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Purpose
This Public Assistance Administrative Plan contains the policies and procedures that will be used by the State of North Dakota, and administered by the North Dakota Department of Emergency Services (NDDES), to request, obtain, and administer grants for public assistance. In accordance with the Robert T. Stafford Disaster Relief and Emergency Assistance Act, Public Law 93-288, as amended by Public Law 100-707 (referred to throughout this plan as the Stafford Act), and the Disaster Mitigation Act of 2000, Public Law 106-390, public assistance funds are made available to repair eligible infrastructure damage caused by a disaster beyond local and state government recovery capability. The plan identifies key staff positions and prescribes the administrative procedures for delivery within a presidential declaration of a major disaster or an emergency (referred to throughout this plan as a presidential declaration). This plan is incorporated with the North Dakota Emergency Recovery Plan.

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 § 200 and 44 CFR § 206.

Definitions

Alternate Project: A subgrantee may determine that the public welfare would not be best served by restoring a damaged facility or its function to the pre-disaster design. In this event, the subgrantee may use the Public Assistance grant for permanent restoration on that facility for other purposes. [Note: This complies with the Stafford Act § 406 (c)(1), 44 CFR § 206.203 (d)(2). Projects other than the damaged facility on which the subgrantee spends eligible funds are referred to as alternate projects.

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.

Applicant Briefing: Meetings conducted by a representative of the State for all potential applicants for disaster assistance programs. The briefing occurs after an emergency or major disaster has been declared and addresses application procedures, administrative requirements, funding, and program eligibility criteria.

Emergency Work: Work which must be done before, during, and immediately after a disaster event to save lives and to protect improved property and public health and safety or to avert or lessen the threat of a major disaster. Under the Public Assistance Program, Category A (Debris Removal), and Category B (Emergency Protective Measures) are referred to as Emergency Work.

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.

Expedited Funding: If an Applicant has an immediate need for Emergency Work funding, FEMA may provide funding based on estimated costs provided the Applicant
substantiates its legal responsibility for the work and provides a detailed description of the activities, a cost summary, and sufficient documentation to substantiate that the work is eligible and the cost estimate is reasonable. If the funding is related to debris removal, the Applicant must also provide debris quantities, locations, and documentation to substantiate environmental compliance. FEMA must validate the eligibility of the debris quantities and locations. FEMA will not provide funding based on estimated costs for a debris removal project funded under the Accelerated Debris Removal Alternative Procedure (Chapter 2:VI.A.1.a).

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

FEMA-State Agreement: A document signed by the Governor of the State and the FEMA Regional Administrator 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.

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.

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.

Hazard Mitigation: Any cost effective measure, which will reduce the potential for damage to a facility from a future disaster event.

Improved Project: When performing restoration work on a damaged facility, a subgrantee may decide to use the opportunity to make improvements to the facility. Projects that incorporate such improvements are called improved projects. The improved facility must have the same function and at least the equivalent capacity as that of the pre-disaster facility. Funding for such projects is limited to the Federal share of the costs that would be associated with repairing or replacing the damaged facility to its pre-disaster design. The subgrantee must obtain approval for an improved project from the State prior to construction.

Joint Field Office (JFO): A facility established in a presidentially-declared disaster or emergency to serve as the field headquarters for FEMA and state recovery personnel. This office is the focal point for disaster operation, direction, coordination, and information. A state established facility is referred to as the Field Operation Facility (FOF).

Large Project: Approved projects estimated to cost the same or more than the large project threshold amount ($125,500 for FY 2018). The large project threshold is an
amount of approved project estimated costs adjusted annually to reflect changes in the Consumer Price Index for all Urban Consumers. The large project threshold amount applicable to any project is that amount in effect on the declaration date of the disaster, regardless of when project approval is made or when the work is performed.

**PAGS (FEMA):** The FEMA Public Assistance Group Supervisor (PAGS) is the Federal official specifically responsible for administering the Public Assistance (PA) Program during disaster operations. As the program manager, the PAGS: 1.) Advises the Federal Coordinating Officer on all PA Program matters, manages the operation of the public assistance staff and any coordination between the PA Program and other arms of the Federal disaster recovery effort. 2.) Works with State counterparts to ensure that the PA Program is effective in meeting the needs of Applicants. 3.) Ensures that the PA Program is operating in compliance with all laws, regulations, and policies.

**PAGS (State):** The state Public Assistance Group Supervisor (PAGS) is the state official specifically responsible for administering the Public Assistance (PA) Program during disaster operations. As the program manager, the PAGS: 1.) Advises the State Coordinating Officer/Governor’s Authorized Representative on all PA Program matters, manages the operation of the public assistance staff and any coordination between the PA Program and other arms of the State disaster recovery effort. 2.) Works with Federal counterparts to ensure that the PA Program is effective in meeting the needs of Applicants. 3.) Ensures that the PA Program is operating in compliance with all laws, regulations, and policies. This position designation is often fulfilled by the same person designated as the State Public Assistance Officer (SPAO).

**PAO (State):** The State Public Assistance Officer (SPAO) is the State official specifically responsible for administering the Public Assistance (PA) Program during disaster operations. As the program manager, the SPAO: 1.) Advises the State Coordinating Officer on all PA Program matters, manages the operation of the public assistance staff and any coordination between the PA Program and Federal, State, and local agencies. 2.) Works with federal counterparts to ensure that the PA Program is effective in meeting the needs of Applicants. 3.) Ensures that the PA Program is operating in compliance with all laws, regulations, and policies. This position designation is often fulfilled by the same person designated as the State Public Assistance Group Supervisor (PAGS).

**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. Also referred to as Smartlink.

**Permanent Work:** Restorative work performed on damaged facilities through repairs or replacement, to pre-disaster design and current applicable standards. FEMA PA Categories C through G are referred to as permanent work. Under the Public Assistance Program, Category C (Roads and Bridges), Category D (Water Control Facilities), Category E (Buildings and Equipment, Category F (Utilities), and Category G (Parks, Recreational Facilities, and Other Items), are referred to as Permanent Work.

**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.
**Recipient:** 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 Grantee.

**Small Project:** Approved projects estimated to cost more than the small project floor but less than the large project threshold amount ($3,140 < $125,500 for FY 2018). The large project threshold is an amount of approved project estimated costs adjusted annually to reflect changes in the Consumer Price Index for all Urban Consumers. The large project threshold amount applicable to any project is that amount in effect on the declaration date of the disaster, regardless of when project approval is made or when the work is performed.

**Smartlink:** 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. Also referred to as the Payment Management System (PMS).

**Special Considerations:** Issues that involve insurance, floodplain management, hazard mitigation, historic preservation, and environmental reviews as they relate to funding.

**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.

**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.

**Authorities and References**

**State**
- ND Disaster Act of 1985 and amendments, NDCC 37-17.1
- Authorizing Executive Order
- ND Emergency Operations Plan

**Federal**
- Public Law 91-190, The National Environmental Policy Act
- Public Law 93-288, Stafford Act, as amended by Public Law 100-707
- Public Law 97-348, Coastal Barrier Resources Act
- 44 Code of Federal Regulations (CFR)
Program Organization and Responsibilities
The governor of the State of North Dakota has designated NDDES as the state agency responsible for managing and administering the public assistance programs. The governor will delegate who will serve as the SCO/GAR. The SCO/GAR shall maintain close communication with the federal coordinating officer (FCO) and will designate a state public assistance officer (SPAO) to provide technical advice, assistance and effective guidance to subgrantees during the recovery period, as well as throughout the duration of each disaster declaration.

Initial recovery activities are managed jointly by FEMA and NDDES personnel, who will work out of the State Emergency Operations Center (SEOC). A joint field office (JFO) will be established as soon as possible after a disaster is declared.

The organizational structure will be flexible with staffing levels based on the need and severity of the disaster. The SCO/GAR and Public Assistance Group Supervisor (PAGS) will be the minimum positions required to administer the grants. Existing public assistance specialists from NDDES will be utilized extensively for problem areas specific to the disaster, as well as assisting Program Delivery Manager (PDMG) task force leaders, PDMGs, Site Inspector (SI) task force leaders, SI crew leads, and SIs. Existing account technician staff will process grants utilizing a stand-alone database and EMMIE. Depending on the size and scope of the disaster, positions will be filled with contractors obtained through NDDES. In addition to the above mentioned staff, staffing may include employees of other state departments and agencies, on an as-needed basis. Recruitment announcements will be done should additional emergency hiring of temporary employees become necessary. (See disaster specific management plan for an organizational chart specific to the current declaration).
Concept of Operations

Preliminary Damage Assessment (PDA)
When a major disaster or emergency occurs or is imminent, activities will be undertaken to prepare for possible program implementation. The PDA is conducted once the state determines the recovery effort is beyond state and local capability. State officials will request, in writing, that the FEMA Regional office conduct a joint PDA with state and local officials in the areas defined by the state. After the PDA teams have documented the damage, and the state has analyzed the damages, the governor will determine whether or not to request public assistance. (44 CFR § 206.33)

FEMA Headquarters uses PDA documents to make a recommendation to the President on whether Federal disaster assistance under the Stafford Act is acceptable. When the President declares a major disaster, the PDA documentation serves as the starting point for deciding the amount of funds needed for public assistance.

PDA’s can also identify any funds needed for expedited funding, as well as estimate funds for staffing, space requirements for assistance personnel, and any technical resources that may be needed to properly manage the joint disaster operation.

Presidential Declaration Request

State Government
If the governor determines federal assistance is needed, NDDES will prepare a request letter to the president (through the FEMA VIII Regional Administrator) for a presidential declaration. The basis for the declaration request will be a finding that:

- The situation is of such severity and magnitude, that effective response is beyond the capabilities of the State of North Dakota and affected local governments, and
- Federal assistance, under the Stafford Act, as amended, is necessary to supplement the efforts and available resources of the state, local governments, disaster relief organizations, and compensation by insurance for disaster related losses.

In addition to the above findings, the completed request shall include:

- Confirmation the governor has taken appropriate actions under state law and directed the execution of the State Emergency Operations Plan (SEOP).
- An estimate of the amount and severity of damages and losses stating the impact of the disaster on the public and private sector.
- Information describing the nature and amount of state and local resources that have been, or will be, committed to alleviate the results of the disaster, stating specifically those activities for which no federal funding will be requested.
- Preliminary estimates of the types and amount of supplementary federal disaster assistance needed under the Stafford Act, (i.e., disaster unemployment assistance).
Certification by the governor, state, and local government that obligations and expenditures for the current disaster will comply with all applicable cost-sharing requirements of PL 93-288, as amended, or constitute the expenditures of a reasonable amount of funds for alleviating the damage, loss, hardship, or suffering resulting from such disaster. The cost-sharing provision of the legislation will satisfy the commitment requirements.

An incident period (date-to-date or date and continuing).

A list type of disaster (flood, tornado, etc.). Sentence structure should begin as follows: “Damages caused by severe weather, to include……etc.”

For those catastrophes of unusual severity, when field damage assessments are not necessary to determine the need for federal assistance, the governor or acting governor may send an expedited request through the FEMA regional administrator for a declaration of a major disaster. This request will consist of a finding that “The situation is of such severity and magnitude effective response is beyond the capabilities of the State of North Dakota and affected local governments,” and “Federal assistance, under the Stafford Act, as amended, is necessary to supplement the efforts and available resources of the state, local governments, disaster relief organizations, and compensation by insurance for disaster related losses,” and information describing the nature and amount of state and local resources that have been, or will be, committed to alleviate the results of the disaster, and certification by the governor, state, and local government that obligations and expenditures for the current disaster will comply with all applicable cost-sharing requirements of PL 93-288, as amended.

For those catastrophes not of unusual severity, as described in the preceding paragraph of this plan, the preliminary estimates provided by the governor as enclosures to the request will be based on the dollar estimate by the joint federal/state PDA survey team. FEMA will not accept a request which does not address all of the criteria above.

The state’s request for a presidential declaration under the Stafford Act can be submitted in a timely and effective manner using the procedures described above; however, an incident may occur in a sudden, dramatic manner that demands quick resolution. After such an incident, federal and state personnel are quickly on site performing a preliminary damage assessment, and soon thereafter, the state submits the detailed request for assistance. Due to the sudden severity and magnitude of the disaster, there may be instances where timing is essential. If sufficient information is available and the governor decides to request a declaration, the procedure below may be followed.

The governor may send this request by telegram or facsimile without delay, but limit it to individual assistance. Public assistance can be evaluated and addressed at a later date. The governor must send this request to both the FEMA regional office and the FEMA national headquarters (facsimile number 303-235-4939). The formal request and full supporting documentation will be forwarded to FEMA Region VIII as soon as practicable, but it will not delay the urgent facsimile request.

FEMA Region VIII staff will promptly advise the FEMA headquarters staff of the situation and provide available information.

**Federal Government**

When the governor’s request for a declaration is received at FEMA Region VIII, the regional administrator will provide written acknowledgment of the governor’s request.
Based on information obtained by the joint FEMA/state preliminary damage assessments of the affected areas, and consultations with state and federal officials, the regional administrator, FEMA Region VIII, will prepare a summary of the preliminary damage assessment finding. The data will be analyzed and submitted with a recommendation for the request to the under-secretary of Homeland Security for Emergency Preparedness and Response, through the associate director. Based on all available information, the undersecretary of Homeland Security for Emergency Preparedness and Response will forward a recommendation with the request to the president of the United States.

The governor’s request for a major disaster declaration may result in either a presidential declaration of a major disaster or an emergency, or may be denied. In any case, the governor or his/her designee will be promptly notified by the FEMA administrator or his/her designee, an emergency or a major disaster has been declared, or the governor’s request has been denied.

If the request is denied, the state has thirty (30) days from the date of the letter denying the request to submit appeal to FEMA national headquarters (through the regional administrator). The appeal to FEMA must provide new information not previously available and will support the initial request.

If a presidential declaration is granted, the FEMA associate director determines and designates the types of assistance to be made available, and which governmental jurisdictions are eligible to make application for the assistance declared. The president and FEMA associate director base their decisions on the level of impact and damage assessment information contained in the declaration request. At his/her discretion, or as directed by the president in the declaration letter, he/she may authorize all, or only particular, types of assistance requested by the governor. The declaration request may be amended with updated information when necessary.

The under-secretary of Homeland Security for Emergency Preparedness and Response designates the disaster area and the affected governmental jurisdictions to be eligible for federal assistance. All designated areas will be eligible for all programs indicated in the disaster declaration.

Upon the declaration of a major disaster or an emergency, the governor and the administrator, FEMA Region VIII, will execute a FEMA/state agreement. The agreement imposes binding obligations on FEMA, the state, their local governments, and private non-profit organizations within the state in the form of conditions for assistance, which are legally enforceable. No FEMA funding will be authorized or provided until such time as this agreement is signed.

After a declaration, the governor or the GAR, may request additional federal assistance. Such requests must be accompanied by appropriate commitments by state and local governments and assessments to justify the additional assistance. The governor, or GAR, may request additional counties be designated by the regional administrator. Both of these supplemental requests must be submitted within thirty (30) days after the incident in order to be considered. (44 CFR § 206.31-48)
Post-Declaration Activities

FEMA/State Agreement
Following the declaration of a major disaster or an emergency declaration by the President, the FEMA/state agreement is signed by the governor and FEMA regional administrator that states the understandings, commitments, federal cost share, and conditions under which federal assistance will be provided. The agreement identifies the type(s) of incident and the incident period, specifies the types 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. The GAR will be responsible for negotiations with the FEMA regional administrator of any changes and modifications to the FEMA/state agreement. (44 CFR § 206.44)

Scoping Meeting
Initial scoping meetings are managed jointly by FEMA and NDDES out of the SEOC to develop a management plan specific to the disaster declaration, which includes eligibility and components associated with processing the public assistance grants. In addition, Expedited Funding, historical, environmental, or other unique or controversial projects will be identified for appropriate action.

PA Administrative Plan
The administrative plan must be updated yearly, or upon a presidentially declared event. Upon a Disaster declaration NDDES will develop and submit to FEMA a PA administrative plan that conforms to all requirements of 44 CFR § 206.207.

PA Management Plan
The management plan defines the roles and responsibilities, procedures, and processes in effect for the declaration. The SPAO/PAGS, along with the FEMA PAGS, will negotiate procedural and staffing issues as well as clarify roles and responsibilities for administering the PA Program.

Determine Logistical Needs
The program will require personnel and technological support (i.e. computer hardware and software, EMMIE capability, GPS units, digital cameras, laptops) to assist with program management and administrative activities. Necessary equipment not available through state resources will be requested through FEMA. The state will recommend state user rights in FEMA's “Grants Manager” and “EMMIE” based on staff positions.

Federal Grant Application
The application for Federal Assistance (SF424) and assurances for Non-Construction Programs (SF424A) will be submitted to FEMA prior to the obligation of funds to the state. (44 CFR § 206.202)

JFO/FFO Operation (may run concurrent with program maintenance)

New Delivery Model
FEMA has developed a new business model for PA Program delivery and is implementing those changes in conjunction with the state. Significant aspects of the new
delivery model should provide better grants management and fiscal responsibility from beginning to end, including:

- Segmenting projects based on complexity and the type of work;
- Standardizing workflow processes, including the development of an on-line PA Grants Manager and Grants Portal technology platform to promote consistency, transparency and accountability;
- Specializing staff roles and responsibilities, matching skill sets with business process requirements to ensure quality; and
- Consolidating subject matter experts in Consolidated Resource Centers (CRC) to improve consistency and accuracy while building agency-wide capacity to support disaster operations nationwide.

The foundation of the new delivery model is a partnership between FEMA, states, tribes, and applicants requiring disaster recovery assistance. These parties work together to complete the processes necessary to apply for and receive PA, as outlined below:

- **Phase I – Operational Planning**
  - **Objective:** Identify applicants’ disaster impacts and recovery priorities. The following general activities will occur after Applicant Briefings and approvals of applicants' Request for Public Assistance.
  - The State will assign a Program Delivery Manager (PDMG) – a single point-of-contact assigned to each applicant—who will provide assistance to the applicant throughout the application process.
  - The PDMG will conduct an Exploratory Call with assigned applicant representatives to obtain general information about the applicant and its disaster impacts, and to explain next steps.
    - Applicant representatives should be prepared to discuss impacts and provide the names of counterparts who may be involved.
    - Applicant representatives will learn more about the PA Grants Portal, the online database used to manage grant applications and upload required documents.
  - The applicant and PDMG will conduct a Recovery Scoping Meeting within 21 days of the initial call.
    - Additional applicant and state representatives are expected to participate.
    - Applicants will have 60 days after the Recovery Scoping Meeting to identify and document all incident-related damages.
    - The Applicant and the PDMG should agree to weekly, one-on-one status meetings.

- **Phase II – Intake Damage and Eligibility Analysis**
  - **Objective:** Capture and document all of the incident-related damages.
  - Work that is already completed will be compiled by the PDMG, in coordination with the applicant, to ensure all supporting documentation is provided.
    - The PDMG will forward projects to the Consolidated Resource Center for compliance and quality assurance reviews.
    - The PDMG will contact the applicant via PA Grants Portal, as necessary, for any outstanding issues, requests for information, and for project concurrence and signature.
Work that is still to be completed will be scheduled for a site inspection.
- Standard and specialized inspections are arranged by the state Site Inspection Task Force Leader, in coordination with the PDMG and the applicant.
- Site inspection results are forwarded to the PDMG to ensure the essential elements of information have been gathered.
- The PDMG will forward projects ready for submission to the CRC.

Phase III – Scoping and Costing
- Objective: Validate work-to-be-completed projects for final processing.
- Projects are processed and reviewed by CRC specialists, in coordination with the PDMG.
  - The PDMG will contact the applicant via PA Grants Portal, as necessary, for any outstanding issues, requests for information, and for project concurrence and signature.
  - Signed projects are returned to the CRC for quality assurance and compliance reviews.

Phase IV – Reviews
- Objective: Prepare eligible projects for obligation.
- Quality assurance teams ensure the project signed by the applicant matches data in EMMIE, which is the official system of record for obligation.
  - The recipient (grantee) and FEMA representative conducts a review of the project in EMMIE.
  - A determination letter is issued when FEMA obligates the project.

Staff Assignment
Typical program staff assignments for state staff will include the following positions: SPAO/PAGS, Program Delivery Manager (PDMG) task force leader, PDMG, Site Inspector (SI) task force leader, SI crew lead, SI, Grants Manager and EMMIE operator/account technician, when necessary, technical assistance staff (i.e. historical, environmental, insurance, road, tribal specialists, training). See disaster specific management plan for detailed state and federal staff assignments.

Public Notification
The state will notify potential applicants of the availability of public assistance through written and verbal mediums. NDDES will coordinate with the public information officer (PIO), county emergency managers, and local officials in the declared area to identify and notify potential applicants of the applicant briefing dates, times, and locations.

 Applicant Briefing
NDDES public assistance staff 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:

- Get acquainted with key local officials.
- Promote early identification of potential applicants and identity applicant agents.
- Promote early identification of potential non-profit organizations.
Provide local officials the “applicant agent packet” which contains program information and hand-out materials to aid in the management of the program.

NDDES, in coordination with FEMA will select locations, times and dates of the briefings. Depending of the size of the disaster impact area, more than one applicant briefing may be required. The briefings will be conducted as close to the affected area as possible to eliminate unreasonable travel for key officials. NDDES will attempt to conduct all applicant briefings within twenty days of a disaster declaration, however, logistical considerations may actual schedules.

NDDES will notify potential applicants by telephone, e-mail, facsimiles, and public notice of where and when the applicant briefings will be conducted. During the briefing the applicant will receive an “applicant briefing packet” which will contain:

- Overview of Public Assistance Program
- State Assistance Fact Sheet detailing cost share requirements, incident period, declaration date, disaster type, declared areas, and important deadlines
- Public Assistance Policy Digest FEMA 321
- Public Assistance Guide FEMA 322
- Public Assistance Applicant Handbook FEMA 323
- PA Field Operations Guide P-1011
- Public Assistance Checklist detailing the Applicant’s responsibilities
- Record keeping requirements and tips
- U.S Department of Homeland Security Audit Tips for Managing Disaster-Related Project Costs
- Paper copy of the applicant’s briefing slides
- Request for public assistance (RPA)
- PW form with instructions
- FEMA schedule of equipment rates

Topics that will be discussed during the applicant briefing:

- Applicants’ eligibility
- Cost eligibility
- Work eligibility
- Facility eligibility
- PNP eligibility/SBA loans
- Timelines
- Contracting and Procurement
  - Specifically federal contract provisions located in 2 CFR § 200.326 and Appendix II
- Hazard mitigation
- 404 and 406 mitigation
- Insurances
- Historical and environmental issues
- Special consideration projects
- Record keeping and record retention
- Any other concern the applicant may have

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 state PIO will be available
to provide news information to the media and answer questions before and after the briefing.

**Request for Public Assistance**

If possible, request for public assistance forms will be completed by potential applicants and submitted to the state at the applicant briefing. NDDES personnel will make arrangements to provide forms to, and retrieve completed request forms from, applicants not represented at the briefings.

The SPAO/PAGS will submit a completed RPA form to FEMA for each applicant agent. FEMA will provide to NDDES a copy of each RPA after it has been officially processed. RPAs must be submitted to the SPAO/PAGS within thirty (30) days following the designation date of the respective county within which an eligible damage site is located. Late RPAs may be considered only in cases where extenuating circumstances prohibit timely submission to the State. (44 CFR § 206.202(c))

**Exploratory Call**

The Exploratory Call (EC) is the first opportunity to establish a relationship between the Applicant and FEMA. It sets the foundation for the Applicant to have an efficient and successful Public Assistance (PA) grant process. The information gathered during the EC will enable the Program Delivery Manager (PDMG) to create a tailored agenda for the Recovery Scoping Meeting (RSM) and provide effective customer service in order to meet the recovery priorities of the Applicant. The EC must take place within seven days of Applicant assignment to the PDMG.

- **Objectives:**
  - Introduce role of a PDMG and explain the Public Assistance grant program
  - Discuss the disaster damages the Applicant has identified
  - Introduce the Damage Inventory and emphasize its importance
    - Applicant needs to draft the Damage Inventory prior to the RSM
  - Discuss documentation needed to support the Applicant’s claims
  - Discuss and schedule the RSM
    - Allow enough time for the Applicant to draft the Damage Inventory
    - Start early in the day and plan for the meeting to last several hours
    - Understand objectives of the meeting

**Recovery Scoping Meeting**

The Recovery Scoping Meeting (RSM) is the first substantive meeting between the Applicant and FEMA, and starts the 60-day regulatory timeframe for the Applicant to identify and report damages. It is a detailed and in-depth meeting regarding the Applicant's disaster damages and the PA process. This document will be used by the Program Delivery Manager (PDMG) as guidance for the RSM with the Applicant. The RSM should be tailored to the Applicant based on information gathered during the Exploratory Call (EC).

The RSM is built around the Damage Inventory and, therefore, should only be scheduled when the Damage Inventory is complete and ready for review during the RSM.

- **Objectives:**
Discuss the Damage Inventory
- Discuss Public Assistance (PA) eligibility
- Discuss project formulation for work completed
- Discuss logical groupings for sites that require inspections
- Discuss special considerations
  - Environmental Planning and Historic Preservation (EHP) issues
  - Insurance requirements
  - Mitigation opportunities
- Identify relevant documentation required to support the Applicant’s claim
  - Review documentation the Applicant has submitted
  - Identify additional documentation the Applicant needs to provide and develop the request for Essential Elements of Information using the appropriate Document Checklist
- Schedule Site Inspections
  - Request Work Orders in PA Grants Manager
  - Confirm Applicant’s capability and capacity to participate in site inspections and grant development
- Develop Program Delivery Plan
  - Populate a 60-day calendar with follow-up meetings and other relevant deadlines

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 Officer, 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.

**Public Assistance Grant Program Subgrant Agreement**
NDDES requires all applicants sign an agreement titled, “Public Assistance Grant Program Subgrant Agreement.” This agreement articulates the roles and responsibilities of the State and the applicant as it relates to the Public Assistance program. The agreement also serves as an applicant’s certification to abide by Federal and State laws, regulations, and rules governing the Public Assistance Grant Program and its funding.

**Project Worksheets**
Project worksheets are obligated through Emergency Management Mission Integrated Environment (EMMIE) by FEMA. When the S1 is available through EMMIE; the P2, PW, attachments, and S1 are printed, stamped 'Official Copy' and copied for the applicant. The PWs are then entered into NDDES's stand-alone database. The applicant is sent (by mail, e-mail, or fax) the PW package with a cover letter explaining the contents of the package.

**Small Projects**
Small projects are projects that are below the threshold established in Sections 422 of the Stafford Act and elaborated on in 44 CFR §206.203(3). As a result of the Sandy
Recovery Improvement Act of 2013 (P.L.113-2) FEMA evaluated the threshold and has raised it to $120,000, and will continue to adjust it annually based on inflation. As of October 1, 2017 the small project threshold was increased to $125,500. In addition and in accordance with 44 CFR § 206.202(d)(2) FEMA will annually adjusts the minimum PW amount to reflect changes in the Consumer Price Index (CPI) for All Urban Consumers published by the Department of Labor. As of October 1, 2017 the small project minimum was increased to $3,140

Small project funding is based on estimated costs, if actual costs are not yet available. A payment is made on the basis of the initial approved amount, whether estimated or actual. Even if all funds are not expended on the project, FEMA will not seek a reimbursement of the surplus funds, in accordance with 44 CFR §206.205(a).

Small Project Cost Overrun
During the execution of approved work, actual project costs may exceed the approved PW estimates due to variations in unit prices, approved changes in the scope of eligible work, or delays in timely starts or completion of eligible work.

In such cases, the applicant may request approval of cost overruns for all small projects once all small projects are complete. To do so, the applicant must provide sufficient justification (invoices, daily activity reports, progress reports, etc.) for the SPAO/PAGS to evaluate the request. This request must be received by the State along with all back up documentation no later than sixty (60) days from the date the applicant certifies all small projects have been completed.

The SPAO/PAGS shall evaluate each cost overrun request. If the state agrees the overrun is justified, and the net cost overrun exceeds 20 percent of the cumulative approved amount of all small projects, the state will submit this documentation to the FEMA regional administrator, requesting a supplemental PW be written for the excess.

The regional administrator shall provide written notice to the GAR after a determination has been made. The GAR will advise the applicant, in writing, of the regional administrator's determination along with the recommendation for further action, if appropriate. If the regional administrator finds that additional funding is warranted a PW will be processed for the additional funds. (44 CFR § 206.204(e))

Large Projects
As a result of the Sandy Recovery Improvement Act of 2013 (P.L.113-2) FEMA evaluated the large project threshold and has raised it to $120,000, and will continue to adjust it annually based on inflation. The $120,000 threshold is effective for new declarations on or after February 26, 2014. As of October 1, 2017 the large project threshold was increased to $125,500.

Large Projects are funded using a final accounting of actual costs. The steps for processing a large project are described below.

- A Project Worksheet is prepared by the Project Officer. FEMA approves funding using the estimate and obligates the Federal share of the funds to the State.
- As the project proceeds, the Applicant periodically request funds from the State to meet expenses that have been incurred or that are expected in the near future.
It may take time to process a request for funds through the State system, and the Applicant should take this into account when timing requests for funds.

- When the project is complete, the State determines the final cost of accomplishing the eligible work, often performing inspections or audits to do so. The State then submits a report on the completed project to FEMA, certifying that the Applicant's costs were incurred in the completion of eligible work.
- After reviewing the State's report, FEMA will consider adjusting the amount of the grant to reflect the actual cost of the eligible work.

While proceeding with the project, the Applicant must ensure that grant funds are used only for eligible work. When reviewing final costs, the State cannot provide funds for costs that are outside the scope of work approved by FEMA. The Applicant should contact the State if changes to the scope of work are foreseen or identified during performance of the work.

Similarly, an Applicant may find during construction that FEMA's initial estimate is too low. If this happens, the Applicant should request an increase in the funds FEMA has made available for the work. As with changes in scope, the Applicant should request funding level increases through the State as soon as the need becomes apparent. (44 CFR § 206.203(c)(1) and § 206.205(b))

**Improved Projects**
When performing permanent restoration work on a damaged facility, an applicant may decide to use the opportunity to make improvements to the facility while still restoring its pre-disaster function and at least its pre-disaster capacity.

An improved project may be requested for both small and large projects, but must be approved by the GAR prior to construction. Any project that results in a significant change from the pre-disaster configuration (that is, different location, footprint, function, or size) must be reviewed by FEMA prior to construction to ensure completion of the appropriate environmental and/or historical review. The GAR will approve such a request only after all mandatory reviews have been completed and the approval shall be contingent upon applicant compliance with any and all permitting and clearance regulations. Federal funding for improved projects is limited to the federal share of the estimated costs and to the time limits that would be associated with repairing the damaged facility to its pre-disaster design. The balance of funding is the responsibility of the grantee and the applicant. Funds to construct the improved project can be combined with a grant from another federal agency; however, federal grants cannot be used to meet the grantee or local cost-share requirement.

Section 406 Hazard Mitigation funding may be applied to the original facility. If the improved project involves a new facility, Section 406 Hazard Mitigation funding may not be applied to that project. (44 CFR § 206.203(d)(1))

**Alternate Projects**
Occasionally an applicant may determine the public welfare would not be best served by restoring a damaged facility or its function to the pre-disaster design. This usually occurs when a facility was being used in a capacity not consistent with its original design or when the service provided by the facility is no longer needed.
In accordance with 44 CFR §206.203(d) (2), the alternate project option may be proposed for both small and large projects, but only for permanent restoration projects located within the declared disaster area. All requests for alternate projects must be approved by FEMA prior to construction.

Alternate projects are eligible for 90% (75% for PNPs) of the approved federal share of the estimated eligible costs associated with repairing the damaged facility to its pre-disaster design, or the actual costs of completing the alternate project, whichever is less. This reduction in funding does not apply to Alternate Projects that are approved using the Alternate Procedures for Permanent Work Projects process discussed in that section of this plan.

Alternate project funding may not be used for any facility located in the regulatory floodway or any uninsured facility located in the 100-year floodplain. Funding may not be used for operating costs or to meet the state or local cost share requirement on other public assistance projects or projects which utilize other federal grants. 406 Hazard Mitigation funds cannot be applied to an alternate project.

**Time Extensions**

Project completion deadlines are set from the date of declaration of the major disaster or emergency, and apply to all projects approved under the State disaster assistance grant. If considered appropriate, the GAR may impose lesser deadlines for the completion of work, but the statutory completion deadlines are:

- Emergency Work (Category A & B) .......................6 months
- Permanent Work (Category C – G).....................18 months

**Requests to State**

The GAR may extend these deadlines based on extenuating circumstances or unusual project requirements beyond the applicant’s control. In such cases, the GAR may approve time extensions by a maximum of:

- Emergency Work (Category A & B) .......................6 months
- Permanent Work (Category C – G).....................30 months

FEMA will be notified of each and all time extensions granted by the State. When work cannot be completed within specified time limits, the applicant may request a time extension for each project affected. Blanket requests for a time extension for all permanent work will not be approved.

**Requests to FEMA**

The time limitations detailed above, in accordance with 44 CFR §206.202; §206.204 and §206.206, may be extended by the FEMA regional administrator, when justified and requested in writing by the GAR. Such justification shall be based on extenuating circumstances beyond the applicant’s control. Requests for time extensions beyond those the GAR may approve shall be submitted by the GAR to regional administrator for review. Such requests shall include:

- The dates and provisions of all previous time extensions on the project.
- A detailed explanation for the delay and a projected completion date.
A recommendation by the GAR for a completion date extension approval.

An applicant appeal of the denial by the GAR of a time extension request shall be submitted by the GAR to the regional administrator on behalf of the applicant. In addition to the documentation detailed above, the appeal request will include the GAR’s denial letter to the applicant, any response or additional information the applicant wishes to include, and any additional comments the GAR deems appropriate to the case.

If the time extension is approved, the GAR shall be notified in writing by the regional administrator. The notice of approval will state the new completion date, and any requirements found necessary to ensure the new completion date is met.

The applicant must submit a written request to NDDES identifying specific projects by PW number for which the request applies. The request needs to include an explanation of the causes of the completion delay and a time and cost estimate for completing the remaining project work.

If the request is approved, the GAR grants time extensions to the limits established for the projects, but not to exceed those allowed in 44 CFR §206.202; §206.204 and §206.206. If the request is not approved, the GAR informs the applicant of the decision in writing. The letter states reasons for disapproval and outlines appeal procedures.

If the applicant chooses to appeal the decision of the GAR, the GAR will submit the appeal and all pertinent information to the FEMA regional administrator.

**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 FEMA Regional Administrator. 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 disaster 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 incurs a significant net small project overrun

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. Applicants appealing for a net small project overrun must make application within 60 days of completion of the last small project and must include cost data on all small projects. The State reviews the appeal documentation and request 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 Project 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. (44 CFR § 206.206)

**Performance Period**

NDDES will charge to the Federal award only allowable costs incurred during the period of performance and any approved pre-award costs incurred before FEMA made the award.

Federal awards (PWs) to subgrantees are subject to separate and specific periods of performance based on project type and are explained in detail in the “Time Extensions” section of this plan. The period of performance for the federal award is the full duration of the major disaster or emergency declaration, to include the performance and closeout of all PWs. The period of performance will begin on the first day of the incident period and will initially extend four years from the date of declaration, with the ability for FEMA to extend, as requested and as appropriate. Grantees and subgrantees are expected to complete all physical work and obligate program funds. Although a timeframe is established up front, this does not mean that the grantee cannot close the grant early if projects are complete before the end of the period of performance. (2 CFR § 200.209)
Grantee Management and Administrative Costs

General
Consistent with the staffing plan and responsibilities delineated in the previous section of this State Administrative Plan and the disaster specific PA Management Plan, NDDES serves as the state grantee agency overseeing all PA grant management and administrative activities. Generally, activities begin at the conduct of the FEMA/State joint preliminary damage assessment (PDA) and the approved federal declaration, through the scheduling and conduct of the applicant briefings and include accountability and administration of approved federal funding leading to final financial closeout and audits. Generally, grantee activities will include:

- Notifying state agencies of FEMA-State meetings
- Submitting completed request for public assistance forms to FEMA
- Providing assistance to State agency project worksheet teams
- Hiring and training temporary employees
- Providing assistance to determine applicant eligibility
- Preparing expenditure authorizations for the disbursement of funds
- Providing for PW team coordinators
- Maintaining PA grant management representation at the JFO
- Coordinating PW reviews
- Submitting recommendations to FEMA concerning cost overruns
- Maintaining financial records and accountability
- Preparing reports applicable to grantee and all subgrants
- Reviewing, processing and making recommendations regarding appeals and time extensions
- Requesting and responding to audits and audit findings
- Performing inspections/closeouts
- Ensuring the validation and certification of expenditures
- Executing legal and other required documents
- Providing for the adequate “tracking” of all public assistance operations through closeout of the PA Program

Section 324 Management Costs
Non-directly chargeable management costs are defined as “management costs including indirect costs, administrative expenses, and any other expenses not directly chargeable to a specific approved project that are reasonably incurred by the state or subgrantee in administering and managing the PA grant award.”

Non-direct management costs will include costs which are related to administration of the PA Program and are properly documented in accordance with 44 CFR § 207.8. FEMA will reimburse section 324 management costs on a category Z PW in an amount not to exceed 3.34 percent of the Federal share of projected eligible program costs, not including direct Federal assistance, for major disaster declarations and 3.90 percent of the Federal share of projected eligible program costs, not including direct Federal assistance, for emergency declarations. The amount of funding available for section 324 management costs cannot exceed the amount as calculated in accordance with 44 CFR §207.5(b)(4). These management costs are limited as described above pursuant to sections 403, 406 and 407 of the Stafford Act 42 U.S.C. 5170b, 5172, and 5173.
Upon FEMA’s notification to the state, of the preliminary lock-in amount, the state will submit its initial section 324 management cost funding request to the Regional Administrator using a PA PW. In accordance with 44 CFR § 207.7(d) the state will submit documentation no later than 120 days after the date of the declaration to support costs and activities for which the projected lock-in amount will be used. This documentation will include:

- Consistent with this State Administrative Plan for Public Assistance, a description of activities, personnel requirements, and other costs for which the grantee will use non-direct management cost funding provided under this part;
- Consistent with this State Administrative Plan for Public Assistance, the grantee’s plan for expending and monitoring these funds and ensuring sufficient funds are budgeted for grant closeout; and
- Consistent with Disaster Assistance Policy (DAP) 9525.9, the grantee has determined not to set aside pass-through funding for subgrantees under Section 324 of the Stafford Act.

FEMA will work with NDDES to approve or reject this request within 30 days of FEMA receipt. If rejected, NDDES will have 30 days to resubmit the request for reconsideration and approval.

**Interim Funding Request**

If NDDES can justify a bona fide need for an additional obligation of management cost funds at 6 months, the grantee may submit a request to the regional administrator. Any interim obligations by FEMA must be approved by the chief financial officer and will not exceed an amount equal to ten (10) percent of the six month lock-in amount, except in extraordinary circumstances.

**Final Funding Request**

Upon notification of the final lock-in amount, NDDES will submit a final management cost funding request to the regional administrator. Any necessary revisions to supporting documentation must be attached to the final funding request.

**Direct Administrative Costs (DAC)**

Per DAP9525.9, the grantee may document its direct administrative costs on a separate Category Z PW for each applicable approved project. As per DAP9525.9, grantee direct administrative costs on a Category Z PW will be written in a manner which ensures eligible grantee work on each PW is associated to a single approved project. In order to streamline and improve the efficiency of reimbursing grantees for direct administrative costs, FEMA will allow grantees to claim direct administrative costs on an applicant basis rather than on a project basis. Therefore, the grantee may request reimbursement for direct administrative costs on one category Z PW per applicant, rather than multiple PWs as stipulated in paragraph VII D. (7) of DAP 9525.9, *Section 324 Management Costs and Direct Administrative Costs*. Grantees must continue to document its direct administrative costs on a project-by-project basis. When utilizing on Category Z PW, the PW must cross-reference each emergency work or repair project PW and document the direct administrative costs for each project separately.

The scope of work for each grantee direct administrative cost Category Z PW, will estimate the grantee’s direct administrative costs for each approved project, cross-referenced to the associated approved subgrantee PW number including the
subgrantee’s name and Public Assistance Identification Number (PA-ID). A Category Z PW with an estimate of less than $3,040 is not eligible.

The following text should be entered into each grantee direct administrative cost PW:

The grantee is requesting direct administrative costs that are directly chargeable to this specific project. Associated eligible work is related to administration of this PA project only and is in accordance with 2 CFR § 200 and 44 CFR § 207. These costs are treated consistently and uniformly as direct costs in all federal awards and other grantee activities and are not included in an approved indirect cost rate.

All applicable grantee direct management costs for labor will be supported through personnel activity reporting (PAR) documentation to support salary and benefits and/or personal services contract costs as applicable, tied directly to each approved Category Z PW written. Further supporting documentation for labor will include payroll records and contract invoices as appropriate.

Grantee costs that are claimed directly to an approved Category Z PW for grantee direct management cost will not be claimed as eligible costs under Section 324 management costs.

Per this plan and in accordance with 44 CFR § 206.205 and DAP9525.9:

- Final payment of direct administrative costs on all Category Z PWs written as a large project will be based on actual costs incurred;
- Final payment of direct administrative costs on all Category Z PWs written as small project will be paid to the grantee upon approval of the PW.

Subgrantee Direct Administrative Costs (DAC)

Any costs that can be directly attributed to a project at the subgrantee level will continue to be added directly to the PW. FEMA will continue to reimburse administrative or project management costs that can be properly documented and directly charged to an approved PW.

In accordance with Disaster Assistance Policy (DAP) 9525.9, when requested by the subgrantee direct administrative costs that can be tracked, charged, and accounted for directly to a specific approved project will be included in the PW for the subgrantee. Typical historical records of subgrantee direct administrative costs have included labor, travel and other general office supplies expenses related to financial record keeping, field inspections, and quarterly reporting activities.

If a project is completed when the PW is prepared, actual direct administrative costs (labor, equipment and other expenses) will be included in the PW for the subgrantee. The summary of costs will be attached to the PW.

If a project, including direct administrative costs, is not completed when the PW is prepared, an estimate of direct administrative costs that can be identified to the project will be included in the PW. An estimate of these direct administrative costs, such as labor, travel, equipment, supplies, or other expenses, will be attached to the PW.
When a subgrantee PW is written that includes direct administrative costs the following text should be entered or attached to the project's scope of work:

The subgrantee is requesting direct administrative costs that are directly chargeable to this specific project. Associated eligible work is related to the administration of this PA project only and is in accordance with 2 CFR § 200 and 44 CFR § 207. These costs are treated consistently and uniformly as direct costs in all federal awards and other subgrantee activities and are not included in an approved indirect cost rate.

The subgrantee is not required to include direct management and administration as a part of the scope of work and cost estimate for a PW and may decline to include this on a PW. Declination of direct management and administration should be so documented on the PW form. Declining direct management and administration costs will not otherwise have an effect on the remaining eligible scope of work and costs of the PW.

Subgrantee actions to decline direct management and administration on a PW will not alleviate the subgrantee of grant performance requirements applicable to the subgrantee for participation as an applicant to the Public Assistance Program.

All direct management and administrative costs included on subgrantee PWs will be monitored and closed out consistent with all other direct costs in accordance with the procedures delineated in this administrative plan for large project and small projects respectively and in accordance with 44 CFR § 206.205 (a) and (b).

Financial Management
NDDES will expend and account for the Public Assistance 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 FEMA regional administrator 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 on a reimbursement basis only, and maintain adequate accounting controls over the SmartLink/PMS system and the federal funds drawn. 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 the disaster declaration and the implementing executive order
- President’s declaration of major disaster
- 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 regional administrator of FEMA Region VIII:

- Standard Form (SF) 424 - “Application for Federal Assistance”, (online submission through EMMIE)
- FEMA Form 20-20 - “Budget Information”,
- FEMA Form 20-16 - “Assurances Summary Sheet”,
- FEMA Form 20-16A - “Non-Construction Assurances”,
- FEMA Form 20-16C - “Lobbying, Suspension, Debarment Assurances”.

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

**Payment Policies and Procedures**

Payment of funds will not be made to a subgrantee until NDDES has received from that subgrantee a properly completed copy of each of the following application documents:

1. FEMA Request for Public Assistance (RPA)
2. Public Assistance Grant Program Subgrant Agreement

Following the receipt of these forms, 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 plan” are not eligible to receive state share funding (generally 10 percent). State participation in funding financial assistance is contingent upon the local government’s having on file a State-approved, comprehensive, countywide multi-hazard 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.

Small Projects
For applicants who have met all of the programmatic requirements to receive payments, the GAR will authorize payment of the full federal share (as well as the disaster specific state share) of small projects. If the applicant’s final project cost for completing the entire scope of work on a small project PW is less than the approved amount, FEMA will not seek a reimbursement of the surplus funds. (44 CFR § 206.205 (a))

Large Projects
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 “PA 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. (44 CFR § 206.205 (b))

Alternate Procedures for Permanent Work Projects
To participate in the alternative procedures for permanent work, subgrantees must agree to a subgrant based on a fixed estimate for that subgrant. FEMA will approve funding for large, uncompleted, permanent work subgrants on the basis of a fixed estimate. This procedure varies from that described in 44 CFR §206.203(c), which provides for funding the actual cost of completing the eligible scope of work. FEMA review for compliance with EHP laws, executive orders, and other regulations must be completed before work can take place. When the actual cost of the work for a subgrant is less than the fixed estimate, the subgrantee may use the excess funds for PA Program-related purposes (as described in the FEMA publication PA Alternative Procedures Pilot Program Guide for Permanent Work V2). When the subgrantee has completed a fixed subgrant for less than the estimate they must certify final costs within 90 days of project completion through the Grantee for final reconciliation by FEMA. As part of this request the applicant must also provide information to close the original subgrant and FEMA will prepare a new subgrant to document the use of the eligible excess funds and conduct all required reviews prior to obligation. All payment procedures described above in the Large Projects section will be utilized when dealing with Alternate Procedures for Permanent Work projects.

Donated Resource Credit Disbursement
During a disaster, individuals and organizations may donate volunteer labor, equipment, and materials. These contributions can still be calculated into a dollar amount which can be credited toward the non-federal share of eligible emergency work for a declared disaster.

An applicant is eligible to receive credit funding up to a maximum of the federal share of the total value of their donated resources, or 100 percent of the non-federal share of all Category A and B project worksheets, whichever is less.

Once all emergency work has been completed, a PW will be prepared for each subgrantee addressing any volunteer labor, donated equipment, and donated materials for Category A and B work. The approved credit for donated resources shall be calculated for every eligible Category A and B PW based upon actual project costs, or the FEMA approved project costs, whichever is less. PWs crediting any donated resources will be cost shared by the current federal/non-federal shares established for each specific disaster. However, any PW crediting donated resources are not eligible for state funding.
Funds credited from donated resources will be first applied to offset the applicant share for all of the subgrantee’s eligible Category A and B project worksheets. That is until either the applicant’s share has been offset, or all donated resource funds have been applied, whichever occurs first. If any donated resource funds are remaining after the entire applicant share has been offset, the remaining credit can be applied to offset the state contribution of the subgrantee’s eligible category A and B project worksheets. Once again, this is either until the state contribution has been offset, or all donated resource credit funds have been applied, whichever occurs first. Donated resource credit funds applied to the state contribution of any Category A and B project worksheet are applied in lieu of state funding, and no state funds will be paid on any portion of the state contribution covered by donated resource credit funding.

**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 Public Assistance 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 plan” are not eligible to receive state funding. Affected state agencies will meet the entire non-federal obligation from funds within their own agency.

For small project PWs, state funds will be paid at the same time as the federal funds. These payments will be made when Region VIII has obligated funds for a small project.

For all large project PWs, 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 the 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 “PA 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

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/PAGS 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.

**Large Project Quarterly Progress Reports**

NDDES is required to submit a Large Project Quarterly Report to FEMA for Large Projects for which a FEMA Large Project Closeout has not been completed. The progress report will include: the status of the project, such as “in design” or “percentage of construction completed”; time extensions granted, if any; a projected completion date; the amount of expenditures and amount of payment for each project; and any problems or circumstances that could delay the project or result in noncompliance with the conditions of the FEMA approval. When the FEMA Large Project Closeout for each large project is complete, the project may be dropped from the report. Periodically, Grantee may request information or reports from the subgrantee for inclusion in the Large Project Quarterly Report. Subgrantee is required to provide information or reports as soon as practicable after requested. Interim inspections may be scheduled by subgrantee before the final inspection, and may be required by Grantee. Grantee may require additional reports as needed, and subgrantee shall provide any additional reports requested by Grantee as soon as practicable. The State will use the information provided by the applicant as well as internal documentation such as invoices, receipts, EMMIE data, and Smartlink/PMS data to complete the FEMA Large Project Quarterly Progress Report. This report will be provided to FEMA Region VIII no later than 30 days after the end of the previous quarter. In addition and in accordance with 44 CFR § 207.8 (c), Section 324 State Management Cost funding will be reported on FEMA Large Project Quarterly Progress Report.

**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) Public Assistance disbursements shall be shown by each grant identification number and any surplus cash on hand shall be reported.

**Small Project Compliance Reviews**

Since April 11, 2007, NDDES has been conducting compliance reviews of all small projects starting with the year 2001, Disaster 1376. These compliance reviews are designed to verify the applicant is accomplishing the original scope of work, and applying the required applicant cost share as required by 2 CFR § 200.306, 2 CFR § 200.328, 44 CFR § 206.205, and 44 CFR § 206.207.

The compliance review has six phases and they are as follows:

1. The applicant agent will be notified by letter that NDDES intends to conduct monitoring on the applicant. Subsequently, a member of the NDDES monitoring team will contact the applicant agent by telephone to schedule a time for monitoring that is mutually agreeable and no later than 30 days from the date of the letter. It is expected that the applicant will have all relevant paperwork, including but not limited to invoices, payroll records, force account equipment logs, and cancelled checks available for review at the time of the monitoring.

2. NDDES will randomly select Small Project Worksheets to review. NDDES will monitor no less than 25 percent of Small Project Worksheets. In the case of counties, NDDES will attempt to select approximately 25 percent of each Township’s Small Project Worksheets and approximately 25 percent of the County’s Small Project Worksheets.

3. NDDES will review those Small Project Worksheets selected on a site by site basis. That is, if a small project, including any mitigation work was not started or was not completed, funds will be de-obligated. If the applicant spends less than the amount approved by FEMA, funding will not be reduced to match actual costs. It is assumed that cost under runs on individual sites or projects will be used to offset cost over runs on other sites or projects. However, in many instances such as Project Worksheets for road repair, material quantities are written into the Project Worksheet. NDDES views these material quantity estimates as an integral element of the scope of work. A 15% material variance per site will be deemed acceptable. If a variance results in a cost under run, the excess funds related to the 15% variance may be used to offset cost over runs on other sites or projects. Any variance exceeding 15% will result in a de-obligation of funds. Please see the examples below for further clarification.

Example 1: A Small Project Worksheet for gravel road repair is written. The project worksheet calls for 500 cubic yards of gravel at an estimated cost of $5.00 per cubic yard for a project worksheet total of $2,500. The applicant repairs the site to pre-disaster conditions by using 475 cubic yards of gravel purchased for $5.00 per cubic yard for a total cost of $2,375. Because the variance in material quantity is 5% (15% or less), the $125 difference may be used to offset cost over runs on other sites or projects; or for other mitigation or disaster recovery related work with written permission of NDDES.
Example 2: A Small Project Worksheet for gravel road repair is written. The project worksheet calls for 500 cubic yards of gravel at an estimated cost of $5.00 per cubic yard for a project worksheet total of $2,500. The applicant repairs the site to pre-disaster conditions by using 500 cubic yards of gravel purchased for $4.25 per cubic yard for a total cost of $2,125. Because the variance in material quantity is 0% (15% or less), the $375 difference may be used to offset cost over runs on other sites or projects; or for other mitigation or disaster recovery related work with written permission of NDDES.

Example 3: A Small Project Worksheet for gravel road repair is written. The project worksheet calls for 500 cubic yards of gravel at an estimated cost of $5.00 per cubic yard for a project worksheet total of $2,500. The applicant repairs the site by using 400 cubic yards of gravel purchased for $5.00 per cubic yard for a total cost of $2,000. Because the variance in material quantity is 20% (more than 15%), $500 (100 cu. yd. times $5.00 per cu. yd.) will be de-obligated.

4. A summary of monitoring findings will be mailed to the applicant. If it is found that program expenditures are not documented, cannot be supported, or the scope of work was not satisfied, the applicant will be informed by letter, and will be given 60 days to provide additional documentation and/or support. No additional information will be accepted after 60 days from the date of the letter, and there is no mechanism to appeal the results of the monitoring effort.

5. If a return of funds is required, FEMA will create a new version of the Small Project Worksheet. A letter and an invoice will then be prepared and sent to the applicant. The applicant will be given 30 days from the date of the letter to return funds.

6. Once the applicant reimburses the state, the state will reimburse FEMA by entering the federal share plus any administrative allowance into SmartLink/PMS. Once this has been completed the compliance review for the applicant will be closed.

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 finding 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 and 44 CFR § 206. 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 Hazard Mitigation 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 a PA 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

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grant award within every PA Subgrant Agreement, which is reviewed and signed by each subgrantee to officially accept a subaward. Along with the PA 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 PA grant award must be used consistent with the eligibility requirements of the PA 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 PA 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)

**Insurance Requirements**

FEMA is required by law to deduct any and all insurance proceeds for a Project that the applicant may receive funding from their insurance company. Also, as a condition of receiving Federal assistance, the applicant must obtain and maintain insurance in at least the amount of the eligible damage to protect against future loss to such property from the same peril for the life of the project. Note:

- If the insurance is not maintained, the facility will receive no future assistance in the next event of the same type.
- If the estimate for the repair of disaster-related damage is less than $5,000, the purchase of insurance is not required.
- Insurance is not required for temporary facilities provided under Mission Assignments or Section 403 of the Stafford Act.

Historically, FEMA has placed special comments on each PW during formulation, review, and obligation defining the amounts for which applicants must insure their damaged facilities. During grant closeout, FEMA has also provided a summary letter to each Grantee which itemizes every project with an “obtain and maintain” insurance requirement. However, FEMA has not taken action to validate applicants’ compliance with the requirement except to the extent that a facility is damaged during a later Presidentially-declared event for which Public Assistance is available. However, in the future FEMA will begin to validate compliance with the insurance requirements during the large project closeout reconciliation. NDDES will work to identify and validate insurance requirements associated with small projects as part of their process to certify to FEMA that all small projects have been completed within the terms of the approved scopes of work and associated project conditions, to include “obtain and maintain” insurance requirements.

Any insurance related action taken will be in accordance with Section 311, 312, 403, and 406 of the Stafford Act; 44 CFR § 206.250-253, duplication of benefits.

**Hazard Mitigation (Section 406)**

FEMA and the State will participate when possible in the 406 Hazard Mitigation Program. The State will review all category C - G projects for cost effective ways to reduce or elimination the threat of future damage to a facility from a similar disaster. All 406 Hazard Mitigation efforts will be in accordance with Section 406(e) of the Stafford Act, 44 CFR § 206.201(f) and § 206.226(e) and Hazard Mitigation Funding under Section 406 (Stafford Act), FEMA policy 9526.1.

**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 3-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 3 years after final disposition.

When records are transferred to or maintained by the Federal awarding agency or pass-through entity, the 3-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)