

FY 2006 CAP-SSSE Guidance

This guidance updates the Community Assistance Program – State Support Services Element (CAP-SSSE) guidance issued in FY 2005. While the basic program elements have essentially stayed the same, there are some new procedures to follow in FY 2006, as described below.

I. Purpose of CAP-SSSE: The purpose of this program is to provide, through a State grant mechanism, a means to ensure that communities participating in the National Flood Insurance Program (NFIP) are achieving the flood loss reduction goals of the NFIP. CAP-SSSE is intended to accomplish this by funding States to provide technical assistance to NFIP communities and to evaluate community performance in implementing NFIP floodplain management activities with the additional goal of building State and community floodplain management expertise and capability.

II. Authorities and Background: The CAP-SSSE Program derives its authority from the National Flood Insurance Act of 1968, as amended, the Flood Disaster Protection Act of 1973, and from 44 CFR Parts 59 and 60. The National Flood Insurance Act of 1968 prohibits the Director from providing flood insurance in a community unless that community adopts and enforces floodplain management measures that meet or exceed minimum criteria in 44 CFR Part 60.3. These floodplain management measures can take the form of floodplain management ordinances, building codes, or zoning provisions. The Act also directs FEMA to work closely with and provide any necessary technical assistance to States and communities participating in the NFIP. CAP-SSSE through its State partnering agreement is designed to make State personnel available to assist and supplement FEMA Regions in providing technical assistance to NFIP communities and in monitoring, evaluating, and pursuing corrective actions by communities in the performance of local floodplain management responsibilities. State officials can be particularly effective in delivering these services to communities due to their knowledge and familiarity with State governing authorities and how these interrelate with local floodplain management ordinances as well as their knowledge of related State programs.

III. Processes: FEMA Regional Offices and the designated State agency negotiate a CAP-SSSE Agreement (Agreement) that specifies activities and products to be completed by a State in return for CAP-SSSE funds. In addition, since 2005, each State is required to develop a Five-Year Floodplain Management Plan (Five-Year Plan) describing the activities to be completed using CAP-SSSE funding as well as how the required performance metrics will be met. The Agreement is intended to reflect the Five-Year plan, FEMA's needs, and the State's role in providing technical assistance to communities, evaluating community performance and, where possible, should integrate the expertise of the State on how best to build and maintain community floodplain management capability. The Agreement is subject to amendments and modifications when approved by both parties. Performance standards that address quality of service are to be developed and measured. The CAP-SSSE Agreement is not intended to fund all floodplain management activities undertaken by the State NFIP Coordinating Agency, only those activities that the Region identifies. States are expected to continue to perform other duties and responsibilities of the State NFIP Coordinating Agency and support State floodplain management programs and initiatives using their own resources and funding.

FY 2006 CAP-SSSE Guidance

IV. Performance Measurement Development: FEMA created a CAP-SSSE Workgroup in the early part of 2004 that consisted of FEMA Headquarters and Regional personnel, representatives from the Association of State Floodplain Managers (ASFPM), State agencies, and the National Service Provider (NSP). The Workgroup designed an outline for the Five-Year Plans, and established NFIP performance metrics that will be used to evaluate CAP-SSSE activities. This outline was presented at the annual ASFPM conference in Biloxi, Mississippi, in May 2004. States were required to have their Five-Year Plans completed by September 30, 2004, so that the plans could be implemented in FY 2005. During 2005, the Five-Year Plans were submitted, reviewed, and summarized. The Regions were given both Regional Summaries and State Summaries of these initial plans, with assistance from the NSP. These summaries included checklists to provide States with feedback for use in developing their FY 2006- FY 2010 plans.

V. Eligible Activities and Requirements: Regional Offices are to determine the appropriate levels of effort in each activity to ensure that performance metrics are being met. FEMA is requiring certain metrics, and encouraging others, for some of the CAP-SSSE activities as described below.

1. **Performance Measurement/Five-Year Plan Updates:** The performance measure that FEMA must meet under the Flood Map Modernization Initiative is as follows: **“Ensure that a minimum of 93 percent of communities adopt their flood maps by the FIRM effective date.”** Therefore, all State Five-Year Plans **must** contain a performance measure that is equal to or more stringent than the FEMA requirement. This means that States must include a mandatory adoption metric of 93 percent or higher in their Five-Year Plans starting in FY 2006.
 - a. Additional Performance Metrics - FEMA strongly encourages States to adopt the performance measure “Increase the percentage communities that adopt the new flood maps prior to the 30-day letter being sent.” Regions are encouraged to develop incentives for States to adopt and successfully implement this performance measure. [*Please note: 30-day letters are now sent out 60 days prior to the map effective date so early coordination is required to meet this metric.*]
 - b. Workload Changes – Flood Map Modernization and the need to provide NFIP-related post-disaster assistance have significant impacts on projected State workloads. The Mapping Information Portal (MIP) www.hazards.gov should be consulted when developing and updating the FY 2006 plans. On the MIP, FEMA's Multi-Year Flood Hazard Identification Plan (MHIP) is available on the MIP and should be reviewed as part of the CAP-SSSE Five-Year Planning process. The MHIP provides schedules and projections of which communities will be mapped (restudies, digital conversions, etc.) by fiscal year. In addition, the Community Assistance Section (CAS) at FEMA Headquarters provided the Regions with Map Adoption Lead Time (MALT) charts based on MHIP projections. Regions and States must use these tools to understand and assign workload priorities and coordinate CAP-SSE activities with Flood Map Modernization Management Support (MMMS) grant activities. States should work with the Regions to continually review their workload as related to Flood

FY 2006 CAP-SSSE Guidance

Map Modernization and applicable post-disaster activities and update their Five-Year Plans as new data are available.

- c. Gap Analysis/Best Practices – With assistance from the NSP, FEMA provided MALTs to the States to assist them in conducting a gap analysis. The Regions can call upon the NSP to assist in updating the MALTs as needed. Additionally, FEMA urges States to consult ASFPM’s *Effective State Programs and Floodplain Management 2003: State and Local Programs*, for examples of best practices in floodplain management, gap analysis methods, and self-evaluations that can be performed by States at www.floods.org/. The Five-Year Plans should document any best practices that the State is undertaking using CAP-SSSE funds.

2. State Model Ordinance Research and Development: In preparation for Flood Map Modernization, States and Regions must get ready for the large number of communities that will be required to adopt a compliant ordinance to avoid suspension from the NFIP. Therefore, at the discretion of the Regional Office, States must develop or update their State model floodplain management ordinance and have it approved by the Regional Office. The State model ordinance must contain the minimum requirements outlined in 44 CFR Section 60.3 and contain any State related floodplain management provisions.

- a. Adoption of Digital Data - Section 107 of the Flood Insurance Reform Act of 2004 states that for the purposes of flood insurance and floodplain management, FEMA digital flood hazard data and paper maps are interchangeable and legally equivalent provided that they meet FEMA accuracy standards. States are encouraged to consult with their State Attorney General to ascertain whether digital data may be adopted in lieu of paper maps, and to share their findings on this issue with their Regional Office. In turn, the Regions will inform CAS as information on adoption of digital data become available from the States.
- b. Automatic Adoption - NFIP regulations require that community floodplain management regulations be legally enforceable. This includes adopting the current revised FIRM and FIS. Many State and Regional model ordinances have a provision in the ordinance that allows for flood map revisions to be automatically adopted. Many State model ordinances have provisions adopting the current FIRM and FIS and “all subsequent revisions.” The purpose of these provisions is to avoid the need to amend community floodplain regulations each time the FIRM is revised. This practice may not be legal in all states since it may violate due process or procedural requirements of state enabling legislation. If a State wants to include this provision in their model ordinance or has communities that have adopted this provision, they must obtain a legal review to determine if the provision is legal in their State. They can use their in-house counsel or request their State Attorney General to conduct a legal review of this provision to whether it complies with enabling legislation and constitutional requirements. The State legal opinion may be very important for future development and consistency in FIRM adoption. States that do not have this provision in their model ordinance and do not have communities using this provision do not have to take further

FY 2006 CAP-SSSE Guidance

action. The FY-2004 CAP-SSSE Guidance required that State Coordinators have their State model ordinances evaluated by their State Attorney General's Office to ensure that the automatic adoption of flood maps is legal in their State. Many States have either not yet completed this activity, or have provided information that is vague and inconclusive. In the absence of a clear, concise, legal opinion stating that automatic adoption is legal in any given State, FEMA will assume that automatic adoption is not legal in that State. The results of the opinions received so far were provided to the Regions and will be updated as more opinions are submitted. If there are any questions about this, please do not hesitate to call Mike Grimm, CAS Section Chief, at FEMA Headquarters.

- c. Model Building Codes - More and more communities are adopting a model building code (i.e., the International Building Code and other I-Codes or the National Fire Protection Association Building and Safety Code), which contains the minimum flood resistant design and construction requirements of the NFIP. States are encouraged to consult the document, "*Reducing Flood Losses Through the International Code Series: Meeting the Requirements of the National Flood Insurance Program.*" This document will assist States when reviewing floodplain management regulations in communities that have adopted one of the model building codes. It can also be used to compile a guidance package for communities that may want to meet the minimum NFIP regulatory requirements through a combination of building codes, zoning requirements, etc.
3. **Ordinance Assistance:** States participating in CAP-SSSE must assist communities in developing and adopting floodplain management ordinances that comply with the NFIP. This includes necessary ordinance revisions based upon new hazard data provided by FEMA as well as incorporating any future changes in NFIP floodplain management criteria. If a Regional Office is not requiring State involvement in the ordinance revision process, Five-Year Plans must say the Regional Office has the lead on ordinance revisions and is ultimately responsible for ensuring that the flood maps are adopted. In cases where a State has not assumed responsibility for the ordinance revision process, this item must be specifically identified in the State Five-Year Plan Gap Analysis.
4. **Entering Floodplain Management Data in the Community Information System (CIS):** Regional Offices are to ensure that all information is entered into CIS. Regions should require States to update and enter information into the CIS as part of their reporting requirements under the agreement. This is to include entering information on ordinance adoption, Community Assistance Visits (CAVs) and Community Assistance Contacts (CACs), training, general technical assistance, and updating all other fields they are authorized to update. FEMA Headquarters uses CIS to determine whether communities have adopted compliant ordinances and will make decisions to suspend communities based primarily on checking the CIS ordinance screen. Therefore, as communities adopt new flood maps it is imperative that States and Regions enter the necessary information into CIS in a timely manner. This will become increasingly important as CIS will be enhanced and used to update the MIP in the near future.

FY 2006 CAP-SSSE Guidance

- 5. Community Assistance Visits and Community Assistance Contacts:** States participating in CAP-SSSE are required to conduct CAVs and CACs. The Regions will work with each State to determine the number and location of CAVs and CACs to be performed each year. Regions and States are encouraged to make maximum use of the CAC process and other contacts with communities to identify potential compliance problems and needs for technical assistance. States are required to provide appropriate follow-up to CAVs and CACs by providing technical assistance to correct program deficiencies and remedy violations to the maximum extent possible. States must coordinate with Regions, as necessary, to clarify what follow-up is to be provided. States are expected to refer community compliance problems that they are unable to resolve to the Regional Office. FEMA Manual 78104.4, *National Flood Insurance Program Guidance for Conducting Community Assistance Contacts and Community Assistance Visits*, August 1989, provides guidance on planning for, conducting and providing follow-up for these activities. Regions are also encouraged to use the CAV/Compliance Course CD that was distributed in 2004 for additional assistance in preparing for and conducting CAVs. All CAVs and CACs are required to be entered into CIS so that FEMA can monitor this important floodplain management activity.
- 6. Outreach, Workshops, and Other Training:** States are encouraged to conduct outreach, workshops, and other training for local officials to support implementation and enforcement of community floodplain management regulations, to promote hazard identification, and local and State planning initiatives. States should conduct workshops and other training and outreach opportunities on a schedule and at locations that are coordinated with the FEMA Region, and outlined in the Five-Year Plan. States are permitted to use CAP-SSSE funds to allow State employees that are involved in floodplain management activities to take the ASFPM Certified Floodplain Manager (CFM) exam. CAP-SSSE funds can be used to cover initial exam and biannual CFM renewal fees. However, individual ASFPM membership fees are not covered by CAP-SSSE finding. States are encouraged to sponsor and proctor CFM exams in coordination with ASFPM. Later in FY 2006, States may be required to enter outreach and training information into CIS as new screens are developed for this purpose.
- 7. General Technical Assistance:** States are encouraged to provide general technical assistance to communities and individuals to resolve floodplain management issues related to the NFIP. General technical assistance also includes assisting communities in joining the NFIP Community Rating System (CRS) and in undertaking activities credited by CRS.
- 8. Mapping Assistance:** As part of the Flood Map Modernization process, States must work with the Regions to develop flood mapping priorities, scope flood hazard studies, and participate in community meetings held as part of the mapping process. In addition to CAP-SSSE grants, States are eligible for MMMS funding to meet these Flood Map Modernization responsibilities. The CAP-SSSE plans must be developed separately from but in coordination with the MMMS plans to ensure that MMMS is used to supplement CAP-SSSE activities and that States will meet all of their responsibilities under Flood

FY 2006 CAP-SSSE Guidance

Map Modernization. Neither MMMS nor CAP-SSSE funds can be used for conducting floodplain studies or developing floodplain maps.

- 9. Coordination with Other State Programs and Agencies:** States are encouraged to coordinate with other State administered programs that impact floodplain management such as the Flood Mitigation Assistance Program, the Hazard Mitigation Grant Program, the Pre-Disaster Mitigation Program, the State Dam Safety Program, and other State land use and water resources programs including periodic meetings among State agencies. Coordination with other State agencies on adoption and implementation of State Executive Orders and regulations that meet State NFIP requirements is also encouraged.
- 10. Assistance to Communities in Responding to Disasters:** States are encouraged to provide post disaster assistance and support to NFIP communities. Examples of these activities include: technical assistance implementing substantial damage requirements, including use of the Substantial Damage Estimating Software; assistance to communities enrolling into the NFIP; general floodplain management technical assistance; assistance with the promotion and use of the NFIP Increased Cost of Compliance (ICC) coverage, and assistance with a variety of hazard mitigation initiatives. Generally, these activities are not included in the annual CAP-SSSE Agreement, but negotiated if and when a disaster occurs. The CAP-SSSE Agreement must be modified to reflect these changes.

VI. Reporting Requirements: States are required to report at least semi-annually to the Regions to demonstrate progress in meeting agreed upon performance measures contained in the Five-Year Plans. Some Regions may require quarterly reporting to satisfy unique Regional grants management requirements. Regions are held accountable for funds expended through CAP-SSSE and must require that their States document work so that progress can be tracked. States are expected to cooperate with Regions by submitting documentation or other evidence that demonstrates completion of approved activities. States must provide a final status report on meeting their performance measures to the Region by December 30, 2006. These reports will be developed in close coordination with the CAP-SSSE Workgroup, FEMA Regions, and the NSP.

Regions will provide CAS at FEMA Headquarters with an end of fiscal year progress report that will be due no later than January 30, 2007. The end of year report will address State progress in meeting established performance measures. The format for this annual report will be discussed in by the CAP-SSSE Workgroup and forwarded to the Regions in the 4th quarter of FY-2006. The Regional Office and the States will work closely with the NSP to generate this yearly report.

VII. Other Information: CAP-SSSE funds are restricted in their use. They can only be used for activities that support the NFIP by fostering effective floodplain management programs in participating communities and providing assistance to non-participating communities in enrolling in the NFIP.

States are encouraged to have at least one full time person dedicated to CAP-SSSE or other floodplain management activities to help maintain this expertise and capability. FEMA highly encourages state floodplain management personnel to attain CFM credentials and CAP-SSSE funds may be utilized for this purpose. If a State does not have the necessary expertise and capability to conduct CAP-SSSE activities, the Region and State are required to develop a

FY 2006 CAP-SSSE Guidance

remedial plan. If at the conclusion of the plan, the necessary expertise and capability has not been developed by the State, the following year's CAP-SSSE funding can be reduced or withheld.

There is a 25 percent non-federal match for all States receiving CAP-SSSE funds. As long as CAP-SSSE continues and a State maintains skill capability and meets performance goals, a State should expect to receive funding. However, annual funding levels may vary depending on needs, State capability, performance, and Regional priorities.

The Regional Office will also be required to provide weekly grant allocation reports to FEMA Headquarters for subsequent reporting to DHS.

VIII. Funding Distribution: See attachment.