Table of Contents

Purpose .............................................................................................................................................. 4
Delegation of Authority ....................................................................................................................... 4
Definitions ........................................................................................................................................... 5
Authorities and References .................................................................................................................. 8
   State .................................................................................................................................................. 8
   Federal ............................................................................................................................................... 8
Program Organization and Responsibilities ......................................................................................... 8
Declaration Process ................................................................................................................................ 11
FEMA-State Agreement ........................................................................................................................ 12
Eligibility ............................................................................................................................................. 12
   Applicant Eligibility .............................................................................................................................. 12
   Eligible Costs – General ....................................................................................................................... 12
   Equipment and Supply Costs ............................................................................................................. 13
   Labor Costs ......................................................................................................................................... 13
   Travel and Per Diem Costs .................................................................................................................. 13
   Pre-Positioning Costs .......................................................................................................................... 13
   Emergency Work ................................................................................................................................. 14
   Temporary Repair of Damage Caused by Firefighting Activities ....................................................... 14
   Mobilization and Demobilization ...................................................................................................... 14
   Fires on Co-Mingled Federal/State Lands ............................................................................................ 14
   Ineligible Costs .................................................................................................................................. 14
Application Procedures ....................................................................................................................... 15
   Approval of Requests ........................................................................................................................... 15
   Appeal of Denials ............................................................................................................................... 16
Program Administration Procedures ..................................................................................................... 16
   Notifying Potential Applicants ........................................................................................................ 16
   Submitting Subgrant Applications .................................................................................................... 16
   Technical Assistance .......................................................................................................................... 17
   Risk Assessment ............................................................................................................................... 17
   FMAG Subgrant Agreement .............................................................................................................. 18
   Preparing Project Worksheets .......................................................................................................... 18
   Submitting Project Worksheets ......................................................................................................... 18
   Environmental Certifications ............................................................................................................. 18
   Certifying Costs ................................................................................................................................ 18
   Time Extension ................................................................................................................................. 19
   Insurance Requirements ................................................................................................................... 19
   Duplication of Benefits ...................................................................................................................... 19
   Negligence .......................................................................................................................................... 19
   Intentional Acts ................................................................................................................................. 19
   Appeals ............................................................................................................................................... 19
   Project Monitoring ............................................................................................................................ 20
Financial Management .......................................................................................................................... 21
Funding Procedures ................................................................. 21
Payment Policies and Procedures .................................................. 21
  Federal Funding .................................................................. 22
  State Funding .................................................................... 23
Recovery of Funds ................................................................... 23
Financial Reporting Requirements ............................................... 24
Audit Requirements .................................................................. 24
Administrative Requirements ....................................................... 25
Procurement ............................................................................. 26
  Equipment .......................................................................... 27
  Supplies ............................................................................ 27
Records Retention .................................................................... 27
Program Closeout .................................................................. 28
Purpose
The North Dakota Department of Emergency Services (NDDES) conducts coordination, communications, and operations for the safety and security of all citizens in North Dakota. The mission of the North Dakota Forest Service (NDFS) is to care for, protect and improve forest and natural resources to enhance the quality of life for future generations. The Governor has designated authorized representatives of NDDES and NDFS to request a Fire Management Assistance Grant (FMAG).

This administrative plan documents the processes and management procedures the State of North Dakota will use to administer Part 204, Fire Management Assistance Grant Program (FMAGP), of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Public Law 93-288, as amended by Public Law 100-707). Additionally, this plan outlines roles and responsibilities for administering the plan. The Governor has designated NDDES as the state agency (Grantee) responsible for managing and administering the FMAGP. The North Dakota Forest Service (NDFS) will provide essential technical and resource support to ensure program objectives are achieved.

No statement in this plan shall be interpreted to override or supersede any federal law, regulation, authority, executive order or prescribed policy. The state will comply with all the administrative requirements of 2 CFR.

Delegation of Authority
The Governor has pre-designated the Governor’s Authorized Representative (GAR) and Alternate Governor’s Authorized Representatives (AGARs) to administer Part 204, FMAGP, of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Public Law 93-288, as amended by Public Law 100-707). Exhibit A of the FEMA-State Agreement lists State Certification Officers.

- **Greg Wilz**, Deputy Director of NDDES/Director N.D. Division of Homeland Security (NDHLS), has been designated as the GAR with responsibility to execute, on behalf of the State, all necessary documents for fire management assistance, including the request for a fire management assistance declaration. The NDHLS Director, as the GAR, shall have the final authority and responsibility to invoke and terminate this plan.

- **Larry Kotchman**, State Forester, N.D. State Forest Service, has been designated as an Alternate GAR (AGAR), empowered by the Governor to execute, on behalf of the State, all necessary actions and documents supporting disaster response and recovery.

- **Ryan Melin**, Fire Manager, N.D. State Forest Service, has been designated as an AGAR, empowered by the Governor to execute, on behalf of the State, all necessary actions and documents supporting disaster response and recovery.

The GAR or AGARs have specific responsibility for submitting Requests for Fire Assistance. NDDES will serve as the State/Grantee and will have responsibility for program administration.
Definitions

**Administrator:** The administrator of the Federal Emergency Management Agency (FEMA).

**Applicant:** A State, local, Indian Tribal government, other legal entity, or certain private non-profit organizations that receive a subgrant award and which is accountable to the Grantee for the use of the funds provided. Also referred to as a subgrantee and/or subrecipient.

**Assistant Administrator:** Assistant Administrator of the Disaster Assistance Directorate of FEMA, or his/her designated representative.

**Declared Fire:** An uncontrolled fire or fire complex, threatening such destruction as would constitute a major disaster, which the Administrator has approved in response to a State's request for a fire management assistance declaration and in accordance with the criteria (see Eligibility section or Code of Federal Regulations, §204.21, FMAG Declaration Requirements.)

**Demobilization:** The process and procedures for deactivating, disassembling, and transporting back to their point of origin all resources that had been provided to respond to and support a declared fire.

**EMMIE (Emergency Management Mission Integrated Environment):** EMMIE is the platform upon which many web-based FEMA e-grants applications now reside, such as Public Assistance and the Fire Management Assistance Grants. It replaces the previously used electronic grants management systems NEMIS.

**Federal Emergency Management Agency (FEMA):** The federal agency responsible for coordinating disaster recovery efforts.

**FEMA Form 90-91:** See Project Worksheet (PW).

**FEMA-State Agreement:** A document signed by the Governor of the State and the FEMA Regional Administrator (RA) that states the understandings, commitments, and conditions under which Federal assistance will be provided. The agreement identifies the incident and incident period, specifies the type and extent of assistance that will be provided, lists the areas eligible to receive assistance, outlines the cost sharing provisions, and includes other special terms and conditions that may apply.

**Fire Complex:** Two or more individual fires located in the same general area, which are assigned to a single Incident Commander.

**FMAGP:** Fire Management Assistance Grant Program.

**Governor:** The Chief Executive of any State.

**Governor's Authorized Representative (GAR):** Individual designated by the Governor to execute all necessary documents for disaster assistance programs on behalf of the state and local grant recipients. The GAR is responsible for state compliance with the FEMA-State agreement. The GAR may also be designated as the state coordinating officer.
Grant: An award of financial assistance, including cooperative agreements, by FEMA to an eligible State/Grantee. The grant award will be based on the amount of total eligible costs for which a State submits an application and that FEMA approves related to a declared fire.

Grantee: The government to which a grant is awarded and which is accountable for the use of the funds provided. The grantee is the entire legal entity even if only a particular component of the entity is designated in the grant award document. Generally, the State is the grantee. However, an Indian tribal government may choose to be a grantee, or it may act as a subgrantee under the State. Also referred to as Recipient.

Incident Commander: The ranking official responsible for overseeing the management of fire operations, planning, logistics, and finances of the field response.

Incident Period: The time interval during which the declared fire occurs. The Regional Administrator (RA), in consultation with GAR/AGAR and the Principal Advisor (PA), will establish the incident period. Generally, costs must be incurred during the incident period to be considered eligible.

Indian Tribal Government: An Indian tribal government is any Federally-recognized governing body of an Indian or Alaska Native tribe, band, nation, pueblo, village or community that the Secretary of Interior acknowledges as to exist under the Federally Recognized Tribe List Act of 1994, 25 U.S.C. 479a.

Local Government: A local government is any county, municipality, city, town, township, public authority, school district, special district, intrastate district, regional or interstate government entity, or agency or instrumentality of a local government; and any rural community, unincorporated town or village, or other public entity, for which an application for assistance is made by a State or political subdivision of a State.

Mitigation, Management, and Control: Those activities undertaken, generally during the incident period of a declared fire, to minimize immediate adverse effects and to manage and control the fire. Eligible activities may include associated emergency work and pre-positioning directly related to the declared fire.

Mobilization: The process and procedures used for activating, assembling, and transporting all resources that are requested to respond to support a declared fire.

Mop-Up: The act of making a fire safe after it is controlled, such as extinguishing or removing burning material along or near the control line, felling snags, trenching logs to prevent rolling.

- Eligible mop-up activities under FMAGP: Those activities necessary due to a threat to life and property (structures). These activities would be accomplished during the “response” phase of a fire.

- Ineligible mop-up activities under FMAGP: Those activities accomplished where there is no threat to life and property (structures). These activities would be done during the “recovery” phase of a fire.

Multi-Hazard Mitigation Plan: A plan to develop actions the State or local government will take to reduce the risk to people and property from all hazards. The intent of hazard mitigation
planning under the FMAGP is to identify wildfire hazards and cost-effective mitigation alternatives that produce long-term benefits.

**NEMIS: (National Emergency Management Information System)** An online grant application and grant management system hosted by FEMA.

**Payment Management System (PMS):** An online tool with centralized electronic grant and grant-type payment, cash management, and grant accounting support services to the Department of Health and Human Services (HHS) and other federal departments and agencies.

**Performance Period:** The time interval designated in block 13 on the Application for Federal Assistance (Standard Form 424) for the State/Grantee and all subgrantees to submit eligible cost and have those costs processed, obligated, and closed out by FEMA.

**Pre-Positioning:** Moving existing fire prevention or suppression resources from an area of lower fire danger to one of higher fire danger in anticipation of an increase in fire activity likely to constitute the threat of a major disaster.

**Principal Advisor:** An individual appointed by the Forest Service, United States Department of Agriculture, or Bureau of Land Management, Department of the Interior, who is responsible for providing FEMA with a technical assessment of the fire or fire complex for which the State is requesting a fire management assistance declaration. The Principal Advisor also frequently participates with FEMA on other wildland fire initiatives.

**Project Worksheet (FEMA form 90-91):** Form used to document the scope of work and cost estimate for a project. Also referred to as a PW.

**Project Funding:** All projects under FMAGP are treated as large projects; i.e., all costs must be documented before the final claim can be approved.

**Regional Administrator:** An administrator of a regional office of FEMA, or his/her designated representative.

**Request for Fire Management Assistance Subgrant (FF 089-0-24):** The FF 089-0-24 is the application required to become a subgrantee in FMAGP.

**Standard Form (SF) 424:** The SF 424 is the Application for Federal Assistance. This is the form the State submits electronically to FEMA to apply for a grant under a fire management assistance declaration.

**State Coordinating Officer (SCO):** Individual designated by the Governor to coordinate state and local disaster assistance efforts with that of the federal government. The SCO may also be designated as the GAR.

**State Public Assistance Officer (SPA0):** The State Public Assistance Officer (SPA0) is the State official specifically responsible for administering the FMAGP during disaster operations. As the program manager, the SPA0: 1) advises the State Coordinating Officer on all FMAGP matters, manages the operation of the public assistance staff and any coordination among the FMAGP and Federal, State, and local agencies; 2) works with State counterparts to ensure that the FMAGP is effective in meeting the needs of Applicants; and 3) ensures that the FMAGP is operating in compliance with all laws, regulations, and policies.
**State Administrative Plan:** A plan updated yearly by the State/Grantee for the administration of the FMAG.

**Subgrant:** An award of financial assistance under a grant by a State/Grantee to an eligible subgrantee.

**Subgrantee:** A State, local, Indian Tribal government, other legal entity, or certain private non-profit organizations that receive a subgrant award and which is accountable to the Grantee for the use of the funds provided. Also referred to as an applicant and/or subrecipient.

**Subrecipient:** A State, local, Indian Tribal government, other legal entity, or certain private non-profit organizations that receive a subgrant award and which is accountable to the Grantee for the use of the funds provided. Also referred to as an applicant and/or subgrantee.

**Threat of a Major Disaster:** The potential impact of the fire or fire complex is of a severity and magnitude that would result in a presidential major disaster declaration for the Public Assistance Program, the Individual Assistance Program, or both.

**Uncontrolled Fire:** Any fire not safely confined to predetermined control lines as established by firefighting resources.

**Authorities and References**

**State**

**Federal**
- Public Law 93-288, as amended
- 44 Code of Federal Regulations (CFR) Part 204
- 2 CFR Part 200
- All applicable FEMA guidance handbooks, policies, Standard Operating Procedures (SOPs) and appeals

**Program Organization and Responsibilities**
NDDES will provide oversight for the FMAG administration. As required, NDDES will activate the State Emergency Operations Center (SEOC). Upon activation, the NDFS and the National Oceanic and Atmospheric Administration’s (NOAA) National Weather Service (NWS) will provide liaisons to support SEOC coordination efforts, as necessary. Response requirements will dictate participation in SEOC operations by other state agencies.

NDDES, through its Public Assistance Program staff, will manage implementation of the FMAGP, providing technical assistance to subgrantees (as outlined in Program Administration Procedures).
<table>
<thead>
<tr>
<th>Agency</th>
<th>Areas of Oversight</th>
</tr>
</thead>
<tbody>
<tr>
<td>NDDES</td>
<td>• Ensure, via the GAR, coordination with FEMA Region VIII</td>
</tr>
<tr>
<td></td>
<td>• Coordinate SEOC activities</td>
</tr>
<tr>
<td></td>
<td>• Coordinate timely completion of the FMAG Decision Checklist</td>
</tr>
<tr>
<td></td>
<td>• Coordinate completion of the FMAG Request</td>
</tr>
<tr>
<td></td>
<td>• Activate state agencies, as required</td>
</tr>
<tr>
<td></td>
<td>• Administer the FMAG ensuring accurate record keeping</td>
</tr>
<tr>
<td></td>
<td>• Ensure compliance with state and federal regulations</td>
</tr>
<tr>
<td>NDFS</td>
<td>• Coordinate with the GAR to evaluate the need to request a FMAG declaration</td>
</tr>
<tr>
<td></td>
<td>• Provide liaison with the Incident Commander, the SEOC Operations Officer and the NDDES Disaster Recovery Chief</td>
</tr>
<tr>
<td></td>
<td>• Support completion of the FMAG Decision Checklist and FMAG Request</td>
</tr>
<tr>
<td>Other State Agencies</td>
<td>• Provide liaison to the SEOC, as required</td>
</tr>
<tr>
<td></td>
<td>• Provide technical assistance and resources, as required</td>
</tr>
<tr>
<td>FEMA</td>
<td>• Coordinate with the GAR to expedite FMAG requests</td>
</tr>
<tr>
<td></td>
<td>• Provide technical assistance with FMAG requests and program administration</td>
</tr>
<tr>
<td>U.S. Forest Service (USFS)</td>
<td>• Serve as the North Dakota Principal Advisor for FEMA, in support of verification of state-level FMAG request data</td>
</tr>
<tr>
<td></td>
<td>• Ensure coordination with the NWS and federal agencies</td>
</tr>
<tr>
<td></td>
<td>• Provide technical assistance and resources, as required</td>
</tr>
<tr>
<td>NWS</td>
<td>• Provide weather forecast services as it pertains to potential fire behavior</td>
</tr>
</tbody>
</table>
Following is an overview of state-level staffing and assignments.

*Note: Pending the scale of disaster activity and scope of available funding, NDDES may place additional staffing to support needed project coordination, monitoring and technical assistance.*

<table>
<thead>
<tr>
<th>FMA Activity</th>
<th>Oversight</th>
<th>Location</th>
<th>Source of Staffing</th>
<th>Assignments</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Fire Response</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>State Level Operational Response</td>
<td>NDDES Operations Officer, SEOC Staff, NDFS</td>
<td>SEOC</td>
<td>Permanent Staff, Temporary Staff</td>
<td>• Coordinate with the Incident Commander (IC), Emergency Manager (EM) NWS, and NDFS to obtain information outlined on the <em>Decision Checklist – Region VIII</em> form and provide the information to the GAR/AGARs</td>
</tr>
<tr>
<td>Technical and Resource Assistance</td>
<td>NWS</td>
<td>SEOC</td>
<td>Permanent Staff</td>
<td>• Provide weather forecast services as it pertains to potential fire behavior</td>
</tr>
</tbody>
</table>
| Incident Command Coordination     | Operations Officer, NDFS       | SEOC, USFS | Permanent Staff     | • Coordinate with the IC to determine resource needs  
• Obtain fire behavior and firefighting data  
• Develop analysis of fire conditions |
| FMAG Request                      | GAR, AGAR                      | SEOC     | Permanent Staff    | • Submit a verbal State request for a FMAG to the FEMA RA while the fire is burning uncontrolled                                          |
| FMAG documentation                | Disaster Recovery Chief        | SEOC     | Permanent Staff    | • Coordinate with the GAR, NWS, Operations Officer and NDFS to ensure accurate completion of the FMAG *Request for Fire Management Assistance Declaration FF 078-0-1* |
| **Fire Recovery**                 |                                |          |                    |                                                                                                                                            |
| FMAGP Oversight                   | GAR, AGARs, NDDES Disaster Recovery Chief | NDDES, NDFS | Permanent Staff | • Provide oversight for FMAG administration  
• Ensure adequate staffing to administer the FMAG  
• Activate, as required, portions or all of the State Multi-Agency Coordination Center (MACC) in support of fire recovery operations |
### Declaration Process

A request for a FMAG declaration requires an expedited, coordinated response by NDDES, NDFS, NWS, FEMA and other state and federal partners. Fire management assistance declarations are approved only for those fires which threaten such destruction as would constitute a major disaster and only address costs of fire suppression and limited emergency protective measures. The FMAG declaration requests operate on a real-time basis through coordination with the GAR/AGAR and FEMA’s 24/7 Fire Duty Officer through the MOC -- Mobile Emergency Response Support (MERS) Operations Center – 800.311.7021 or 303.235.4847.

Requests are conducted over the telephone and then followed up with a written request, Request for Fire Management Assistance Declaration FF 078-0-1. The declaration process is as follows:

- The Governor’s Authorized Representative (GAR), or alternate GAR (AGAR), acting on behalf of the Governor, determines if a fire or fire complex meets the following four criteria, as specified in the FMAG Final Rule:
  - Threat to lives and improved property, including threats to critical facilities/infrastructure, and critical watershed areas;
    - **Note:** 100 primary dwellings is a general guideline to use (secondary homes, cabins, barns, etc. do not count)
  - Availability of state and local firefighting resources:
  - High fire danger conditions, as indicated by nationally accepted indices such as the National Fire Danger Rating System; and
  - Potential major economic impact.

  **Note:** If the fire does not meet the criteria above but has the potential to do so, the GAR/AGAR should provide FEMA notice.

- The GAR/AGAR submits a verbal State request for an FMAG to the RA while the fire is burning uncontrolled.
- The RA, or designee, gathers information from the state’s verbal request and calls upon the Principal Advisor for an assessment.
The Principal Advisor provides FEMA with a verbal technical assessment of the fire or fire complex; promptly followed by a written Principal Advisor’s report (FF 078-0-2).

The RA or designee, approves or denies the State’s request based on the following:
- The conditions that existed at the time of State’s request; and
- Whether the fire or fire complex threatens such destruction as would constitute a major disaster.

After rendering a determination, the RA, or designee, promptly notifies the GAR/AGAR.

When the request is approved/denied, the GAR/AGAR completes and signs the Request for Fire Management Assistance Declaration (FF 078-0-1) and submits it to the FEMA Region VIII Recovery Division. See Application Procedures for information regarding denials.

NDDES Public Assistance Program staff will administer the FMAGP in accordance with this Administrative Plan.

**FEMA-State Agreement**

At the beginning of the calendar year, the Governor and the RA will enter into a standing FEMA-State Agreement to cover all declared fires in that calendar year. There must be a signed and up-to-date FEMA-State Agreement before the State/Grantee can receive Federal funding for FMAGs. For each subsequently declared fire within the calendar year, the GAR must add a properly executed amendment, which defines the incident period and contains the official declaration number (Attachment C of the agreement).

Other amendments modifying the standing agreement may be added throughout the year to reflect changes in the program or signatory parties.

**Eligibility**

Following is a summary of eligibility as listed in the Code of Federal Regulations (CFR), Subpart C-Eligibility, §204.41, Applicant Eligibility; §204.42, Eligible Costs; and §204.43, Ineligible Costs.

**Applicant Eligibility**

The following entities are eligible to apply through the State/Grantee for a subgrant under an approved fire management assistance grant:

- State agencies
- Local governments
- Indian Tribal governments

Entities that are not eligible to apply for a subgrant such as privately-owned entities and volunteer firefighting organizations, may be reimbursed through a contract or compact with an eligible applicant for eligible costs associated with the fire or fire complex.

Eligibility is contingent upon a finding that the Incident Commander or comparable official requested the applying entity’s resources.

The activities performed must be the legal responsibility of the applying entity, required as the result of the declared fire, and located within the designated area.

**Eligible Costs – General**

All eligible work and related costs must be associated with the incident period of the declared fire. *Exception: Pre-positioning costs (if approved), mobilization/demobilization costs and costs...*
incurred by the State Grantee and Subgrantees associated with administering the fire grant are the only costs that will be considered eligible for work accomplished outside of the incident period.

Before obliging Federal funds the RA must review and approve the initial grant application, along with Project Worksheets submitted with the application and any subsequent amendments to the application.

**Equipment and Supply Costs**
- Personal comfort and safety items normally provided under field conditions for firefighter health and safety:
- Firefighting supplies, tools, materials, expended or lost, to the extent not covered by reasonable insurance, will be replaced with comparable items.
- Operation and maintenance costs of publicly-owned, contracted, rented, or volunteer firefighting department equipment used in eligible firefighting activities to the extent any of these costs are not included in applicable equipment rates.
- Use of U.S. Government-owned equipment based on reasonable costs as billed by the Federal agency and paid by State or local government. (Only direct costs for use of Federal Excess Personal Property (FEPP) vehicles and equipment on loan to State Forestry and local cooperators may be eligible.)
- Repair of equipment damaged in firefighting activities to the extent not covered by reasonable insurance. FEMA will use the lowest applicable equipment rates, or other rates that FEMA determine applicable to calculate the eligible cost of repairs.
- Replacement of equipment lost or destroyed in firefighting activities, to the extent not covered by reasonable insurance, will be replaced with comparable equipment.

**Labor Costs**
- Overtime for permanent or reassigned State and local employees directly involved in fire suppression.
- Regular time and overtime for temporary and/or contract employees hired to perform fire-related activities.
- Regular and overtime for State/Grantee and subgrantee employees associated with the administration of a fire management assistance grant; i.e. collection of fire costs.

**Travel and Per Diem Costs**
- Travel and per diem of employees who are providing services directly associated with eligible fire-related activities may be eligible.
- Provision of field camps and meals when made available in place of per diem.

**Pre-Positioning Costs**
- The actual costs of pre-positioning Federal, out-of-State (including compact), and international resources for a limited period may be eligible when those resources are used in response to a declared fire.
- The RA must approve all pre-positioning costs.
- Upon approval of the State’s request for a fire management assistance declaration by the FEMA Administrator, the State will immediately notify the RA if a determination is made to seek funding for pre-positioning resources.
- The State will document the number of pre-positioned resources to be funded and their respective locations throughout the State, estimate the cost of the pre-positioned resources that were used on the declared fire and the amount of time the resources
were pre-positioned, and provide a detailed explanation of the need to fund the pre-positioned resources.

- The State will base the detailed explanation on recognized scientific indicators that include, but are not limited to, drought indices, short-term weather forecasts, the current number of fires burning in the State and the availability of in-State firefighting resources. The State may also include other quantitative indicators with which to measure the increased risk of the threat of a major disaster.
- Based on the information contained in the State/Grantee's notification, the RA will determine the number of days of pre-positioning to be approved for Federal funding, up to a maximum of 21 days before the fire declaration. Upon rendering his/her determination on pre-positioning costs, the RA will notify the FEMA Assistant Administrator of the Disaster Assistance Directorate of his/her determination.

Emergency Work
FEMA may authorize the use of Section 403 of the Stafford Act, Essential Assistance, under an approved fire management assistance grant when directly related to the mitigation, management, and control of the declared fire. Essential assistance activities that may be eligible include, but are not limited to, police barricading and traffic control, extraordinary emergency operations center expenses, evacuations and sheltering, search and rescue, arson investigation teams, public information, and the limited removal of trees that pose a threat to the general public.

Temporary Repair of Damage Caused by Firefighting Activities
Temporary repair of damage caused by eligible firefighting activities involves short-term actions to repair damage directly caused by the firefighting effort or activities. This includes minimal repairs to bulldozer lines, camps, and staging areas to address safety concerns; as well as minimal repairs to facilities damaged by the firefighting activities such as fences, buildings, bridges, roads, etc. All temporary repair work must be completed within 30 days of the close of the incident period for the declared fire.

Mobilization and Demobilization
Costs for mobilization to, and demobilization from, a declared fire may be eligible for reimbursement. Demobilization may be claimed at a delayed date if deployment involved one or more declared fires. If resources are being used on more than one declared fire, mobilization and demobilization costs must be claimed against the first declared fire.

Fires on Co-Mingled Federal/State Lands
Reasonable costs for the mitigation, management, and control of a declared fire burning on co-mingled Federal and State land may be eligible in cases where the State (if applicable) has a responsibility for suppression activities under an agreement to perform such action on a non-reimbursable basis. (This provision is an exception to normal FEMA policy under the Stafford Act and is intended to accommodate only those rare instances that involve State firefighting on a Stafford Act Section 420 fire incident involving co-mingled Federal/State and privately owned forest or grassland.)

Ineligible Costs
Costs not directly associated with the incident period are ineligible. Ineligible costs include the following:

- Costs incurred in the mitigation, management, and control of undeclared fires.
Costs related to planning, pre-suppression (i.e., cutting fire-breaks without the presence of an imminent threat, training, road widening, and other similar activities), and recovery (i.e., land rehabilitation activities, such as seeding, planting operations, and erosion control, or the salvage of timber and other materials, and restoration of facilities damaged by fire).

Costs for the straight or regular time salaries and benefits of a subgrantee’s permanently employed or reassigned personnel when involved in fire suppression.

Costs for mitigation, management, and control of a declared fire on co-mingled Federal land when such costs are reimbursable to the State by a Federal agency.

Fires fought on Federal land are generally the responsibility of the Federal Agency that owns or manages the land. Costs incurred while fighting fires on federally-owned lands are not eligible under the FMAGP except as noted in “Fires on co-mingled Federal/State Lands.” – see above.

Application Procedures
Upon approval of a fire management assistance declaration, the State submits a Request for Fire Management Assistance application package for a grant to the RA. The GAR/Grantee must accomplish the following:

- Ensure the FEMA-State Agreement has been signed.
- Submission and FEMA approval of the FMAG Administrative Plan.
- Submission and FEMA approval of the State of North Dakota Multi-Hazard Mitigation Plan.
- Electronic submission of the SF 424, Application for Federal Assistance, within two to three weeks of declaration.
- Electronic submission of FEMA Form 20-16A, Summary of Assurances, Non-Construction and 20-16B, Assurances for Construction.
- Cost documentation on Project Worksheets (PWs) to support/verify the threshold (individual and/or cumulative) has been met.

The state should submit its grant application within nine months of the declaration. Upon receipt of a written request from the State, the RA may grant an extension for up to three months. The State request must include justification for the extension.

Approval of Requests
FEMA will approve the initial grant award to the State when it determines:

- Total eligible costs for the declared fire meet or exceed the individual fire cost threshold
- Total costs of all declared and non-declared fires for which a State has assumed responsibility in a given calendar year meet the cumulative fire cost threshold.
- The 2016 North Dakota thresholds are as follows: $100,000 individual fire; $500,000 cumulative ($1.41 per capita). Refer to 44 CFR, Subpart 204.51-Application Procedures, for detail on thresholds.

FEMA will not consider the costs of pre-positioning resources for the purposes of determining whether the grant application meets the fire cost threshold.

The RA has 45 days from receipt of the State’s grant application or an amendment to the State’s grant application, including the supporting Project Worksheet, to review and approve or deny the application or amendment or to notify the State of a delay in processing funding.
Obligation of funds is predicated on approval of this Administrative Plan, which must be kept up to date, and the State Multi-Hazard Mitigation Plan for which the State received approval from FEMA on February 14, 2014. The State Multi-Hazard Mitigation Plan incorporates wildfire mitigation into its development and addresses wildfire risk as well as contains a wildfire mitigation strategy and related mitigation initiatives.

**Appeal of Declaration Denials**
If the request is denied, the Governor or GAR may appeal the decision in writing within 30 days after the date of the FEMA letter denying the request. The state may submit a one-time request for reconsideration in writing with appropriate additional information to the FEMA Administrator through the RA. The Administrator may extend the 30-day period for filing an appeal or the receipt of additional requested information.

The Administrator may extend the 30-day period for filing an appeal, provided that the Governor or the GAR submits a written request for such an extension within the 30-day period. The Administrator will evaluate the need for an extension based on the reasons cited in the request and will either approve or deny the request for an extension. Refer to 44 CFR § 204.26, Appeal of Fire Management Assistance Declaration Denials.

**Program Administration Procedures**
NDDES will provide oversight for the FMAG implementation through its Public Assistance Program staff.

**Notifying Potential Applicants**
The Disaster Recovery Chief, or designee, will coordinate with the SPAO to notify potential applicants to include, but not limited to, conducting briefings with potential applicants, informing emergency managers, using public meetings, direct contacts, and public notices in local newspapers. Additional information will be made available on the NDDES website.

The SPAO will organize and conduct briefings for potential applicants with the support, input and participation of FEMA. The purpose of the applicant briefing is the opportunity for the state and FEMA staff to:

- Provide an overview of the FMAG program
- Identify eligible and non-eligible costs
- Discuss insurance coverage issues and impacts on reimbursements
- Discuss application process, paperwork requirements and deadlines
- Provide an opportunity for applicants to discuss concerns and questions

A sign-in sheet will be used to document the attendance at these briefings. Copies of the sign-in sheet will be provided to FEMA for their records. The NDDES Public Information Officer will be available to provide news information to the media and answer questions before and after the briefing.

**Submitting Subgrant Applications**
All subgrantees must submit a Request for Fire Management Assistance subgrant (FF 089-0-24) within 30 days to the SPAO who will review applications for eligibility.
The SPAO will determine applicant eligibility (assisted by FEMA when required). The SPAO will review, determine whether to recommend approval or denial, and forward the Requests for Fire Management Assistance to the RA for final review and determination.

Technical Assistance
The SPAO will provide technical assistance to applicants, including briefings for potential applicants and materials on the application procedures, program eligibility guidance and program deadlines. FEMA may provide technical assistance to applicants or the State when requested.

Risk Assessment
As required by 2 CFR § 200.331 NDDES will complete a Financial Assistance Recipient Risk Assessment rating form for every subgrantee receiving an award to evaluate their potential risk of non-compliance. Subgrantees will be evaluated on factors such as their prior experience with the same or similar subawards, results of previous audits including whether or not they received a Single Audit and the extent to which the same or similar subaward has been audited as a major program; they have new personnel or new or substantially changed systems, and the extent and results of Federal awarding agency monitoring.

A Risk Assessment will be completed immediately prior to executing the Subgrant Agreement. All new and existing active subgrantees will be rated upon new disaster and program funding opportunities.

The Business Manager will work with the PA Office, or assigned staff, to jointly complete the risk assessment and score subgrantees, as applicable. Results of the Risk Assessment may result in the imposition of specific conditions as allowed in 2 CFR § 200.207.

Low Risk:
For a subgrantee receiving a score of 7-11, no conditions or restrictions will be imposed upon the subgrantee.

Medium Risk:
For a subgrantee receiving a score of 12-16, the following conditions or restrictions may be imposed:
- More frequent/detailed programmatic and financial monitoring.
- More detailed financial reports;

High Risk:
For a subgrantee receiving a score of 17-21, the following conditions or restrictions may be imposed:
- Payments will be made on a reimbursement basis only.
- Withholding authority to proceed to the next phase of a project until proof of acceptable performance within a given funding period is provided.
- Require additional, more detailed financial reports;
- Require additional project monitoring;
- Require the subgrantee to obtain technical or management assistance; or
- Establish additional prior approvals.

NDDES will notify the subgrantee as to:
- The nature of the additional requirements;
The reason why the additional requirements are being imposed;
The nature of the action needed to remove the additional requirement, if applicable;
The time allowed for completing the actions, if applicable, and
The method for requesting reconsideration of the additional requirements imposed.

Every January NDDES will re-evaluate subgrantees that are designated medium or high risk. Based on compliance with special conditions and an updated Financial Assistance Recipient Risk Assessment, subgrantees may be upgraded or removed from medium or high risk status. If a subgrantee is non-compliant with the additional requirements of a subaward due to being considered medium or high risk, the subaward and all federal and state monies can be deobligated at the request of NDDES. Upon deobligation due to non-compliance, a subgrantee will be considered high risk in perpetuity.

**FMAG Subgrant Agreement**

NDDES requires all applicants sign an agreement titled, “FMAG Subgrant Agreement.” This agreement articulates the roles and responsibilities of the State and the applicant as it relates to FMAG. The agreement also serves as an applicant’s certification to abide by Federal and State laws, regulations, and rules governing FMAG and its funding. This document in combination with the FEMA approved PW fulfills all requirements of 2 CFR § 200.210 and 200.331.

**Preparing Project Worksheets**

Upon approval of an applicant’s Request for Fire Management Assistance, the SPAO, in collaboration with FEMA, will work with the applicant to prepare Project Worksheets. The RA may request the Principal Advisor to assist in the preparation of Project Worksheets. However, the State will be the primary contact on behalf of the applicant. Under the FMAGP, all projects are considered Large Projects. Therefore, all costs must be documented and submitted with the PW prior to obligation.

**Submitting Project Worksheets**

Applicants will submit all Project Worksheets through the State for approval and transmittal to the RA as amendments to the State’s application.

The State will determine the deadline for an applicant to submit completed Project Worksheets but no longer than six months from the close of the incident period. At the State’s request, the RA may grant an extension of up to three months.

Project worksheets will not be accepted after the deadline and/or extension.

**Environmental Certifications**

The State, on behalf of its political subdivisions and other recipients of FMAG Program grants, will ensure that subgrantees certify compliance, in accordance with the grant Assurances and Certification, the Clean Water Act, Endangered Species Act, National Historic Preservation Act, and other applicable environmental laws that apply to subgrantees.

**Certifying Costs**

The SPAO will address all applicant actions necessary to complete the FMAGP process, including collecting and verifying eligible costs submitted by subgrantees; i.e., other State agencies and eligible local government entities.
By submitting applicants’ Project Worksheets, the State is certifying that all costs reported on the Project Worksheets were incurred for work performed in compliance with FEMA laws, regulations, policy and guidance applicable to the FMAGP as well as the terms and conditions outlined in the FEMA-State Agreement.

**Timelines and Time Extensions**
The SPAO will follow directions outlined in 44 CFR 204 when processing time extensions.

**Insurance Requirements**
FEMA is required by law to deduct any and all insurance proceeds for a project that the applicant may receive funding from its insurance company. These deduction will be done in accordance with Section 311, 312, 403, and 406 of the Stafford Act 44 CFR § 206.250-253, duplication of benefits.

**Duplication of Benefits**
As outlined in CFR 204.62, FEMA provides supplementary assistance under the Stafford Act, which generally may not duplicate benefits received by or available to the applicant from insurance, other assistance programs, legal awards, or any other source to address the same purpose. An applicant must notify FEMA of all benefits that it receives or anticipates from other sources for the same purpose, and must seek all such benefits available to them. FEMA will reduce the grant by the amounts available for the same purpose from another source. FEMA may provide assistance when other benefits are available to an applicant, but the applicant will be liable to FEMA for any duplicative amounts that it receives or has available to it from other sources, and must repay FEMA for such amounts.

FEMA will not provide assistance for activities for which another Federal agency has more specific or primary authority to provide assistance for the same purpose. FEMA may disallow or recoup amounts that fall within another Federal agency’s authority. FEMA may provide assistance, but the applicant must agree to seek assistance from the appropriate Federal agency and to repay FEMA for amounts that are within another Agency’s authority.

**Negligence**
FEMA will provide no assistance to an applicant for costs attributable to the applicant’s own negligence. If the State/Grantee identifies negligence by a third party for causing a condition for which FEMA made assistance available, the State/Grantee is responsible for taking all reasonable steps to recover all costs attributable to the negligence of the third party. FEMA generally considers such amounts to be duplicated benefits available to the State/Grantee or subgrantee.

**Intentional Acts**
Any person who intentionally causes a condition for which assistance is provided shall be liable to the United States to the extent that FEMA incurred costs attributable to the intentional act or omission that caused the condition. FEMA may provide assistance, but it will be conditioned on an agreement by the State/Grantee to cooperate with FEMA in efforts to recover the cost of the assistance from the liable party. A person shall not be liable under this section as a result of actions the person takes or omits in the course of rendering care or assistance in response to the fire.

**Appeals**
The Appeals process is the opportunity for applicants to request reconsideration of decisions.
regarding the provision of assistance. There are two levels of appeal. The first level appeal is to the RA. The second level appeal is to the Assistant Administrator at FEMA Headquarters. Typical appeals involve the following:

- An entity is not an eligible applicant.
- A facility, an item of work, an item of cost, or a project is not eligible for assistance.
- Approved costs are less than the applicant believes are necessary to complete the work.
- A requested time extension was not granted.
- A portion of the cost claimed for the work is not eligible.
- The applicant disagrees with the approved Scope of Work on the Project Worksheet.

The applicant must file an appeal in writing with the State within 60 days of the applicant's receipt of a notice of the action that is being appealed. The applicant must provide documentation to support the appeal. This documentation should explain why the applicant believes the original determination is wrong and the amount of adjustment being requested. The State reviews the appeal documentation and requests additional information if necessary. The State then prepares a written recommendation on the merits of the appeal and forwards that recommendation to FEMA within 60 days of its receipt of the appeal letter or receipt of additional information that it had requested. The State need not endorse the appeal position but must forward all appeals it receives.

The RA reviews the appeal and within 90 days takes one of two actions:

- Render a decision on the appeal and inform the State of the decision; or
- Request additional information.

Normally, the applicant has 60 days to provide any additional information, and the RA provides a decision on the appeal within 90 days of receipt of that information. If the appeal is granted, the RA takes appropriate action, such as approving additional funding or sending a specialist to meet with the applicant to determine additional eligible funding.

If an appeal is denied by the RA, the applicant may submit a second appeal following the procedures included in the RA's denial. The applicant must submit the second appeal to the State within 60 days of receiving the RA's denial. The State must forward the appeal with a written recommendation to the RA within 60 days of receiving the applicant's letter. The RA reviews the information provided with the appeal and requests additional information if required. The RA forwards the appeal with the recommendation for action to FEMA Headquarters as soon as practicable.

FEMA Headquarters reviews the appeal and within 90 days renders a decision or requests additional information from the applicant. In an unusual case involving highly technical issues, FEMA may request an independent scientific or technical analysis by a group or person having expertise in the subject matter of the appeal. Upon receipt of requested information from the applicant and any other requested reports, FEMA renders a determination on the appeal within 90 days. Any required actions, such as obligation or deobligation of funds, are taken by the RA. Refer to 44 CFR § 204.54.

**Project Monitoring**

Under the FMAGP, all projects are considered Large Projects. Therefore, all costs and activities must be documented and submitted with the PW prior to obligation. Given this process, all requirements of 2 CFR § 200.328 and 200.331 (d) will be met during the information gathering and PW writing process.
Financial Management
NDDES will expend and account for the Fire Management Assistance Grant funding in accordance with state laws and procedures for expending and accounting for the state’s own funds. In addition, NDDES’s financial management systems, including records documenting compliance with Federal statutes, regulations, and the terms and conditions of the Federal award will be sufficient to permit the preparation of reports required by program-specific terms and conditions; and the tracing of funds to a level of expenditures adequate to establish that such funds have been used according to the Federal statutes, regulations, and the terms and conditions of the Federal award. (2 CFR § 200.302)

Funding Procedures
Upon approval of the SF 424, the RA authorizes the obligation of funds to the state, based upon the current approved total PW amount. Request for payments by the state on SmartLink/Payment Management System (PMS) shall be drawn in amounts as needed. The state shall initiate cash drawdowns as close as is administratively feasible to the actual disbursement for project costs, and maintain adequate accounting controls over SmartLink/PMS and the federal funds advanced. Federal funds erroneously drawn in excess of immediate disbursement needs will be promptly refunded to the federal program agency and redrawn when needed.

If the state demonstrates an unwillingness or inability to establish procedures, FEMA may cease all funding through SmartLink/PMS, and require the state to finance its operations with its own working capital. Payments to the state shall be by treasury check.

As soon as possible following a presidential declaration, the GAR makes available to the North Dakota Department of Emergency Services, Finance Office:

- Governor’s request for implementation of the FMAGP
- The RA’s concurrence
- List of approved applicants.

NDDES establishes separate account organization numbers for federal and state disaster funds. These funds are accounted for by payment vouchers prepared and maintained by NDDES and financial records are maintained by the NDDES Finance Officer. Prior to funds being obligated, the finance officer prepares, and the GAR reviews, signs, and submits to the RA of FEMA Region VIII:

- Standard Form (SF) 424 - “Application for Federal Assistance”, (online submission through EMMIE)

When the amount of the state contribution to estimated federal award is determined, funding is allocated to the program account by the State of North Dakota.

Payment Policies and Procedures
The NDDES Finance Officer or designated alternate will issue a payment authorization for any funding that is eligible to be paid to the subgrantee, as it becomes available. Payment authorizations shall be calculated in accordance with the federal/non-federal cost share designated by the presidential declaration, and on the terms and conditions set forth in the FEMA-State agreement and this Administrative Plan. Authorization for payment of federal funds
will include documentation to substantiate the amount of the authorization. The authorization
documents will then be submitted to the NDDES Finance Office for processing through the state
accounting system.

The Finance Officer will review the authorization documents and prepare a State of North
Dakota payment request for the approved amount. The payment request will be reviewed and
signed based on terms set forth by State of North Dakota administrative policy. The payment
request will then be submitted to the State Accounting Office for issuance of a state warrant, or
an electronic fund transfer, payable to the subgrantee.

Payments to state agencies shall be processed on a state Internal Departmental Billing (IDB).
Payments to all other subgrantees shall be made using a state warrants, or an Electronic Fund
Transfer (EFT), in accordance with the “Preferred Payment Method” noted by the subgrantee.
NDDES will review the payment documentation for accuracy and send the warrant, IDB, or EFT
documentation to the designated subgrantee. This documentation shall be accompanied by
documentation that includes details specific to each payment.

Subgrantees located in counties without an approved “countywide multi-hazard mitigation plan”
are not eligible to receive state share funding (generally 10 percent). State participation in
funding financial assistance is contingent upon the local governments having on file a State-
approved, comprehensive, countywide multi-hazard mitigation plan which meets the standards
of 44 CFR § 201.6. Required plans must be received by NDDES within 180 days of the formal
closing of the incident period for a presidential declaration for the affected county, and must be
approved by the division within 240 days of this date for public or private-non-profit subgrantees
located within the county to be eligible to receive state assistance.

**Federal Funding**
The federal share dollar amount of each approved project worksheet will be calculated by FEMA
at the time of obligation. The sum of these individual calculations, as displayed by EMMIE, will
be the basis of account balancing by the state to determine the accuracy of payments made to
each applicant.

For approved traditional large projects, no federal funding will be paid upon obligation. The GAR
may authorize interim payment(s), but each such advance shall be limited to the documented
cash requirements submitted by the applicant. The sum total of all advances of federal funds
made to a subgrantee prior to the closeout of a large project shall not exceed 90 percent of the
federal cost share of that respective large project. If the Public Assistance Large Project
Supervisor (PALPS) determines, based upon information received from the subgrantee, the final
cost of the project will be less than the approved amount, the GAR may limit advance funding to
a cumulative total less than 90 percent of the federal share. The applicant must submit a written
request for an interim payment of funds and provide supporting documentation of eligible project
costs incurred. When a large project advance request is received, the PALPS reviews the
request and supporting documentation and submits a payment recommendation to the GAR.
The GAR reviews and approves or denies the request.

If the request is approved, the NDDES Finance Officer will process the payment voucher. If the
request is denied, the PALPS will inform the applicant additional documentation is required to
support the request.

After State large project closeout and in extraordinary circumstances the GAR may approve
payment of up to 100 percent of the federal share and 100 percent of the State share of an
approved large project. In such instances the subgrantee will be required to sign a “Cost Share Agreement.”

Payment of the balance of the federal and State shares of each large project will be made following receipt of FEMA certification of large project closeout.

**State Funding**

Contingent upon a future legislative appropriation, the State may contribute a portion of the non-federal share requirement for eligible applicants. In accordance, the state contribution for the FMAG Program will be calculated per project worksheet from either actual project costs, or the FEMA approved PW amount, whichever is less, as outlined in the FEMA-State Agreement. Subgrantees located in counties without an approved “countywide multi-hazard mitigation plan” are not eligible to receive state funding. Affected state agencies will meet the entire non-federal obligation from funds within their own agency.

Payment of state funds will be made upon FEMA’s completion of the large project closeout. Payment will be made only when all federal funds obligated for a large project PW have been paid, all programmatic issues have been resolved, and the applicant has signed and forwarded to NDDES an original signature project completion certificate report, certifying the work has been completed. In special circumstances the GAR may authorize payment of State funds prior to FEMA’s completion of the Large Project Closeout. After State large project closeout and in extraordinary circumstances, the GAR may approve payment of up to 100 percent of the federal share and 100 percent of the State share of an approved large project. In such instances the subgrantee will be required to sign a “Cost Share Agreement.”

**Recovery of Funds**

If an overpayment of funds occurs, no additional payments of funds will be authorized for the subgrantee until the overpaid funds have been recouped.

If an overpayment of federal funds occurs, the overpaid funds may be transferred to offset all or part of the balance of any unpaid federal funds owed on other projects of the same subgrantee. If the sum of unpaid federal funds is insufficient to recoup the overpaid funds, any necessary portion of the overpaid funds will be applied to the unpaid amount; the GAR may supplement the unpaid federal funds by withholding some or all of the subgrantee’s unpaid state funds to reimburse all or part of the overpayment of federal funds. The state shall recoup any remaining balance of overpaid funds from the subgrantee. The subgrantee is required to pay in full or otherwise resolve the debt within thirty (30) calendar days or the State and FEMA may take action relating to debt as required by the Debt Collection Improvement Act of 1996, Public Law No. 104-134; the Digital Accountability and Transparency Act (DATA Act) of 2014, Public Law No. 113-101; and 31 United States Code Subchapter II, Claims of the United States Government.

The same procedures shall be employed to recoup an overpayment of state funds as are used to recoup federal funds.

To recoup funds from a subgrantee, the SPAO prepares and sends a reimbursement request letter to the subgrantee, identifying the source and amount of the overpayment and detailing the procedures for the repayment of funds. The GAR assures all reimbursed federal funding is returned to SmartLink/PMS. After all overpayment issues have been resolved, any remaining balance due of state funds will be paid to the subgrantee.
If, due to overpayment, de-obligation of funds, or any similar reason a subgrantee has received payment of federal funds beyond what was obligated and is delinquent in repaying those funds, the state may withhold all funds, grants-in-aid, tax shares, and other similar moneys due the subgrantee from the state until the subgrantee repays either the federal or state government, as allowed in 2 CFR § 200.305 and 200.338 and NDCC 54-44-13. This process would be initiated only when all other methods of recoupment have failed.

In accordance with the “Cash Management Improvement Act” as set forth in 31 CFR § 205.12(b), all federal funds recouped in amounts of $50,000.00 or greater shall be reported annually by NDDES to the North Dakota Office of Management and Budget.

**Financial Reporting Requirements**

The Federal Financial Report (SF-425) shall be completed by NDDES and submitted quarterly to the United States Department of Health and Human Services and FEMA Region VIII on the signature of the GAR or alternate GAR. Failure to submit this report by the required due date may result in reduction of request for funds. (2 CFR § 200.327)

FMAG disbursements shall be shown by each grant identification number and any surplus cash on hand shall be reported.

**Audit Requirements**

Subject to the provisions of Chapter 75 of Title 31, United States Code, relating to requirements for single audits, FEMA shall conduct audits and investigations as necessary to ensure compliance with the Single Audit Act of 1984 (P.L. 98-502, as amended), the Single Audit Act Amendments of 1996 (P.L. 104-156, as amended), or related regulations. FEMA may elect to conduct a federal audit on the disaster assistance grant or on any of the subgrants, and may question such persons as may be necessary to carry out such audits and investigations.

FEMA may require audits by the state and local governments in connection with assistance under the Single Audit Act of 1984 (P.L. 98-502, as amended) and the Single Audit Act Amendments of 1996 (P.L. 104-156, as amended) when necessary to assure compliance with the Stafford Act or related regulations.

The grantee (State of North Dakota), and each subgrantee (applicant) that expends $750,000 or more in federal funding during a fiscal year is responsible for obtaining a Single Audit or program specific audit in accordance with 2 CFR § 200. The Office of the State Auditor and NDDES ensures the state and applicants perform these audits on a timely basis. These audits must be submitted for review to the Office of the State Auditor, which will notify NDDES of any instances of non-compliance with laws and regulations.

In the case of non-compliance with laws or regulations, NDDES will ensure appropriate corrective action is taken in accordance with 2 CFR § 200. In addition, NDDES will within six months require the applicant to submit a corrective action plan to the agency. The corrective action plan will be reviewed by the NDDES Disaster Recovery Section and the Finance Section. The plan will either be approved or sent back to the applicant with a list of changes required for approval. Once approved, any remaining questioned costs will be recovered by NDDES and returned as described in the “Recovery of Funds” section of this plan.

In accordance with 2 CFR § 200.512:
- Audited entities shall submit the Data Collection Form and reporting package to the Federal Audit Clearinghouse within the earlier of 30 calendar days after receipt of the auditor's report, or nine months after the end of the audit period.

- Audited entities shall submit to NDDES one copy of the reporting package when the schedule of findings and questioned costs disclosed audit findings relating to federal awards NDDES provided, or the summary schedule of prior audit finding reported the status of any audit findings relating to federal awards NDDES provided.

- When a subgrantee is not required to submit a reporting package – in accordance with 2 CFR § 200 – the subgrantee shall provide written notification to NDDES that:
  - An audit of the subgrantee was conducted in accordance with this part (including the period covered by the audit).
  - The schedule of findings and questioned costs disclosed no audit findings relating to the Federal award(s) NDDES provided.
  - The summary schedule of prior audit findings did not report on the status of any audit findings relating to the Federal award(s) NDDES provided.
  - A subgrantee may submit a copy of the audit report to the Office of the State Auditor to comply with this notification requirement.

- If an applicant is not required to have a Single Audit or program specific audit, the applicant shall certify to NDDES each fiscal year the audit was not required. NDDES will send a form to each applicant each year to satisfy this requirement.

All Subgrantees are advised of the audit and record-keeping requirements pertaining to the expenditure of federal funds by means of a cover letter which accompanies the EMMIE documentation for all FEMA-approved project worksheets, which are sent to the respective applicants for their review and record-keeping.

**Administrative Requirements**

NDDES, as the grantee, is required to comply with the administrative requirements of 2 CFR § 200. This includes, but is not limited to, processes and procedures for determining payments, allowable costs, period of availability of funds, matching or cost sharing, program income, non-federal audit, procurement, subgrants, monitoring and reporting program performance, financial reporting, retention and access requirements for records, and enforcement. These issues are discussed in greater detail in their respective sections of this plan.

As outlined in 2 CFR § 200.331 pass-through entities have additional responsibilities when administering subawards, many of which are highlighted below. This list is not exhaustive and pass-through entities must adhere to all of the requirements in 2 CFR § 200. All pass-through entities must:

- Ensure that every subaward is clearly identified to the subgrantees as a subaward and includes information required in 2 CFR § 200.331.
- Evaluate each subgrantee’s risk of noncompliance with Federal statutes, regulations, and the terms and conditions of the subaward for purposes of determining the appropriate subgrantee monitoring described in 2 CFR § 200.331.
- Consider imposing specific subaward conditions upon a subgrantee, if appropriate, and notify subgrantee as described in 2 CFR § 200.207.
- Monitor the activities of the subgrantee as necessary to ensure that the subaward is used for authorized purposes, in compliance with Federal statutes, regulations, and the terms and conditions of the subaward; and that subaward performance goals are
achieved. Pass-through entity monitoring of the subgrantee must include the requirement found in 2 CFR § 200.331.

- Verify that every subgrantee is audited as required by 2 CFR Subpart F-Audit Requirements when it is expected that the subgrantee’s Federal awards expended during the respective fiscal year equaled or exceeded the threshold set forth in 2 CFR § 200.501.
- Consider whether the results of the subgrantee’s audits, on-site reviews, or other monitoring indicate conditions that necessitate adjustments to the pass-through entity’s own records.
- Consider taking enforcement action against noncompliant subgrantees as described in 2 CFR § 200.338.

Procurement
When procuring property and services using federal funding NDDES will follow the same policies and procedures it uses for procurements from its non-Federal funds as required by 2 CFR § 200.317. NDDES is required by state law to act in accordance with North Dakota Century Code Chapter 54-44.4 and the North Dakota Office of Management and Budget document “Guidelines To North Dakota Purchasing Preference Laws.” In addition, NDDES will comply with the general procurement standards set out in 2 CFR § 200.318.

All procurement transactions will be conducted in a manner providing full and open competition. In order to ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work, or invitations for bids or requests for proposals will be excluded from competing for such procurements. (2 CFR § 200.319)

When an FMAG subaward is approved for funding by FEMA, NDDES informs all subgrantees that they are required to follow State and Federal procurement laws when procuring property or services during the completion of their federal grant award. The specific procurement laws and regulations are identified as a requirement for receiving a federal grant award within every FMAG Subgrant Agreement, which is reviewed and signed by each subgrantee to officially accept a subaward. Along with the FMAG Subgrant Agreement, NDDES provides subgrantees with a copy of the FEMA Procurement Supplemental Guide, a Request for Proposal (RFP) template, and a copy of the official State of North Dakota Request for Telephone Quote Form (SFN 2706).

Concerning suspension and debarment, as required by 2 CFR § 200.213 and Executive Order 12549, NDDES and all subgrantees that receive funding under a federal HMGP award will certify that, to the best of their knowledge and beliefs, that it and its principals:

- are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by a federal department or agency;
- have not, within a five-year period preceding this proposal been convicted of or had a civil judgment rendered against them for:
  - the commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract under public transaction.
  - violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property.
- have not within a five-year period preceding this Agreement had one or more public transactions (federal, state or local) terminated for cause or default.

**Equipment**

NDDES obtains title to equipment acquired under the award and is subject to the conditions outlined in 2 CFR § 200.313, including to:

- Use the equipment for the authorized purposes of the project until funding for the project ceases, or until the property is no longer needed for the purposes of the project.
- Not encumber the property without approval of FEMA
- Use and dispose of the property in accordance with 2 CFR § 200.313.

NDDES will dispose of equipment or supplies in one of the following ways:

- Retain, sell, or otherwise dispose of, if the equipment or supplies has a current per unit fair market value of $5,000 or less, with no further obligation to FEMA.
- Retain, sell, or transfer the title to the Federal Government or to an eligible third party, if the equipment or supplies has a current per unit fair-market value in excess of $5,000. In this case, FEMA is entitled to the Federal share of the current market value or proceeds from sale.

Equipment acquired through a FMAG grant award must be used consistent with the eligibility requirements of the FMAG Program. (2 CFR § 200.313)

**Supplies**

FEMA retains an interest in any unused supplies exceeding $5,000 in total aggregate value upon termination or completion of the FMAG project or program if they are not needed for any other Federal award. NDDES must compensate FEMA for its share of the supplies in compliance with 2 CFR § 200.313 and §200.314. As long as FEMA retains an interest in supplies, NDDES must not use the supplies to provide services to other organizations for a fee that is less than private companies charge for equivalent services. (2 CFR § 200.314)

**Records Retention**

As required by 2 CFR § 200.333, financial records, supporting documents, statistical records, and all other records pertinent to the Federal award must be retained for a period of three years from the date of submission of the final expenditure report. FEMA and NDDES must not impose any other record retention requirements upon subgrantees. The only exceptions are the following:

- If any litigation, claim, or audit is started before the expiration of the three year period, the records must be retained until all litigation, claims, or audit findings involving the records have been resolved and final action taken.
- When the non-Federal entity is notified in writing by the Federal awarding agency, cognizant agency for audit, oversight agency for audit, cognizant agency for indirect costs, or pass-through entity to extend the retention period.
- Records for real property and equipment acquired with Federal funds must be retained for three years after final disposition.
- When records are transferred to or maintained by the Federal awarding agency or pass-through entity, the three year retention requirement is not applicable to the non-Federal entity.
- Records for program income transactions after the period of performance. In some cases recipients must report program income after the period of performance. Where there is such a requirement, the retention period for the records pertaining to the earning of the program income starts from the end of the non-Federal entity's fiscal year in which the program income is earned.
- Indirect cost rate proposals and cost allocations plans. This paragraph applies to the following types of documents and their supporting records: indirect cost rate computations or proposals, cost allocation plans, and any similar accounting computations of the rate at which a particular group of costs is chargeable (such as computer usage chargeback rates or composite fringe benefit rates).

**Program Closeout**
FEMA will closeout the Federal award when it determines that all applicable administrative actions and all required work of the Federal award have been completed by NDDES. This section specifies the actions the NDDES and FEMA must take to complete the closeout process at the end of the period of performance.

- NDDES must submit, no later than 90 calendar days after the end date of the period of performance, all financial, performance, and other reports as required by the terms and conditions of the Federal award. FEMA may approve extensions when requested.
- Unless FEMA authorizes an extension, NDDES must liquidate all obligations incurred under the Federal award not later than 90 calendar days after the end date of the period of performance as specified in the terms and conditions of the Federal award.
- FEMA must make prompt payments to NDDES for allowable reimbursable costs under the Federal award being closed out.
- NDDES must promptly refund any balances of unobligated cash that FEMA paid in advance or paid and that are not authorized to be retained by NDDES for use in other projects.
- Consistent with the terms and conditions of the Federal award, FEMA must make a settlement for any upward or downward adjustments to the Federal share of costs after closeout reports are received.
- FEMA should complete all closeout actions for Federal awards no later than one year after receipt and acceptance of all required final reports. (2 CFR § 200.343)