

TABLE OF CONTENTS

CHAPTER 1 FIRE MANAGEMENT ASSISTANCE GRANT PROGRAM OVERVIEW	4
History	4
Overview	4
CHAPTER 2 DECLARATION PROCESS	6
Submitting a Declaration Request	6
Information for the Declaration Request	6
Required Information	6
Fire Complex	7
Incident Period	7
Declaration Request Processing	8
State Role	8
FEMA Regional Office Role	8
Principal Advisor Role	9
National Office Role	9
Declaration Request Evaluation	9
Declaration Notification	10
Appeals of Declaration Request	11
Post-Declaration Requirements	11
FEMA-State Agreement	11
Modifying a Declaration Request to Add Counties	12
CHAPTER 3 ELIGIBILITY	14
Governing Documents	14
Federal Statute	14
Regulations	14
Policies	15
Applicants for Grants and Subgrants	15
Eligible Costs	15
Equipment and Supplies	16
Labor Costs	17
Travel and Per Diem	17
Pre-Positioning Costs	17
Emergency Work	18
Temporary Repairs	19
Mobilization and Demobilization	19
Ineligible Costs	19
Donated Resources	20
CHAPTER 4 GRANT MANAGEMENT	21
Grant Application Package	21
Initial Grant Application and Approval Timeframe	21
Fire Cost Threshold	22
State Administrative Plan	23
State Mitigation Plan	23

Grantee Responsibilities	24
Subgrantees	24
Eligible Subgrant Entities	24
Subgrant Application Request	25
Subgrant Project Worksheets	25
Appeals of Eligibility	25
Levels of Appeals	25
Appeals Process	26
Cost Share	26
Duplication of Assistance	26
Negligence and Intentional Acts	27
Administrative Costs	27
Grantee	27
Subgrantee	28
Grant Closeouts	28
Audit Requirements	29
CHAPTER 5 MUTUAL AID	30
Background	30
Overview	30
Pre-Event Written Mutual Aid Agreements	31
Post-Event Mutual Aid Agreements	32
Force Account Labor Costs	32
Eligible Work	33
Eligible Applicants	Error! Bookmark not defined.
Reimbursement of Mutual Aid Costs	33

Appendix A: Stafford Act, 42 U.S.C. § 5121 et seq.

Appendix B: 44 CFR Part 204

Appendix C: 44 CFR Part 13

Appendix D: Fire Suppression Assistance Grant Program Forms

Appendix E: U.S. Forest Service – FEMA Regional Boundaries

Appendix F: FEMA-State Agreement Format

Appendix G: FEMA-State Agreement Exhibits A through E

Appendix H: Fire Cost Threshold Sample Calculations

Appendix I: FY 2005 Fire Cost Thresholds

INDEX

ACRONYMS USED IN THIS GUIDE

CFR	Code of Federal Regulations
DMA 2000	Disaster Mitigation Act of 2000
EMAC	Emergency Management Assistance Compact
FEMA	Federal Emergency Management Agency
FMAGP	Fire Management Assistance Grant Program
GAR	Governor's Authorized Representative
ICARS	Incident Cost Accounting and Reporting System
ICS	Incident Command System
KBDI	Keetch-Byram Drought Index
NFDRS	National Fire Danger Rating System
NIC	NIMS Integration Center
NIMS	National Incident Management System
OMB	Office of Management and Budget
PL	Public Law
PW	Project Worksheet
RFMAS	Request for Fire Management Assistance Subgrant
SMP	State Mitigation Plan
USFS	U.S. Forest Service

CHAPTER 1

FIRE MANAGEMENT ASSISTANCE GRANT PROGRAM

OVERVIEW

The President is authorized to provide assistance under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, Public Law 93-288, as amended, 42 U.S.C. § 5121, et seq. (hereinafter referred to as the Stafford Act). Relevant portions of the Stafford Act are included in Appendix A. Federal assistance is coordinated through the Department of Homeland Security's Federal Emergency Management Agency (FEMA). Under the Fire Management Assistance Grant Program (FMAGP), FEMA provides assistance, including grants, equipment, supplies, and personnel, to any State¹ or local government² for the mitigation, management, and control of any fire on private forest land or grassland that threatens such destruction as would constitute a major disaster. This chapter provides a brief history and overview of the FMAGP.

History

The FMAGP is effective for all fires declared on or after October 30, 2001. The FMAGP replaced FEMA's Fire Suppression Assistance Program when Section 420 of the Stafford Act was amended by Section 303 of the Disaster Mitigation Act of 2000 (DMA 2000). When providing assistance under this section, the President shall coordinate with State and Tribal departments of forestry. The President may use the authority provided under Section 403 to provide essential assistance as allowed by Section 420(c). FEMA has promulgated implementing regulations in 44 Code of Federal Regulations (CFR) 204. The provisions of 44 CFR Part 204 are included in Appendix B. Administrative requirements for grants and cooperative agreements are found in 44 CFR Part 13 and included in Appendix C.

Overview

The FMAGP provides assistance for mitigation, management, and control of a declared fire. Obtaining assistance under the FMAGP begins with the State submitting a declaration request to the FEMA Regional Director (refer to Chapter 2 of this Guide). The declaration request is made while the fire is burning uncontrolled and threatening such destruction as would constitute a

¹ For purposes of this document, the term "State" refers to the Grantee. Grantees include the States, the District of Columbia, U.S. territories, and insular areas, and can include Indian Tribes and Alaskan Native Tribal governments. (Ref. 44 CFR 204.3)

² A local government is defined as any county, municipality, city, town, township, public authority, school district, special district, intrastate district, council of governments (regardless of whether the council of governments is incorporated as a non-profit corporation under State law), regional or interstate government entity, or agency or instrumentality of a local government; any Indian Tribal government or authorized Tribal organization, or Alaska Native village or organization; and any rural community, unincorporated town or village, or other public entity, for which an application for assistance is made by a State or political subdivision of a State. (Ref. 44 CFR 204.1)

CHAPTER 1

FIRE MANAGEMENT ASSISTANCE GRANT PROGRAM OVERVIEW

major disaster. Following FEMA's approval of the declaration request, funding assistance is requested by the State and made available for eligible activities that include fire management assistance and associated emergency work (refer to Chapters 3, 4, and 5 of this Guide).

CHAPTER 2 DECLARATION PROCESS

Submitting a Declaration Request

The Governor of a State or the Governor's Authorized Representative (GAR) is authorized to submit requests for fire management assistance declarations. The GAR is the person empowered by the Governor to execute, on behalf of the State, all necessary documents for fire management assistance, including the declaration request³.

The Governor or GAR must submit the declaration request while the fire is burning uncontrolled and threatening such destruction as would constitute a major disaster⁴. Since the FMAGP operates in real time during an incident (24 hours a day, 7 days a week), declaration requests can be processed at any time of day or night. To expedite processing the State's declaration request, the Governor or GAR should submit his or her request by telephone to the FEMA Regional Director or designated Regional Fire Duty Liaison.

The State must follow up its phone request with the completed FEMA Form 90-58, Request for Fire Management Assistance Declaration. The information entered on Form 90-58 provides written confirmation of information submitted during the phone declaration request and is required for official FEMA files. FEMA Form 90-58 must be received in FEMA's National Office⁵ within 14 days of the date of the phone request to the FEMA Regional Office. A copy of FEMA Form 90-58 can be found in Appendix D.

Information for the Declaration Request

Required Information. When submitting a declaration request, the Governor or GAR should provide as much information as possible in support of the request. A State must include the following information, as available, in both its phone and written (FEMA Form 90-58) requests:

- Size of fire in acres or square miles;
- Name, location, and population of community(ies) threatened;
- Number and types of public facilities threatened;
- Number of primary and secondary residences and businesses threatened;
- Distance of fire to nearest communities;
- Number of evacuations to date, if applicable;
- Current and predicted (24-hour) weather conditions; and
- Degree to which State and local resources are committed to this fire and other fires in Federal, State, or local jurisdictions.

³ 44 CFR 204.22

⁴ Major disasters are evaluated based on established criteria in 44 CFR 206.48.

⁵ For purposes of this document, the term "National Office" refers to several Headquarter roles, including the Under Secretary of the Emergency Preparedness and Response Directorate, the Recovery Division Director, and FMAGP staff.

In support of its declaration request, the State may append additional documentation to FEMA Form 90-58, including:

- Fire severity maps;
- Geographic, topical, or land assessment maps; or
- Incident status summary report (Incident Command System (ICS)-209).

The State must submit its request while the fire is burning uncontrolled and threatening such destruction as would constitute a major disaster; therefore, the State should not delay submitting its declaration request even if certain information is not available at the time of the request. While more information may facilitate the declaration request process, additional supporting information may be furnished by the State, or requested by FEMA, after the initial declaration request has been received.

Fire Complex⁶. A State may request assistance for a fire complex. In order to qualify, the fires within the complex must all be located in the same general area and managed by the same Incident Commander⁷ and be approved under the fire declaration. Even though an entire complex may be designated in a declaration request, not all fires within the complex will automatically be qualified. FEMA, in cooperation with the State, will determine which fires are eligible under a fire management assistance declaration.

Incident Period⁸. The incident period for a declared fire is usually not established until the fire is controlled. The FEMA Regional Director, in consultation with the GAR and the Principal Advisor,⁹ will determine the start and end dates of the incident period.

The incident period may start on the date of the fire management assistance declaration or with the initial firefighting actions at the time the fire threatens such destruction as would constitute a major disaster. The incident period is considered closed when the fire is controlled. The end of a shift or a workday normally marks the closing of the incident period. If the incident period starts before the date of the State's declaration request, the factors and circumstances

⁶ **Fire Complex:** Is defined as **two** or more individual fires located in the same general area, which are assigned to a single Incident Commander. Governor's Authorized Representative (GAR). The person empowered by the Governor to execute, on behalf of the State, all necessary documents for fire management assistance, including the request for a fire management assistance declaration.

⁷ The Incident Commander is the ranking "red card" official responsible for a declared fire. ("Red card" is the fire qualifications card issued to fire-rated persons showing their training needs and their qualifications to fill specified fire suppression and support positions on a fire or other incident.)

⁸ **Incident Period:** The time interval during which the declared fire occurs. The Regional Director, in consultation with the Governor's Authorized Representative and the Principal Advisor, will establish the incident period. Generally, costs must be directly related to or incurred during the incident period to be considered eligible.

⁹ The Principal Advisor is an individual appointed by the U.S. Forest Service (USFS) or the Bureau of Land Management who is responsible for providing FEMA with a technical assessment of a fire or fire complex. The Principal Advisor is a designated representative of FEMA. The boundaries of FEMA and the USFS are shown on Appendix E.

supporting that determination should be fully documented by the GAR and reviewed and approved by the Regional Director.

Generally, wildland firefighting costs must be incurred during the incident period of a declared fire to be considered eligible under FMAGP. Several exceptions to this rule exist for costs related to pre-positioning, mobilizing and demobilizing, as well as emergency work. These costs are discussed in detail in Chapter 3.

Declaration Request Processing

The State's declaration request is submitted to the FEMA Regional Office where the Regional Director or Regional Fire Duty Liaison reviews the request and, in coordination with the appropriate Principal Advisor, verifies the information submitted by the State. The Regional Office then submits the declaration request to the National Office. The National Office receives, processes, and renders a decision on the State's request for a fire management assistance declaration.

Due to the magnitude and impact of a fire, most declaration requests are verbally processed with written documentation following. All official forms and written information must be received by the FEMA National Office within 14 days of the State's phone request.

The roles, duties, and responsibilities of each entity are described on the following pages.

State Role. The Governor or GAR is responsible for submitting a fire declaration request while the fire is burning uncontrolled and threatening such destruction as would constitute a major disaster¹⁰. The GAR is encouraged to submit the information required for FEMA Form 90-58 declaration request by telephone to FEMA's Regional Fire Duty Liaison. Following the phone request, the GAR must complete FEMA Form 90-58, Request for Fire Management Assistance Declaration, in support of its phone request and submit it to through the FEMA Regional Office to the National Office no later than 14 days after the date of its initial phone request.

FEMA Regional Office Role. FEMA's Regional Office is responsible for receiving the declaration request and obtaining additional information from the State if the declaration request is incomplete or inadequate. Once a formal declaration request is received, the Regional Fire Duty Liaison requests the Principal Advisor for an assessment, and notifies the National Office of the State's request.

After all information is obtained from the State and verified, the Regional Office prepares an official Regional Summary and Recommendation for the State's request. The Regional Office forwards the State's request, Principal Advisor's Report, and Regional Summary and Recommendation to the National Office for consideration by the Under Secretary of the Emergency Preparedness and Response Directorate.

¹⁰ Major disasters are evaluated based on established criteria in 44 CFR § 206.48

CHAPTER 2 DECLARATION PROCESS

If the Principal Advisor is unavailable at the time of the State's declaration request, the FEMA Regional Office should proceed with developing the Regional Summary and Recommendation and submitting the request to the National Office for review and determination, even though certain information is unavailable at the time of the request. FEMA uses the best available information at the time of the State's request to render a determination.

Principal Advisor Role. The Principal Advisor provides technical assistance to FEMA regarding the uncontrolled fire or fire complex for which the State is submitting a declaration request. Specifically, the Principal Advisor assesses the threat to life and improved property (homes, critical facilities, and infrastructure), as well as fire weather, fire behavior, and fire prognosis. The Principal Advisor's Report is used to verify the information submitted by the State. The Principal Advisor's Report does not recommend whether to approve or deny a State's declaration request.

The Principal Advisor completes the Principal Advisor's Report (FEMA Form 90-32) and provides it to the FEMA Regional Fire Duty Liaison. To expedite the declaration request process, the Principal Advisor usually reports his or her findings to FEMA by telephone and follows up with a written Principal Advisor's Report. The Principal Advisor's Report is included as part of the State's declaration request package submitted to the National Office. A copy of FEMA Form 90-32 can be found in Appendix D. The Principal Advisor's Report should be submitted through FEMA's Regional Office to the National Office no later than 14 days after the date of the State's request for a fire management assistance declaration.

National Office Role. The National Office receives and processes the State's declaration request. The National Office approves or denies the State's request based on the conditions that existed at the time of the State's request and whether or not the fire or fire complex threatened such destruction as would constitute a major disaster.

The Under Secretary, or designee, evaluates the declaration request and approves or denies the request based on:

- Evaluation criteria;
- Information provided in the State's request;
- Principal Advisor's Report; and
- Regional Summary and Recommendation.

After reviewing the declaration request package, the National Office may render a decision or request additional information. If a declaration is warranted, the National Office prepares a declaration package, which consists of a memorandum from the Recovery Division Director to the Regional Director, and a letter from the Under Secretary to the White House.

Declaration Request Evaluation

A State's declaration request is evaluated on the threat posed by a fire or fire complex based on the following information:

CHAPTER 2 DECLARATION PROCESS

1. The fire or fire complex threatens lives and improved property, including critical facilities/infrastructure and critical watersheds. Improved properties include but are not limited to:
 - Homes (single family and multi-family [i.e., townhouses, condos, apartments]);
 - Hospitals, prisons, and schools;
 - Police and fire stations;
 - Water treatment facilities;
 - Public utilities;
 - Nuclear facilities; and
 - Major roadways.

2. Availability of Federal, State and local firefighting resources:
 - The degree of commitment by Federal, State, and local resources to other fires; and
 - The lack of available Federal, State, and local wildland firefighting resources.

3. High fire danger conditions as indicated by nationally accepted indices:
 - National Fire Danger Rating System (NFDRS);
 - Keetch-Byram Drought Index (KBDI) and Palmer Drought Index; and
 - Haines Index.

4. Potential major economic impact:
 - State level;
 - Local level; and
 - Regional level.

The criteria assist the National Office in determining whether the fire or fire complex threatens such destruction as would constitute a major disaster.

Declaration Notification

After the Under Secretary renders his/her determination on the State's declaration request, the National Office contacts the FEMA Regional Fire Duty Liaison. The FEMA Regional Fire Duty Liaison telephones the Governor or GAR with notification of the determination. The FEMA Regional Office promptly follows up this telephone call with a confirming letter to the State from the Regional Director.

Appeals of Declaration Request¹¹

If a declaration request has been denied, the State may submit an appeal for a one-time reconsideration of its request. The appeal must be submitted in writing to the Regional Director no later than 30 days from the date of the letter denying the request. It should contain new information, unavailable at the time of the original request that, if presented, may have altered the original determination. The Regional Director reviews the appeal, prepares a recommendation, and forwards the appeal package to the National Office. The National Office notifies the State of the determination, in writing, within 90 days of receipt of the appeal or receipt of additional requested information.

The State may request a time extension to submit the appeal. This request must be submitted in writing to the Recovery Division Director, through the FEMA Regional Office, no later than 30 days from the date of the Regional Director's notification letter denying the declaration request. The request for an extension must include a justification for the need of an extension. The National Office evaluates the need for the extension based on the reasons cited in the request and either approves or denies the request. Again, the State will be formally notified in writing through the FEMA Regional Office whether this extension has been granted.

Post-Declaration Requirements

Each State must have a formally approved State Mitigation Plan (SMP). A State or Indian Tribal government intending to apply to FEMA for assistance under the FMAGP that does not have an approved SMP per 44 CFR § 204.51(d)(2) must formally submit an acceptable SMP for FEMA's review and approval within 30 days of the signature date of Exhibit E (amendment of the FEMA-State Agreement for the FMAGP). FEMA then has 45 days, whenever possible, to review the SMP. If the State or Indian Tribal government does not have an existing SMP and fails to submit one, FEMA cannot approve the application for assistance under the FMAGP.

FEMA-State Agreement. The FEMA-State or FEMA-Tribal Agreement for FMAGP ("the Agreement") is a legally binding document, similar to a contract, that outlines the understandings, commitments, and conditions under which funding is provided under fire management assistance declarations and all applicable laws and regulations. A FEMA-State Agreement Format is shown in Appendix F.

The Agreement is in effect for a calendar year. It must be updated annually and, ideally, should be signed each January before the start of fire season. The FEMA-State Agreement lists the GAR and other officials authorized to act on the behalf of the State. A FEMA-Tribal Agreement must be signed if a Tribal government wishes to serve as a dual Grantee.

A FEMA-State Agreement consists of the following five Exhibits (copies are presented in Appendix G of this document):

¹¹ The declaration request appeals process is based on 44 CFR 204.26.

CHAPTER 2 DECLARATION PROCESS

- *Exhibit A - State or Indian Tribal governmental officials authorized to execute certification and otherwise to act on behalf of the State*

Exhibit A designates the GAR and Alternate GAR empowered by the Governor to execute all necessary documents for FMAGP, including the declaration request and application for a fire management assistance grant.

In cases where a FEMA-Tribal Agreement has been signed, Exhibit A designates and empowers an Indian Tribal authorized representative and alternate Tribal authorized representative, empowered by the Indian Tribal Chairman, to execute the application for a fire management assistance grant. Until Exhibit A has been completed, only the Indian Tribal Chairman has the authority to submit the application for a fire management assistance grant.

- *Exhibit B - Certification regarding Drug-Free Workplace requirements*
- *Exhibit C - Certification for contacts, grants, loans, and cooperative agreements, new restrictions on lobbying*
- *Exhibit D - Disaster Grant Agreement articles*
- *Exhibit E - Amendment to the FEMA-State Agreement for the Fire Management Assistance Grant Program*

After a State's declaration request has been approved, the Governor should immediately sign Exhibit E (described below) of their FEMA-State Agreement for FMAGP. Exhibit E must be signed by the State (or Indian Tribal Chairman when appropriate), in concurrence with FEMA, for each declared fire that occurs within the calendar year.

Exhibit E contains specific information for each declared fire, including the name of the fire or fire complex, declaration number, affected counties, and incident period. Exhibit E must be completed for each declared fire and appended to the Agreement. The GAR or Indian Tribal representative authorized by Exhibit A can sign Exhibit E on behalf of the State or Indian Tribal government.

It is important to note that if the Agreement is signed after the first fire is declared, the Governor must sign both the Agreement and Exhibit E. If a State does not have a signed FEMA-State Agreement prior to submitting a declaration request to FEMA, the State should sign an Agreement immediately after FEMA has approved the declaration request. The State must submit the Agreement prior to or with the submittal of the FMAGP grant assistance request (Standard Form 424). Funding will not be obligated until the Agreement has been signed by the Governor (or Indian Tribal Chairman, when appropriate). Failure to sign the Agreement may result in a loss of funding.

Modifying a Declaration Request to Add Counties. If a declared fire or fire complex burns into adjacent counties, then the additional counties may be eligible for assistance under the declared fire. In order to qualify, the State must provide sufficient information to justify

CHAPTER 2 DECLARATION PROCESS

assistance. The requesting county should submit the same type of information provided to FEMA for the original declaration request. All information is evaluated on the threat of the fire, potential economic impact, weather conditions, and committed and available resources. Once all information has been evaluated, FEMA decides whether to designate the additional county. If the request to add counties is denied, the appeal process is the same as that for a denied fire declaration request (refer to 44 CFR 204.26).

CHAPTER 3 ELIGIBILITY

This chapter discusses the documents governing the FMAGP, including its operation and policies, and the basic eligibility criteria for fire management assistance funding for declared fires, including three main components:

- Applicants for Grants and Subgrants;
- Eligible Costs; and
- Ineligible Costs.

Governing Documents

The FMAGP is based on a hierarchy of Federal statute, regulations, policies, and guidance. The statute authorizes the FMAGP. From the statute, regulations are created to outline program operations, and policies are written to apply the statute and regulations to specific situations. These documents govern the eligibility criteria through which FEMA provides funds for fire management assistance under the FMAGP.

Federal Statute. Statutes are laws passed by the U.S. Congress and signed by the President. They cannot be changed or waived by FEMA or any other government agency or official. The law that authorizes the FMAGP is the Stafford Act. The basic provisions outlined in the Stafford Act:

- Give FEMA the authority to administer Federal disaster assistance;
- Define the extent of coverage and eligibility criteria of the disaster assistance programs;
- Authorize grants to the States; and
- Define the minimum Federal cost-sharing levels and thresholds.

The FMAGP is authorized in Section 420 of the Stafford Act. Section 403 of the Stafford Act, Essential Assistance, provides authority as it pertains to Emergency Work. Relevant portions of the Stafford Act are included in Appendix A for reference.

Regulations. Regulations are rules designed to implement a statute based on an agency's interpretation of that statute. Such rules establish the requirements for program operations. Typically, they are published through an official process that allows for public comment. Regulations have the same effect as law and must be complied with once they are published in final form. The regulations published in 44 CFR Part 204 govern the FMAGP and outline program procedures, eligibility, and policies. The provisions of 44 CFR Part 204 are included in Appendix B.

Additional regulations regarding grant administration and allowable costs are found in 44 CFR Part 13, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments (refer to Appendix C).

Policies. Policies are issued by the FEMA National Office. They clarify or provide direction for specific situations within the parameters established by the Stafford Act and various regulations that pertain to the FMAGP. FEMA issues policies so that the regulations and procedures are interpreted consistently across the nation and from fire to fire.

Applicants for Grants and Subgrants

After the approval of a declaration request, the State may submit an application package for a fire management assistance grant to the FEMA Regional Director. The Governor or GAR usually designates a single State agency to submit the application package to FEMA for the FMAGP grant. If the application package is approved, then the State entity that submitted it is designated as the Grantee. Generally, the Grantee is the State emergency management or forestry office.

Under a FMAGP declaration, an affected Indian Tribal government may elect to serve as Grantee, if not precluded by State law, or it may act as a subgrantee of the State. An Indian Tribal government acting as Grantee must assume all the responsibilities of a State as outlined in 44 CFR Part 204 for the purpose of administering a grant. An Indian Tribal government must have a FEMA-Tribal Agreement in place in order to serve as a Grantee.

Applicants applying for subgrants must be legally responsible for the fire fighting activities for which reimbursement is being requested. The following entities are eligible to apply through a Grantee for subgrants:

- State agencies;
- Local governments; and
- Indian Tribal governments.

Entities that are not eligible to be applicants under the FMAGP are governmental entities who are not legally responsible for the fire fighting activities, privately owned entities, and volunteer firefighting organizations. However, those entities may be reimbursed through a compact, mutual aid agreement or contract with an eligible applicant for eligible costs associated with the declared fire or fire complex. The eligibility of their costs is contingent on a finding that the Incident Commander, or comparable State official, requested that entity's resources and their activities meet all other eligibility criteria.

Eligible Costs

All eligible work and related costs must be associated with the incident period of a declared fire (refer to Chapter 2 for a definition of incident period). The work performed must be:

- The legal responsibility of the applicant whether it was performed by the applicant's own forces or through a secondary party as described in the preceding paragraphs

(Generally, an entity has legal responsibility to respond to fires within its home jurisdiction.);

- Required as a result of the declared fire;
- Located within the designated area; and
- Pre-positioning costs of equipment that is used in fighting the fire even when staged outside the designated area.

Types of eligible costs include, but are not limited to, the following:

- Equipment and supplies;
- Labor costs;
- Travel and per diem;
- Pre-positioning costs;
- Emergency work;
- Temporary repairs; and
- Mobilization and demobilization.

FEMA does not provide reimbursement based on the USFS Incident Cost Accounting and Reporting System (ICARS)¹² unless stipulated in a pre-existing contract for all fires, declared and non-declared, for a specified period of time. In those instances, ICARS becomes a cost the State is incurring, even if it is not representative of actual costs incurred. However, even in those instances, FEMA must review the costs for reasonableness and may determine to reduce or withhold reimbursement if such costs are determined to be unreasonable.

Grantee and subgrantee administrative costs are discussed in Chapter 4, Grant Management. Eligibility of costs incurred by entities working through Mutual Aid Agreements is discussed in detail in Chapter 5 of this Guide.

Equipment and Supplies. FEMA will reimburse applicants for costs associated with equipment and supplies for declared fires. Eligible costs for equipment and supplies include:

- Personal comfort and safety items normally provided by the State under field conditions for firefighter health and safety.
- Replacement of firefighting supplies, tools, and materials lost or destroyed with comparable items.
- Reimbursement for ownership and operation costs of applicant-owned equipment based on equipment rate guidelines in 44 CFR 206.228(a)(1).
- Operation and maintenance costs of publicly owned, contracted, rented, or volunteer firefighting department equipment to the extent any of these costs are not included in applicable equipment rates.
- Reimbursement for the use of U.S. government-owned equipment based on reasonable actual costs as billed by a Federal agency and paid by the State. Reimbursement for the use of Federal Excess Personal Property is based on the direct cost for use of equipment.
- Repair of damaged applicant-owned equipment. The FEMA Regional Office will determine repair costs based on the lowest applicable equipment rates, which may be

¹² ICARS is an automated system for the generation, delivery, routing, and tracking of resources and costs.

FEMA, U.S. Forest Service, U.S. Department of Agriculture, or State or local rates, depending on the piece of equipment and the formula used in calculating the rate.

- Replacement of applicant-owned equipment that is lost or destroyed in firefighting activities with comparable equipment of the same age, capacity, and condition.
- Purchase of supplies and equipment that are necessary to respond to the declared fire may be eligible. However, the Grantee or subgrantee may be required to compensate FEMA for the fair market value of the cost of the equipment and supplies when the items are no longer needed for fire suppression activities. FEMA Policy No. 9525.12, *Disposition of Equipment, Supplies and Salvaged Materials*, should be used for guidance.

Labor Costs.¹³ For declared fires, certain labor costs are considered eligible for reimbursement. Labor costs eligible for reimbursement include:

- Overtime for permanent or reassigned State, Indian Tribal, or local governmental employees, including firefighters, police, logistical support, and other personnel involved in eligible fire suppression-related activities.
- Seasonally employed personnel, when covered under existing budgets and used for fire suppression activities during the season of employment, are considered permanently employed for the purpose of cost eligibility.
- Regular time and overtime for temporary and contract employees hired to perform eligible fire-related activities.
- The increased portion of overtime costs for regular full-time employees backfilling (one level) for other regular full-time employees within the same entity who are performing eligible fire-related work.
- Permanent employees who are funded from an external source (e.g., by a grant from a Federal agency, statutorily dedicated funds, or rate-payers) to work on specific non-disaster tasks may be paid for regular time and overtime for fire-related work. However, the FEMA Region must consult with FEMA National Office before approving payment.

Travel and Per Diem. Travel and per diem is eligible for applicants under a declared fire. Eligible travel and per diem include:

- Travel and per diem for all State, Indian Tribal, and local governmental employees who are providing services requested by the Incident Commander and directly associated with declared fire management activities.
- Field camps and meal costs when provided in lieu of per diem.

Pre-Positioning Costs. Pre-positioning is the temporary relocation of existing fire prevention or suppression resources from an area of low fire danger to one of higher fire danger in anticipation of increased magnitude and severity of an uncontrolled fire. States frequently pre-position Federal, out-of-State, State, and local resources during extreme fire hazards to improve initial attack capabilities.

Pre-positioning costs incurred up to a maximum of 21 days before the date of the fire declaration may be eligible under FMAGP. However, only pre-positioning costs for out-of-State,

¹³ Additional guidance is found in FEMA Recovery Policy No. 9525.7, *Labor Costs-Emergency Work* and 9523.6, *Mutual Aid Agreements for Public Assistance and Fire Management Assistance*.

Federal, and International resources actually used on the declared fire are eligible for funding. Costs incurred to pre-position resources that remained at the staging area and were not used on the declared fire are not eligible for funding.

For instance, suppose one staging area in a State has three Blackhawk helicopters pre-positioned. One Blackhawk helicopter from the staging area is used in the wildland firefighting efforts for a declared fire. Only the pre-positioning costs for that one Blackhawk helicopter are eligible for funding. The use of one piece of equipment on a declared fire does not make pre-positioning costs for an entire staging area (i.e., all three Blackhawk helicopters) eligible for funding.

In order for pre-positioning costs to be considered eligible under FMAGP, the State must:

- Notify the FEMA Regional Director of its intention to seek funding for pre-positioning resources at the same time as it submits the declaration request (or immediately thereafter). Since pre-positioning is undertaken in anticipation of an event, it is reasonable for a State to know whether or not it anticipates submitting costs for pre-positioning at the time the declaration request is approved or shortly thereafter.
- Document specific resources (number, type), estimated cost, and duration of pre-positioned resources.
- Provide detailed justification for pre-positioning, including scientific indicators such as drought indices, current allocation of State firefighting resources, weather conditions, and the number of wildland fires currently burning in the State.

Emergency Work. FEMA may provide funding under FMAGP for essential assistance to reduce or minimize immediate threats to life and property under Section 403 of the Stafford Act when such assistance is directly related to the mitigation, management, and control of the declared fire.

Mitigation, management, and control are those activities undertaken, generally during the incident period of a declared fire, to minimize the immediate adverse effects and to manage and control the fire. Eligible activities may include associated emergency work and pre-positioning equipment directly related to the declared fire to reduce the spread of a declared fire, reduce associated health and safety threats, prevent potential damages by the declared fire, and repair damage caused in the performance of eligible wildland firefighting activities. Only emergency work occurring during the incident period of a declared fire are eligible for funding. Activities designed to reduce the potential for future fires or to minimize damages from future fires are ineligible for funding under FMAGP.

Essential mitigation, management, and control activities under Section 403 may include:

- Police barricading and traffic control;
- Extraordinary emergency operations center expenses;
- Evacuation and sheltering (people and animals);
- Search and rescue;
- Arson patrol and investigation teams;
- Public information dissemination to inform people what to do during the declared fire;

- Limited removal of burned or unburned trees (i.e., snags) that threaten the safety of the general public.

Temporary Repairs. FMAGP funding may be available for the temporary repair of damage caused by firefighting activities related to a declared fire. Repair activities must be temporary actions that protect the immediate safety of the general public. All temporary repair of damage caused by firefighting activities must be completed within 30 days of the close of the incident period for the declared fire. It should be noted that temporary repair of damage caused by firefighting activities does not include repair of damage caused by the declared fire.

Examples of temporary repair activities that may be eligible for funding include:

- Temporary repairs to bulldozer lines, field camps, and staging areas to address safety concerns.

For example, assume that a heavily trafficked park or recreation area was severely gouged by firefighting activities. Because these gouges may affect public health and safety, a temporary repair to them may include refilling the gouges or boarding them over. Temporary repairs would not include a complete re-grading of an entire park or recreation area.

- Temporary repairs to facilities damaged by firefighting activities, such as fences, buildings, bridges, and roads.

An example of a temporary repair might include repairing a portion of a white picket fence (removed to allow wildland firefighting resources to gain access to the declared fire) with a chain link fence to temporarily replace the removed fence.

Mobilization and Demobilization. Costs for mobilizing and demobilizing resources to and from a declared fire may be eligible for reimbursement under FMAGP.

- Mobilization is the process by which Federal, State, and local entities are activated, assembled, and transported to respond to or support a declared fire.
- Demobilization is the process of deactivating, disassembling, and transporting back to their point of origin all wildland firefighting resources that had been provided to respond to and support a declared fire.

Demobilization costs may be claimed after submittal of other eligible costs if deployment involves one or more declared fires. **IMPORTANT:** If resources are being used on more than one declared fire, mobilization and demobilization costs must be claimed against the first declared fire on which they are used.

Ineligible Costs

Ineligible costs under FMAGP include the following:

- Costs not directly associated with the fire's incident period (with the exception of pre-positioning, mobilization and demobilization of eligible resources);
- Costs incurred in the mitigation, management, and control of undeclared fires;
- Costs for the straight or regular time salaries and benefits of permanently employed or reassigned personnel of a subgrantee;
- Time and costs expended by volunteer labor, which by nature is offered on a donated basis and is not bound by contract or employment terms (See "Donated Resources" below);
- Costs for mitigation, management, and control of a declared fire on co-mingled Federal land when such costs are reimbursable to the State by a Federal agency under another statute (44 CFR Part 151);
- Costs related to planning, pre-suppression, recovery, and mitigation of possible future damage related to the burn area of the declared fire;
- Planning actions such as risk assessments;
- Cutting fire-breaks without the presence of an imminent threat;
- Pre-planned non-field training;
- Road widening;
- Land rehabilitation such as seeding, planting operations, and erosion control;
- Timber salvage; and
- Restoration of facilities damaged by fire.

Donated Resources

In some fires, individuals and organizations donate volunteer labor, equipment, and material. FEMA has determined that the value of "in-kind" contributions by third parties may be credited toward the calculation of the non-Federal cost share. FEMA Policy No. 9525.2, *Donated Resources*, should be used for guidance on how to credit applicants for the value of donated resources.

CHAPTER 4

GRANT MANAGEMENT

The Grantee is the State or Indian Tribal government that receives an FMAGP grant and is accountable for the use of the funds provided. Except in an instance where there is a State Grantee and an Indian Tribal Grantee under the same fire declaration, there can be only one Grantee for each declared fire. That means that two offices in the same State cannot be designated as Grantee, nor can offices from two States be designated as Grantee. Only the State agency, as designated by the Governor or GAR in the FEMA-State Agreement for FMAGP for the declared fire, or an Indian Tribal government, can be designated as the Grantee.

Grant Application Package

The FMAGP grant application package consists of the following forms (copies are in Appendix D):

- Standard Form 424 Request for Federal Assistance;
- FEMA Form 20-16 Summary Sheets for Assurances and Certifications;
- FEMA Form 20-16A Assurances – Non-Construction Programs; and/or
- FEMA Form 20-16B Assurances – Construction Programs;
- FEMA Form 20-16C Certifications Regarding Lobbying; Debarment, Suspension and Other Responsibility Matters; and Drug-Free Workplace Requirements;
- FEMA Form 20-15 Budget Information – Construction Programs; and/or
- FEMA Form 20-20 Budget Information – Non-Construction Programs;
- FEMA Form 90-133 Request for Fire Management Assistance Subgrant (RFMAS); and
- FEMA Form 90-91 Project Worksheet (PW).

In support of the budget information forms (Forms 20-15 and 20-20), all subgrant applications (consisting of the RFMAS and PWs) must be submitted as attachments to the grant application package.

The FEMA Regional Fire Duty Liaison is responsible for reviewing the grant application package for FMAGP eligibility and reasonableness of cost. A Regional grants management specialist is responsible for approving the grant award and obligating funds.

Initial Grant Application and Approval Timeframe. The State must submit its initial grant application (Standard Form 424) no later than 9 months after the date of the fire declaration. Depending on extenuating circumstances, such as delay in receiving bills for Federal resources ordered, the State may submit a written request for a time extension to the Regional Director. The request for a time extension must provide a detailed justification for the delay and need for the extension. Upon receipt of the written request from the State, the Regional Director may approve a time extension for up to 3 months.

CHAPTER 4 GRANT MANAGEMENT

The FEMA Regional Director has 45 days from the receipt of the State's initial grant application, or an amendment to the State's grant application, to approve or deny the application package or amendment, or to notify the State of a delay. Note that before the Regional Director can approve the State's grant application, the State must demonstrate that it has:

- Met the fire cost threshold;
- An approved State Administrative Plan; and
- An approved State Mitigation Plan.

Fire Cost Threshold. Prior to approval, the State's grant application must meet either the individual fire cost threshold or the cumulative fire cost threshold. When submitting the initial grant application, the State only needs to submit costs up to the amount that meets or exceeds the calendar year fire cost threshold even if additional costs are anticipated. Amendments to the initial grant application may be submitted thereafter, increasing the overall value of the grant. Should an amendment ever decrease the overall value of the grant so that the grant falls below the fire cost threshold, the grant will be de-obligated in its entirety.

Individual Fire Cost Threshold: The individual fire cost threshold is based on total eligible costs for the declared fire. The individual fire cost threshold for a State is the greater of the following:

- \$100,000; or
- $5\% \times \$1.18$ (\$1.18 is the 2006 statewide per capita indicator. The indicator is adjusted annually for inflation using the *Consumer Price Index for All Urban Consumers* published annually by the Department of Labor) \times the State population.

Cumulative Fire Cost Threshold: The cumulative fire cost threshold is based on total eligible costs incurred during the calendar year for all declared fires and total costs incurred on non-declared wildland fires (Federal costs not billed/payable by the State cannot be included in this calculation). The cumulative fire cost threshold for a State is the greater of the following:

- \$500,000; or
- Three times the $5\% \times \$1.18 \times$ State population.

To demonstrate that the individual or cumulative fire cost threshold has been met, the State must document the total eligible costs for a declared fire on PWs (FEMA Form 90-91). The cost for the pre-positioning of wildland firefighting resources is not considered when determining whether a grant application meets the fire cost threshold. Sample calculations of fire thresholds are presented in Appendix H.

The costs for all eligible fires within a declared fire complex are aggregated and treated as an individual fire for purposes of meeting or exceeding the fire thresholds.

It is important to note that the fire cost thresholds for each State are adjusted annually. See Appendix I for FY 2006 Fire Cost Thresholds.

State Administrative Plan. The State must develop an Administrative Plan (or have a current FEMA-approved Administrative Plan on file with the FEMA Regional Office) that describes the procedures for administering the FMAGP. It may be a stand-alone plan or it may be an addendum to the Public Assistance Program State Administrative Plan. At a minimum, the stand-alone Administrative Plan or addendum must include:

- The designation of the State agency (i.e., Grantee) that will have responsibility for program administration;
- The identification of staffing functions for FMAGP, the sources of staff to fill these functions, and the management and oversight responsibilities of each;
- The procedures for:
 - ◊ Notifying potential applicants of the availability of the program;
 - ◊ Assisting FEMA in determining applicant eligibility;
 - ◊ Submitting, reviewing, and transmitting subgrant applications, performance reports, and financial reports to the FEMA Regional Office;
 - ◊ Processing payment requests for subgrantees;
 - ◊ Recovering funds for disallowed costs;
 - ◊ Processing appeal requests and requests for time extensions; and
 - ◊ Providing technical assistance and materials on the application procedures, program eligibility guidance, and program deadlines.

The State should review its Administrative Plan for FMAGP annually and make necessary amendments to reflect changes in programmatic guidance or signatory parties. The State may request the Regional Director to provide technical assistance in preparing the State Administrative Plan.

State Mitigation Plan (SMP). Section 322 of the Stafford Act requires States, Tribes, and local governments to take a proactive approach to mitigation planning. This section, as implemented by 44 C.F.R. Part 201, emphasizes the need for State, Tribal, and local entities to closely coordinate mitigation planning and implementation efforts.

Before a State grant application can be approved, the State must:

- Develop an SMP in accordance with 44 CFR Part 206, and 44 CFR Part 201 that addresses wildfire risks and mitigation measures; or
- Incorporate wildfire mitigation into an existing SMP developed and approved in accordance with 44 CFR Part 206, Subpart M that addresses wildfire risks and contains a wildfire mitigation strategy and related mitigation initiatives.

The intent in requiring hazard mitigation planning to receive FMAGP grants is to identify wildfire hazards and cost-effective mitigation alternatives that produce long-term benefits.

A State or Indian Tribal government that does not have an approved SMP per 44 CFR §204.51(d)(2), and intends to apply for assistance under the fire declaration, must formally submit an acceptable SMP for FEMA review and approval within 30 days of signing the amendment to the FEMA-State Agreement (Exhibit E). FEMA then has 45 days, whenever possible, to review the SMP.

If the State does not have an approved SMP and fails to submit its SMP within the designated timeframe, FEMA will deny the State or Indian Tribal government grant application.

Grantee Responsibilities

In coordination with FEMA, the Grantee is responsible for managing a FMAGP grant under a fire management assistance declaration. Grantee responsibilities include the following:

- Submits the grant application package for FMAGP to the FEMA Regional Director for review and approval;
- Manages the administration and operation of FMAGP in coordination with FEMA;
- Conducts closeouts;
- Obtains audits;
- Disburses funding to subgrantees; and
- Monitors subgrant awards.

The Grantee serves as the primary contact for transactions with and on behalf of applicants applying for a fire management assistance subgrant. The Grantee is responsible for submitting all subgrant requests (RFMAS – FEMA Form 90-133) and PWs (FEMA Form 90-91) to FEMA for review and approval as part of the grant application package. By doing this, the Grantee is certifying that applicant eligibility and costs for work performed in the wildland firefighting activities comply with FEMA laws, regulations, policy, and guidance applicable to FMAGP, as well as the terms and conditions outlined for the administration of the grant in the FMAGP FEMA-State Agreement. During the closeout process or an audit, should funds be disallowed, the Grantee is responsible for recovery of funds.

Subgrantees

Eligible Subgrant Entities. State and Indian Tribal governmental agencies not designated as Grantee, as well as local governmental entities, are eligible to submit applications for fire management assistance subgrants to the Grantee. When an Indian Tribal government is serving as a dual Grantee under the State's declaration, all Indian Tribal government entities applying for subgrants must submit their applications through the Indian Tribal government Grantee.

Privately owned and volunteer entities are not eligible subgrantees, but may be reimbursed through a contract or compact with an eligible subgrantee. Volunteer labor may also be used to offset the non-Federal share of the fire management assistance grant. Volunteer entities may not be reimbursed but can be used as donated labor.

Subgrantee eligibility is contingent upon a finding that the Incident Commander or comparable State official, such as the State Forester, State Emergency Manager or Governor's Authorized Representative, requested the applying entity's resources, and that the activities performed by the applying entity were required as a result of the declared fire, were the legal responsibility of the applying entity, and were located within the designated area.

Subgrant Application Request. State, Indian Tribal, and local governments interested in applying for FMAGP subgrants must submit a RFMAS (FEMA Form 90-133) to the Grantee in accordance with State procedures and within the timeframe established by the Grantee, but no later than 30 days after the close of the incident period. Under extenuating circumstances, the Regional Director may approve an applicant's request for an additional 30 days to submit its RFMAS. A copy of FEMA Form 90-133 can be found in Appendix D.

The RFMAS is an applicant's official notification to both the Grantee and FEMA of its intent to apply for a subgrant. The form includes information identifying the applicant, including the applicant's name, address, and primary and secondary contacts. The Grantee reviews the RFMAS and forwards it to the FEMA Regional Office. The Regional Director then determines applicant eligibility based on FEMA laws, regulations, policy, and guidance applicable to FMAGP and informs the Grantee of his/her determination. The Grantee then notifies the applicant. If approved, the subgrant application process may begin.

Subgrant Project Worksheets. After approving an applying entity's RFMAS, FEMA Regional Staff may begin to work with the Grantee and local staff to prepare PWs (FEMA Form 90-91). PWs are the forms that FEMA uses to document actual costs incurred by eligible applicants in performing eligible wildland firefighting activities. The Regional Director may request the Principal Advisor to assist with PW preparation. A copy of FEMA Form 90-91 can be found in Appendix D.

Subgrantees should submit all PWs to the Grantee for review. The Grantee submits them to the Regional Director as part of its grant application. PWs less than \$1,000 are not eligible under FMAGP.

The Grantee determines the deadline for applicants to submit PWs, but the deadline will be no later than 6 months from the close of the incident period. At the request of the Grantee, the Regional Director may approve a 3-month extension for the submittal of PWs.

Appeals of Eligibility¹⁴

An eligible applicant, subgrantee or grantee may appeal any grant-related determination made by FEMA. This includes determinations on applicant eligibility, work eligibility, and cost.

Levels of Appeals. There are two levels of appeal to FEMA. The first level is to the Regional Director. The Regional Director's decision may be appealed to the Recovery Division Director in the National Office for a second and final level of appeal. All appeals must be filed within 60 days after the receipt of the determination that is being appealed.

¹⁴ Appeals of eligibility are based on 44 CFR § 204.54.

Appeals Process.

Applicants must submit all appeals to the Regional Director through the Grantee. The Grantee reviews the appeals and forwards them with a written recommendation to the Regional Director within 60 days of receipt.

Appeals should contain documented justification supporting the appellant's position, specifying the determination in dispute and the provisions in Federal law, regulation, or policy with which the appellant believes the initial action was inconsistent.

Within 90 days following receipt of a Grantee or subgrantee appeal, the Regional Director for first appeals or Recovery Division Director in the National Office for second appeals notifies the Grantee in writing of the disposition of the appeal or of the need for additional information.

A request by the Regional Director or Recovery Division Director in the National Office for additional information will include a date by which the information must be provided. Within 90 days following the receipt of the requested additional information, or following expiration of the period for providing the information, the Regional Director or Recovery Division Director notifies the Grantee in writing of the disposition of the appeal. If the decision is to grant the appeal, the Regional Director or Recovery Division Director takes appropriate implementing action.

In appeals involving highly technical issues, the Regional Director or Recovery Division Director may submit the appeal to an independent scientific or technical person or group for advice or recommendation. The period for this technical review may be in addition to other allotted time periods. Within 90 days of receipt of a technical report, the Regional Director or Recovery Division Director notifies the Grantee in writing of the disposition of the appeal.

Cost Share

All fire management assistance grants are subject to a cost share. The Federal cost share for all fire management assistance grants is 75 percent. All terms and conditions are outlined in the FEMA-State Agreement and apply to all declared fires within each calendar year. The 25 percent non-Federal cost share can be paid in its entirety by the Grantee, subgrantee, or a combination of the two. Under the FMAGP, there is no cost-share adjustment. The grant application for each declared fire is subject to the 75 percent Federal cost share.

Duplication of Assistance

FEMA may not duplicate benefits received by or available to the applicant from insurance, other assistance programs, legal awards, or any other source to address the same purpose. A subgrantee must notify FEMA of all benefits that it receives or anticipates to receive from other sources for the same purpose and must seek all such benefits available to them. FEMA will reduce the grant by the amount available for the same purpose from other sources.

Assistance may be provided under FMAGP when other benefits are available to an applicant, but the applicant will be liable to FEMA for any duplicative amounts that it receives or has available to it from other sources, and must repay FEMA for such amounts.

FEMA does not provide assistance that duplicates activities for which another Federal agency has more specific or primary authority to provide assistance for the same purpose. FEMA may disallow or recoup amounts that fall within another Federal agency's statutory authority. The FMAGP may provide funding assistance under Part 204, but the applicant must agree to seek assistance from the appropriate Federal agency and to repay FEMA for amounts that are within another agency's authority. It is the applicant's responsibility to notify FEMA of any duplicate costs recovered from another Federal agency.

Negligence and Intentional Acts

FEMA may not provide assistance to an applicant for costs attributable to its own negligence or that of a third party. If the applicant suspects negligence or intentional acts by a third party for contributing to the igniting a declared fire, the applicant is responsible for taking all commercially reasonable steps to recover costs from the third party. Any recovered costs are considered duplicated benefits and need to be remitted to FEMA.

To ensure that applicants take reasonable steps toward cost recovery and possible prosecution of responsible entities, applicants are asked to document their liability findings and proposed plan of action. The Grantee must work with the State's Attorney General to pursue legal avenues to recover costs from any third party responsible for a declared fire. This includes declared fires that were "local responsibility" fires for which a State submitted a declaration request. The State's decision to prosecute for damages from a liable third party must be documented and signed by the State's Attorney General, and provided by the Grantee to the Regional Office as part of the State's initial grant application or as a subsequent amendment.

If FEMA determines an applicant has not made reasonable efforts to recover costs from third parties responsible for igniting a declared fire, FEMA may withhold or recoup funding from the applicant. FEMA recognizes, however, that it may not be feasible or cost effective for applicants to pursue cost recovery from all third parties responsible for igniting a declared fire.

A person or third party shall not be held liable as a result of actions that person or entity takes or omits in the course of rendering care or assistance in response to the declared fire. In addition, if the applicant chooses not to prosecute a third party whose intentional acts contributed to the costs incurred by the declared fire, FEMA reserves the right to do so.

Administrative Costs

Grantee. The Grantee may claim both direct and indirect administrative costs for extraordinary costs associated with requesting, obtaining, and administering a grant for a declared fire.

CHAPTER 4 GRANT MANAGEMENT

Direct costs include regular and overtime pay and travel expenses for permanent, reassigned, temporary, and contract employees who assist in administering the fire management assistance grant.

Funding for other direct costs incurred by the Grantee administering a fire management assistance grant, such as equipment and supply purchases, may be eligible, but must be reviewed by the Regional Director. "State management costs", as such, are not eligible under FMAGP, however, most items considered to be State management costs may be reimbursed under FMAGP as administrative costs pursuant to OMB Circular A-87 and 44 CFR Part 204.

Indirect costs incurred by the Grantee during the administration of a grant are allowed in accordance with the provisions of 44 CFR Part 13 and Office of Management and Budget (OMB) Circular A-87. The Grantee must submit a copy of the indirect cost proposal along with the PW for indirect costs. The PW is reviewed by FEMA's Disaster Finance Center for reasonableness and eligibility.

Costs included in the computation of the indirect cost rate are not allowable as direct administrative costs.

Subgrantee. The subgrantee may claim extraordinary costs associated with requesting, obtaining, and administering a subgrant for a declared fire. Direct costs include regular and overtime pay and travel expenses for permanent, reassigned, temporary, and contract employees who assist in administering the fire management assistance subgrant.

Funding for other direct costs incurred by the subgrantee administering a subgrant, such as equipment and supply purchases, may be eligible, but must be reviewed by the Grantee and Regional Director.

Subgrantees may not claim indirect administrative costs.

Grant Closeouts

Closeout for all fire management assistance grants must meet the requirements set forth in 44 CFR Part 13, Subpart D. The purpose of closeout is to certify that all eligible costs have been reimbursed. During the closeout process, estimated costs are reconciled with actual costs. It is the Grantee's responsibility to document all costs associated with the eligible wildland firefighting activities. Failure to properly document any project may result in loss of funding for any claimed work. The Grantee is responsible for making sure that all documentation on PWs is accurate, complete, and up to date for closeout.

Closeout shall be completed 90 days after the performance period expiration date. The performance period is the time interval designated in Block 13 on Standard Form 424 for the Grantee and all subgrantees to submit eligible costs and have those costs processed, obligated, and closed out by FEMA. During closeout, the Grantee submits a final Financial Status Report

(FEMA Form 20-10), which reports all costs incurred within the incident period and all administrative costs incurred within the performance period.

A fire management assistance grant is ready to be closed when all funds have been distributed and all documentation is complete. FEMA or the State can begin the closeout process. The FEMA Regional Office should begin the closeout process with a letter of inquiry, followed by a letter of intent to proceed with the closeout when no other justification can be provided to keep the grant open.

Audit Requirements

Recipients of FMAGP grants and subgrants are required to comply with the provisions set forth in OMB Circular A-133. Circular A-133 requires grant or subgrant recipients expending \$500,000 or more in Federal funds in a fiscal year to obtain a single audit. Specific information pertaining to the audit requirements of each State is outlined in their respective State Administration Plans. States must abide by both Federal and State audit requirements.

Even though a single audit is required, grant recipients are also subject to additional audit efforts by the Department of Homeland Security and/or FEMA Office of Inspector General and State auditors for items not covered under the single audit. Specific documentation and procedures are based on the requirements of the OMB. The OMB requires grant recipients to maintain financial and program records for 3 years following final payment. The Office of Inspector General may independently, or at the National Office's request, initiate an audit of a Grantee or subgrantee for a particular fire or fire complex.

In some instances, State law and procedures may require paperwork to be saved for a longer time. It is important for grant recipients to check the specific audit requirements and statutes that govern their State.

CHAPTER 5

MUTUAL AID¹⁵

This chapter specifies the criteria under FEMA’s FMAGP used to determine eligibility of costs incurred through mutual aid agreements between applicants and other entities. It applies to eligible work authorized under Section 420 of the Stafford Act and is applicable to all fires declared under the FMAGP on or after August 11, 2004.

This chapter is applicable to all forms of mutual aid assistance, including agreements between Requesting (or otherwise legally responsible jurisdiction) and Providing Entities, statewide mutual aid agreements, and the mutual aid services provided under the Emergency Management Assistance Compact (EMAC).

Background

State and local governments often require additional assistance, resources, and personnel to respond and recover from a disaster, emergency or fires. Many State and local governments enter into mutual aid agreements to provide emergency assistance to each other when these events occur. These agreements often are written prior to an event, but may be arranged verbally after an event occurs. This chapter addresses the eligibility of costs for both written and verbal mutual aid agreements and mutual aid agreements under the EMAC.

The National Incident Management System (NIMS) encourages States to participate in mutual aid agreements, specifically intrastate agreements that encompass all local jurisdictions. The NIMS Integration Center (NIC) is responsible for developing a national system of standards and guidelines as well as preparing guidance to assist agencies in implementing the system. FEMA supports the NIMS by establishing standard criteria for determining the eligibility of costs incurred through mutual aid agreements.

Overview

To be eligible for reimbursement under the FMAGP, the assistance provided under a mutual aid agreement must have been requested by a Requesting Entity or Incident Commander, must be directly related to a declared fire, must have been used to perform eligible work, and must have a reasonable cost.

FEMA does not reimburse costs incurred by entities that “self-deploy” (deploy without a request for mutual aid assistance by a Requesting Entity) except to the extent those resources are subsequently used in performing eligible work at the request of the Requesting Entity or Incident Commander.

¹⁵ Refer to FEMA Policy No. 9523.6, *Mutual Aid Agreements for Public Assistance and Fire Management Assistance*, for more detail.

Pre-Event Written Mutual Aid Agreements

FEMA recognizes mutual aid agreements between Requesting and Providing Entities, and statewide mutual aid agreements wherein the State is responsible for administering the claims for reimbursement of Providing Entities. In addition, FEMA recognizes the standard EMAC agreement as a valid form of mutual aid agreement between member states. FEMA encourages parties to have written mutual aid agreements in place prior to a declared fire.

When a pre-event written agreement exists between a Requesting Entity and a Providing Entity, the Providing Entity may be reimbursed through the Requesting Entity. In these circumstances, the Requesting Entity must claim the eligible costs of the Providing Entity on its subgrant application, pursuant to the terms and conditions of the mutual aid agreement and the requirements of this chapter, and agree to disburse the Federal share of funds to the Providing Entity. This section presumes that the Requesting Entity is legally responsible for the response to the declared fire. In some cases, the IC directing resources represents an entity other than the jurisdiction legally and financially responsible for fire response to the declared fire (for example, the State, through ICS); in this case, the Providing Entity still is reimbursed only through an agreement with the local jurisdiction that is legally responsible for response to the fire, and on whose behalf the resources are requested.

When a statewide pre-event mutual aid agreement exists that designates the State as responsible for administering the reimbursement of mutual aid costs, a Providing Entity may apply for reimbursement directly to the Grantee, with the prior consent of the Requesting Entity, in accordance with applicable State law and procedure. In such cases, the Providing Entity must obtain from the Requesting Entity certification of the types and extent of mutual aid assistance requested and received in performing eligible emergency work, and the labor and equipment rates used to determine the mutual aid cost reimbursement request. The certification is to be provided to the State as part of the Providing Entity's reimbursement request.

FEMA encourages parties to address the subject of reimbursement in their mutual aid agreements. The reimbursement provisions in a pre-event agreement will be honored to the extent they meet FEMA requirements.

When a pre-event mutual aid agreement is silent on reimbursement, FEMA does not reimburse for the first 8 hours of assistance by the Providing Entity at the incident site of the declared fire, but will reimburse eligible costs when all other criteria are met. If the agreement is not amended to address reimbursement, the first 8 hours of assistance from a Providing Entity for any future deployment to a fire incident will be non-reimbursable.

When a pre-event agreement addresses reimbursement and also includes an initial period of unpaid assistance, FEMA reimburses the eligible costs of assistance after the initial unpaid period (the minimum unpaid period must be 8 hours) and when all other criteria are met.

Post-Event Mutual Aid Agreements

When the parties do not have a pre-event written mutual aid agreement, the Requesting (or otherwise legally responsible entity) and Providing Entities may verbally agree on the type and extent of mutual aid resources to be provided in the current event, and on the terms, conditions, and costs of such assistance. Post-event verbal agreements must be documented in writing and executed by an official of each entity with authority to request and provide assistance, and provided to FEMA as a condition of receiving reimbursement.

When the parties have a post-event mutual aid agreement, FEMA does not reimburse for the first 8 hours of assistance at the incident site, but will reimburse eligible costs when all other eligibility criteria are met.

FEMA encourages parties to develop prospective mutual aid agreements with reimbursement clauses, if the Providing Entity hopes to be eligible for reimbursement when providing assistance to the Requesting Entity with respect to any subsequent deployment to a fire incident.

Force Account Labor Costs

The straight or regular time wages or salaries of a Requesting Entity's (or otherwise legally responsible entity's) permanently employed personnel performing or supervising eligible response work are not eligible costs, pursuant to 44 CFR §206.228(a)(4), §204.42(c), and §204.43(c), even when such personnel are reassigned or relocated from their usual work location to provide assistance during an FMAGP declaration. Overtime costs for such personnel are eligible and may be submitted as part of a subgrant application.

The labor force of a Providing Entity is treated as contract labor, with regular time and overtime wages and certain benefits eligible, provided labor rates are reasonable. The increased portion of overtime cost incurred by the Providing Entity for backfill employees is eligible. The labor force of the Providing Entity is not treated as contract labor if the labor force is employed by the same local or State government as the Requesting Entity.

In circumstances where a Providing Entity is also an eligible applicant in its own right, the determination of eligible and ineligible costs depend on the capacity in which the entity is incurring costs. As stated previously, an applicant's straight-time wages are not eligible costs when the applicant is using its permanently employed personnel for work in its own jurisdiction.

Requesting and Providing Entities may not mutually deploy their labor forces to assist each other in such a way as to circumvent the limitations previously outlined.

Eligible Work

There are two types of mutual aid work eligible for FEMA assistance: Fire response activities, including associated emergency work, and Grant Management Work. Both are subject to the eligibility requirements under the FMAGP.

Mutual aid provided for fire response activities, including emergency work necessary to meet immediate threats to life, public safety, and improved property, is eligible.

Examples of eligible fire response work authorized under the FMAGP include:

- Search and rescue, sandbagging, emergency medical care, debris removal;
- Reasonable supervision and administration in the receiving State directly related to eligible work;
- The cost of transporting equipment and personnel by the Providing Entity to the incident site;
- Costs incurred in the operation of the Incident Command System, such as operations, planning, logistics, and administration, provided such costs are directly related to the performance of eligible work on the fire to which resources are assigned;
- Dispatch operations in the receiving State;
- Firefighting activities under Section 420 of the Stafford Act and 44 CFR §204; and
- Dissemination of public information authorized under Section 403 of the Stafford Act.

Examples of mutual aid work not eligible under the FMAGP include:

- Permanent recovery work;
- Training, exercises, on-the-job training;
- Long-term recovery and mitigation consultation;
- Costs outside the receiving State that are associated with the operations of the EMAC system;
- Costs for staff performing work that is not eligible under the FMAGP;
- Pre-positioning costs not approved by the Regional Director;
- Dispatch operations outside the receiving State;
- Tracking of EMAC resources; and
- Situation reporting.

Grant management work can be described as work associated with the performance of the Grantee's responsibilities as the grant administrator, as outlined in 44 CFR §206.202(b). Use of EMAC-provided assistance to perform these tasks is eligible mutual aid work.

Reimbursement of Mutual Aid Costs

To be eligible for FEMA assistance, the reimbursement provisions of a mutual aid agreement must apply uniformly to both Federal awards and other activities of the governmental unit, and not be contingent on FEMA approving funding for a declared fire.

Requesting and Providing Entities must keep detailed records of the services requested and received, and provide those records as part of the supporting documentation for a reimbursement request.

A request for reimbursement of mutual aid costs must include a copy of the mutual aid agreement regardless of when the agreement was signed between the Requesting and Providing Entities. A request for reimbursement of mutual aid costs must include a written and signed certification by the Requesting Entity certifying the following:

- The types and extent of mutual aid assistance requested and received in performing eligible emergency work; and
- The labor and equipment rates used to determine the mutual aid cost reimbursement request.

FEMA does not reimburse the value of volunteer labor or the value of paid labor that is provided at no cost to the applicant. However, the following items apply under a mutual aid agreement:

- To the extent the Providing Entity is staffed with volunteer labor, the value of the volunteer labor may be credited to the non-Federal cost share of the Requesting Entity's emergency work in accordance with the provisions outlined in Recovery Division Policy #9525.2, *Donated Resources*.
- If a mutual aid agreement provides for an initial period of unpaid assistance or assistance at no cost to the Requesting Entity, the value of the assistance provided at no cost to the Requesting Entity may be credited to the non-Federal cost share of the Requesting Entity's emergency work under the provisions of Recovery Division Policy #9525.2, *Donated Resources*.

Reimbursement for work beyond emergency assistance, such as permanent repairs, is not eligible for mutual aid assistance under the FMAGP.

APPENDIX A:

**“Robert T. Stafford Disaster Relief and
Emergency Assistance Act”**

42 U.S.C. § 5121 et seq.

APPENDIX B:

44 CFR Part 204

**FIRE MANAGEMENT ASSISTANCE GRANT
PROGRAM**