



STATE OF MARYLAND

PUBLIC ASSISTANCE PROGRAM ADMINISTRATIVE PLAN 2015



MARYLAND EMERGENCY MANAGEMENT AGENCY

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I. Purpose

The purpose of this plan is to identify roles and responsibilities for the State of Maryland, hereinafter referred to as the State, and to establish policies, procedures, and organizational structure for State management and administration of the Public Assistance Program in accordance with the Robert T. Stafford Disaster Relief and Emergency Assistance Act 42 USC 5121, et seq., as amended by Public Law 100-707 and 106-390. This plan will be incorporated into the Maryland Emergency Preparedness Program (MEPP) as required by *44 CFR § 206.207 Section 4*.

The State assures the Federal Emergency Management Agency (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 Public Assistance 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. 2 CFR, Part 200
9. Executive Order 80-29, Disaster Preparedness
10. Executive Order 11296, Flood Hazard Elevation
11. Executive Order 11988, Floodplain Management
12. Executive Order 11990, Protection of Wetlands
13. Executive Order 12612, Federalism
14. Executive Order 12898, Environmental Justice
15. National Historic Preservation Act of 1966 (16 U.S.C. 470)
16. National Flood Insurance Act of 1968 (42 U.S.C. 4101)
17. Endangered Species Act (7 U.S.C. 136, 16 U.S.C. 460)
18. Resource Conservation and Recovery Act (42 U.S.C. 321)
19. Clean Air Act (42 U.S.C. 7401)

20. Clean Water Act (33 U.S.C. 121)
21. 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. Declaration Process and Overview

The Stafford Act provides the authority for the delivery of federal assistance following the declaration of a major disaster by the President of the United States. A major disaster is defined by FEMA Regulation, 44 CFR Part 102 as, “Any natural catastrophe, or regardless of cause, any fire, flood, or explosion, in any part of the United States, which in the determination of the President causes damage of sufficient severity and magnitude to warrant major disaster assistance under this chapter to supplement the efforts and available resources of States, local governments, and disaster relief organizations in alleviating the damage, loss, hardship, or suffering caused thereby.”

In the event that Maryland experiences a disaster in which federal assistance is, or may be required, the following actions will be taken to ensure that assistance is warranted and that the State receives the required help without undue delay.

The Governor will declare a State of Emergency, the State Emergency Operations Center will be activated, and the State Response Operations Plan or other state emergency operations plan will be placed in effect. During and immediately following a disaster, damage assessments will be completed. On scene personnel will convey pertinent information to the local or County Emergency Operation Center or Command Post for forwarding to the State Emergency Operations Center. Accurate information will assist in determining the areas most affected and will assist in getting help to those in need. If it is determined, from on scene reports, that the situation is beyond the resources of both the county and State; an Initial Damage Assessment (IDA) will be performed.

The Maryland Emergency Management Agency and applicable state, county, and local officials will perform the IDA based on data compiled at both the State Emergency Operations Center and Local/County Emergency Operation Centers. The IDA team will document their initial findings, to include photographs where appropriate, showing relevant damage. If it is determined through the assessment that there is sufficient damage to warrant a potential disaster declaration, then MEMA will request a Preliminary Damage Assessment (PDA) with FEMA.

The PDA is conducted to validate and determine the type of disaster relief (Public Assistance and/or Individual Assistance) that may be available to the State. The information collected during the PDA can then be utilized as supporting documentation for the Governor's Request to the President for Federal Assistance if it is determined a request for assistance is necessary.

The PDA teams will consist of local, county, state, and federal officials. The local officials should consist of engineers and public works officials when possible from the municipalities and counties affected by the disaster. These officials should be familiar with the affected areas and infrastructure and be capable of answering the questions of state or federal officials. The assessment teams will be provided with a preplanned route as well as maps detailing areas to be visited.

The compiled information will be reviewed to determine if a disaster declaration is warranted. If it is warranted, the Governor's Letter of Request is prepared and sent to the President through the FEMA Region III Administrator. The Region will include their recommendations prior to forwarding the request to FEMA Headquarters. FEMA Headquarters will review and include their recommendations prior to sending the request to the President for approval. In the event the declaration request is denied, the Governor may submit a onetime appeal within 30 days of receiving the denial. The PDA will be recompiled and all information will be resubmitted to the President using the same process.

There are four types of Federal Declarations that may be awarded to the State:

A. Emergency Declaration

An Emergency Declaration can be declared for any situation in which the President determines that Federal assistance is needed. Emergency Declarations are typically used to supplement State and local efforts to provide emergency services. The dollar amount is limited to \$5 million. In the event that additional assistance is required beyond the \$5 million, the President must report to Congress.

B. Major Disaster Declaration

A Major Disaster Declaration is declared for any natural or manmade event that the President believes has caused damage that is beyond the capability of State and local entities to successfully respond to. A Major Disaster Declaration provides numerous avenues for Federal assistance to both individuals and infrastructure. The funds are made available for both emergency and permanent repair work.

C. Pre-Disaster Emergency Declaration

The Pre-Disaster Emergency Declaration is limited to only Category B, Emergency Protective Measures, under the Public Assistance Program. In order to be considered for a Pre-Disaster Declaration, the following requirements must be met:

Natural or Man-Made Incidents (except Major Hurricanes):

1. A Federal government agency acknowledged as a national authority in a specific incident field (e.g., United States Geological Survey for seismic incidents, national Oceanic and Atmospheric Administration for tsunamis, the Nuclear Regulatory Commission for nuclear power plants, or the Department of Homeland Security for acts of terrorism) determines or affirms that a potential major disaster is imminent, AND:
2. The Governor has taken appropriate action under State law and directed execution of the State emergency plan AND:
3. Either:
 - a. Direct Federal Assistance (DFA) (e.g., personnel, equipment, supplies; but not including pre-positioning of assets) is needed to meet critical emergency protection requirements before impact. These critical emergency protection requirements are beyond the capability or capacity of state and affected local governments.

OR

- b. The appropriate state or local governments have issued evacuation orders for three or more counties OR any geographical area with a combined population of more than 100,000 individuals.

Major Hurricane (equivalent of Category 3, 4, and 5 on the Saffir-Simpson scale):

1. The National Weather Service has issued a hurricane watch or warning forecasting that a major hurricane will impact the State, or portion thereof AND:
2. The Governor has taken appropriate action under State law and directed execution of the State emergency plan AND:

3. Either:
- a. Direct Federal Assistance (DFA) (e.g., personnel, equipment, supplies; but not including pre-positioning of assets) is needed to meet critical emergency protection requirements before impact. These critical emergency protection requirements are beyond the capability and capacity of state and affected local governments.

OR

- b. The appropriate state or local governments have issued evacuation orders for three or more counties OR any geographical area with a combined population of more than 100,000 individuals.
- D. Expedited Request for a Major Declaration

An Expedited Request for a Major Declaration is utilized when it is apparent that the State has suffered a disaster beyond its capabilities to recover without Federal assistance. The expedited request enables the State to hasten the request for Federal Assistance without initially providing all of the documentation required for the standard Major Disaster Declaration request.

IV. Organization and Responsibilities

A. Organization of Responsibility

In accordance with Maryland Code Public Safety Title 14, the Governor has designated the Maryland Emergency Management Agency as the State office responsible for management and administration of the Public Assistance Program. A Governor's Authorized Representative (GAR) will be designated by the Governor as the official responsible for maintenance and administration of the Public Assistance Program on behalf of the State and local governments and other grant recipients. As the designated agency of the State, the responsibilities of MEMA include, but are not limited to:

1. Submission of the Application for Federal Assistance (SF-424);
2. Submission of the Assurances – Construction Programs (SF-424D);
3. Compliance with Federal and State program and grant administrative requirements;
4. Notification of potential applicants of the availability of assistance;
5. Conduct Applicants' Briefings;
6. Request Immediate Needs Funding on behalf of applicants, as applicable;

7. Attend Kickoff Meetings;
8. Assign a Public Assistance Liaison to work with the FEMA Public Assistance Coordinator;
9. Assist FEMA in determining work and applicant eligibility;
10. Processing requests for appeals, reviewing cost overruns, approving time extensions, improved projects, advances and reimbursements;
11. Make recommendations to FEMA on appeals and alternate project requests;
12. Securing insurance information from applicants when required;
13. Participation with FEMA in establishing hazard mitigation and insurance requirements;
14. Monitor subgrants by conducting quarterly reviews, site inspections and audits as required, ensuring program compliance with all applicable state and federal laws;
15. Review and certify project completion information;
16. Determine budget and staffing requirements necessary for proper program management.

B. Grantee and Subgrantee Assignment of Responsibilities

1. Grantee:
 - The grantee is accountable for the use of the funds provided by FEMA.
 - The grantee is responsible for notifying the subgrantee (applicant) that funds are available and for disbursing those funds to the subgrantee.
 - The grantee must use methods and procedures for payment that minimize the time between transfer of funds and disbursement by the State in accordance with federal cash management requirements.
 - The grantee is responsible for providing technical advice and assistance to eligible subgrantees.
 - The grantee ensures that all potential subgrantees are aware of the available assistance programs.
 - The grantee provides support for damage assessment operations and submission of all necessary paperwork for grant awards.

2. Subgrantee:
 - It is the subgrantee's responsibility to attend the Applicants' Briefing to learn about the necessary paperwork to apply for

federal assistance and documentation required for the Public Assistance Program process.

- Subgrantees should submit a Request for Public Assistance (RPA) at the Applicants' Briefing or not later than 30 days after designation of the disaster.
- Subgrantees should provide documentation and personnel to work with FEMA and the State in the damage assessment and project application processes.
- Subgrantees must identify all damages to the State and FEMA.
- The subgrantee must follow all applicable State and local laws and statutes that govern purchasing and contract development and award when participating in the Public Assistance Program as per required by *44 CFR 13.36*.

C. Command and Control Staffing Requirements

1. Governor's Authorized Representative (GAR):

- Initiates requests for all federal Public Assistance.
- Assures compliance with the FEMA-State Agreement.
- Provides State support for implementation of the Public Assistance Program for subgrantee meetings, development of project worksheets (PWs), project validation and eligibility, and inspections.
- Oversees the disbursement of funds through the State Treasurer and Finance Office.
- Oversees and assigns staff for the accountability of State and Federal disaster assistance funds.
- Approves time extensions as appropriate and requests additional time extensions from FEMA if required.
- Submits appeals to the Regional Administrator (RA) as required within 60 days.
- Makes recommendations to FEMA on alternate project requests.
- Notifies the Regional Administrator (RA) of insurance settlements before approving grants.
- Submits Maryland insurance commitment information to FEMA and provides FEMA with the State self-insurance plan, if required.
- Complies with administrative requirements of 44 CFR, Parts 13 and 206, and the audit requirements of 44 CFR, Part 14.
- Ensures progress reports are submitted to the RA in compliance with program requirements.

- Ensures completion of all FEMA/Public Assistance Program completion data and closeout requirements.
 - Ensures technical advice and assistance is available to eligible subgrantees.
 - Assigns a Damage Assessment Coordinator to oversee the damage assessment process, including both Initial Damage Assessments (IDA) and Preliminary Damage Assessments (PDA).
2. Alternate Governor's Authorized Representative:
- Same duties as defined for the GAR in his/her absence. The Alternate GAR must be kept informed of all decisions affecting the Public Assistance Program.
3. State Coordinating Officer (SCO):
- Monitors the implementation of the Public Assistance Program including public information activities.
 - Assures the Public Assistance Program is administered in accordance with the State Public Assistance Administration Plan and all Federal Public Assistance Rules and Regulations.
 - Compiles damage assessment information for review and evaluation by the Governor and/or GAR.
 - Assures that necessary support and staffing is available for damage assessment and public assistance activities to include Joint Field Office (JFO), Disaster Recovery Center (DRC), etc.
 - Supervises the Public Assistance Officer in the daily operational activities as needed.
 - Coordinates State and local disaster recovery efforts in cooperation with the Federal Coordinating Officer (FCO).
 - Coordinates program activities with other State agencies.
 - Coordinates State activities with local and federal officials.
4. Deputy State Coordinating Officer:
- Same duties as defined for the SCO in his/her absence. The Deputy SCO must be kept up to date on all activities.

V. Public Assistance Administrative and Support Staff (44 CFR 206.207 (b) (ii))

A. Administrative Support Staff

1. 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:

- Manages all aspects of the Public Assistance Program under the direction of the GAR.
- Provides training to staff personnel.
- Coordinates/provides training, technical assistance and guidance to subgrantees as required.
- Notifies potential applicants of eligibility.
- Conducts the Applicants' Briefings.
- Assists FEMA in the determination of the eligibility of applicants and makes recommendations.
- Assists FEMA in determining work eligibility.
- Reviews all Project Worksheets for completeness and accuracy.
- Assists in the identification of potential mitigation work in coordination with the FEMA Public Assistance 406 Hazard Mitigation and the 404 Hazard Mitigation Officers.
- Reviews requests for advances of funds.
- Responds to all Public Assistance inquiries.
- Reviews cost and time overruns.
- Makes recommendations for supplemental funds and time extensions.
- Processes requests for time extensions, improved projects, advances and reimbursements;
- Monitors all work and inspections on all large projects.
- Makes recommendations to FEMA on appeals and alternate project requests.
- Secures insurance information from applicants when required.
- Reviews and certifies projection completion information.
- Conducts quarterly reviews, site inspections and audits, as required to ensure program compliance.
- Determines budget and staffing requirements

necessary for proper program management.

- Reviews and oversees the disbursement of funds in coordination with the MEMA CFO and DMIL Fiscal Administrator.
- Submits quarterly program project reports.
- Performs State EMMIE duties.
- Provides reports to the MEMA Executive Director and the Director of Administration.

2. Deputy Public Assistance Officer (DPAO)

- Same as the SPAO in his/her absence. Must keep up to date on all activities and Public Assistance regulations.
- Assists the SPAO in administering the Public Assistance Program and initiatives. May assume any or all of the SPAO's responsibilities.

3. Fiscal Administrator/Chief Financial Officer

- Maintains all financial records on grants, administrative costs and management costs.
- Ensures compliance with grant requirements and assurances.
- Coordinates all disbursement of funds with the SPAO.
- Issues financial reports as needed to include draw downs and quarterly financial reporting forms SF 272 and 20-10.
- Answers questions on fiscal matters relating to Federal Disaster Grants.

4. Deputy Fiscal Administrator

- Same as the Fiscal Administrator in his/her absence. Must keep up to date on all activities.

5. State Project Officers

State Project Officers (SPO) may include, but are not limited to representatives from Maryland Department of Transportation and/or State Highway Administration, Maryland Department of Natural Resources and other State agencies, if required. These SPO's will work with FEMA Public Assistance Crew Leaders and Project Specialists, as required.

The representatives may be responsible for the following:

- Assist in conducting IDAs, PDAs and Project Worksheet preparation.

- Review Project Worksheets for accuracy and completeness, particularly with technical requirements.
- Assist in conducting interim and final inspections.

6. Temporary Employees

- Temporary employees may be utilized dependent on workload and other agency personnel considerations.
- Temporary employees will perform tasks as assigned. They will function under the laws, rules and regulations of the State of Maryland and will be under direct supervision of a full time MEMA employee.

7. Applicant Agents

- Provided by the local subgrantee(s) to assist in Project Worksheet development.
- Agents are usually engineers, building inspectors or public works employees who have detailed knowledge of the affected areas.

B. Staff 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 (SPA0) 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 SPA0 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 will continue to document its direct administrative costs on a project-by-project basis as supporting documentation per memorandum from FEMA's Assistant Administrator dated September 8, 2009.

2. Pass-Through Funds

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

C. Staff Organizational Chart

See Staffing Chart (Appendix B).

VI. 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 Damage Assessments (IDA) 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 January 31 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 Administrator.

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) and/or a Virtual 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. Appendix C to this plan outlines the information that will be covered during this briefing.
 - Applicants' Packets – Information packets containing the required forms will be assembled by MEMA personnel and made available at the Applicants' Briefing. Appendix D provides a list of materials that may be included in the Applicants' Briefing packets.
 - Request for Public Assistance (RPA) – Potential applicants will be required to file a Request for Public Assistance (FEMA Form 90-49), with MEMA within 30 days from the date their county/jurisdiction was designated for Public Assistance. 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.

RPAs submitted after this 30-day period will be reviewed by MEMA on a case-by-case basis and, if justified and warranted, will be forwarded to FEMA for consideration. MEMA reserves the right to deny any application submitted after the 30 day deadline has passed. If necessary, MEMA may request that the deadline for filing RPAs be extended.
 - Applicant's Agent – The Applicant's governing body will be required to designate an agent who will be the Applicants point of contact for all matters pertaining to their application for federal assistance. This point of contact must have the authority of the Applicant to sign and make decisions on behalf of the Applicant.
 - Public Assistance Agreement (Appendix E) / Certification and Assurances (Appendix F) – The Applicant's Agent will be required to sign these documents before receiving any Public Assistance funding. The documents set forth both State and Federal

requirements that must be adhered to. Failure to comply with the requirements set forth in the documents can result in loss of funding for all projects under the application.

4. Applicant Eligibility – The SPAO will review the RPA applications that are received. The SPAO will categorize the applicants as either eligible or non-eligible based on the following FEMA established criteria (44 CFR 206.207(b)(iii)(C)):

- a. State Government Agencies
- b. Local Governments
- c. Private Non-Profit (PNP) organization in possession of an Internal Revenue Service tax exemption letter (501-C, D, or E) or satisfactory evidence from the State affirming that the organization is not for profit and is doing business under State law. There are two categories of eligible private non-profit organizations.

1. Private Non-Profit Critical Service Facility – A PNP critical service facility that provides a critical service is:

- Power Facilities
- Water Facilities
- Sewer and Wastewater Plants
- Educational Facilities
- Communication Facilities
- Emergency Medical Care
- Fire Protection / Emergency
- Critical Support Facilities

2. Private Non-Profit Non-Critical Service Facility – A PNP non-critical service facility must be the responsibility of an eligible PNP applicant that provides an essential government service. These facilities are:

- Alcohol and Drug Treatment Centers
- Rehabilitation Facilities
- Animal Control Facilities
- Community Centers
- Custodial Care Facilities
- Daycare Centers for Children and those with Special Needs
- Museums

- Community Arts Centers
- Food Programs for the Needy
- Homeless Shelters
- Residential Centers for Disabled
- Low Income Housing*
- Libraries
- Facilities for Battered Spouses
- Assisted Living Centers/Facilities
- Senior Citizen Centers
- Shelter Workshops
- Zoos
- Other as determined by FEMA

* As defined by Federal, State, or Local laws or regulations.

Both critical and non-critical PNP service facilities are eligible for emergency work under the Public Assistance Program. PNP Non-Critical Service facilities, however, are not initially eligible for permanent work. They must first apply to the Small Business Administration (SBA) for a low interest loan. If they are underfunded or denied a loan, then the PNP essential facility can apply through FEMA for permanent restoration under the PA Program. PNP Critical Services are eligible for both emergency and permanent work under the PA Program without going through the SBA.

- 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.
5. Applicant Kickoff Meeting – The Kickoff Meeting will be scheduled within two weeks of receipt of a Request for Public Assistance from an eligible applicant. 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 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.

D. Project Worksheet Preparation

1. FEMA will assign a Public Assistance Coordinator (PAC) Crew Leader to each subgrantee. Selection of these individuals will be based on prior disaster field experience, qualifications, and areas of expertise.
2. At the Applicants' Briefing, each subgrantee will be provided with specific information required to meet the requirements of the Public Assistance Program. Items to be discussed include program eligibility, key deadlines, project worksheet preparation, record keeping, cost estimating procedures, and special considerations.
3. Each subgrantee will be responsible for reporting project cost estimates and responsible for addressing pertinent special considerations for which they should reasonably be aware. These special considerations include, but are not limited to, environmental and historical preservation, insurance coverage and hazard mitigation opportunities.
4. All subgrantees are expected to make personnel available to assist FEMA with the development of their project worksheets. MEMA will ensure copies of the approved project worksheets are provided to the subgrantees for their review to ensure the scopes of work are accurate and the cost estimates are reasonable.
5. To ensure completeness and mutual understanding of all proposed/approved PWs, Public Assistance staff will, as resources and time permit, conduct exit briefings with all eligible applicants prior to the closing of the JFO.

6. During the Damage Assessment phase and Project Worksheet development process, damaged facilities will be reviewed for potential cost effective opportunities to mitigate a repeat of future damage. Public Assistance 406 Mitigation funds must be applied to improve and enhance only the damaged portions of an eligible facility. Undamaged portions are not eligible for this funding. The damage portions of the facility will be restored beyond its pre-disaster design in an attempt to avert the same type of disaster from causing similar future damage to the facility.

E. Disputes and Conflict Resolution

In order to expedite funding and minimize applicant appeals, the following conflict resolution processes 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.

F. Appeals Process

The appeals process is a mechanism for subgrantees to request reconsideration of decisions regarding Public Assistance decisions handed down by FEMA. There are two level to the appeals process, the first to the RA and the second to the Assistant Administrator, Response and Recovery Directorate, at FEMA Headquarters.

Before an appeal is filed, the subgrantee should explain to MEMA in detail what they are disputing and their justification. MEMA will speak with their FEMA counterparts to see if an amicable agreement can be met without using the formal appeals process. In the event this does not work, the subgrantee has 60 days from the date of receipt of the item being appealed to file an appeal with the State (the Maryland Emergency Management Agency). The subgrantee must include what exactly is being appealed along with all relevant documentation to support their case. The subgrantee must also provide the amount of adjustment being requested if the appeal is monetary. The State will review the appeal

request for completeness and will prepare a written recommendation to FEMA within 60 days of receipt of the initial appeal request from the subgrantee.

The RA of FEMA will either render a decision or request additional information from the subgrantee. If additional information is needed, the subgrantee will be notified by FEMA and will have 60 days to provide the requested data. If the request is denied, MEMA will notify the subgrantee, at which time the subgrantee will have the choice of accepting the decision or submitting a second appeal, within 60 days, to the Assistant Administrator, Response and Recovery Directorate, at FEMA Headquarters.

The second appeal must also first be submitted to MEMA, who in turn will review the request and supporting documentation and write a second recommendation. This appeal is also routed through the RA who then forwards the request to FEMA Headquarters. The appeal decision will be made within 90 days with the decision being handed down to the RA down the chain. If there are any adjustments or actions required, the RA will initiate the process. This decision is final.

VII. Project Variations

A. Small Projects

Approved projects estimated to be less than \$121,600 (in FFY2015) are considered small projects. This amount will be adjusted annually to reflect changes in the Consumer Price Index published by the Department of Labor. Funding for small projects will be based on the federal share of the approved PW estimate. The GAR will authorize payment of the federal share as soon as practical following approval by FEMA. The subgrantee must have also satisfied all application requirements including properly executed application forms and documentation supporting the claimed costs of all eligible work. If the subgrantee's final project cost for completing the entire scope of work on a small project PW is less than the approved amount, FEMA will not seek reimbursement of the surplus funds, in accordance with 44 CFR 206.205. In the event that a project comes in over budget, a review of all small projects for that particular subgrantee will be conducted to determine if there is an overall cost overrun or under run. FEMA reserves the right to make adjustments to the bottom line dollar figure after this review is completed, but isn't obligated to do so. Refer to Section XIII, B. (Cost Overruns).

B. Large Projects

Approved projects estimated to be equal to or greater than \$121,600 (in FFY2015) are considered large projects. This amount will be adjusted annually to reflect changes in the Consumer Price Index published by the Department of Labor. Funding for large projects will be based on the Federal share of the approved PW. For approved large projects, no Federal funding will be paid upon obligation. 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.

The subgrantee must submit a written request for an interim payment of funds and provide supporting documentation of eligible project costs incurred (44 CFR 31.21 & 206.205). The final federal share payment will be released after the subgrantee has satisfied all application and project requirements. MEMA/FEMA will conduct a final inspection and review of the accuracy and completeness of the documentation supporting the claimed costs of all eligible work. A project site inspection may be conducted by MEMA and/or FEMA, if resources and time permits, to ensure the project has been completed for a specified PW.

In the event that a large project is significantly over budget, the subgrantee must notify MEMA immediately. All significant cost overruns should be submitted to the State Public Assistance Officer at MEMA in writing, along with the reason for the cost overruns. The data will be reviewed by MEMA, and if appropriate, forwarded to FEMA, along with a recommendation either for, or against the budgeted allocation for the project.

If a subgrantee finds additional damage to a facility or location during reconstruction or rebuilding, MEMA must be notified immediately. It is imperative that the subgrantee document where the newly discovered damage was found along with any evidence to prove that the damage was incurred during the disaster. MEMA will review the request and if valid, submit the data to FEMA for a possible change in scope of work and a potential increase in funding for the large project. MEMA and FEMA may request to see the newly found damage before rendering an opinion or decision.

C. 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 contain:

1. The reason for requesting an improved project
2. A description of the improved proposed work
3. A schedule of work
4. A cost estimate
5. 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.

D. Alternate Projects (44 CFR § 206.203 (d) (2) (v))

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:

1. The reason for requesting an alternate project
2. A description of the proposed work
3. A schedule of work
4. A cost estimate
5. 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.

E. Immediate Needs Funding

Immediate Needs Funding (INF) is a program designed to get a subgrantee expedited funds for emergency work following a disaster declaration for emergency projects needing completion and payment within the first sixty days. Eligible work typically includes debris removal, emergency protective measures, and removal of hazards that pose a risk to health and safety. Immediate needs funds may be used to cover expenses resulting from eligible work, to include temporary labor costs, overtime payroll, equipment, and material fees, but will be capped at 50% of the PDA estimate for the emergency work. Each request will be reviewed on an independent basis.

F. Scope of Work Changes

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.

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

G. Identification of New Damage

1. 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:
 - a. The specific location of damage
 - b. A detailed description of damage (supported by photographs if possible)

- c. The reason(s) for overlooking the site during the initial project worksheet preparation
 - d. A cost estimate of the damage (if available)
2. 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.

VIII. Time Limitations and Extensions

A. Work Completion

The time frame for completing eligible work is measured from the date of the disaster declaration.

1. Emergency Work – must be completed within 6 months
 - Category A (Debris Removal)
 - Category B (Emergency Protective Measures)
2. Permanent Work – must be completed within 18 months
 - Category C (Roads and Bridges)
 - Category D (Water Control Facilities)
 - Category E (Buildings and Equipment)
 - Category F (Utilities)
 - Category G (Parks, Recreational Facilities, and Other Facilities)

B. Time Extensions [44 CFR § 206.204 (d)]

The time frames for work completion are set by federal regulation; however, if there are extenuating circumstances that develop requiring additional time to complete a project, extensions may be requested. The State has the authority to grant time extensions for emergency work for an additional 6 months. The State may also grant extensions for permanent work for 30 months. The request for a time extension must be submitted by the subgrantee to the State explaining the reason for the request and an estimated completion date. The State will immediately notify FEMA of any time extensions granted to the subgrantee.

If the subgrantee is unable to accomplish the work within the extended timeframe, the State must request any additional extensions through FEMA. The

subgrantee will provide to the State in writing the reason for the extenuating circumstances, what is being done to correct any issues that have arisen, and an estimated completion date. The State will review the subgrantees submission, and will forward, along with a recommendation, the extension request to FEMA.

IX. Contracts and Procurement

Contracts utilized within the Public Assistance Program must be of reasonable cost, must be competitively bid, and must comply with all applicable local, State, and Federal contracting and procurement regulations in order for a subgrantee to be eligible for federal reimbursement. Subgrantees should consult their municipalities for any local restrictions for contracting and purchasing. State guidance is available in the Code of Maryland Regulations, Title 21, State Procurement Regulations, and Federal guidance on contracting can be found in 44 CFR Part 13.

FEMA will provide reimbursement under the Public Assistance Program for three types of contracts, assuming the appropriate laws and regulations for letting the contract were followed.

1. Lump Sum Contracts: A clearly defined scope of work with prescribed boundaries and a fixed total cost.
2. Unit Price Contracts: Work is completed with a set cost predetermined for each unit utilized.
3. Cost plus Fixed Fees: These contracts are a combination of either Lump Sum or Unit Price, along with additional contractual fees associated with the contract.

Subgrantees will not utilize time and materials contracts unless in an emergency and time does not permit the proper bidding of one of the three acceptable types listed above. All time and materials contracts utilized will be thoroughly reviewed by FEMA before any funds are released for reimbursement. Time and material contracts will generally not be reimbursed beyond 70 hours of emergency work.

“Piggy-back” contracts are contracts that were in existence before the declared disaster and are utilized without bidding. These types of contracts typically do not meet the requirements of 44 CFR Part 13 because they may have been issued on a noncompetitive basis and may have an inappropriate price structure. They are therefore typically not eligible for reimbursement. FEMA does reserve the right to review the contracts and reimburse on a case by case basis those costs which are deemed reasonable.

X. Insurance Requirements

In accordance with 44 CFR, Part 206.250-253 (established guidelines for insurance), prior to FEMA approving the final repair costs for a project, the eligible facility must undergo an insurance review. In addition, MEMA requires that if the subgrantee has insurance, a copy must be provided to the State Public Assistance Officer for review and inclusion in the subgrantees file before any funds are released to the subgrantee.

1. All eligible project costs shall be deducted by the amount of insurance proceeds that a subgrantee receives to cover damage associated with the disaster [44 CFR, Part 206.250 (c)].
2. If eligible damages to a facility are greater than \$5,000.00, the subgrantee must obtain and maintain insurance to cover the facility for whatever hazard caused the damage. If coverage is not maintained, FEMA has the right to refuse payment for any future damages that may occur to the facility, regardless of cause [44 CFR, Part 206.252 (d)].
3. FEMA maintains the right to require a subgrantee to obtain flood insurance on a facility, as a condition of receiving funds, even if the subgrantee's facility is not located in a flood hazard area, as long as the amount required is considered reasonable by the State Insurance Commissioner [44 CFR, Part 206.252 (d)].
4. If an eligible facility is damaged in a special flood hazard area and it was not covered by flood insurance, then the amount of insurance that would have been available to the facility shall be deducted from the total damages eligible for reimbursement from FEMA, before any funds are released.

XI. Hazard Mitigation

Section 406 Hazard Mitigation provides an opportunity for subgrantees to protect against similar damage occurring in the future. Subgrantees should consider mitigation if there is a history of damage to the facility or structure and there is a cost effective way to stop the cycle of damage. FEMA will review all requests for 406 Mitigation and will determine what, if any portion of the request, they will fund. The subgrantee must have an approved project worksheet with the hazard mitigation included in the scope of work before beginning any construction or rebuilding. FEMA Disaster Assistance Policy 9526.1 provides a thorough overview of the 406 Mitigation Program and lists the requirements and guidelines for the program.

XII. Fiscal Administration

A. Grant Approval

As Grantee, MEMA will submit an Application for Federal Assistance (SF-424) and appropriate assurance and budget forms (FEMA Forms 20-20, 20-16/A/B/C) to FEMA in order to receive Federal funding. 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.

B. Subgrant Approval

After the project worksheets are approved by FEMA, subgrantees will receive from MEMA an approval packet via mail that will include copies of their PW(s), the signed Subgrantee Certification and Assurances, and the signed Subgrantee Award Acceptance Agreement. All supplemental approvals will also be mailed to the subgrantee.

C. Project Funding

DMIL/MEMA Fiscal Procedures

FEMA will cover 75% of the approved project worksheet. The remaining 25% is left to the individual subgrantee to cover. There are no State matching funds. Once a PW has been prepared and reviewed by FEMA and the SPAO, funds are obligated for each project by FEMA to the Grantee. The PW and support documentation are then given to MEMA for the SPAO to review and approve for payment. The steps in this process are as follows:

1. MEMA Public Assistance personnel prepare the subgrantee specific invoices and submits them to MEMA Finance personnel for payment processing. Requests for payment are sent to the Maryland Department of the Military (DMIL) Finance for final approval.
2. MEMA Financial Personnel prepare draw down requests as follows:
 - a. MEMA 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 and 2 CFR, Part 200.
- d. MEMA Finance Personnel will prepare and submit a Federal Financial Report (SF-425) to FEMA quarterly or as otherwise required.

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:
 - i. A description of activities, personnel requirements, and other costs for which the grantee will use management cost funding provided under this part;
 - ii. The grantee's plan for expending and monitoring the funds provided under this part and ensuring sufficient funds are budgeted for grant closeout; and
 - iii. 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. Subgrantee and Fund Tracking

Subgrantees ruled eligible for Public Assistance are entered, based upon disaster identifier, into a database maintained by the Public Assistance personnel at MEMA. The database tracks the subgrantee, project worksheet and associated funding through the PA process enabling MEMA, at any given time, to inquire about the status of a PW or subgrantee.

The State requires a monthly report for all large projects to be submitted to MEMA. Subgrantees are requested to complete the Project Status Report (PSR) for all large projects that are less than 100% complete. Any pertinent data affecting the project, received in these reports, will be entered into the database and will be used as justification for any required time extension requests.

In addition to the database, the State of Maryland Military Department (DMIL) and MEMA Finance Department utilizes the Financial Management Information Systems (FMIS) to coordinate and process all payments to eligible subgrantees. The Finance Department is also responsible for periodic reconciliations between the total grant award and what has been disbursed to the subgrantees. All Federal and State required reporting statements, to include the Federal Cash Transaction report (SF 272) and the State Financial Report (FEMA Form 20-10) will be generated and submitted through the MEMA Finance Department to the appropriate federal agency in the allocated timeframe. If, during generation of these reports, it is discovered that there are unused or excess funds, they will be immediately returned to FEMA.

The SPAO is responsible for preparing, on a quarterly basis, a programmatic progress report for FEMA. The reporting period will begin with the first full quarter following the closure of the JFO and will provide a summary of those projects that have not been closed by FEMA, along with a summary outline of any problems, excessive cost overruns or circumstances expected to result in noncompliance with the approved grant conditions.

F. Recovery of Funds

If an overpayment of Federal funds occurs, the overpaid funds may be transferred to offset all or part of the balance of any unpaid Federal funds owed on other projects of the same subgrantee. If the sum of unpaid Federal funds is insufficient to offset the overpaid funds, any necessary portion of the overpaid funds will be applied to the unpaid amount. The State shall recoup any remaining balance of overpaid funds from the subgrantee.

To recoup funds from a subgrantee, the GAR, or designee, prepares and sends a reimbursement request letter to the subgrantee, identifying the source and amount of the overpayment and detailing procedures for the repayment of funds. All recouped funds will be returned to Smartlink.

Per 44 CFR 13.21, any interest above \$100.00 per year earned on Public Assistance funds by the grantee or subgrantee must be returned to FEMA. If the interest is \$100.00 or less, the grantee or subgrantee may keep the funds as an administrative expense.

G. Donated Resource Credit Disbursement

Donated Resources, which can include labor, equipment, and materials can be used to offset the State/local portion of the cost share for Emergency Work (Categories A and B) performed during a disaster. The amount claimed cannot exceed the non-Federal share portion of a project. If a subgrantee is claiming a donated resource credit, the cost share portion will be reviewed by FEMA for adequate documentation and a dollar figure for the donated resource will be applied.

XIII. Noncompliance and Enforcement (44 CFR 13.43)

If the subgrantee fails to comply with any terms of the grant award, whether it is a Federal regulation, State regulation, the State Administrative Plan, or the Public Assistance Subgrantee Certifications and Assurances, the State may:

1. Temporarily withhold cash payments until the subgrantee is in compliance with all applicable guidelines and statutes.
2. Deny funding for that portion of the project in which the subgrantee is not in compliance.
3. Wholly or partially suspend or terminate the award for the subgrantee's project(s).

4. Withhold any further awards of the subgrantee until compliance is achieved.

If any action is to be taken against a subgrantee for noncompliance, the subgrantee will be notified in writing and will have the opportunity to correct or explain the reason for any deficiencies before any further action is taken by the State.

XIV. Project/Subgrant and Grant Records, Reports and Closeout Procedures

A. Quarterly Progress Reports

Subgrantees will submit a *Project Status Report (PSR)* 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.

B. Project Documentation and Closeout

1. Project/Subgrants

On a periodic basis, the SPAO will review all of the projects/subgrants that have no unresolved programmatic issues and prepare a request of projects/subgrants for closure to FEMA. The closure request will be in the form of a letter, identifying and certifying that all eligible claims have been made and all programmatic issues resolved for each project. The letter will be reviewed and signed by the SPAO. The request will be sent to the FEMA Region III Office for processing.

a. Small Project Closeout Certifications:

- i. 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.
- ii. All projects were completed in accordance with all applicable State and Federal guidance.
- iii. The subgrantee's contribution to the non-Federal share, as specified in the FEMA-State Agreement, has been executed.

iv. The subgrantee does not have to specify the exact amount spent on the small project closeout certification.

b. Large Project Closeout Certifications:

Upon completion of all projects and after the subgrantee 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.

- i. All large projects will be reviewed to ensure that they are in compliance with the approved scope of work and that costs are documented as claimed. Contracts, vouchers, and cancelled checks will be examined and compared against those costs being claimed by the subgrantee.
- ii. Force Account Labor will be compared against the original records (time sheets, payroll register, and payroll checks) to verify that individuals worked on the project and were paid as claimed. The use of overtime pay vs. regular time pay will be verified. Typically only overtime pay is eligible in Category A (Debris Removal) and Category B (Emergency Protective Measures), unless special provisions have been instituted by FEMA relative to the emergency and/or disaster declaration. Regular and overtime reimbursement is eligible in Categories C – G.
- iii. Force Account Equipment will be compared against equipment logs to verify the size and type of equipment and that the appropriate, FEMA, State, or Local equipment rate was used in the Project Worksheet. Equipment hours will be compared against labor hours (except equipment operated by volunteers, pumps, or generators, etc. that may be used without a full time operator present).
- iv. Force Account Materials and Supplies will be compared against invoices, payment vouchers, cancelled checks, and documents to ensure that use and prices were as claimed.

- v. Contracts, contract procedures, advertisements for bids, invoices, cancelled checks, and work inspection records will be reviewed to ensure compliance with applicable procurement laws and that all work claimed is within the approved scope of work in the Project Worksheet.
- vi. Insurance payments (or lack of insurance) and salvage value will be reviewed to ensure that they have been properly deducted.
- vii. Worksites will be visited to ensure that all work has been completed as per set forth in the Project Worksheet.
- viii. MEMA will conduct a pre-final inspection prior to scheduling the MEMA/FEMA final inspection to verify that copies of relevant documents such as force account time sheets, force account equipment records, invoices, vouchers, records of payments, cancelled checks, contracts, and contracting procedures are included in the closeout package and that all monetary figures are accurate and reflect the information provided in the aforementioned documents.
- ix. All completed work was in compliance with the FEMA-State Agreement and all payments were made in accordance with 44 CFR § 13.21.

Once notification has been received from FEMA that requested projects/subgrants have been closed, the MEMA Public Assistance personnel will update the database to reflect the closure date.

C. Cost Overruns

- 1. Small Projects
 - a. When all small projects are completed by a subgrantee and all costs known, the subgrantee may request a small project adjustment if the net cost overrun of all small projects is equal to or greater than \$1,000 or 10% of the accumulated total of all approved small projects for that subgrantee. The request should be made in writing 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 1 (a) for the determination of an eligible cost overrun for the aggregate of all small projects.

2. Large Projects

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.

D. Subgrantees

On a periodic basis, the SPAO will review all subgrantees for which confirmation has been received from FEMA that projects/subgrants have been closed and for which there are no unresolved programmatic issues. The SPAO will prepare a request of subgrantees for closure to FEMA. The closure request will be in the form of a letter, identifying and certifying that all eligible claims have been made and all programmatic issues resolved for those subgrantees identified in the letter. The letter will be reviewed and signed by the SPAO. The request will be sent to the FEMA Region III office for processing.

Once notification has been received from FEMA that requested the subgrantees have been closed, the MEMA Public Assistance personnel will update the database to reflect the closure date.

A letter will be sent by MEMA to the subgrantee indicating that all projects/subgrants for that subgrantee have been reimbursed in accordance with Federal and State regulations and that the subgrantee file is closed that a particular declaration. The letter will also include instructions to the subgrantee for record retention of all files and documents associated with the subgrant(s).

E. Program Grants

Within 90 days after the expiration or termination of the grant, the GAR will notify the Regional Administrator, in writing, that no further claims for the disaster will be made and that all program activity has been closed. The Fiscal Administrator will prepare and submit all financial performance, and other

reports required as a condition of the grant, to FEMA. Within 90 days after receipt of the closeout report, FEMA will make upward or downward adjustments to the allowable costs. FEMA will make prompt payment to the State for allowable reimbursable costs. The State will immediately refund to FEMA the balance of any obligated funds that are not authorized for use in other grants.

XV. Audit and Record Retention Requirements

A. Audits

All subgrantees must comply with the audit requirements set forth in 44 CFR § 13.26 and OMB Circular No. A-133, Revised. Non-Federal entities that expend \$500,000 or more in Federal awards in a year have a single or program-specific audit conducted for that year in accordance with the provisions of A-133. The State Public Assistance Officer will ensure that audit requirements are reviewed at the Applicant's Briefing as well as sending an annual reminder to the point of contact listed on the Request for Public Assistance, to conduct their annual audit, if applicable.

The GAR assures both FEMA and the State that all applicable subgrantees will perform these audits in a timely manner. Requests to perform state audits may be submitted, in writing, from the GAR to the State Auditor. Those subgrantees that require an audit must report any adverse findings and corrective actions to MEMA within 30 days of developing the corrective action plan. The Fiscal Administrator reviews audits completed for the State and subgrantees and recommends follow up action to the subgrantee and to the SPAO if additional information or compliance is required.

All subgrantees who receive federal funds are also subject to audits from the DHS Office of the Inspector General (OIG). Any adverse findings by the OIG will be reported by the subgrantee, to MEMA, along with a corrective action plan, within six months of the date of issuance of the OIG findings.

B. Record Retention (44 CFR § 13.20(b)(6) and § 13.42)

The Grantee and subgrantee will maintain all records pertaining to the disaster for a period of three (3) years. The Grantee will maintain their records from the date of the final financial report of the disaster to FEMA. The subgrantee will maintain their records for 3 years from the date they receive their closeout documents from MEMA. In the event that an audit is being conducted at the

end of the three year period, the records will be maintained until the audit is concluded.

XVI. Development and Maintenance (44 CFR § 206.207 (3))

The State will submit a Public Assistance Administrative Plan annually and amendments for each disaster in which Public Assistance is included. Revisions will be forwarded to the FEMA Regional Administrator for approval.

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 Maryland Law, organization, policy, or agency operation that is relevant to the administration of this plan and the PA Program. The State will obtain FEMA approval of the amended plan and its effective date.

Appendix A: Definitions

Alternate Project: A subgrantee may determine that the public welfare would not be best served by restoring a damaged facility or its function to the pre-disaster design. In this event, the subgrantee may use the Public Assistance grant for permanent restoration on that facility for other purposes. Projects other than the damaged facility on which the subgrantee spends eligible funds are referred to as alternate projects. Alternate projects can only be utilized in place of permanent work, not emergency work and must be pre-approved by FEMA.

Applicant: State agency, local government, or eligible Private Non-Profit Organization submitting an application to the GAR for assistance under the State's grant.

Community: Any area or political subdivision thereof, which has authority to adopt and enforce floodplain management regulations for the areas within its jurisdiction.

Contractor: Any individual, partnership, corporation, agency or other entity performing work by contract for the Federal Government or State or Local agency.

Cost Estimating Format (CEF): Methodology used to estimate the total cost of project for which the base costs of labor, materials, and equipment meets or exceeds the large project threshold.

Case Management File (CMF): A computer-based file that contains pertinent information about each applicant. The CMF promotes continuity in managing an applicant's recovery, minimizes redundant data collection and allows access to current status of applicant's case.

Declared Fire: An uncontrolled fire threatening such destruction as would constitute a major disaster, which the director has approved in response in response to a State's request for a Fire Management Assistance Declaration.

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

Disaster Recovery Center (DRC): Field office set up to help provide disaster assistance to individuals, provide information, and provide a site for registering with FEMA.

Emergency: Any occasion or instance in which, in the determination of the President, Federal assistance is needed to supplement State and local efforts and capabilities to save lives and to protect property and public health and safety, or to lessen or avert the threat of a catastrophe.

Emergency Management Mission Integrated Environment (EMMIE): System provided by FEMA to enter, track, create project worksheets, and report disaster specific information, for applicants.

Emergency Work: Work which must accomplished either before, during or immediately after a disaster event to save lives, to protect improved property, safeguard public health and safety, and 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.

Federal Coordinating Officer (FCO): The person appointed by the FEMA Regional Administrator or designee to coordinate Federal assistance in an emergency or a major disaster.

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.

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

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

Force Account: A subgrantee's own labor forces and equipment.

Governor: The chief executive of the State of Maryland.

Governor's Authorized Representative (GAR): The person designated by the Governor to execute, on behalf of the State, all necessary documents for disaster assistance. The GAR is responsible for State compliance with the FEMA-State Agreement. Normally, the GAR will also be designated as the State Coordinating Officer.

Grant: A grant is an award of financial assistance. The award shall be based on the total eligible federal and state shares of all approved projects.

Grantee: The State of Maryland, hereinafter referred to as the State.

Hazard Mitigation: Cost effective measures that will reduce the potential for loss of life or damage to a facility from a disaster event.

Hazard Mitigation (Section 406): Hazard 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 non-structural measures such as development of floodplain management regulations.

Immediate Needs Funding: An advance payment 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.

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.

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

Incident Period: The time interval during which the declared fire or disaster occurs. Generally, costs must be incurring during or as a result of the incident period to be considered eligible.

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 operations, direction, coordination and information.

Large Project: Approved projects estimated to cost the same or more than the large project threshold amount. This figure changes annually to reflect changes in the Consumer Price Index. The large project threshold amount applicable to a disaster is based upon the disaster date of occurrence, not when the project is approved or the work completed.

Local Government: Any county, city, municipal authority, school district or other political subdivision of the State of Maryland.

Major Disaster: Any natural catastrophe (including hurricane, tornado, coastal storm, earthquake, winter storm, drought, etc.), terrorist acts, or, regardless of cause, any fire, flood, or explosion, in any part of Maryland, which, in the determination of the President, causes damage of sufficient severity and magnitude to warrant major disaster assistance under P.L. 93-288, as amended, to supplement the efforts and resources of state, local governments, and

disaster relief organizations in alleviating the damage, loss, hardship, or suffering caused hereby.

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

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

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

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

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

Payment Management System: This is the system used for providing funds to the grantee.

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.

Principle Advisor: An individual appointed by the Forest Service, United State Department of Agriculture, or Bureau of Land Management, Department of Interior, who is responsible for providing FEMA with a technical assessment of the fire or fire complex for which a State is requesting a fire management assistance declaration.

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

Private NonProfit (PNP) – Critical Service Facility: Any eligible PNP facility providing essential services to the general public to include; educational facilities, power utilities, water facilities that provide potable water or water intended for fire protection or electric generation, sewer and wastewater treatment facilities, telephone service facilities, organizations and their

facilities that provide emergency services, and the facilities that provide direct patient care to include hospitals, custodial care facilities and clinics, and such facilities on Indian reservations. These facilities will also have:

- a. 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
- b. 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.

Private NonProfit (PNP) – Non-Critical Service Facility: Any eligible PNP facility providing essential governmental type services to the general public, not listed as a Critical Facility and having a primary purpose as being; a custodial care facility, including a facility for the aged or disabled, and other essential governmental service facility means museums, zoos, community centers, libraries, homeless shelters, senior citizen centers, rehabilitation facilities, shelter workshops and facilities which provide health and safety of a governmental nature.

These facilities will also have:

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

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.

Project Funding: All projects under FMAGP are treated as large projects; i.e. all costs must be documented before final claim can be approved. Projects under a major declaration or emergency are either small projects or large projects.

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

Public Assistance: Supplementary Federal assistance provided under the Stafford Act to State and local governments or certain private nonprofit organizations for eligible emergency measures and repair, restoration, and replacement of damaged facilities.

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.

Regional Administrator: The Administrator of a regional office of FEMA.

Small Business Administration (SBA): Federal agency that provides disaster assistance to businesses, and PNP organizations through low interest loans. Eligible non-critical PNPs must apply for assistance first through SBA, before applying to FEMA.

Small Project: Approved projects estimated to cost less than the large project threshold.

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

Standard Form (SF) 424: The SF 424 is the Application for Federal assistance. The State submits this form to apply for a grant under a disaster or fire declaration.

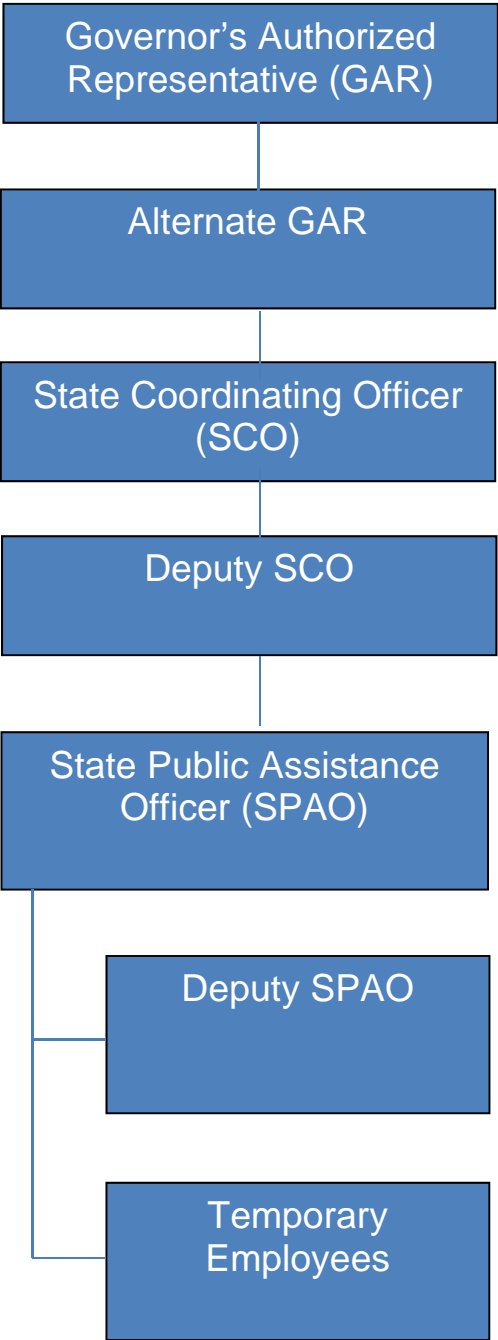
State Coordinating Officer (SCO): The person designated by the Governor to coordinate State and local disaster assistance efforts with that of the Federal government. Normally, the SCO will also be designated as the GAR.

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 Maryland Emergency Management Agency.

Subgrant: An award of financial assistance under a grant by a Grantee to an eligible sub-grantee.

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.

Appendix B: Staffing Chart



Appendix C: Applicants' Briefing Outline

The Applicants' Briefing will consist of the following topics:

- I. Introduction
- II. Public Assistance Program Overview
 - a. PA Process
 - b. Specific Information Relevant to the Declaration
- III. Building Blocks of Eligibility
 - a. Applicant Eligibility
 - b. Facility Eligibility
 - c. Work Eligibility
 - d. Eligible Costs
 - e. Administrative Costs
- IV. Project Information
 - a. Small Projects vs. Large Projects
 - b. Improved Projects
 - c. Alternate Projects
- V. Special Considerations
 - a. Hazard Mitigation
 - b. Environmental Requirements
 - c. Historic Preservation and Natural Resources
 - d. Special Flood Hazard Areas
 - e. Insurance Requirements
- VI. Documentation
 - a. Project Administration and Recordkeeping
 - b. Contracting and Procurement
 - c. Appeals
 - d. Audits
 - e. Record Retention
- VII. Time Limits/Deadlines
- VIII. FEMA Resources

Appendix D: Applicants' Briefing Packet - Contents

Informational Materials

Applicants' Briefing Slides & Note Pages

Declaration

Small Business Administration announcement (if applicable)

Forms & Reference Materials

FEMA Form 90-49 (Request for Public Assistance)

FEMA Form 90-121 (PNP Facility Questionnaire)

FEMA Recovery Fact Sheet(s), if available and pertinent to the declaration

Disaster Recovery Environmental and Historic Preservation Considerations for MD

PA Program Documentation Requirements for Project Worksheet

FEMA Publication 323 – Public Assistance Applicant Handbook

The following FEMA Publications are available on FEMA's website:

FEMA Equipment Rates

FEMA Publication 321 – Public Assistance Policy Digest

FEMA Publication 322 – Public Assistance Guide

FEMA Publication 325 – Debris Management Guide

9500 Series Disaster Recovery Policies

Appendix E: Public Assistance Subgrantee Certifications and Assurances

Subgrantee: _____ Date: _____

FIPS Number: _____ Disaster Number: _____

A sub grant award is hereby made to <Subgrantee Name>; hereafter referred to as the Subgrantee, under the Public Assistance Program, subject to the general conditions that follow and any special conditions that may be attached. This award is also subject to all applicable rules, regulations, and conditions prescribed by the Federal Emergency Management Agency (FEMA) and the State of Maryland.

This sub grant shall become effective when this signed document is received by the Maryland Emergency Management Agency (MEMA). No funds will be awarded to the Subgrantee until such time as this document is in the Subgrantee's Public Assistance file at MEMA.

The Subgrantee shall establish and maintain a proper accounting system to record expenditures of disaster assistance funds in accordance with generally accepted accounting standards and shall maintain all records and supporting documentation associated with the disaster for a period of three (3) years from disaster closeout.

The Subgrantee agrees to abide by their respective procurement rules, policies, and/or procedures. If there are no written rules, the Subgrantee agrees to abide by the State of Maryland's procurement rules, policies, and/or procedures. A copy of the Subgrantee's procurement policy will be provided to MEMA upon request.

Under the conditions of OMB Circular A-133, Subpart B – Audits, (b) Non-Federal entities that expend \$500,000 or more in a year in federal awards shall have a single or program specific audit conducted for that year; to be completed within nine (9) months of the end of the Subgrantee's fiscal year. The Subgrantee shall have six (6) months upon completion of the audit to submit to MEMA any findings or corrective actions that must be undertaken. If the Subgrantee does not meet the conditions necessary for an audit, a letter stating such must be sent to MEMA. Should you fail to accomplish any of these requirements; it may adversely affect your eligibility for future Public Assistance funding. The Subgrantee is responsible for all audit fees associated with these federal funds.

Governing Laws, Regulations, and Statutes:

The Subgrantee hereby assures and certifies compliance with all applicable statutes, regulations, policies, guidelines, and requirements, including, but not limited to the following:

- The Robert T. Stafford Disaster Relief and Emergency Assistance Act

- Title 31 of the Code of Federal Regulations, Section 205.6
- Title 44 of the Code of Federal Regulations
- OMB Circulars:
 - A-192: Grants and Cooperative Agreements with State and Local Governments
 - A-122: Cost Principles for Nonprofit Organizations
 - A-133: Audits of States, Local Governments, and Non-Profit Organizations

General Conditions and Standard Assurances

The Subgrantee hereby assures and certifies compliance that:

1. It has the legal authority to apply for federal assistance and the institutional, managerial, and financial capability, specifically funds sufficient to pay the required non-federal share of 25% of the project cost and to ensure proper planning, management, and completion of the project.
2. It will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.
3. It will give MEMA or the General Account Office, through any authorized representative, access to and the right to examine all paper or electronic records related to the financial assistance.
4. It will assure compliance with Section 106 of the National Historic Preservation Act of 1966, as amended, Executive Order 11593, Protection and Enhancement of the Cultural Environment, the Archeological and Historical Preservation Act of 1974 (16 U.S.C. § 469 a-1 et seq.), and the National Environmental Policy Act of 1969, as amended, if applicable.
5. It will comply, and will require contractors to comply, with any applicable statutorily-imposed nondiscrimination requirements, including the Civil Rights Act of 1964 (42 U.S.C. §2000d); the Americans with Disabilities Act of 1990 (42 U.S.C. § 12131-34); and the Age Discrimination Act of 1975 (42 U.S.C. § 6101-07).

Certifications Regarding Lobbying, Debarment, Suspension

1. If it is a governmental entity, it will comply with requirements of 5 U.S.C. § 1501-08 and § 7324-28, which limits certain political activities of State or local government employees whose principal employment is in connection with an activity financed in whole or in part by federal assistance.

2. Lobbying: As required by Section 1352, Title 31 of the U.S. Code, and implemented at 28 CFR Part 69, for persons entering into a grant or cooperative agreement over \$100,000, the Subgrantee certifies that:
 - 2.1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence and officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any Federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal grant or cooperative agreement.
 - 2.2. If any funds other than Federal appropriate funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or any employee of a Member of Congress, in connection with this Federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form – LLL, “Disclosure of Lobbying Activities”, in accordance with its instructions.

3. Debarment, Suspension, and Other Responsibility Matters: As required by Executive Order 12549, Debarment and Suspension, and implemented at 28 CFR Part 67, for prospective participants in primary covered transactions, as defined at 28 CFR Part 67, Section 67.510. The Subgrantee certifies that it and its principals:
 - 3.1. Are not presently debarred, suspended, proposed for debarment, declared ineligible, sentenced to a denial of Federal benefits by a State or Federal court, or voluntarily excluded from covered transactions by any Federal department or agency.
 - 3.2. Have not, within a three-year period preceding this application, been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property.
 - 3.3. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (2.2) of this certification; and have not, within a three-year period preceding this application, had one or more public transactions (Federal, State, or local) terminated for cause or default.

4. Where the Subgrantee is unable to certify to any of the statements in the above mentioned certifications, he or she shall attach an explanation to this application.

SPECIAL CONDITIONS

All requirements and/or scopes of work must be reviewed and approved by MEMA for compliance with grant guidelines prior to the start of any work.

Clay B. Stamp
Governor's Authorized Representative

Date

I _____, acting under my authority to contract on behalf of the Subgrantee, hereby signify acceptance for the Subgrantee of the above-described sub grant on the terms and conditions stated above or incorporated by reference therein. I further certify that we will follow all prescribed procurement policies and procedures set forth by our agency, and that this agency is not suspended or debarred from receiving Federal funds, and has not been so in the past.

Original Signature

Date of Acceptance

Title

Appendix F: Public Assistance Subgrantee Award Acceptance Agreement

Subgrantee: _____ Project Worksheet Number: _____
FIPS Number: _____ Disaster Number: _____
Total Project Award: _____
75% Federal Share: _____

This Agreement between the Maryland Emergency Management Agency (MEMA), henceforth the Grantee, and <Subgrantee Name>, henceforth the Subgrantee, shall be effective on the date signed by both parties. It shall apply to all Public Assistance disaster funds provided through the Grantee to the Subgrantee as a result of <Disaster Number>. Failure to comply with the conditions and requirements set forth could jeopardize the funding of any additional projects under <Disaster Number> or any future projects which would utilize Public Assistance funds. The designated representative of the Subgrantee certifies that:

1. He/She has the legal authority to apply for and accept assistance on behalf of the Subgrantee.
2. The Subgrantee shall comply with all directives set forth under the Public Assistance Subgrantee Certifications and Assurances.
3. The Subgrantee is aware of and understands the Public Assistance Program will cover 75% of eligible project costs; the additional 25% of funds must come from the Subgrantee. The Subgrantee's cost share cannot include any federal funds outside of the Public Assistance Program. The State of Maryland does not provide additional funds to cover any portion of the Subgrantee's 25% cost share.
4. The Subgrantee shall not deviate from the Scope of Work as provided in the Project Worksheet, without first receiving written approval from the Federal Emergency Management Agency (FEMA) through MEMA.
5. The Subgrantee will abide by the following work completion deadlines:
 - 5.1. Emergency Work (Categories A and B) shall be completed within six (6) months from the date the disaster received a Federal Declaration.
 - 5.2. Permanent Work (Categories C – G) shall be completed within eighteen (18) months from the date the disaster receives a Federal Declaration.

- 5.3. Extensions may be granted, upon request, for those factors that are out of the span of control of the Subgrantee. The Subgrantee must write a letter to the State Public Assistance Officer at MEMA, requesting an official extension and supplying valid documentation/reasoning as to why the project cannot be completed on time.
6. The Subgrantee shall submit to MEMA, quarterly updates on all open projects. These updates will be due on March 31, June 30, September 30, and December 31. Failure to comply with these timelines may result in loss of current and/or future funding under the Public Assistance Program.
7. The Subgrantee shall establish and maintain a proper accounting system to record expenditures of disaster assistance funds in accordance with generally accepted accounting standards and shall maintain all records and supporting documentation associated with the disaster for a period of three (3) years from disaster closeout.
8. The Subgrantee shall not enter into any cost plus percentage of cost contracts or contracts for which payment is contingent upon receipt of Federal Disaster Funds, or into any contract with any party which is debarred or suspended from participating in federal assistance programs.
9. The Subgrantee shall, upon request of MEMA, participate in initial, interim, and final site inspections with State Public Assistance Officers.
10. The Subgrantee shall return to the State, within two months of written request, any reimbursement due the State or Federal Government, not supported by audit or other review of documentation maintained by the Subgrantee.
11. The Subgrantee shall comply with any mitigation requirements for repair or replacement of projects subject to repeated damages from flooding or other hazards and shall comply with any requirement by FEMA to obtain and maintain flood insurance.
12. The Subgrantee shall ensure that all applicable local, State, and Federal permits have been obtained prior to starting any construction and that all projects are consistent with current codes and standards.
13. The Subgrantee has the right to opt out of the Public Assistance Program for any project(s) prior to receiving funds. A written request must be submitted to the MEMA Public Assistance Officer indicating the Project Worksheet number that the Subgrantee no longer wishes to pursue for reimbursement.

- 14. The Grantee reserves the right to terminate the Subgrantee as an applicant if the Subgrantee does not comply with the terms and conditions set forth in this document. The Grantee will provide written notice to the Subgrantee seven (7) calendar days before the effective date of the termination.

- 15. This agreement may be amended at any time by written approval of both parties.

Agreed:

Clay B. Stamp
Governor's Authorized Representative

Subgrantee's Representative Name

Subgrantee's Representative Title

Date

Date

Appendix G: Fire Management Assistance Grant Program (FMAGP)

1. Fire Management Assistance Declarations

Fire Management Assistance (FMA) Declarations made in accordance with Section 420 of the Robert T. Stafford Disaster Relief and Emergency Assistance Public Law 93-288, as amended, provide for unique considerations on the part of the State of Maryland. These considerations are:

- A. The State of Maryland is the Grantee and is hereby designated as the Governor's Authorized Representative (GAR) for FMA Declarations. See annual FEMA-State Agreement for the Fire Management Assistance Grant Program (FMAGP).
- B. Two State agencies will share the responsibility of administering the FMAGP. They are the Maryland Department of Natural Resources (DNR) and the Maryland Emergency Management Agency (MEMA).
- C. The GAR or the Alternate GAR must submit the request for Fire Management Assistance Declaration while the fire is burning uncontrolled and threatens such destruction as would constitute a major disaster.

2. Procedures

- A. The GAR or an Alternate GAR, can request a FMAGP declaration, when it is felt a given wildfire threatens such destruction as would constitute a major disaster.
- B. If a FMA declaration request is approved by FEMA, an amendment to the FEMA-State Agreement for FMAGP will be executed for that particular declaration.
- C. DNR and MEMA in accordance with the FEMA-State Agreement for FMAGP will coordinate with State Legal Counsel for all human caused fires and will provide FEMA with a legal analysis on the State's ability to recover costs and how the State is pursuing the recovery of such costs.
- D. DNR and MEMA will prepare, in coordination with FEMA and FEMA's principal advisor, Project Worksheets (PWs) pertaining to the declared fire.
- E. Detailed record keeping and documentation is critical due to the questions of cost eligibility and duplication of benefits when dealing with fire suppression activities involving various federal, state, local, and volunteer agencies and organizations and the potential intermixed land ownership.

- F. The funding mechanism for payment of the federal share of the eligible costs will be made through the Payment Management System (PMS) by the MEMA Finance Office.
- G. Normally, there is at least one payment based on actual costs (per category) processed for each Subgrantee before their final costs are documented. Reimbursements of actual costs documented on the PWs, up to the amount of the approved Federal Share, may be made.
- H. Initial Package for each FMA declaration shall include:
 - 1. FF 90-58
 - 2. SF-424
 - 3. FF-20-16 A & B
 - 4. Documentation (State records and/or PWs) to confirm FMAGP threshold has been met.
 - 5. The following is the applicable documentation each Subgrantee will need:

Proof of payment and copies of all Contracts, Agreements, Invoices, and Force Account Labor, Equipment, and Material Records
- I. Final claims package (per Subgrantee) will consist of the following items:
 - 1. Summary of documentation
 - 2. Copies of all supporting documentation
 - 3. Certification of Work Completion in accordance with the FEMA/State Agreement
- J. DNR and MEMA will provide, upon request, technical assistance to the Subgrantees.
- K. In addition to actual fire suppression costs there are provisions for reimbursing the FMAGP management costs under 44 CFR 204.63 in accordance with 44 CFR Part 13 and OMB Circular A-87. These costs will be maintained and documented by the DNR and MEMA for inclusion in their Category Z Management PW.
- L. Audits will be in accordance with the Federal Single Audit Act and 44 Code of Federal Regulation (CFR) Part 13 and 2 CFR, Part 200.
- M. All PWs will be treated as Large Projects, regardless of PW amount.

3. Grant Management

- A. DNR and MEMA will determine the necessary organizational structure and staffing to effectively manage and administer this program and will request reimbursement of direct costs for the administration/management of the FMAGP under 44 CFR Part 13 and 44 CFR Section 204.63.
- B. DNR and MEMA will administer the FMAGP in accordance with applicable portions of 44 CFR Part 204 Subpart A through E (Fire Management Assistance Grant Program), 44 CFR Part 206 Subpart G – (Public Assistance Project Administration), FEMA Common Rule 44 CFR Part 13, Audit requirements Part 13, OMB Circular A-87, and those applicable parts of this plan.

4. Financial Reporting

- A. Federal Financial Report, Standard Form (SF) 425, will be submitted annually (44 CFR Part 13.41(b)(3)).
- B. Final Reporting procedures (Closeout)
 - 1. DNR and MEMA will conduct a final review of documentation to resolve any outstanding issues.
 - 2. MEMA will write a letter requesting closeout from FEMA.
 - 3. MEMA will construct Final SF425 with appropriate signature and submit with closeout letter.

5. Organization and Assignment of Responsibilities

DNR and MEMA will maintain close coordination and cooperation in the management of FMAGP. Their duties are as follows:

- A. Maryland Department of Natural Resources (DNR)
 - 1. DNR is responsible for State compliance with the FEMA-State Agreement.
 - 2. When there are DNR suppression costs on a fire declaration, DNR will manage their costs as a sub-grantee.
 - 3. Determining staffing requirements necessary for proper program management.
 - 4. Assisting FEMA in preparing Project Worksheets (PWs), using documented costs.

- B. Maryland Emergency Management Agency (MEMA)
1. MEMA is responsible for State compliance with the FEMA-State Agreement.
 2. Determining staffing requirements necessary for proper program management.
 3. Notifying potential applicants by written or verbal communication through officials of the political subdivisions.
 4. Assisting FEMA is determining work and applicant eligibility.
 5. Providing technical assistance to sub-grantees, including briefing for potential applicants on the application procedures, program eligibility, and deadlines.
 6. Submitting and reviewing requests for FMA applications (FEMA Form 90-133) from Sub-grantees.
 7. Assisting in preparing Project Worksheets (PWs), using documented costs.
 8. Reviewing the Sub-grantee's costs prior to submitting PWs to FEMA.
 9. Coordinating with Sub-grantees in the recovery of disallowed costs/duplication of benefits.
 10. Processing payments for Sub-grantees through the Payment Management System.
 11. Processing requests for appeals and time extensions.
 12. Making recommendations to FEMA on appeals.
 13. Monitoring/processing closeouts and audit reconciliation of each Sub-grantee.
 14. Maintaining all files for the Sub-grantees.

6. Funding

Cost Share

The Fire Management Assistance Grant Program is subject to a cost share. The Federal costs share is 75% and the State/Local cost share is 25% of the eligible costs.

7. Definitions

See Appendix A of the State Public Assistance Administrative Plan.

8. Assurances and Certifications

MEMA will obtain a Certificate of Assurances and an Award Acceptance Agreement from the Sub-grantee of an FMAG declaration. It will state that they

will follow applicable environmental laws that apply to the Sub-grantee. See Appendices E and F.