

§ 78.4

(1) Provide technical assistance to communities to assist them in developing applications and implementing approved applications;

(2) Award planning grants;

(3) Submit plans to the FEMA Regional Administrator for approval;

(4) Evaluate project applications, selecting projects to forward to the FEMA Regional Administrator for final approval; and

(5) Submit performance and financial reports to FEMA in compliance with 44 CFR 13.40 and 13.41.

(c) *Community*. The community will:

(1) Complete and submit applications to the State POC for the Planning and Projects Grants;

(2) Prepare and submit the Flood Mitigation Plan;

(3) Implement all approved projects;

(4) Comply with FMA requirements, 44 CFR part 13, the grant agreement, applicable Federal, State and local laws and regulations (as applicable); and

(5) Account for the appropriate use of grant funds to the State POC.

[62 FR 13347, Mar. 20, 1997, as amended at 74 FR 15343, Apr. 3, 2009]

§ 78.4 Applicant eligibility.

(a) The State is eligible to apply for grants for Technical Assistance.

(b) State agencies and communities are eligible to apply for Planning and Project Grants and to act as sub-grantee. Communities on probation or suspended under 44 CFR part 60 of the NFIP are not eligible. To be eligible for Project Grants, an eligible applicant will develop, and have approved by the FEMA Regional Administrator, a Flood Mitigation Plan in accordance with § 78.5.

§ 78.5 Flood Mitigation Plan development.

A Flood Mitigation Plan will articulate a comprehensive strategy for implementing technically feasible flood mitigation activities for the area affected by the plan. At a minimum, plans will include the following elements:

(a) Description of the planning process and public involvement. Public involvement may include workshops, public meetings, or public hearings.

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(b) Description of the existing flood hazard and identification of the flood risk, including estimates of the number and type of structures at risk, repetitive loss properties, and the extent of flood depth and damage potential.

(c) The applicant's floodplain management goals for the area covered by the plan.

(d) Identification and evaluation of cost-effective and technically feasible mitigation actions considered.

(e) Presentation of the strategy for reducing flood risks and continued compliance with the NFIP, and procedures for ensuring implementation, reviewing progress, and recommending revisions to the plan.

(f) Documentation of formal plan adoption by the legal entity submitting the plan (e.g., Governor, Mayor, County Executive).

§ 78.6 Flood Mitigation Plan approval process.

The State POC will forward all Flood Mitigation Plans to the FEMA Regional Administrator for approval. The Regional Administrator will notify the State POC of the approval or disapproval of the plan within 120 days after submission. If the Regional Administrator does not approve a mitigation plan, the Regional Administrator will notify the State POC of the reasons for non-approval and offer suggestions for improvement.

§ 78.7 Grant application procedures.

States will apply for Technical Assistance and Planning Grants through the annual Cooperative Agreement between FEMA and the State. The State POC will be notified regarding their available funds for project grants each fiscal year. The State may forward project applications to FEMA for review at any time.

§ 78.8 Grant funding limitations.

(a) The Administrator will allocate the available funds for FMA each fiscal year. Each State will receive a base amount of \$10,000 for Planning Grants and \$100,000 for Project Grants, with the remaining funds distributed based on the number of NFIP policies, repetitive loss structures, and other such

criteria as the Administrator may determine in furtherance of the disaster resistant community concept.

(b) A maximum of \$1,500,000 may be allocated for Planning Grants nationally each fiscal year. A Planning Grant will not be awarded to a State or community more than once every 5 years, and an individual Planning Grant will not exceed \$150,000 to any State agency applicant, or \$50,000 to any community applicant. The total Planning Grant made in any fiscal year to any State, including all communities located in the State, will not exceed \$300,000.

(c) A maximum of ten percent of the funds available for Project Grants will be allocated to Technical Assistance grants each fiscal year.

(d) The total amount of FMA Project Grant funds provided during any 5-year period will not exceed \$10,000,000 to any State or \$3,300,000 to any community. The total amount of Project Grant funds provided to any State, including all communities located in the State will not exceed \$20,000,000 during any 5-year period.

§ 78.9 Planning grant approval process.

The State POC will evaluate and approve applications for Planning Grants. Funds will be provided only for the flood portion of any mitigation plan, and Planning Grants will not be awarded to develop new or improved floodplain maps. The performance period for each Planning Grant will not exceed 3 years.

§ 78.10 Project grant approval process.

The State POC will solicit applications from eligible applicants, review projects for eligibility, and select applications for funding. Those project applications will then be forwarded to FEMA for final approval. FEMA will provide funding on a project by project basis through a supplement to the annual Cooperative Agreement. The FEMA Regional Administrator will notify States regarding the program schedule at the beginning of each fiscal year.

§ 78.11 Minimum project eligibility criteria.

The identification of a project or activity in an approved Flood Mitigation Plan does not mean it meets FMA eligibility criteria. Projects must:

(a) Be cost-effective, not costing more than the anticipated value of the reduction in both direct damages and subsequent negative impacts to the area if future floods were to occur. Both costs and benefits are computed on a net present value basis.

(b) Be in conformance with 44 CFR part 9, Floodplain Management and Protection of Wetlands; Executive Order 12699, Seismic Safety of Federal and Federally Assisted or Regulated New Building Construction; 44 CFR part 10, Environmental Considerations; and any applicable environmental laws and regulations.

(c) Be technically feasible.

(d) Be in conformance with the minimum standards of the NFIP Floodplain Management Regulations at 44 CFR part 60.

(e) Be in conformance with the Flood Mitigation Plan; the type of project being proposed must be identified in the plan.

(f) Be located physically in a participating NFIP community that is not on probation or must benefit such community directly by reducing future flood damages.

§ 78.12 Eligible types of projects.

The following types of projects are eligible for funding through FMA, providing they meet all other eligibility criteria.

(a) Acquisition of insured structures and underlying real property in fee simple and easements restricting real property to open space uses.

(b) Relocation of insured structures from acquired or restricted real property to non hazard-prone sites.

(c) Demolition and removal of insured structures on acquired or restricted real property.

(d) Elevation of insured residential structures in accordance with 44 CFR 60.3.

(e) Elevation or dry floodproofing of insured non-residential structures in accordance with 44 CFR 60.3.