 Baymeadows Way West, Suite 100, Jacksonville, FL 32256 or email: Jeff.Martin@dep.state.fl.us. Comments must be received within 14 days of publication of this notice. In response to comments received pertaining to the Plan of Study (POS), the applicant may revise the POS if necessary.

Although the Department may allow for informal dispute resolution during the study period, the study is free from agency decision making and does not constitute proposed agency action until notice of such is given pursuant to subsection 62-650.500(8), Florida Administrative Code.

Upon request, the POS is available for public inspection during normal business hours, 8:00 a.m. to 5:00 p.m., Monday through Friday, except legal holidays, at JEA, 21 West Church Street, Jacksonville, Florida 32202 or the Florida Department of Environmental Protection, 2600 Blair Stone Road, Room 205D, Tallahassee, FL 32399-2400, (850) 45-8414 or the Florida Department of Environmental Protection, Northeast District Office, 8800 Baymeadows Way West, Suite 100, Jacksonville, FL 32256-7590, (904)256-1614.

# DEPARTMENT OF HEALTH

**Board of Nursing** 

Notice of Emergency Action

On October 2, 2014, State Surgeon General issued an Order of Emergency Suspension of Certification with regard to the certification of Lenka Ramos, C.N.A., Certification #: CNA 236793. This Emergency Suspension Order was predicated upon the State Surgeon General's findings of an immediate and serious danger to the public health, safety and welfare pursuant to Sections 456.073(8) and 120.60(6), Florida Statutes (2014). The State Surgeon General determined that this summary procedure was fair under the circumstances, in that there was no other method available to adequately protect the public.

#### DEPARTMENT OF ECONOMIC OPPORTUNITY

**Division of Community Development** 

COMMUNITY SERVICES BLOCK GRANT (CSBG) PROGRAM

SEEKING PROVIDER AGENCY FOR GLADES COUNTY

The Florida Department of Economic Opportunity (DEO) is seeking a non-profit entity to administer the Community Services Block Grant (CSBG) in Glades County

In order to be designated to serve as the eligible entity for Glades County, an entity must agree to add additional members to its board to ensure adequate representation in compliance with 42 U.S.C. 9909 and 9910. Special consideration shall be given to an organization with demonstrated effectiveness in providing a broad range of services designed to eliminate poverty and foster self-sufficiency. Priority shall be given to existing CSBG eligible entities in good standing with DEO that are providing related services in the specified county or in areas contiguous to or within reasonable proximity to the specified county.

Organizations interested in becoming the CSBG provider for Glades County must mail to DEO, with a copy to the Glades County Commission Chair, the following documents prior to 5:00 p.m. October 20, 2014:

- A Letter of Interest stating the entity's interest in becoming the CSBG service provider in Glades County. The letter should be signed by the chief executive officer of the private nonprofit CSBG eligible entity or private nonprofit organization, and
- A Resolution of the Board of Directors stating the entity's willingness to provide services in the specified county, and to amend its organization's bylaws, structure, membership, and Articles of Incorporation to comply with 42 U.S.C. 9909 and 9910.

Mailing Address – DEO:
Ms. Jean Amison, Manager
Bureau of Community Assistance
Division of Community Development
Florida Department of Economic Opportunity
107 East Madison Street, MSC 400
Tallahassee, Florida 32399

Mailing Address – Glades County Commission The Honorable Donna Storter-Long, Chair Glades County Board of County Commissioners Post Office Box 1018 Moore Haven, Florida 33471

Upon receipt of the Letter of Interest and Resolution, DEO will forward the proposal instructions to the interested parties. The proposal packages and all required documentation will be due to DEO by 5:00 p.m. November 14, 2014.

Requests for additional information or questions may be addressed to Ms. Jean Amison at (850)717-8450 or via email: jean.amison@deo.myflorida.com.

# Section XIII Index to Rules Filed During Preceeding Week

NOTE: The above section will be published on Tuesday beginning October 2, 2012, unless Monday is a holiday, then it will be published on Wednesday of that week.