

PART 78—FLOOD MITIGATION ASSISTANCE

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SOURCE: 62 FR 13347, Mar. 20, 1997, unless otherwise noted.

§ 78.1 Purpose.

(a) The purpose of this part is to prescribe actions, procedures, and requirements for administration of the Flood Mitigation Assistance (FMA) program, authorized by Sections 1366 and 1367 of the National Flood Insurance Act of 1968, 42 U.S.C. 4104c and 4104d.

(b) The purpose of FMA is to assist State and local governments in funding cost-effective actions that reduce or eliminate the long-term risk of flood damage to buildings, manufactured homes, and other insurable structures. The long-term goal of FMA is to reduce or eliminate claims under the National Flood Insurance Program (NFIP) through mitigation activities. The program provides cost-shared grants for three purposes: Planning Grants to States and communities to assess the flood risk and identify actions to reduce that risk; Project Grants to execute measures to reduce flood losses; and Technical Assistance Grants that States may use to assist communities to develop viable FMA applications and implement FMA projects. FMA also outlines a process for development and approval of Flood Mitigation Plans.

§ 78.2 Definitions.

(a) Except as otherwise provided in this part, the definitions set forth in part 59 of this subchapter are applicable to this part.

(b) *Community* means:

(1) A political subdivision, including any Indian tribe or authorized tribal organization or Alaskan native village or authorized native organization, that has zoning and building code jurisdiction over a particular area having special flood hazards, and is participating in the NFIP; or

(2) A political subdivision of a State, or other authority, that is designated to develop and administer a mitigation plan by political subdivisions, all of which meet the requirements of paragraph (b)(1) of this section.

§ 78.3 Responsibilities.

(a) *Federal*. The Director will allocate available funds to each FEMA Region. The FEMA Regional Director will:

(1) Allocate Technical Assistance and Planning Grants to each State through the annual Cooperative Agreements;

(2) Approve Flood Mitigation Plans in accordance with § 78.6; and

(3) Award all FMA project grants, after evaluating applications for minimum eligibility criteria and ensuring compliance with applicable Federal laws.

(b) *State*. The State will serve as grantee through the State Point of Contact (POC) designated by the Governor. The POC must have working knowledge of NFIP goals and processes and will ensure that FMA is coordinated with other mitigation activities at the State level. If a Governor chooses not to identify a POC to coordinate the FMA, communities may follow alternative procedures as described in § 78.14. States will:

(1) Provide technical assistance to communities to assist them in developing applications and implementing approved applications;

(2) Award planning grants;

(3) Submit plans to the FEMA Regional Director for approval;

(4) Evaluate project applications, selecting projects to forward to the FEMA Regional Director for final approval; and

(5) Submit performance and financial reports to FEMA in compliance with 44 CFR 13.40 and 13.41.

(c) *Community*. The community will:

(1) Complete and submit applications to the State POC for the Planning and Projects Grants;

(2) Prepare and submit the Flood Mitigation Plan;

(3) Implement all approved projects;

(4) Comply with FMA requirements, 44 CFR parts 13 and 14, the grant agreement, applicable Federal, State and local laws and regulations (as applicable); and

(5) Account for the appropriate use of grant funds to the State POC.

§ 78.4 Applicant eligibility.

(a) The State is eligible to apply for grants for Technical Assistance.

(b) State agencies and communities are eligible to apply for Planning and Project Grants and to act as sub-grantee. Communities on probation or suspended under 44 CFR part 60 of the NFIP are not eligible. To be eligible for Project Grants, an eligible applicant will develop, and have approved by the FEMA Regional Director, a Flood Mitigation Plan in accordance with § 78.5.

§ 78.5 Flood Mitigation Plan development.

A Flood Mitigation Plan will articulate a comprehensive strategy for implementing technically feasible flood mitigation activities for the area affected by the plan. At a minimum, plans will include the following elements:

(a) Description of the planning process and public involvement. Public involvement may include workshops, public meetings, or public hearings.

(b) Description of the existing flood hazard and identification of the flood risk, including estimates of the number and type of structures at risk, repetitive loss properties, and the extent of flood depth and damage potential.

(c) The applicant's floodplain management goals for the area covered by the plan.

(d) Identification and evaluation of cost-effective and technically feasible mitigation actions considered.

(e) Presentation of the strategy for reducing flood risks and continued

compliance with the NFIP, and procedures for ensuring implementation, reviewing progress, and recommending revisions to the plan.

(f) Documentation of formal plan adoption by the legal entity submitting the plan (e.g., Governor, Mayor, County Executive).

§ 78.6 Flood Mitigation Plan approval process.

The State POC will forward all Flood Mitigation Plans to the FEMA Regional Director for approval. The Regional Director will notify the State POC of the approval or disapproval of the plan within 120 days after submission. If the Regional Director does not approve a mitigation plan, the Regional Director will notify the State POC of the reasons for non-approval and offer suggestions for improvement.

§ 78.7 Grant application procedures.

States will apply for Technical Assistance and Planning Grants through the annual Cooperative Agreement between FEMA and the State. The State POC will be notified regarding their available funds for project grants each fiscal year. The State may forward project applications to FEMA for review at any time.

§ 78.8 Grant funding limitations.

(a) The Director will allocate the available funds for FMA each fiscal year. Each State will receive a base amount of \$10,000 for Planning Grants and \$100,000 for Project Grants, with the remaining funds distributed based on the number of NFIP policies, repetitive loss structures, and other such criteria as the Director may determine in furtherance of the disaster resistant community concept.

(b) A maximum of \$1,500,000 may be allocated for Planning Grants nationally each fiscal year. A Planning Grant will not be awarded to a State or community more than once every 5 years, and an individual Planning Grant will not exceed \$150,000 to any State agency applicant, or \$50,000 to any community applicant. The total Planning Grant made in any fiscal year to any State, including all communities located in the State, will not exceed \$300,000.