

STATE OF MARYLAND

PUBLIC ASSISTANCE PROGRAM ADMINISTRATIVE PLAN



MARYLAND EMERGENCY MANAGEMENT AGENCY

October 2012

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I. PURPOSE

The purpose of this plan is to establish a framework through which the State of Maryland prepares for; responds to; recovers from; and mitigates the impact of natural disasters that affect the health, safety, and general welfare of the residents of the State. To establish policies, procedures, and organizational structure for State management and administration of the Federal Emergency Management Agency (FEMA) Public Assistance (PA) Program, in accordance with Public Law 93-288, as amended, the Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1988 (The Stafford Act). This plan will be incorporated into the State Emergency Operations Plan in compliance with 44 CFR § 206.207.

The State assures FEMA that it shall comply with all applicable Federal statutes and regulations in effect during the periods for which it receives grant funding, including those listed under Section II below. The State acknowledges that funding under the FEMA PA Program is conditional upon the State's compliance with all the terms and conditions of this plan.

II. AUTHORITY

- A. Federal
 - 1. Public Law 91-190, The National Environmental Policy Act
 - 2. Public Law 93-234, Flood Disaster Protection Act of 1973, as amended by the Flood Insurance Reform Act of 1994, 42 U.S.C. 4001
 - 3. Public Law 93-288, Stafford Act, as amended by Public Law 100-707
 - 4. Public Law 97-348, Coastal Barrier Resources Act
 - 5. FEMA Regulation, 44 CFR Part 206, Federal Disaster Assistance, Subparts A, B, C, G, H & I
 - 6. FEMA Regulation, 44 CFR Parts 9, 10 (Environmental Considerations), 13 (The Common Rule) and 14 (Audits of State and Local Governments)
 - 7. FEMA Regulation, 44 CFR Parts 59 – 77, National Flood Insurance Program
 - 8. Executive Order 80-29, Disaster Preparedness
 - 9. Executive Order 11296, Flood Hazard Elevation
 - 10. Executive Order 11988, Floodplain Management
 - 11. Executive Order 11990, Protection of Wetlands
 - 12. Executive Order 12612, Federalism
 - 13. Executive Order 12898, Environmental Justice
 - 14. National Historic Preservation Act of 1966 (16 U.S.C. 470)
 - 15. National Flood Insurance Act of 1968 (42 U.S.C. 4101)
 - 16. Endangered Species Act (7 U.S.C. 136, 16 U.S.C. 460)
 - 17. Resource Conservation and Recovery Act (42 U.S.C. 321)
 - 18. Clean Air Act (42 U.S.C. 7401)
 - 19. Clean Water Act (33 U.S.C. 121)

- 20. Coastal Barrier Resources Act (16 U.S.C. 3501)

- B. State
 - 1. Maryland Code Public Safety Title 14
 - 2. Executive Order 01.01.1991.02 of the Governor of the State of Maryland
 - 3. Maryland Emergency Operations Plan
 - 4. FEMA/State Agreement

III. DEFINITIONS

- A. **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. Projects other than the damaged facility on which the subgrantee spends eligible funds are referred to as alternate projects.

- B. **Applicant:** A State, local, Indian Tribal government or 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 the **subgrantee**.

- C. **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.

- D. **Federal Emergency Management Agency (FEMA):** The Federal agency responsible for coordinating disaster recovery efforts. The term used in this plan when referred to the Regional Director, or the Disaster Recovery Manager, of FEMA Region III.

- E. **FEMA-State Agreement:** A formal legal document between FEMA and the affected State stating the understandings, commitments, terms and conditions for assistance resulting from a Federal disaster or emergency declared by the President. The FEMA Regional Director and the Governor or Governor's Authorized Representative sign the document.

- F. **Governor's Authorized Representative (GAR):** The person 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. Normally, the GAR will also be designated as the State Coordinating Officer.

- G. **Grantee:** The State of Maryland, hereinafter referred to as the State.
- H. **Hazard Mitigation:** Cost effective measures that will reduce the potential for damage to a facility from a declared disaster event.
- I. **Hazard Mitigation (Section 406):** Mitigation measures that must be directly part of the reconstructed work on a facility, or will protect or benefit the repaired portion of the facility. They are different from mitigation measures that are considered for eligibility under the Hazard Mitigation Grant Program (HMGP) of Section 404 of the Stafford Act. In the HMGP program, measures are proposed that may involve facilities other than those damaged by the disaster, new facilities or event non-structural measures such as development of floodplain management regulations.
- J. **Immediate Needs Funding:** An advance of grant funds by FEMA, not to exceed 50% of the Preliminary Damage Assessment estimate, to assist with the payment of emergency work within the first 60 days after a declared disaster occurs.
- K. **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.
- L. **Joint Field Office (JFO):** A temporary facility established in a Presidentially declared disaster area to serve as the field headquarters for FEMA, other Federal, and State recovery personnel and as the focal point for disaster operation, direction, coordination and information.
- M. **Large Project:** Approved projects estimated to cost the same or more than the large project threshold amount (\$66,400 for federal fiscal year 2012). The large project threshold is an amount of approval 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.

- N. **Permanent Work:** Restorative work performed on damaged facilities through repairs or replacement, to pre-disaster design and current applicable standards. 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.
- O. **Project Worksheet (FEMA Form 90-91):** Form used to document the scope of work and cost estimate for a project.
- P. **Public Assistance Coordinator Crew Leader (PAC Crew Leader):** A FEMA program expert who serves as the subgrantees' representative on PA Program matters and manages the processing of the subgrantees' projects.
- Q. **Small Project:** Approved projects estimated to cost less than the large project threshold amount (less than \$66,400 for federal fiscal year 2012).
- R. **Special Considerations:** Issues that involve insurance, floodplain management, hazard mitigation, historic preservation and environmental reviews as they relate to Public Assistance Program funding.
- S. **State Coordinating Officer (SCO):** The person designated by the Governor to coordinate State and local disaster assistance efforts with that of the Federal government. Normally, the SCO will also be designated as the GAR.
- T. **State Public Assistance Officer (SPA0):** The person responsible for administering the Public Assistance Program at the State level. The SPA0 will be a member of the State Emergency Management Staff.
- U. **Subgrantee:** A government, other legal entity, or certain private non-profit organizations that receive an award and which is accountable to the Grantee for the use of the funds provided. The subgrantee is also referred to as the Applicant.
- V. **"Critical" Private Nonprofit Facility (PNP):** Any non-governmental agency or entity that has:
1. An effective ruling letter from the U.S. Internal Revenue Service granting tax exemption under Section 501 (c), (d), or (e) of the Internal Revenue Code of 1954; or

2. Satisfactory evidence from the State of Maryland that the organization or entity is a private non-profit one, organized or doing business under State law.

These facilities provide essential “governmental-like” services that are available to the general public, but limited to power, water (including water provided by an irrigation organization or facility), sewer, wastewater treatment, communications, and emergency medical care.

W. **“Non-Critical” Private Nonprofit Facility (PNP):** Any non-governmental agency or entity that has:

1. An effective ruling letter from the U.S. Internal Revenue Service granting tax exemption under Section 501 (c), (d), or (e) of the Internal Revenue Code of 1954; or
2. Satisfactory evidence from the State of Maryland that the organization or entity is a private non-profit, organized or doing business under State law.

These facilities provide essential “governmental-like” services that are available to the general public, other than the aforementioned services, as described in the paragraph above.

Note: On October 30, 2000, the President signed new Stafford Act amendments into law. The amendments are effective for disasters declared after October 30, 2000. One of the new provisions requires owners of certain non-profit PNP facilities to apply for a loan from the Small Business Administration (SBA). If they are declined for a loan or the loan does not cover all eligible damages, they may apply to FEMA for the remainder of the damages. This provision only applies to permanent restoration. Non-critical PNP’s having both emergency work and permanent work will have to make separate applications to FEMA for emergency work and SBA for permanent work. Critical PNP’s may be processed for assistance in the same manner as previously established.

IV. RESPONSIBILITIES AND ORGANIZATION

- A. In accordance with Maryland Code Public Safety Title 14, the Governor has designated the Maryland Emergency Management Agency as the State office responsible for managing and administering the Public Assistance Program. These responsibilities include, but are not limited to:
1. Submitting the Application for Federal Assistance (SF-424);
 2. Complying with Federal and State program and grant administrative requirements;
 3. Notifying potential applicants of the availability of assistance;
 4. Conducting Applicants' Briefings;
 5. Requesting Immediate Needs Funding on behalf of applicants as applicable;
 6. Attending Kickoff Meetings;
 7. Assigning a Public Assistance Liaison to work with the FEMA Public Assistance Coordinator Crew Leader (PAC Crew Leader);
 8. Assisting FEMA in determining work and applicant eligibility;
 9. Processing requests for appeals, reviewing cost overruns, approving time extensions, improved projects, advances and reimbursements;
 10. Making recommendations to FEMA on appeals and alternate project requests;
 11. Securing insurance information from applicants when required;
 12. Participation with FEMA in establishing hazard mitigation and insurance requirements;
 13. Monitoring subgrants by conducting quarterly reviews, site inspections and audits as required, ensuring program compliance;
 14. Reviewing and certifying project completion information;
 15. Determining budget and staffing requirements necessary for proper program management.

B. Staffing and Responsibilities

The State is responsible for administering all funds provided under the Public Assistance Program, as well as coordinating the program among FEMA, the State, and applicants. The governor will appoint a:

1. **Governor's Authorized Representative (GAR)**
The person 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. In the State of Maryland, the GAR will also be designed as the State Coordinating Officer.

- 2. State Coordinating Officer (SCO)**
The person designated by the Governor to coordinate state and local disaster assistance efforts with the federal government.
- 3. Federal Coordinating Officer (FCO)**
The federal person authorized to use the full authority of the Robert T. Stafford Act to reimburse response and recovery claims.
- 4. Deputy State Coordinating Officer (DSCO)**
The person designated by the GAR to oversee the public assistance response and recovery actions during an emergency or disaster. Advises the GAR on all public assistance program matters. Directly supervises the State Public Assistance Officer. The DSCO coordinates directly with the Federal Coordinating Officer at the Joint Field Office (JFO).
- 5. State Public Assistance Officer (SPA0)**
The person responsible for administering the Public Assistance Program at the State level. The SPA0 is a member of the Maryland Emergency Management Agency staff and will be responsible for the following activities:

 - a. Notifying potential applicants;
 - b. Upon activation of the Maryland State Emergency Operations Center (SEOC), ensure that the Federal Emergency Management Agency, Region III, liaison is notified;
 - c. Collecting all public assistance information from impacted counties during the activation of the SEOC;
 - d. Conducting the Applicants' Briefings;
 - e. Reviewing and recommending to the DSCO applicant requests for Immediate Needs Funding;
 - f. Assigning an Applicant Liaison to attend the Kickoff Meeting and to work with the FEMA Public Assistance Coordinating Crew Leader (PAC Crew Leader);
 - g. Assisting FEMA in determining applicant and work eligibility;
 - h. Processing requests for time extensions, improved projects, advances and reimbursements;
 - i. Making recommendations to FEMA on appeals and alternate project requests;
 - j. Complying with administrative requirements of 44 CFR, Parts 13 and 206 and the audit requirements of 44 CFR, Part 14;
 - k. Coordinating and ensuring that MEMA budget

- personnel disburse federal funds to meet applicant eligible costs in accordance with 44 CFR, Part 206;
- l. Securing insurance information from applicants when required;
- m. Reviewing and certifying projection completion information;
- n. Conducting quarterly reviews, site inspections and audits, as required to ensure program compliance;
- o. Determining budget and staffing requirements necessary for proper program management.

6. Deputy Public Assistance Officer (DPAO)

Assists the SPAO in administering the Public Assistance Programs and initiatives. May assume any or all of the SPAO's responsibilities.

7. County Emergency Management Directors (EMD)

In the event of an emergency or disaster situation, the impacted counties will submit situation reports, in a timely manner, to the activated Maryland State Emergency Operations Center (SEOC) detailing the response effort within their political jurisdictions (county, cities and towns). During recovery, the EMD will submit Initial Damage Assessment Summaries to the SPAGS for purposes of evaluating the impact and the need for the request of federal assistance.

C. Administration and Support

The State of Maryland's day-to-day operation, absent of a declared State of Emergency, currently consists of the SPAO and the DPAO. During activation of the State Emergency Operations Center (SEOC), the SPAO and the DPAO will be required to coordinate, respond and compile actions and requirements from impacted counties, local governments and state agencies.

When conditions warrant, the Governor may issue an Executive Order declaring that a state of emergency exists. If a Presidential declaration has been issued, a Joint Field Office (JFO) may be opened. The organizational structure to address response and recovery will be under the leadership of the DSCO. The DSCO will normally assign the SPAO to run the Public Assistance Program within the JFO.

Since staffing requirements of a JFO vary depending on the magnitude, type and extent of the emergency or disaster, the following personnel may be used to assist the SPAO in meeting program administrative requirements. Some or all of these administrative staff support positions may be contracted from temporary employment agencies.

1. Deputy Public Assistance Officer (DPAO) – The person responsible for assisting the SPAO in administering the Public Assistance Program at the State level.
2. Qualified personnel from Maryland Department of Transportation, State Highway Administration – These personnel may be activated by the DSCO, when the SEOC is active, and assigned by the SPAO to conduct Preliminary Damage Assessments (PDA) during the response phase, assess damages, prepare and review projects with applicants during the recovery phase and to perform final inspections and program reviews of completed projects.

When required, these personnel may also serve as State Applicant Liaisons.

3. Maryland Military Department (DMIL) Financial Personnel – Assist the SPAO by ensuring proper accounting of all disaster related funding received and disbursed to applicants.
4. Other State Administrative Support Personnel:
 - a. PA Data Processing Manager
 - b. PA Data Processing Specialist
 - c. PA Administrative Specialist

D. Staffing Estimates and Funding

1. Implementation of Section 324

The initial cost for additional administrative support personnel will be incurred by the State. The State Public Assistance Officer (SPAO) will initiate coordination and tracking of expenditures for emergency management staff overtime and compensatory time incurred as a result of the emergency or disaster. The SPAO will maintain this information, in an organized manner to provide sufficient documentation of the Section 324 Management Costs provided by FEMA in accordance with 44 CFR § 207.

These Section 324 Management Costs provide for costs incurred for regular and overtime pay, per diem and travel expenses for State employees who participate in the administration of Public Assistance grants. This reimbursement may include the necessary costs of

requesting, obtaining and administering Federal assistance. Examples of these management and administrative activities include, but are not limited to:

- a. Preliminary Damage Assessments
- b. Field inspections
- c. Preparation of Project Worksheets
- d. Tracking Project Worksheets and costs
- e. Consultations with applicants
- f. Project monitoring, final inspections and final audits

The State may also elect to claim direct administrative costs through a Category Z Project Worksheet (PW) per applicant, pending complexity of projects. The State must still continue to document its direct administrative costs on a project-by-project basis as supporting documentation. Per memorandum from Assistant Administrator dated September 8, 2009.

2. Pass-Through Funds

The State will not pass-through Section 324 Management costs to the subgrantees.

V. DIRECTION, CONTROL AND ADMINISTRATION

A. Pre-Declaration Activities

Prior to a disaster or emergency declaration, the Maryland Emergency Management Agency (MEMA) will complete the following actions:

1. Pre-identify applicants for public assistance
2. Educate and train potential applicants on preparedness, response, recovery and hazard mitigation as they pertain to the Public Assistance Program
3. Prepare and train local governments to conduct Initial and Preliminary Damage Assessments (PDA)
4. Request a Joint FEMA/State PDA
5. Establish a PDA inspection team schedule with local governments
6. Provide state support for PDA teams
7. Submit the Governor's Request for a Major Disaster or Emergency Declaration through the FEMA Region III Administrator to the President
8. Update the Public Assistance Administrative Plan no later than March 1 of every year and forward the plan and any revisions to FEMA Region III

B. Response

The State of Maryland must be prepared to respond quickly and effectively on a 24-hour basis to any developing events. When an event or potential event is first detected, the State Emergency Operations Center (SEOC) is activated to a level appropriate to the magnitude of the threat.

As the threat increases, the importance of the counties and state agencies providing timely situation reports becomes critical. These situation reports will be used by the SPAO to document the impact and magnitude of the event on public property. If it is determined that the recovery effort may be beyond State and local capabilities, State officials will request FEMA Region III to conduct a joint FEMA/State PDA. The following actions will then be initiated by the SPAO:

1. Gather additional damage information from the County Emergency Management Directors, severely impacted local governments and state agencies.
2. Re-educate the above about their responsibilities for the upcoming Joint PDA.
3. Mobilize qualified personnel from Maryland Department of Transportation, State Highway Administration to represent the State.
4. Formulate PDA teams based on personnel and areas of damage to be surveyed.
5. Schedule the PDA teams to meet with the County Emergency Management Directors and local public works/roads departments.

Following the PDA, MEMA and FEMA will evaluate the infrastructure damage that has been reported and further assess the economic impact on the affected counties. The data from the PDA and this assessment will be consolidated and will be used to determine if a Governor's request for federal assistance is warranted.

The Governor's request is addressed to the President, but submitted through the FEMA Region III Director.

C. Recovery - Post Declaration Activities

Upon notification of a Presidential Declaration, MEMA will initiate activities necessary to ensure a successful recovery effort. The State will designate a Joint Field Office (JFO) as the primary location for the coordination of federal and State recovery efforts.

In managing the recovery effort, MEMA will coordinate and ensure that the

following recovery items and required actions are met:

1. FEMA/State Strategy Meeting – Once the JFO is established, a meeting will be held as soon as possible to establish how the Public Assistance Program will be implemented and managed. This strategy plan will be flexible and allow for changes as the particular event warrants. Key items that may be on the agenda include:
 - a. Roles and responsibilities of the State Field Personnel Staffing Plan;
 - b. Roles and responsibilities of the FEMA Personnel Staffing Plan;
 - c. Possible use of Technical Assistance Contractors (TACs);
 - d. Disaster specific special consideration personnel and issues;
 - e. Disaster specific requirements;
 - f. Public Assistance 406 Hazard Mitigation Program and opportunities;
 - g. Review of laws, regulations and policies to assure compliance;
 - h. Schedule priority of work effort;
 - i. Outline applicant and project processing flows;
 - j. State and FEMA review and procedures of the completed work effort;
 - k. Establishing and approving the use of FEMA, State or Local equipment rates;
 - l. FEMA and State training of personnel;
 - m. Review of Post Disaster activities

2. Notifying Potential Applicants of Federal Assistance – Various methods will be used to notify potential applicants of the types of Federal assistance available. Notifications will include instructions and deadlines for submitting applications for assistance.
 - a. MEMA will notify Local Emergency Managers, who will forward notification within their jurisdictions to county and municipal governments and entities that provide public services, including emergency, medical, educational, and utility services.

 - b. News releases will be produced to describe the disaster or emergency declaration, including what assistance programs are available, which Local Jurisdictions are included, what governmental and private-nonprofit organizations are eligible to apply, and the schedule of Applicants' Briefings to be held.

- c. News releases will be distributed to the media Statewide via email. State departments will be notified through State PIOs and representatives, who will forward notification to their subsidiary facilities and agencies.
3. Applicants' Briefing – Once a designated area has been approved for Public Assistance, members of the State Emergency Management staff will conduct an Applicants' Briefing. The number of potential applicants and the area involved in the disaster will determine the number of briefings held. These briefings will be publicized through the media along with MEMA notification of potential applicants. **Attachment 1** to this plan outlines the information that will be covered during this briefing.
4. Request for Public Assistance – Potential applicants will be required to file a Request for Public Assistance (RPA) (FEMA Form 90-49), with MEMA within 30 days from the date of the Presidential Declaration. The RPA is normally submitted at the Applicants' Briefing. The State and FEMA will use the information submitted on the RPA to determine if an applicant is eligible for public assistance.

The RPAs submitted after this 30-day period will be reviewed by MEMA on a case-by-case basis and, if justified and warranted, MEMA may request that the deadline for filing be extended. MEMA will then forward the RPA to FEMA for final consideration.

5. Applicant Eligibility – The SPAO will determine an applicant's eligibility and FEMA will verify that eligibility under the Federal Public Assistance Program guidelines. To facilitate this process, MEMA will keep on file eligible applicants from previous disasters.

Four types of entities are eligible applicants for Public Assistance. Eligible applicants are:

- a. State Government Agencies
- b. Local Governments
- c. Private Non-Profit (PNP) organizations which have an IRS tax exemption letter or a Maryland Private Non-Profit certification (i.e. Articles/Certificate of Incorporation). Special utility districts must provide a copy of the legislation that grants the district taxing authority. These PNPs are divided into two categories; "critical" and "non-critical" PNPs.

Eligible Private Non-Profit organizations must own or operate (critical) education, utility, emergency, medical, custodial care, or (non-critical) essential “government-like” service facilities. Essential governmental service facilities are defined as museums, zoos, community centers, libraries, homeless shelters, senior centers, rehabilitation facilities, shelter workshops, and other facilities which provide a health and safety service of a governmental nature. All such facilities must be open to serve the general public.

d. Indian tribes or authorized tribal organizations and Alaskan Native village organizations. At this time there are no Federally or state recognized Indian tribes or Alaskan Native village organizations in the State of Maryland.

6. Applicant Kickoff Meeting – This meeting is scheduled by the FEMA Public Assistance Coordinator Crew Leader (PAC Crew Leader) following the Applicant’s Briefing. It is intended to discuss the applicant’s damages, assess their needs and to provide specific information in order to meet the particular requirements of the Federal Public Assistance Program.

It is during this meeting that the applicant is advised of what documentation must be available for review, what damages and facilities are eligible for Federal assistance, what cost estimating procedures can be used, any special considerations issues identified, and how project formulation and project validation can expedite project approval and funding. A State Applicant Liaison may accompany the FEMA PAC Crew Leader.

The applicant will be responsible for providing a listing of damages and identifying projects. Once identified the PAC Crew Leader will assign a PA Project Specialist (PAPS) to prepare the Project Worksheet(s) for the damages identified by the applicant.

In addition, the applicant will be required to address pertinent environmental and historic preservation requirements, insurance coverage, floodplain management issues and hazard mitigation opportunities.

7. State Personnel Assignments – Depending on the size and nature of the disaster, the SPAO may assign personnel from Maryland State agencies to the following activities:

- a. Assisting FEMA and/or the applicant by assigning Project Specialists to help develop damage descriptions, scopes of work and costs estimates for project worksheets.
- b. Assigning State Project Specialists to verify the applicants' small projects through the project validation process.
- c. Assigning State personnel with highly technical skills such as bridge repair, road repair, utilities, etc., as Project Specialists to applicable projects.
- d. Assisting the applicant by providing State Project Specialists that are knowledgeable of their types of damage to help identify hazard mitigation opportunities as provided by Section 406 of the Stafford Act. (Such mitigation measures are generally directly part of the reconstructed work on a facility, or will protect or benefit the repaired facility. They are different from mitigation measures that could be considered for eligibility under the Hazard Mitigation Grant Program of Section 404 of the Stafford Act. In that program, measures are proposed that may involve facilities other than those damaged by the disaster, new facilities or even non-structural measures such as development of floodplain management regulations.)

D. Section 324 State Management Costs

The State will submit its initial Section 324 management costs funding request and final 324 management request in accordance with 44 CFR Part 207.

1. Grant Management Project Worksheets
Determination of Management Cost Funding
 - a. Between 30 and 35 days after the declaration date, FEMA will provide the State the preliminary lock-in amount for management costs based on the projections at that time of the Federal share.
 - b. At 6 months after the date of declaration, FEMA will revise the State preliminary lock-in amount for management costs based on the projections at that time of the Federal share.
 - c. At 12 months after the date of declaration, FEMA will determine the final State lock-in amount for management costs based on the projections at that time of the Federal share.

2. Procedures for Requesting Management Cost Funding
 - a. In order to receive Section 324 management costs funding, the State must request it upon notification of the preliminary lock-in (30-day lock-in).
 - b. Upon notification, the State will submit its initial Section 324 management costs funding request to the Regional Administrator using a PA PW.
 - c. Upon receipt of the PW and in accordance with 44 CFR § 207.7 (b) and (c), the Regional Office will obligate 25 percent of the estimate lock-in amount.
 - d. In accordance with 44 CFR § 207.7 (d), the State will submit, no later than 120 days after the date of declaration, documentation to support costs and activities for which the projected lock-in for management cost funding will be used. In extraordinary circumstances, FEMA may approve a request by a grantee to submit support documentation after 120 days. FEMA will work with the grantee to approve or reject the request within 30 days of receipt of the request. If the request is rejected, the grantee will have 30 days to resubmit it for reconsideration and approval. FEMA will not obligate the balance of the management costs lock-in pursuant to a final funding request as described in paragraph (f) of this section or any interim amounts as allowed under paragraph (e) of this section unless the grantee's documentation is approved. The documentation must include:
 1. A description of activities, personnel requirements, and other costs for which the grantee will use management cost funding provided under this part;
 2. The grantee's plan for expending and monitoring the funds provided under this part and ensuring sufficient funds are budgeted for grant closeout; and
 3. An estimate of the percentage or amount of pass-through funds for management costs provided under this part that the grantee will make available to subgrantees, and the basis, criteria, or formula for determining the subgrantee percentage or amount (e.g., number of projects, complexity of projects, X percent of any subgrantee).

- e. If the State can justify a bona-fide need for an interim obligation at 6 months after the declaration date, the State may request an additional obligation of 10 percent of the management cost funds of the revised 6 month preliminary lock-in amount through a version to the original request (PW). The version will include documentation to support why additional funding is needed.
- f. At 12 months after the declaration date, FEMA will notify the State of the final lock-in amount. The State will submit a revision to the original Project Worksheet and updated budget narrative, based upon the final lock-in amount, to the Regional Administrator. The remaining funds due to the State will be obligated by FEMA upon approval of the final PW. Supporting documentation will be submitted to the Region on an annual basis.

3. Pass-Through Funds

The State will not pass-through Section 324 management costs to the subgrantees.

E. Grant Approval and Project Funding

- 1. Grant Approval – Approved Project Worksheets will be the basis for issuing subgrants to eligible subgrantees in accordance with the cost sharing provisions established in the FEMA-State Agreement. The GAR will appoint a specific financial person to oversee, administer and document the grant approval process for the State’s Public Assistance Program.
- 2. Subgrant Approval – After Project Worksheets are approved by FEMA, applicants will be notified of approval by letter which will include copies of Project Worksheets and other documentation required to administer the grant. All supplemental approvals will also be mailed to the subgrantee.
- 3. Project Funding
 - a. Small Projects – Approved projects estimated at less than or equal to \$66,400 are considered small projects. This is the dollar amount for FFY2012 and will be adjusted annually to reflect changes in the Consumer Price Index for all Urban Consumers published by the Department of Labor. Funding for small projects

will be based on the federal share of the Project Worksheet estimate. The Federal share will be released as soon as practicable following approval by FEMA and when the applicant has satisfied all initial application requirements.

- b. Large Projects – Approved projects estimated to be greater than \$66,400 are considered large projects. This amount will be adjusted annually as indicated in the paragraph above. As work is completed and costs are incurred, funds up to 75% of the Federal share of the approval Project Worksheet will be released to the subgrantee upon submission of a Request for Reimbursement (Large Projects Only). Upon completion of the approved work, the subgrantee must submit a Schedule of Expenditures and Documentation showing a summary of expenditures and any deviations from the costs estimates included on the Project Worksheet. After a Final Inspection is performed, the balance of the remaining funds will be disbursed to the applicant. This Final Inspection may be performed by FEMA, MEMA, or a joint FEMA/MEMA team.

- c. Immediate Needs Funding (INF) is a partial advance only for Category A and B emergency work. INF is designed to assist the applicant in dealing with their urgent needs that will require payment within the first 60 days after the disaster declaration. All work must be completed within those 60 days. It is not intended for emergency work that involves special considerations or emergency work that will require longer than 60 days to complete. These items will be funded in the normal manner as individual projects. INF is calculated using the following formula:

Emergency work amount x 50% x 75% (appropriate federal costs share) = INF

- d. FEMA Grant Draw Down Procedures (HHS-Smartlink II)
 - 1. As Grantee, MEMA will submit an **Application for Federal Assistance (SF 424)** and an **Assurances for Construction Programs (SF 424D)**, to FEMA in order to receive Federal funding. This Application will be processed and submitted to FEMA by the SPAO (MEMA Public Assistance Officer).

 - 2. MEMA Public Assistance personnel prepares the subgrantee specific invoices and submits them to the

Maryland Department of the Military (DMIL) Finance Personnel for processing.

3. DMIL Financial Personnel prepare draw down requests as follows:
 - a. DMIL Finance Personnel prepare voucher transmittal requests and submit to the State General Accounting Division for disbursement. The State General Accounting Division provides payment for the approved project worksheets to the subgrantees. DMIL Finance prepares Voucher Transmittal totals and submits to the US Treasury Department for reimbursement.
 - b. Reimbursements to MEMA will be transmitted through DMIL Finance Division using the Automated Clearing House (ACH) procedure. The Treasury Department may issue checks in rare cases. If so, these checks will be returned to MEMA via the DMIL Finance Division through the State Comptroller's Office.
 - c. DMIL Finance provides annual audit confirmation reports to subgrantees that contain amounts and sources of funds (federal) disbursed to them to aid in subgrantee compliance with the Single Audit Act Amendments of 1996 as promulgated by OMB Circular A-133.
 - d. DMIL Finance Personnel will prepare and submit a Federal Financial Report (SF-425) to FEMA quarterly or as otherwise required.
 - e. Recoupment of Federal Funds – If an approved Project Worksheet is totally or partially de-obligated by FEMA after payment has been disbursed by DMIL Finance, the applicant will be notified as soon as possible and an immediate refund of the overpayment will be requested and returned to FEMA as appropriate.

4. Improved and Alternate Projects

All requests for improved or alternate projects must address and document the below listed special requirements as appropriate:

- a. Has there been local resident, county, and State participation in the decision?
- b. Are all interested parties in agreement on the specific proposal?
- c. What is the disposition plan of the existing structure?
- d. Has MDE been contacted to provide guidance on compliance with State and federal environmental regulations?
- e. Will the proposal encroach on riparian habitat?
- f. Will the proposal affect wetlands?
- g. Will the proposal affect the habitat of a federal protected endangered species?
- h. Will the proposal affect the habitat of an endangered Maryland plan or animal?
- i. Will the proposal be located in an area of archaeological significance?
- j. Is the existing structure more than fifty years old or eligible for the National Register of Historic Places?
- k. Will the proposed structure be located in or affect an area of historical significance?
- l. Has an environmental assessment of the new construction been performed?

(1) Improved projects – If an applicant desires to make improvements, but still restores the pre-disaster function of a damaged facility, a Request for Improved Project must be submitted. Any improved project that results in a significant change from the pre-disaster design (such as different location, footprint, function, or size) is an improved project. The SPAO is authorized to make a determination on an applicant's request for an improved project. However, construction cannot begin until the request has been coordinated with FEMA to insure compliance with the National Environmental Policy (NEPA). The request from the applicant must address the special requirements listed above and in addition must contain:

- (a) The reason for requesting an improved project
- (b) A description of the improved proposed work

- (c) A schedule of work
- (d) A cost estimate
- (e) Information adequate to establish compliance with special consideration requirements, such as: (but not limited to) floodplain management, environmental assessment, hazard mitigation, protection of wetlands, endangered species, historical or archeological significance, and insurance.

Improved project requests must be submitted by MEMA to FEMA, prior to the subgrantee starting the improved portion of the proposed work. If approved, funding will be limited to the Federal share of the approved Project Worksheet amount. If disapproved, MEMA will be notified in writing why the request was denied and the applicant will be advised of their right to appeal the determination.

- (2) Alternate projects – If an applicant determines that the public welfare would not be best served by restoring a public damaged facility, or the function of that facility, the State can submit a request to FEMA for an alternate project. Request for alternate projects shall be submitted to FEMA prior to starting the proposed work. Alternate projects are eligible for 75 percent of the approved Federal Share of the estimate eligible costs. If the request is approved by FEMA, funding of an alternate project will be reduced to 75 percent of the Federal share of the approved Project Worksheet estimate associated with repairing the original damaged facility to its pre-disaster design, or the actual costs of completing the alternate project, whichever is less. The State will review the request for eligibility and will ensure that the request contains the following information before forwarding it to FEMA with the appropriate recommendation:

- (a) The reason for requesting an alternate project
- (b) A description of the proposed work
- (c) A schedule of work
- (d) A cost estimate
- (e) Necessary assurances to document compliance with special requirements, including, but not limited to, floodplain management, environmental

assessment, historic preservation, hazard mitigation, protection of wetlands, endangered species and insurance.

5. Time Limitations/Time Extensions – The State will ensure that approved work is completed within the following time frames from the date a major disaster or emergency is declared:

Emergency Work = 6 months
Permanent Work = 18 months

If a time extension is needed, the subgrantee will be required to submit a Request for Time Extension to the SPAO. The SPAO may grant the extension of time if:

- a. The delay was caused by extenuating circumstances or unusual project requirements beyond the control of the subgrantee; and
- b. The approval is within the SPAO's authority. The SPAO may extend deadlines under Section 206.204 (c) (1) in 44 CFR for an additional 6 months for debris clearance and emergency work (Categories A and B) and an additional 30 months on a project by project basis for permanent work.

Extensions beyond the SPAO's authority will be forwarded to FEMA and will contain the subgrantee's Request for Time Extension along with the SPAO's recommendation.

If an approved project is not completed within the allowable time extensions that were approved, the applicant will be required to return all funding that was provided for that project.

6. Project Completion

Upon completion of all projects and after the applicant has submitted a *Summary of Expenditures and Documentation* for large projects, these projects will be reviewed by a FEMA, MEMA or joint FEMA/MEMA Final Inspection/Review team for accuracy and completeness.

The applicant will submit a *Summary of Expenditures and Documentation* form for each large project to show all labor, equipment, materials and contract costs associated with making needed repairs, as well as reasons

for any deviation in actual costs compared to the Project Worksheet estimated repair costs. For small projects, a *Project Completion and Certification Report (FEMA P.4)* will be submitted to MEMA certifying that all work has been completed and that all claims have been paid in full.

7. Cost Overruns

- a. Small Projects Adjustments – When all small projects are completed by a subgrantee and all costs known, they may request a small project adjustment if the accumulated eligible costs are greater than the accumulated approved PWs. The request should be made through the State. The request must be received at MEMA within 60 days of the completion of the final small project completion. A summary of expenditures for each small project will be reviewed along with the eligible scope of work, and the aggregate of all small projects will be used as the basis for the determination of an eligible cost overrun. The appeal should be submitted only when the total costs for all small projects exceed the total cost approved for all small projects.
- b. If a subgrantee’s completed project list is comprised of small and large projects, the SPAO will separate the small and large projects and perform the steps outlined above in paragraph 7 (a) for the determination of an eligible cost overrun for the aggregate of all small projects.
- c. Large Projects will be evaluated on an individual project basis as costs are incurred and work completed. The SPAO may ask Maryland Department of the Environment (MDE), Department of Transportation (MDOT), State Highway Administration (SHA), Department of Natural Resources (DNR), or Department of General Services (DGS) to perform a technical engineering review when appropriate. The SPAO will submit the supplemental funding request to adjust the costs to the actual eligible amount to FEMA, fully supported by the subgrantee’s documentation.

8. Scope of Work Changes

- a. Small projects will not be individually adjusted unless there is an event-related requirement to significantly change the scope of work or the scope of work contains an obvious error or omission.

- b. Any change to a project's scope of work must have prior approval from MEMA and FEMA.

9. Identification of New Damage

- a. All disaster related damages should be brought to the attention of the Public Assistance Coordinator Crew Leader (PAC Crew Leader) at the applicant's kick-off meeting. The applicant has 60 days after the kick-off meeting to advise the PAC Crew Leader of any new disaster related damage that was not identified earlier. After the 60-day period any additional damages identified by the applicant must be reported in writing to the SPAO. The notification must include:

- (1) The specific location of damage
- (2) A detailed description of damage (supported by photographs if possible)
- (3) The reason(s) for overlooking the site during the initial project worksheet preparation
- (4) A cost estimate of the damage (if available)

- b. The SPAO will then notify FEMA in writing. The notification will include the information supplied by the subgrantee, the SPAO's recommended course of action. Where appropriate, the GAR will request that FEMA and MEMA conduct a joint team inspection visit to the newly identified damage sites.

10. Hazard Mitigation (HM) in Public Assistance – During the Applicants' Briefing, the applicants will be instructed to examine the damaged sites to determine if additional work could mitigate the hazard. To be eligible, mitigation procedures must comply with the requirements of FEMA. Insurance requirements are not a substitute for hazard mitigation techniques which may reduce the incidence and severity of future damage.

11. Insurance Requirements

- a. Detailed information concerning insurance requirements is published in 44 CFR 206 Subpart I. The grantee is responsible to insure these requirements are met and adhered to. General requirements are as follows:

- (1) Actual or anticipated insurance recoveries will be deducted from eligible costs.
 - (2) The maximum amount of flood insurance recovery which could have been obtained for an insurable structure and its contents, within the special flood hazard area, shall be subtracted from otherwise eligible costs.
 - (3) If insurance recovery is contingent on the amount of reimbursement under the Public Assistance Program, reimbursement will be limited to eligible costs determined by the FEMA Regional Director after deducting maximum amount recoverable under and to the limit of the insurance policy.
 - (4) If eligible costs for disaster related damage to an insurable facility exceeds \$5,000, subgrantees will be required to obtain and maintain insurance in the amount of eligible disaster assistance for the projected life of the facility. In addition, the FEMA Regional Director shall not require greater types and extent of insurance than are certified as reasonable by the State Insurance Commissioner.
 - (5) The applicant will be required to complete and submit appropriate proof of insurance to MEMA.
- b. Subgrantee compliance with the requirements as state above will be confirmed during the project approval process and during interim and final inspections of the subgrant.
 - c. No assistance shall be provided under Section 406 of the Stafford Act for any facility for which assistance was provided as a result of a previous major disaster unless all insurance required by FEMA as a condition of the previous assistance has been obtained and maintained.
12. Disputes and Conflict Resolution – In order to expedite funding and minimize applicant appeals, the following conflict resolution process should be followed:
- a. Applicants should be advised during the kick-off meeting that unresolved issues should be addressed with the applicants Public Assistance Coordinator Crew Leader (PAC Crew Leader).

- b. If the issue remains unresolved, the PAC Crew Leader should notify the FEMA and MEMA PAO for resolution.
- c. If the issue continues to remain unresolved, the FEMA PAO should notify the Federal Coordinating Officer (FCO) and the MEMA SPAO should notify the GAR, for resolution.

13. Appeals

The Grantee may appeal any decision made related to Federal assistance, including a time extension determination made by the SPAO. Appeals must be in writing and supported by sufficient documentation and information to allow the SPAO to make a determination of validity and to develop a recommendation for submission.

Applicants have 60 days from the date of notification of any FEMA determination to file an appeal with MEMA. After appropriate review, research and investigation, MEMA will forward the appeal with a written recommendation to FEMA within 60 days of receipt.

The appeal process consists of two levels. The first appeal is to the FEMA Region III Director through MEMA. The second appeal is to the FEMA Headquarters Associate Director through the Region III Director. Appeals related to Federal actions in Subpart B, The Declaration Process, will be filed in accordance with 44 CFR 206.46. Appeals related to actions in Subpart G, Public Assistance Project Administration, will be filed in accordance with 44 CFR 206.206.

14. Final Inspection/Program Review

A final inspection/program review will be conducted on all large projects once they have been completed and the project summary of expenditures has been received. For those projects of a technical nature, a qualified member of the applicable Maryland agency to which the project pertains will conduct a final inspection/program review.

15. Audit Requirements

Audit requirements will be in accordance with 44 CFR, Part 13 or OMB Circular A-110, as appropriate. FEMA has the authority, and may elect to

conduct a Federal audit on the Public Assistance program or any of the subgrants. OMB Circular A-133, which describes audits of states, local governments, and non-profit organizations, provides uniform single audit requirements. This circular, which implements the Single Audit Act Amendments of 1996, applies to Federal audits of fiscal years beginning after June 30, 1996. It supersedes past versions of Circular A-133, as well as Circular A-128, *Audits of State and Local Governments*.

For audit purposes, the Act divides state and local governments into two categories as follows:

- a) Applicants expending \$500,000 or more in total Federal financial assistance in a fiscal year will be required to have an audit conducted in accordance with OMB Circular A-133.
- b) Applicants expending less than \$500,000 or more in total Federal financial assistance in a fiscal year are exempt from compliance with the Act and other Federal audit requirements.

Applicants are required to provide the State with a copy of the Single Audit if required. Applicants will be notified by the State agency that provided the applicant with the most Federal funds in a fiscal year. This requesting state agency will notify all state agencies that provided funding of the applicant's compliance, and identify any problems with the audit and what steps were taken to correct the audit.

F. Records and Reports

- 1. Quarterly Progress Reports – The applicant will submit a *Project Status Report* to MEMA quarterly for each large project until the project Scope of Work is complete. MEMA will submit a quarterly progress report to FEMA which will contain the status of all large projects that have not received final payment. This report is due to FEMA by the end of the first month of each FEMA quarter, which corresponds to January 31, April 30, July 31, and October 31.
- 2. Project Documentation and Close-Out – Each project worksheet will be closed-out once it is determined that all work has been completed, all payments have been made, and necessary documents have been received and no further action is pending or anticipated.

- a) Small Projects
 - 1) MEMA will maintain the Project Completion and Certification (P.4) for small projects.
 - 2) The SPAO will provide FEMA certification of project completion and request closure.
 - 3) If a final inspection was performed, a copy of the final inspection report will be provided to FEMA.
 - b) Large Projects
 - 1) MEMA will submit the following documents to FEMA:
 - (a) Completed Project Listing and Schedule of Expenditures and Documentation Form
 - (b) Final Inspection Report
 - (c) Program review or audit (if available)
 - (d) Summary of Federal share advances
 - 2) The SPAO will provide FEMA certification of project completions and request closure.
3. Federal Financial Report (SF-425) – Quarterly and final financial reports will be submitted to FEMA by the DMIL Finance personnel.
4. Program Close Out
- a) After all public assistance payments are made to the subgrantees, administrative costs paid to the grantee, and activity concluded for the Public Assistance Program as covered by the FEMA-State Agreement, the grantee will notify FEMA in writing that all payments have been made and all activity concluded. This will allow closeout of the FEMA-State Agreement.
 - b) The subgrantee will be notified that all records and supporting documentation for all their projects must be retained for a period of three years following the final payment for their final project.
 - c) The grantee will retain all records and supporting documentation for a period of three years following close-out of the FEMA-State Agreement.

VI. PLAN DEVELOPMENT AND MAINTENANCE

- A. The State will submit a plan annually and amendments for each disaster for which Public Assistance is included. Revisions will be forwarded to the Regional Director of the Federal Emergency Management Agency for approval.
- B. The State will amend this plan whenever necessary to reflect current policy guidelines and any new or revised Federal statutes or regulations or a material change in any State law, organization, policy, or State agency operation that is relevant to the State's administration of the PA Program. The State will obtain FEMA approval of the amended plan and its effective date.

VII. APPENDIX

- A. Applicants' Briefing Topics
- B. Applicants' Briefing Packet – Contents

Appendix A - Applicants' Briefing Topics

The Applicants' Briefing will consist of the following topics:

- Administration
- Introduction
- Applicant Eligibility
- Request for Public Assistance
- Kickoff Meeting
- Working Eligibility
- Cost Eligibility
- Project Formulation
- Types of Projects and Funding
- Record Keeping
- Small Project Validation
- Special Considerations (Insurance, Hazard Mitigation, Environmental and Historical)
- Hazard Mitigation 404
- Final Inspections and Program Reviews
- Audit Requirements
- Appeals
- Conclusion

Appendix B - Applicants' Briefing Packet - Contents

Informational Materials

Applicants' Briefing Slides & Note Pages

Public Assistance Brochure

Declaration

Small Business Administration announcement (if applicable)

Forms & Reference Materials

Request for Public Assistance (RPA)

PNP Facility Questionnaire

Hazard Mitigation Grant Program Notice of Interest (if applicable)

FEMA Applicant Instructions & Forms

FEMA Equipment Rates

Disaster Assistance Policy Fact Sheet (DAP9580.5) – Elements of a Project Worksheet

Disaster Assistance Policy (DAP9525.9) – Section 324 Management Costs and Direct
Administrative Costs

Public Assistance Applicant Handbook (FEMA 323)