

boundaries of a larger city; is economically disadvantaged, by having an average per capita annual income of residents not exceeding 80 percent of national, per capita income, based on best available data; the local unemployment rate exceeds by one percentage point or more, the most recently reported, average yearly national unemployment rate; and any other factors identified in the State Plan in which the community is located.

*The Stafford Act* refers to the Robert T. Stafford Disaster Relief and Emergency Assistance Act, Public Law 93-288, as amended (42 U.S.C. 5121-5206).

*State* is any State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

*State Hazard Mitigation Officer* is the official representative of State government who is the primary point of contact with FEMA, other Federal agencies, and local governments in mitigation planning and implementation of mitigation programs and activities required under the Stafford Act.

*Subgrantee* means 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. Subgrantees can be a State agency, local government, private nonprofit organizations, or Indian tribal government. Indian tribal governments acting as a subgrantee are accountable to the State grantee.

### §201.3 Responsibilities.

(a) *General.* This section identifies the key responsibilities of FEMA, States, and local/tribal governments in carrying out section 322 of the Stafford Act, 42 U.S.C. 5165.

(b) *FEMA.* The key responsibilities of the Regional Director are to:

(1) Oversee all FEMA related pre- and post-disaster hazard mitigation programs and activities;

(2) Provide technical assistance and training to State, local, and Indian tribal governments regarding the mitigation planning process;

(3) Review and approve all Standard and Enhanced State Mitigation Plans;

(4) Review and approve all local mitigation plans, unless that authority has been delegated to the State in accordance with §201.6(d);

(5) Conduct reviews, at least once every three years, of State mitigation activities, plans, and programs to ensure that mitigation commitments are fulfilled, and when necessary, take action, including recovery of funds or denial of future funds, if mitigation commitments are not fulfilled.

(c) *State.* The key responsibilities of the State are to coordinate all State and local activities relating to hazard evaluation and mitigation and to:

(1) Prepare and submit to FEMA a Standard State Mitigation Plan following the criteria established in §201.4 as a condition of receiving Stafford Act assistance (except emergency assistance).

(2) In order to be considered for the 20 percent HMGP funding, prepare and submit an Enhanced State Mitigation Plan in accordance with §201.5, which must be reviewed and updated, if necessary, every three years from the date of the approval of the previous plan.

(3) At a minimum, review and, if necessary, update the Standard State Mitigation Plan by November 1, 2004 and every three years from the date of the approval of the previous plan in order to continue program eligibility.

(4) Make available the use of up to the 7 percent of HMGP funding for planning in accordance with §206.434.

(5) Provide technical assistance and training to local governments to assist them in applying for HMGP planning grants, and in developing local mitigation plans.

(6) For Managing States that have been approved under the criteria established by FEMA pursuant to 42 U.S.C. 5170c(c), review and approve local mitigation plans in accordance with §201.6(d).

(7) If necessary, submit a request from the Governor to the Director of FEMA, requesting an extension to the plan deadline in accordance with §201.4(a)(2).

(d) *Local governments.* The key responsibilities of local governments are to:

(1) Prepare and adopt a jurisdiction-wide natural hazard mitigation plan as

a condition of receiving project grant funds under the HMGP, in accordance with §201.6.

(2) At a minimum, review and, if necessary, update the local mitigation plan every five years from date of plan approval to continue program eligibility.

(e) *Indian tribal governments.* Indian tribal governments will be given the option of applying directly to us for Hazard Mitigation Grant Program funding, or they may choose to apply through the State. If they apply directly to us, they will assume the responsibilities of the State, or grantee, and if they apply through the State, they will assume the responsibilities of the local government, or subgrantee.

[67 FR 8848, Feb. 26, 2002, as amended at 67 FR 61515, Oct. 1, 2002; 69 FR 55096, Sept. 13, 2004]

#### **§201.4 Standard State Mitigation Plans.**

(a) *Plan requirement.* (1) By November 1, 2004, States must have an approved Standard State Mitigation Plan meeting the requirements of this section in order to receive assistance under the Stafford Act, although assistance authorized under disasters declared prior to November 1, 2004 will continue to be made available. Until that date, existing, FEMA approved State Mitigation Plans will be accepted. In any case, emergency assistance provided under 42 U.S.C. 5170a, 5170b, 5173, 5174, 5177, 5179, 5180, 5182, 5183, 5184, 5192 will not be affected. Mitigation planning grants provided through the Pre-Disaster Mitigation (PDM) program, authorized under Section 203 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5133, will also continue to be available. The mitigation plan is the demonstration of the State's commitment to reduce risks from natural hazards and serves as a guide for State decision makers as they commit resources to reducing the effects of natural hazards. States may choose to include the requirements of the HMGP Administrative Plan in their mitigation plan, but must comply with the requirement for updates, amendments, or revisions listed under 44 CFR 206.437.

(2) A Governor, or Indian tribal leader, may request an extension to the plan approval deadline by submitting a request in writing to the Director of FEMA, through the Regional Director. At a minimum, this must be signed by the Governor or the Indian tribal leader, and must include justification for the extension, identification of the reasons the plan has not been completed, identification of the amount of additional time required to complete the plan, and a strategy for finalizing the plan. The Director of FEMA will review each request and may grant a plan approval extension of up to six months. However, any extended plan approval deadline will be no later than May 1, 2005.

(b) *Planning process.* An effective planning process is essential in developing and maintaining a good plan. The mitigation planning process should include coordination with other State agencies, appropriate Federal agencies, interested groups, and be integrated to the extent possible with other ongoing State planning efforts as well as other FEMA mitigation programs and initiatives.

(c) *Plan content.* To be effective the plan must include the following elements:

(1) Description of the *planning process* used to develop the plan, including how it was prepared, who was involved in the process, and how other agencies participated.

(2) *Risk assessments* that provide the factual basis for activities proposed in the strategy portion of the mitigation plan. Statewide risk assessments must characterize and analyze natural hazards and risks to provide a statewide overview. This overview will allow the State to compare potential losses throughout the State and to determine their priorities for implementing mitigation measures under the strategy, and to prioritize jurisdictions for receiving technical and financial support in developing more detailed local risk and vulnerability assessments. The risk assessment shall include the following:

(i) An overview of the type and location of all natural hazards that can affect the State, including information on previous occurrences of hazard