is the basis for the identification of measures to be funded under the Hazard Mitigation Grant Program.

(h) *State Administrative Plan for the Hazard Mitigation Grant Program* means the plan developed by the State to describe the procedures for administration of the Hazard Mitigation Grant Program.

(i) *Subgrant* means an award of financial assistance under a grant by a grantee to an eligible subgrantee.

(j) *Subgrantee* means the government or other legal entity to which a subgrant is awarded and which is accountable to the grantee for the use of the funds provided. Subgrantees can be a State agency, local government, private non-profit organization, or Indian tribe as outlined in § 206.434.

(k) *Supplement* means an amendment to the hazard mitigation application to add or modify one or more mitigation measures.

[55 FR 35537, Aug. 30, 1990, as amended at 59 FR 24356, May 11, 1994]

§ 206.432 Federal grant assistance.

(a) *General.* This section describes the extent of Federal funding available under the State's grant, as well as limitations and special procedures applicable to each.

(b) *Limitations on Federal expenditures.* The total of Federal assistance under section 404 shall not exceed 15 percent of the total estimated Federal assistance (excluding any associated administrative costs) provided under sections 403, 406, 407, 408, 410, 411, 416, and 601 of the Stafford Act. The estimate of Federal assistance under these sections shall be based on the Regional Director's estimate of all Damage Survey Reports, actual grants, mission assignments, and associated expenses.

(c) *Cost sharing.* All mitigation measures approved under the State's grant will be subject to the cost sharing provisions established in the FEMA-State Agreement. FEMA may contribute up to 75 percent of the cost of measures approved for funding under the Hazard Mitigation Grant Program for major disasters declared on or after June 10, 1993. FEMA may contribute up to 50 percent of the cost of measures approved for funding under the Hazard Mitigation Grant Program for major disasters declared before June 10, 1993. The nonFederal share may exceed the Federal share. FEMA will not contribute to costs above the Federally approved estimate.

[55 FR 35537, Aug. 30, 1990, as amended at 59 FR 24356, May 11, 1994]

§ 206.433 State responsibilities.

(a) *Grantee.* The State will be the Grantee to which funds are awarded and will be accountable for the use of those funds. There may be subgrantees within the State government.

(b) *Priorities.* The State will determine priorities for funding. This determination must be made in conformance with § 206.435.

(c) *Hazard Mitigation Officer.* The State must appoint a Hazard Mitigation Officer, as required under 44 CFR part 206 subpart M, who serves as the responsible individual for all matters related to the Hazard Mitigation Grant Program.

(d) *Administrative plan.* The State must have an approved administrative plan for the Hazard Mitigation Grant Program in conformance with § 206.437.

§ 206.434 Eligibility.

(a) *Applicants.* The following are eligible to apply for the Hazard Mitigation Program Grant:

(1) State and local governments;

(2) Private non-profit organizations or institutions that own or operate a private non-profit facility as defined in § 206.221(e);

(3) Indian tribes or authorized tribal organizations and Alaska Native villages or organizations, but not Alaska native corporations with ownership vested in private individuals.

(b) *Minimum project criteria.* To be eligible for the Hazard Mitigation Grant Program, a project must:

(1) Be in conformance with the hazard mitigation plan developed as a requirement of section 409;

(2) Have a beneficial impact upon the designated disaster area, whether or not located in the designated area;

(3) Be in conformance with 44 CFR part 9, Floodplain Management and Protection of Wetlands, and 44 CFR part 10, Environmental Considerations;

(4) Solve a problem independently or constitute a functional portion of a solution where there is assurance that the project as a whole will be completed. Projects that merely identify or analyze hazards or problems are not eligible;

(5) Be cost-effective and substantially reduce the risk of future damage, hardship, loss, or suffering resulting from a major disaster. The grantee must demonstrate this by documenting that the project;

(i) Addresses a problem that has been repetitive, or a problem that poses a significant risk to public health and safety if left unsolved,

(ii) Will not cost more than the anticipated value of the reduction in both direct damages and subsequent negative impacts to the area if future disasters were to occur. Both costs and benefits will be computed on a net present value basis,

(iii) Has been determined to be the most practical, effective, and environmentally sound alternative after consideration of a range of options,

(iv) Contributes, to the extent practicable, to a long-term solution to the problem it is intended to address,

(v) Considers long-term changes to the areas and entities it protects, and has manageable future maintenance and modification requirements.

(c) *Types of projects.* Projects may be of any nature that will result in protection to public or private property. Eligible projects include, but are not limited to:

(1) Structural hazard control or protection projects;

(2) Construction activities that will result in protection from hazards;

(3) Retrofitting of facilities;

(4) Property acquisition or relocation, as defined in § 206.434(d);

(5) Development of State or local mitigation standards;

(6) Development of comprehensive hazard mitigation programs with implementation as an essential component;

(7) Development or improvement of warning systems.

(d) *Property acquisition and relocation requirements.* A project involving property acquisition or the relocation of structures and individuals is eligible for assistance only if the applicant enters an agreement with the FEMA Regional Director that provides assurances that:

(1) The following restrictive covenants shall be conveyed in the deed to any property acquired, accepted, or from which structures are removed (hereafter called in section (d) the property):

(i) The property shall be dedicated and maintained in perpetuity for uses compatible with open space, recreational, or wetlands management practices; and

(ii) No new structure(s) will be built on the property except as indicated below:

(A) A public facility that is open on all sides and functionally related to a designated open space or recreational use;

(B) A rest room; or

(C) A structure that is compatible with open space, recreational, or wetlands management usage and proper floodplain management policies and practices, which the Director approves in writing before the construction of the structure begins.

(iii) After completion of the project, no application for additional disaster assistance will be made for any purpose with respect to the property to any Federal entity or source, and no Federal entity or source will provide such assistance.

(2) In general, allowable open space, recreational, and wetland management uses include parks for outdoor recreational activities, nature reserves, cultivation, grazing, camping (except where adequate warning time is not available to allow evacuation), temporary storage in the open of wheeled vehicles which are easily movable (except mobile homes), unimproved, previous parking lots, and buffer zones.

(3) Any structures built on the property according to paragraph (d)(1) of this section, shall be floodproofed or elevated to the Base Flood Elevation plus one foot of freeboard.

(e) *Inapplicability of the Uniform Relocation Act.* The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 does not apply to real property acquisition projects

which meet the criteria identified below:

(1) The project provides for the purchase of property damaged by the major, widespread flooding in the States of Illinois, Iowa, Kansas, Minnesota, Missouri, Nebraska, North Dakota, South Dakota, and Wisconsin during 1993;

(2) It provides for such purchase solely as a result of such flooding;

(3) It is carried out by or through a State or unit of general local government;

(4) The purchasing agency (grantee or subgrantee) notifies all potential property owners in writing that it will not use its power of eminent domain to acquire the properties if a voluntary agreement is not reached;

(5) The project is being assisted with amounts made available for:

(i) Disaster relief by the Federal Emergency Management Agency; or

(ii) By other Federal financial assistance programs.

(f) *Duplication of programs.* Section 404 funds cannot be used as a substitute or replacement to fund projects or programs that are available under other Federal authorities, except under limited circumstances in which there are extraordinary threats to lives, public health or safety or improved property.

(g) *Packaging of programs.* Section 404 funds may be packaged or used in combination with other Federal, State, local, or private funding sources when appropriate to develop a comprehensive mitigation solution, though section 404 funds cannot be used as a match for other Federal funds.

[55 FR 35537, Aug. 30, 1990, as amended at 59 FR 24356, May 11, 1994]

§ 206.435 Project identification and selection criteria.

(a) *Identification.* It is the State's responsibility to identify and select hazard mitigation projects. All funded projects must be consistent with the State's section 409 hazard mitigation plan. Hazard mitigation projects may be identified through the section 409 planning process, or through any other appropriate means. Procedures for the identification, funding, and management of mitigation projects shall be included in the State's administrative plan.

(b) *Selection.* The State will establish procedures and priorities for the selection of mitigation measures. At a minimum the criteria must be consistent with the criteria stated in § 206.434(b) and include:

(1) Measures that best fit within an overall plan for development and/or hazard mitigation in the community, disaster area, or State;

(2) Measures that, if not taken, will have a severe detrimental impact on the applicant, such as potential loss of life, loss of essential services, damage to critical facilities, or economic hardship on the community;

(3) Measures that have the greatest potential impact on reducing future disaster losses;

(c) *Other considerations.* In addition to the selection criteria noted above, consideration should be given to measures that are designed to accomplish multiple objectives including damage reduction, environmental enhancement, and economic recovery, when appropriate.

§ 206.436 Application procedures.

(a) *General.* This section describes the procedures to be used by the State in submitting an application for funding for hazard mitigation grants. Under the Hazard Mitigation Grant Program the State is the grantee and is responsible for processing subgrants to applicants in accordance with 44 CFR parts 13 and 206.

(b) *Governor's Authorized Representative.* The Governor's Authorized Representative serves as the grant administrator for all funds provided under the Hazard Mitigation Grant Program. The Governor's Authorized Representative's responsibilities as they pertain to procedures outlined in this section include providing technical advice and assistance to eligible subgrantees, and ensuring that all potential applicants are aware of assistance available and submission of those documents necessary for grant award.

(c) *Letter of intent to participate.* Within 60 days of the disaster declaration, the State (Governor's Authorized Representative) will notify FEMA in writing of its intent to participate or not