

§ 206.438

44 CFR Ch. I (10–1–99 Edition)

- (iv) Conduct environmental and floodplain management reviews;
- (v) Establish priorities for selection of mitigation projects;
- (vi) Process requests for advances of funds and reimbursement;
- (vii) Monitor and evaluate the progress and completion of the selected projects;
- (viii) Review and approve cost overruns;
- (ix) Process appeals;
- (x) Provide technical assistance as required to subgrantee(s);
- (xi) Comply with the administrative requirements of 44 CFR parts 13 and 206;

(xii) Comply with audit requirements of 44 CFR part 14;

(xiii) Provide quarterly progress reports to the Regional Director on approved projects.

(c) *Format.* The administrative plan is intended to be a brief but substantive plan documenting the State's process for the administration of the Hazard Mitigation Grant Program and management of the section 404 funds. This administrative plan should become a part of the State's overall emergency response or operations plan as a separate annex or chapter.

(d) *Approval.* The State must submit the administrative plan to the Regional Director for approval. Following each major disaster declaration, the State shall prepare any updates, amendments, or plan revisions required to meet current policy guidance or changes in the administration of the Hazard Mitigation Grant Program. Funds shall not be awarded until the State administrative plan is approved by the FEMA Regional Director.

(Approved by the Office of Management and Budget under OMB control number 3067-0208)

[55 FR 35537, Aug. 30, 1990, as amended at 55 FR 52172, Dec. 20, 1990]

§ 206.438 Project management.

(a) *General.* The State serving as grantee has primary responsibility for project management and accountability of funds as indicated in 44 CFR part 13. The State is responsible for ensuring that subgrantees meet all program and administrative requirements.

(b) *Cost overruns.* During the execution of work on an approved mitigation

measure the Governor's Authorized Representative may find that actual project costs are exceeding the approved estimates. Cost overruns which can be met without additional Federal funds, or which can be met by offsetting cost underruns on other projects, need not be submitted to the Regional Director for approval, so long as the full scope of work on all affected projects can still be met. For cost overruns which exceed Federal obligated funds and which require additional Federal funds, the Governor's Authorized Representative shall evaluate each cost overrun and shall submit a request with a recommendation to the Regional Director for a determination. The applicant's justification for additional costs and other pertinent material shall accompany the request. The Regional Director shall notify the Governor's Authorized Representative in writing of the determination and process a supplement, if necessary. All requests that are not justified shall be denied by the Governor's Authorized Representative. In no case will the total amount obligated to the State exceed the funding limits set forth in § 206.432(b). Any such problems or circumstances affecting project costs shall be identified through the quarterly progress reports required in paragraph (c) of this section.

(c) *Progress reports.* The grantee shall submit a quarterly progress report to FEMA indicating the status and completion date for each measure funded. Any problems or circumstances affecting completion dates, scope of work, or project costs which are expected to result in noncompliance with the approved grant conditions shall be described in the report.

(d) *Payment of claims.* The Governor's Authorized Representative shall make a claim to the Regional Director for reimbursement of allowable costs for each approved measure. In submitting such claims the Governor's Authorized Representative shall certify that reported costs were incurred in the performance of eligible work, that the approved work was completed and that the mitigation measure is in compliance with the provisions of the FEMA-State Agreement. The Regional Director shall determine the eligible amount

of reimbursement for each claim and approve payment. If a mitigation measure is not completed, and there is not adequate justification for non-completion, no Federal funding will be provided for that measure.

(e) *Audit requirements.* Uniform audit requirements as set forth in 44 CFR part 14 apply to all grant assistance provided under this subpart. FEMA may elect to conduct a Federal audit on the disaster assistance grant or on any of the subgrants.

§ 206.439 Allowable costs.

(a) *General.* General policies for determining allowable costs are established in 44 CFR 13.22. Exceptions to those policies as allowed in 44 CFR 13.4 and 13.6 are explained below.

(b) *Eligible direct costs.* The eligible direct costs for administration and management of the program are divided into the following two categories.

(1) *Statutory administrative costs—(i) Grantee.* Pursuant to 406(f)(2) of the Stafford Act, an allowance will be provided to the State to cover the extraordinary costs incurred by the State for preparation of applications, quarterly reports, final audits, and related field inspections by State employees, including overtime pay and per diem and travel expenses, but not including regular time for such employees. The allowance will be based on the following percentages of the total amount of assistance provided (Federal share) for all subgrantees in the State under section 404 of the Stafford Act:

(A) For the first \$100,000 of total assistance provided (Federal share), three percent of such assistance.

(B) For the next \$900,000, two percent of such assistance.

(C) For the next \$4,000,000, one percent of such assistance.

(D) For assistance over \$5,000,000, one-half percent of such assistance.

(ii) *Subgrantee.* Pursuant to section 406(f)(1) of the Stafford Act, necessary costs of requesting, obtaining, and administering Federal disaster assistance subgrants will be covered by an allowance which is based on the following percentages of total net eligible costs under section 404 of the Stafford Act, for an individual applicant (applicants in this context include State agencies):

(A) For the first \$100,000 of net eligible costs, three percent of such costs.

(B) For the next \$900,000, two percent of such costs.

(C) For the next \$4,000,000, one percent of such costs.

(D) For those costs over \$5,000,000, one-half percent of such costs.

(2) *State management costs—(i) Grantee.* Except for the items listed in paragraph (b)(1)(i) of this section, other administration costs shall be paid in accordance with 44 CFR 13.22. Costs of State personnel (regular time salaries only) assigned to administer the Hazard Mitigation Grant Program may be eligible when approved by the Regional Director. Such costs shall be shared in accordance with the cost share provisions of section 404 of the Act. For grantee administrative costs in the Disaster Field Office, the State shall submit a plan for the staffing of the Disaster Field Office within 5 days of the opening of the office. This staffing plan shall be in accordance with the administrative plan requirements of § 206.437. After the close of the Disaster Field Office, costs of State personnel (regular time salaries only) for continuing management of the hazard mitigation grants may be eligible when approved in advance by the Regional Director. The State shall submit a plan for such staffing in advance of the requirement.

(c) *Eligible indirect costs—(1) Grantee.* Indirect costs of administering the disaster program are eligible in accordance with the provisions of 44 CFR part 13 and OMB Circular A-87.

(2) *Subgrantee.* No indirect costs of a subgrantee are separately eligible because the percentage allowance in paragraph (b)(1)(ii) of this section necessary costs of requesting, obtaining and administering Federal assistance.

§ 206.440 Appeals.

An eligible applicant, subgrantee, or grantee may appeal any determination previously made related to an application for or the provision of Federal assistance according to the procedures below.

(a) *Format and Content.* The applicant or subgrantee will make the appeal in