

FY 2007 Flood Mitigation Assistance (FMA) Program Guidance

November 1, 2006



FEMA



FEMA

FY 2007 FLOOD MITIGATION ASSISTANCE PROGRAM GUIDANCE

OVERVIEW..... IV

SECTION 1 GRANT APPLICATION GUIDANCE 1

1.1 FY 2007 PRIORITY1

1.2 AUTHORIZATION AND APPROPRIATION1

 1.2.1 AUTHORIZATION.....1

 1.2.2 APPROPRIATION1

1.3 GRANT PROGRAM ELIGIBILITY2

 1.3.1 ELIGIBLE APPLICANTS.....2

 1.3.2 ELIGIBLE SUB-APPLICANTS.....2

1.4 ELIGIBLE GRANT ACTIVITIES3

 1.4.1 FLOOD MITIGATION PLANNING GRANTS3

 1.4.2 FLOOD MITIGATION PROJECT GRANTS.....3

 1.4.3 TECHNICAL ASSISTANCE GRANTS3

1.5 INELIGIBLE ACTIVITIES.....3

1.6 PROGRAM REQUIREMENTS4

 1.6.1 NATIONAL FLOOD INSURANCE PROGRAM (NFIP)4

 1.6.2 NON-DISCRIMINATION.....4

 1.6.3 PROGRAM RESTRICTIONS.....4

 1.6.3.1 DUPLICATION OF PROGRAMS.....4

 1.6.3.2 DUPLICATION OF BENEFITS5

 1.6.3.3 CONFLICT OF INTEREST5

 1.6.3.4 FUNDING LIMITS5

 1.6.3.5 COST OVERRUNS AND COST UNDER-RUNS5

 1.6.3.6 PRE-AWARD COSTS6

1.7 APPLICATION PROCESS6

 1.7.1 FY 2007 FMA APPLICATION TIMELINE6

 1.7.2 FEMA’S ELECTRONIC GRANTS SYSTEM.....7

 1.7.3 SUBMITTING APPLICATIONS.....7

 1.7.4 eGRANTS HELPDESK.....8

1.8 COST SHARE REQUIREMENTS.....8

 1.8.1 NON-FEDERAL COST SHARE.....8

 1.8.2 COST SHARE DOCUMENTATION.....9

1.9 FEMA REVIEW AND AWARDS9

 1.9.1 FEMA REVIEW & REALLOCATION9

 1.9.2 FEMA PRE-AWARD ACTIVITIES9

 1.9.3 AWARDS10

1.10 PERFORMANCE PERIOD10

1.11 EXTENSIONS10

1.12 SCOPE OF WORK CHANGES11

1.13 REPORTING REQUIREMENTS.....11

 1.13.1 FEDERAL CASH TRANSACTION REPORTS.....11

 1.13.2 FINANCIAL STATUS REPORTS.....12

 1.13.3 PERFORMANCE REPORTS.....12

 1.13.4 FINAL REPORTS12

1.14 REGIONAL CONTACT INFORMATION.....12

1.15 REFERENCED STATUTES, REGULATIONS & GUIDANCE.....13

SECTION 2 FLOOD MITIGATION PLANNING SUB-APPLICATION GUIDANCE 15

2.1 ELIGIBLE MITIGATION PLANNING ACTIVITIES14

2.1.1	NEW FLOOD MITIGATION PLAN – SINGLE- OR MULTI-JURISDICTIONAL	15
2.1.2	UPDATE / COMPREHENSIVE REVIEW OF PLAN.....	15
2.2	INELIGIBLE MITIGATION PLANNING ACTIVITIES	15
2.3	MITIGATION PLAN REQUIREMENTS	16
2.3.1	PRIVACY OF REPETITIVE LOSS DATA	16
2.3.2	SEVERE REPETITIVE LOSS PROPERTIES	17
2.4	SCOPE OF WORK	18
2.5	COST ESTIMATE.....	18
2.6	FEMA PRE-AWARD ACTIVITIES	19
SECTION 3 MITIGATION PROJECT SUB-APPLICATION GUIDANCE		21
3.1	ELIGIBLE MITIGATION PROJECT ACTIVITIES	20
3.2	INELIGIBLE PROJECT ACTIVITIES	20
3.3	MITIGATION PROJECT REQUIREMENTS	21
3.3.1	ELIGIBILITY CRITERIA.....	21
3.3.2	PROPERTY ACQUISITION AND RELOCATION REQUIREMENTS	21
3.3.2.1	ELIGIBILITY FOR PROPERTY ACQUISITION PROJECTS	23
3.3.2.2	REQUIREMENT TO APPLY DEED RESTRICTIONS.....	24
3.3.2.3	SUB-APPLICATIONS FOR PROERTY ACQUISITION.....	24
3.3.2.4	PRE-AWARD REQUIREMENTS	27
3.3.2.5	POST-AWARD REQUIREMENTS.....	27
3.3.3	SPECIAL FLOOD HAZARD AREA REQUIREMENTS	27
3.3.4	INCOME TAX ON MITIGATION PROJECT FUNDS	28
3.3.5	GEO-CODING REQUIREMENTS	28
3.3.6	PROJECT MAINTENANCE.....	28
3.4	SCOPE OF WORK	28
3.5	COST ESTIMATE.....	29
3.6	COST EFFECTIVENESS.....	30
3.6.1	FEMA-APPROVED BCA METHODOLOGY	30
3.6.2	ALTERNATIVE DETERMINATION OF COST-EFFECTIVENESS	30
3.7	ENVIRONMENTAL/HISTORIC PRESERVATION COMPLIANCE	31
3.8	FEMA PRE-AWARD ACTIVITIES	31
3.8.1	PROPERTY ACQUISITION AND RELOCATION REQUIREMENTS	31
3.8.2	SPECIAL FLOOD HAZARD AREA REQUIREMENTS	32
3.8.3	GEO-CODING REQUIREMENTS	32
3.8.4	ENVIRONMENTAL AND HISTORIC PRESERVATION COMPLIANCE REQUIREMENTS	32
3.9	UPDATING REPETITIVE LOSS DATABASE FOR MITIGATED PROPERTIES	32
SECTION 4 FLOOD MITIGATION TECHNICAL ASSISTANCE SUB-APPLICATION GUIDANCE.....		35
4.1	ELIGIBLE MITIGATION TECHNICAL ASSISTANCE ACTIVITIES.....	33



BACKGROUND

The Flood Mitigation Assistance (FMA) grant program provides funding to States, Indian tribal governments, and communities so that cost-effective measures are taken to reduce or eliminate the long-term risk of flood damage to buildings, manufactured homes, and other structures insured under the National Flood Insurance Program (NFIP). The long-term goal of FMA is to reduce or eliminate claims under the NFIP through mitigation activities.

FY 2007 FMA PRIORITY

Priority: The FY 2007 FMA priority is to fund flood mitigation activities that reduce the number of repetitive loss structures currently insured by the NFIP. Applications for FY 2007 FMA funds will be accepted until February 28, 2007, for eligible, cost-effective flood mitigation activities that will reduce the risk of flood losses to any property currently insured under the NFIP, whether repetitive loss or not.

FY 2007 FMA Guidance: FY 2007 FMA guidance document and additional guidance materials, such as FEMA 299, Agreement Articles or the eGrants Help Desk are available from the FEMA Regional Office or on the FEMA web page: www.fema.gov/fima/fma.shtm

USES OF FUNDS

Funds: FY 2007 FMA funding is available for State allocations for Planning, Project and Technical Assistance grants, and for administrative costs to support the FMA program.

Eligible Project Activities: Only those projects listed in 44 CFR §78.12 are eligible for FMA grant awards.

Eligible Planning Activities: Planning activities that develop State, Indian tribal, and local Flood Mitigation Plans that meet the planning criteria outlined in 44 CFR §78.5.

Eligible Technical Assistance Activities:

- Solicitation, review, and processing of sub-applications; Assistance to Sub-applicants for engineering feasibility, BCA, and Environmental and Historic Preservation documentation; Geo-coding mitigation projects; Managing grants; Technical monitoring; Plan reviews and planning workshops; Computer or GIS equipment (up to 15%); and State FMA Point-of-Contact's salary, and his/her FMA related training and travel expenses

Cost-share: 75% Federal/25% non-Federal. Of this amount, not more than one half may be provided from in-kind contributions. 90% Federal/10% non-federal for severe repetitive loss properties in certain situations with approved State plan..

Ineligible Project Activities:

- Major flood control projects; Dry floodproofing of residential structures; Demolition and rebuild projects; Phased or partial projects; Studies that do not result in a completed mitigation project; Flood studies or flood mapping; Maintenance or repair projects; Generators, and related equipment; Warning and alert notification systems; and Response and communication equipment

Ineligible Planning Activities:

- Flood studies or flood mapping; Risk assessments, technical assistance, information dissemination or workshops not resulting in a FEMA-approved Flood Mitigation Plan; Ground disturbing activities; and Non-flood planning activities.

ELIGIBILITY REQUIREMENTS

Applicant Eligibility: Only the following entities are eligible to apply to FEMA as Applicants: State emergency management agencies or a similar office (*i.e.*, the office that has primary emergency management or floodplain management responsibility) of the State; the District of Columbia; the U.S. Virgin Islands; the Commonwealth of Puerto Rico; American Samoa; the Commonwealth of the Northern Mariana Islands; and Federally-recognized Indian tribal governments. Each State, Territory, or tribal government shall designate one agency to serve as the Applicant for the FMA program.

Sub-applicant Eligibility: State-level agencies; Federally-recognized Indian tribal governments; and local communities (to include State-recognized Indian tribes, authorized Indian tribal organizations, and Alaska Native villages) are eligible to apply to the Applicant for assistance. Private individuals and private non-profit (PNP) organizations are **not** eligible Sub-applicants; however, a relevant State agency or local community may apply to the Applicant for assistance to mitigate private or PNP structures.

NFIP Participation: All Applicants and Sub-applicants must be participating in the National Flood Insurance Program (NFIP), and must not be on probation, suspended or withdrawn from the NFIP. FMA funds shall not be awarded for activities in non-participating communities. Property owners must have a current flood insurance policy on the structure to be mitigated at the time of project application.

Mitigation Plan Requirement: To be eligible for Project grants, an eligible Sub-applicant must develop, and have approved by the FEMA Regional Director, a Flood Mitigation Plan in accordance with 44 CFR §78.5, at a minimum, by the close of the application period.

APPLICATION PROCESS

Application Process: FEMA requires Applicants to use the Electronic Grant Management System (*eGrants*). Only FMA grant applications submitted through *eGrants* will be accepted. If a Sub-applicant does not use the *eGrants* system, the Applicant **MUST** enter the Sub-applicant's paper sub-application(s) into *eGrants* on their behalf using the Paper Sub-application Intake function. Planning and Project sub-applications that follow the *eGrants* format are available for Sub-applicants to print from the *eGrants* website. Applicants may provide paper supporting documentation that cannot be electronically attached to the *eGrants* application (*e.g.*, engineering drawings, photos, maps, etc.).

Benefit-Cost Analysis: A Benefit-Cost Analysis (BCA) is required for all mitigation project sub-applications and must be completed by Applicants/Sub-applicants. A BCA will be required for all properties, including substantially damaged structures. The pilot alternate determination of cost-effectiveness may be used for certain insured NFIP repetitive flood loss properties.

eGrants: FEMA offers technical assistance regarding the *eGrants* system through the *eGrants* Helpdesk: 1-866-476-0544 or mtegrants@dhs.gov

APPLICATION DEADLINES

Application Timeline: Grant applications for FY 2007 FMA program funds must be received by the Director of the Applicant's respective FEMA Regional Office **by February 28, 2007, 11:59 p.m., Eastern Standard Time**. Funds may be reallocated to other States and Territories within the Region if any State/Territory does not submit applications for the full amount of its Target Allocation by February 28, 2007.

Eligible Applicants are encouraged to submit applications for funds in excess of their Target Allocation for Planning or Project activities, which will then be considered for additional FMA funding.

Application Deadline: The FY 2007 deadline for States and Territories to submit grant applications to FEMA is **February 28, 2007**. **No applications for FY 2007 FMA grants will be accepted after this deadline.**

SECTION 1 GRANT APPLICATION GUIDANCE

The Flood Mitigation Assistance (FMA) grant program provides funding to States, Indian tribal governments, and communities so that cost-effective measures are taken to reduce or eliminate the long-term risk of flood damage to buildings, manufactured homes, and other structures insured under the National Flood Insurance Program (NFIP). The long-term goal of FMA is to reduce or eliminate claims under the NFIP through mitigation activities. Three types of grants are available under FMA: Planning, Project and Technical Assistance.

1.1 FY 2007 PRIORITY

The FY 2007 FMA priority is to fund flood mitigation activities that reduce the number of repetitive loss structures currently insured by the NFIP. However, FY 2007 Target Allocations may be used to fund eligible, cost-effective flood mitigation activities that will reduce the risk of flood losses to any property currently insured under the NFIP, whether repetitive loss or not.

Grant applications submitted against State/Territory FY 2007 FMA Target Allocations must be received by the Director of the Applicant's respective FEMA Regional Office (see *Section 1.14. Regional Contact Information*) by **February 28, 2007, 11:59 p.m., Eastern Standard Time**. The FY 2007 Application Timeline is addressed in *Section 1.7. Application Process*.

1.2 AUTHORIZATION AND APPROPRIATION

1.2.1 AUTHORIZATION

The FMA grant program was created pursuant to Section 1366 of the National Flood Insurance Act of 1968 (NFIA, or "the Act"), 42 USC 4104c, as amended by the National Flood Insurance Reform Act of 1994 (NFIRA), Public Law 103-325, and the Bunning-Bereuter-Blumenauer Flood Insurance Reform Act of 2004, Public Law 108-264, with the goal of reducing or eliminating claims under the NFIP. FMA regulations are in 44 Code of Federal Regulations (CFR) Part 78. The Catalog of Federal Domestic Assistance (CFDA) number is 97.029.

1.2.2 APPROPRIATION

The primary funding source for the National Flood Mitigation Fund (NFMF) is the National Flood Insurance Fund (NFIF). On October 4, 2006, the Department of Homeland Security Appropriations Act, 2007, Public Law 109-295, authorized up to \$31 million for State allocations for Planning, Project and Technical Assistance grants, and for administrative costs to support the FY 2007 FMA program. Availability of FMA funds is dependent upon the amount available for transfer from the NFIF through offset collections assessed and collected under the NFIP. FEMA will notify States and Territories of their Target Allocations, and will post the total amount of available funds on the FEMA website at <http://www.fema.gov/government/grant/fma/index.shtm>. The allocation formula provides \$110,000 base allocations to each State with surplus amounts allocated based on the total number of NFIP insurance policies and the total number of repetitive loss properties within each State/Territory. *Repetitive Loss Properties are defined under the NFIP as any property*

for which two or more flood insurance claims have been paid for more than \$1,000 within any rolling 10-year period since January 1, 1978. Severe Repetitive Loss Properties are defined under the NFIP as any property for which have at least four NFIP claim payments over \$5,000 each, when at least two such claims have occurred within any 10-year period, and the cumulative amount of such claim payments exceeds \$20,000.

1.3 GRANT PROGRAM ELIGIBILITY

1.3.1 ELIGIBLE APPLICANTS

Only the following entities are eligible to apply to FEMA for assistance: State emergency management agencies or a similar office (*i.e.*, the office that has primary emergency management or floodplain management responsibility) of the State; the District of Columbia; the U.S. Virgin Islands; the Commonwealth of Puerto Rico; American Samoa; the Commonwealth of the Northern Mariana Islands; and Federally-recognized Indian tribal governments. Each State, Territory, or tribal government shall designate **one** agency to serve as the Applicant for the FMA program. If an agency is not designated for any of these entities, a local community may apply directly to FEMA for assistance under 44 CFR §78.14 *Alternative Procedures*.

Consistent with FEMA policy and 44 CFR “Government-to-Government Relations with American Indian and Alaska Native Tribal Governments,” published in the January 12, 1999, issue of the Federal Register, Federally-recognized Indian tribal governments may choose to apply for FMA grants either through the State as a Sub-applicant or directly to FEMA as an Applicant. This choice is independent of a designation under other FEMA grants and programs. Some State regulations prohibit the State from acting as an Applicant for an Indian tribe. In such cases, or if the Indian tribe chooses, the tribal government may act as an Applicant. If awarded, the tribal government therefore assumes the full responsibilities of a Grantee for the purposes of administering the grant. FEMA has determined that the unique status of Indian tribal governments justifies providing this option to apply directly to FEMA. However, when legally permitted, tribal governments are encouraged to continue existing relationships with the State.

1.3.2 ELIGIBLE SUB-APPLICANTS

Only the following entities are eligible to apply to the Applicant for assistance:

- State-level agencies;
- Federally-recognized Indian tribal governments including State-recognized Indian tribes, authorized Indian tribal organizations, and Alaska Native villages; and
- Local communities.

Private non-profit (PNP) organizations and individuals are **not** eligible Sub-applicants; however, a relevant State agency or local community may apply to the Applicant for assistance to mitigate private or PNP structures. **Only those NFIP-participating Indian tribal governments, or NFIP-participating communities that are not suspended, on probation, or withdrawn from the NFIP are eligible to receive FMA Planning, Project or Technical Assistance grant funds.**

1.4 ELIGIBLE GRANT ACTIVITIES

The FMA program provides three types of cost-shared grants. The following are eligible grants under the FMA program:

1.4.1 FLOOD MITIGATION PLANNING GRANTS

Planning grants may be awarded to States and communities to assess the flood risk and identify actions to reduce that risk. At a minimum, 44 CFR §78.5 and §78.6 outline the process for development and approval of Flood Mitigation Plans created to articulate a comprehensive strategy for implementing technically feasible flood mitigation activities for the area affected by the Plan. States shall give higher funding priority to Planning sub-applications from communities that specifically address NFIP repetitive loss properties. Communities are encouraged to develop plans that also meet the Local Multihazard Mitigation Plan requirements under 44 CFR §201.6, as well as §78.5, in order to be eligible to receive other forms of mitigation assistance for projects. (See *Section 2, Flood Mitigation Planning Sub-Application Guidance*)

1.4.2 FLOOD MITIGATION PROJECT GRANTS

Project grants may be awarded to States and communities to execute measures to reduce flood losses to properties currently insured under the NFIP. States shall give higher funding priority to communities that submit FMA Project applications that are most cost-effective and to mitigate NFIP repetitive loss properties. To be eligible for Project grants, an eligible Sub-applicant must develop, and have approved by the FEMA Regional Director, a Flood Mitigation Plan in accordance with 44 CFR §78.5. The types of eligible activities, along with the minimum project eligibility criteria can be found in 44 CFR §78.11 and §78.12 (See *Section 3, Flood Mitigation Project Sub-Application Guidance*).

1.4.3 TECHNICAL ASSISTANCE GRANTS

Technical Assistance grants may be awarded to States and communities to assist in the development of viable FMA applications and to support communities implementing approved FMA planning and project activities. However, any eligible Indian tribal government (acting as Grantee) or community in States that choose not to participate in the FMA program, are eligible to apply for Technical Assistance grants to support Planning or Project grant activities as well.

The amount of Technical Assistance grant funds allocated to States is limited to 10% of the funding available for Project grants. (See *Section 4, Flood Mitigation Technical Assistance Sub-Application Guidance*)

1.5 INELIGIBLE ACTIVITIES

FMA Planning, Project and Technical Assistance applications must meet all requirements referenced in the FY 2007 FMA Guidance, as well as 44 CFR Part 78. Specific ineligible mitigation planning activities are listed in *Section 2.2, Ineligible Mitigation Planning Activities*. Ineligible project activities are listed in *Section 3.2, Ineligible Project Activities*.

1.6 PROGRAM REQUIREMENTS

1.6.1 NATIONAL FLOOD INSURANCE PROGRAM (NFIP)

All Sub-applicants must be participating in the NFIP, and must not be suspended, on probation, or withdrawn from the NFIP, to be eligible to apply for FMA funds and to act as subgrantee. Certain non-participating political subdivisions (*e.g.*, Councils of Governments, Regional Planning Commissions, or County governments, etc.) may apply and act as subgrantee on behalf of the NFIP-participating community in areas where the political subdivision provides zoning and building code enforcement, or planning and community development professional services for that community.

FMA funds shall not be used to support Planning measures, Project activities, or Technical Assistance for communities that are not participating in the NFIP. In addition, FMA funds awarded for multi-jurisdictional Planning sub-applications or Project sub-applications may only be used for activities within jurisdictions that are participating in the NFIP and not suspended, on probation, or withdrawn from the NFIP.

Properties in all FMA projects must be NFIP insured at the time of project application.

Property owners who participate in a mitigation project that improves their structure (*e.g.*, elevation) must have a current flood insurance policy on that structure at the time of project application and flood insurance shall be maintained in perpetuity on the improved property after project implementation (*see Section 3.3. Mitigation Project Requirements*).

1.6.2 NON-DISCRIMINATION

Like other FEMA mitigation programs, the FMA program must be administered in an equitable and impartial manner, without discrimination on the grounds of race, color, religion, nationality, sex, age, or economic status. The FMA program complies with Section 308 of the Stafford Act and Title VI of the 1964 Civil Rights Act. All Applicants/Grantees must comply with Title VI, including State and local governments distributing Federal assistance.

In implementing the FMA program, Applicants and Sub-applicants will ensure that no discrimination is practiced. Applicants must consider fairness, equity, and equal access when prioritizing and selecting sub-applications to submit with their FMA application. Sub-applicants must ensure fairness and equal access to homeowners and individuals that benefit from grant activities.

1.6.3 PROGRAM RESTRICTIONS

1.6.3.1 DUPLICATION OF PROGRAMS

FEMA will not provide assistance under the FMA program for activities that another Federal program has a specific or primary authority to provide. FEMA also will not provide assistance for the Applicant or Sub-applicant's legal obligations. FEMA may disallow or recoup amounts that duplicate another Federal program's authority.

1.6.3.2 DUPLICATION OF BENEFITS

FMA grants may not duplicate benefits received by, or available to, the Applicant or Sub-applicant from a participating person's or entity's insurance, other assistance programs, legal awards, or any other resource to address the same purpose. An Applicant must notify FEMA of all benefits that are received or anticipated by the Applicant or Sub-applicant from other sources for the same purpose, and Applicants and Sub-applicants must seek all such benefits available to them. FEMA will reduce the FMA grant by the amounts available for the same purpose from another source.

If FEMA provides assistance under this program when other benefits are available, the Grantee will be liable to FEMA for any duplicative amounts that are received from other sources, and must reimburse FEMA for such amounts.

1.6.3.3 CONFLICT OF INTEREST

Applicants and Sub-applicants must avoid conflicts of interest. Sub-applicants must comply with the procurement guidelines at 44 CFR §13.36. Among other requirements, 44 CFR §13.36 urges Sub-applicants to avoid situations where local officials with oversight authority might benefit financially from the grant disbursement. Applicants must comply with guidelines for awarding and administering sub-grants at 44 CFR §13.37.

1.6.3.4 FUNDING LIMITS

FEMA distributes FMA funds to States that, in turn, provide funds to communities. The State serves as the Grantee and program administrator for the FMA. There are statutory limits on the frequency of grants and the amount of funding that can be allocated to a State or community in any 5-year period. These limits are more specifically described in 44 CFR §78.8 and Chapter 6 of FEMA 299, "Flood Mitigation Assistance Guidance" available on the FEMA website at <http://www.fema.gov/library/viewRecord.do?id=1913>

1.6.3.5 COST OVERRUNS AND COST UNDER-RUNS

If cost overruns are anticipated for obligated planning or project activities, the Grantee shall inform the Regional Director who will verify the circumstances, including costs incurred and activities completed, and either approve or disapprove requests for additional funding. Regions may consider use of same year funds (*i.e.*, same State and same FY) for such cases where overruns incurred due to unforeseen, but technically valid, circumstances. Cost under-runs (*i.e.*, unexpended funds remaining after the completion of an FMA activity), from one sub-grant may be used to offset overruns incurred by other sub-grants. However, this offset may only apply to sub-grants awarded under the same Grant (*i.e.*, same State and same FY). Regions should monitor and request Grantees to inform them immediately if a cost under-run is anticipated for an obligated Planning or Project activity. If anticipated prior to September 30, 2008, the Region may promptly deobligate grant funds and reallocate them to another eligible Applicant. After September 30, 2008, expired funds will return to the NFIP.

For FMA Project grants, overruns may only be considered if the Project grant, including the overrun amount, demonstrates cost-effectiveness (see *Section 3.6. Cost Effectiveness*). When Grantees receive additional FMA funds for overruns, the amended award must

reflect the required cost share of 75% Federal / 25% Non-Federal, of which at least half of the Non-Federal share shall be a cash contribution (see *Section 1.8. Cost Share Requirements*).

1.6.3.6 PRE-AWARD COSTS

Eligible costs incurred prior to the grant award, but after the FMA application period has opened, are identified as pre-award costs. FEMA may allow pre-award costs at its discretion and as funds are available. Applicants and Sub-applicants may be reimbursed for pre-award costs for activities directly related to the development of the proposed FMA activity. Activities may include, but are not limited to: workshops, meetings, and data collection under Planning grants; development of benefit-cost analyses, environmental/historic preservation data and documentation, and engineering design under Project grants; or Technical Assistance activities. Pre-award costs associated with the implementation of Project activities started prior to award will **not** be eligible. Pre-award costs must be identified as separate line items in the Cost Estimate for the sub-application or they will not be considered.

In lieu of requesting pre-award costs, Applicants and Sub-applicants may submit eligible costs incurred prior to award but after the FY 2007 FMA application period has opened as their non-Federal cost share (see *Section 1.8.1. Non-Federal Cost Share*).

1.7 APPLICATION PROCESS

1.7.1 FY 2007 FMA APPLICATION TIMELINE

Eligible Applicants will receive notice of their State/Territory Target Allocations with the issuance of the FY 2007 FMA Guidance. Grant applications for FY 2007 FMA funds must be received by the Director of the Applicant's respective FEMA Regional Office (see *Section 1.14. Regional Contact Information*) by **February 28, 2007, 11:59 p.m., Eastern Standard Time**.

Any eligible Applicant may submit sub-applications for funds in excess of their Target Allocation. FEMA Regions may reallocate funds within their respective Region from any State or Territory that does not submit applications for the full amount of its Target Allocation by February 28, 2007. After February 28th, FEMA will commit funds to eligible applicants against Target and Regional Allocations, and will review all eligible sub-applications submitted in excess of Target and Regional Allocations (see *Section 1.9.1. FEMA Review & Reallocation*). **No applications will be accepted (i.e., either for Target Allocations or in excess of Target Allocations) after the February 28, 2007, deadline.**

FEMA recognizes this timeline for FMA applications is more aggressive than in past years. Applicants should be advised to adjust their application solicitation, development, review, approval and submission timelines accordingly. Sub-applicants should consult the official designated point of contact in their State, Territory, or Indian tribe for more information regarding the application process. States, Territories, or Indian tribes may establish an earlier deadline for sub-applications in order to allow time to review and prioritize them and to enter grant applications into eGrants. To assist you in visualizing the timeline as outlined above, the **FY 2007 FMA Timeline (Attachment I)** is posted at www.fema.gov/fima/fma.shtm.

1.7.2 FEMA'S ELECTRONIC GRANTS SYSTEM

Applicants **MUST** use FEMA's web-based Electronic Grants Management System (*eGrants*), accessible on the Internet at <https://portal.fema.gov>, to submit their FMA applications. Because of differing performance periods for each grant type, Applicants must submit separate applications in *eGrants* for Planning, Project, and Technical Assistance grants. Only FMA grant applications submitted through *eGrants* will be accepted.

The electronic process replaces the paper-based process by electronically transmitting the Sub-applicant's Planning or Project sub-application to the Applicant for review. The Applicant may electronically attach the sub-application to the overall State/Territory grant application for submission to FEMA. FEMA uses the *eGrants* system to monitor ongoing performance, manage the flow of Federal funds, and close out the grant award when all work is completed.

If a Sub-applicant does not use *eGrants*, the Applicant **MUST** enter the Sub-applicant's paper sub-application into *eGrants* on their behalf using the Paper Sub-application Intake function, Planning and Project sub-applications that follow the *eGrants* format are available for Sub-applicants to print from the *eGrants* website.

FEMA has developed the *eGrants* system to meet the intent of the e-Government initiative authorized by Public Law 106–107, passed on November 20, 1999. This initiative requires that all government agencies both streamline the grant application processes and provide the means to electronically create, review, and submit a grant application via the Internet. Use of the *eGrants* system will expedite FEMA's review and evaluation of applications for the FMA program.

FEMA's *eGrants* system incorporates all elements of the FMA application in a user-friendly format for both Applicants and Sub-applicants. The *eGrants* system provides a web-based auto-fill format for all of the required Federal Forms and all of the necessary information required for a complete grant application, including the Application for Federal Assistance, Standard Form (SF) 424; Budget Information – Non-Construction Program, FEMA Form (FF) 20-20; Summary Sheet for Assurances and Certification, FF 20-16; Assurances – Non Construction Program, FF 20-16A; Certification Regarding Lobbying, Debarment, Suspension and other Responsible Matters; and Drug-Free Workplace Requirements, FF 20-16C; Disclosure of Lobbying Activities, SF LLL; and Sub-applications identifying the activities for which FMA Planning, Project, or Technical Assistance funding is requested.

1.7.3 SUBMITTING APPLICATIONS

Applicants shall provide a hard copy of any supporting documentation that cannot be electronically attached to the *eGrants* application (*e.g.*, engineering drawings, photos) to the appropriate FEMA Regional Office (see *Section 1.14. Regional Contact Information*). However, **FEMA must receive the entire application by the application deadline, including any hard copy documentation** (see *Section 1.7. Application Process*).

1.7.4 eGRANTS HELPDESK

In addition to the online help available within the eGrants system, Grantee and Subgrantee Quick Reference Guides are available on the eGrants website at <https://portal.fema.gov>. In addition, FEMA has established an eGrants Helpdesk to provide technical assistance to Applicants and Sub-applicants with completing sub-applications and grant applications in eGrants. The eGrants Helpdesk can be reached via telephone at (866) 476-0544, or by email at mtegrants@dhs.gov. Standard hours of operation are 9:00 am to 5:00 pm Eastern Time.

1.8 COST SHARE REQUIREMENTS

FEMA may contribute up to 75 percent of the total amount approved under the grant award to implement approved activities. At least 25 percent of the total eligible costs must be provided from a Non-Federal source; *of this amount, not more than one half will be provided from in-kind contributions*. For severe repetitive loss properties, FEMA will contribute up to 90 percent of the total eligible costs if the State has taken actions to reduce the number of severe repetitive loss properties and has an approved State Mitigation Plan that specifies how it intends to reduce the number of severe repetitive loss properties. Additional regulations and guidance will be issued during FY 2007 specifying requirements for qualification for this reduced cost share.

1.8.1 NON-FEDERAL COST SHARE

The non-Federal cost share must be in direct support of the approved activities and must be an eligible cost for FMA funding. Of the total non-Federal share, not more than one-half may be provided from in-kind contributions. In lieu of requesting pre-award costs, Applicants and Sub-applicants may submit eligible costs incurred prior to award, but after the FY 2007 FMA application period has opened, as their non-Federal cost share.

FMA funds retain their Federal identity and **cannot** be used as cost share for another Federally funded activity. In addition, non-Federal cost share funds for the FMA program **cannot** be used as cost share for other Federal grant programs. In general, the non-Federal cost share may not include funds from other Federal agencies, except for Federal funds that have authorizing statutes that explicitly allow the funds to be used as a cost share for other Federal grants. Examples include:

- Department of Housing and Urban Development Community Development Block Grant (CDBG) monies may be used as cost share for property acquisition projects as long as the projects are eligible under the CDBG program;
- The U.S. Small Business Administration loan funds and the U.S. Department of Agriculture's Farm Service Agency loan funds, which lose their Federal identity once the loan is approved, may be used as a cost share;
- Indian Health Services funds may be used as cost share for FMA funds as long as the mitigation activity "contributes to the purposes for which grants...are made" under the Indian Health Services statute;
- Bureau of Indian Affairs funds may be used as cost share;
- Appalachian Regional Commission funds may be used as cost share, per Section 302(a)(3) of the Appalachian Regional Development Act of 1965;

- Funds derived from Title III of the Secure Rural Schools Act (P.L. 106-393) may be used as cost share, so long as the use also is consistent with the purposes of that Act; and
- The NFIP Increased Cost of Compliance (ICC) claim payment from previous flood events may be used to meet the non-Federal cost share requirements, to the extent that the period for making such a claim remains open.

1.8.2 COST SHARE DOCUMENTATION

Requirements for in-kind contributions can be found in 44 CFR §13.24, including the requirement that this documentation is to be held in the Applicant and Sub-applicant records. In-kind contributions must be comprised of eligible program costs. The following documentation is required for third-party cash and in-kind contributions:

- Record of donor;
- Dates of donation;
- Rates for staffing, equipment or usage, supplies, etc.;
- Amounts of donation; and
- Deposit slips for cash contributions.

1.9 FEMA REVIEW AND AWARDS

1.9.1 FEMA REVIEW & REALLOCATION

After the application deadline, FEMA will review all sub-applications to ensure eligibility and completeness (see *Section 2.1. Eligible Mitigation Planning Activities*, *Section 3.1. Eligible Mitigation Project Activities*, and *Section 4.1. Eligible Mitigation Technical Assistance Activities*). FEMA will commit funds to eligible applicants against Target and Regional Allocations. FEMA headquarters will then receive and review, in cooperation with FEMA regional offices, eligible sub-applications submitted in excess of Target and Regional Allocations. A specified date for this National review will be set based on nature and amount of potential reallocations. The remaining funds will be awarded to activities that are in the best interest of the National Flood Insurance Fund (NFIF). This includes those that are the most cost-effective, and those that reduce the number of repetitive loss structures currently insured by the NFIP.

1.9.2 FEMA PRE-AWARD ACTIVITIES

FEMA Regional Offices will work with Applicants who have approved Planning and Project sub-applications to implement required pre-award activities prior to grant award, such as verifying Applicant and Sub-applicant commitments and understanding of grant terms. In addition, FEMA will ensure that the Applicant has met all reporting requirements for FEMA-State grant awards currently in progress.

FEMA will complete the environmental/historic preservation compliance review for projects selected for award as part of pre-award activities. **Project sub-applications shall not be awarded and projects proposed for FEMA funding cannot be initiated until FEMA has completed the environmental/historic preservation review.** FEMA may, at its discretion,

request information or documentation from Applicants to resolve outstanding administrative or procedural requirements as part of its pre-award activities.

1.9.3 AWARDS

Regional Offices will provide an award package to Applicants for approved sub-applications once pre-award activities are completed. The award package must be signed by the Applicant and returned to FEMA before funds can be awarded. **The Applicant must agree to abide by the grant award terms and conditions as set forth in this Guidance and in the FY 2007 FMA Agreement Articles (Attachment I)** available on FEMA's FMA web page:

http://www.fema.gov/government/grant/fma/fma_fy06_articles.shtm or from the FEMA Regional Offices (see *Section 1.14. Regional Contact Information*).

1.10 PERFORMANCE PERIOD

The performance period is the period of time during which the Grantee is expected to complete the grant activities and to incur and expend funds approved for the FMA grant. The performance period for the grant shall begin on the date that the grant is awarded and end on the last day of the performance period of the longest sub-grant awarded to the Grantee. The performance period is specified in the **FY 2007 FMA Agreement Articles (Attachment I)**, available on FEMA's FMA web page: http://www.fema.gov/government/grant/fma/fma_fy07_articles.shtm or from the FEMA Regional Offices (see *Section 1.14. Regional Contact Information*).

Performance periods for sub-grants begin on the date that the sub-grant is awarded to the Grantee by FEMA. A performance period is assigned to every sub-grant and the Grantee is responsible to monitor progress of each sub-grant to ensure timely progress and closeout. The recommended performance period for FMA sub-grants is two years. Requests for extensions to the performance period will be considered but will not be approved automatically (see *Section 1.11. Extensions*).

Performance periods for FMA Planning sub-grants are limited by statute to a period not to exceed three years. Planning sub-applications that exceed three years will not be approved for FMA funding (see 44 CFR §78.9). Mitigation Plans shall be reviewed, adopted, and FEMA-approved before the end of the performance period (see *Section 2.3. Mitigation Plan Requirements*).

The Grantee has up to 90 days following the expiration of the performance period to liquidate valid expenditures incurred during the performance period. Cost under-runs remaining after the performance period expiration date must be reported to FEMA for de-obligation.

1.11 EXTENSIONS

Requests for extensions to the performance period will be considered but will not be approved automatically. In accordance with FEMA's Financial and Acquisition Management Division Extension Policy, the Regional Office may extend the performance period up to one year. Requests for a period of performance extension must be submitted in writing to the Regional Director and must be supported by adequate justification in order to be processed. This justification is a written explanation of the reason or reasons for an extension and must demonstrate that work is in progress and will be completed within the extended period of performance. The justification must address the following areas to enable the review of extension request:

1. **Submission Date:** The request must be submitted **at least 60 calendar days prior** to the expiration date of the performance period;
2. **Reason for Delay:** Identify the status of the activity, including the original approved period of performance, and give a brief description for the delay (*e.g.*, weather conditions);
3. **Budget:** Identify the remaining funds, both FEMA share and cost share match, available for the extended period and outline how the funds will be used. Identify sources of additional funding if remaining FEMA funds and cost share will not support the extension request;
4. **Plan for Completion:** Identify the objectives necessary to complete the activity, completion date for each objective, and list the position/person responsible for oversight of completion of the activity;
5. **Completion Date:** Identify the projected completion date (new period of performance end date) for the activity; and,
6. **No change of scope:** Provide a certification that the activity will be completed within the extended period without any modification to the original Scope of Work approved by FEMA.

If a second performance period extension becomes necessary, then the Grantee must submit an additional formal written request to the FEMA Regional Director. As with the first request, the second extension request must be made **at least 60 calendar days prior** to the expiration of the period of performance and must include a justification for the extension that addresses the items noted above. The Regional Office will make a recommendation and submit the second request to the Senior Procurement Executive at FEMA Headquarters, who will review the request in coordination with the Headquarters Mitigation Division.

Should any sub-grant performance period be extended, the grant performance period may be extended as well; however, the extension should be conditioned so that all completed sub-grants are closed out within their individual performance periods. The total extended period of performance for planning sub-grants shall not exceed three years.

1.12 SCOPE OF WORK CHANGES

Requests for changes to the Scope of Work (SOW) after award of FY 2007 FMA funds may be permissible as long as requests are received at the FEMA Regional Office prior to September 30, 2007. Requests must be supported by adequate justification from the Applicant. The justification is a description of the proposed change; a written explanation of the reason or reasons for the change; an outline of remaining funds available to support the change; and a description of the work necessary to complete the activity. All approvals will be at FEMA's discretion, and there is no guarantee that SOW changes will be approved.

1.13 REPORTING REQUIREMENTS

The following reports are required from Grantees:

1.13.1 FEDERAL CASH TRANSACTION REPORTS

If the Grantee uses the HHS Payment Management System-SMARTLINK, the Grantee shall submit to FEMA a copy of the SF 272, Federal Cash Transaction Report submitted to the Federal Health and Human Services (HHS).

1.13.2 FINANCIAL STATUS REPORTS

The Grantee shall submit Financial Status Reports, FF 20-10, to the FEMA Regional Office within 30 days from the end of the first Federal quarter following the initial grant award. The Regional Director may waive the initial report. The Grantee shall submit quarterly financial status reports thereafter until the grant ends. Reports are due on January 30, April 30, July 30, and October 30.

Financial Quarterly Reports will be available for completion in the *eGrants* system. Financial reports must include the activity name or other identification, expenditures, and payment-to-date information (reference 44 CFR §13.40 “Monitoring and Reporting” for additional information).

Note: The Regional Director may suspend drawdowns from the HHS/Payment Management System-SMARTLINK if quarterly financial reports are **not** submitted on time.

1.13.3 PERFORMANCE REPORTS

The Grantee shall submit performance reports for each grant award to the FEMA Regional Office within 30 days from the end of the first Federal quarter following the initial grant award. The Regional Director may waive the initial report. The Grantee shall submit quarterly performance reports thereafter until the grant ends. Reports are due on January 30, April 30, July 30, and October 30. Quarterly Performance Reports will be available for completion in the *eGrants* system. Performance reports must include the activity name or other identification as well as information to:

- Describe significant activities and developments that have occurred that show progress during the quarter, including a comparison of actual accomplishments to the work schedule objectives established in the sub-application;
- Indicate whether completion of work is anticipated within the performance period. If not, describe any problems, delays, or adverse conditions that will impair the ability to meet the stated objectives in the sub-application; and,
- Indicate whether cost under-run/cost overrun, change of scope request, or request for extension of performance period are anticipated.

1.13.4 FINAL REPORTS

The Grantee shall submit a Final Financial Status Report and Performance Report within 90 days from Grant Award Performance Period expiration date, per 44 CFR §13.50. Final Financial and Performance Reports will be available for completion in the *eGrants* system.

1.14 REGIONAL CONTACT INFORMATION

Contact information for FEMA Regional Offices is provided on the FEMA website:

<http://www.fema.gov/about/contact/regions.shtm> and also is listed here for your information.

FEMA Region I - Serving Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont: 99 High Street, 6th Floor, Boston, MA 02110. (617) 956-4179.

FEMA Region II - Serving New York, New Jersey, Puerto Rico, and the U.S. Virgin Islands: 26 Federal Plaza, Rm. 1307, New York, NY 10278-0001. (212) 680-3630.

FEMA Region III - Serving the District of Columbia, Delaware, Maryland, Pennsylvania, Virginia, and West Virginia: 1 Independence Mall, 6th Floor, 615 Chestnut Street, Philadelphia, PA 19106-4404. (215) 931-5542.

FEMA Region IV - Serving Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee: 3003 Chamblee-Tucker Road, Atlanta, GA 30341. (770) 220-5400.

FEMA Region V - Serving Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin: 536 S. Clark Street, 6th Floor, Chicago, IL 60605. (312) 408-5591.

FEMA Region VI - Serving Arkansas, Louisiana, New Mexico, Oklahoma, and Texas: 800 North Loop 288, Denton, TX 76209-3698. (940) 898-5429.

FEMA Region VII - Serving Iowa, Kansas, Missouri, and Nebraska: 2323 Grand Avenue, Suite 900, Kansas City, MO 64108-2670. (816) 283-7014.

FEMA Region VIII - Serving Colorado, Montana, North Dakota, South Dakota, Utah, and Wyoming: Denver Federal Center, Building 710, Box 25267, Denver, CO 80225-0267. (303) 235-4739.

FEMA Region IX - Serving Arizona, California, Hawaii, Nevada, the Territory of American Samoa, the Territory of Guam, and the Commonwealth of the Northern Mariana Islands: 1111 Broadway, Suite 1200, Oakland, CA 94607-4052. (510) 627-7186.

FEMA Region X - Serving Alaska, Idaho, Oregon, and Washington: Federal Regional Center, 130 228th Street, SW, Bothell, WA 98021. (425) 487-4782.

1.15 REFERENCED STATUTES, REGULATIONS & GUIDANCE

National Flood Insurance Act, including the National Flood Insurance Reform Act of 2004, at <http://www.fema.gov/pdf/nfip/fira2004>.

Bunning-Bereuter-Blumenauer Flood Insurance Reform Act of 2004 (P.L. 108-264), at http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=108_cong_public_laws&docid=f:publ264.108

44 Code of Federal Regulations (CFR) Part 78 (October 1, 2004 Edition), FMA Regulations, at http://www.access.gpo.gov/nara/cfr/waisidx_04/44cfr78_04.html

FEMA-299 - FMA Guidance and Appendices (August 1997 Edition), at <http://www.fema.gov/library/viewRecord.do?id=1913>

SECTION 2 FLOOD MITIGATION PLANNING SUB-APPLICATION GUIDANCE

Mitigation Plans are the foundation for effective hazard mitigation. The Mitigation Plan is a demonstration of the commitment to reduce risks from natural hazards and serves as a guide for decision makers as they commit resources. A Flood Mitigation Plan will articulate a comprehensive strategy for implementing technically feasible flood mitigation activities for the area affected by the Plan. To be eligible for Project Grants, an eligible State or community must develop, and have approved by the FEMA Regional Director, a Flood Mitigation Plan in accordance with 44 CFR §78.5.

2.1 ELIGIBLE MITIGATION PLANNING ACTIVITIES

Planning activities that develop State, Indian tribal, and local Flood Mitigation Plans that meet the planning criteria outlined in 44 CFR §78.5 are eligible for FY 2007 FMA Project funds. The Planning grant deliverable can be a new flood mitigation plan or an updated or comprehensive review of an existing flood mitigation plan. Plans may be either single or multi-jurisdictional. Communities are encouraged to develop plans that also meet the Local Multi-hazard Mitigation Plan requirements under 44 CFR §201.6, as well as §78.5. The benefit is that communities with mitigation plans that meet these broader criteria may be eligible for other types of grant assistance to fund mitigation activities (HMGP and PDM) in addition to FMA assistance.

There are limits on the frequency and the amount of funding that can be allocated to a State or community in any 5-year period for FMA Planning grants, which are described Chapter 3 of FEMA 299, “Flood Mitigation Assistance Guidance” (see also *Section 1.6.4.4. Funding Limits*). **The outcome of an FMA Planning grant award MUST result in a FEMA-approved Flood Mitigation Plan within three years of award** (see *Section 1.10. Performance Period*). Therefore, it is essential that the Scope of Work include sufficient time and resources for FEMA plan review, revisions, plan adoption, and FEMA approval (see *Section 2.4. Scope of Work*).

For either new or updated plans, FMA Planning grants may fund the flood hazard portion of State or local multi-hazard mitigation plans to also meet the criteria specified in 44 CFR Part 201 (Hazard Mitigation Planning). These multi-hazard mitigation criteria are more stringent than the FMA planning regulations in 44 CFR §78.5, however a few notable differences continue to exist between the plan requirements. For example, to be approved under FMA, plans must 1) describe repetitive loss properties in the risk assessment and/or vulnerability analysis; and 2) present a strategy for continued compliance with the NFIP. FEMA has developed a Combined Crosswalk for use by States and communities to demonstrate how the single plan can meet both the FMA requirements under Part 78.5 and the multi-hazard requirements under Part 201. This Combined Crosswalk is available on the FMA web site at <http://www.fema.gov/fima/fma.shtm>, or from the Regional Offices (see *Section 1.14. Regional Contact Information*).

Since 44 CFR Part 201 regulates multi-hazard plans, FMA Planning *grants* will not fund all of the requirements outlined in 44 CFR Part 201, *only the flood portion*. In order for communities to meet both the FMA planning requirements as well as the multi-hazard planning requirements

under 44 CFR Part 201, communities must identify other resources to complete mitigation planning activities for the non-flood hazards, and identify these resources at the time an FMA planning application is submitted. This will streamline the planning process and eliminate duplication of efforts, while clearly identifying costs attributable to the Flood Mitigation Planning grant.

2.1.1 NEW FLOOD MITIGATION PLAN – SINGLE- OR MULTI-JURISDICTIONAL

FMA Planning grants are available to States and communities to prepare Flood Mitigation Plans or the flood portion of a multi-hazard mitigation plan. Countywide or multi-jurisdictional flood mitigation plan requests may be submitted for funding, as many mitigation issues are better resolved by evaluating hazards in a more comprehensive fashion. FMA funds shall not be used to support planning activities for communities that are not participating in the NFIP (see *Section 1.6.1 National Flood Insurance Program (NFIP)*). Further, the flood mitigation plan must meet the planning criteria outlined in 44 CFR §78.5, at a minimum, for each participating jurisdiction to receive credit for having a FEMA-approved FMA plan.

2.1.2 UPDATE / COMPREHENSIVE REVIEW OF PLAN

Plan updates may be necessary for States, Tribal governments or communities with existing hazard mitigation plans. FMA Planning grants may only be awarded to a State or community no more than once every five (5) years. Eligible activities may include:

- Incorporate more extensive risk assessment data, where the updated mitigation plan also includes an updated mitigation strategy that addresses these revisions;
- Update from an existing CRS or FMA plan to a multi-hazard mitigation plan, where the FMA planning grant funds only the flood portion of the total planning effort; or
- Modify actions and strategy in a previously approved hazard mitigation plan.

2.2 INELIGIBLE MITIGATION PLANNING ACTIVITIES

Proposed mitigation planning activities must be long-term, feasible, and meet all requirements referenced in the FY 2007 FMA Guidance and 44 CFR Part 78. In addition to the specific ineligible planning activities listed below, any planning effort that duplicates benefits received for the same purpose (see *Section 1.6.3.2. Duplication of Benefits*) or is within the primary authority of another Federal program will be considered ineligible (see *Section 1.6.3.1. Duplication of Programs*). The following planning activities are **not** eligible for the FMA grant program:

- Flood studies or flood mapping;
- Risk assessments, technical assistance, information dissemination or workshops not resulting in a FEMA-approved Flood Mitigation Plan;
- Any ground disturbing activity that would initiate the environmental review and compliance process;
- Pre-award activities not directly related to the development of the planning sub-application or implementing the proposed planning activity; and

- Planning activities that contribute to the non-flood portion of a multi-hazard mitigation plan.

2.3 MITIGATION PLAN REQUIREMENTS

Mitigation Plans must be developed to meet the requirements of 44 CFR §78.5. In addition, planning activities must meet the following criteria:

- The outcome of an FMA Planning grant award **MUST** be an adopted FEMA-approved Flood Mitigation Plan that complies with the requirements of 44 CFR §78.5. Mitigation Plans must be reviewed, adopted by the jurisdiction, and FEMA-approved before the end of the performance period (see *Section 1.10. Performance Period*);
- Countywide or multi-jurisdictional Flood Mitigation Plans may be submitted for funding, as many mitigation issues are better resolved by evaluating hazards in a more comprehensive fashion. However, each jurisdiction to be covered by a multi-jurisdictional plan must participate in the planning effort and adopt the plan in order to receive credit for the plan when applying for FMA grants;
- Planning activities must be unique to Flood Mitigation Planning and not primarily associated with programs for which another Federal program has the primary authority (see *Section 1.6.3.1. Duplication of Programs*) [e.g., the Natural Resources and Conservation Service has primary responsibility for funding watershed management plans]; and
- Planning activities must meet the requirements of Federal, State, tribal, local laws, and Executive Orders.

2.3.1 PRIVACY OF REPETITIVE LOSS DATA

State NFIP Coordinators now may access a version of BureauNet called Data Exchange and they, along with the State Hazard Mitigation Officer and other approved State staff, may now access an internet portal called Simple, Quick Access or SQANet developed as part of the FEMA NextGen project. Both of these data systems now allow the State to access and download current claims, policy and repetitive loss data. However, communities cannot access either of these systems and it is the responsibility of State or FEMA Regional staff to provide claims, policy and repetitive loss property information to the communities. States may access this sensitive data and may provide it directly to community governments on the basis of their status as an approved category of users. Use of the data by this approved category of users is limited to mitigation planning, research, analysis and feasibility studies consistent with the NFIP and uses that further the floodplain management and hazard mitigation goals of the States and FEMA. These uses are authorized pursuant to notices published in the Federal Register, most recently on January 23, 2002. State staff wishing to gain access to sensitive NFIP data may request a login ID and Password for SQANet by visiting <http://www.nfipnextgen.com> and then clicking on the SQANet Pilot link and then selecting the “click here to sign up” option.

When BureauNet and SQANet records are accessed by States, they are advised of the sensitive nature of the information and the need to protect the release of the data to unauthorized users. When the data is released to a community by either the State or the FEMA Regions, the recipient must be notified in writing that the records relating to individuals and individual properties are being made available through the FEMA routine use

policy for the specific purposes of mitigation planning, research, analysis and feasibility studies consistent with the NFIP and for uses that further the floodplain management and hazard mitigation goals of the States and FEMA and that the records are protected pursuant to the Privacy Act of 1974 (5 USC 552a). Records must not be publicly disclosed. FEMA shares this information at its discretion and may choose not to provide this information in the future to States or communities if it finds unauthorized uses of this information have been made.

While States and communities that receive FMA Planning grant funds are required to consider repetitive loss properties and to explain these considerations in their Flood Mitigation or multi-hazard plans, they should not attach lists to plans or otherwise make information relevant to individual properties, such as property owner names, addresses, and claims data, available to the public. For example, State and community plans may refer to geographic areas or neighborhoods where concentrations of repetitive loss properties are located for the purpose of identifying and prioritizing areas for mitigation projects, or the plans may list the number of repetitive loss properties with aggregate repetitive loss data. Individuals may seek access to their own information from States and communities such as whether their property address is on the State or community repetitive loss list or the number of claims filed and amount paid to previous owners. The State should also check with its Attorney General about applicable State public records acts or privacy laws that may affect the disclosure and use of repetitive loss data.

2.3.2 SEVERE REPETITIVE LOSS PROPERTIES

On June 30, 2004, the Bunning-Bereuter-Blumenauer Flood Insurance Reform Act of 2004, Public Law 108-264, amended section 1366 the NFIA (42 USC 4104c) by authorizing FEMA to reduce the community match from 25% to not less than 10% of the cost of the activities for each severe repetitive loss property funded under an FMA grant. The Act identifies requirements that States must meet in order to receive this reduced cost share, including having in place an approved State mitigation plan under section 322 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5165, see 44 CFR Part 201) that specifies how the State intends to reduce the number of severe repetitive loss properties as well as a demonstration by the State that it has taken actions to reduce the number of severe repetitive loss properties. Severe repetitive loss properties are defined by the Act to include single family properties that have at least four (4) NFIP claim payments over \$5,000 each with the cumulative amount of such claims payments exceeding \$20,000, or for which at least 2 separate claims payments have been made with the cumulative amount of such claims exceeding the value of the property.

FEMA will develop regulations and implementation guidance to enable States to receive FMA funds under this cost-share structure. Until new regulations that incorporate the Act amendments are complete, FMA grants must meet the regulatory requirements under 44 CFR Part 78, including the current cost-share. FEMA will notify all eligible FMA Applicants when regulations are published in the Federal Register and, if necessary, will issue additional guidance to meet these requirements.

2.4 SCOPE OF WORK

The Scope of Work (SOW) describes the objectives, methodology, feasibility, outcomes, timeline, milestones, resources, deliverables, and benefits of, as well as reasons for, the proposed planning activity.

The mitigation planning sub-application SOW must describe the development of a flood mitigation plan that complies with FEMA's regulatory requirements in 44 CFR Part 78. The SOW must state whether the flood mitigation plan will be a new FMA plan, the flood portion of a multi-hazard mitigation plan, or update/comprehensive review of an existing flood mitigation plan. If the latter, specifically describe the reason(s) for the update (*e.g.*, acquisition of better data, recent flood activity, etc.). It must also identify whether the plan is single or multi-jurisdictional plan, and if multi-jurisdictional, which jurisdictions are expected to be covered by the plan and which organization or community will assume the lead role.

The mitigation planning SOW should consist of two main elements: a description of the planning process and a work schedule for plan development. To assist in developing the description of the planning process and work schedule, a Sample Outline for a Planning Scope of Work is available on FEMA's Mitigation Planning web page at <http://www.fema.gov/fima/planning.shtm>, or from the Regional Offices (see *Section 1.14. Regional Contact Information*). In addition, guidance on the planning process is described in FEMA's series of Mitigation Planning How-To guides, which are available at http://www.fema.gov/plan/mitplanning/planning_resources.shtm#1. The SOW should thoroughly document each of the steps of the planning process, including how the plan will be prepared, who will be responsible for the completion of each step (*e.g.*, contract personnel or in-house staff), what agencies, organizations or individuals will participate, and how the public will be involved (*e.g.*, workshops, community outreach).

The work schedule should provide the anticipated timeline for each step of the planning process and significant milestones throughout the entire performance period (see *Section 1.10. Performance Period*), including when a draft plan or other deliverables will be submitted to FEMA for review. The work schedule should allow for sufficient time for State and FEMA review, preparation of any required revisions, formal plan adoption and FEMA approval.

2.5 COST ESTIMATE

The Cost Estimate describes all anticipated costs associated with the proposed planning activity and represents the Sub-applicant's best estimate of the total value of the proposed activity. Sufficient detail must be provided regarding various cost item categories such as labor, materials, equipment, subcontract costs, etc, and include anticipated cash and in-kind non-Federal cost share. In particular, the labor cost line item must estimate anticipated donated in-kind labor from various community agencies and/or other participating jurisdictions that will count toward the non-Federal cost share (see *Section 1.8. Cost Share Requirements*).

Applicants and Sub-applicants should avoid "lump sum" items whenever possible and provide references for all sources of the Cost Estimate (*e.g.*, RS Means). Back-up documentation for all costs, including the basis for each, must be provided (*e.g.*, salary and fringe benefit rates for personnel involved in the project, bids from qualified professionals, nationally published or local cost estimating guides).

Revisions to the approved budget may be considered after award as long as the approved deliverable is not adversely impacted. In accordance with 44 CFR Part 13, adjustments may be made among cost line items in the approved budget up to a cumulative threshold of 10% of the total budget without seeking formal approval from FEMA. Adjustments exceeding this threshold must be approved in advance by FEMA. As with Scope of Work changes, requests for a budget revision must be supported by adequate justification from the Applicant in order to be processed (see *Section 1.6.3.5. Cost Overruns and Cost Under-runs*).

2.6 FEMA PRE-AWARD ACTIVITIES

FEMA Regional Offices will work with Applicants who have approved Planning sub-applications to implement required pre-award activities prior to grant award (see *Section 1.9.2. FEMA Pre-Award Activities*). FEMA may, at its discretion, request information or documentation from Applicants to resolve outstanding administrative or procedural requirements as part of its pre-award activities.

In accordance with 44 CFR §10.8d(2)(iii), FEMA has determined that mitigation planning activities have no impact on the environment and will require no further Environmental or Historic Preservation review. Additionally, Benefit-Cost Analysis documentation is not required for mitigation planning sub-applications.

SECTION 3 MITIGATION PROJECT SUB-APPLICATION GUIDANCE

The priority for FMA Project Grants continues to be saving lives and protecting property by mitigating NFIP insured and repetitive loss properties through acquisition, elevation, relocation and minor structural flood control projects. These activities will reduce flood insurance claim payments, as well as disaster housing and emergency response expenses. In addition, as a result of effective mitigation, fewer families will lose wages and fewer businesses will suffer reduced profits from displacement due to flooding. In the case of property acquisition, there will be increased recreational opportunities and an enhancement of the environment through the creation of open space along rivers and streams. Most importantly, communities and their residents will be safer from flood hazards.

3.1 ELIGIBLE MITIGATION PROJECT ACTIVITIES

Proposed Flood Mitigation Projects must focus on flood hazards. Only those projects listed in 44 CFR §78.12 are eligible for FMA grant awards.

There are limits on the amount of FMA Project grant funding that can be allocated to a State or community over any 5-year period, which are described Chapter 6 of FEMA 299 “Flood Mitigation Assistance Guidance” (see *Section 1.6.3.4. Funding Limits*).

3.2 INELIGIBLE PROJECT ACTIVITIES

In addition to the specific ineligible project activities listed below, any project that should be covered by another Federal agency will be considered ineligible. In addition to the specific ineligible project activities listed below, any activity that duplicates benefits received for the same purpose (see *Section 1.6.3.2. Duplication of Benefits*) or is within the primary authority of another Federal program will be considered ineligible (see *Section 1.6.3.1. Duplication of Programs*). The following project activities are **not** eligible for the FMA grant program:

- Major flood control and/or erosion projects such as the construction or repair of dikes, levees, floodwalls, seawalls, groins, jetties, breakwaters, dams, and waterway channelization;
- Dry floodproofing of residential structures;
- Phased or partial project that is dependent on another phase or part to be effective and/or feasible;
- Demolition of an existing structure and rebuilding a new structure on the same site (ie., demolition-rebuilding);
- Studies that do not result in a completed mitigation project (e.g., engineering designs, feasibility studies, or drainage studies that are not integral to the proposed project);
- Flood studies or flood mapping;
- Projects that solely address maintenance or repairs of existing structures, facilities or infrastructure (e.g., debris removal, dredging);

- Generators, and related equipment, such as generator hook-ups, for non-critical facilities or as a stand-alone activity;
- Warning and alert notification systems (e.g., NOAA weather radios); and
- Response and communication equipment.

3.3 MITIGATION PROJECT REQUIREMENTS

3.3.1 ELIGIBILITY CRITERIA

Proposed mitigation projects must meet all requirements referenced in 44 CFR §78.11, Minimum Project Eligibility Criteria. The project sub-application must demonstrate:

- Cost-effectiveness, not costing more than the anticipated value of the reduction in both direct damages and reducing the risk of future damage, hardship, loss, or suffering resulting if future floods were to occur. A FEMA-approved Benefit-Cost Analysis (BCA) is required for all mitigation projects. The end result is a Benefit-Cost Ratio (BCR) that must be 1.0 or greater (see *Section 3.6. Cost Effectiveness*);
- All individual properties to be mitigated must have NFIP insurance at the time of project application;
- Conformance with 44 CFR Part 9, Floodplain Management and Protection of Wetlands, and 44 CFR Part 10, and any applicable environmental laws and regulations;
- Technical feasibility and ability to be implemented. The project Cost Estimate must reflect the engineering design, including all anticipated costs;
- Conformance with the minimum standards of the NFIP Floodplain Management Regulations;
- Conformance with the FEMA-approved Flood Mitigation Plan pursuant to 44 CFR §78.5, or flood hazard component of the community's 44 CFR Part 201 compliant multi-hazard mitigation plan, (the type of project being proposed must be identified in the plan), where the plan is approved by FEMA by the application deadline;
- Physical location in a community that is participating in the NFIP where the community is not be on probation, suspended or withdrawn from the NFIP;
- Solving of a problem independently or constituting a functional portion of a solution where there is assurance that the project as a whole will be completed; and
- Meeting the requirements of applicable Federal, State, Indian tribal, and local laws, implementing regulations, and executive orders.

3.3.2 PROPERTY ACQUISITION AND RELOCATION REQUIREMENTS

For property acquisition and relocation projects, Applicants and Sub-applicants must comply with the following requirements, 44 CFR §206.434(e) and related guidance. A project may not be framed in a manner that has the effect of circumventing these requirements.

3.3.2.1 ELIGIBILITY FOR PROPERTY ACQUISITION PROJECTS:

Eligible Properties

Properties eligible for acquisition include those where:

- The property will be acquired from a willing, voluntary seller;
- Property is NFIP insured at the time of application and contains an insured at-risk structure, including those that are damaged or destroyed due to an event;
- All incompatible easements or encumbrances can be extinguished;
- The property cannot be contaminated with hazardous materials at the time of acquisition, other than incidental demolition or household waste;
- If the structure on the property is to be relocated, the relocated structure must be placed on a site located outside of the 100-year floodplain, outside of any regulatory erosion zones, and in conformance with any other applicable State or local land use regulations;
- The property cannot be part of an intended, planned, or designated project area for which the land is to be acquired by a certain date, and/or where there is an intention to use the property for any public or private future use inconsistent with the open space deed restrictions and FEMA acquisition requirements (examples include roads and flood control levees); and
- The property will not be subdivided prior to acquisition, except for portions outside the identified hazard area, such as the Special Flood Hazard Area or any risk zone identified by FEMA.

Hazardous Materials

Sub-applicants considering the purchase of property (or land adjacent to property) with past or present commercial or industrial use should ensure that the owner provides information identifying what, if any, hazardous materials are on the property. To be considered an eligible property, before purchasing commercial or industrial properties, the Sub-applicant must require the owner to remove hazardous materials and containers. The owner must provide a clean-site certification from the appropriate State agency before the Sub-applicant can purchase any interest in the property, including easements for development rights. **Clean-up costs associated with hazardous materials are not eligible project costs.**

The presence of non-leaking underground storage tanks, septic systems, home heating oil tanks, and normal quantities of lead, asbestos, and hazardous material associated with residential/household use does not preclude the use of mitigation funds for acquisition. However, local permitting ordinances, State laws, as well as Federal laws, regulations and Executive Orders, must be followed. The costs of removing these typical residential/household items must be addressed in the project Cost Estimate (see *Section 32.5. Cost Estimate*).

Eligible costs:

- Value of the land to be acquired, and either 1) value of structure and demolition cost of that structure, or 2) relocation of the structure;
- Cost of appraisals, cost of title insurance and any additional escrow costs, such as recordation of the deed and deed restrictions, and other costs necessary for the real estate transaction; and
- Other necessary and appropriate costs to implement the project

Ineligible costs:

- Compensation for land that is already held by an eligible entity is not an allowable cost, but compensation for development rights (open space easement) may be allowable;
- Cleanup or remediation of contaminated properties, except for permitted disposal of incidental demolition and household hazardous wastes;
- Pre-Award costs may not be reimbursed for pre-award activities associated with implementation of the project; and
- FEMA acquisition funds are not available when an Applicant, Sub-applicant, other project participant or third party's negligence or intentional actions contributed to the conditions needing mitigation.

3.3.2.2 REQUIREMENT TO APPLY DEED RESTRICTIONS

Sub-applicants requesting assistance for a real property acquisition or building relocation must apply specific deed restriction language to all acquired properties. See the Model Deed Restriction language on FEMA's mitigation website at <http://www.fema.gov/government/grant/resources/index.shtm> or from the Regional Office (see *Section 1.14, Regional Contact Information*). Any modifications to the model deed restriction can only be made with prior approval from FEMA's Office of General Counsel.

3.3.2.3 SUB-APPLICATIONS FOR PROPERTY ACQUISITION

Sub-applicants for property acquisition and relocation projects must include the following in their application:

1) Statement of Assurances

As part of the project application, sub-applicants must attach a Statement of Assurances, signed by the sub-applicants authorized agent, acknowledging the requirements as identified below that will apply to the acquisition of the property. See FEMA's website for this Statement of Assurances that must be submitted with the project application <http://www.fema.gov/government/grant/resources/index.shtm>. Open space acquisition projects without these formal assurances will not be funded by FEMA.

The following conditions apply to the grant and must be included in the Statement of Assurances:

- Participation by property owners is voluntary. The prospective participants were informed in writing that participation in the program is voluntary, that the Sub-applicant will not use its eminent domain authority to acquire their property for the project purposes should negotiations fail;
- Each property owner will be informed, in writing, of what the Sub-applicant considers to be the fair market value of the property. The Sub-applicant will use the model Statement of Voluntary Transaction to document this and will provide a copy for each property after award. This model is available on FEMA's web page: <http://www.fema.gov/government/grant/resources/index.shtm> or from the Regional Office (see *Section 1.14. Regional Contact Information*);
- The Sub-applicant accepts all of the requirements of the FEMA grant and the deed restriction governing the use of the land, as restricted in perpetuity to open space uses. The sub-applicant must apply and record a deed restriction on each property in accordance with the language in the FEMA model deed. The community will seek FEMA approval for any changes in language differing from the model deed.
- The Sub-applicant understands that the land will be unavailable for the construction of flood damage reduction levees and other incompatible purposes, and is not part of an intended, planned, or designated project area for which the land is to be acquired by a certain date;
- The Sub-applicant will demonstrate that it has consulted with the US Army Corps of Engineers regarding the subject land's potential future use for the construction of a levee system, and will reject future consideration of such use if it accepts FEMA assistance to convert the property to permanent open space;
- The Sub-applicant will demonstrate that it has coordinated with its State Department of Transportation to ensure that no future, planned improvements or enhancements to the Federal aid systems are under consideration that will affect the subject property;
- Existing buildings will be removed within 90 days of settlement;
- Post grant award, the Sub-grantee may convey a property interest only with the prior approval of the FEMA Regional Director and only to another public entity or to a qualified conservation organization pursuant to 26 CFR 1.170A-14;
- Every three years, the Sub-grantee must submit to the Grantee, who will submit to FEMA Regional Director a report certifying that it has inspected the subject property within the month preceding the report, and that the property continues to be maintained consistent with the provisions of the grant. If the subject property is not maintained according to the terms of the grant, the Grantee and FEMA, its representatives, designated authorities, and assigns are responsible for taking measures to bring the property back into compliance; and,
- After settlement, no disaster assistance for any purpose from any Federal entity may be sought or provided with respect to the property, and FEMA will not distribute flood insurance benefits for that property for claims related to damage occurring after the date of the property settlement.

2) Property Information for each property in the SOW:

- Notice of Voluntary Interest Documentation: In a specific format chosen by the sub-applicant (such as a letter of interest, intent to participate form, project signup sheet or similar format) the sub-applicant must **record the name and signature** of interested property owners associated with each property and must also clearly show **each property owner acknowledging the following language: “The property owner has been informed that this project for open space acquisition is voluntary and that neither the [Applicant] or the [Sub-applicant] will use its eminent domain authority to acquire the property for open space purposes should negotiations fail.”** This documentation of voluntary interest for each property owner must be submitted with the project application. It is the community’s discretion how this documentation is integrated into the project development process, however it should be accomplished as early in the project development process as is feasible. An example is available on FEMA’s mitigation web page: <http://www.fema.gov/government/grant/resources/index.shtm>.
- Fair market value documentation for each parcel and include it in the cost estimate. The fair market value must be derived using a reasonable methodology that has been consistently applied throughout the community, such as independent appraisals, opinions of value, or a formula based on tax assessments;
- Net present value of the project benefits for each property to be acquired (*see Section 3.6 Cost Effectiveness for further guidance*).
- The Uniform Relocation Assistance and Real Property Acquisition Act of 1970 (URA) mandates that displaced tenants receive relocation assistance in accordance with 49 CFR, Part 24. The project application should document properties occupied by tenants. See the FEMA Hazard Mitigation Grant Program Desk Reference for additional guidance. This must be included in the cost estimate;
- A photograph that represents the appearance of each property at the time of application;
- For acquisition projects, changes to the properties in an approved mitigation project will be considered by FEMA but not approved automatically. The Applicant and Sub-applicant must have initially identified the alternate properties in the project application and must include a BCA for each alternate property in order to be considered. However, the alternate properties must not be included in the Cost Estimate or the overall project BCA (*see Section 3.6., Cost Effectiveness*). Eligible properties may be substituted as alternatives in the application as long as the substitution does not change the overall nature of the project or increase the amount of the Federal share and were included as alternatives in the sub-application.

3) Other information as determined by the Director.

3.3.2.4 PRE-AWARD REQUIREMENTS

After application, but prior to award, the Applicant must provide FEMA with the following (*see Section 3.8, FEMA Pre-award Activities*):

- Documentation that the Sub-applicant has consulted the U.S Army Corps of Engineers and the State Department of Transportation regarding potential future land use conflicts of levee systems and Federal aid systems with open space acquisition and has reject future consideration of such use if it accepts FEMA assistance to convert the property to permanent open space (see the Sub-application assurances for more detail). FEMA encourages sub-applicants to conduct this consultation as early as possible so that incompatible properties can be removed earlier in the process. FEMA will not award funds for any property without this documentation
- Copy of the deed restriction, incorporating the specific language from FEMA’s model deed restriction, which the local government will record with acquired properties.

3.3.2.5 POST-AWARD REQUIREMENTS

Following award of the grant, the sub-grantee must adhere to the following requirements:

- A property owner who did not own the property at the time of the relevant event, or who is not a United States citizen, non-citizen national or qualified alien, is not eligible for a purchase offer based on pre-event market value of the property. Sub grantees must ask each participating property owner to certify that they are either a United States citizen, non-citizen national or qualified alien before offering pre-event market value for the property. This information should be retained in the project file.
- The amount of the purchase offer is based on the current market value of the property or on the market value of the property immediately before the relevant event affecting the property (“pre-event”): The relevant event for the Flood Mitigation Assistance program and the Repetitive Flood Claims Program is the most recent event resulting in a National Flood Insurance Program claim of at least \$5000.
- The Grantee should coordinate with the Sub-grantee in determination of whether the valuation should be based on pre-event or current market value. Generally the same method to determine market value should be used for all participants in the project.
- A title insurance policy demonstrating clear title must be obtained for each approved property that will be acquired.
- All incompatible easements or other encumbrances must be extinguished before acquisition.
- The property must transfer by a warranty deed.
- See section 3.3.2.3 2) regarding limitations on substitution of alternate properties.
- Incompatible facilities must be removed from acquired property within 90 days of settlement.
- Property Reporting Requirements from the Sub-grantee, through the Grantee, to FEMA:
 - 1) A photo of the property site after project implementation
 - 2) Latitude and longitude coordinates of the property

- 3) Signed Statements of Voluntary Transaction from the owner of each property identified in the SOW. This statement documents more formally the voluntary participation notice provided earlier, as well as documenting required property valuation notices. A Model Statement of Voluntary Transaction is available on FEMA's web page: http://www.fema.gov/government/grant/vol_participation.shtm or from the Regional Office (see Section 1.14. Regional Contact Information);
- 4) A copy of the recorded deed and the attached deed restrictions for each acquired property must be submitted.
- 5) For any property identified on FEMA's Repetitive Loss list, complete and submit FEMA <http://www.fema.gov/government/grant/resources/aw501ins.shtm>, documenting the completion of mitigation to those properties that are identified by FEMA as Repetitive Loss Properties.
- 6) Every three years following acquisition, submit a report certifying that the subgrantee has inspected the property within the month preceding the report, and that the property continues to be maintained consistent with the provisions of the deed restriction.

3.3.3 SPECIAL FLOOD HAZARD AREA REQUIREMENTS

The following requirements apply to any project to alter existing structures that are sited within a Special Flood Hazard Area (SFHA):

- When the project is implemented, all structures that will **not** be demolished or relocated out of the SFHA must be covered by flood insurance to an amount at least equal to the project cost or to the maximum limit of coverage made available with respect to the particular property, whichever is less; and,
- The following notice must be recorded with respect to the property, and the participating property owner(s) must agree that the Sub-applicant (or property owner) will legally record with the county or appropriate jurisdiction's land records a Notice that includes the name of the current property owner (including book/page reference to record of current title, if readily available), a legal description of the property, and the following notice of flood insurance requirements:

"This property has received Federal hazard mitigation assistance. Federal law requires that insurance coverage on this property must be maintained during the life of the property regardless of transfer of ownership of such property. Pursuant to 42 U.S.C. §5154a, failure to maintain flood insurance on this property may prohibit the owner from receiving Federal disaster assistance with respect to this property in the event of a flood disaster. The property owner is also required to maintain this property in accordance with the floodplain management criteria of Title 44 of the Code of Federal Regulations Part 60.3 and City/County Ordinance."

Applicants receiving assistance for projects sited in a SFHA will ensure that these requirements are met by requesting the participating property owner(s) to sign a notice of the conditions for receiving FEMA grant funds for projects in a SFHA. A Model Notice of Conditions for Receiving FEMA Grant Funds for Projects in a SFHA will be made available on FEMA's FMA web page http://www.fema.gov/government/grant/sfha_conditions.shtm or from the Regional Offices (see Section 1.14. Regional Contact Information). **Properties that**

do not meet these requirements will not be eligible to receive assistance under the FMA program.

3.3.4 INCOME TAX ON MITIGATION PROJECT FUNDS

FEMA mitigation payments that benefit property owners through the mitigation of their structures are not subject to federal income taxation. FEMA mitigation payments to acquire a property will be treated as an involuntary conversion for tax purposes. For more information, property owners should consult their IRS office or a tax advisor.

3.3.5 GEO-CODING REQUIREMENTS

The location of all approved mitigation projects funded by the FMA program must be geo-coded using standard datum. Geospatial coordinates, in the form of latitude and longitude with an accuracy of +/- 20 meters (64 feet), must be provided for all individual sites contained in the mitigation project, including:

- Individual property information on properties mitigated, and
- Project sites for mitigation activities such as stormwater management, road and bridge improvement, and critical facility protection, and flood control projects.

The specific Guidance for Geo-coding Mitigation Data was provided to the FEMA Regional Offices in August, 2004, and provides guidance for collecting and formatting location information. This is available on FEMA's FMA web page:

<http://www.fema.gov/library/viewRecord.do?id=1849> or from the Regional Offices (see *Section 1.14. Regional Contact Information*). FEMA will work with Applicants to ensure this information is provided prior to award (see *Section 3.8. FEMA Pre-Award Activities*).

3.3.6 PROJECT MAINTENANCE

FEMA is not responsible for project maintaining. FEMA will not pay for any future maintenance (*e.g.*, dredging or debris removal, mowing open space). Sub-applicants must provide a maintenance plan that identifies the maintenance tasks and budget, and identify the entity that will perform long-term maintenance. Future maintenance costs should not be included in the Cost Estimate (see *Section 3.5., Cost Estimate*); however, anticipated future maintenance costs **MUST** be included in the Benefit-Cost Analysis (see *Section 3.6., Cost Effectiveness*).

3.4 SCOPE OF WORK

The Scope of Work (SOW) describes the objectives, methodology, feasibility, outcomes, timeline, milestones, resources, deliverables, and benefits of as well as reasons for the proposed project. The narrative must establish the “who, what, where, when, and how” of the proposal and timeline. The project sub-application SOW should include the following as well as applicable references and supporting documentation:

- Purpose of the project (*i.e.*, what is the goal? how does the project meet the intent of the Flood Mitigation Plan?);
- Clear, concise description of the proposed project and the means to implement and construct it (*i.e.*, how will the project be implemented and by whom?);

- Outcomes (*i.e.*, what are the expected accomplishments? what members of the community population directly or indirectly benefit from the project?);
- Identification of the flooding hazards to be addressed; location within the community and/or geographical extent of the project (natural, built and socioeconomic environments);
- Feasibility and effectiveness provided by the proposed project, including engineering design parameters and copies of or references to: Proposed schematic or detailed engineering drawings, or engineering design; Applicable building code/edition or engineering standard used (*e.g.*, for drainage projects this may be a state or local standard or requirement); Level of protection provided by the proposed project (*i.e.*, building code/edition); or Any residual risk to the structure from flood risk after project implementation (*i.e.*, adequacy of the structural systems);
- Include a description of the alternatives considered prior to deciding upon the project;
- Describe the maintenance agreements to be in place for long-term upkeep of the proposed project;
- Work schedule for all project tasks (*e.g.*, survey, appraisal, permitting, inspection requirements, site preparation), and significant milestones throughout the entire performance period (see *Section 1.10. Performance Period*);

Documentation provided will be used by FEMA to evaluate the SOW to determine eligibility of the proposed sub-application. Examples of documentation, where applicable to the project, include proposed schematic or detailed engineering drawings, or engineering design; photographs, maps, sketches, and/or drawings (*e.g.*, appropriate sections of Flood Insurance Studies and Flood Insurance Rate Maps) to document elements of the project and project parameters; or data sources, references, citations, and/or notations.

3.5 COST ESTIMATE

The Cost Estimate describes all anticipated and potential costs associated with the proposed activity, and represents the Sub-applicant's best estimate of the total value of the proposed activity. Sufficient detail must be provided regarding various cost item categories such as labor, materials, equipment, subcontract costs, etc, and include anticipated cash and in-kind non-Federal match. In particular, the labor cost line item must estimate anticipated donated in-kind labor from various agencies and/or other participating jurisdictions that will count toward the non-Federal match (see *Section 1.8. Cost Share Requirements*).

Applicants and Sub-applicants should avoid "lump sum" items whenever possible and provide references for all sources of the Cost Estimate (*e.g.*, RS Means). Back-up documentation for all costs, including the basis for each must be provided (*e.g.*, salary and fringe benefit rates for personnel involved in the project, bids from qualified professionals, nationally published or local cost estimating guides). Documentation of all cost estimates provided, including the dates of estimates, as well as the anticipated date of construction should be provided, if applicable.

Revisions to the approved budget may be considered after award as long as the approved deliverable is not adversely impacted. In accordance with 44 CFR Part 13, adjustments may be made among cost line items in the approved budget up to a cumulative threshold of 10% of the

total budget without seeking formal approval from FEMA. Adjustments exceeding this threshold must be approved in advance by FEMA. As with SOW changes, requests for a budget revision must be supported by adequate justification from the Applicant in order to be processed (see *Section 1.6.3.5. Cost Overruns and Cost Under-runs*).

3.6 COST EFFECTIVENESS

All projects funded under the FMA program must be cost-effective. To ensure this objective is met, a FEMA-approved Benefit-Cost Analysis (BCA) is required for all mitigation projects. BCA is a well-established method for quantitatively comparing the benefits and costs of mitigation projects. The end result is a Benefit-Cost Ratio (BCR), which is derived from a project's total net present value of benefits (*i.e.*, the value of benefit today versus the value of future benefits after taking inflation and return into account) divided by the total project cost estimate, which must include all documented project and maintenance costs.

3.6.1 FEMA-APPROVED BCA METHODOLOGY

Applicants and Sub-applicants must use a FEMA-approved methodology to perform a BCA. For projects that address multiple structures (*e.g.*, acquisition or elevation), the BCR is calculated by totaling the anticipated or net present value of benefits for each structure to obtain the project's total net present value of benefits and dividing the total project benefits by the total project cost estimate. **Only Project sub-applications that demonstrate cost-effectiveness through a BCR of 1.0 or greater will be considered for FMA funding.**

Applicants and Sub-applicants must use a FEMA-approved methodology to determine the BCA. Applicants and Sub-applicants are strongly encouraged to use FEMA's BCA software for their analyses, which may be obtained from FEMA by contacting the BCA helpline via phone (866-222-3580), via e-mail bchelp@fema.gov, or from the applicable FEMA Regional Office (see *Section 1.14. Regional Contact Information*). Using FEMA-approved software will ensure that the calculation is done in accordance with the Office of Management and Budget (OMB) Circular A-94, Guidelines and Discount Rates for Benefit-Cost Analysis of Federal Programs, and FEMA's standardized methodologies and approaches and will facilitate the application review process.

Non-FEMA BCA software also may be used, but only if the FEMA Regional Office and FEMA Headquarters approve the software. The Applicant must provide verification that FEMA has approved the non-FEMA BCA software or methodologies. An e-mail or letter signed and dated by FEMA is considered appropriate verification.

3.6.2 ALTERNATIVE DETERMINATION OF COST-EFFECTIVENESS

In 2003, FEMA developed a simplified, alternative methodology for use in conducting the BCA, which may be used in lieu of, or in conjunction with, a traditional BCA for certain properties insured under the NFIP and included in the NFIP Repetitive Loss Properties List. On May 27, 2005, FEMA provided the FEMA Regional Offices an updated list of properties and guidance for using this alternative approach, titled *Guidance for Updated Alternative Determination of Cost-effectiveness for Eligible Insured Repetitive Loss Properties*. The data, updated to December 31, 2004, may be utilized for FMA project applications through December 31, 2007. Information on the alternative approach is available from the Regional Offices (see *Section 1.14. Regional Contact Information*).

3.7 ENVIRONMENTAL/HISTORIC PRESERVATION COMPLIANCE

Applicants and Sub-applicants are required to provide information to support FEMA's environmental and historic preservation compliance process. The purpose of this information is threefold. First, it helps a Sub-applicant understand the compliance requirements for the proposed project and how in meeting some of those requirements, the overall design and cost of the project may be affected. Second, this information helps FEMA determine how well the Applicant/Sub-applicant understands these issues and has addressed them in the project design. And third, if the project is selected, this information can be helpful in expediting the actual environmental and historic preservation compliance process that FEMA must complete before final approval and funding of the project. Funds will not be awarded and the Sub-applicant may not initiate the project until FEMA has completed its review. Funds will NOT be awarded and the Applicant/Sub-applicant may NOT initiate the project until FEMA has completed its review.

A few examples of the many laws and Executive Orders for which Federal review is required are the National Environmental Policy Act (NEPA), the National Historic Preservation Act (NHPA), the Endangered Species Act (ESA) and the Executive Orders on Wetlands, Floodplains, and Environmental Justice.

For mitigation projects selected for award, FEMA will complete the environmental/historic preservation review with the assistance of both the Applicant and the Sub-applicant as part of its Pre-Award Activities (see *Section 3.8. FEMA Pre-Award Activities*). Environmental impact mitigation measures or historic preservation treatment measures may be required as conditions of the grant award to avoid, minimize or compensate for adverse effects caused by the project. These conditions may include a broad range of potential measures that result from FEMA's consultation with the appropriate Federal or State resource agency. Depending on the type of property or resource affected and the scope of the project, the environmental impact mitigation measures or historic preservation treatment measures may be minimal or extensive.

The Sub-applicant must ensure to the best of their ability that costs to address potential adverse impacts are realistically reflected in the Cost Estimate (see *Section 3.5. Cost Estimate*). Clean-up costs associated with hazardous materials are **not** eligible project costs (see *Section 3.3.2.3. Hazardous Materials and Property Acquisitions*). The Sub-Applicant is encouraged to provide an explanation of how the Cost Estimate was developed to include costs associated with anticipated environmental impact mitigation or historic preservation treatment measures. All such costs identified through the review and consultation process may be cost shared if included as part of the project sub-application Cost Estimate.

3.8 FEMA PRE-AWARD ACTIVITIES

FEMA Regional Offices will work with Applicants who have approved Project sub-applications to implement required pre-award activities prior to grant award (see *Section 1.9.2. FEMA Pre-Award Activities*).

3.8.1 PROPERTY ACQUISITION AND RELOCATION REQUIREMENTS

For property acquisition and relocation projects, the Sub-applicant must submit documentation that the Sub-applicant has consulted the U.S Army Corps of Engineers and the State Department of Transportation regarding potential future land use conflicts with

open space acquisition. Additionally, the Sub-applicant must submit a copy of the deed restriction, incorporating the specific language from FEMA's model deed restriction, which the local government will record with acquired properties. (See Section 3.3.2.4., Property Acquisition and Relocation Requirements).

3.8.2 SPECIAL FLOOD HAZARD AREA REQUIREMENTS

For projects related to improved structures sited in SFHAs, FEMA will verify that participating property owners obtain flood insurance on the property before award and require assurance that flood insurance is maintained for the life of the property. Signed notices of the conditions for receiving FEMA grant funds for projects in a SFHA must be provided to FEMA prior to award. Properties that do not meet these requirements will not be eligible to receive assistance under the FMA program (see *Section 1.6. Program Requirements*).

3.8.3 GEO-CODING REQUIREMENTS

FEMA will work with Applicants to ensure that geo-coding information is provided prior to award, including individual property information on properties mitigated, and project sites for mitigation activities such as stormwater management, road and bridge improvement, and critical facility protection, and flood control projects (see *Section 3.3.5. Geo-Coding Requirements*).

3.8.4 ENVIRONMENTAL AND HISTORIC PRESERVATION COMPLIANCE REQUIREMENTS

FEMA will complete the environmental/historic preservation compliance review for projects selected for award as part of pre-award activities. Funds will not be awarded and the project cannot be initiated until FEMA has completed the environmental/historic preservation review. Certain projects are of a nature that environmental/historic review can be accomplished with the information provided in the sub-application. Other projects may require some additional review, or extensive review. FEMA will often request that the Applicant and Sub-applicant work with FEMA in the review process.

3.9 UPDATING REPETITIVE LOSS DATABASE FOR MITIGATED PROPERTIES

In order to maintain accurate, up-to-date records of all repetitive loss properties mitigated as a result of FMA Project grants, FEMA requires the submission of Form AW-501, *NFIP Repetitive Loss Update Worksheet* (OMB #1660-0022). Typically, this form is completed by the State or community, but may be completed by a Region with appropriate documentation that shows any changes in the status of a property (*e.g.*, elevation certificate). This form, along with the transmittal sheet or other document signed by an authorized community official, must be submitted for each property mitigated with FMA funds prior to closeout. Form AW-501 and instructions for completing and submitting the Form are available on FEMA's FMA web page, <http://www.fema.gov/government/grant/resources/aw501ins.shtm> or from the Regional Offices (see *Section 1.14. Regional Contact Information*).

SECTION 4 FLOOD MITIGATION TECHNICAL ASSISTANCE SUB-APPLICATION GUIDANCE

States and Territories that receive Flood Mitigation Assistance (FMA) grants are eligible to use part of their Project allocation for Technical Assistance. Any eligible NFIP-participating Indian Tribal government (acting as Grantee) or community in States that choose not to participate in the FMA program are eligible to apply for Technical Assistance grants to support Planning or Project grant activities. These funds are available to help administer the program; **if the State or Territory does not apply for any Planning or Project funds during the FY 2007 application period, they are not eligible to receive an FY 2007 Technical Assistance grant.**

Technical Assistance grant funds may be used for FMA Project grants within the same State. However, Technical Assistance grant funds may not be reallocated as FMA Planning grants because such an action may cause the FMA to exceed the annual national funding limit for Planning grants.

4.1 ELIGIBLE MITIGATION TECHNICAL ASSISTANCE ACTIVITIES

Ten percent of the funds available for Project grants may be awarded for Technical Assistance grants to eligible States and Territories to support planning and project activities. Up to one-half of the total Technical Assistance grant (*i.e.*, 5 % of the Project amount allocated) may be awarded as allowances for Sub-grantees. Eligible activities include:

- Solicitation, review, and processing of FMA planning and project sub-applications and sub-grant awards;
- Providing technical assistance to Sub-applicants regarding engineering feasibility, Benefit-Cost Analysis, and Environmental and Historic Preservation documentation;
- Geo-coding mitigation projects selected for award (see *Section 3.3.5, Geo-Coding Requirements*), including the equipment used to conduct the geo-coding process (such as a GPS unit);
- Delivery of planning technical assistance (*e.g.*, plan reviews) and planning workshops (*e.g.*, instructor, materials, and facility rental) intended to support the development of proposed planning activities as part of a planning sub-application;
- Managing grants (*e.g.*, quarterly reporting and close-out);
- Technical monitoring (*e.g.*, site visits, technical meetings);
- Purchasing computer equipment necessary to support their FMA-related NEMIS or eGrants requirements (States may only use up to 15% of their FMA Technical Assistance grant funds for computer equipment.);
- FMA Technical Assistance grant funds may be used to pay the Federal share of the State FMA Point-of-Contact's salary, and his/her FMA related training and travel expenses; and

- FMA Technical Assistance grant funds may be awarded to Sub-grantees to perform training activities, or to cover necessary costs incurred for requesting, obtaining and administering the FMA funds.

States and Territories who request Technical Assistance grants must provide a separate grant application with supporting documentation included in sub-applications for each entity applying for Technical Assistance grant funds.