

DEPARTMENT OF HOMELAND SECURITY

CFDA 97.036 DISASTER GRANTS – PUBLIC ASSISTANCE (Presidentially Declared Disasters)

I. PROGRAM OBJECTIVES

The objective is to provide assistance to State, Indian tribal, and local governments, and certain types of private nonprofit organizations under the Public Assistance (PA) program.

II. PROGRAM PROCEDURES

Following a Presidential declaration of a major disaster or an emergency, the Federal Emergency Management Agency (FEMA), Department of Homeland Security (DHS), awards grants to assist State and local governments and certain private nonprofit (PNP) entities with the response to and recovery from disasters. Specifically, the PA program provides assistance for debris removal, emergency protective measures, and permanent restoration of infrastructure. The PA program is based on a partnership with the Grantee (State or tribal government) and FEMA and local officials. FEMA is responsible for managing the program, approving grants, and providing technical assistance to the State (or Indian tribal government) and applicants (subgrantees). The State, in most cases, acts as the grantee for the PA program and is responsible for providing technical advice and assistance to eligible subgrantees, providing State support for damage survey activities, ensuring that all potential applicants are aware of funding assistance available, and submitting documents necessary for grant awards (44 CFR sections 206.200 through 206.349). An Indian tribal government may also be a grantee. FEMA, the State (or Indian tribal government) and the applicant (subgrantee) are all responsible for grants awarded under the PA program.

For purposes of the PA program, the following terms will be used:

State – The State Agency that is defined as the grantee under FEMA regulations and acts as the grant administrator for the program.

Tribal government - Any federally recognized governing body of an Indian or Alaska Native tribe, band, nation, pueblo, village, or community that the Secretary of the Interior acknowledges to exist as an Indian tribe under the Federally Recognized Tribe List Act of 1994, 25 U.S.C. 479a. This does not include Alaska Native corporations, the ownership of which is vested in private individuals.

Subgrantee – The government or other legal entity to which a subgrant is awarded and which is accountable to the grantee for the use of the funds provided (44 CFR section 206.201(1)). (For example, in explaining this program, a State Highway Agency is considered a subgrantee of a State Emergency Agency even though both agencies may be included in the same statewide single audit.)

RA – The FEMA Regional Administrator.

PA program awards are made based upon a Project Worksheet (PW) prepared by a project formulation team. The project formulation team normally includes a representative of FEMA, the State, and the subgrantee. The PW documents the project formulation team's determination of the eligible scope of work and cost estimate. The PA program will fund a part of this eligible work in accordance with the FEMA-State Agreement. Each PW has a control number and any supplemental PWs will be referenced to the original PW.

Projects are classified as large or small projects according to the cost of the eligible work for the individual project. Section 422 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42, USC 5189 prescribes that Small Project Grants under the PA program be adjusted annually to reflect changes in the Consumer Price Index (CPI) for All Urban Consumers, published by the Department of Labor. Projects with costs that equal or exceed this threshold are large projects; projects that cost less than the threshold are small projects. The threshold is adjusted each October to reflect changes in the CPI. The threshold was \$57,500 for the period October 1, 2005 through September 30, 2006; \$59,700 for the period October 1, 2006 through September 30, 2007; \$60,900 for the period October 1, 2007 through September 30, 2008; \$64,200 for the period October 1, 2008 through September 30, 2009; \$63,200 for the period October 1, 2009 through September 30, 2010; \$63,900 for the period October 1, 2010 through September 30, 2011; \$66,400 for the period of October 1, 2011 through September 20, 2012; \$67,500 for the period October 1, 2012 through September 30, 2013; and \$68,500 for the period October 1, 2013 through September 30, 2014. The date the disaster is declared by the President determines the threshold in use for that project.

Small Projects

Applicants are encouraged to make their own estimates for small projects and prepare PWs to be submitted to FEMA. FEMA will validate a 20 percent sample of the small projects prepared by the applicant and verify that the scope of the work is eligible and the cost estimate is reasonable. If the sample passes this validation, FEMA accepts all small project PWs from the applicant and obligates the funds. If the sample fails, a second 20 percent is reviewed. If the second sample also fails, FEMA assigns a specialist to assist the applicant in reformulating and resubmitting all small projects to FEMA. A FEMA specialist is assigned to formulate an applicant's small projects when an applicant elects not to do so.

For small projects, final payment of the Federal share of eligible costs is made upon approval of the project. The amount awarded for small projects based on the PW generally will not change except under unusual circumstances, such as failure to complete the work, an unexpected insurance recovery, or an obvious error in calculation. At closeout of the disaster, the State is required to certify that all projects were properly completed and that the State met its cost-sharing contribution, as specified in the FEMA-State Agreement. However, this certification does not specify the amount spent by a subgrantee on small projects. If the actual cost for small projects is less than the estimated cost on the PW and the scope of work is completed, FEMA will not ask for a refund. Similarly, FEMA generally will not provide additional funding when actual costs exceed the PW estimate. However, provision is made that, when a subgrantee has significant overruns, an appeal may be made to FEMA for additional funding based upon the total final costs for all small projects (44 CFR sections 206.204(e) and 206.205(a)).

Large Projects

For large projects, the State must make an accounting to FEMA of eligible costs for each approved large project. In submitting the accounting, the State must certify that reported costs were incurred in the performance of eligible work, that the approved work was completed, that the project is in compliance with the FEMA-State Agreement, and that payments for the project have been made in accordance with 44 CFR section 13.21 requirements for payment. The subgrantee is required to make similar accounting and certifications to the State. If actual costs are less than the approved amount, then the FEMA share will be based upon the actual costs. The subgrantee may request additional funding for eligible cost overruns on large projects. For additional funding, these requests must include a written recommendation from the State and approval of the RA (44 CFR sections 206.204(e) and 206.205).

Improved Projects

If a subgrantee desires to make improvements, but still restore the pre-disaster function of a damaged facility, State approval must be obtained. Federal funding for an improved project is limited to the Federal share of the approved estimate of the eligible costs to repair or replace the disaster-damaged facility. The Federal share will only restore the pre-disaster capacity of the damaged or destroyed facility. For example, if eligible work to restore the pre-disaster capacity is \$100,000, and the subgrantee chooses to rebuild an improved facility that costs \$200,000, then the FEMA share is only based on the \$100,000. However, if the actual cost is less than the eligible work of \$100,000 (e.g., construction costs are much lower than expected), then a FEMA adjustment is required (44 CFR section 206.203).

Alternate Projects

In a case where the subgrantee determines that the public welfare would not be best served by restoring a damaged public facility, the State may request that FEMA approve an alternate project. This option is available only for permanent, restorative work. Funds contributed for alternate projects may be used to repair or expand other selected public facilities, to construct new facilities, or to fund hazard mitigation measures. These funds may not be used to pay the non-Federal share of any project or for any operating expense (44 CFR section 206.203(d)(2)).

Funds approved for an alternate project can be used only for alternate projects specifically approved by FEMA. While the States and subgrantees have flexibility to propose the type and size of alternate projects they wish to construct, FEMA must review such proposed projects to ensure compliance with environmental and other special concerns (44 CFR section 206.203).

Eligibility of Force Account Labor Straight-Time Costs under the Public Assistance Program for Hurricane Sandy

The Sandy Debris Removal Interim Final Rule, 77 FR 67285, published November 9, 2012, amends 44 CFR section 206.228(a)(2) to allow for the reimbursement of the straight- or regular-time salaries and benefits of an eligible applicant's permanently employed personnel who perform disaster-related debris and wreckage removal work. The rule is applicable for all emergencies or major disasters declared on or after October 27, 2012, in response to Hurricane Sandy, for work performed under Sections 403(a)(3)(A), 502(a)(5), and 407 of the Robert T.

Stafford Disaster Relief and Emergency Assistance Act (Stafford Act), 42 USC 5170b(a)(3)(A), 5192(a)(5), and 5173. This rule applies to State and local governments, Indian tribes or authorized tribal organizations, and certain PNPs (See Recovery Fact Sheet 9580.215 (<http://www.fema.gov/media-library/assets/documents/29714?id=6670>)).

Alternative Procedures

The Sandy Recovery Improvement Act of 2013 (Pub. L. No. 113-2) amended Title IV of the Stafford Act (42 USC 5121 *et seq.*) (Stafford Act) by adding Section 428, which authorizes FEMA to implement alternative procedures for the PA program, under Sections 403(a)(3)(A), 406, 407 and 502(a)(5) of the Stafford Act, through a pilot program.

Alternative procedures for debris removal pilot: This pilot is authorized for major disasters and emergencies declared on or after June 28, 2013, the sole exception is FEMA-4117-DR-OK, which was authorized previously by the President specifically for that major disaster declaration. The pilot program for debris removal will remain in place for one year from the above date.

- *Accelerated Debris Removal--Increased Federal Cost Share (Sliding Scale) Procedure* – Provides an increased Federal cost share via a sliding scale to incentivize subgrantees to initiate and complete debris removal operations quickly after a disaster. FEMA will limit the amount of time to complete debris removal activities to 180 days from the start of the incident. Direct Federal Assistance (DFA) is not available to subgrantees using this procedure.

Debris Removal Completed (Days from Start of Incident Period)	Federal Cost Share
0–30	85%
31–90	80%
91–180	75%

- *Debris Management Plan Procedure* – Provides a one-time two (2) percent Federal cost share increase for the first 0-90 days when a subgrantee has a FEMA-accepted Debris Management Plan and has pre-qualified one or more debris removal contractors before the declaration.
- *Straight-Time Force Account Labor Procedure* – Provides reimbursement of base wages for a subgrantee’s own employees that perform or administer debris removal.
- *Recycling Revenue Procedure* – Allows subgrantees to retain program income received from recycled debris if used for activities that will improve debris removal operations in the future.

Alternative procedures for permanent work pilot: The alternative procedures pilot for permanent work is effective for major disasters declared on or after May 20, 2013. The alternative procedures may also be applied in previously declared major disasters for projects where construction has not yet begun. This pilot will remain in place until FEMA promulgates and adopts revised regulations that reflect the program changes the law authorizes.

- *Subgrants Based on Fixed Estimates* – Subgrantees may receive subgrants based on fixed estimates within 9 months of the declaration. This provides subgrantees with the flexibility to repair or rebuild a facility as it deems necessary for its operations with no requirement to rebuild to pre-disaster design, capacity or function.
- *Consolidation of Fixed Estimate Subgrants* – Subgrantees may combine two or more fixed subgrants into a single fixed subgrant within 12 months of the declaration date. This feature allows flexibility to execute work across multiple facilities or sites in ways that support a subgrantee’s post-disaster recovery needs.
- *Elimination of the Reduction in Eligible Costs for Alternate Projects* – FEMA will not implement the reduction (per Sections 406(c)(1) and 406(c)(2) of the Stafford Act) on alternate projects.
- *Use of Excess Funds* – Subgrantees may use excess funds for cost-effective activities that reduce the risk of future damage, hardship, or suffering from a major disaster and other activities to improve future PA operations or planning when the actual cost of the work is less than the fixed amount.
- *Review of Estimates by an Expert Panel* – Subgrantees may request a FEMA-funded, independent validation of estimates for permanent work subgrants with an estimated Federal share of at least \$5 million.

Administrative Costs

FEMA also provides funding for costs incurred by States and their subgrantees in administering the PA program. For disaster or emergency declarations prior to November 13, 2007, the State receives a statutory administrative cost allowance determined according to a formula based on percentages of the aggregate Federal share of funding provided to subgrantees for approved PA projects. The State awards administrative cost allowances to subgrantees according to a formula based on percentages of the subgrantees’ net eligible project costs. All administrative costs must be supported with source documentation. For disaster or emergency declarations on or after November 13, 2007, the State is eligible for management costs to administer the PA program. Management costs are defined as indirect costs, administrative expenses, and any other expenses not directly chargeable to a specific project. The available funding for management costs is based on a 3.34 percentage rate for disaster declarations and a 3.90 percentage rate for emergency declarations. The rate is applied to the projected Federal share of project funding. The State’s request for management costs is subject to FEMA approval. A subgrantee may use management cost funding made available by the State, as prescribed in the State administrative

plan, to administer PA projects (interim final rule, 44 CFR parts 206 and 207, effective November 13, 2007, 72 FR 57876 through 57878, October 11, 2007).

Source of Governing Requirements

This program is authorized by 42 USC 5121 *et seq.* Program regulations issued by FEMA are codified at 44 CFR sections 206.200 through 206.349.

Availability of Other Program Information

Additional program information is available on the FEMA website at: <http://www.fema.gov/public-assistance-local-state-tribal-and-non-profit>.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

A. Activities Allowed or Unallowed

The allowed activities for the PA program are for the approved project as described on the PW and supporting documentation. The approved project may be repair or replacement of the damaged facility, an improved project, or an alternate project (44 CFR section 206.203).

B. Allowable Costs/Cost Principles

1. *Equipment Usage* – The PA program restricts eligible direct costs for applicant-owned equipment used to perform eligible work to reasonable rates that were established under State guidelines, or when the hourly rate exceeds \$75, rates may be determined on a case-by-case basis by FEMA. When local guidelines are used to establish equipment rates, reimbursement is based on those rates or rates in a Schedule of Equipment Rates published by FEMA, whichever is lower. Provision is also made when no rates are established or the entity wishes to claim an equipment rate that exceeds the FEMA Schedule (44 CFR section 206.228(a)(1)).

2. *Administrative Costs*

- a. *Grantee*

For major disaster or emergency declarations before November 13, 2007, a State may use funds made available by FEMA under its administrative cost allowance only for extraordinary direct costs of preparing PWs, final inspection reports, project applications, etc., and for making final audits and related field inspections. Specific cost items allowable for such purposes include overtime pay, per diem and travel expenses for State

employees, but not regular (straight time) salaries. Cost items not eligible for funding from the State's administrative cost allowance, but still related to managing the program, may be funded from the grant if prescribed in an approved PW (44 CFR sections 206.228(a)(2) and (a)(3) and interim final rule, 44 CFR section 207.9, effective November 13, 2007 (72 FR 57878, October 11, 2007)).

For major disaster or emergency declarations on or after November 13, 2007, a State may request funds from FEMA for management costs, which include indirect costs, administrative expenses, and any other expenses not directly chargeable to a specific project that are reasonably incurred in administering and managing the program within dollar ceilings and timeframes established by regulation (interim final rule, 44 CFR sections 206.207 and 206.228 and part 207, effective November 13, 2007 (72 FR 57876 through 57878, October 11, 2007)).

b. *Subgrantee –*

For major disaster or emergency declarations prior to November 13, 2007, a subgrantee may use funds made available in its administrative cost allowance for necessary costs to request, obtain, and administer its subgrant. No other direct or indirect costs are allowable at the subgrantee level (44 CFR sections 206.228(a)(3) and interim final rule, 44 CFR section 207.9, effective November 13, 2007 (72 FR 57878, October 11, 2007)).

For disaster or emergency declarations on or after November 13, 2007, a subgrantee may use management cost funding made available by the State, as prescribed in the State administrative plan, to administer PA projects (interim final rule, 44 CFR sections 206.207 and 206.228 and part 207, effective November 13, 2007, 72 FR 57876 through 57878, October 11, 2007).

3. *Force Account Labor Costs* – The straight- or regular-time salaries and benefits of a subgrantee's permanently employed personnel are not eligible in calculating the cost of eligible work for emergency protective services or debris removal under Sections 403 and 407 of the Stafford Act (42 USC 5170b and 5173, respectively). For performance of eligible permanent restoration under Section 406 of the Stafford Act (42 USC 5172), straight-time salaries and benefits of a subgrantee's permanently employed personnel are eligible (44 CFR section 206.228(a)(2)).
4. *Insurance and Other Recoveries* – Auditors are advised that there are likely to be amounts from insurance settlements, salvage, or other sources that must be considered in determining allowable costs because allowable costs must be net of applicable credits (42 USC 5155).

E. Eligibility

- 1. Eligibility for Individuals – Not Applicable**
- 2. Eligibility for Group of Individuals or Area of Service Delivery – Not Applicable**
- 3. Eligibility for Subrecipients**

A State may award subgrants under this program to the following types of entities:

- a. State and local governments;
- b. Private non-profit organizations or institutions which own or operate a private non-profit facility, such as (but not limited to) an educational, medical, or custodial care facility, or other facility providing essential governmental type services to the public; and
- c. Indian tribes or authorized tribal organizations and Alaskan Native villages or organizations (but not Alaskan Native Corporations, the ownership of which is vested in private individuals) (44 CFR sections 206.221 and 206.222).

G. Matching, Level of Effort, Earmarking**1. Matching**

- a. Costs must be on a shared basis, as specified in the FEMA-State Agreement. In general, the minimum Federal share is 75 percent of eligible costs (44 CFR section 206.65). The non-Federal share that is split between the State and each subgrantee may vary. The accountability for meeting the matching requirement resides with the State and is determined at the time of project accounting as part of project closeout (i.e., the non-Federal share does not have to be met until the end of the project).

However, matching requirements for alternate projects vary from this general rule and fall into one of two categories:

- (1) *Public facilities.* Eligible costs for public facilities are 90 percent of the approved Federal estimate of eligible repair/replacement costs of the damaged facility or the actual fixed cost of completing the alternate project(s), whichever is less. The appropriate Federal share will then be applied to the lesser amount.

Basic Calculation:

\$100,000 – Eligible damage

_____ × .75 - % Federal Cost Share

\$ 75,000 – Subtotal

_____ × .90 – of Federal Cost Share

\$ 67,500 – Maximum amount subgrantee may receive.

In this example, the subgrantee must spend at least \$75,000 on the approved alternate project to receive \$67,500. If the subgrantee spends less than the alternate project amount, then the Federal cost share would be 75 percent of the actual amount spent.

- (2) *Private non-profit facilities.* Eligible costs for PNP facilities are 75 percent of the approved Federal estimate of eligible repair/replacement costs of the damaged facility or the actual fixed cost of completing the alternate project(s), whichever is less. The appropriate Federal share will then be applied to the lesser amount.

Basic Calculation:

\$100,000 – Eligible damage

_____ × .75 - % Federal Cost Share

\$ 75,000 – Subtotal

_____ × .75 – of Federal Cost Share

\$ 56,250 – Maximum amount subgrantee may receive.

In this example, the subgrantee must spend at least \$75,000 on the approved alternate project to receive \$56,250. If the subgrantee spends less than the alternate project amount, then the Federal cost share would be 75 percent of the actual amount spent.

- b. There is no matching requirement for PA grants made to Louisiana, Mississippi, Florida, Alabama and Texas in connection with Hurricanes Katrina, Wilma, Dennis and Rita (Title IV, Pub. L. No. 110-28).

2. Level of Effort – Not Applicable

3. Earmarking

For disaster or emergency declarations prior to November 13, 2007, the State makes funding available to subgrantees for their direct costs to request, obtain, and administer public assistance projects according to the following formula: (a) three percent of the subgrantee's first \$100,000 of net eligible project costs; (b) two percent of the subgrantee's next \$900,000 of such costs; (c) one percent of the subgrantee's next \$4 million of such costs; and (d) one-half of one percent of the subgrantee's net eligible costs over \$5 million (interim final rule, 44 CFR section 207.9(b)(2), effective November 13, 2007, 72 FR 57878, October 11, 2007).

For disaster or emergency declarations on or after November 13, 2007, the State makes management cost funding available to subgrantees, as prescribed in the State administrative plan, to administer PA projects (interim final rule, 44 CFR sections 206.207 and 206.228 and part 207, effective November 13, 2007, 72 FR 57876 through 57878, October 11, 2007).

L. Reporting

1. Financial Reporting

- a. SF-270, *Request for Advance or Reimbursement* – Applicable only to those non-Federal entities who do not utilize the Department of Health and Human Services, Payment Management System.
- b. SF-271, *Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable
- c. SF-425, *Federal Financial Report* – Applicable

2. Performance Reporting – Not Applicable

3. Special Reporting – Not Applicable

4. Subaward Reporting under the Transparency Act – Applicable

N. Special Tests and Provisions

Project Accounting

Compliance Requirement – For large projects, the State is required to make an accounting to FEMA of eligible costs. Similarly, the subgrantee must make an accounting to the State. In submitting the accounting, the entity is required to certify that reported costs were incurred in performance of eligible work, that the approved work was completed, that the project is in compliance with the provisions of the FEMA-State Agreement, and that payments for that project were made in accordance with the 44 CFR section 13.21 payment provisions. For improved and alternate projects, if the total cost

of the projects does not equal or exceed the approved eligible costs, then the auditor should expect to see an adjustment to reduce eligible costs (44 CFR section 206.205).

Audit Objective – Determine whether ongoing and completed projects were accounted for in accordance with the required certification.

Suggested Audit Procedures

Projects not completed – Select a sample of ongoing large projects and ascertain if costs submitted for reimbursement were in compliance with the requirements for eligible work under the applicable PW. Testing should consider the differences in the requirements and approvals required of improved and alternate projects.

Completed projects – Select a sample of large projects completed during the audit period and ascertain if the entity's files document the total costs as allowable costs and if the costs are for allowable activities under the applicable PW. This testing should consider the differences in the requirements and approvals required of improved and alternate projects.

IV. OTHER INFORMATION

Recording Expenditures on the Schedule of Expenditures of Federal Awards (SEFA)

Non-Federal entities must record expenditures on the SEFA when: (1) FEMA has approved the non-Federal entity's Project Worksheet (PW), and (2) the non-Federal entity has incurred the eligible expenditures. Federal awards expended in years subsequent to the fiscal year in which the PW is approved are to be recorded on the non-Federal entity's SEFA in those subsequent years.

For example,

1. If FEMA approves the PW in the non-Federal entity's fiscal year 2013 and eligible expenditures are incurred in 2014, the non-Federal entity records the eligible expenditures in its fiscal year 2014 SEFA.
2. If the non-Federal entity incurs eligible expenditures in its fiscal year 2014 and FEMA approves the non-Federal entity's PW in fiscal year 2015, the non-Federal entity records the eligible expenditures in its fiscal year 2015 SEFA with a footnote that discloses the amount included on the SEFA that was incurred in a prior year.

DEPARTMENT OF HOMELAND SECURITY

CFDA 97.039 HAZARD MITIGATION GRANT (HMGP)

I. PROGRAM OBJECTIVES

The Hazard Mitigation Grant Program (HMGP) is a cost-shared program administered by the Federal Emergency Management Agency (FEMA), Department of Homeland Security. The program's purpose is to mitigate the vulnerability of life and property to future disasters during the recovery and reconstruction process following a disaster. HMGP provides funds to implement projects to reduce risk from future hazard events in accordance with priorities identified in State, tribal or local hazard mitigation plans. It also provides funds designed to develop State, Indian tribal government, and local mitigation plans that meet the planning requirements outlined in 44 CFR part 201.

II. PROGRAM PROCEDURES

Program Administration

FEMA awards HMGP grants to States and Indian tribal governments (Grantees), which, in turn, may award subgrants to State agencies, local governments, Indian tribal governmental agencies, and other eligible entities (subgrantees). Each Grantee administers the HMGP according to a FEMA-State or FEMA-Indian tribal government Agreement, a comprehensive Standard or Enhanced Mitigation Plan, and a State or Indian tribal government HMGP Administrative Plan. These plans must be approved by FEMA before funds are awarded to the State or Indian tribal government. FEMA is responsible for approving or denying project applications, and reviewing the Grantee's quarterly and final reports.

FEMA also provides funding for costs incurred by Grantees and their subgrantees in administering HMGP. For Federal disasters declared prior to November 13, 2007, the Grantee receives a statutory administrative cost allowance determined according to a formula based on percentages of the aggregate Federal share of funding provided to subgrantees for hazard mitigation projects. Management costs not covered by the allowance may be allowed with FEMA prior approval. The Grantee awards statutory administrative cost allowances to subgrantees according to a formula based on percentages of the subgrantee's net eligible project costs. If requested, management costs are awarded as a part of the HMGP ceiling.

For Federal disasters declared on or after November 13, 2007, FEMA makes available funds for costs incurred by Grantees and their subgrantees in administering and managing HMGP. These costs are now termed "management costs" and include any indirect costs, administrative expenses, and any other expenses not directly chargeable to a specific project that are reasonably incurred by a Grantee or subgrantee in the administration and management of HMGP. A flat rate of 4.89 percent of the projected eligible program costs is used to calculate the Management Costs available to States and federally recognized Indian tribal governments. Grantees may identify and make available a percentage or amount of pass-through funds for management costs to their subgrantees. The basis, criteria, or formula for equitable distribution is determined by the Grantee and must be included in the FEMA-approved State or Indian tribal government HMGP Administrative Plan before funds for management costs can be awarded. Management costs are

not subject to the Federal funding limits for HMGP projects (see III.G.1, “Matching”), and are provided in addition to the HMGP Program Ceiling

Application and Award Process

After determining that disaster relief and recovery needs cannot be met with resources available within the State, the Governor requests a Presidential declaration designating the State a disaster area. Indian tribal governments may also submit a request for a major disaster declaration within their impacted area. Applicants have up to 12 months from the date the disaster is declared to review and submit applications. The application must identify the specific mitigation measure(s) for which the State or Indian tribal government requests funding, and any entities to which the Grantee intends to make subgrant award.

In addition to submitting applications and supporting documents to FEMA, the Grantee’s Authorized Representative appoints a State Hazard Mitigation Officer. This official ensures that all potential applicants are made aware of the assistance available under the HMGP, and provides technical advice and assistance to eligible subgrantees. Indian tribal governments can receive HMGP assistance as subgrantees of States or apply directly to FEMA. Where FEMA awards a grant directly to an Indian tribal government, the two entities enter into a FEMA-Tribal agreement modeled on the FEMA-State agreement.

Source of Governing Requirements

HMGP is authorized by Section 404 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended (the Stafford Act), 42 USC 5170c. Program regulations are codified at 44 CFR parts 80; 201; 206, subpart N (Hazard Mitigation Grant Program); and 207.

Availability of Other Program Information

Additional program information is available at <http://www.fema.gov/hazard-mitigation-grant-program>.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

A. Activities Allowed or Unallowed

The activities allowed for an HMGP project are those described in the grant application approved by FEMA and the supporting documentation. All projects funded must also conform to the State's and/or Indian tribal government's (when applying directly to FEMA) comprehensive Hazard Mitigation Plan. Additionally, all subgrant projects funded under HMGP must be in accordance with priorities identified in the Indian tribal government or local hazard mitigation plans (44 CFR sections 201.6 and 201.7). Eligible projects include, but are not limited to:

1. Structural hazard control or protection projects;
2. Construction activities that will result in protection from hazards;
3. Retrofitting of facilities;
4. Property acquisition or relocation;
5. Development of State, Indian tribal government, or local mitigation standards;
6. Development or improvement of warning systems; and
7. Development of a mitigation plan meeting the requirements of 44 CFR part 201. (44 CFR section 206.436(d)(2))

B. Allowable Costs/Cost Principles

1. *Administrative Costs for Federal disasters declared prior to November 13, 2007*
 - a. *Grantee Direct Costs* – A State or Indian tribal government may use funds made available by FEMA under its administrative cost allowance only for extraordinary direct costs of preparing applications and quarterly reports, and making final audits and related field inspections. Specific cost items allowable as direct administrative costs include overtime pay, per diem and travel expenses for State or Indian tribal government employees, but not their regular (straight-time) salaries. Cost items not eligible for funding from the State's or Indian tribal government's administrative cost allowance, but still related to managing the program, may be funded from the grant if FEMA gives prior approval. Regular (straight-time) salaries may be funded in this way. In the case of staffing costs for the State's or Indian tribal government's portion of the Joint Field Office, FEMA gives prior approval by approving the State's staffing plan (44 CFR section 207.9(b)(1)).
 - b. *Subgrantee Administrative costs* – A subgrantee may use funds made available by the grantee in its administrative cost allowance only for direct costs of requesting, obtaining, and administering its subgrants (44 CFR section 207.9(b)(2)).

- c. *Indirect Costs* – Grantee indirect costs identified in accordance with the Federal cost principles are allowable. Indirect costs at the subgrantee level are unallowable (44 CFR section 207.9(c)).
2. *Management Costs for Federal disasters declared on or after November 13, 2007*
 - a. *Grantee* – A State or Indian tribal government may use funds made available by FEMA under its management cost allowance for any indirect costs, any administrative expenses, and any other expenses not directly chargeable to a specific project that are reasonably incurred in administering and managing the HMGP. All charges must be in accordance with 44 CFR part 207.
 - b. *Subgrantee* – A State or Indian tribal government may identify and make funds for management costs available to subgrantees in accordance with the FEMA-approved HMGP Administrative Plan. A subgrantee may use funds made available for management costs for any indirect costs, administrative expenses, and other expenses not directly chargeable to a specific project that are reasonably incurred in administering and managing the HMGP subaward (44 CFR section 207.6). See also definition of “Management Costs,” 44 CFR section 207.2.)

E. Eligibility

1. **Eligibility for Individuals** – Not Applicable
2. **Eligibility for Group of Individuals or Area of Service Delivery** – Not Applicable
3. **Eligibility for Subrecipients**

The following types of entities are eligible to apply for HMGP subgrants. Additionally, an eligible entity must have a FEMA-approved Mitigation Plan to be eligible to receive a project subgrant (44 CFR sections 201.6 and 201.7).

- a. State and local governments;
- b. Private non-profit organizations or institutions that own or operate a private non-profit facility as defined at 44 CFR section 206.221(e); and
- c. Indian tribal governments and Alaskan Native villages or organizations (44 CFR section 206.434(a)).

G. Matching, Level of Effort, Earmarking**1. Matching**

The Federal and non-Federal shares of a grant's cost are established in the FEMA-State or FEMA-tribal government Agreement. While the non-Federal share may exceed the Federal share, it may never be less than 25 percent of the cost of a grant approved for disasters declared after June 10, 1993 (that is, the Federal share may never exceed 75 percent.) The Federal share may not exceed 50 percent for grants approved for disasters declared before that date. For Federal disasters declared prior to November 13, 2007, funds made available to a Grantee or subgrantee in its administrative cost allowance are not subject to this limitation, i.e., funding for those costs may exceed 75 percent. Likewise, for Federal disasters declared on or after November 13, 2007, funds made available to a State for management costs or to a subgrantee for management costs that are not directly related to a specific grant are not subject to this limitation (44 CFR section 206.432(c)). The 2010 Supplemental Disaster Relief and Summer Jobs Act (Pub. L. No. 111-212, Section 603) included language that allows the FEMA Administrator to consider the non-Federal cost share satisfied for all Katrina declarations. This language affects DR-1602-FL, DR-1603-LA, DR-1604-MS and DR-1605-AL.

2. Level of Effort – Not Applicable

3. Earmarking – Not Applicable

L. Reporting**1. Financial Reporting**

- a. SF-270, *Request for Advance or Reimbursement* – Applicable
- b. SF-271, *Outlay Report and Request for Reimbursement for Construction Programs* – Applicable, but not required unless the State has a grant for direct construction.
- c. SF-425, *Federal Financial Report* – Applicable

2. Performance Reporting – Not Applicable

3. Special Reporting – Not Applicable

4. Subaward Reporting under the Transparency Act – Applicable

IV. OTHER INFORMATION

Subgrants to Other State Agencies or Indian Tribal Governments

In the administration of this grant, the State or Indian tribal government may subgrant funds to another part of the State (e.g., a State agency) or Indian tribal government. If the other part of the State or Indian tribal government receiving the subgrant is included in the audit of the State, such as a State-wide audit, or tribe, then for purposes of determining Type A programs and reporting on the Schedule of Expenditures of Federal Awards, these subgrants within the single audit reporting entity should be eliminated. However, all Federal awards expended under this program (including subgrants) are subject to OMB Circular A-133.

DEPARTMENT OF HOMELAND SECURITY**CFDA 97.067 HOMELAND SECURITY GRANT PROGRAM****I. PROGRAM OBJECTIVES**

The Homeland Security Grant Program (HSGP) is intended to improve and significantly enhance the ability of the Nation to prevent, deter, respond to and recover from, threats and incidents of terrorism and to enhance regional preparedness. The HSGP provides financial assistance to the States (and through the States to local governments) to support activities such as planning, the purchase of equipment items, training, and exercises to address critical resource gaps identified in the assessments and priorities outlined within each States' Homeland Security Strategy and Threat and Hazard Identification and Risk Assessment. States are encouraged to develop regional approaches to planning and preparedness and to adopt, as appropriate, regional response structures.

II. PROGRAM PROCEDURES

HSGP funding is provided to the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, U. S. Territories, and select urban areas, by the Federal Emergency Management Agency (FEMA)/Grant Programs Directorate (GPD). The grants are awarded to a State Administrative Agency (SAA) that must pass through 80 percent of the funds to local governments.

Multiple Funding Streams

Since its inception, the HSGP has included various funding streams, including the State Homeland Security Program (SHSP), the Law Enforcement Terrorism Prevention Program (LETPP), the Citizens Corps Program (CCP), the Urban Areas Security Initiative (UASI) Program, Metropolitan Medical Response System (MMRS), and the Operation Stonegarden (OPSG) Program. Over the years, the HSGP has evolved to address the needs of communities by providing resources to address capability gaps, thereby, altering the Program's funding streams.

The current funding streams and their objectives are as follows:

State Homeland Security Program (SHSP) provides funds to enhance the capability of State and local jurisdictions to prepare for and respond to terrorist acts, including events of terrorism involving weapons of mass destruction and biological, nuclear, radiological, incendiary, chemical, and explosive devices.

Urban Areas Security Initiative (UASI) provides financial assistance to address the unique multi-discipline planning, operations, equipment, training, and exercise needs of high-threat Urban Areas.

Operation Stonegarden (OPSG) is intended to enhance cooperation and coordination among local, State and Federal law enforcement agencies in a joint mission to secure the United States borders along routes of ingress from international borders to include travel corridors in states bordering Mexico and Canada, as well as States and Territories with international water borders.

See IV, “Other Information,” for information (including the CFDA numbers under which awards for the several funding streams were previously made).

Source of Governing Requirements

These programs are authorized under Title III of the Consolidated Security, Disaster Assistance, and Continuing Appropriations Act of 2009 (Pub. L. No. 110-329, Division D); the FY 2010 Department of Homeland Security Appropriations Act (Pub. L. No. 111-83); the FY 2011 Department of Defense and Full-Year Continuing Appropriations Act (Pub. L. No. 112-10); and the Consolidated Appropriations Act, 2012, Division D (Pub. L. No. 112-74); the Consolidated and Further Continuing Appropriations Act, 2013 (Pub. L. No. 113-6). There are no program regulations. The applicable program guidance is incorporated by reference into awards and becomes part of the terms and conditions of award.

Availability of Other Program Information

Additional information is available at <http://www.fema.gov/preparedness-non-disaster-grants>.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

A. Activities Allowed or Unallowed

1. *Activities Allowed – General.*
 - a. Funds may be used to enhance the capability of State and local jurisdictions to prepare for and respond to terrorist acts including events of terrorism involving weapons of mass destruction and biological, nuclear, radiological, incendiary, chemical, and explosive devices. Allowable activities include purchase of needed equipment and provision of training and technical assistance to State and local first responders (42 USC 3714(b)). Funds may be used under the following categories: planning, organization, equipment, training and exercises.
 - b. Funds may be used for management and administration (Pub. L. No. 111-83, 123 Stat. 2161), Consolidated Appropriations Act, 2012 (Pub. L. No. 112-74, 125 Stat. 961; Consolidated Appropriations Act, 2013 (Pub. L. No. 113-6, 127 Stat. 358) (see III.G.3.a. for a limitation).

2. *Activities Allowed – FYs 2009 - 2013*
 - a. As directed by the Personnel Reimbursement for Intelligence Corporation and Enhancement (PRICE) of Homeland Security Act (Pub. L. No. 110-412), all personnel and personnel-related costs, including those of intelligence analysts, are allowed up to 50 percent of SHSP and UASI funding without time limitation placed on the period of time that such personnel can serve.
 - b. Critical emergency supplies are an allowable expense in furtherance of DHS' mission (applicable Funding Opportunity Announcement).
 - c. Paragraphs 2.a and b above also apply to OPSG for FYs 2010 through 2013.
 - d. SHSP funds may be used to support the implementation activities associated with the Western Hemisphere Travel Initiative (WHTI), including the issuance of WHTI-compliant tribal identification cards and driver's license and identification security enhancements (applicable Funding Opportunity Announcement).
3. *Activities Unallowed – FYs 2009 – 2013*
 - a. Funds awarded for law enforcement terrorism prevention activities under SHSP and UASI cannot be used for construction of facilities, except for a minor perimeter security project, not to exceed the greater of \$1,000,000 or 15 percent of the grant award, as determined necessary by the Secretary of Homeland Security. The erection of communication towers, which are included in a jurisdiction's interoperable communications plan, does not constitute construction (Pub. L. No. 110-53; Pub. L. No. 110-161; Pub. L. No. 110-329, Division D; Pub. L. No. 111-83, 123 Stat. 2161), Consolidated Appropriations Act, 2012 (Pub. L. No. 112-74, 125 Stat. 961; Consolidated Appropriations Act, 2013 (Pub. L. No. 113-6, 127 Stat. 358).

Subject to all applicable laws, regulations, and licensing provisions, projects for the installation of communication towers are typically eligible under the program. Per the Department of Homeland Security Appropriations Act, 2013 (Pub. L. No. 113-6), such projects are not considered construction, and, therefore, are, not subject to the otherwise applicable funding limits on construction activities.
 - b. HSGP funds may not be used to support the hiring of sworn public safety officers for purposes of fulfilling traditional public safety duties or to supplant traditional public safety positions and responsibilities (6 USC 609(b)(1)(A)).

C. Cash Management

HSGP awards to States are exempted from the provisions of 31 USC 6503(a) (the Cash Management Improvement Act (CMIA)) (Sec. 521, Pub. L. No. 108-334; Pub. L. No. 109-241).

Grantees are permitted to draw down funds up to 120 days prior to expenditure/disbursement, but must place those funds in an interest-bearing account, and the interest earned must be submitted to the U.S. Treasury. All other requirements of OMB Circulars A-102 as implemented by FEMA at 44 CFR sections 13.21 and 13.23, and A-110 (2 CFR part 215), respectively, or the Cash Management Improvement Act (31 USC 6503; 31 CFR part 205), as applicable, related to the retention and payment of interest apply.

G. Matching, Level of Effort, Earmarking

1. **Matching** – Not Applicable

2. **Level of Effort** – Not Applicable

3. **Earmarking**

- a. Beginning in FY 2010, the amount of HSGP funds (exclusive of OPSG funds, if any (House Report 111-157 to FY 2010 Department of Homeland Security Appropriations Act)) that grantees can allocate towards management and administration costs is five percent (FY 2010 Department of Homeland Security Appropriations Act, Pub. L. No. 111-83, Title III (13)(C); FY 2011 Department of Defense and Full-Year Continuing Appropriations Act, Pub. L. No. 112-10). Beginning in FY 2011, five percent of OPSG funds may be used for costs of management and administration (discretionary decision by agency based on feedback from state and local stakeholders).
- b. Each State must obligate 80 percent of grant funds under the SHSP and UASI programs to local units of government, as well as 100 percent of the OPSG award amount (Title III, Pub. L. No. 108-90; Title III, Pub. L. No. 108-334; Title III, Pub. L. No. 109-90; Title III, Pub. L. No. 109-295). For FYs 2010 and 2011, OPSG funds are included in this requirement (Title I, Chapter 6, Pub. L. No. 108-11, 117 Stat 583; 6 USC 605(c)(1)).
- c. At least 25 percent of HSGP funds in FY 2009 were required to be allocated to the Strengthening Preparedness Planning Priority (see <http://www.fema.gov/fy-2009-homeland-security-grant-program>).
- d. For FY 2008 and thereafter, at least 25 of HSGP funds must be used for law enforcement terrorism activities (http://www.fema.gov/pdf/government/grant/hsgp/fy08_hsgp_guide.pdf and subsequent Funding Opportunity Announcements).

L. Reporting**1. Financial Reporting**

- a. SF-270, *Request for Advance or Reimbursement* – Not Applicable
- b. SF-271, *Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable
- c. SF-425, *Federal Financial Report* – Applicable

2. Performance Reporting – Not Applicable**3. Special Reporting** – Not Applicable**4. Subaward Reporting under the Transparency Act** – Applicable**N. Special Tests and Provisions****Subgrant Awards**

Compliance Requirement – States must obligate funds for subgrants within 45 days after the date of the grant award (6 USC 605(c)(1)). “Obligate” has the same meaning as in Federal appropriations law, i.e., there must be an action by the State to establish a firm commitment; the commitment must be unconditional on the part of the State; there must be documentary evidence of the commitment, and the award terms must be communicated to the subgrantee and, if applicable, accepted by the grantee.

Audit Objectives – To determine if (1) the State complied with the requirement to obligate funds for subgrants within 45 days after the date of the grant award, and (2) subgrantees were able to draw down funds immediately following State obligation of funds.

Suggested Audit Procedures

- a. Determine if the State has written procedures for making subgrant awards, including any standards for administrative lead-time for obligation of funds and issuance of awards.
- b. Review the State’s written procedures, if any, for consistency with the compliance requirement.
- c. Determine if subgrant amounts were obligated by the State in a timely manner, consistent with HSGP requirements and the State’s own procedures.
- d. Select a sample of subgrant awards under this program and review the subrecipients’ payment requests to determine if funds were disbursed by the State to the local government consistent with the dates of their awards.

IV. OTHER INFORMATION

When completing the Schedule of Expenditures of Federal Awards (SEFA), recipients should record their expenditures using the CFDA number(s) shown on the legal award document for the period in which the funds were awarded. Subawards issued by the primary grantee are legally binding agreements, and, therefore, CFDA numbers cited by the grantee in the subgrant award must be used by the subgrantee as the CFDA reference in the SEFA.

Expenditures identified under this program in the current audit period may be attributable to awards made in both the current or prior years. The current and previous CFDA numbers are shown in the following table.

Expenditures under EMPG and CCP awards that predated assignment of DHS numbers for these programs should not be included in the audit of this program.

<i>Year of Grant</i>	<i>SHSP¹</i>	<i>UASI</i>	<i>CCP</i>	<i>LETPP</i>	<i>EMPG</i>	<i>MMRS</i>	<i>OPSG</i>
2009	97.067	97.067	97.067 ²	Program no longer a separate line-item	N/A (not part of the cluster/program)	97.067 ³	N/A (not part of the cluster/program)
2010 2011	97.067	97.067	97.067 ⁴	Program no longer a separate line-item	N/A (not part of the cluster/program)	97.067 ⁵	97.067
2012 2013	97.067	97.067	Program no longer a separate line item	Program no longer a separate line item	N/A (not part of the program)	Program no longer a separate line item	97.067

It also should be noted that, except as otherwise provided by statute, DHS awards of property and/or equipment are subject to the requirements of OMB Circular A-133. A DHS policy statement that addresses this requirement is available at http://www.dhs.gov/xopnbiz/grants/gc_1162481125903.shtm.

¹ On October 11, 2010, the State Domestic Preparedness Equipment Support Program was renamed as the State Homeland Security (Grant) Program (SHSP) (CFDA 97.073), which is one of the component programs that was merged or consolidated into the Homeland Security Grant program (CFDA 97.067).

² At the subgrantee level, the CFDA numbers may have been listed as 97.053 and 97.071, and should be included in this cluster.

³ At the subgrantee level, the CFDA numbers may have been listed as 97.053 and 97.071, and should be included in this cluster.

⁴ At the subgrantee level, the CFDA numbers may have been listed as 97.053 and 97.071, and should be included in this cluster.

⁵ At the subgrantee level, the CFDA numbers may have been listed as 97.053 and 97.071, and should be included in this cluster.