

## DEPARTMENT OF HOMELAND SECURITY

### CFDA 97.036 PUBLIC ASSISTANCE GRANTS

#### I. PROGRAM OBJECTIVE

The objective is to provide assistance to States, local governments, and selected non-profit organizations under the Public Assistance Grants (PA) program.

#### II. PROGRAM PROCEDURES

Following a Presidential declaration of a major disaster or an emergency, the Federal Emergency Management Agency (FEMA), Department of Homeland Security, awards grants for public assistance to States. The State may use the funds to restore its own disaster-damaged projects and to provide subgrants to local governments (including Indian tribes, authorized tribal organizations, and Alaskan native villages and organizations) and selected private non-profit facilities.

The PA program is administered by the State (e.g., the State Emergency Agency) in accordance with a FEMA-State Agreement to provide assistance that may be available under an emergency or major disaster declaration. The State acts as the grant administrator for all funds provided under the PA program. The grant administrator's responsibility includes providing technical advice and assistance to eligible subgrantees, providing State support for damage survey activities, ensuring that all potential applicants are aware of assistance available, and submission of documents necessary for grant awards (44 CFR sections 206.200 through 206.349). In certain circumstances an Indian Tribe may be a grantee.

For purposes of the PA program, the following terms will be used:

*State* - The State Agency that is defined as the grantee under FEMA regulations and acts as the grant administrator for the program.

*Subgrantee* - The government or other legal entity to which a subgrant is awarded and which is accountable to the grantee for the use of the funds provided (44 CFR section 206.201(1)). (For example, in explaining this program, a State Highway Agency is considered a subgrantee of a State Emergency Agency even though both agencies may be included in the same Statewide single audit.)

*RD* - The FEMA Regional Director.

PA program awards are made based upon a Project Worksheet (PW) prepared by a project formulation team. The project formulation team normally includes a representative of FEMA, the State, and any subgrantee. The PW documents the project formulation team's determination of the eligible scope of work and cost estimate. The PA program will fund a part of this eligible work in accordance with the FEMA-State Agreement. Each PW has a control number and any supplemental PWs will be referenced to the original PW.

Projects are classified as large or small projects according to the cost of the eligible work for the individual project. FEMA sets a dollar cost threshold for distinguishing large from small projects. Projects whose cost equals or exceeds this threshold are large projects; projects costing less are small projects. The threshold is adjusted each October to reflect changes in the Consumer Price Index, and is published in the *Federal Register*. The threshold is \$52,000 for the period October 1, 2001 through September 30, 2002, \$53,000 for the period October 1, 2002 through September 30, 2003, and \$54,100 for the period October 1, 2003 through September 30, 2004. The date the disaster is declared by the President determines the threshold in use.

### **Small Projects**

Applicants are encouraged to make their own estimates for small projects and prepare PWs to be submitted to FEMA. FEMA will then take a 20 percent sample of the small projects prepared by the applicant and verify that the scope of the work is eligible and the cost estimate reasonable. If the sample passes this validation, FEMA accepts all small project PWs from the applicant and obligates the funds. If the sample fails, a second 20 percent is reviewed. If the second sample also fails, FEMA assigns a specialist to assist the applicant in reformulating and resubmitting all small projects to FEMA. A FEMA representative is assigned to formulate an applicant's small projects, when an applicant elects not to do so.

For small projects, final payment of the Federal share of eligible costs is made upon approval of the project. The amount awarded for small projects based on the PW generally will not change except under unusual circumstances, such as failure to complete the work, an unexpected insurance recovery, or an obvious error in calculation. At closeout of the disaster contract, the State is required to certify that all projects were properly completed and that the State contribution, as specified in the FEMA-State Agreement, was paid to each subgrantee. However, this certification does not specify the amount spent by a subgrantee on small projects. If the actual cost for small projects is less than the estimated cost on the PW, FEMA generally will not ask for a refund. Similarly, FEMA generally will not provide additional funding when actual costs exceed the PW estimate. However, provision is made that, when a subgrantee has significant overruns, an appeal may be made to FEMA for additional funding based upon the total final costs for all small projects (44 CFR sections 206.204(e) and 206.205(a)).

### **Large Projects**

For large projects, the State must make an accounting to FEMA of eligible costs for each approved large project. In submitting the accounting, the State must certify that reported costs were incurred in the performance of eligible work, that the approved work was completed, that the project is in compliance with the FEMA-State Agreement, and that payments for the project have been made in accordance with the A-102 Common Rule's requirements for payment. The subgrantee is required to make similar accounting and certifications to the State. If actual costs are less than the approved amount, then the FEMA share will be based upon the actual costs. The subgrantee may request additional funding for eligible cost overruns on large projects. For additional funding, these requests must include a written recommendation from the State and approval of the RD (44 CFR sections 206.204(e) and 206.205).

### **Improved Projects**

If a subgrantee desires to make improvements, but still restore the pre-disaster function of a damaged facility, State approval must be obtained. Federal funding for an improved project is limited to the Federal share of the approved estimate of the eligible costs. Funds approved as an improved project can only be used as a contribution for the construction of larger or improved facilities that restore at least the pre-disaster capacity of the damaged or destroyed facility. For example, if eligible work to restore the pre-disaster capacity is \$100,000, and the subgrantee chooses to rebuild an improved facility that costs \$200,000, then the FEMA share is only based on the \$100,000. However, if the actual cost is less than the eligible work of \$100,000 (e.g., construction costs are much lower than expected), then a FEMA adjustment is required (44 CFR section 206.203).

### **Alternate Projects**

In a case where the subgrantee determines that the public welfare would not be best served by restoring a damaged public facility, the State may request that FEMA approve an alternate project. This option is available only for permanent, restorative work. Funds contributed for alternate projects may be used to repair or expand other selected public facilities, to construct new facilities, or to fund hazard mitigation measures. These funds may neither be used to pay the non-Federal share of any project nor for any operating expense (44 CFR section 206.203(d)(2)).

Funds approved for an alternate project can be used only for alternate projects specifically approved by FEMA. While the States and subgrantees have flexibility to propose the type and size of alternate projects they wish to construct, FEMA must review such proposed projects to ensure compliance with environmental and other special concerns (44 CFR section 206.203).

### **Administrative Costs**

FEMA also provides funding for costs incurred by States and their subgrantees in administering the PA Program. The State receives a statutory administrative cost allowance determined according to a formula based on percentages of the aggregate Federal share of funding provided to subgrantees for approved projects. State administrative costs not covered by this allowance may also be allowed with FEMA prior approval. The State awards administrative cost allowances to subgrantees according to a formula based on percentages of the subgrantees' net eligible project costs.

### **Source of Governing Requirements**

This program is authorized by 42 USC 5121 *et seq.* Program regulations issued by FEMA are codified at 44 CFR sections 206.200 through 206.349.

### **Availability of Other Program Information**

Additional program information is available on the FEMA web site at <http://www.fema.gov/rrr/pa>.

## **III. COMPLIANCE REQUIREMENTS**

**In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.**

**A. Activities Allowed or Unallowed**

The allowed activities for the PA program are for the approved project as described on the PW and supporting documentation. The approved project may be repair of the damaged facility, an improved project, or an alternate project (44 CFR section 206.203).

**B. Allowable Costs/Cost Principles**

1. *Equipment Usage* - The PA program restricts eligible direct costs for applicant-owned equipment used to perform eligible work to reasonable rates that were established under State guidelines, or when the hourly rate exceeds \$75, rates may be determined on a case-by-case basis by FEMA. When local guidelines are used to establish equipment rates, reimbursement is based on those rates or rates in a Schedule of Equipment Rates published by FEMA, whichever is lower. Provision is also made when no rates are established or the entity wishes to claim an equipment rate that exceeds the FEMA Schedule (44 CFR section 206.228(a)(1)).
2. *Administrative Costs*
  - a. *Grantee* - A State may use funds made available by FEMA under its administrative cost allowance only for extraordinary direct costs of preparing PWs, final inspection reports, project applications, etc., and for making final audits and related field inspections. Specific cost items allowable for such purposes include overtime pay, per diem and travel expenses for State employees, but not regular (straight time) salaries. Cost items not eligible for funding from the State's administrative cost allowance, but still related to managing the program, may be funded from the grant if prescribed in an approved PW. A State may recover regular (straight time) salaries and certain other administrative costs in this way (44 CFR sections 206.228(a)(2) and (a)(3)).
  - b. *Subgrantee* - A subgrantee may use funds made available in its administrative cost allowance for necessary costs of requesting, obtaining, and administering its subgrant. No other direct or indirect costs are allowable at the subgrantee level (44 CFR sections 206.228(a)(2) and (a)(3)).

3. *Force Account Labor Costs* - The straight- or regular-time salaries and benefits of a subgrantee's permanently employed personnel are not eligible in calculating the cost of eligible work for emergency protective services or debris removal under sections 403 and 407 of the Stafford Act (42 USC 5170b and 5173, respectively). For performance of eligible permanent restoration under section 406 of the Stafford Act (42 USC 5172), straight-time salaries and benefits of a subgrantee's permanently employed personnel are eligible (44 CFR section 206.228(a)(4)).
4. *Insurance and Other Recoveries* - Auditors are advised that there are likely to be amounts from insurance settlements, salvage, or other sources which must be considered in determining allowable costs because allowable costs must be net of applicable credits.

## **E. Eligibility**

1. **Eligibility for Individuals** - Not Applicable
2. **Eligibility for Group of Individuals or Area of Service Delivery** - Not Applicable
3. **Eligibility for Subrecipients**

A State may award subgrants under this program to the following types of entities:

- a. State and local governments;
- b. Private non-profit organizations or institutions which own or operate a private non-profit facility, such as (but not limited to) an educational, medical, or custodial care facility, or other facility providing essential governmental type services to the public; and
- c. Indian tribes or authorized tribal organizations and Alaskan Native villages or organizations (but not Alaskan Native Corporations, the ownership of which is vested in private individuals) (44 CFR sections 206.221 and 206.222).

## **G. Matching, Level of Effort, Earmarking**

### **1. Matching**

Costs must be on a shared basis, as specified in the FEMA-State agreement. In general, the minimum Federal share is 75 percent of eligible costs. For an alternate project, however, Federal funding is based on 75 percent of the Federal share of the approved estimate of eligible costs. For example, if the approved estimate of eligible costs to restore the pre-disaster capacity is \$100,000, and the entity chooses not to rebuild but instead to do alternate work, then assuming a 75 percent match, the Federal share is computed as:

Approved estimate of eligible costs	\$100,000
Assumed match of 75% Federal/25% State	X 75%
Subtotal	\$ 75,000
Adjustment for alternate project	X 75%
Federal share	\$ 56,250

If unstable soil at the original site is the reason for a governmental applicant choosing an alternate project, the adjustment is 90 percent (Pub. L.. 93-288, as amended by the Stafford Act; 42 USC 5121 *et seq.*; 44 CFR sections 206.203(b) and 206.203(d)(2)).

The matching split between the State and the subgrantee will vary. The accountability for meeting the matching requirement is determined at the time of project accounting as part of project closeout, (e.g., the State match does not have to be provided until the end of the project).

**2. Level of Effort - Not Applicable**

**3. Earmarking**

The State makes funding available to subgrantees for their direct costs of requesting, obtaining, and administering public assistance projects according to the following formula: (a) three percent of the subgrantee's first \$100,000 of net eligible project costs; (b) two percent of the subgrantee's next \$900,000 of such costs; (c) one percent of the subgrantee's next \$4 million of such costs; and (d) one-half of one percent of the subgrantee's net eligible costs over \$5 million (44 CFR section 206.228(a)(2)).

**L. Reporting**

**1. Financial Reporting**

- a. SF-269, *Financial Status Report* - Not Applicable
- b. SF-270, *Request for Advance or Reimbursement* - Applicable only to those non-Federal entities who do not utilize the Department of Health and Human Services, Payment Management System.
- c. SF-271, *Outlay Report and Request for Reimbursement for Construction Programs* - Not Applicable
- d. SF-272, *Federal Cash Transactions Report* - Applicable
- e. FEMA 20-10, *Financial Status Report (OMB No. 3067-0206)* - This form is used in lieu of the SF-269.
- f. *Public Assistance Program (OMB No. 3067-0151)* - The State is required to submit quarterly financial and progress reports to the RD. The reports

should describe the status of those projects on which a final payment of the Federal share has not been made to the State and outline any problems or circumstances expected to result in noncompliance with the approved grant conditions (44 CFR section 206.204(f)). Subgrantee reporting is as required by the State. There is no standard FEMA form; grantees are required to report on all large projects.

*Key Line Items* - The following line items contain critical information:

All line items containing financial information.

**2. Performance Reporting** - Not Applicable

**3. Special Reporting** - Not Applicable

## **N. Special Tests and Provisions**

### **1. Project Accounting**

**Compliance Requirement** - For large projects, the State is required to make an accounting to FEMA of eligible costs. Similarly, the subgrantee must make an accounting to the State. In submitting the accounting, the entity is required to certify that reported costs were incurred in performance of eligible work, that the approved work was completed, that the project is in compliance with the provisions of the FEMA-State Agreement, and that payments for that project were made in accordance with the A-102 Common Rule's payment provisions. For improved and alternate projects, if the total cost of the projects does not equal or exceed the approved eligible costs, then the auditor should expect to see an adjustment to reduce eligible costs (44 CFR section 206.205).

**Audit Objective** - Determine whether ongoing and completed projects were accounted for in accordance with the required certification.

### **Suggested Audit Procedures**

*Projects not completed* - Select a sample of ongoing large projects and ascertain if costs submitted for reimbursement were in compliance with the requirements for eligible work under the applicable PW. Testing should consider the differences in the requirements and approvals required of improved and alternate projects.

*Completed projects* - Select a sample of large projects completed during the audit period and ascertain if the entity's files document the total costs as allowable costs and if the costs are for allowable activities under the applicable PW. This testing should consider the differences in the requirements and approvals required of improved and alternate projects.

## **IV. OTHER INFORMATION**

Effective March 1, 2003, FEMA became part of the Department of Homeland Security (DHS). Grants under this program continue to be funded under FEMA requirements and should be audited using FEMA's requirements until those requirements are superseded by DHS requirements and made part of subsequent awards. Since recipients' funding periods may not coincide with the change in CFDA number, recipients should include the CFDA number shown on their notices of award (whether 83.544 and/or 97.036) in completing the Schedule of Expenditures of Federal Awards (SEFA). When awards from both CFDA 97.036 and CFDA 83.544 are present, they should be combined when determining Type A programs. If the program was a major program under the legacy CFDA number in either of the previous two years, the provision in the risk-based approach for prior audits is considered to have been met. On the SEFA, both the DHS CFDA number and the legacy agency's corresponding CFDA number should be presented separately.

## **DEPARTMENT OF HOMELAND SECURITY**

### **CFDA 97.039 HAZARD MITIGATION GRANT (HMGP)**

#### **I. PROGRAM OBJECTIVES**

The Hazard Mitigation Grant program (HMGP) is a cost-shared program administered by the Federal Emergency Management Agency (FEMA), Department of Homeland Security. The program's purpose is to mitigate the vulnerability of life and property to future disasters during the recovery and reconstruction process following an actual disaster. To accomplish this purpose, FEMA assists States to avoid or lessen the impact of natural hazards through such strategies as safer building practices and the improvement of existing structures and supporting infrastructure.

#### **II. PROGRAM PROCEDURES**

##### **Program Administration**

FEMA awards HMGP grants to States, which in turn may award subgrants to other State agencies, local governments, Indian tribal organizations, and other eligible entities. Each State administers the HMGP according to a FEMA-State Agreement, a comprehensive Standard or Enhanced State Mitigation Plan, and a State HMGP Administration Plan. These plans must be approved by FEMA before funds are awarded to the State. FEMA is responsible for assisting the State, approving or denying project applications, and reviewing the State's quarterly and final reports.

FEMA also provides funding for costs incurred by States and their subgrantees in administering the HMGP. The State receives a statutory administrative cost allowance determined according to a formula based on percentages of the aggregate Federal share of funding provided to subgrantees for hazard mitigation projects. State management costs not covered by the allowance may be allowed with FEMA prior approval. The State awards statutory administrative cost allowances to subgrantees according to a formula based on percentages of the subgrantee's net eligible project costs. If requested, management costs are awarded as a part of the HMGP ceiling.

##### **Application and Award Process**

After determining that disaster relief and recovery needs cannot be met with resources available within the State, the Governor requests a Presidential declaration designating the State a disaster area. States have up to 12 months from the date the disaster is declared to review and submit applications for disasters declared on or after February 26, 2002. Disasters declared before February 26, 2002, have an application period of 18 months. The application must identify the specific mitigation measure(s) for which the State requests funding, and any entities to which the State intends to award subgrants.

In addition to submitting applications and supporting documents to FEMA, the Governor's Authorized Representative appoints a State Hazard Mitigation Officer. This official ensures that all potential applicants are made aware of the assistance available under the HMGP, and provides technical advice and assistance to eligible subgrantees. Indian tribal organizations can receive HMGP assistance as subgrantees of States or apply directly to FEMA. Where FEMA awards a grant directly to an Indian tribal government, the two entities enter into a FEMA-Tribal agreement modeled on the FEMA-State agreement.

### **Source of Governing Requirements**

The HMGP is authorized by section 404 of the Stafford Act (42 USC 5170c). Program regulations are codified at 44 CFR parts 201 and 206, subpart N (Hazard Mitigation Grant Program).

### **Availability of Other Program Information**

Additional program information is available from the FEMA web site at: <http://www.fema.gov/fima/hmgp>. The HMGP *Desk Reference* is available at [http://www.fema.gov/fima/hmgp/hmgp\\_ref.shtm](http://www.fema.gov/fima/hmgp/hmgp_ref.shtm).

## **III. COMPLIANCE REQUIREMENTS**

**In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.**

### **A. Activities Allowed or Unallowed**

The activities allowed for an HMGP project are those described in the grant application approved by FEMA and the supporting documentation (44 CFR section 206.436(d)). Within these parameters, they may be of any nature that will result in the protection of life and property from natural hazards. All projects funded must otherwise conform to the State's comprehensive Hazard Mitigation Plan. Eligible projects include, but are not limited to (44 CFR section 206.434(d)):

1. Structural hazard control or protection projects;
2. Construction activities that will result in protection from hazards;
3. Retrofitting of facilities;
4. Property acquisition or relocation;
5. Development of State or local mitigation standards;
6. Development of comprehensive mitigation programs with implementation as an essential component; and

7. Development or improvement of warning systems.

## **B. Allowable Costs/Cost Principles**

### **1. Direct Administrative Costs**

- a. *Grantee* - A State may use funds made available by FEMA under its administrative cost allowance only for extraordinary direct costs of preparing applications and quarterly reports, and making final audits and related field inspections. Specific cost items allowable for such purposes include overtime pay, per diem and travel expenses for State employees, but not their regular (straight-time) salaries. Cost items not eligible for funding from the State's administrative cost allowance, but still related to managing the program, may be funded from the grant if FEMA gives prior approval. Regular (straight-time) salaries may be funded in this way. In the case of staffing costs for the State's Disaster Field Office, FEMA gives prior approval by approving the State's staffing plan (44 CFR section 206.439(b)).
- b. *Subgrantee* - A subgrantee may use funds made available by the grantee in its administrative cost allowance only for direct costs of requesting, obtaining, and administering its subgrants (44 CFR section 206.439(b)).

2. *Indirect Costs* - Grantee indirect costs identified in accordance with the Federal cost principles are allowable. Indirect costs at the subgrantee level are unallowable (44 CFR section 206.439(c)).

## **E. Eligibility**

1. **Eligibility for Individuals** - Not Applicable
2. **Eligibility for Group of Individuals or Area of Service Delivery** - Not Applicable
3. **Eligibility for Subrecipients**

The following types of entities are eligible to apply to the State for HMGP subgrants:

- a. State and local governments;
- b. Private non-profit organizations or institutions that own or operate a private non-profit facility as defined at 44 CFR section 206.221(e); and
- c. Tribes or authorized tribal organizations and Alaskan Native villages or organizations (44 CFR section 206.434(a)).

## **G. Matching, Level of Effort, Earmarking**

## 1. Matching

The Federal and non-Federal shares of a project's cost are established in the State's FEMA-State Agreement. While the non-Federal share may exceed the Federal share, it may never be less than 25 percent of the cost of a project approved for disasters declared after June 10, 1993. (That is, the Federal share may never exceed 75 percent.) The Federal share may not exceed 50 percent for projects approved for disasters declared before that date. Funds made available to a State or subgrantee in its administrative cost allowance are not subject to this requirement (44 CFR section 206.432(c)).

## 2. Level of Effort - Not Applicable

## 3. Earmarking

- a. *Subgrantees* - The State makes funding available to subgrantees for their direct costs of requesting, obtaining, and administering HMGP projects according to the following formula: (a) three percent of the subgrantee's first \$100,000 of net eligible project costs; (b) two percent of the subgrantee's next \$900,000 of such costs; (c) one percent of the subgrantee's next \$4 million of such costs; and (d) one-half of one percent of the subgrantee's net eligible project costs over \$5 million (44 CFR section 206.439(b)(1)(ii)).
- b. *Planning* - Up to 7 percent of the State's HMGP grant may be used to develop State, tribal, or local mitigation plans to meet the planning criteria outlined in 44 CFR part 201 (44 CFR 206.434(d)(1)).

## L. Reporting

### 1. Financial Reporting

- a. SF-269, *Financial Status Report* - Applicable
- b. SF-270, *Request for Advance or Reimbursement* - Applicable
- c. SF-271, *Outlay Report and Request for Reimbursement for Construction Programs* - Applicable, but not required unless the State has a grant for direct construction.
- d. SF-272, *Federal Cash Transactions Report*- Applicable
- e. FEMA Form 20-10, *Financial Status Report (OMB No. 3067-0206)* - This form may be used in lieu of the SF-269, as determined by the grantee and the FEMA regional office. Once this determination is made, the State uses the selected form for all its reporting on FEMA programs.

- f. FEMA Form 20-18, *Report of Government Property (OMB No. 3067-0206)* - This form is submitted upon completion work under a grant, cooperative agreement, or contract. It provides an inventory of equipment purchased by the grantee or provided by the Federal Government. FEMA and the grantee use this information to determine the disposition of the equipment.
- g. FEMA Form 20-19, *Reconciliation of Grants and Cooperative Agreements (OMB No. 3067-0206)* - This report captures a State's program transactions and related unobligated balances of Federal funds, cash drawdowns, and undrawn cash balances. It is used to reconcile awards, outlays, and drawdowns during and at the completion of a HMGP grant.

*Key Line Items* - The following line items contain critical information:

B. History of Transactions:

1. Column (b) - *Description of Transaction*
2. Column (d) - *Total Federal Share*
3. Column (f) - *Amount (of cash drawdown)*

**2. Performance Reporting** - Not Applicable

**3. Special Reporting** - Not Applicable

**IV. Other Information**

*Subgrants to Other State Agencies*

In the administration of this grant, the State may "subgrant" funds to another part of the State (e.g., a State agency). If the other part of the State receiving the subgrant is included in the audit of the State, such as a State-wide audit, then for purposes of determining Type A programs and reporting on the Schedule of Expenditures of Federal Awards, these "subgrants" within the single audit reporting entity should be eliminated. However, all Federal awards expended under this program by the State (including a part of the State receiving a subgrant from the State) should be subject to the State's OMB Circular A-133 audit.

*Transfer to Department of Homeland Security*

Effective March 1, 2003, FEMA became part of the Department of Homeland Security (DHS). Grants under this program continue to be funded under FEMA requirements. And should be audited using FEMA's requirements until those requirements are superseded by DHS requirements and made part of subsequent awards. Since recipients' funding periods may not coincide with this change in the CFDA number, recipients

should include the CFDA number shown on their notices of award (whether 83.548 and/or 97.039) in completing the Schedule of Expenditures of Federal Awards (SEFA). When awards from both CFDA 97.039 and CFDA 83.548 are present, they should be combined when determining Type A programs. If the program was a major program under the legacy CFDA number in either of the previous two years, the provision in the risk-based approach for prior audits is considered to have been met. On the SEFA, both the DHS CFDA number and the legacy agency's corresponding CFDA number should be presented separately.