

PART 4—INTERGOVERNMENTAL REVIEW OF FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) PROGRAMS AND ACTIVITIES

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AUTHORITY: E.O. 12372, July 14, 1982 (47 FR 30959), as amended April 8, 1983 (48 FR 15887); sec. 401, Intergovernmental Cooperation Act of 1968, as amended (31 U.S.C. 6506); sec. 204, Demonstration Cities and Metropolitan Development Act of 1966, as amended (42 U.S.C. 3334).

SOURCE: 48 FR 29316, June 24, 1983, unless otherwise noted.

EDITORIAL NOTE: For additional information, see related documents published at 47 FR 57369, Dec. 23, 1982; 48 FR 17101, Apr. 21, 1983; and 48 FR 29096, June 24, 1983.

§ 4.1 What is the purpose of these regulations?

(a) The regulations in this part implement Executive Order 12372, "Intergovernmental Review of Federal Programs," issued July 14, 1982 and amended on April 8, 1983. These regulations also implement applicable provisions of section 401 of the Intergovernmental Cooperation Act of 1968 and section 204

of the Demonstration Cities and Metropolitan Development Act of 1966.

(b) These regulations are intended to foster an intergovernmental partnership and a strengthened Federalism by relying on state processes and on State, areawide, regional and local coordination for review of proposed Federal financial assistance and direct Federal development.

(c) These regulations are intended to aid the internal management of FEMA, and are not intended to create any right or benefit enforceable at law by a party against FEMA or its officers.

§ 4.2 What definitions apply to these regulations?

FEMA means the Federal Emergency Management Agency.

Order means Executive Order 12372, issued July 14, 1982, and amended April 8, 1983 and titled "Intergovernmental Review of Federal Programs."

Director means the Director of FEMA or an official or employee of FEMA acting for the Director under a delegation of authority.

State means any of the 50 states, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of Northern Mariana Islands, Guam, American Samoa, the U.S. Virgin Islands, or the Trust Territory of the Pacific Islands.

§ 4.3 What programs and activities of FEMA are subject to these regulations?

The Director publishes in the FEDERAL REGISTER a list of FEMA's programs and activities that are subject to these regulations and identifies which of these are subject to the requirements of section 204 of the Demonstration Cities and Metropolitan Development Act.

§ 4.4 [Reserved]

§ 4.5 What is the Director's obligation with respect to Federal interagency coordination?

The Director, to the extent practicable, consults with and seeks advice from all other substantially affected Federal departments and agencies in

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an effort to assure full coordination between such agencies and FEMA regarding programs and activities covered under these regulations.

§4.6 What procedures apply to the selection of programs and activities under these regulations?

(a) A State may select any program or activity published in the FEDERAL REGISTER in accordance with §4.3 of this part for intergovernmental review under these regulations. Each State, before selecting programs and activities, shall consult with local elected officials.

(b) Each State that adopts a process shall notify the Director of FEMA's programs and activities selected for that process.

(c) A State may notify the Director of changes in its selections at any time. For each change, the State shall submit to the Director an assurance that the State has consulted with local elected officials regarding the change. FEMA may establish deadlines by which States are required to inform the Director of changes in their program selections.

(d) The Director uses a State's process as soon as feasible, depending on individual programs and activities, after the Director is notified of its selections.

§4.7 How does the Director communicate with State and local officials concerning FEMA's programs and activities?

(a) For those programs and activities covered by a state process under §4.6, the Director, to the extent permitted by law:

(1) Uses the state process to determine views of State and local elected officials; and,

(2) Communicates with State and local elected officials, through the state process, as early in a program planning cycle as is reasonably feasible to explain specific plans and actions.

(b) The Director provides notice to directly affected State, areawide, regional, and local entities in a State of proposed Federal financial assistance or direct Federal development if:

(1) The State has not adopted a process under the Order; or

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(2) The assistance or development involves a program or activity not selected for the State process.

This notice may be made by publication in the FEDERAL REGISTER or other appropriate means, which FEMA in its discretion deems appropriate.

§4.8 How does the Director provide an opportunity to comment on proposed Federal financial assistance and direct Federal development?

(a) Except in unusual circumstances, the Director gives state processes or directly affected State, areawide, regional and local officials and entities at least 60 days from the date established by the Director to comment on proposed direct Federal development or Federal financial assistance.

(b) This section also applies to comments in cases in which the review, coordination, and communication with FEMA have been delegated.

(c) Applicants for programs and activities subject to section 204 of the Demonstration Cities and Metropolitan Act shall allow areawide agencies a 60-day opportunity for review and comment.

§4.9 How does the Director receive and respond to comments?

(a) The Director follows the procedures in §4.10 if:

(1) A State office or official is designated to act as a single point of contact between a state process and all Federal agencies, and

(2) That office or official transmits a state process recommendation for a program selected under §4.6.

(b)(1) The single point of contact is not obligated to transmit comments from State, areawide, regional or local officials and entities where there is no state process recommendation.

(2) If a state process recommendation is transmitted by a single point of contact, all comments from state, areawide, regional, and local officials and entities that differ from it must also be transmitted.

(c) If a State has not established a process, or is unable to submit a state process recommendation, State, areawide, regional and local officials and entities may submit comments to FEMA.