

(g) *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.

(h) *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; 67 FR 8853, Feb. 26, 2002; 67 FR 61515, Oct. 1, 2002; 69 FR 55097, Sept. 13, 2004]

§ 206.435 Project identification and selection criteria.

(a) *Identification.* It is the State's responsibility to identify and select eligible hazard mitigation projects. All funded projects must be consistent with the State Mitigation Plan. Hazard Mitigation projects shall be identified and prioritized through the State, Indian tribal, and local planning process.

(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(c) 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.

[55 FR 35537, Aug. 30, 1990, as amended at 66 FR 8853, Feb. 26, 2002; 68 FR 63738, Nov. 10, 2003]

§ 206.436 Application procedures.

(a) *General.* This section describes the procedures to be used by the grantee in submitting an application for HMGP funding. Under the HMGP, the State or Indian tribal government is the grantee and is responsible for processing subgrants to applicants in accordance with 44 CFR part 13 and this part 206. Subgrantees are accountable to the grantee.

(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) *Hazard mitigation application.* Upon identification of mitigation measures, the State (Governor's Authorized Representative) will submit its Hazard Mitigation Grant Program application to the FEMA Regional Director. The application will identify one or more mitigation measures for which funding is requested. The application must include a Standard Form (SF) 424, Application for Federal Assistance, SF 424D, Assurances for Construction Programs, if appropriate, and a narrative statement. The narrative statement will contain any pertinent project management information not included in the State's administrative plan for Hazard Mitigation. The narrative statement will also serve to identify the specific mitigation measures for which funding is requested. Information required for each mitigation measure shall include the following:

- (1) Name of the subgrantee, if any;
- (2) State or local contact for the measure;
- (3) Location of the project;
- (4) Description of the measure;

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- (5) Cost estimate for the measure;
- (6) Analysis of the measure's cost-effectiveness and substantial risk reduction, consistent with §206.434(c);
- (7) Work schedule;
- (8) Justification for selection;
- (9) Alternatives considered;
- (10) Environmental information consistent with 44 CFR part 9, Floodplain Management and Protection of Wetlands, and 44 CFR part 10, Environmental Considerations.

(d) *Application submission time limit.* The State's application may be amended as the State identifies and selects local project applications to be funded. The State must submit all local HMGP applications and funding requests for the purpose of identifying new projects to the Regional Director within 12 months of the date of disaster declaration.

(e) *Extensions.* The State may request the Regional Director to extend the application time limit by 30 to 90 day increments, not to exceed a total of 180 days. The grantee must include a justification in its request.

(f) *FEMA approval.* The application and supplement(s) will be submitted to the FEMA Regional Director for approval. FEMA has final approval authority for funding of all projects.

(g) *Indian tribal grantees.* Indian tribal governments may submit a SF 424 directly to the Regional Director.

[67 FR 8853, Feb. 26, 2002]

§ 206.437 State administrative plan.

(a) *General.* The State shall develop a plan for the administration of the Hazard Mitigation Grant Program.

(b) *Minimum criteria.* At a minimum, the State administrative plan must include the items listed below:

(1) Designation of the State agency will have responsibility for program administration;

(2) Identification of the State Hazard Mitigation Officer responsible for all matters related to the Hazard Mitigation Grant Program.

(3) Determination of staffing requirements and sources of staff necessary for administration of the program;

(4) Establishment of procedures to:

(i) Identify and notify potential applicants (subgrantees) of the availability of the program;

(ii) Ensure that potential applicants are provided information on the application process, program eligibility and key deadlines;

(iii) Determine applicant eligibility;

(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