

§ 302.3

44 CFR Ch. I (10–1–04 Edition)

amendments as necessary to keep it current, the plan is a formal description of each participating State's total civil defense program and of related State and local laws, executive directives, rules, and plans and procedures, including personnel standards administered on a merit basis, updated emergency operations plans, travel regulations, indirect cost allocation plans and other information necessary to reflect the total civil defense program throughout the State. The plan also includes without limitation documentation as to administrative and financial systems to assure compliance with uniform grant-in-aid administrative requirements for States and subgrantees as required under OMB Circular A-102 and with other requirements relevant to the eligibility of the State and its political subdivisions for participation in financial assistance programs for civil defense purposes. Detailed requirements are prescribed in CPG 1-3. (Also see § 302.3.)

(v) *Statement of work.* Formal identification of specific actions to be accomplished by a State and its political subdivisions during the fiscal year for which Federal funds are being requested by the State. Submission is made to the FEMA Regional Director as part of the CCA Program Narrative.

(w) *Subgrantee.* A political subdivision of a State listed in the State's annual submission (or amendments thereto) as approved by the grantor agency (including any grantor agency-approved amendments thereto) as eligible to receive a portion of the Federal financial contribution provided for use within the State. The term includes Indian tribes when the State has assumed jurisdiction pursuant to State law and tribal regulations.

[48 FR 44211 Sept. 28, 1983, as amended at 51 FR 12520, Apr. 11, 1986]

§ 302.3 Documentation of eligibility.

In order to remain eligible for Federal financial contributions under the regulations in this part, each State must have on file with FEMA a current State administrative plan, an emergency operations plan for civil defense, and an annual submission (including a statement of work) which have been approved by the Regional Director as

being consistent with the national plan (i.e., program) for civil defense and as meeting the requirements of the regulations in this part and CPG 1-3. A State may allocate a portion of its EMA funds to an Indian tribe as a subgrantee where the State has assumed jurisdiction pursuant to State law and tribal regulations.

(a) *State administrative plans.* Every State has a State administrative plan file with FEMA and is required to keep the plan current through amendments as necessary. Such plans and amendments shall be reviewed by the Regional Director, who will advise the State in writing as to the effect, if any, changes will have on the continued eligibility of the State and its subgrantees. The Regional Director shall not, however, approve any amendments that would result in failure of the plan to meet these criteria:

(1) Provides for and is, pursuant to State law, in effect in all political subdivision of the State, mandatory on them, and, unless waived by the Director under section 204 of the Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4214), administered or supervised by a single State administrative agency. In demonstrating that the State administrative plan for civil defense is in effect in all political subdivisions of the State and mandatory on them, the plan shall contain references to the applicable State statutes and local ordinances, executive orders and directives, and rules and regulations at the State and local level that establish the civil defense authority, structure, plans, and procedures, including those relating to emergency operations, throughout the State.

(2) Provides assurance of non-Federal contributions at least equal to Federal funding for necessary and essential costs eligible under this program from any source consistent with State law, but not from another Federal source unless Federal law specifically authorizes the use of funds from such Federal source as part of the State's share.

(3) Provides for the development of State and local government civil defense emergency operations plans pursuant to the standards approved by the Director.

Federal Emergency Management Agency, DHS

§ 302.3

(4) Provides for the employment by the State of full-time civil defense director or deputy director.

(5) Provides for the establishment and maintenance of methods of personnel administration in public agencies administering or supervising the civil defense program, at both the State and local government levels, in conformity with the Standards for a Merit System of Personnel Administration (5 CFR part 900), which incorporate the Intergovernmental Personnel Act Merit Principles (Pub. L. 91-648, section 2, 84 Stat. 1908) prescribed by the Office of Personnel Management pursuant to section 208 of the Intergovernmental Personnel Act of 1970, as amended.

(6) Provides for the establishment of safeguards to prohibit State and local government employees from using their positions for a purpose that is or gives the appearance of being motivated by desire for private gain for themselves or others, particularly those with whom they have family, business, or other ties.

(7) Provides that the State shall make such reports (including without limitation financial reports) in such form and content as the Director may require.

(8) Provides that the State and all subgrantees shall retain, in accordance with OMB Circular A-102, and make available to duly authorized representatives of the Director and the U.S. Comptroller General all books, records, and papers pertinent to the grant program for the purpose of making audits, examinations, excerpts, and transcripts necessary to conduct audits.

(9) Provides for establishment and maintenance of a financial management system of grant-supported activities of the State and all subgrantees which meets the federally prescribed standards promulgated in "Standards for Grantee Financial Management Systems," Attachment G of OMB Circular A-102.

(10) Provides for establishment and maintenance of procedures for monitoring and reporting grant program and project performance of the State and its subgrantees which meet the federally prescribed standards promul-

gated in Attachment I of OMB Circular A-102.

(11) Provides for the establishment and maintenance at the State level and by subgrantees of property management systems in accordance with the federally prescribed standards set forth in Attachment N of OMB Circular A-102.

(12) Provides for the establishment and maintenance at the State level and by subgrantees of systems for the procurement of supplies, equipment, construction, and other services, with the assistance of grant funds, in accordance with federally prescribed standards set forth in Attachment O of OMB Circular A-102.

(13) Provides for disbursement of the appropriate share of the Federal grant to the State's subgrantees in accordance with requirements detailed in CPG 1-3.

(14) Provides for the State's supervision and review of the civil defense plans, programs, and operations of its subgrantees to obtain conformity and compliance with Federal requirements and goals set forth or referenced in the regulations in this part and as detailed in CPG 1-3.

(15) Contains a Statement of Compliance with grantor agency regulations relating to nondiscrimination in FEMA programs (see 44 CFR part 7).

(16) Provides for timely submission to the appropriate Regional Director of amendments to the administrative plan as necessary to reflect the current laws, regulation, criteria, plans, methods, practices, and procedures for administration of the State's civil defense program and those of its subgrantees.

(17) Conforms to other Federal standards and requirements set forth or referenced in the regulations in this part and as detailed in CPG 1-3.

(18) Provides for performance of independent organizationwide audits by State and local governments that receive EMA funds of their financial operations, including compliance with certain provisions of Federal law and regulation.

(b) *Emergency Operations Plans (EOP's)*. (1) Each participating State shall have an EOP approved by the Regional Director and conforming with

§ 302.3

44 CFR Ch. I (10–1–04 Edition)

the requirements for plan content set forth in this part and in CPG 1-3, and in CPG 1-8 “Guide for the Development of State and Local Emergency Operations Plans” and in CPG 1-8A, “Guide for the Review of State and Local Emergency Operations Plans,” which plan must provide for coordinated actions to be undertaken throughout the State in the event of attack and in the event of other disasters.

(2) Each subgrantee jurisdiction shall have a local EOP which conforms with the requirements for plan content as set forth in CPG 1-3 and CPG 1-8 and CPG 1-8A, and which has been approved by the local chief executive or other authorized official and accepted by the Governor or other authorized State official as being consistent with the State’s EOP.

(c) *Annual submission.* Each State should include in its annual CCA application the amount of EMA funding requested (see §302.5(c)). In order to participate for a particular Federal fiscal year, however, each State must also, within 60 days of receipt or notice of a formal allocation made pursuant to the criteria set forth in §302.5 and in accordance with procedures and criteria specified in CPG 1-3, submit to the Regional Director an approvable annual submission which includes:

(1) A request or amended request for a financial contribution from FEMA in a specified amount for civil defense personnel and administrative expenses; (see §302.5 (d) through (h)).

(2) Unless previously submitted for the particular Federal fiscal year, a statement of work for the State and proposed subgrantees or amendments to a statement of work previously submitted under the CCA.

(3) Staffing patterns (including new or revised job descriptions not previously submitted) on forms prescribed by FEMA for the civil defense organizations of the State and proposed subgrantees; and

(4) Any amendments to the State administrative plan required to reflect current status.

(d) *Approval of State administrative plan and annual submission.* If the State administrative plan and the annual submission are determined to be approvable, the Regional Director will so

notify the State in writing. The State administrative plan is a one-time submission. Unless amendments are necessary to meet Federal standards prescribed in the regulations in this part or in CPG 1-3 or to reflect changes in the State’s administrative structure, procedures, criteria, or activities, or unless a portion were conditionally approved by the Regional Director as provided for in paragraph (e) of this section, no approval regarding the State administrative plan will be required for a State which participated for the preceding Federal fiscal year.

(e) *Agreement for contribution.* Approval pursuant to procedures and criteria described in this part and in CPG 1-3 of an annual submission of a State whose administrative plan is approved and current shall constitute agreement between FEMA and the State as grantee for its participation and that of its subgrantees in this program during the Federal fiscal year covered by the approved annual submission on the basis of the requirements and conditions prescribed in this part, in CPG 1-3, and in other federally promulgated criteria referenced in this part. Refusal or failure to comply with such requirements and conditions may result in the grant or agency cancelling, terminating, or suspending the grant, in whole or in part, and refraining from extending any further assistance to the grantee or subgrantee until satisfactory assurance of future compliance has been received.

(f) *Disapproval or conditional approval.* If a State’s administrative plan or annual submission is disapproved, the Regional Director will advise the State in writing, including the reasons for such disapproval and the revisions required for approval. The State shall have 30 days from date of such notification in which to submit its revisions. In the event more time is required in which to place the revisions into effect, the Regional Director may conditionally approve the State administrative plan or annual submission subject to the specified conditions to be met within a specified time, as agreed by the State and FEMA.

(g) *Appeals.* (1) Appeal from a Regional Director’s disapproval of a State

administrative plan or an annual submission or other final action as unjustified under the criteria in CPG 1-3 may be made by letter to the Associate Director, State and Local Programs and Support (FEMA), signed by an authorized State official and submitted through the Regional Director. Such appeal letter shall be mailed or otherwise transmitted so as to reach the Regional Director within 30 days after receipt of the notification of disapproval. Failure to file its appeal on time may result in withdrawal of the State's allocation and the proposed funding being reallocated by the Director.

(2) A local jurisdiction that regards the final action on its subgrant made by a State as unjustified under the criteria in CPG 1-3 may submit an appeal through the State to the Regional Director. Upon receipt of such an appeal, the Regional Director shall forward the letter, together with all available pertinent documentation from the Regional Director's files and any additional documentation submitted by the local jurisdiction in support of its appeal, to the Associate Director, State and Local Programs and Support, for review and determination. The appeal shall contain all of the exceptions being taken by the State or local jurisdiction, and no exceptions will be determined piecemeal.

(3) No portion of the appellant State's allocation shall be reallocated by FEMA, and no portion of a local jurisdiction's allocation shall be reallocated by the State, pending determination of its appeal by the Director. The State and local jurisdiction (if applicable) will be notified in writing of the Director's decision, including a statement of the reasons therefor.

(Approved by Office of Management and Budget under control number 3067-0138)

[48 FR 44211 Sept. 28, 1983, as amended at 51 FR 12520, Apr. 11, 1986]

§ 302.4 Merit personnel systems.

(a) *Background.* Section 208 of the Intergovernmental Personnel Act, as amended (42 U.S.C. 4728) authorizes Federal agencies to require, as a condition of participation in Federal assistance programs, systems of a personnel administration consistent with personnel standards prescribed by the Of-

fice of Personnel Management (OPM). OPM has promulgated Standards for a System of Personnel Administration (5 CFR part 900) which prescribe intergovernmental personnel standards on a merit basis as a condition of eligibility in the administration of grant programs. OPM has approved FEMA adoption of these standards by the regulations in this part.

(b) *Standard.* Participation by each grantee and each subgrantee under the program covered in this part is subject to compliance with the following conditions regarding merit personnel systems:

Methods of personnel administration will be established and maintained in public agencies administering or supervising the administration of the civil defense program in conformity with the Standards for a Merit System of Personnel Administration 5 CFR part 900, which incorporate the Intergovernmental Personnel Act Merit Principles (Pub. L. 91-648, section 2, 84 Stat. 1909) prescribed by the Office of Personnel Management pursuant to section 208 of the Intergovernmental Personnel Act of 1970 as amended.

Section 302.3(a)(5) of this part provides, in part, that State administrative plans that fail to provide for fulfilling this condition are not approvable.

§ 302.5 Allocations and reallocations.

(a) The Director shall allocate the entire amount of funds available for the purposes of this program from the appropriation for each fiscal year. The allocation made to each State represents the total amount of funds available to pay the Federal share of necessary and essential civil defense personnel and administrative expenses of the State and its participating subdivisions during the fiscal year.

(b) The first calculation for developing the allocation for each State will be a formula distribution in accordance with section 205(d) of the Act, made by applying the following percentages to the total sum of Emergency Management Assistance in the President's budget request to Congress:

(1) Fifty (50) percent will be allocated on the basis of the prior-year State allocations, in fulfillment of the statutory requirement to give due regard to "the relative state of development of