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(3) Updates to State disaster assistance plans, including plans for the Individual and Family Grant (IFG) Program, Public Assistance Program, Hazard Mitigation Grant Program, Disaster Application Center operations, damage assessment, etc.;

(4) Handbooks to implement State disaster assistance program activities;

(5) Exercise materials (EXPLAN, scenario, injects, etc.) to test and exercise procedures for State efforts in disaster response, including provision of individual and public assistance;

(6) Standard operating procedures for individual State agencies to execute disaster responsibilities for IFG, crisis counseling, mass care or other functional responsibilities;

(7) Training for State employees in their responsibilities under the State's disaster assistance plan;

(8) Report of formal analysis of State enabling legislation and other authorities to ensure efficient processing by the State of applications by governmental entities and individuals for Federal disaster relief;

(9) An inventory of updated inventory of State/local critical facilities (including State/local emergency operations centers) and their proximity to identified hazard areas;

(10) A tracking system of critical actions (identified in postdisaster critiques) to be executed by State or local governments to improve disaster assistance capabilities or reduce vulnerability to natural hazards.

(11) Plans or procedures for dealing with disasters not receiving supplementary Federal assistance;

(12) Damage assessment plans or procedures;

(13) Procedures for search and rescue operations; and,

(14) Disaster accounting procedures.

(c) The State shall provide quarterly financial and performance reports to the Regional Administrator. Reporting shall be by program quarter unless otherwise agreed to by the Regional Administrator.

[54 FR 2129, Jan. 19, 1989]

PART 301 [RESERVED]

PART 302—CIVIL DEFENSE-STATE AND LOCAL EMERGENCY MANAGEMENT ASSISTANCE PROGRAM (EMA)

Sec.
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AUTHORITY: 50 U.S.C. app. 2251 *et seq*. Reorganization Plan No. 3 of 1978; E.O. 12148.

SOURCE: 48 FR 44211, Sept. 28, 1983, unless otherwise noted.

§ 302.1 Purpose.

(a) The regulations in this part prescribe the requirements applicable to the Emergency Management Assistance (EMA) program for Federal financial contributions to the States, and through the States to their political subdivisions, for up to one half of the necessary and essential State and local civil defense personnel and administrative expenses, under section 205 of the Federal Civil Defense Act of 1950, as amended, and set forth the conditions under which such contributions will be made.

(b) The intent of this program is to increase civil defense operational capability at the State and local levels of government by providing Federal financial assistance so that personnel and other resources can be made available for essential planning and other administrative functions and activities required in order to accomplish this objective.

§ 302.2 Definitions.

Except as otherwise stated or clearly apparent by context, the definitions ascribed in this section to each of the listed terms shall constitute their meaning when used in the regulations in this part. Terms not defined in this part shall have the meaning set forth in their definition, if any, in the Federal Civil Defense Act of 1950, as amended.

(a) *Act*. The Federal Civil Defense Act of 1950, as amended (50 U.S.C. App. 2251 *et seq*.).

(b) *Administrative expenses*. Necessary and essential expenses, other than personnel expenses as defined in this section, of a grantee and its subgrantees incurred in the administration of their civil defense programs, as detailed in CPG 1–3, Federal Assistance Handbook, and in CPG 1–32, FEMA Financial Assistance Guidelines.

(c) *Annual submission*. The State's annual request for participation in the contributions program authorized by section 205 of the Act. As specified in CPG 1–3, it includes staffing patterns (including job description changes), budget requirements, and any amendments to the State administrative plan, a request for funds covering the State and its subgrantees and program statements of work for the grantee and subgrantees under the Comprehensive Cooperative Agreement.

(d) *Approval*. All approvals by the Federal Emergency Management Agency (FEMA) as grantor agency required under the regulations in this part mean prior approval in writing signed by an authorized FEMA official. When failure to obtain prior approval of an action has not resulted and is not expected to result in any failure of compliance with a substantive requirement, and approval after the fact is not contrary to law (or regulation having the effect of law), written approval after the fact may be granted at the discretion of the authorized official.

(e) *CPG 1–3*. Civil Preparedness Guide entitled ''Federal Assistance Handbook,'' which sets forth detailed guidance on procedures that a State and, where applicable, its political subdivisions must follow in order to request financial assistance from the grantor agency. It also sets forth detailed requirements, terms, and conditions upon which financial assistance is granted under these regulations. Included are amendments by numbered changes. References to CPG 1–3 include provisions of any other volumes of the CPG series specifically referenced in CPG 1–3. Copies of the Civil Preparedness Guides and the Civil Preparedness Circulars may be ordered by FEMA Regional Offices using FEMA Form 60–8 transmitted to FEMA, P.O. Box 8181, Washington, DC, 20024. One or more copies of CPG 1–3 have been distributed to each State and to each local government participating in the program under the regulations in this part. Copies of revisions and amendments are distributed to participating governments (addressed to the Emergency Management Coordinator) upon issuance.

(f) *Comprehensive Cooperative Agreement (CCA)*. Provides for each State a single vehicle for applying for and receiving financial assistance for several discrete FEMA programs and for organizing and reporting on emergency management objectives and accomplishments, particularly under the funded programs.

(g) *Emergency management*. Refers to the activities and measures undertaken by a State, or one of its political subdivisions, to manage a ''civil defense program'' as defined and provided for by the Federal Civil Defense Act of 1950, as amended, including without limitation Title V, added by Public Law 96–342, and section 207, added by Public Law 97–86. Title V calls for an improved civil defense program that includes:

(1) A program structure for the resources to be used for attack-related civil defense; (2) a program structure for the resources to be used for disaster-related civil defense; and (3) criteria and procedures under which those resources planned for attack-related civil defense and those planned for disaster-related civil defense can be used interchangeably. Thus, emergency management includes ''civil defense'' for and operations in either attack-related or disaster-related emergencies. Section 207 allows Federal Civil Defense Act funds to be used for disaster preparedness and response if such use ''is consistent with, contributes to, and does not detract from attack-related civil defense preparedness.'' Also 44 CFR part 312, Use of Civil Defense Personnel, Materials, and Facilities for Natural Disaster Purposes, provides terms and conditions for such use.

(h) *Administrator*. The head of the grantor agency or another official of the Agency authorized in writing by

the Administrator to act officially on behalf of the Administrator.

(i) *Forms prescribed by the grantor agency*. Forms prescribed by the grantor agency are identified in CPG 1–3 and may be ordered by FEMA Regional Offices using FEMA Form 60–8 transmitted to FEMA, P.O. Box 8181, Washington, DC, 20024.

(j) *Grantee*. A State that has received EMA funds as a result of having a State administrative plan, a statement of work, and an annual submission, all approved by the grantor agency as meeting the requirements prescribed in this part and in CPG 1–3 for necessary and essential State and local civil defense personnel and administrative expenses for a current Federal fiscal year.

(k) *Grantor agency*. The Federal Emergency Management Agency (FEMA).

(l) *Interstate civil defense authority*. Any civil defense authority established by interstate compact pursuant to section 201(g) of the Act.

(m) *Necessary and essential civil defense expenses*. Necessary and essential civil defense expenses are those required for the proper and efficient administration of the civil defense program of a grantee or a subgrantee as described in a State administrative plan and statement of work approved by the Regional Administrator as being consistent with the national plan (i.e., program) for civil defense and as meeting other requirements for civil defense prescribed by or under provisions of the Act.

(n) *OMB Circular A–87*. ''Cost Principles Applicable to Grants and Contracts with State and Local Governments,'' promulgated by the Office of Management and Budget, Executive Office of the President, as published in the FEDERAL REGISTER (46 FR 9548) and subsequent amendments or revisions. (See CPG 1–32, Financial Assistance Guidelines).

(o) *OMB Circular A–102*. ''Uniform Administrative Requirements for Grants-in-aid to State and Local Governments,'' promulgated by the Office of Management and Budget, Executive Office of the President (42 FR 45828) including amendments or revisions as published in the FEDERAL REGISTER. (See CPG 1–32, Financial Assistance Guidelines).

(p) *Emergency Operations Plan (EOP)*. State or local government Emergency Operations Plans identify the available personnel, equipment, facilities, supplies, and other resources in the jurisdiction and states the method or scheme for coordinated actions to be taken by individuals and government services in the event of natural, man-made and attack-related disasters.

(q) *Personnel expenses*. Necessary and essential civil defense expenses for personnel on the approved staffing pattern of a grantee or subgrantee (including but not necessarily limited to salaries, wages, and supplementary compensation and fringe benefits) for such employees appointed in accordance with State and local government laws and regulations under a system which meets Federal merit system and other applicable Federal requirements. Such expenses must be supported by job descriptions, payrolls, time distribution records, and other documentation as detailed in CPG 1–3. Personnel compensation and other costs incurred with regard to employees who are not on the civil defense staff but whose work serves the civil defense agency (e.g., State's budget and accounting office) may be charged as civil defense expense to the extent covered therefore in a federally approved indirect cost allocation plan.

(r) *Political subdivisions*. Local governments, including but not limited to cities, towns, incorporated communities, counties or parishes, and townships.

(s) *Regional Administrator*. A FEMA official delegated authority to exercise specified functions as they apply to grantees and subgrantees, within the geographical area of a particular region as identified (including address) in 44 CFR part 2.

(t) *State*. Any of the actual States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, and the territories of American Samoa, Guam, and the Virgin Islands.

(u) *State administrative plan*. A one-time submission with amendments as necessary to keep it current, the plan

is a formal description of each participating State's total civil defense program and of related State and local laws, executive directives, rules, and plans and procedures, including personnel standards administered on a merit basis, updated emergency operations plans, travel regulations, indirect cost allocation plans and other information necessary to reflect the total civil defense program throughout the State. The plan also includes without limitation documentation as to administrative and financial systems to assure compliance with uniform grant-in-aid administrative requirements for States and subgrantees as required under OMB Circular A–102 and with other requirements relevant to the eligibility of the State and its political subdivisions for participation in financial assistance programs for civil defense purposes. Detailed requirements are prescribed in CPG 1–3. (Also see § 302.3.)

(v) *Statement of work.* Formal identification of specific actions to be accomplished by a State and its political subdivisions during the fiscal year for which Federal funds are being requested by the State. Submission is made to the FEMA Regional Administrator as part of the CCA Program Narrative.

(w) *Subgrantee.* A political subdivision of a State listed in the State's annual submission (or amendments thereto) as approved by the grantor agency (including any grantor agency-approved amendments thereto) as eligible to receive a portion of the Federal financial contribution provided for use within the State. The term includes Indian tribes when the State has assumed jurisdiction pursuant to State law and tribal regulations.

[48 FR 44211 Sept. 28, 1983, as amended at 51 FR 12520, Apr. 11, 1986; 74 FR 15354, Apr. 3, 2009]

§ 302.3 Documentation of eligibility.

In order to remain eligible for Federal financial contributions under the regulations in this part, each State must have on file with FEMA a current State administrative plan, an emergency operations plan for civil defense, and an annual submission (including a statement of work) which have been approved by the Regional Administrator as being consistent with the national plan (i.e., program) for civil defense and as meeting the requirements of the regulations in this part and CPG 1–3. A State may allocate a portion of its EMA funds to an Indian tribe as a subgrantee where the State has assumed jurisdiction pursuant to State law and tribal regulations.

(a) *State administrative plans.* Every State has a State administrative plan file with FEMA and is required to keep the plan current through amendments as necessary. Such plans and amendments shall be reviewed by the Regional Administrator, who will advise the State in writing as to the effect, if any, changes will have on the continued eligibility of the State and its subgrantees. The Regional Administrator shall not, however, approve any amendments that would result in failure of the plan to meet these criteria:

(1) Provides for and is, pursuant to State law, in effect in all political subdivision of the State, mandatory on them, and, unless waived by the Administrator under section 204 of the Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4214), administered or supervised by a single State administrative agency. In demonstrating that the State administrative plan for civil defense is in effect in all political subdivisions of the State and mandatory on them, the plan shall contain references to the applicable State statutes and local ordinances, executive orders and directives, and rules and regulations at the State and local level that establish the civil defense authority, structure, plans, and procedures, including those relating to emergency operations, throughout the State.

(2) Provides assurance of nonFederal contributions at least equal to Federal funding for necessary and essential costs eligible under this program from any source consistent with State law, but not from another Federal source unless Federal law specifically authorizes the use of funds from such Federal source as part of the State's share.

(3) Provides for the development of State and local government civil defense emergency operations plans pursuant to the standards approved by the Administrator.

(4) Provides for the employment by the State of full-time civil defense director or deputy director.

(5) Provides for the establishment and maintenance of methods of personnel administration in public agencies administering or supervising the civil defense program, at both the State and local government levels, in conformity with the Standards for a Merit System of Personnel Administration (5 CFR part 900), which incorporate the Intergovernmental Personnel Act Merit Principles (Pub. L. 91–648, section 2, 84 Stat. 1908) prescribed by the Office of Personnel Management pursuant to section 208 of the Intergovernmental Personnel Act of 1970, as amended.

(6) Provides for the establishment of safeguards to prohibit State and local government employees from using their positions for a purpose that is or gives the appearance of being motivated by desire for private gain for themselves or others, particularly those with whom they have family, business, or other ties.

(7) Provides that the State shall make such reports (including without limitation financial reports) in such form and content as the Administrator may require.

(8) Provides that the State and all subgrantees shall retain, in accordance with OMB Circular A–102, and make available to duly authorized representatives of the Administrator and the U.S. Comptroller General all books, records, and papers pertinent to the grant program for the purpose of making audits, examinations, excerpts, and transcripts necessary to conduct audits.

(9) Provides for establishment and maintenance of a financial management system of grant-supported activities of the State and all subgrantees which meets the federally prescribed standards promulgated in ''Standards for Grantee Financial Management Systems,'' Attachment G of OMB Circular A–102.

(10) Provides for establishment and maintenance of procedures for monitoring and reporting grant program and project performance of the State and its subgrantees which meet the federally prescribed standards promulgated in Attachment I of OMB Circular A–102.

(11) Provides for the establishment and maintenance at the State level and by subgrantees of property management systems in accordance with the federally prescribed standards set forth in Attachment N of OMB Circular A–102.

(12) Provides for the establishment and maintenance at the State level and by subgrantees of systems for the procurement of supplies, equipment, construction, and other services, with the assistance of grant funds, in accordance with federally prescribed standards set forth in Attachment O of OMB Circular A–102.

(13) Provides for disbursement of the appropriate share of the Federal grant to the State's subgrantees in accordance with requirements detailed in CPG 1–3.

(14) Provides for the State's supervision and review of the civil defense plans, programs, and operations of its subgrantees to obtain conformity and compliance with Federal requirements and goals set forth or referenced in the regulations in this part and as detailed in CPG 1–3.

(15) Contains a Statement of Compliance with grantor agency regulations relating to nondiscrimination in FEMA programs (see 44 CFR part 7).

(16) Provides for timely submission to the appropriate Regional Administrator of amendments to the administrative plan as necessary to reflect the current laws, regulation, criteria, plans, methods, practices, and procedures for administration of the State's civil defense program and those of its subgrantees.

(17) Conforms to other Federal standards and requirements set forth or referenced in the regulations in this part and as detailed in CPG 1–3.

(18) Provides for performance of independent organizationwide audits by State and local governments that receive EMA funds of their financial operations, including compliance with certain provisions of Federal law and regulation.

(b) *Emergency Operations Plans (EOP's).* (1) Each participating State shall have an EOP approved by the Regional Administrator and conforming

with the requirements for plan content set forth in this part and in CPG 1–3, and in CPG 1–8 ''Guide for the Development of State and Local Emergency Operations Plans'' and in CPG 1–8A, ''Guide for the Review of State and Local Emergency Operations Plans,'' which plan must provide for coordinated actions to be undertaken throughout the State in the event of attack and in the event of other disasters.

(2) Each subgrantee jurisdiction shall have a local EOP which conforms with the requirements for plan content as set forth in CPG 1–3 and CPG 1–8 and CPG 1–8A, and which has been approved by the local chief executive or other authorized official and accepted by the Governor or other authorized State official as being consistent with the State's EOP.

(c) *Annual submission.* Each State should include in its annual CCA application the amount of EMA funding requested (see §302.5(c)). In order to participate for a particular Federal fiscal year, however, each State must also, within 60 days of receipt or notice of a formal allocation made pursuant to the criteria set forth in §302.5 and in accordance with procedures and criteria specified in CPG 1–3, submit to the Regional Administrator an approvable annual submission which includes:

(1) A request or amended request for a financial contribution from FEMA in a specified amount for civil defense personnel and administrative expenses; (see §302.5 (d) through (h)).

(2) Unless previously submitted for the particular Federal fiscal year, a statement of work for the State and proposed subgrantees or amendments to a statement of work previously submitted under the CCA.

(3) Staffing patterns (including new or revised job descriptions not previously submitted) on forms prescribed by FEMA for the civil defense organizations of the State and proposed subgrantees; and

(4) Any amendments to the State administrative plan required to reflect current status.

(d) *Approval of State administrative plan and annual submission.* If the State administrative plan and the annual submission are determined to be approvable, the Regional Administrator will so notify the State in writing. The State administrative plan is a one-time submission. Unless amendments are necessary to meet Federal standards prescribed in the regulations in this part or in CPG 1–3 or to reflect changes in the State's administrative structure, procedures, criteria, or activities, or unless a portion were conditionally approved by the Regional Administrator as provided for in paragraph (e) of this section, no approval regarding the State administrative plan will be required for a State which participated for the preceding Federal fiscal year.

(e) *Agreement for contribution.* Approval pursuant to procedures and criteria described in this part and in CPG 1–3 of an annual submission of a State whose administrative plan is approved and current shall constitute agreement between FEMA and the State as grantee for its participation and that of its subgrantees in this program during the Federal fiscal year covered by the approved annual submission on the basis of the requirements and conditions prescribed in this part, in CPG 1–3, and in other federally promulgated criteria referenced in this part. Refusal or failure to comply with such requirements and conditions may result in the grantor agency cancelling, terminating, or suspending the grant, in whole or in part, and refraining from extending any further assistance to the grantee or subgrantee until satisfactory assurance of future compliance has been received.

(f) *Disapproval or conditional approval.* If a State's administrative plan or annual submission is disapproved, the Regional Administrator will advise the State in writing, including the reasons for such disapproval and the revisions required for approval. The State shall have 30 days from date of such notification in which to submit its revisions. In the event more time is required in which to place the revisions into effect, the Regional Administrator may conditionally approve the State administrative plan or annual submission subject to the specified conditions to be met within a specified time, as agreed by the State and FEMA.

(g) *Appeals.* (1) Appeal from a Regional Administrator's disapproval of a

State administrative plan or an annual submission or other final action as unjustified under the criteria in CPG 1–3 may be made by letter to the Deputy Administrator for the National Preparedness Directorate, signed by an authorized State official and submitted through the Regional Administrator. Such appeal letter shall be mailed or otherwise transmitted so as to reach the Regional Administrator within 30 days after receipt of the notification of disapproval. Failure to file its appeal on time may result in withdrawal of the State's allocation and the proposed funding being reallocated by the Administrator.

(2) A local jurisdiction that regards the final action on its subgrant made by a State as unjustified under the criteria in CPG 1–3 may submit an appeal through the State to the Regional Administrator. Upon receipt of such an appeal, the RegionalAdministrator shall forward the letter, together with all available pertinent documentation from the Regional Administrator's files and any additional documentation submitted by the local jurisdiction in support of its appeal, to the Deputy Administrator for the National Preparedness Directorate, for review and determination. The appeal shall contain all of the exceptions being taken by the State or local jurisdiction, and no exceptions will be determined piecemeal.

(3) No portion of the appellant State's allocation shall be reallocated by FEMA, and no portion of a local jurisdiction's allocation shall be reallocated by the State, pending determination of its appeal by the Administrator. The State and local jurisdiction (if applicable) will be notified in writing of the Administrator's decision, including a statement of the reasons therefor.

[48 FR 44211 Sept. 28, 1983, as amended at 51 FR 12520, Apr. 11, 1986; 74 FR 15354, Apr. 3, 2009]

§ 302.4 Merit personnel systems.

(a) *Background.* Section 208 of the Intergovernmental Personnel Act, as amended (42 U.S.C. 4728) authorizes Federal agencies to require, as a condition of participation in Federal assistance programs, systems of a personnel administration consistent with personnel standards prescribed by the Office of Personnel Management (OPM). OPM has promulgated Standards for a System of Personnel Administration (5 CFR part 900) which prescribe intergovernmental personnel standards on a merit basis as a condition of eligibility in the administration of grant programs. OPM has approved FEMA adoption of these standards by the regulations in this part.

(b) *Standard.* Participation by each grantee and each subgrantee under the program covered in this part is subject to compliance with the following conditions regarding merit personnel systems:

> Methods of personnel administration will be established and maintained in public agencies administering or supervising the administration of the civil defense program in conformity with the Standards for a Merit System of Personnel Administration 5 CFR part 900, which incorporate the Intergovernmental Personnel Act Merit Principles (Pub. L. 91–648, section 2, 84 Stat. 1909) prescribed by the Office of Personnel Management pursuant to section 208 of the Intergovernmental Personnel Act of 1970 as amended.

Section 302.3(a)(5) of this part provides, in part, that State administrative plans that fail to provide for fulfilling this condition are not approvable.

§ 302.5 Allocations and reallocations.

(a) The Administrator shall allocate the entire amount of funds available for the purposes of this program from the appropriation for each fiscal year. The allocation made to each State represents the total amount of funds available to pay the Federal share of necessary and essential civil defense personnel and administrative expenses of the State and its participating subdivisions during the fiscal year.

(b) The first calculation for developing the allocation for each State will be a formula distribution in accordance with section 205(d) of the Act, made by applying the following percentages to the total sum of Emergency Management Assistance in the President's budget request to Congress:

(1) Fifty (50) percent will be allocated on the basis of the prior-year State allocations, in fulfilment of the statutory requirement to give due regard to ''the relative state of development of

civil defense readiness of the State'' (State and local levels).

(2) Thirty-three (33) percent will be allocated on the basis of the ratio of the State's population to the national population (50 States, District of Columbia, and Puerto Rico), in fulfilment of the statutory requirements to give due regard to ''population'' and to ''the criticality of target and support areas and the areas which may be affected by natural disasters with respect to the development of the total civil defense readiness of the Nation.''

(3) Fifteen (15) percent will be divided equally among the 50 States, the District of Columbia, and Puerto Rico.

(4) In consonance with the statutory provision allowing the Administrator to prescribe other factors concerning the State allocations, the remaining two (2) percent will be held temporarily in reserve, to be used first to fund the four territories of the Virgin Islands, American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands. Conditions peculiar to those areas make strict application of the mathematical formula in § 302.5(b) inequitable. Therefore, the Administrator will consider prior-year allocations, percentage of total United States population, and the factors set out in § 302.5(e) (1), (2), (4), and (5) in determining their allocations. The remaining balance of the reserve fund will then be used to restore any State which would receive less by formula share than its formula share for the previous fiscal year, provided that the reserve balance is sufficient to do this for all such States. Any remaining balance after this has been done will constitute a supplemental fund from which the Administrator will consider State requests for additional funding and the needs of any interstate civil defense authorities.

(c) For initial planning purposes only, each State will then be informed of the figure by the Regional Administrator. The State will base its initial EMA application upon that figure but may request a smaller amount or with appropriate justification a larger amount.

(d) The amount requested by the State shall not exceed 50 percent of its estimate of necessary and essential State and local personnel and administrative expenses for the fiscal year.

(e) The formula distribution shall be reviewed and evaluated, and adjusted as appropriate, by the Administrator, based on the current situation in each State, the requests of all States, and recommendations by the Regional Administrators. The Administrator will consider the following five factors:

(1) The ability of the State and its subgrantees to effectively expend such an amount for necessary and essential civil defense personnel and administrative purposes. Past performance is a factor in this determination.

(2) Special circumstances existing in the State at the time of allocating which require unusual expenditures for civil defense.

(3) Conditions peculiar to the State which make strict application of mathematical formula inequitable either to that State or other States.

(4) The relative cost of civil defense personnel and administrative services in that State; that is, whether such costs are considerably above or below the national average for similar services and expenses.

(5) Substantial changes in the civil defense readiness of the State not reflected by its recent civil defense expenditures.

(f) In September of each year, based on applications received and recommendations by the Regional Administrators, the Administrator will make a tentative allocation to the States. This will include adjustments for States that have indicated they will not be using the total of the formula distribution amount. States can then revise their earlier plans and applications to more nearly reflect the level of funding expected to become available.

(g) A State may provide to the Regional Administrator a preliminary annual submission in an amount not to exceed its tentative allocation.

(h) By September 30 (or as soon thereafter as feasible), the Administrator will make a formal allocation based on, or subject to, appropriation by Congress and allotment of the funds. This allocation for each State may include any additional amounts from the reserve portion of the EMA funds, and shall be in accordance with

the regulations in this part and CPG 1–3.

(i) Upon the appropriation becoming available, and if requested by a State, the Regional Administrator may approve such State's preliminary annual submission (if found to meet all requirements in this part and CPG 1–3) in an appropriate amount which does not exceed the amount of the State's share of the Administrator's formal allocation of the Federal appropriation. An award document obligating Federal funds on the basis of the approved preliminary annual submission may be executed in accordance with the provisions of CPG 1–3.

(j) Based on and within 60 days after notification of its formal allocation, each State must provide to the Regional Administrator a final annual submission which meets all requirements in this part and CPG 1–3. If no changes are necessary, a State and the Regional Administrator may adopt in writing the State's preliminary annual submission as its final annual submission. If no award document was executed based on a State's preliminary annual submission, such document will be executed on the basis of that State's approved final annual submission.

(k) With regard to any State whose award document was executed pursuant to a preliminary annual submission covering only part of its formal allocation, upon approval (by the Regional Administrator) of the final annual submission (including a revised statement of work supporting the additional funding request) the Regional Administrator shall execute an amended award document obligating the balance of such State's formal allocation.

(l) After being advised of its annual formal allocation, if a State fails to submit, within 60 days, an approvable annual submission in the amount of its allocation, the Regional Administrator may reallocate the unused portion to other States in the region in such amounts as in his/her judgment will best assure adequate development of the civil defense capability of the Nation. The exception to this authority is in the event a State, or local jurisdiction, refuses to participate in attack preparedness activities. EMA funds withheld or returned for that reason are to be released to headquarters for reallocation on a national basis. In addition, the Regional Administrator may from time to time reallocate the amounts released by a State from its allocation as no longer being required for utilization in accordance with an approved annual submission and award document.

(m) Immediate notice to the headquarters EMA Program Manager of State reallocations is required in the form of copies of EMA-approved Annual Submission amendment documents, accompanied by copies of assistance award/amendment documents signed by regional and State authorized officials of both the releasing and recipient States.

(n) There is no dollar ceiling on the amount of funds that may be reallocated among States in a region. However, at any time that there are funds surplus to the eligible needs of the States within a region, those funds should be promptly released to headquarters for reallocation to other States with unfunded additional requirements.

(o) On July 1 of each fiscal year, the authority to reallocate EMA funds shall revert to the Administrator. In addition, any excess EMA funds available on that date, or that become available during the remainder of the fiscal year, are to be promptly released to headquarters for reallocation by the Administrator.

[48 FR 44211 Sept. 28, 1983, as amended at 51 FR 12521, Apr. 11, 1986; 51 FR 43924, Dec. 5, 1986; 56 FR 29905, July 1, 1991]

§ 302.6 Fiscal year limitation.

Federal appropriations for the program covered by the regulations in this part are limited for obligation on a Federal fiscal year basis. Each annual submission (or amendment thereto) which results in a change in scope (e.g., an increase in the amount of funds other than a cost overrun) must be approved during the Federal Fiscal year for which the funds to be charged were appropriated. Valid expenses incurred by a State or its subgrantee during the fiscal year but before obligation by FEMA of funds under this program may qualify for payment of a Federal financial contribution out of the funds

subsequently appropriated for that fiscal year.

§ 302.7 Use of funds, materials, supplies, equipment, and personnel.

Financial contributions provided under the authority of section 205 of the Act are provided for necessary and essential State and local civil defense personnel and administrative expenses as prescribed by the regulations in this part and the provisions of CPG 1–3, and are obligated only on the basis of documentation justifying such need.

(a) *Emergencies*. In addition to such civil defense use, Federal funds obligated under a grantee's approved annual submission may be used, to the extent and under such terms and conditions as prescribed by the Administrator in CPG 1–3, for providing emergency assistance, including the use of civil defense personnel, organizational equipment, materials, and facilities, in preparation for and response to actual attack-related events or natural disasters (including manmade catastrophies).

(b) *Limitations*. Section 207 of the Act allows use of funds under the Act, including those for this program, for natural (including manmade) disaster preparedness and response purposes only to the extent that such use is consistent with, contributes to, and does not detract from attack-related preparedness (reference 44 CFR part 312).

§ 302.8 Waiver of "single" State agency requirements.

Section 205 of the Act requires that plans for civil defense of the United States be administered or supervised by a single State agency (50 U.S.C. App. 2286). Notwithstanding such law, section 204 of the Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4214) provides authority for the Administrator as head of the grantor agency, upon the State's request, to waive the single State agency requirement and to approve other State administrative structure or arrangements, upon adequate showing that the requirement prevents the establishment of the most effective and efficient organizational arrangements within the State government. First, however, the Administrator must have found that the objectives of the Act (50 U.S.C. app. 2251 *et seq.*) will not be endangered by the use of such other State structure or arrangements. Attachment D of OMB Circular A–102 requires that such requests be given expeditious handling by the grantor agency and that, whenever possible, an affirmative response be made.

[48 FR 44211 Sept. 28, 1983, as amended at 51 FR 12521, Apr. 11, 1986]

PART 303 [RESERVED]

PART 304—CONSOLIDATED GRANTS TO INSULAR AREAS

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304.3 Conditions for a consolidated grant.
304.4 Allocations.
304.5 Audits and records.

AUTHORITY: 50 U.S.C. app. 2251 *et seq.;* Reorganization Plan No. 3 of 1978; E.O. 12148.

SOURCE: 43 FR 39776, Sept. 7, 1978, unless otherwise noted. Redesignated at 44 FR 56173, Sept. 28, 1979.

§ 304.1 Purpose.

The purpose of the regulations in this part is to prescribe the basis under which the Federal Emergency Management Agency (FEMA) contributes Federal funds to an insular area through a consolidated grant.

§ 304.2 Definitions.

Except as otherwise stated when used in the regulations of this part, the meaning of the listed terms are as follows:

(a) *Insular areas*. The Virgin Islands, Guam, American Samoa, and the Government of the Northern Mariana Islands.

(b) *Consolidated grant*. A grant by FEMA to any insular area through an allocation which combines funds for the State and local management program and the State and local maintenance and services program for a single Federal fiscal year.

(c) *FEMA guidance material*. FEMA regulations (44 CFR chapter I), Civil Preparedness Guide (CPG) 1–3, and Civil Preparedness Circulars (CPC) as