

and shall be applied to the installments last to become due under the loan and shall not affect the obligation of the borrower to pay the remaining installments.

(4) The Associate Director may defer payments of principal and interest until FEMA makes its final determination with respect to any Application for Loan Cancellation which the borrower may submit. However, interest will continue to accrue.

(5) Any costs incurred by the Federal Government in collecting the note shall be added to the unpaid balance of the loan, bear interest at the same rate as the loan, and be immediately due without demand.

(6) In the event of default on this note by the borrower, the FEMA claims collection officer will take action to recover the outstanding principal plus related interest under Federal debt collection authorities, including administrative offset against other Federal funds due the borrower and/or referral to the Department of Justice for judicial enforcement and collection.

(c) *Additional time.* In unusual circumstances involving financial hardship, the local government may request an additional period of time beyond the original 10 year term to repay the indebtedness. Such request may be approved by the Associate Director subject to the following conditions:

(1) The local government must submit documented evidence that it has applied for the same credit elsewhere and that such credit is not available at a rate equivalent to the current Treasury rate.

(2) The principal amount shall be the original uncanceled principal plus related interest.

(3) The interest rate shall be the Treasury rate in effect at the time the new Promissory Note is executed but in no case less than the original interest rate.

(4) The term of the new Promissory Note shall be for the settlement period requested by the local government but not greater than 10 years from the date the new note is executed.

§§ 206.368–206.369 [Reserved]

§ 206.370 Purpose and scope.

(a) Purpose. Sections 206.370 through 206.377 provide policies and procedures for local governments and State and Federal officials concerning the Special Community Disaster Loans program under section 417 of the Stafford Act and the Community Disaster Loan Act of 2005, Public Law 109–88.

(b) Scope. Sections 206.370 through 206.377 apply only to Special Community Disaster Loans under the Community Disaster Loan Act of 2005, Public Law 109–88. Community Disaster Loans issued prior to the enactment of Public Law 109–88 or other subsequent loans not issued under the authority of the Public Law 109–88 are not covered under §§ 206.370 through 206.377.

[70 FR 60446, Oct. 18, 2005]

§ 206.371 Loan program.

(a) *General.* The Associate Director may make a Special Community Disaster Loan to any local government which has suffered a substantial loss of tax and other revenues as a result of a major disaster and which demonstrates a need for Federal financial assistance in order to provide essential services.

(b) *Amount of loan.* The amount of the loan is based upon need, not to exceed 25 percent of the operating budget of the local government for the fiscal year in which the disaster occurs. The term fiscal year as used in this subpart means the local government's fiscal year.

(c) *Interest rate.* The interest rate is the rate for five year maturities as determined by the Secretary of the Treasury in effect on the date that the Promissory Note is executed. This rate is from the monthly Treasury schedule of certified interest rates which takes into consideration the current average yields on outstanding marketable obligations of the United States. If an applicant can demonstrate *unusual circumstances involving financial hardship*, the Associate Director may approve a rate equal to the five year maturity rate plus 1 per centum, adjusted to the nearest 1/8 percent, and further reduced by one-half.

(d) *Time limitation.* The Associate Director may approve a loan in either the fiscal year in which the disaster occurred or the fiscal year immediately following that year.

(e) *Term of loan.* The term of the loan is 5 years, unless otherwise extended by the Associate Director. The Associate Director may consider a request for an extension of a loan based on the local government's financial condition. The total term of any loan under section 417(a) of the Stafford Act normally may not exceed 10 years from the date the Promissory Note was executed. However, when extenuating circumstances exist and the recipient demonstrates an inability to repay the loan within the initial 10 years, but agrees to repay such loan over an extended period of time, additional time may be provided for loan repayment (see § 206.377(c)).

(f) *Use of loan funds.* The local government shall use the loaned funds to assist in providing essential services. The funds shall not be used to finance capital improvements nor the repair or restoration of damaged public facilities. The loan may not be used as the nonfederal share of any Federal program, including those under the Stafford Act.

(g) *Relation to other assistance.* Any Special Community Disaster Loans made under this program shall not reduce or otherwise affect any commitments, grants, or other assistance under the Stafford Act or part 206 of this title.

[70 FR 60446, Oct. 18, 2005]

§ 206.372 Responsibilities.

(a) The local government shall submit the financial information required by FEMA in the application for a Community Disaster Loan or other format specified by FEMA and comply with the assurances on the application, the terms and conditions of the Promissory Note, and §§ 206.370 through 206.377. The local government shall send all loan application, loan administration, and loan settlement correspondence through the Governor's Authorized Representative (GAR) and the FEMA Regional Office to the FEMA Associate Director.

(b) The GAR shall certify on the loan application that the local government can legally assume the proposed indebtedness and that any proceeds will be used and accounted for in compliance with the FEMA-State Agreement for the major disaster. States are encouraged to take appropriate pre-disaster action to resolve any existing State impediments which would preclude a local government from incurring the increased indebtedness associated with a loan in order to avoid protracted delays in processing loan application requests resulting from major disasters.

(c) The Regional Director or designee shall review each loan application received from a local government to ensure that it contains the required documents and transmit the application to the Associate Director. He/she may submit appropriate recommendations to the Associate Director.

(d) The Associate Director, or a designee, shall execute a Promissory Note with the local government and shall administer the loan until repayment is completed and the Promissory Note is discharged.

(e) The Associate Director or designee shall approve or disapprove each loan request, taking into consideration the information provided in the local government's request and the recommendations of the GAR and the Regional Director.

(f) The FEMA Chief Financial Officer shall establish and maintain a financial account for each outstanding loan and disburse funds against the Promissory Note.

[70 FR 60446, Oct. 18, 2005]

§ 206.373 Eligibility criteria.

(a) *Local government.* (1) The local government must be located within the area eligible for assistance under a major disaster declaration. In addition, State law must not prohibit the local government from incurring the indebtedness resulting from a Federal loan.

(2) Criteria considered by FEMA in determining the eligibility of a local government for a Special Community Disaster Loan include the loss of tax and other revenues as result of a major disaster, a demonstrated need for financial assistance in order to perform