



# Fire Management Assistance Grant Program and Policy Guide

FP-104-21-0002 / June 2021



FEMA

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## Foreword

On behalf of the Federal Emergency Management Agency (FEMA), I am pleased to issue the First Edition of the FEMA Fire Management Assistance Grant (FMAG) Program and Policy Guide. This publication combines the FMAG Program Guide and FMAG policy into a single volume with links to other publications and documents that provide additional process details. The FMAG Program and Policy Guide applies to incidents declared on or after June 30, 2021, and supersedes the 2014 FMAG Program Guide.

This publication describes the FMAG Program’s basic provisions, application procedures, and other related program guidance. The guide should be used by elected leaders, emergency managers, financial management personnel, and other individuals who have the responsibility for responding to wildfires.

Previously, FMAG policies and guidance were intermixed with those for FEMA’s Public Assistance (PA) program; however, these two programs have distinct differences so separating them provides for administrative clarity and reduces confusion regarding the applicability of the policies and guidance. FEMA has merged and streamlined the language in the guide to:

- Provide clear and concise policy language to minimize multiple interpretations;
- Eliminate duplicative language and redundancy; and
- Provide ease in searching for policy language on specific topics.

This document also includes updates based on Title 2 Code of Federal Regulations (CFR) part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. The rules at 2 CFR part 200 combined and superseded eight Office of Management and Budget (OMB) Circulars. It also superseded 44 CFR part 13.

Table 1 describes notable updates to this version of the guide.

**Table 1. Summary of Updates to the FMAG**

Change Number	Administrative Updates
1	<b>Labor Costs, Donated Resources, Mutual Aid, and Duplication of Benefits</b> policies incorporated from 9500 series publications
2	<b>HMGP Post Fire Mitigation</b> language added
3	Added language allowing <b>the (Regional) “Administrator will evaluate the request and make a determination within several hours.”</b>
4	Declaration criteria language added to include <b>“order of priority”</b>
5	Added language regarding <b>merging declared fires into a fire complex</b>
6	Added language providing guidance on <b>closing the Incident Period</b>
7	Clarified and updated language regarding <b>tribal governments</b>

Change Number	Administrative Updates
8	FMAG FEMA-State Agreement (FSA) and FEMA-Tribal Agreement (FTA) citations and language updated
9	Added language allowing the use of <b>electronic signatures</b>
10	Incorporates language for <b>Environmental and Historic Preservation (EHP)</b> and <b>Categorical Exclusion (CATEX)</b>
11	Specified a 3-year <b>Period of Performance (POP)</b> for FMAG
12	Updated <b>Procurement and Contracting</b> language
13	Added language that addresses <b>Direct Federal Assistance</b>
14	Updated <b>2 CFR part 200</b> citations
Change Number	Cost Eligibility
1	Added language to address <b>certain ineligible costs</b> from 44 Code of Federal Regulations (CFR) part 204
2	Language added regarding <b>Equipment and Supplies</b>
3	Incorporated additional language on <b>procurement and contracting</b>

FEMA will make updates to this guide on an annual basis as necessary and will conduct a comprehensive review no less than every three years. The definitions of terms used throughout this Guide can be located in the Glossary. If FEMA determines it is necessary to publish new or updated policy language before the next scheduled update, FEMA will update the electronic version of this document, issue a memo describing the additions or updates, and post both documents at <https://www.fema.gov/fire-management-assistance-grant-program> with other archived versions of the guide.

The FEMA Office of Response and Recovery (ORR), Doctrine and Policy Office is responsible for the management and maintenance of this document. We look forward to your comments and feedback to help inform the next version. Please send any comments or suggestions to improve this Guide to: [Fema-fmag-comments@fema.dhs.gov](mailto:Fema-fmag-comments@fema.dhs.gov)

## Background

A wildfire's behavior is unpredictable and can change direction unexpectedly, spread across fire breaks and highways, and destroy or damage homes, buildings, and any other structures in its path. Uncontrolled fires can rapidly turn into blazing infernos producing fear, economic loss, disrupted lives, and loss of life and property.

Controlling fires is the responsibility first of the local community and then the state. At times, however, their combined efforts are not sufficient to stop the spread of the fire and mitigate fire risk to the built environment. When this occurs, the state may request federal assistance to supplement state, tribal, and local efforts. The Robert T. Stafford Disaster Relief and Emergency Assistance Act, Public Law 93-288, as amended, 42 U.S.C. §5121, et seq. (Stafford Act) authorizes the President to provide Fire Management Assistance in response to a declared fire. Federal assistance is coordinated through the Department of Homeland Security's (DHS) FEMA. Under the FMAG Program, FEMA provides assistance in the form of grants for equipment, supplies, and personnel costs, to any state, tribal government, or local government for the mitigation, management, and control of any fire on public or private forest land or grassland that threatens such destruction as would constitute a major disaster.<sup>1</sup>

The FMAG Program replaced FEMA's Fire Suppression Assistance Program when Section 420 of the Stafford Act was amended by the Disaster Mitigation Act of 2000, Public Law 106-390, and is effective for all fires declared on or after October 30, 2001. In order to ensure proper implementation of the program, it is vital that those involved at any level with the FMAG Program share a common understanding of the program policies and procedures. To support this goal, FEMA has prepared this guide as an effort to provide the state, tribal, and local partners with information about the program.

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<sup>1</sup> Throughout this document, any references to state(s) also applies to territories.

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# CHAPTER 1: INTRODUCTION

## Purpose

The *FMAG Program and Policy Guide* describes the basic provisions, processes, and procedures of the FMAG Program. Under this cost-share grant program, FEMA provides grant assistance to assist in reimbursement for equipment, supplies, and personnel to any state, tribal, or local government for the mitigation, management, and control of any declared fire on public or private forest land or grassland that threatens such destruction as would constitute a major disaster.<sup>2</sup>

The FMAG Program is based on a partnership of FEMA, state, tribal, and local officials, and is codified under Stafford Act, Title IV – Major Disaster Assistance Programs.

FEMA is responsible for managing the program, reviewing, and approving declaration requests, approving grants, and providing technical assistance to the state and Applicants.

The state, in most cases, acts as the Recipient for the FMAG Program, which will be responsible for all grants awarded under the FMAG Program. The state educates potential Applicants, works with FEMA to manage the program, and is responsible for implementing and monitoring the grants awarded under the program.

After a declaration, the tribal government may choose to be a Recipient or, if permitted under state law, it may act as a Subrecipient under the state. A tribal government acting as the Recipient will assume the responsibilities of a “state” for the purpose of administering the grant.

Local and tribal officials are responsible for providing accurate and sufficient data to the state, including documenting costs incurred in response to an FMAG Program Declaration and fire suppression efforts.

## Scope and Applicability

The *FMAG Program and Policy Guide* provides guidance to FEMA staff tasked with managing and administering the FMAG, elected leaders, emergency managers, financial management personnel, and other individuals who have the responsibility for responding to wildfires.

## Supersession

The *2021 FMAG Program and Policy Guide*, FP-104-21-0002, supersedes the *Fire Management Assistance Grant Program Guide*, FEMA P-954, February 2014, and is in effect

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<sup>2</sup> Mitigation, management, and control are those activities undertaken, generally during the incident period of a declared fire, to minimize the immediate adverse effects and to manage and control the fire.

for incidents declared on or after (June 30, 2021). This guide does not supersede statutes, regulations, or DHS FEMA directives or manuals.

## Authorities and Foundational Documents

The FMAG Program is based on a hierarchy of statutes, regulations, and policies. These authorities govern the criteria under which FEMA provides funds under the FMAG Program.

**Federal Statutes:** Statutes are laws passed by the U.S. Congress and signed by the President. They cannot be changed or waived by FEMA or any other government agency or official.

The FMAG Program is authorized by section 420 of the Stafford Act (42 U.S.C. 5187), which:

- Authorizes the President to provide Fire Management Assistance to state, tribal, and local governments;
- Requires coordination with the State and Tribal Departments of Forestry;
- Allows the President to provide Essential Assistance under Section 403 of the Stafford Act;
- Allows section 420 to provide assistance to 404 Hazard Mitigation Assistance; and
- Requires the establishment of rules and regulations to carry out the program.

**Regulations:** Regulations are rules designed to implement a statute based on an agency's interpretation of a statute. They establish the basic requirements for administering a program. Typically, regulations are published through an official process that allows for public comment. Regulations have the full force and effect of law and must be complied with once they are implemented. The regulations published in Title 44 of the Code of Federal Regulations (CFR part 204 (44 CFR part 204) govern the FMAG Program and detail the program procedures, eligibility, and requirements.

Additional regulations regarding grant administration and allowable costs are found in 2 CFR part 200—Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. Recipients and Subrecipients of FMAG grants are required to adhere to 2 CFR part 200 in administering the grants.

**Policies:** Policies clarify or provide direction for specific situations within the parameters established by the Stafford Act and regulations that pertain to the FMAG Program. FEMA writes and publishes policies to ensure consistency in interpretation across the nation. FMAG Program policies are included in other PA program policies.

Appendix C provides additional information about these documents.

## Document Management and Maintenance

The FEMA ORR, Doctrine and Policy Office is responsible for the management and maintenance of this document. Comments and feedback from FEMA personnel and stakeholders regarding this document should be directed to the Doctrine and Policy Office at FEMA headquarters (HQ). Comments can also be direct to [Fema-fmag-comments@fema.dhs.gov](mailto:Fema-fmag-comments@fema.dhs.gov).

# CHAPTER 2: DECLARATION PROCESS

This chapter provides an overview of the declaration process for the FMAG Program, including criteria for completing, submitting, and processing a declaration request. Additionally, it will address roles and responsibilities for states, FEMA Regions, and FEMA HQ.

## Submitting a Declaration Request

When an uncontrolled fire on public or private forest or grassland is such a threat that, in the opinion of the on-scene commanders or other government officials, the fire threatens such destruction that would constitute a major disaster, the Governor may request assistance from the FMAG Program. The Governor of a state or the Governor's Authorized Representative (GAR) submits a request for a Fire Management Assistance Grant declaration. In addition to the declaration request, the Governor may also designate the GAR to execute, on behalf of the state, all necessary documents for requesting fire management assistance.

Tribal and local governments may not directly request FMAG declarations.<sup>3</sup> For additional information, refer to 42 U.S.C. § 5187, Stafford Act § 420.<sup>4</sup>

## Declaration Request Processing

The Governor or GAR must submit a request while the fire is burning uncontrolled and threatening such destruction as would constitute a major disaster (44 CFR § 204.22). To ensure a fire's threat level as a major disaster is documented as soon as possible, the state should submit factual data, professional estimates, and information that documents the severity of the fire and threat level. All available documentation should be submitted day or night in accordance with established regional procedures. To expedite processing the state's

### **FMAG and Tribal Governments**

Pursuant to 44 CFR § 204.22, Governors and GARs are the only officials authorized to request FMAG declarations. Tribal governments are not authorized to make FMAG declaration requests at this time. While tribal governments typically receive fire suppression assistance through other federal agencies, they may seek assistance as a Recipient or as a Subrecipient under a declared FMAG to the extent the requested assistance is not available from another federal source. After a declaration is approved, a tribal government may act as a Recipient, or it may act as a Subrecipient under the state if permitted under state law. A tribal government acting as Recipient assumes all responsibilities of a "state" for the purpose of administering the grant.

<sup>3</sup> Tribal governments that received assistance under the FMAG program can choose to seek additional FEMA assistance (assistance not covered under the FMAG) in a number of ways: (1) request their own major disaster or emergency declaration; (2) be Recipients under a state major disaster or emergency declaration; or (3) be Subrecipients under a state major disaster or emergency declaration. Tribal governments that request their own major disaster or emergency declarations have different declaration factors and are not held the per capita indicators used for states or counties.

<sup>4</sup> See Tribal Government Assistance link at [Tribal Affairs | FEMA.gov](#)

declaration request, the request should be submitted verbally by telephone to the FEMA Regional Administrator (RA) via the FEMA Regional staff member with delegated responsibility for processing FMAG requests (Regional FMAG staff).

The state's verbal request must be followed up with the completed Request for Fire Management Assistance Declaration, FEMA Form (FF) 078-0-1, no later than 14 days after the verbal request. The FF-078-0-1 provides written confirmation of information submitted during the telephone declaration request and is required for official FEMA files.

The FEMA Region will review and evaluate the fire data and information submitted by the state and the RA will render a decision based on the conditions that existed at the time the documentation was submitted. Using the data and information submitted by the state at the time of the request, the RA may review the declaration request and when possible, the (Regional) "Administrator will evaluate the request and make a determination within several hours."<sup>5</sup> As part of the decision-making process, the region, state, and Principal Advisor may ask questions and exchange information at any time to clarify or verify the data and information previously submitted. Once sufficient information is provided to make a request and the State formally requests a determination, a decision will be made by the RA based on relevant declaration criteria and the Principal Advisor's Assessment.

## Declaration Criteria

While all four of the following criteria from 44 CFR § 204.21 are considered when evaluating a request for an FMAG declaration, the criteria are considered in order of descending priority during the evaluation process of a threat of a fire or fire complex:

- Threat to lives and improved property, including threats to critical facilities/infrastructure and critical watershed areas;
- Availability of state and local firefighting resources;
- High fire danger conditions, as indicated by nationally accepted indices such as the National Fire Danger Ratings System (NFDRS); and
- Potential major economic impact.

## Information for the Declaration Request

For FEMA to apply the evaluation criteria in 44 CFR § 204.21, the following information, if available, should be included in both the verbal and written requests:

- Size of fire(s) in acres or square miles;
- Name, location, and population of community(ies) threatened;
- Number of primary and secondary residences and businesses threatened;
- Distance of fire to nearest communities;

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<sup>5</sup> 44 CFR §204.24 Determination on request for a fire management assistance declaration.

- Number of persons evacuated to date, if applicable;
- Current and predicted (24-hour) weather conditions; and
- Degree to which state and local resources are committed to this fire and other fires in federal, state, or local jurisdictions.

To further support a declaration request, the state may append additional documentation to the Request for Fire Management Assistance Declaration, including:

- Fire severity maps;
- Geographic, topographical, or land assessment maps; or
- Incident status summary report (ICS-209)<sup>6</sup>.

Based on the information provided by the state, the RA will either approve or deny a request. If insufficient information is provided by the state to support the request, based on feedback from the RA, the state may choose to hold the request until additional information is available.

Once an FMAG request has been denied, the state may not resubmit an updated request, but may submit an appeal as discussed under “Appeal of Denied Declaration Request” on page 10.

## Fire Complex

A state may submit a request to the RA for an FMAG declaration for a fire complex. Pursuant to 44 CFR § 204.3, all fires within the complex will be located in the same general area. All fires within a complex should be managed by the same Incident Commander and should be approved under the fire declaration. Even though an entire complex may be designated in a declaration request, not all fires within the complex will automatically qualify. FEMA will determine which fires are eligible under the FMAG declaration. This determination may be made at the time of the declaration or at a later time if there is information/data that better describes and documents the level of threat and whether or not the fire meets FMAG threat criteria.

A state may request that the RA merge one or more declared fires into an existing declared fire complex when the following criteria are met:

- The fires are managed by the same incident commander;
- The fire(s) to be joined to the complex must each meet all criteria for an FMAG declaration, including the threat of a major disaster;
- The fire(s) are in close geographic proximity or have burned together; and
- Fires administratively joined into a complex must have a single Incident Period (IP) whose dates are determined in accordance with FMAG regulations and policy.

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<sup>6</sup> See [ICS Resource Center \(fema.gov\)](https://www.fema.gov/ICS-209) to access the Incident Status Summary Report Form (ICS-209).

## Incident Period

The RA, in consultation with the GAR and Principal Advisor, determines the dates of the IP. The IP of an FMAG declared fire usually begins on the date of the declaration. If the state requests that an IP starts before the date of the state's declaration request, the factors and circumstances supporting that request should be documented by the GAR and reviewed and approved by the RA. Potentially eligible factors that may affect the start date of the IP include, but are not limited to, documented immediate threats to life and property that occurred prior to the declaration request where evacuations or other actions were necessary to prevent loss of life, property, or damage to critical infrastructure or critical watershed areas.

The IP is normally considered closed when the fire is contained as defined by the National Wildfire Coordinating Group [NWCG | NWCG is an operational group designed to coordinate programs of the participating wildfire management agencies.](#)<sup>7</sup> Other factors to consider in closing the IP may include one or more the following:

- The fire threat to homes/critical public facilities no longer exists;
- Evacuation orders have been lifted;
- Roadblocks and road closures have been lifted;
- Fire suppression resources are demobilizing from the incident;
- Transition to lower-level Incident Management Team;
- High confidence in security of fire suppression containment lines;
- Absence of approaching weather event which may impact fire behavior; or
- Percent of containment.

All FMAG IPs administratively begin at 0001 (12:01 am) in the time zone of the fire on the approved declaration date and end at 2359 (11:59 pm) in the time zone of the fire on the approved date of closure. The beginning IP for all fires merged into a complex will be the beginning IP of the initial fire.

Generally, wildland firefighting costs must be incurred during the IP of a declared fire to be considered eligible under 44 CFR § 204.42(a). However, costs related to pre-positioning, mobilizing, and demobilizing incurred outside of the approved IP may be determined to be eligible costs. These costs are discussed in detail in Chapter 3: Eligibility.

The beginning and end dates of the declared fire(s) or fire complex IP are official as documented in Attachment C from the FMAG FEMA-State Agreement (FSA). Any change to the IP requires the submission of a revised Attachment C.

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<sup>7</sup> In accordance with the National Wildfire Coordinating Group, contained means: "The status of a wildfire suppression action signifying that a control line has been completed around the fire, and any associated spot fires, which can reasonably be expected to stop the fire's spread."

## Duties, Roles, and Responsibilities

States, the regional office, and the Principal Advisor each have a role in submitting or reviewing the declaration request. FEMA HQ plays a role in the FMAG declaration as outlined below.

### State Role

The Governor or GAR is responsible for submitting a fire declaration request. The request should be submitted by telephone to the Regional FMAG staff. Following a phone request, the Governor or GAR must complete the Request for Fire Management Assistance Declaration, FF-078-0-1<sup>8</sup>, and submit it to the RA no later than 14 days after the date of the initial phone request.

### FEMA Regional Office Role

The regional office will establish a means of communication and points of contact that are available around-the-clock, as well as Regional FMAG staff, to receive the declaration request and obtain the necessary information from the state for a declaration request. Regional FMAG staff captures and submits the collected information into NEMIS under “Incident Report”. If the request is incomplete or insufficient to make a determination the request will not be processed until sufficient information is submitted and available to support a decision.

Within the regional office, the Regional FMAG staff are the primary point of contact for FMAG requests. The Regional FMAG staff will request an assessment of the fire from the Principal Advisor.<sup>9</sup> After all the information is obtained from the state and verified with the assistance of the Principal Advisor, the Regional FMAG staff briefs the RA. The RA has the option to include other members from their team to provide technical assistance. The RA approves or denies the request. If the request is approved, the Regional FMAG staff makes appropriate Regional Office notifications so they can take any necessary actions, to include external affairs issuing a press release.

Following the RA’s decision, the region informs the state, verbally and in writing of the FMAG approval or denial via email or letter in accordance with established notification preferences. Once a determination is rendered, the Regional FMAG staff provides a summary email and formal letter of the declaration facts to the RA and other FEMA leadership.

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<sup>8</sup> See Appendix E: FMAG Forms. This appendix lists the forms used throughout the FMAG process

<sup>9</sup> See “Principal Advisor’s Role” in the following section.

The RA evaluates the declaration request and approves or denies the request based on:

- Evaluation criteria;
- Information provided in the state's request; and
- Principal Advisor's Report.

The threat posed by a fire or fire complex is evaluated using the state's declaration request. The following information is used to evaluate the threat:

- The fire or fire complex threatens lives and improved property, including critical facilities/infrastructure and critical watersheds. Improved properties include, but are not limited to:
  - Homes (single-family and multi-family [e.g., townhouses, condos, apartments]);
  - Hospitals, prisons, and schools;
  - Police and fire stations;
  - Water treatment facilities;
  - Public utilities; and
  - Major roadways.
- Availability of state and local firefighting resources:
  - The degree of commitment by federal, state, tribal, and local resources to other fires; and
  - The lack of available federal, state, tribal, and local wildland firefighting resources.
- High fire danger conditions as indicated by nationally accepted indices<sup>10</sup>
  - NFDRS;
  - Keetch-Byram Drought Index;
  - Palmer Drought Index;
  - Haines Index; and
  - Canadian Forest Fire Danger Rating System (CFFDRS).
- Potential major economic impact:
  - State level;
  - Local level; and
  - Regional level.

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<sup>10</sup> See Appendix F: Fire Danger Rating Systems for more information on nationally accepted indices

## Principal Advisor's Role

The Principal Advisor completes the Principal Advisor's Report (FF-078-0-2) and provides it to the Regional FMAG staff. If the initial report is provided verbally, a written copy will be provided to the Regional FMAG staff as soon as possible.

## FEMA Headquarters Role

The Associate Administrator and Deputy Associate Administrator of ORR, the Assistant Administrator (AA) of the Recovery Directorate, and the Declarations Section receive the region's summary email of the declaration or denial facts immediately following the decision to approve or deny the FMAG request by the RA. If the declaration request is approved, the Declarations Section responds to the FEMA region with the FMAG number assigned to the declared fire and prepares and sends a letter from the FEMA Administrator to the White House regarding the determination. Additionally, the Declarations Section provides the assigned FMAG declaration number to the Regional FMAG staff.

## Appeal of Denied Declaration Request

If FEMA denies the state's request for a declaration, the state has one opportunity to appeal the denial. The appeal must be submitted in writing to the RA no later than 30 days from the date of the letter informing the state of the denial. The appeal should contain any additional information that strengthens the state's original request for assistance.

The RA will review the appeal, prepare a recommendation, and forward the appeal package to the Associate Administrator of the ORR, FEMA HQ. FEMA HQ notifies the state of its determination, in writing, within 90 days of receipt of the appeal or receipt of the additional requested information.

The state may request a time extension to submit the appeal.<sup>11</sup> The request for an extension must be submitted in writing to the RA no later than 30 days from the date of the letter denying the declaration request. The request for an extension must include a justification for the need for an extension. The RA evaluates the need for the extension based on the reasons cited in the request and renders a determination. The regional office will notify the state in writing whether the extension request is granted or denied.

## Post-Declaration Mitigation Plan Requirements

A state or tribal government intending to apply to FEMA for grant assistance under the FMAG Program must have a formally approved state/tribal Mitigation Plan. If the state or tribal

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<sup>11</sup> See 44 CFR § 204.26 Appeal of fire management assistance declaration denial.

government does not have a FEMA-approved Mitigation Plan in accordance with 44 CFR § 204.51(d)(2) it must formally submit a Mitigation Plan for FEMA's review and approval within 30 days of the signature date of the Amendment of the FSA for the FMAG Program. FEMA has 45 days to review the plan. FEMA will not approve the application for assistance under the FMAG Program if the state or tribal government does not have an existing FEMA-approved Mitigation Plan or fails to submit one within the required timeframe.

## FEMA-State and FEMA-Tribal Agreements

The FSA or FEMA-Tribal Agreement (FTA) for the FMAG Program (the Agreement) is a legally binding document that outlines the terms and conditions under which grant funding is provided for FMAG declarations. The Agreement details applicable laws and regulations governing the program.

The Agreement is in effect for one calendar year. It must be updated annually and, ideally, should be signed each January before the start of fire season. The Agreement lists the GAR or the Tribal Chief Executive (TCE), or the TCE's Authorized Representative (TAR), and other officials authorized to act on behalf of the State. An FTA must be signed if a tribal government wishes to serve as a Recipient.

### Articles

The Agreement consists of 10 articles. An FMAG FSA/FTA template is available from the FEMA HQ Declarations Section or FMAG Program Office. The ten articles and are listed below:

- I. Purpose and Background
- II. General Provisions
  - Grant Award Package
  - FEMA Responsibilities
  - State/Tribe Responsibilities
  - Certification and Waivers
  - Federal Assistance
  - Controlling Authorities
- III. Funding

### Tribal Attachment A Requirements

In cases where an FTA has been signed by the Chief Executive of the tribal government, the State/Tribe Certification Officers listed in Attachment A of the agreement designates and empowers a tribal representative and Alternate Tribal representative to execute the application for an FMAG grant. Until Attachment A has been completed, only the Chief Executive of the tribal government has the authority to submit the application for an FMAG grant.

- Payment Process
- Availability of Funding
- IV. Reporting
  - Federal Financing and Performance Reports
  - Project Closeout
  - Enforcement
  - Records Retention
- V. Recovery of Funds
  - In General
  - Duplication of Benefits
  - Cooperation
  - State Responsibilities
  - Statute of Limitations
  - Refunds, Rebates, and Credits
- VI. Performance Periods
- VII. Remedies for Non-Compliance
- VIII. Attachments
- IX. Amendments
- X. Signatures and Effective Date
  - Counterpart Signatures
  - Effective Date

## Attachments

The Agreement also includes three attachments, which are described below.

### ***Attachment A: State/Tribe Certification Officers***

Attachment A designates the GAR/TAR and Alternate GAR/TAR empowered by the Governor/Tribal Chief Executive to execute all necessary documents for FMAG Program, including the declaration request (in the case of the state) and application for a FMAG.

### ***Attachment B: Certification for Contracts, Grants, Loans, and Cooperative Agreements***

Attachment B certifies that no federal appropriated funds are used to influence or attempt to influence officers or employees of an agency, member of Congress, an officer or employee of Congress in connection with the awarding of a federal grant or loan, cooperative agreement, or an extension continuation, renewal, amendment, or modification of these. This certification is required by the regulations implementing the “New Restrictions on Lobbying,” 44 CFR part 18.

### ***Attachment C: Declaration Amendments***

After a state's declaration request has been approved and the IP is established, the Governor or GAR must sign the Amendment (described below) of the FSA for the FMAG Program. The Amendment must be signed by the state (or tribal government when appropriate) and FEMA for each declared fire that occurs within the calendar year.

The Amendment contains specific information for each declared fire, including the name of the fire or fire complex, declaration number, affected counties, and IP. The Amendment must be completed for each declared fire and appended to the Agreement. The GAR or TCE/TAR as identified on the list of State/Tribe Certification Officers can sign the Amendment on behalf of the state or tribal government.

If a state does not have a signed FSA prior to submitting a declaration request to FEMA, the state should sign an Agreement immediately after FEMA has approved the declaration request. If the Agreement is signed after the first fire is declared, the Governor must sign both the Agreement and Attachment C. The state must sign and submit the Agreement prior to, or with, the submittal of the FMAG Program grant assistance request (Request for Federal Assistance, Standard Form [SF]-424). Funding will not be obligated until the Governor signs the Agreement (or TCE when appropriate, signs). Failure to sign the Agreement may result in denial of the FMAG.

### **Electronic Signatures**

Electronic signatures may be used by state or other government officials when submitting any FEMA Forms. FEMA accepts both stamped and electronic signatures if those forms are sufficient to bind the state under state law.

### **Inclusion of Affected Counties**

Block 15 of FF-078-0-1 (Request for Fire Management Assistance Declaration) provides an entry for the county(ies) affected by the fire. At least one county is required to be included in the verbal request for a declaration and in block 15 of FF-078-0-1 when submitted. All counties affected by the declared fire must be listed in Attachment C of the FSA when it is submitted.

### **Modifying a Declaration Request to Add Counties**

If a declared fire or fire complex burns into adjacent counties, the additional counties, including any tribal lands, may be eligible for assistance under the declared fire. The 2020 FMAG FSA requires an amendment in the form of Attachment C to add more counties. All information is evaluated on the threat of the fire, potential economic impact, weather conditions, and committed and available resources. Once all information is submitted, FEMA will evaluate and decide whether to designate the additional county(ies). If the request to

add counties is denied, the appeal process is the same as that for a denied fire declaration request as described in this guide and in 44 CFR § 204.26.

## Fires Crossing State Lines

If a declared fire crosses from one state into another state, the adjacent state must request its own FMAG declaration if it is seeking assistance. The declaration request will be evaluated based on the threat posed by the fire in that state.

## Evaluating the Request for FMAG Rollup to a Major Disaster or Emergency Declaration

In situations where a state has received an FMAG declaration(s), the state may ultimately deem it necessary to request a major disaster or emergency declaration in response to the wildfires or wildfire threat. The FMAG Program is FEMA's primary vehicle to assist state, tribes, and local governments responding to wildland fires. As such, FEMA will generally not recommend a major disaster declaration for a wildland fire, unless the fire has significant impacts and costs that cannot be addressed by the FMAG Program. Therefore, when evaluating a request for a major disaster as a result of a wildland fire, FEMA will not use costs that are eligible, or could have been eligible, under an FMAG declaration to meet the state or countywide per capita indicators for the major disaster wildland fire declaration.

In order for FEMA to recommend that the President declare a major disaster, the request must meet the indicators under 44 CFR § 206.37(c)(1) and 44 CFR § 206.48. To declare an emergency, the request must meet the language under 44 CFR § 206.37(c)(2).

If either a major or an emergency declaration is approved in addition to an FMAG declaration, eligible costs may be claimed under the most appropriate declaration. The Recipient must ensure that costs claimed under one declaration type are not also claimed and reimbursed under the other declaration. In the case of a major disaster declaration for a fire that received an FMAG declaration, generally eligible costs should be claimed under the major disaster declaration so that the state can maximize funding under the Hazard Mitigation Grant Program (HMGP).

## Direct Federal Assistance

Direct Federal Assistance (DFA) is not currently authorized for FMAG declarations.

### Eligible Costs

When evaluating a request for a major disaster as a result of a wildland fire, FEMA will not use costs that are eligible, or could have been eligible, under an FMAG declaration to meet the state or countywide per capita indicators for the major disaster wildland fire declaration.

# CHAPTER 3: ELIGIBILITY

This chapter discusses the eligibility criteria for the FMAG Program. These include:

- Eligible Applicants for grants and subawards
- Eligible work and costs



Figure 1. FMAG Eligibility Factors

Applicant eligibility and eligible costs are discussed in their entirety in 44 CFR subpart C – Eligibility, § 204.41 – § 204.43. Figure 1 shows the eligibility factors for the FMAG Program.

## Environmental and Historic Preservation

All FEMA Grants must comply with applicable Environmental and Historic Preservation (EHP) laws, regulations, and Executive Orders (EOs). Actions taken under the FMAG Program usually qualify for a Categorical Exclusion (CATEX) under the National Environmental Policy Act (NEPA). A CATEX applies to actions that typically have little or no impact on the environment, as long as there are no “extraordinary circumstances” as defined by DHS. An example of an extraordinary circumstance is a potentially significant impact on species, habitats, historic properties, or environmentally sensitive areas protected under federal law. If any extraordinary circumstances apply to an FMAG action, the project does not qualify for a CATEX under NEPA. While FMAG actions are CATEX-able under NEPA, FEMA must ensure compliance with all other applicable EHP laws, regulations, and EOs. Accordingly, FEMA must ensure that the Applicant’s action avoids, minimizes, or mitigates adverse impacts to such resources as floodplains, wetlands, federally listed threatened and endangered species and their critical habitats, and historic properties.

The FMAG Program is subject to other EHP laws, regulations, and EOs; therefore, it is important that the Regional FMAG point of contact (POC) notify the Regional Environmental Officers when a state submits a request for an FMAG declaration. This will help ensure that any environmental or historic preservation concerns, such as initiating any emergency agency consultations, that may arise from a wildland fire are addressed. For more information on applicable EHP laws, regulations, and EOs, refer to Appendix D: Environmental and Historic Preservation Compliance.

## Grant and Subgrant Applicants

Eligible Applicants are entities legally responsible for the firefighting activities for which reimbursement is being requested. The following Applicants are eligible to apply as Recipients:

- State agencies;

- Local governments; and
- Tribal governments.

If a tribal government elects to serve as a Recipient, the tribe must complete and sign an FTA under which they agree to a SMARTLINK or other similar funds transfer system so they can receive funds directly. The grant will be monitored, tracked, and closed out the same as other Recipients. The tribe must use the declaration number assigned by the Declarations Section.

Ineligible Applicants are governmental entities that do not have legal responsibility for the firefighting activities, privately owned entities, and volunteer firefighting organizations. However, ineligible Applicants may receive payment through a compact, mutual aid agreement, or contract with an eligible Applicant for eligible costs associated with the declared fire or fire complex. Such payments are contingent on a FEMA determination that the activities meet all other eligibility criteria.

## Eligible Costs Overview

All eligible work and related costs must be associated with the IP of a declared fire. FMAG Program eligible work directly related to the declared fire is documented into three general categories:

- Category B – (Emergency Protective Measures): Limited assistance provided under Section 403 of the Stafford Act.
- Category H – (Fire-fighting Activities): Eligible work associated with fire-related activities provided under Section 420 of the Stafford Act.
- Category Z – (Administrative Costs): Assistance provided for eligible costs associated with requesting, obtaining, and administering a grant for a declared fire.

### Eligible Costs

44 CFR part 204 and 2 CFR part 200—Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards provide definitive guidance on Eligible Costs and should be consulted when making eligibility determinations.

Eligible work performed must be:

- The legal responsibility of the Applicant, whether it was performed by the Applicant’s own agents or through a secondary party as described in the preceding paragraphs;
- Required as a result of the declared fire; and
- Located within the designated area.

Eligible costs include, but are not limited to the following:

- Equipment and supplies;

- Labor costs;
- Travel and per diem;
- Limited pre-positioning costs approved by the RA;
- Emergency Work;
- Temporary repairs of damage caused by firefighting activities; and
- Mobilization and demobilization.

Recipient and Subrecipient administrative costs are discussed in Chapter 5: Grant Management. Eligibility of costs incurred by entities working through Mutual Aid Agreements is discussed in Chapter 4: Mutual Aid.

## Equipment and Supplies

Purchase of supplies and equipment that are necessary to respond to the declared fire may be eligible costs. The Recipient or Subrecipient, however, may be required to compensate FEMA for the fair market value of the equipment and supplies when the items are no longer needed for fire suppression activities.

Recipients and Subrecipients should consult the applicable sections in [2 CFR part 200](#) for complete guidance regarding equipment and supplies. These include, but is not limited to, 2 CFR § 200. 1, titled Definitions, which provides the definitions of “Equipment”, “General Purpose Equipment”, and “Supplies”. Guidance on Equipment is found in 2 CFR § 200.313 while guidance on Supplies is found in 2 CFR § 200.314.

FEMA will reimburse Applicants for costs associated with equipment and supplies used on declared fires. Eligible costs include:

- Personal comfort and safety items normally provided by the state under field conditions for firefighter health and safety;
- Replacement of firefighting supplies, tools, and materials that are expended, lost, or destroyed, with comparable items to the extent not covered by reasonable insurance. Reimbursement for ownership and operation costs of Applicant-owned equipment based on equipment rate guidelines in 44 CFR § 206.228(a)(i), (ii), and (iii);
- Operation and maintenance costs of publicly owned, contracted, rented, or volunteer firefighting department equipment to the extent any of these costs are not included in applicable equipment rates;
- Payment for use of U.S. Government-owned equipment based on reasonable, actual costs as billed by a federal agency and paid by the state. Reimbursement for the use of Federal Excess Personal Property is based only on the direct cost for the use of the equipment;
- Repair of Applicant-owned equipment is determined by the regional office based on repair of damaged Applicant-owned equipment less insurance proceeds. The regional office will determine equipment rate costs on the lowest applicable equipment rates,

which may be FEMA, the U.S. Forest Service, or state or local rates, depending on the piece of equipment and the formula used to calculate the rate; and

- Costs to replace Applicant-owned equipment that is lost or destroyed in firefighting activities with comparable equipment of the same age, capacity, and condition to the extent not covered by reasonable insurance.

## Labor Costs

Federal assistance may be provided to eligible Applicants for eligible labor costs incurred in the performance of emergency work resulting from an FMAG-declared fire.

### *Applicant Labor Policies*

FEMA determines the eligibility of overtime, premium pay, and compensatory time costs based on the Applicant's pre-disaster written labor policy, provided that the policy:

- Does not include a payment contingency clause subject to federal funding;
- Is applied uniformly regardless of a Stafford Act declaration; and
- Has set non-discretionary criteria for when the Applicant activates various pay types. All costs, including premium pay, must be reasonable and equitable for the type of work being performed.

If these requirements are not met, FEMA limits FMAG funding to reasonable costs for the work performed.

### *Eligibility Criteria Based on Type of Employee*

For budgeted employees performing emergency work, only overtime labor is eligible.

Budgeted employees may include:

- Permanent employees
- Seasonal employees working during their normal season of employment

For unbudgeted employees performing emergency work, both straight-time and overtime labor are eligible. Unbudgeted employees may include:

- Permanent employees funded from an external source
- Temporary employees hired to perform eligible work
- Essential employees called back from administrative leave
- Seasonal employees who work outside of their normal season of employment

The costs of force account or temporary labor to backfill regular employees who perform eligible emergency work may be eligible. There are several circumstances that may affect the eligibility of costs to use backfill employees, including:

- If a backfill employee is hired on a contract or temporary basis, straight-time and overtime costs are eligible.
- If a backfill employee is a budgeted employee, the cost of straight-time salaries and benefits are not eligible, regardless of any inter-departmental agreements.
- If the backfill employee is a budgeted employee who is called in on their day off (weekend or other off day), there may be an extra cost to the Applicant. If so, regular and overtime costs will be eligible.
- If the backfill employee is called in from scheduled leave, there should be no extra cost as the leave can be rescheduled. Only the overtime is eligible.

Generally, exempt employees (e.g., those who are exempt from minimum wage and overtime provisions of the Fair Labor Standards Act) are not eligible for overtime, unless specified in an Applicant's pre-disaster labor policy.

The straight-time and overtime costs of employees who are funded from sources other than the Applicant's own budget (e.g., a grant from a federal agency, statutorily dedicated funds, or rate-payers) to work on specific non-disaster tasks are eligible when they perform emergency work that the external source does not fund. FEMA must confirm no duplication of funding prior to approval.

Mutual aid costs are eligible in accordance with the guidance in Chapter 4: Mutual Aid. Contract costs are eligible based on the terms of the contract, provided the Applicant meets federal procurement and contracting requirements. The straight-time salary and benefits of force account labor overseeing the contractors performing emergency work are not eligible.

The value of volunteers who perform eligible emergency work can be credited toward the non-federal cost share of the Applicant's emergency work in accordance with the guidance for donated resources on page 24.

### *Other Eligibility Considerations*

Other eligibility considerations include:

- Extraordinary costs (including but not limited to, call back pay, night-time or weekend differential pay, hazardous duty pay) for essential employees who are called back to duty during administrative leave to perform disaster-related emergency work are eligible if the costs were provided for in a written policy implemented prior to the disaster.
- Salaries and benefits for employees sent home or told not to report due to emergency conditions are not eligible for reimbursement.

In cases where firefighters are deployed to work on both declared and undeclared fires, the Applicant should track which days/hours are related to each fire. In the event it is not

tracked and documented, FEMA will evaluate any claims and determine whether sufficient data is provided to fund costs on a prorated basis.

### *Stand-by Time*

Subject to the provisions of the specific labor cost eligibility criteria above, FEMA will also reimburse costs for stand-by time incurred in preparation for, and directly related to, actions necessary to save lives and protect public health and safety, provided it is reasonable, necessary, and consistent with the Applicant's practice in non-federally declared events. Examples of when FEMA may reimburse stand-by time labor costs include, but are not limited to:

- When bus drivers are prudently deployed to transport evacuees, even if the bus is not ultimately used for evacuations;
- When first responders are prudently deployed for the purpose of evacuating or providing emergency medical care to survivors in order to save lives or protect health and safety, even if the employee does not ultimately perform eligible emergency work; or
- When a contract or union agreement requires payment for stand-by time.

### *Cost Reasonableness*

In order to be eligible, costs must be reasonable and necessary in accordance with 2 CFR § 200.404.

FEMA will determine whether the number of hours claimed are reasonable and necessary based on evaluating:

- The severity of the incident;
- Whether the work was performed at a time when it was necessary to work extraordinary hours based on the circumstances of the incident;
- The function of the employee for which the hours are claimed; and
- The number of consecutive hours the employee worked.

FEMA will determine whether any stand-by time claimed is reasonable and necessary based on the following:

- If there is a contractual obligation to pay for stand-by time based on a labor agreement; and
- If the stand-by time occurred at a time when it was necessary to have resources available to save lives and protect health and safety.

Applicants may be required to pay firefighter costs for 24-hour shifts with periods of rest. FEMA will reimburse such costs when reasonable and necessary, and incurred during the IP

of the declared fire. In addition to all other documentation required to support labor costs, the Applicant must provide data that led to its decisions and actions.

## Travel and Per Diem

Eligible travel and per diem costs include:

- Travel and per diem for all state, tribal, and local governmental employees who provide services requested by the Incident Commander and directly associated with declared and eligible fire-related activities; and
- Field camps and meal costs when provided in lieu of per diem.

## Pre-Positioning Costs

States may pre-position federal, out-of-state, state, international, and local resources during extreme fire hazards to improve initial response capabilities. Pre-positioning is the temporary relocation of existing fire prevention or suppression resources from an area of low fire danger to one of higher fire danger in anticipation of an increase in fire activity likely to constitute the threat of a major disaster.

Pre-positioning costs incurred up to a maximum of 21 days before the date of the fire declaration may be eligible under the FMAG Program, even when staged outside the designated area. Pre-positioning costs for out-of-state, state, federal, and international pre-positioned resources that were actually used on the declared fire are eligible. Pre-positioning of privately-owned local resources (those physically located within a state) may be eligible; however, state or local government-owned/operated resources are not eligible. Costs incurred to pre-position resources that remained at the staging area and were not used on the declared fire are not eligible.

For example, if one staging area has three helicopters pre-positioned and only one of the helicopters is used in the wildland firefighting efforts for a declared fire, then only the pre-positioning costs for that one helicopter are eligible for funding. The use of one piece of equipment on a declared fire does not make pre-positioning costs for an entire staging area (e.g., all three helicopters) eligible for funding.

The RA must approve all pre-positioning costs. For pre-positioning costs to be eligible under FMAG Program, the state must:

- Notify the RA of its intention to seek funding for pre-positioning resources at the time it submits the declaration request (or immediately thereafter). Since pre-positioning is undertaken in anticipation of an event, it is reasonable for a state to know whether it anticipates submitting costs for pre-positioning at the time the declaration request is approved or immediately thereafter;
- Document specific pre-positioned resources by number, type, and location;

- Estimate the cost of the pre-positioned resources and the duration of pre-positioning; and
- Provide detailed justification for pre-positioning, including scientific indicators such as drought indices, current allocation of state firefighting resources, weather conditions, and the number of wildland fires currently burning in the state.

Parties are encouraged to have a written mutual aid agreement in place prior to a declared fire that addresses pre-positioning costs. For further guidance, refer to Chapter 4: Mutual Aid.

## Emergency Work/Essential Assistance

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

Mitigation, management, and control are those activities undertaken generally during the IP of a declared fire to minimize the immediate adverse effects and to manage and control the fire. Only emergency work performed during the IP of a declared fire is eligible for funding.

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

- Police barricading and traffic control;
- Extraordinary emergency operations center expenses;
- Evacuation and sheltering (people, household pets, and service animals);
- Search and rescue;
- Arson patrol and investigation teams operating during the declared fire IP when there is a clear continuing threat;
- Public information dissemination to inform people what to do during the declared fire;
- Limited removal of burned or unburned trees (e.g., snags) that pose a threat to the safety of the general public; and
- Where negligence or intentional setting of the fire are suspected, exigent and immediate actions to secure and protect evidence that faces imminent destruction or prevent a suspect's imminent escape.

Mitigation activities designed to reduce the potential for future fires or to minimize damage from future fires are ineligible for funding under FMAG Program.

Examples of eligible emergency work/essential assistance include:

- Search and rescue and emergency medical care;

- Reasonable supervision and administration in the receiving jurisdiction that is directly related to eligible emergency work;
- The cost of transporting equipment and personnel by the Mutual Aid Providing Entity to the incident site;
- Costs incurred in the operation of the Incident Command System (ICS), such as operations, planning, logistics, and administration, provided such costs are directly related to the performance of eligible work on the declared fire to which such resources are assigned;
- State Emergency Operations Center assistance in the receiving state to support emergency assistance or Tribal Emergency Operations Center assistance (when appropriate); and
- Dissemination of public information authorized under Section 403 of the Act.

Actual costs of pre-positioning resources for a limited duration when used for a declared fire and are otherwise compliant with 44 CFR 204.42(e).

Examples of ineligible emergency work include:

- Training, exercises, and on-the-job training;
- Costs for staff performing work that is not eligible under the FMAG program; and
- Dispatch operations outside the receiving state;

### *Temporary Repairs*

Temporary repair of damage caused by firefighting activities are short-term actions to repair damage directly caused by firefighting efforts or activities. All temporary repair of damage caused by firefighting activities must be completed within 30 days of the close of the IP for the declared fire. It should be noted that temporary repair of damage caused by firefighting activities does not include repair of damage caused by the declared fire. Additionally, the eligible cost of temporary repairs is less any proceeds covered by insurance.

Examples of temporary repair activities that may be eligible for funding include minimal repairs to bulldozer lines, field camps, and staging areas to address safety concerns. For example, severe gouging of the grounds of a heavily trafficked park or recreation area may be eligible to be filled or boarded over to mitigate public safety and health concerns. However, temporary repairs would not include a complete re-grading of an entire park or recreation area.

Additional examples of temporary repair activities that may be eligible for funding include minimal repairs to facilities, such as fences, buildings, bridges, and roads damaged by firefighting activities. For example, repair of a portion of a fence that was removed to gain access to a declared fire with a section of chain-link fence may be eligible.

## Mobilization and Demobilization

Costs for mobilizing and demobilizing resources to and from a declared fire may be eligible for reimbursement under the FMAG Program.

Mobilization is the process used for activating, assembling, and transporting all resources the Recipient requested to respond to or support a declared fire. Demobilization is the process of deactivating, disassembling, and transporting back to their point of origin all wildland firefighting resources that had been provided to respond to and support a declared fire.

Eligible demobilization costs may be incurred after the close of the IP, when the fire is contained, and may be claimed at a delayed date after other eligible costs. Mobilization and demobilization costs must be claimed against the first declared fire as per 44 CFR 204.42(h).

## Donated Resources

In some fires, individuals and organizations donate volunteer labor, equipment, and material. FEMA has determined that the value of “in-kind” contributions by third parties may be credited toward the calculation of the non-federal cost share.

Donated resources used on eligible work that is essential to meeting immediate threats to life and property resulting from a declared-FMAG fire may be credited toward the non-federal share of grant costs. Donated resources may include volunteer labor, donated equipment, and donated materials.

The value of a donated resource is ineligible as an offset toward the non-federal cost share if the resource is:

- Donated by a federal agency;
- Donated by another federally funded source;
- Funded through a federal award;
- Used as an offset to any other federal award; or
- Used for ineligible work.

The donated resources must be documented by a local public official or a person designated by a local public official. The documentation must include a record of hours worked, the work site, and a description of work for each volunteer, and equivalent information for equipment and materials. RAs may establish alternate documentation requirements when required by an extraordinarily demanding situation.

The donated resources must apply to emergency work that has been organized by an eligible Applicant and is eligible under the FMAG Program. Examples include, but are not limited to:

- Donating equipment/materials to assist with fire-fighting operations; and
- Search and rescue when part of an organized search and rescue operation.

Donated resources must be documented on one or more Project Worksheets (PWs).

The value of donated resources must be calculated in accordance with 2 CFR § 200.306, Cost sharing or matching.

## Donated Resource Limitations

Donated resource limitations include the following:

- A state or tribe may claim credit for the value of donated resources only according to the disaster cost share agreement for the non-federal share of the cost for the eligible work.
- Reasonable logistical support for volunteers doing eligible work may be considered an eligible cost or donations credit by the RA.
- Donated resources submitted for credit toward the non-federal share may not be from another federal grant or from other federally funded sources.
- The donations credit is capped at the non-federal share of emergency work so that the federal share will not exceed the actual out-of-pocket cost.

## Post-Fire Hazard Mitigation Grants (HMGP Post Fire)

The Disaster Recovery Reform Act of 2018 (DRRA) allows FEMA to provide Hazard Mitigation Grant Program (HMGP) grants under Section 404 in any area that received a FMAG declaration even if no major Presidential declaration was declared. The assistance includes measures that substantially reduce the risk of future damage, hardship, loss, or suffering in any area affected by a major disaster, or any area affected by a fire for which assistance was provided under Section 420.

HMGP Post Fire is administratively separate from the FMAG Program and the regulations and policies that govern these programs are distinct.

Questions about HMGP Post Fire regulations, policies, and procedures should be directed to the appropriate HMGP staff. Additionally, refer to HMGP resources at <https://www.fema.gov/grants/mitigation/post-fire>.

## Ineligible Costs

Ineligible costs include, but are not limited to the following:

- Costs not directly associated with the fire's IP (with the exception of pre-positioning and mobilization/demobilization of eligible resources);
- Costs incurred in the mitigation, management, and control of undeclared fires;

- Costs for the straight or regular-time salaries and benefits of permanently employed or reassigned personnel of a Subrecipient;
- Costs for mitigation, management, and control of a declared fire on commingled federal land when such costs are reimbursable to the state by a federal agency under another statute;
- Assistance will only be provided for the declared fire responsible for meeting or exceeding the cumulative fire cost threshold, and any future declared fires for that calendar year. Any previously declared fires during the calendar year which failed to meet the individual fire cost threshold and did not trigger the cumulative fire cost threshold are not eligible for any assistance under the FMAG Program;
- Time and costs expended by volunteer labor, which by nature is offered on a donated basis and is not bound by contract or employment terms (see “Donated Resources” section);
- Routine arson investigations; and
- Costs related to planning, pre-suppression, recovery, and mitigation of possible future damage related to the burn area of the declared fire, such as:
  - Planning actions such as risk assessments;
  - Cutting fire-breaks without the presence of an imminent threat;
  - Pre-planned non-field training;
  - Road widening;
  - Land rehabilitation such as seeding, planting operations, or erosion control;
  - Timber salvage; and
  - Restoration of facilities damaged by fire.

# CHAPTER 4: MUTUAL AID

This chapter describes how Applicants request and manage mutual aid agreements following a FMAG declaration.

## Mutual Aid

When an Applicant does not have sufficient resources to respond to an incident, they may request resources from another jurisdiction through a “mutual aid” agreement. FEMA refers to the entity requesting resources as the Requesting Entity. FEMA refers to the entity providing the requested resource as the Providing Entity.

FEMA provides FMAG funding to the Requesting Entity as it is legally responsible for the work. FEMA does not provide FMAG funding directly to the Providing Entity. For the work to be eligible, the Requesting Entity must have requested the resources provided.

Some states have a statewide mutual aid agreement that designates the state as being responsible for reimbursing mutual aid costs. In these states, the Providing Entity may request funding directly from the state, with prior consent of the Requesting Entity, in accordance with applicable state laws and procedures. If the Requesting Entity and the state approve the request and the state pays the Providing Entity, FEMA provides FMAG funding to the state. The Requesting Entity may be responsible for reimbursing the state for any non-federal local cost share, depending on specific state requirements.

The Requesting Entity or state, if applicable, must provide a description of the services requested and received, along with documentation of associated costs (e.g., labor, equipment, supplies, or materials) to FEMA in support of a request for FMAG funding.

## Post-Incident Agreements

When the Requesting and Providing Entities do not have a written agreement, or where such an agreement exists but is silent on reimbursement, the entities may verbally agree on the resources to be provided and on the terms, conditions, and costs of such assistance.

The agreement should be consistent with past practices for mutual aid between the entities. For example, if the Requesting Entity does not normally reimburse a Providing Entity for its costs, it should not agree to do so specifically for the declared incident.

Prior to funding, the Requesting Entity must document the verbal agreement in writing, have it executed by an official of each entity with the authority to request and provide assistance, and submit it to FEMA (preferably within 30 days of the Applicants’ Briefing).<sup>12</sup>

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<sup>12</sup> The Recipient conducts Applicant Briefings to provide FMAG Program information to potential Applicants.

## Eligibility

Mutual aid is available for Category B (Emergency Work), Category H (Fire Suppression), and Category Z (Grant Management). Mutual aid work is subject to the same eligibility criteria as contract work. Costs to transport the Providing Entity's equipment and personnel to the declared area are eligible.

Ineligible work performed by a Providing Entity includes, but is not limited to:

- Dispatch operations outside the receiving state, territory, or tribe;
- Training and exercises; and
- Support for long-term recovery and mitigation operations.

The Providing Entity's straight-time and overtime labor are eligible, including fringe benefits. When the Requesting Entity is a state, territorial, tribal, or local government and the Providing Entity is another division within the same state, territorial, tribal, or local government, straight-time for budgeted employees of the Providing Entity is not eligible.

Overtime costs for the backfill employee are eligible even if the backfill employee is not performing eligible work as long as the employee that he/she is replacing is performing eligible Emergency Work. However, straight-time for backfill personnel is not eligible.

FEMA reimburses the use of equipment provided to a Requesting Entity based on either the terms of the agreement or equipment rates. FEMA provides FMAG funding to repair damage to this equipment the same way as it provides FMAG funding to repair damage to Applicant-owned equipment as described in Chapter 3: Eligibility.

### *Emergency Management Assistance Compact*

The Emergency Management Assistance Compact (EMAC) is a national interstate mutual aid agreement that enables states and territories to share resources in response to an incident. Work performed outside the receiving state or territory that is associated with the operation of EMAC, including tracking of resources, is not eligible unless the work is associated with the receiving state's or territory's emergency operations for the incident.

Tribal governments cannot participate in EMACs due to statutory exclusion; however, tribes can establish mutual aid agreements as a Providing or Requesting Entity with surrounding jurisdictions or with other tribal nations.

### *Prisoners*

FEMA provides FMAG funding for prisoner labor costs based on the rate that the Applicant normally pays prisoners. FEMA also provides FMAG funding for prisoner transportation to the worksite and extraordinary costs of security guards, food, and lodging.

### *National Guard*

The Governor may activate National Guard personnel to State Active Duty in response to an incident. Labor costs and per diem, if applicable, are eligible for State Active Duty personnel performing eligible work. Both straight-time and overtime are eligible, including fringe benefits.

The U.S. Department of Defense (DOD) funds National Guard personnel activated under Full-Time National Guard Duty (Title 32) or Active Duty (Title 10). Therefore, Title 32 and Title 10, personnel costs and any other costs funded by DOD, such as training, are not eligible.

Applicants may be required to pay firefighter costs for 24-hour shifts with periods of rest. FEMA will reimburse such costs when reasonable and necessary, and incurred during the IP of the declared fire. In addition to all other documentation required to support labor costs, the Applicant must provide data that led to its decisions and actions.

# CHAPTER 5: GRANT MANAGEMENT

The Recipient is the state or tribal government receiving an FMAG Program grant and is responsible for administering the grant. There is only one Recipient for each declared fire, except when a State Recipient and a Tribal Recipient are under the same fire declaration. Only the state agency as designated by the Governor in the FSA for FMAG Program for the declared fire, or a tribal government, can be designated as the Recipient.

General administrative requirements for grants and cooperative agreements are found in 2 CFR part 200. Additional program-specific requirements for the FMAG Program are found in 44 CFR part 204.

## Grant File

The regional office maintains an FMAG grant file that may include the following forms:<sup>13</sup>

- SF-424: Request for Federal Assistance
- FF-078-0-1: Request for Fire Management Declaration
- FF-078-0-2: Principal Advisor's Report
- FF-089-0-24: Request for Fire Management Assistance Subgrant (RFMAS)
- FF-009-0-0-7: Project Worksheet (PW)
- FF-20-16a: Assurances Non-Construction Programs
- SF-425: Federal Financial Report (Previously SF-269)

The FEMA regional office is responsible for reviewing grant applications for eligibility, submitting quarterly and final fiscal reports, approving and obligating funds, and monitoring and oversight of the Recipients and Subrecipients overall grant activities.

## Grant Application and Approval Timeframe

The state or tribal government must submit its initial grant application, the Request for Federal Assistance (SF-424), no later than nine months after the date of the fire declaration. Amendments to the initial grant application (SF-424) may be submitted thereafter, increasing the overall value of the grant.

At the request of the Applicant, the RA may extend the grant application period for up to 6 months when the justification is approved in writing prior to the expiration of the initial grant application period. The RA has 45 days from the receipt of the state or tribal government's initial grant application or an amendment to the grant application to approve or deny the grant application package or amendment or to notify the Applicant of a delay. Before the RA can approve the grant application, the Applicant must demonstrate that it:

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<sup>13</sup> A link to FMAG Forms is found in Appendix G: References and Resources

- Met the fire cost threshold;
- Has an approved Administrative Plan; and
- Has an approved Mitigation Plan.

## State or Tribal Mitigation Plan Requirement

Section 322 of the Stafford Act and implementing regulations (44 CFR parts 201 and 204) require governments to take a proactive approach to mitigation planning. Before FEMA can approve a state or tribal FMAG Program application, the Recipient must have a FEMA-approved state or tribal Mitigation Plan that addresses wildfire risks and mitigation measures. The intent of requiring hazard mitigation planning to receive FMAG Program grants is to identify the wildfire hazards and cost-effective mitigation alternatives that produce long-term benefits.

Post-disaster grant assistance will not be authorized during the time that the state or tribal government does not have a FEMA-approved Mitigation Plan. FEMA will not obligate funds unless a state or tribal government, acting as a Recipient, has a FEMA-approved Mitigation Plan. This is not a permanent stop to, or loss of funding, but rather a temporary hold on obligations/awards until the Mitigation Plan is approved by FEMA in accordance with 44 CFR parts 201 and 204.

## Period of Performance

The initial period of performance of FMAG declarations will be from the start of the eligible IP and end three years from the date of declaration with the ability for FEMA to extend, as appropriate.

## Request for Information

FEMA regions may send a Request for Information (RFI) to a Recipient to obtain additional supporting or clarifying information to substantiate payment claims. The Recipient must usually respond to the RFI within 30 days of receipt. If the period to respond to the RFI expires, the region will issue payment based on information previously submitted by the Recipient.

A Recipient may request in writing an additional 30 days to respond to the RFI. The Recipient's request for additional time should be addressed to the Regional PA Branch Chief and requires the Regional PA Branch Chief's approval. In addition, the request must include a justification and be submitted prior to the expiration of the first 30 days.

## Fire Cost Threshold

When submitting a grant application, the state must demonstrate that it has met either the individual or cumulative fire cost threshold. To demonstrate that the individual or cumulative fire cost threshold has been met, the state may submit PWs to document the total eligible

costs for the declared fire or submit a written statement attesting to that fact with additional documentation to follow that verifies that the fire cost thresholds were met.

It is important to note that the cost for the pre-positioning of wildland firefighting resources is not considered when determining whether a grant application meets the fire cost threshold. The costs for all eligible fires within a declared fire complex are aggregated and treated as an individual fire for purposes of meeting or exceeding the fire thresholds.

Amendments to the initial grant application may be submitted thereafter, increasing the overall value of the grant.

The individual fire cost threshold is based on total eligible costs for the declared fire. The individual fire cost threshold for a state is the greater of the following:

- \$100,000; or
- 5 percent times the statewide per capita indicator, multiplied by the state population (the statewide per capita indicator is adjusted annually for inflation [e.g., the FY21 indicator is \$1.55]).

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

- \$500,000; or
- 3 times 5 percent the statewide per capita indicator, multiplied by the state population (the statewide per capita indicator is adjusted annually for inflation [e.g., the FY21 indicator is \$1.55]).

NOTE: The fire cost thresholds for each state are adjusted annually for inflation using the Consumer Price Index for All Urban Consumers published by the U.S. Department of Labor.

As tribal governments may only receive FMAG funding under a state FMAG declaration, once an FMAG declaration is approved and the state's fire cost threshold is met, a tribal government may apply as a Recipient or Subrecipient.

## Administrative Plan

In accordance with 44 CFR § 204.51(d)(1), the Recipient must develop an Administrative Plan or have a current FEMA-approved Administrative Plan on file with the regional office that describes the procedures for administering the FMAG Program. The plan may be a stand-alone document or an addendum to the PA Program Administrative Plan.

At a minimum, the Administrative Plan must include:

- The designation of the agency (e.g., Recipient) that will have responsibility for program administration;
- The identification of staffing functions, sources of staff to fill these functions, and management and oversight responsibilities of each; and
- Procedures for:
  - Notifying potential Applicants of the availability of the program;
  - Assisting FEMA in determining Applicant eligibility;
  - Submitting and reviewing subgrant applications;
  - Processing payment requests for Subrecipients;
  - Submitting, reviewing, and accepting performance and financial reports;
  - Monitoring, closing-out, auditing, and reconciling of subgrants;
  - Recovering funds for disallowed costs;
  - Processing appeal requests and requests for time extensions; and
  - Providing technical assistance and materials on the application procedures, program eligibility guidance, and program deadlines.

The Recipient should review its FMAG Program Administrative Plan annually and make necessary amendments to reflect changes in programmatic guidance or signatory parties. The Recipient may request the RA provide technical assistance in preparing the Administrative Plan.

## Recipient Responsibilities

The Recipient, including a tribal government acting as a Recipient, is responsible for administering an FMAG Program grant. Recipient responsibilities include, but are not limited to the following:

- Submitting the grant application package to the RA for review and approval;
- Managing the administration and operation of FMAG Program in coordination with FEMA;
- Disbursing funding to Subrecipients;
- Monitoring subgrant awards;
- Submitting required fiscal reports;
- Conducting closeouts; and
- Obtaining audits.

The Recipient is the primary contact for transactions with and on behalf of Applicants applying for a fire management assistance subgrant. The Recipient is responsible for submitting all fire management assistance Subrecipient requests and PWs to FEMA for review and approval as part of the grant application package. The Recipient certifies Applicant eligibility and that costs for work performed in the wildland firefighting activities comply with FEMA laws, regulations, policy, and guidance applicable to FMAG Program, as

well as the terms and conditions outlined for the administration of the grant in the FMAG Program FSA. During the closeout process or an audit, should funds be disallowed, the Recipient is responsible for recovery and return of funds to FEMA.

The state will submit a complete and accurate SF-425 and quarterly progress report commencing with the first calendar quarter following the initial obligation of federal funds and will continue to submit quarterly until the FMAG declaration is closed.

## Subawards

In addition to the FMAG, Recipients may receive additional subawards and designate Subrecipients.

### Eligible Subaward Entities

State and tribal governmental agencies not designated as the Recipient, as well as local governmental entities, may be eligible for FMAG Program subawards. In cases where a tribal government is serving in a dual role as a Recipient and Subrecipient under the state's declaration, all tribal government entities applying for subawards must submit their applications through the tribal government Recipient. Privately-owned entities, private nonprofits, and volunteer entities are not eligible for a subgrant, but may be reimbursed through mutual aid agreements with an eligible Subrecipient.

#### Large Projects

All FMAG Projects are processed as large projects. As FMAG PWs are prepared after final costs are known, there are no estimated payments and no final inspections.

### Request for Fire Management Assistance Subgrant

State, tribal, and local governments interested in applying for FMAG Program subawards must submit a Request for Fire Management Assistance Subgrant (RFMAS) to the Recipient in accordance with state procedures and within the timeframe established by the Recipient, but no later than 30 days after the close of the IP.

The RFMAS is an Applicant's official notification to both the Recipient and FEMA of its intent to apply for a subgrant. The form includes information identifying the Applicant, including the Applicant's name, address, and primary and secondary contacts. The Recipient reviews the RFMAS and forwards it to the FEMA regional office. The RA then determines Applicant eligibility and informs the Recipient of the determination. The Recipient then notifies the Applicant. If approved, the subgrant application process may begin.

## Project Worksheets

After approving a Recipient or Subrecipient's request, FEMA regional staff may begin to work with the Recipient and local staff to prepare project worksheets (PW). The RA may request the Principal Advisor to assist with PW preparation. If a Recipient or FEMA prepares a PW for a Subrecipient, the Subrecipient must review and concur with the PW.

Subrecipients must submit all PWs to the Recipient for review. The Recipient then submits them to the RA as part of its grant application. PWs must be greater than \$1,000 to be eligible under the FMAG Program. This minimum threshold does not apply to PWs submitted for the direct and indirect costs of administration of a fire grant, as defined in 44 CFR § 204.63. PWs must be submitted within the timeframe established by the Recipient, but no later than six months from the close of the IP. At the request of the Recipient, the RA may grant an extension of up to six-months.

## Procurement and Contracting Requirements

FEMA provides FMAG funding for contract costs based on the terms of the contract if the Applicant meets federal procurement and contracting requirements. This section provides information on federal procurement and contracting requirements. FEMA's Procurement Guidance for Recipients and Subrecipients under 2 CFR part 200 (Uniform Rules) ([Resource Library: Purchasing Under a FEMA Award | FEMA.gov](#)) provides additional details regarding federal procurement and contracting requirements.

### *General Federal Procurement Requirements*

Federal procurement requirements for tribal and local governments are found at 2 CFR § 200.318 through 200.327. The requirements include, but are not limited to:

- Providing full and open competition<sup>14</sup> (tribal government Applicants may provide preference to Indian organizations or tribal-owned economic enterprises<sup>15</sup> if the Applicant

### **Tribal Government Requirements**

For tribal government Applicants, using the Indian Self-Determination and Education Assistance Act preference meets general federal procurement requirements such that they do not need to separately follow the six steps that ensure the use of small and minority business, women's business enterprises, and labor surplus area firms.

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<sup>14</sup> 2 CFR § 200.319(a).

<sup>15</sup> Per the Indian Financing Act of 1974, Pub. L. No. 93-262, § 2(e), 88 Stat 77 (codified as amended at 25 U.S.C. § 1452(f)), an Indian organization is the governing body of any federally recognized Tribe or an entity established or recognized by the governing body. An Indian-owned economic enterprise is any commercial, industrial, or business activity established or organized by a member of a Federally recognized Tribe for the purpose of profit, provided that such Indian ownership constitutes 51 percent or more of the enterprise. 25 U.S.C. § 1452(e).

substantiates that it met the Indian Self-Determination and Education Act<sup>16</sup> requirements).

- Conducting the following steps to ensure the use of small and minority businesses, women’s business enterprises, and labor surplus area firms when possible:<sup>17</sup>
  - Place such organizations that are qualified on solicitation lists;
  - Ensure such organizations are solicited whenever they are potential sources;
  - Divide total requirements, when economically feasible, into smaller tasks or quantities;
  - Establish delivery schedules, where the requirement permits, which encourage their participation;
  - Use the services and assistance, as appropriate, of the U.S. Small Business Administration and the Minority Business Development Agency of the U.S. Department of Commerce; and
  - Require prime contractor to conduct the steps listed above if subcontracting.
- Providing a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States, and including the domestic preference requirements in all subawards, contracts and purchase orders.<sup>18</sup>
- Performing a cost or price analysis in connection with every procurement action above the simplified acquisition threshold,<sup>19</sup> including contract modifications. The Applicant must make independent estimates before receiving bids or proposals.<sup>20</sup> Additionally, the Applicant must negotiate profit as a separate element of the price when it performs a cost analysis and for each contract in which there is no price competition.<sup>21</sup>
- Evaluating and documenting the contractor’s integrity, compliance with public policy, record of past performance, and financial and technical resources.<sup>22</sup>
- Ensuring that the contractor was not suspended or debarred.<sup>23</sup>
- Prohibiting the use of statutorily or administratively imposed state, local, or tribal geographic preferences in evaluating bids or proposals except where expressly encouraged by applicable federal law.<sup>24</sup>
- Excluding contractors that develop or draft specifications, requirements, statements of work, or invitations for bids or requests for proposals from competing for such

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<sup>16</sup> 25 U.S.C. § 5307(b).

<sup>17</sup> 2 CFR § 200.321.

<sup>18</sup> 2 CFR § 200.322.

<sup>19</sup> The simplified acquisition threshold is set by the Federal Acquisition Regulation (FAR) at 48 CFR § 2.101. The FAR is revised periodically to adjust the threshold for inflation.

<sup>20</sup> 2 CFR § 200.324(a).

<sup>21</sup> 2 CFR § 200.324(b).

<sup>22</sup> 2 CFR § 200.318(h).

<sup>23</sup> 2 CFR § 200.214. This information can be found at <http://www.sam.gov/SAM/>.

<sup>24</sup> 2 CFR § 200.319(c).

procurements to ensure objective contractor performance and eliminate unfair competitive advantage.<sup>25</sup>

- Maintaining records to detail the history of the procurement including, but not limited to:
  - Rationale for the method of procurement
  - Selection of contract type
  - Contractor selection or rejection
  - Basis for the contract price<sup>26</sup>

## Procurement Standards

Applicants must comply with federal procurement under grants standards as a condition of receiving FMAG funding for contract costs for eligible work. Federal procurement under grants standards for state and territorial governments are different than those for tribal and local governments.

State and territorial government Applicants must:

- Follow the same policies and procedures they would use for procurements with non-federal funds;
- Comply with socioeconomic affirmative steps found in 2 CFR § 200.321;
- Comply with 2 CFR § 200.322, Domestic preferences for procurements;
- Comply with 2 CFR § 200.323, Procurement of recovered materials; and
- Ensure that every purchase order or other contract includes any clauses required by 2 CFR § 200.327, Contract provisions.<sup>27</sup>

Non-state Applicants (tribal and local governments) must use their own documented procurement procedures that reflect applicable state, territorial, tribal, and local government laws and regulations, provided that the procurements conform to applicable federal law and standards identified in 2 CFR § 200.318-327. This requirement applies to tribal governments even when the tribe is a Recipient.

Tribal and local governments must conduct procurement transactions in a manner that complies with the following federal standards<sup>28</sup>

- Provide full and open competition<sup>29</sup>

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<sup>25</sup> 2 CFR § 200.319(b).

<sup>26</sup> 2 CFR § 200.318(i).

<sup>27</sup> 2 CFR § 200.317.

<sup>28</sup> 2 CFR § 200.317-327.

<sup>29</sup> 2 CFR § 200.319(a).

- Conduct all necessary affirmative steps to ensure the use of small and minority businesses, women’s business enterprises, and labor surplus area firms when possible,<sup>30</sup>
- Provide for domestic preferences and include domestic preference requirements in all subawards, contracts, and purchase orders.<sup>31</sup>
- Exclude contractors that develop or draft specifications, requirements, statements of work, or invitations for bids or requests for proposals from competing for such procurements to ensure objective contractor performance and eliminate unfair competitive advantage,<sup>32</sup>
- Maintain written standards of conduct covering conflicts of interest and governing the performance of employees who engage in the selection, award, and administration of contracts<sup>33</sup>; and
- Maintain records sufficient to detail the history of the procurement. These records will include, but are not limited to:
  - Rationale for the method of procurement;
  - Selection of contract type;
  - Contractor selection or rejection; and
  - The basis for the contract price.<sup>34</sup>

**Procurement Terminology**

**Micro-purchase:** purchase of supplies or services, the aggregate dollar amount of which does not exceed the micro-purchase threshold (\$10,000).

**Small purchase procedure:** relatively simple and informal procurement method for securing services, supplies, or other property that do not cost more than the simplified acquisition threshold set by the Federal Acquisition Regulation at 48 CFR Subpart 2.1. (\$250,000).

**Sealed bid:** publicly solicited bid awarded via a firm fixed price contract to the lowest responsive, responsible bidder.

**Competitive proposal:** normally conducted with more than one source submitting an offer and generally used when conditions are not appropriate for the use of sealed bids.

**Noncompetitive proposal:** solicitation of a proposal from only one source.

Tribal and local governments must use one of the following procurement methods:<sup>35</sup>

- Micro-purchase;
- Small purchases;
- Sealed bids; or
- Proposals.

<sup>30</sup> 2 CFR § 200.321.

<sup>31</sup> 2 CFR § 200.322.

<sup>32</sup> 2 CFR § 200.319(b).

<sup>33</sup> 2 CFR § 200.318(c)(1).

<sup>34</sup> 2 CFR § 200.318(i).

<sup>35</sup> 2 CFR § 200.320.

FEMA may reimburse costs incurred under a contract procured through a noncompetitive proposal only when one or more of the following apply:

- The aggregate dollar amount for the acquisition of property or services does not exceed the micro-purchase thresholds (see 2 CFR § 200.320(a)(1));
- The item is only available from a single source;
- The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation;
- FEMA or the Recipient expressly authorizes a noncompetitive proposal in response to a written request from the tribal or local government; or
- After solicitation of a number of sources, competition is determined inadequate.<sup>36</sup>

Tribal or local governments must perform a cost or price analysis in connection with every procurement action in excess of the simplified acquisition threshold,<sup>37</sup> including contract modifications.<sup>38</sup> The method and degree of analysis depends on the facts surrounding the particular procurement situation. As a starting point, the tribal or local government must make independent estimates before receiving bids or proposals.<sup>39</sup> Additionally, the tribal or local government must negotiate profit as a separate element of the price for each contract in which there is no price competition and, in all cases, where a cost analysis is performed.<sup>40</sup>

FEMA FMAG staff should coordinate with FEMA's Office of Chief Counsel when evaluating whether the Applicant complied with federal procurement requirements under a grant award. Non-compliance may result in remedies under 2 CFR § 200.339.

### *Contracts*

FEMA reimburses costs incurred using three types of contract payment obligations: fixed-price, cost-reimbursement, and, to a limited extent, time and materials (T&M).<sup>41</sup> The specific contract types related to each of these are described under 2 CFR part 200.

The Applicant must include required provisions in all contracts awarded<sup>42</sup> and maintain oversight<sup>43</sup> to ensure contractors perform according to the conditions and specifications of the contract and any purchase orders.<sup>44</sup>

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<sup>36</sup> 2 CFR § 200.320(c).

<sup>37</sup> The simplified acquisition threshold is set by the Federal Acquisition Regulation (FAR) at 48 CFR § 2.101. The FAR is revised periodically to adjust the threshold for inflation.

<sup>38</sup> 2 CFR § 200.324(a).

<sup>39</sup> 2 CFR § 200.324(a).

<sup>40</sup> 2 CFR § 200.324(b).

<sup>41</sup> The FMAG Program does not use T&M contracts.

<sup>42</sup> 2 CFR § 200.327.

<sup>43</sup> 2 CFR § 200.329.

<sup>44</sup> 2 CFR § 200.318(b).

Tribal and local governments are prohibited from incurring costs under a cost plus a percentage of cost contract or a contract with a percentage of construction cost method. Although these types of contracts may be allowed under state or territorial government standards, the use of these contracts by States have a high risk of noncompliance with the Cost Principles requirement found in 2 CFR Part, 200, Subpart E that all costs be reasonable.<sup>45</sup>

The Davis-Bacon Act<sup>46</sup>, which requires “prevailing wage” payment to contracted workers based on the local union wage scale defined by the U.S. Department of Labor, does not apply to state, territorial, tribal, and local government contracts for FMAG-funded projects. However, if the Applicant incorporates prevailing wage rates as part of its normal practice for all contracts regardless of the funding source, then those rates are eligible.

## Cost Share

Under 44 CFR § 204.61 the federal cost share for a FMAG Program Grant is 75 percent. The 25 percent non-federal cost share can be provided in its entirety by the Recipient, Subrecipient, or a combination of the two. Under the FMAG Program regulations<sup>47</sup>, FEMA may not adjust the cost share. All terms and conditions are outlined in the FSA/FTA and apply to all declared fires within each calendar year.

## Duplication of Benefits

Pursuant to Section 312 of the Stafford Act, and 44 CFR § 204.62(a), FEMA may not duplicate benefits received by or available to the Applicant from insurance, other assistance programs, legal awards, or any other source to address the same purpose. A Subrecipient must notify the Recipient of all benefits that it receives or anticipates receiving from other sources for the same purpose and must seek all such benefits available to them. FEMA will reduce the grant by the amount available for the same purpose from other sources.

Assistance may be provided under the FMAG Program when other benefits do not fully cover the eligible work. However, the Applicant must repay FEMA for any duplicated amounts that it receives or has available to it from other sources.

If an FMAG declaration runs concurrently with a major disaster declaration for a wildland fire, it is incumbent on the Recipient to ensure that costs claimed under one declaration are not also claimed under the other.

FEMA does not provide assistance for activities for which another federal agency has more specific or primary authority to provide assistance. FEMA may disallow or recoup amounts that fall within another federal agency’s statutory authority. FEMA may provide assistance in

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<sup>45</sup> 2 CFR § 200.324(d).

<sup>46</sup> 40 U.S.C. §§ 3141-3148, as supplemented by Department of Labor regulations at 29 CFR Part 5.

<sup>47</sup> 44 CFR part 204.

such situations, but the Applicant must agree to seek assistance from the appropriate federal agency and to repay FEMA for amounts that are within another agency's authority. It is the Applicant's responsibility to notify the Recipient of any duplicate costs recovered from another federal agency.

2 CFR § 200.306 and § 200.434, allow but do not require, Applicants to use the credit of third-party donations, such as cash and grants, designated solely for eligible work, to reduce the non-federal share of project costs. Designated third party funding that is not used towards reducing the non-federal share will be considered a duplication of benefits and will be used to reduce total project cost.

Grants and cash donations designated for specific eligible work from non-federal sources designated for the same purpose as federal disaster funds are generally considered a duplication of benefits. However, these funds may be applied towards the non-federal cost share. All costs to be applied to the non-federal cost-share must be for eligible work under the program.

Grants and cash donations not designated for specific eligible work, received for unspecified purposes (e.g., "recovery from fire/relief efforts"), or for work not eligible for FEMA assistance do not constitute a duplication of benefits.

Duplicated funding received from FEMA must be returned to FEMA in accordance with Section 312(a) of the Stafford Act.

## Negligence and Intentional Acts

Pursuant to 44 CFR § 204.62(c), FEMA will not provide assistance to an Applicant for costs attributable to its own negligence. If negligence by another party results in damages, assistance may be provided, on the condition that the Applicant agrees to cooperate in all efforts necessary to recover the cost of such assistance from the negligent party. Any individual who intentionally causes a declared fire shall be liable to the United States to the extent of costs incurred. An individual will not be liable as a result of actions taken or omitted in the course of rendering care or assistance in response to the fire.

If the Applicant suspects negligence or intentional acts by a third party resulting in contributing to or igniting a declared fire, the Applicant is responsible for taking all reasonable steps to recover costs from the third party. Any recovered costs are considered duplicated benefits and need to be remitted to FEMA.

To ensure that Applicants take reasonable steps toward cost recovery and possible prosecution of responsible entities, FEMA will require Applicants to document their liability findings and proposed plan of action. The Recipient must work with the state's/tribe's attorney general to pursue legal avenues to recover costs from any negligent third party responsible for a declared fire. The state's decision to prosecute for damages from a liable

third party must be documented and signed by the state's/tribe's attorney general and provided by the Recipient to the regional office as part of the state's/tribe's initial grant application or as a subsequent amendment.

The Applicant must demonstrate reasonable efforts to recover costs from a negligent third party. If FEMA determines an Applicant has not made reasonable efforts to recover costs from a negligent third party responsible for igniting a declared fire, FEMA may withhold or recoup funding from the grant. FEMA recognizes that it may not be feasible or cost effective for Applicants to pursue cost recovery from all third parties responsible for igniting a declared fire (e.g., entities with inadequate financial resources).

FEMA may pursue measures against a third party whose intentional acts contributed to the costs incurred by the declared fire even if an Applicant chooses not to prosecute.

When the declared fire was determined to have been caused by an intentional act, the Recipient and/or Subrecipient must agree to cooperate with the Federal Government in any action it may take to recover costs. Specifically, 44 CFR § 204.62(d) requires “an agreement by the Applicant to cooperate with [FEMA] in [its] efforts to recover the cost of the assistance from the liable party.” Again, when the state/tribe signs the FSA/FTA, under Article 9 it agrees “...on its behalf and on behalf of its political subdivisions and other recipients of federal disaster assistance, to cooperate with the Federal Government in seeking recovery of funds...against any party or parties whose intentional acts or omissions may have caused or contributed to the damage or hardship for which federal assistance is provided....”

FEMA will review any costs recovered by the Recipient and/or Subrecipient for a fire caused by an act of negligence to determine if there is a duplication of benefits. Duplicated costs must be repaid based on the federal cost share. Consideration will be given to the terms and conditions of the award or settlement, and any additional legal costs incurred.

### ***Specific Actions***

For any suspected negligence or intentional acts, the Applicant must take reasonable steps to recover all costs attributable to the negligence or intentional act. Such steps should include contact with local or state police and, if appropriate, the local prosecutor's office to determine if it will conduct an investigation and whether criminal charges will be filed. States should consider pursuing both criminal and civil avenues to recover damages and seek money judgments against responsible parties. Any funds recovered will be used to offset FEMA grant funds.

### ***Negligence and Intentional Acts and Pending Litigation***

Each year, numerous fires are either caused by negligence or started intentionally. These often result in a prolonged period of litigation which may delay grant closure. Resolution of the litigation may result in restitution of funds which would offset a portion of the total

eligible cost of the fire and reduce the FEMA reimbursement and Recipient portions of eligible fire costs. While pending litigation may be prolonged, it should not interfere with or be an obstacle to close out of a grant after all eligible fire costs have been submitted, processed, approved, paid, and all other grant requirements have been met. If funds are recovered as a result of the litigation after the grant has been closed, these grants will not require reopening to process adjustments for recovered funds or require an additional grant closeout after the adjustments are processed in the program system. The original date of grant closeout does not change.

## Administrative Costs

Recipients and Subrecipients may both claim administrative costs throughout the grant management process.

### *Recipient*

Under 44 CFR § 204.63, the Recipient may claim both direct administrative and indirect administrative costs associated with requesting, obtaining, and administering a grant for a declared fire. Direct administrative costs include regular and overtime pay and travel expenses for permanent, reassigned, temporary, and contract employees who assist in administering the grant.

Funding for other direct administrative costs incurred by the Recipient administering a grant, such as equipment and supply purchases, may be eligible, but must be approved by the RA.

Indirect administrative costs incurred by the Recipient during the administration of a grant are allowed in accordance with the appropriate provisions of 2 CFR part 200 including 2 CFR § 200.414 and Appendix VII. Except for Recipients who have never received a negotiated indirect administrative cost rate as described in 2 CFR § 200.414(f), Recipients generally must have an approved indirect administrative cost rate agreement with their cognizant federal agency to charge indirect administrative costs. The Recipient should submit a copy of the appropriate Negotiated Indirect Cost Rate Agreement (NICRA) for the incurred costs with their PW(s) for indirect administrative costs. If there is no current indirect administrative cost rate agreement and the Recipient will be charging indirect administrative costs, then the Recipient should contact the region for further instructions.

The Recipient must submit a copy of the indirect administrative cost proposal along with the PW for indirect administrative costs. The indirect administrative cost rate is subject to review for reasonableness and eligibility.<sup>48</sup>

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<sup>48</sup> FEMA has an interagency agreement with the U.S. Department of Health and Human Services (HHS) to perform indirect cost rate reviews, conduct negotiations, and sign agreements on FEMA's behalf. Inquiries regarding negotiated indirect cost rates, or what the latest negotiated rates on file are for a specific entity can be requested through [CAS-RArequest@psc.hhs.gov](mailto:CAS-RArequest@psc.hhs.gov). Questions about a rate agreement for a specific Recipient should be directed to [FEMA-Finance-Audit-Liaison@fema.dhs.gov](mailto:FEMA-Finance-Audit-Liaison@fema.dhs.gov).

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

### ***Subrecipient***

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

Funding for other direct administrative costs incurred by the Subrecipient administering a subgrant, such as equipment and supply purchases, may be eligible, but must be reviewed by the Recipient and RA.

Subrecipients may not claim indirect administrative costs.

## **Appeals of Grant Eligibility**

A Recipient or Subrecipient may appeal any grant-related determination made by FEMA, including determinations on Applicant eligibility, work eligibility, and cost eligibility (See 44 CFR § 204.54).

There are two levels of appeals. The first is to the RA. The second appeal is to the AA of the Recovery Directorate at FEMA headquarters, or designee, and it is the final administrative decision of FEMA.

Applicants must submit all appeals within 60 days of FEMA's determination to the Recipient. The Recipient will review the appeal and forward it with a written recommendation to the RA.

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

Within 90 days following receipt of an appeal, the RA, (first appeals) and AA, or designee (second appeals) will notify the Recipient in writing of the disposition of the appeal or of the need for additional information.

A request for additional information will include a date when the information must be provided. Within 90 days following the receipt of the requested additional information or following expiration of the period for providing the information, the RA (first appeals) and AA, or designee (second appeals) will notify the Recipient in writing of the disposition of the appeal. If the decision is to grant the appeal, the RA takes appropriate implementing action.

When an appeal involves technical issues, the RA (first appeals) and AA, or designee (second appeals) may submit the appeal to an independent scientific or technical person or

group for advice or recommendation. The period for this technical review may be in addition to other allotted time periods. Within 90 days of receipt of a technical report, the RA (first appeals) and AA, or designee (second appeals) will notify the Recipient in writing of the disposition of the appeal.

## Grant Closeouts

Regulations governing grant closeouts are found in 2 CFR § 200.344. The purpose of closeout is to certify that all eligible costs have been disbursed. It is the Recipient's responsibility to document all costs associated with the eligible wildland firefighting activities. The Recipient is responsible for making sure that all documentation on PWs is accurate, complete, and up to date for closeout. Failure to properly document any project may result in loss of funding for that project.

The Recipient must submit all required documentation within 120 days after the performance period expiration date. The performance period is the time interval designated in the SF-424 for the Recipient and all Subrecipients to submit eligible costs and have those costs processed, obligated, and closed out by FEMA. The Recipient will submit a final SF-425, which reports all costs incurred within the IP, and eligible costs for temporary repairs as stated in Chapter 3: Eligibility, and all administrative costs.

A grant is ready to be closed when all funds have been distributed and all documentation is complete. Either FEMA or the Recipient can begin the closeout process. The FEMA regional office may begin the closeout process with a letter of inquiry, followed by a letter of intent to proceed with the closeout when no other justification can be provided to keep the grant open.

## Audit Requirements and Documentation

Following closeout, Recipients may be required to complete audits and submit documentation detailing financial management, procurement Standards, and retention requirements for records throughout the life of the grant.

### Audits

All grant and subgrant Recipients must comply with 2 CFR part 200, subpart F. Note specifically that 2 CFR § 200.501(a)<sup>49</sup> requires “a non-Federal entity that expends \$750,000 or more during the non-Federal entity's fiscal year in Federal awards must have a single or program-specific audit conducted for that year in accordance with the provisions of this part.”

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<sup>49</sup> [2 CFR § 200.501 - Audit requirements. - Content Details - CFR-2020-title2-vol1-sec200-501 \(govinfo.gov\)](https://www.govinfo.gov/content/pkg/CFR-2020-title2-vol1-sec200-501/pdf/CFR-2020-title2-vol1-sec200-501.pdf)

Recipients and Subrecipients must be familiar with and comply with all applicable audit regulations in 2 CFR part 200. Specific information pertaining to the audit requirements of each state is outlined in their respective state Administrative Plans. States must abide by both federal and state audit requirements.

Grant Recipients may also be subject to additional audits by the DHS Office of Inspector General (OIG) and state auditors for items not covered under 2 CFR part 200.

## Documentation

2 CFR part 200 contains several sections requiring documentation.<sup>50</sup> While Recipients and Subrecipients should be familiar with all provisions of 2 CFR part 200, the three citations below provide an overview of major documentation requirements.

### *§ 200.302(a) Financial Management*

Each state must expend and account for the federal award in accordance with state laws and procedures for expending and accounting for the state's own funds. In addition, the state's and the other non-federal entity's financial management systems, including records documenting compliance with federal statutes, regulations, and the terms and conditions of the federal award, must be sufficient to permit the preparation of reports required by general and program-specific terms and conditions; and the tracing of funds to a level of expenditures adequate to establish that such funds have been used according to the federal statutes, regulations, and the terms and conditions of the federal award. See also § 200.450 Lobbying.

### *§ 200.318(j) General Procurement Standards*

The non-federal entity must maintain records sufficient to detail the history of procurement. These records will include but are not necessarily limited to the rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price.

### *§ 200.334 Retention Requirements for Records*

“Financial records, supporting documents, statistical records, and all other non-federal entity records pertinent to a federal award must be retained for a period of at least three years from the date of submission of the final expenditure report or, for federal awards that are renewed quarterly or annually, from the date of the submission of the quarterly or annual financial report, respectively, as reported to the federal awarding agency or pass-through entity in the case of a Subrecipient<sup>51</sup>.”

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<sup>50</sup> See Appendix D of this Guide: Environmental and Historic Preservation Compliance for additional guidance on documentation to support costs.

<sup>51</sup> For the full text of 200.334 please refer to [2 CFR § 200.334 - Requests for transfer of records. - Content Details - CFR-2020-title2-vol1-sec200-334 \(govinfo.gov\)](https://www.govinfo.gov/procurement/200.334)

In some instances, including, but not limited to any litigation, claim, or audit, and state laws and procedures may require paperwork to be retained for longer than the three years required by 2 CFR part 200. It is important for Grant Recipients to check the specific audit requirements and statutes governing their state.

OIG may independently, or at FEMA's request, initiate an audit of a Recipient or Subrecipient for a particular fire or fire complex.

The importance of maintaining a complete and accurate set of records for each project cannot be overemphasized. Accurate and complete documentation will facilitate the validation, approval, and funding processes for projects.

All of the documentation pertaining to a project should be filed together with the corresponding PW and maintained as part of the permanent record of the project. These records become the basis for verifying project costs.

Documentation is the process of establishing and maintaining accurate records of events and expenditures related to suppression and recovery work. The information required for documentation describes the "who, what, when, where, why, and how much" for each item of disaster recovery work.

It is important that events and expenses incurred in an FMAG declaration are accurately documented. While there are many ways to maintain records, a system must be in place to ensure all necessary information is readily available and in a usable format.

Accurate documentation helps to:

- Recover eligible costs;
- Have the information necessary to develop PWs;
- Have the information available, which the region and/or state may need to see, to validate the accuracy and eligibility of costs; and
- Be ready for any state or federal audits, or other federal program reviews.

# APPENDIX A: LIST OF ACRONYMS

AA	Assistant Administrator of the Recovery Directorate
ADA	Americans with Disabilities Act
BIA	Bureau of Indian Affairs
CAA	Clean Air Act
CATEX	Categorical Exclusion
CFFDRS	Canadian Forest Fire Danger Rating System
CFR	Code of Federal Regulations
CWA	Clean Water Act
DFA	Direct Federal Assistance
DHS	Department of Homeland Security
DOD	Department of Defense
DRRA	Disaster Recovery Reform Act of 2018
DUNS	Data Universal Numbering System (Dun and Bradstreet Number)
EHP	Environmental and Historic Preservation
EMAC	Emergency Management Assistance Compact
EO	Executive Order
ESA	Endangered Species Act
FEMA	Federal Emergency Management Agency
FF	FEMA Form
FMAG	Fire Management Assistance Grant (Program)
FSA	FEMA-State Agreement
FTA	FEMA-Tribal Agreement
GACC	Geographic Area Coordination Centers
GAO	Government Accountability Office
GAR	Governor's Authorized Representative
HHS	U.S. Department of Health and Human Services
HMGP	Hazard Mitigation Grant Program
HQ	Headquarters

ICS	Incident Command System
ICS-209	Incident status summary report
IP	Incident Period
NDRF	National Disaster Recovery Framework
NEMA	National Emergency Management Association
NEPA	National Environmental Policy Act
NFDRS	National Fire Danger Rating System
NICRA	Negotiated Indirect Cost Rate Agreement
NIFC	National Interagency Fire Center
NISDIS	National Integrated Drought Information System
NHPA	National Historic Preservation Act
NMFS	National Marine Fisheries Service
NOAA	National Oceanic and Atmospheric Administration
NRF	National Response Framework
NWS	National Weather Service
OIG	Office of Inspector General
OMB	Office of Management and Budget
ORR	Office of Response and Recovery
PA	Public Assistance
POC	Point of Contact
POP	Period of Performance
PW	Project Worksheet
RA	Regional Administrator
REO	Regional Environmental Officer
RFC	Regional FMAG Coordinator
RFI	Request for Information
RFMAS	Request for Fire Management Assistance Subgrant
SF	Standard Form
SOW	Scope of Work
SPC	Storm Prediction Center

T&E	Time and Equipment
TAR	Tribal Chief Executive's Authorized Representative
TCE	Tribal Chief Executive
USACE	U.S. Army Corps of Engineers
USFS	U.S Forest Service
USFWS	U.S. Fish and Wildlife Service
USGS	U.S. Geological Service

## APPENDIX B: GLOSSARY

**Affected County.** One or more county(ies) or tribal area(s) where a declared fire or fire complex originated or burned into.

**Applicant.** A state or tribal government submitting an application for a fire management assistance grant, or a state, local, or tribal government submitting an application to the Recipient for a subgrant under an approved fire management assistance grant.

**Application for Federal Assistance.** The form the state submits to apply for a grant under a fire management assistance declaration.

**Backfill employee.** Replacement employee who performs the regular duties of another employee, who is performing eligible emergency work under the Fire Management Assistance Grant (FMAG) Program.

**Budgeted employee.** A person whose position and salary are included in the Applicant's budget.

**Chief Executive.** The person who is the Chief, Chair, Chairman, Chairwoman, Governor, President, or similar executive official of a tribal government.

**Closeout.** The process by which the federal awarding agency or pass-through entity determines that all applicable administrative actions and all required work of the federal award have been completed and takes actions as described in 2 CFR § 200.344.

**Contained (from National Wildfire Coordinating Group).** The status of a wildfire suppression action signifying that a control line has been completed around the fire, and any associated spot fires, which can reasonably be expected to stop the fire's spread.

**Crown Fire (Crowning) (from National Wildfire Coordinating Group).** A fire that advances from top to top of trees or shrubs more or less independent of a surface fire. Crown fires are sometimes classed as running or dependent to distinguish the degree of independence from the surface fire.

**Declared Fire.** An uncontrolled fire or fire complex, threatening such destruction as would constitute a major disaster, which the Administrator has approved in response to a state's request for a fire management assistance declaration and in accordance with the criteria listed in 44 CFR § 204.21.

**Demobilization.** The process and procedures for deactivating, disassembling, and transporting back to their point of origin all resources that had been provided to respond to and support a declared fire.

**Direct Costs.** Direct costs are those costs that can be identified specifically with a particular final cost objective, such as a federal award, or other internally or externally funded activity, or that can be directly assigned to such activities relatively easily with a high degree of accuracy. (See 2 CFR § 200.413 Direct costs).

**DUNS Number.** The Data Universal Numbering System (DUNS Number) is a nine-digit number developed by Dun and Bradstreet that assigns a unique identifier to a business entity.

**Emergency Protective Measure.** An action taken by a community before, during, and after a disaster to save lives, protect public health and safety, and prevent damage to improved public and private property.

**Emergency Work:** Work that must be done immediately to save lives and to protect improved property and public health and safety, or to avert or lessen the threat of a major disaster.

**Emergency Management Assistance Compact (EMAC).** A type of interstate mutual aid agreement that allows states to assist one another in responding to all kinds of natural and man-made disasters. It is administered by the National Emergency Management Association (NEMA).

**Equipment.** Tangible personal property, including information technology systems, having a useful life of more than one year and a per-unit acquisition cost that equals or exceeds the lesser of the capitalization level established by the non-federal entity for financial statement purposes, or \$5,000.

**Federal Agency.** Any department, independent establishment, government corporation, or other agency of the executive branch of the Federal Government, including the United States Postal Service, but not including the American National Red Cross.

**Federal Share.** The portion of the total eligible project costs that are paid by federal funds.

**Final Expenditure Report.** The report the Recipient submits to FEMA for all of a Subrecipient's projects, certifying that the grant terms and conditions have been met and project costs are reconciled.

**Fire Complex.** Two or more individual fires located in the same general area, which are assigned to a single Incident Commander.

**Force Account/Force Account Labor.** An Applicant's own labor forces and equipment.

**Fringe Benefits.** A percentage of the actual wages that pays for employee benefits.

**Governor’s Authorized Representative (GAR).** The person empowered by the Governor to execute, on behalf of the state, all necessary documents for fire management assistance, including the request for a fire management assistance declaration.

**Grant.** An award of financial assistance, including cooperative agreements, by FEMA to an eligible Recipient. The grant award will be based on the projected amount of total eligible costs for which a state submits an application and that FEMA approves related to a declared fire.

**Hazard Mitigation Plan.** A plan to develop actions the state, local, or tribal government will take to reduce the risk to people and property from all hazards. The intent of hazard mitigation planning under the FMAG Program is to identify wildfire hazards and cost-effective mitigation alternatives that produce long-term benefits. FEMA addresses mitigation of fire hazards as part of the state’s Mitigation Plan, described in 44 CFR part 201.

**Household Pet.** A domesticated animal, such as a dog, cat, bird, rabbit, rodent, or turtle that is traditionally kept in the home for pleasure rather than for commercial purposes, can travel in commercial carriers, and be housed in temporary facilities. Household pets do not include reptiles (except turtles), amphibians, fish, insects/arachnids, farm animals (including horses), and animals kept for racing purposes.

**Incident Commander.** The ranking official responsible for overseeing the management of fire operations, planning, logistics, and finances of the field response. (The ranking “red card” official responsible for a declared fire. [“Red card” is the fire qualifications card issued to fire-rated persons showing their training needs and their qualifications to fill specified fire-suppression and support positions on a fire or other incident]).

**Incident Period (IP).** The time interval during which the declared fire occurs. The Regional Administrator (RA), in consultation with the GAR and the Principal Advisor, will establish the IP. Generally, costs must be directly related to or incurred during the IP to be considered eligible.

**Tribal Government.** A tribal government is any federally recognized governing body of an Indian or Alaska Native tribe, band, nation, pueblo, village, or community that the Secretary of Interior acknowledges to exist as an Indian Tribe under the Federally Recognized Tribe List Act of 1994, 25 U.S.C. 5130 formally (25 U.S.C. 479(a)). This does not include Alaska Native corporations, the ownership of which is vested in private individuals<sup>52</sup>.

**Indirect Costs (Administration).** General administration and general expenses such as the director’s office, accounting, personnel and all other types of expenditures not listed

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<sup>52</sup> 25 U.S.C. 5131 requires the publication of the list of recognized tribes in the Federal Register.

specifically under one of the subcategories of “Facilities. (See 2 CFR § 200.414 Indirect (F&A) costs).

**Individual Assistance.** Supplementary federal assistance provided under the Stafford Act to individuals and families adversely affected by a major disaster or an emergency. Such assistance may be provided directly by the Federal Government or through state or local governments or disaster relief organizations. (For further information, see subparts D, E, and F of 44 CFR part 206).

**Local Government.** Any county, municipality, city, town, township, public authority, school district, special district, intrastate district, council of governments (regardless of whether the council of governments is incorporated as a non-profit corporation under state law), regional or interstate government entity, or agency or instrumentality of a local government; any tribal government or authorized tribal organization, or Alaska Native village or organization; and any rural community, unincorporated town or village, or other public entity, for which an application for assistance is made by a state or political subdivision of a state.

**Major Disaster.** Any natural catastrophe (including any hurricane, tornado, storm, high water, wind-driven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, snowstorm, or drought), or, regardless of cause, any fire, flood, or explosion, in any part of the United States, which in the determination of the President causes damage of sufficient severity and magnitude to warrant major disaster assistance under this Act to supplement the efforts and available resources of states, local governments, and disaster relief organizations in alleviating the damage, loss, hardship, or suffering caused thereby. (Stafford Act section 102(2), 42 U.S.C. 5122(2))

**Mitigation, Management, and Control.** Those activities undertaken, generally during the IP of a declared fire, to minimize immediate adverse effects and to manage and control the fire. Eligible activities may include associated emergency work and pre-positioning directly related to the declared fire.

**Mobilization.** The process and procedures used for activating, assembling, and transporting all resources that the Recipient requested to respond to support a declared fire.

**Non-Federal Entity.** A state, local government, or Indian tribe that carries out a federal award as a Recipient or Subrecipient.

**Pass-Through Entity.** A non-federal entity that provides a subaward to a Subrecipient to carry out part of a federal program.

**Period of Performance.** The time during which the non-federal entity may incur new obligations to carry out the work authorized under the federal award. The Period of Performance for all FMAG grants is three years from the start of the grant application. The

federal awarding agency or pass-through entity must include start and end dates of the period of performance in the federal award.

**Pre-positioning.** Moving existing fire prevention or suppression resources from an area of lower fire danger to one of higher fire danger in anticipation of an increase in fire activity likely to constitute the threat of a major disaster.

**Principal Advisor.** An individual appointed by the U. S. Forest Service, U. S. Department of Agriculture, or Bureau of Land Management, U. S. Department of the Interior, who is responsible for providing FEMA with a technical assessment of the fire or fire complex for which a state is requesting a fire management assistance declaration. The Principal Advisor frequently participates with FEMA on other wildland fire initiatives.

**Project Worksheet (PW).** The form which identifies actual costs incurred by eligible Applicants as a result of the eligible firefighting activities. The PW is used to document the location, damage description and dimensions, scope of work, and cost estimates for materials, labor, and other costs of each project. It is the basis for the FMAG Program grant.

**Providing Entity.** The entity providing mutual aid assistance to a requesting entity pursuant to a local or statewide mutual aid agreement

**Public Assistance:** Supplementary federal assistance provided under the Stafford Act to state and local governments or certain private, nonprofit organizations for eligible emergency measures and repair, restoration, and replacement of damaged facilities. (For further information, see 44 CFR subparts G and H of part 206).

**Recipient:** The Recipient is the government to which a grant is awarded which is accountable for the use of the funds provided. The Recipient is the entire legal entity even if only a particular component of the entity is designated in the grant award document. Generally, the state, as designated in the FEMA-State Agreement for the Fire Management Assistance Grant Program, is the Recipient. However, after a declaration, a tribal government may choose to be a Recipient, or it may act as a Subrecipient under the state. A tribal government acting as Recipient will assume the responsibilities of a “state”, as described in this Part, for the purpose of administering the grant.

**Regional Administrator (RA).** The administrator of a regional office of FEMA, or their designated representative.

**Regional Watch Officer (RWO).** The on-duty staff member in the Watch Center responsible for handling the call from the state and processing the FM declaration request.

**Requesting Entity.** An entity (FMAG eligible Applicant) that requests mutual aid assistance from a Providing Entity for work resulting from a declared fire, emergency or major disaster

within its legal jurisdiction. The requesting entity is eligible to receive FEMA assistance for the eligible mutual aid activities from the providing entities.

**Regional FMAG Staff.** The member of the regional staff with the delegated responsibility to process and communicate regarding FMAG requests. Regions may use a specific title for this individual with regional procedures. Every Region must have at least one staff member with this delegated responsibility and a 24/7 process for receiving a call from an STT regarding an FMAG request.

**Rollup.** When one or more FMAG declarations are administratively merged into a major or emergency disaster declaration.

**Service Animal.** Any dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability. Other species of animals, whether wild or domestic, trained or untrained, are not service animals for the purposes of this definition. The work or tasks performed by a service animal must be directly related to the individual's disability. Examples of work or tasks include, but are not limited to, assisting individuals who are blind or have low vision with navigation and other tasks, alerting individuals who are deaf or hard of hearing to the presence of people or sounds, providing non-violent protection or rescue work, pulling a wheelchair, assisting an individual during a seizure, alerting individuals to the presence of allergens, retrieving items such as medicine or the telephone, providing physical support and assistance with balance and stability to individuals with mobility disabilities, and helping persons with psychiatric and neurological disabilities by preventing or interrupting impulsive or destructive behaviors. The crime deterrent effects of an animal's presence and the provision of emotional support, well-being, comfort, or companionship do not constitute work or tasks for the purposes of this definition.

**Standard Form (SF)-424.** The SF-424 is the application for federal assistance. This is the form a state submits to apply for a grant under a fire management assistance declaration.

**Stand-by Time.** Time spent waiting to conduct activities after initial deployment or wait time between activities.

**State.** Any state of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

**Subgrant/Subaward.** An award of financial assistance under a grant by a Recipient to an eligible Subrecipient.

**Subrecipient.** An Applicant that is awarded a subgrant and is accountable to the Recipient for the use of grant funding provided.

**Uncontrolled Fire.** Any fire not safely confined to predetermined control lines as established by firefighting resources.

# APPENDIX C: AUTHORITIES AND FOUNDATIONAL DOCUMENTS

## Authorities

### **Robert T. Stafford Disaster Relief and Emergency Assistance Act (Public Law 93-288, as amended, 42 U.S.C. 5121-5207)**

The Stafford Act authorizes the programs and processes by which the Federal Government provides disaster and emergency assistance to state and local governments, tribal nations, eligible private non-governmental organizations (NGO), and individuals affected by a declared major disaster or emergency. The Stafford Act covers all hazards, including natural disasters and terrorist events.

## Regulations

### **Title 44 of the Code of Federal Regulations (CFR) Emergency Management and Assistance**

The CFR is a codification of the general and permanent rules and regulations published in the Federal Register by the departments and agencies of the Federal Government. Chapter 1 of Title 44 “Emergency Management and Assistance” contains the regulations issued by FEMA, including those related to implementing the Stafford Act. Part 204 directly applies to the FMAG program.

### **2 CFR part 200—Uniform Administrative Requirements, Cost Principles, And Audit Requirements For Federal Awards**

Regulations regarding grant administration and allowable costs are included in the CFR. Recipients and Subrecipients of FMAG grants are required to adhere to 2 CFR part 200 in administering the grants.

# APPENDIX D: ENVIRONMENTAL AND HISTORIC PRESERVATION COMPLIANCE

The following statutes and Executive Orders (EOs) are commonly encountered federal requirements that were established to protect the environment and preserve the Nation's historic and archaeological resources. All Federal Emergency Management Agency (FEMA) projects must be reviewed to ensure the work complies with applicable federal Environmental and Historic Preservation (EHP) laws, their implementing regulations, and applicable EOs. Compliance with all federal, state, and local laws is a requirement of every FEMA award. This list is not exhaustive and other laws, regulations, and EOs may apply, including state and local laws which vary by location, and are not captured below.

## National Environmental Policy Act

Section 102 of the National Environmental Policy Act (NEPA) requires federal agencies to integrate environmental values into their decision-making processes by considering the environmental impacts of their proposed actions and reasonable alternatives to those actions.<sup>53</sup> The White House Council on Environmental Quality publishes its NEPA regulations in 40 CFR Chapter V. Parts 1500–1508 (2020). DHS publishes policies and procedures for implementing NEPA and provide specific processes that FEMA must follow before funding a project.<sup>54</sup> The NEPA process ensures consideration of environmental consequences of the project before decisions are made and involves the public ([National Environmental Policy Act \(NEPA\) | Homeland Security \(dhs.gov\)](#)).

## National Historic Preservation Act

Section 106 of the National Historic Preservation Act (NHPA) requires FEMA to consider the effects an undertaking will have on historic properties and provide the Advisory Council on Historic Preservation the opportunity to comment on the effects of the undertaking.<sup>55</sup>

Historic properties include buildings, districts, structures, objects, landscapes, archaeological sites, and traditional cultural properties included in, or eligible for inclusion in, the National Register of Historic Places.<sup>56</sup>

## Endangered Species Act

The Endangered Species Act (ESA) requires federal agencies to use their authorities to conserve federally listed threatened and endangered species (listed species) and critical

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<sup>53</sup> 42 U.S.C. § 4332.

<sup>54</sup> <https://www.fema.gov/media-collection/ehp-directive-instruction-fema-directive-108-1-instruction-108-1-1>

<sup>55</sup> 54 U.S.C. § 300101, formerly 16 USC § 470

<sup>56</sup> <https://www.nps.gov/subjects/nationalregister/index.htm>

habitats. FEMA must also consult with the U.S. Fish and Wildlife Service (USFWS) and/or the National Oceanic and Atmospheric Administration's (NOAA) National Marine Fisheries Service (NMFS), also known as NOAA Fisheries, to ensure that proposed projects will not jeopardize the continued existence of any listed species or result in the destruction or adverse modification of critical habitat for listed species.<sup>57</sup>

## Clean Water Act

The Clean Water Act (CWA) establishes the basic structure for regulating discharges of pollutants in the waters of the United States (e.g., rivers and streams, lakes and ponds, coastlines, wetlands, estuaries). The CWA makes it unlawful to discharge any pollutant from a specific source into navigable waters without the appropriate CWA permits from the U.S. Army Corps of Engineers (USACE) or state regulatory agency.<sup>58</sup> In addition, the CWA requires authorization for dredging or filling (including disposal of dredged material) in waters of the United States.

## Clean Air Act

The Clean Air Act (CAA) protects the Nation's air through the reduction of smog and atmospheric pollution. Air quality compliance often requires certain measures be implemented, such as dust abatement, vehicle emissions control, fuel storage, and distribution procedures. There may be additional requirements in non-attainment areas (defined as those areas that do not meet national standards for air quality and, therefore, require more rigorous compliance measures).<sup>59</sup>

## Executive Order 11988, Floodplain Management

EO 11988<sup>60</sup>, Floodplain Management, requires federal agencies to minimize or avoid, to the extent possible, the long- and short-term adverse impacts associated with occupancy and modifications of floodplain and to avoid direct and indirect support of floodplain development wherever there is a practicable alternative. It requires federal agencies to use a systematic decision-making process to evaluate the potential effects of projects located in, or affecting, floodplains; document each step of the process; and involve the public in the decision-making process. This process is designed to:

- Reduce flood loss risks;
- Minimize the impacts of floods on human safety, health, and welfare; and
- Restore and preserve the natural and beneficial functions of floodplains.

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<sup>57</sup> 16 U.S.C. § 1536, Endangered Species Act Section 7

<sup>58</sup> 33 U.S.C. § 1251 et seq.

<sup>59</sup> 42 U.S.C. § 7401 et seq.

<sup>60</sup> 42 FR 26,951 (May 25, 1977).

FEMA publishes its implementing regulations for EO 11988 in 44 CFR Part 9, Floodplain Management and Protection of Wetlands. These regulations set forth the policy, procedures, and responsibilities to implement and enforce the EO, including the decision-making process, which is referred to as the 8-step process.<sup>61</sup>

## **Executive Order 11990, Protection of Wetlands**

EO 11990<sup>62</sup>, Protection of Wetlands, requires federal agencies to avoid, to the extent possible, the long- and short-term adverse impacts associated with the destruction or modification of wetlands and to avoid direct or indirect support of new construction in wetlands wherever there is a practicable alternative. To meet these objectives, EO 11990 requires federal agencies to use a systematic decision-making process to evaluate the potential effects of projects in, or affecting, wetlands; document each step of the process; and involve the public in the decision-making process.

FEMA publishes its implementing regulations for EO 11990, Protection of Wetlands in 44 CFR Part 9, Floodplain Management and Protection of Wetlands. These regulations set forth the policy, procedures, and responsibilities to implement and enforce the EO, including the decision-making process, which is referred to as the 8-step process.

## **Executive Order 12898, Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations, (Environmental Justice)**

EO 12898<sup>63</sup>, Environmental Justice, requires federal agencies to identify and address any disproportionately high and adverse human health or environmental effects on minority and low-income populations as a result of their actions.

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<sup>61</sup> 44 CFR § 9.6, Decision-making process.

<sup>62</sup> 42 FR 26,961 (May 25, 1977).

<sup>63</sup> 50 FR 7,629 (Feb. 11, 1994).

# APPENDIX E: FMAG FORMS

This appendix lists the forms used throughout the FMAG process. These forms can be found at [Fire Management Assistance Grants | FEMA.gov](#).

## Alphabetical Order by Form Name

**SF-424:** Application for Federal Assistance

**FF-90-128:** Applicant's Benefits Calculation Worksheet

**FF-20-16A:** Assurances—Non-Construction Programs

**FF-20-20:** Budget Information—Non-Construction Programs

**FF-20-16C:** Certifications Regarding Lobbying; Debarment, Suspension And Other Responsibility Matters; And Drug-Free Workplace Requirements

**FF-90-126:** Contract Work Summary Record

**SF-425:** Federal Financial Report

**FF-90-127:** Force Account Equipment Summary Record

**FF-90-123:** Force Account Labor Summary Record

**FF-90-124:** Material Summary Sheet

**FF-078-0-2:** Principal Advisor's Report

**FF-009-0-0-7:** Project Worksheet (FF-009-0-0-7 replaced FF-90-91)

**FF-90-91A:** Project Worksheet—Damage Description and Scope of Work Continuation Sheet

**FF-90-125:** Rented Equipment Summary Record

**FF-078-0-1:** Request for Fire Management Assistance Declaration

**FF-089-0-24:** Request for Fire Management Assistance Subgrant

**FF-20-16:** Summary Sheet for Assurances and Certifications

## **Ascending Order by Form Number**

**FF-009-0-0-7:** Project Worksheet (FF-009-0-0-7 replaced FF-90-91)

**FF-078-0-1:** Request for Fire Management Assistance Declaration

**FF-078-0-2:** Principal Advisor's Report

**FF-089-0-24:** Request for Fire Management Assistance Subgrant

**FF-20-16:** Summary Sheet for Assurances and Certifications

**FF-20-16A:** Assurances—Non-Construction Programs

**FF-20-16C:** Certifications Regarding Lobbying; Debarment, Suspension and Other Responsibility Matters; And Drug-Free Workplace Requirements

**FF-20-20:** Budget Information—Non-Construction Programs

**SF-424:** Application for Federal Assistance

**SF-425:** Federal Financial Report

**FF-90-123:** Force Account Labor Summary Record

**FF-90-124:** Material Summary Sheet

**FF-90-125:** Rented Equipment Summary Record

**FF-90-126:** Contract Work Summary Record

**FF-90-127:** Force Account Equipment Summary Record

**FF-90-128:** Applicant's Benefits Calculation Worksheet

**FF-90-91A:** Project Worksheet—Damage Description and Scope of Work Continuation Sheet

# APPENDIX F: FIRE DANGER RATING SYSTEMS

This appendix provides an overview of the fire danger rating systems used to gauge the potential for a fire.

## National Fire Danger Rating System

The National Fire Danger Rating System (NFDRS) is a system that allows fire managers to estimate today's or tomorrow's fire danger for a given area. It combines the effects of existing and expected states of selected fire danger factors into one or more qualitative or numeric indices that reflect an area's fire protection needs.<sup>64</sup> Figure 2 shows a map of the NFDRS.

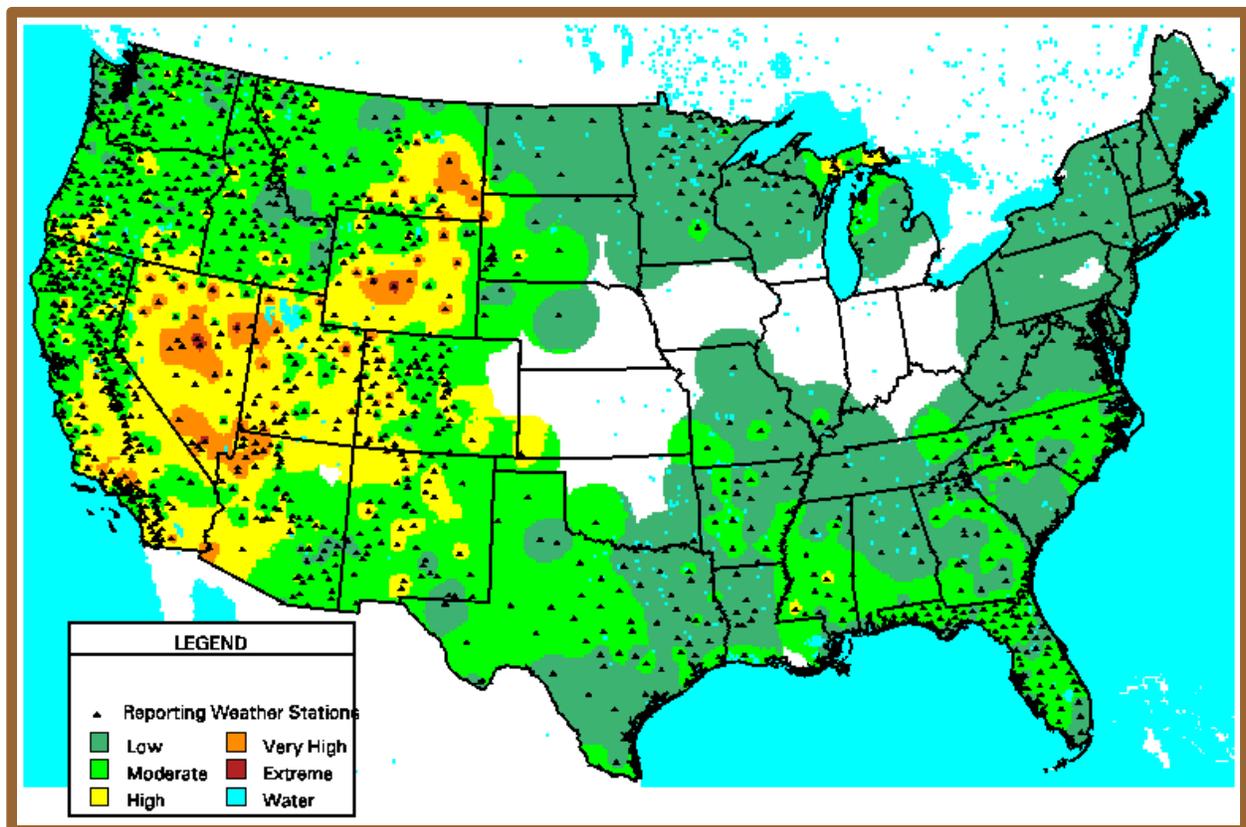


Figure 2. NFDRS Map

<sup>64</sup> <https://www.fs.usda.gov/detail/cibola/landmanagement/resourcemanagement/?cid=stelprdb5368839>.

## Haines Index

The Haines Index is used to indicate the potential for wildfire growth by measuring the stability and dryness of the air over a fire.<sup>65</sup> It is calculated by combining the stability and moisture content of the lower atmosphere into a number that correlates well with large fire growth. Figure 3 shows a map of the Haines Index System.

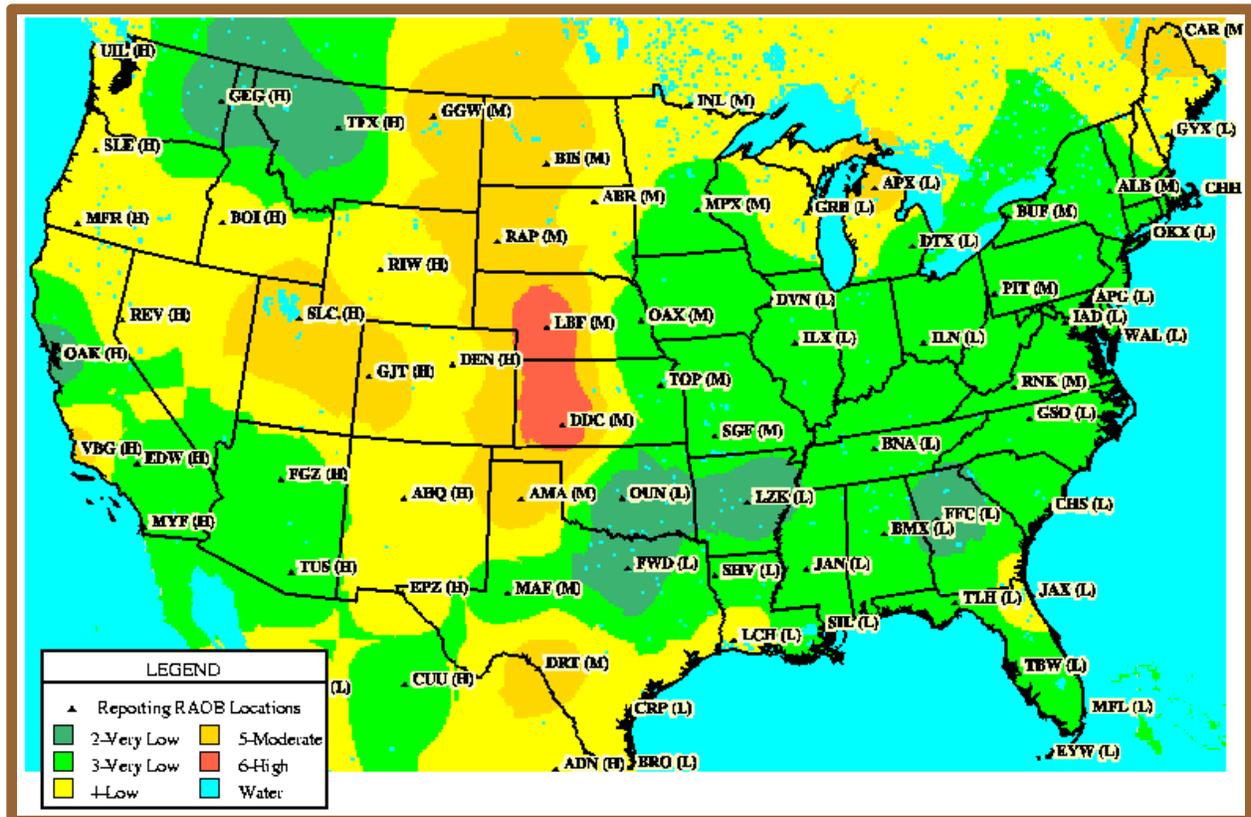


Figure 3. Haines Index System

<sup>65</sup> <https://www.wfas.net/index.php/haines-index-fire-potential-danger-34>.

## Keetch-Byram Drought Index

Keetch-Byram Drought Index is a drought index specifically for fire potential assessment<sup>66</sup>. It is a number representing the net effect of evapotranspiration and precipitation in producing cumulative moisture deficiency in deep duff and upper soil layers. It is a continuous index, relating to the flammability of organic material in the ground. Figure 4 shows a map of the Keetch-Byram Drought Index.

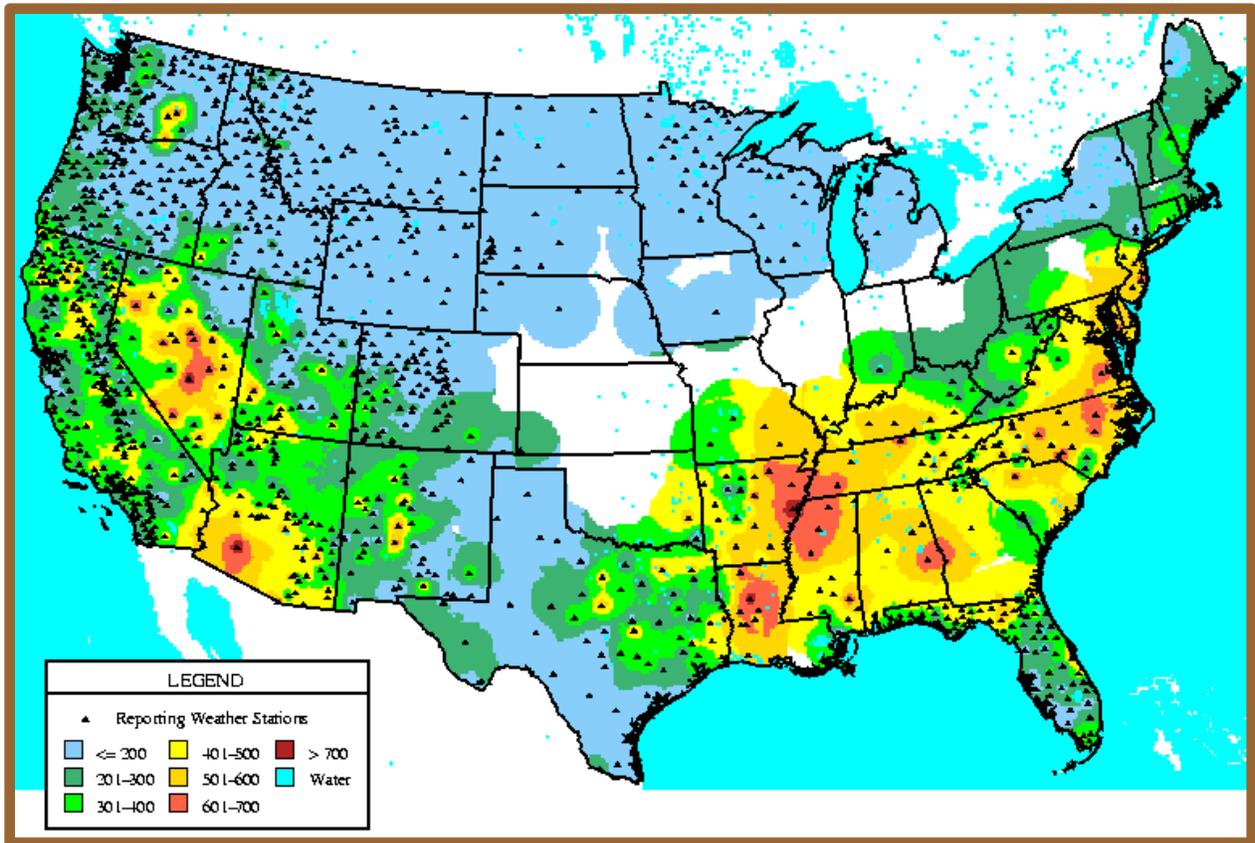


Figure 4. Keetch-Byram Drought Index

<sup>66</sup> <https://www.wfas.net/index.php/keetch-byram-index-moisture-drought-49>.

## Drought Severity Index (Palmer Index)

Drought Severity Index (Palmer Index) <sup>67</sup>measures the departure of the moisture supply at specific locations. The index is based on the supply-and-demand concept of the water balance equation, taking into account precipitation and temperature data, as well as the local available water content of the soil. The objective of the Palmer Drought Index is to provide measurements of moisture conditions that were standardized so that comparisons using the index could be made between locations and between months. Figure 5 shows a map of the Drought Severity Index System by division.

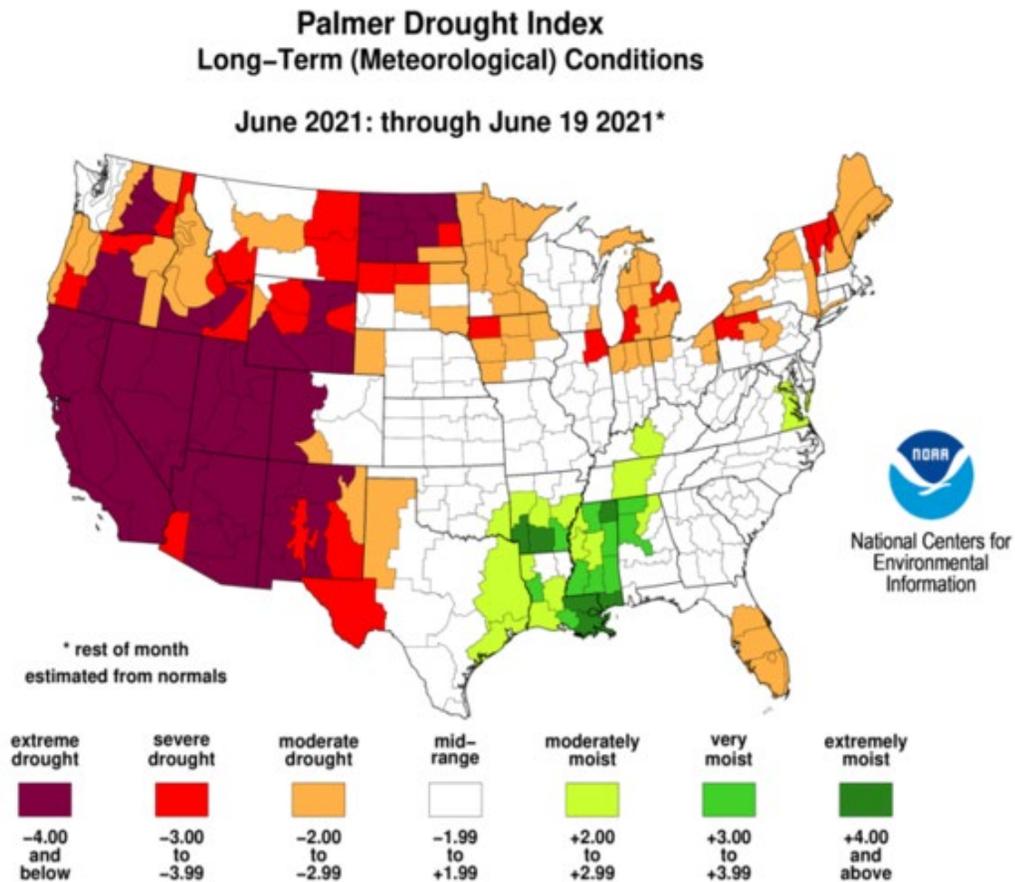


Figure 5. Drought Severity Index System

<sup>67</sup> See [Weekly Palmer Drought Indices | Temperature, Precipitation, and Drought | National Centers for Environmental Information \(NCEI\) \(noaa.gov\)](https://www.noaa.gov/data/monitoring-assessment/drought/weekly-palmer-drought-indices-temperature-precipitation-and-drought)

# Canadian Forest Fire Danger Rating System

The Canadian Forest Fire Danger Rating System (CFFDRS) considers weather, fuels, and topography and the necessary inputs to predict forest fire danger.<sup>68</sup> Forest fire danger is a general term used to express a variety of factors in the fire environment, such as ease of ignition and difficulty of control. The CFFDRS produce qualitative and/or numeric indices of fire potential. Figure 6 shows a map of the CFFDRS.

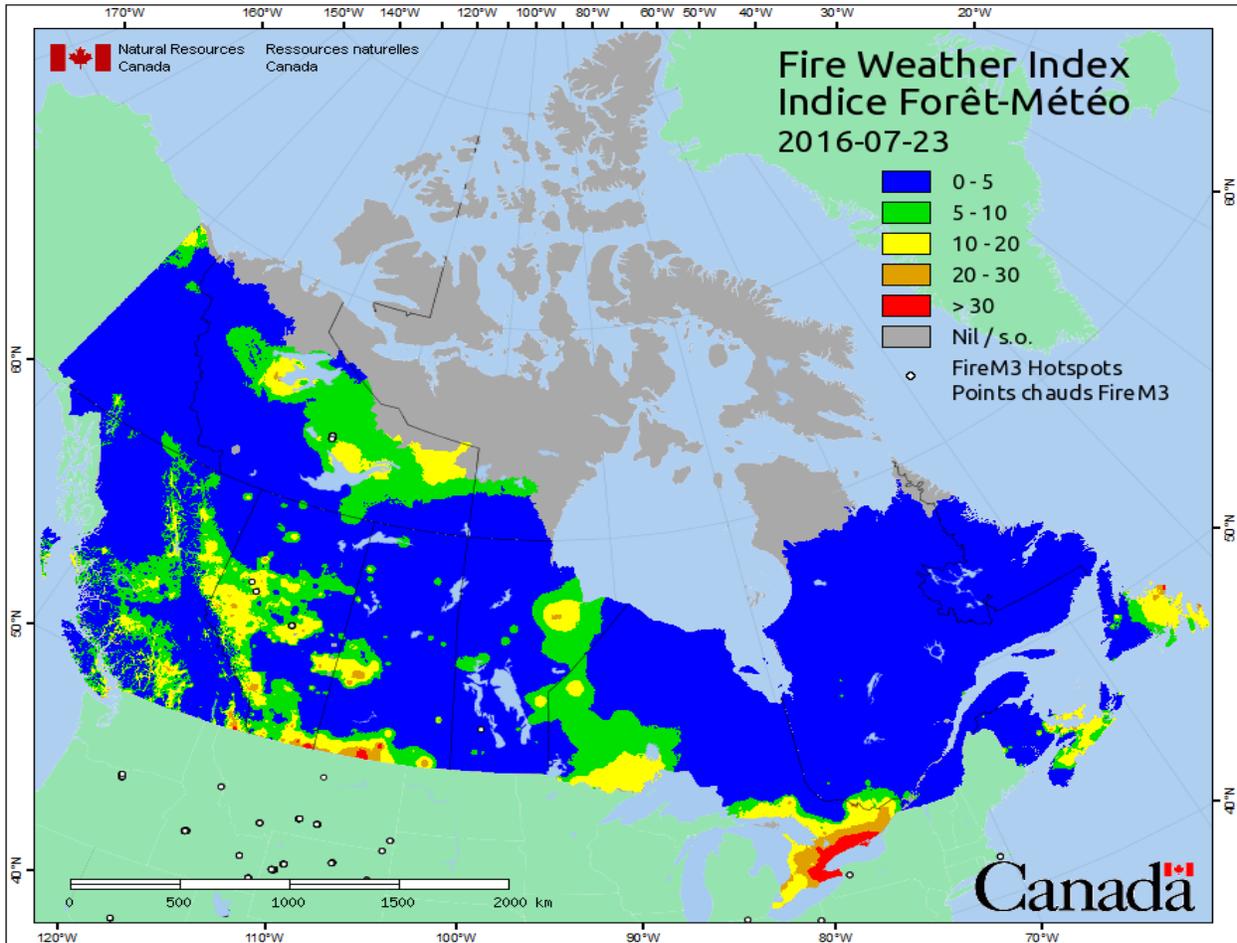


Figure 6. CFFDRS Map

<sup>68</sup> <http://cwfis.cfs.nrcan.gc.ca/background/summary/fdr>.

# APPENDIX G: REFERENCES AND RESOURCES

This appendix includes resources, references, and links that provide additional information related to the FMAG.

**Table 2. Resources, References, and Links for Additional Information**

References and Resources	Website Link
<b>Essential Resources</b>	
Fire Management Assistance Grant (FMAG) Program Information	<a href="http://www.fema.gov/fire-management-assistance-grant-program">www.fema.gov/fire-management-assistance-grant-program</a>
Standard Form (SF)-425 Financial Status Report	<a href="http://Lost Wages Supplemental Payment Assistance Guidelines   FEMA.gov">Lost Wages Supplemental Payment Assistance Guidelines   FEMA.gov</a>
Payment Management System Access Form and a Direct Deposit Form (SF-1199A)	<a href="http://www.dpm.psc.gov/grant_recipient/access_procedure/access_procedure.aspx?explore.event=true">www.dpm.psc.gov/grant_recipient/access_procedure/access_procedure.aspx?explore.event=true</a>
<b>Program References</b>	
Dun and Bradstreet (DUNS) Number	<a href="http://www.dnb.com/get-a-duns-number.html">www.dnb.com/get-a-duns-number.html</a>
Equipment Rates	<a href="http://www.fema.gov/schedule-equipment-rates">www.fema.gov/schedule-equipment-rates</a>
Procurement Guidance for Recipients and Subrecipients Under 2 Code of Federal Regulations (CFR) Part 200 (Uniform Rules)	<a href="http://www.fema.gov/media-library/assets/documents/96773">www.fema.gov/media-library/assets/documents/96773</a>
<b>Statutes</b>	
The Robert T. Stafford Disaster Relief and Emergency Assistance Act, as Amended (Stafford Act), Title 42 of the United States Code (U.S.C.) § 5121 et seq.	<a href="http://www.fema.gov/robert-t-stafford-disaster-relief-and-emergency-assistance-act-public-law-93-288-amended">www.fema.gov/robert-t-stafford-disaster-relief-and-emergency-assistance-act-public-law-93-288-amended</a>
Federally Recognized Tribe List Act of 1994	<a href="http://uscode.house.gov/statutes/pl/103/454.pdf">http://uscode.house.gov/statutes/pl/103/454.pdf</a>
<b>Code of Federal Regulations</b>	
2 CFR Grants and Agreements	<a href="http://eCFR :: Title 2 (federalregister.gov)">eCFR :: Title 2 (federalregister.gov)</a>
2 CFR part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards	<a href="http://eCFR :: Title 2 (federalregister.gov)">eCFR :: Title 2 (federalregister.gov)</a>
44 CFR part 204, FMAG Program	<a href="http://eCFR :: Title 44 (federalregister.gov)">eCFR :: Title 44 (federalregister.gov)</a>
<b>Environmental Protection Laws and Executive Orders (EOs)</b>	
Clean Air Act (CAA)	<a href="https://www.epa.gov/clean-air-act-overview/clean-air-act-title-i-air-pollution-prevention-and-control-parts-through-d">https://www.epa.gov/clean-air-act-overview/clean-air-act-title-i-air-pollution-prevention-and-control-parts-through-d</a>
Clean Water Act (CWA)	<a href="http://Clean Water Act (CWA) Compliance Monitoring   Compliance   US EPA">Clean Water Act (CWA) Compliance Monitoring   Compliance   US EPA</a>
Endangered Species Act (ESA)	<a href="http://www.fws.gov/endangered/laws-policies/">www.fws.gov/endangered/laws-policies/</a>

References and Resources	Website Link
Department of Homeland Security (DHS) Implementation of National Environmental and Historical Preservation Act	<a href="#">Environmental &amp; Historic Preservation Guidance for FEMA Grant Applications   FEMA.gov</a>
<b>Other Laws and EOs</b>	
Americans with Disabilities Act (ADA)	<a href="http://www.ada.gov">www.ada.gov</a>
Title VI of the Civil Rights Act of 1964 Section 504 of the Rehabilitation Act of 1973	<a href="https://www.dhs.gov/resources-recipients-dhs-financial-assistance">https://www.dhs.gov/resources-recipients-dhs-financial-assistance</a>
<b>Federal Emergency Management Agency (FEMA) References</b>	
FEMA	<a href="http://www.fema.gov">www.fema.gov</a>
National Disaster Recovery Framework (NDRF)	<a href="http://www.fema.gov/national-disaster-recovery-framework">www.fema.gov/national-disaster-recovery-framework</a>
National Response Framework (NRF)	<a href="http://www.fema.gov/national-response-framework">www.fema.gov/national-response-framework</a>
<b>Other Federal Agencies</b>	
Bureau of Indian Affairs (BIA)	<a href="http://www.indianaffairs.gov">www.indianaffairs.gov</a>
National Weather Service (NWS)	<a href="http://www.weather.gov">www.weather.gov</a>
U.S. Department of Homeland Security (DHS):	<a href="http://www.dhs.gov">www.dhs.gov</a>
DHS Office of Inspector General (OIG)	<a href="http://www.oig.dhs.gov">www.oig.dhs.gov</a>
U.S. Department of Labor	<a href="http://www.dol.gov">www.dol.gov</a>
U.S. Fish and Wildlife Service (USFWS)	<a href="http://www.fws.gov">www.fws.gov</a>
U.S. Government Accountability Office (GAO)	<a href="http://www.gao.gov">www.gao.gov</a>
<b>Web Links for Fire Weather</b>	
U.S. Geological Survey (USGS) GEOMAC Wildland Fire Support Viewer	<a href="https://www.geomac.gov/viewer/viewer.shtml">https://www.geomac.gov/viewer/viewer.shtml</a>
National Interagency Fire Center (NIFC)	<a href="https://www.nifc.gov">https://www.nifc.gov</a>
USGS Fire Danger Viewer	<a href="https://firedanger.cr.usgs.gov/viewer/viewer.htm">https://firedanger.cr.usgs.gov/viewer/viewer.htm</a>
The following link includes the layers that displays Fires and Thermal Anomalies	<a href="https://worldview.earthdata.nasa.gov/">https://worldview.earthdata.nasa.gov/</a>
National Aeronautics and Space Administration (NASA) – FIRMS Web Fire Mapper FIRMS	<a href="https://firms2.modaps.eosdis.nasa.gov/map/#d:2020-11-17..2020-11-18;@0.0,0.0,3z">https://firms2.modaps.eosdis.nasa.gov/map/#d:2020-11-17..2020-11-18;@0.0,0.0,3z</a>
NWS – Fire Weather	<a href="https://www.weather.gov/fire/">https://www.weather.gov/fire/</a>
<b>Weather/Climate Maps</b>	
U.S. Forest Service (USFS) – Remote Sensing Applications Center – Latest Detected Fire Activity	<a href="https://fsapps.nwccg.gov/afm/current.php">https://fsapps.nwccg.gov/afm/current.php</a>
NWS – Fire Weather Outlooks	<a href="http://www.spc.noaa.gov/products/fire_wx/">http://www.spc.noaa.gov/products/fire_wx/</a>
National Climate Data Center – Weekly Palmer Drought Indices	<a href="http://www.ncdc.noaa.gov/temp-and-precip/drought/weekly-palmers/">http://www.ncdc.noaa.gov/temp-and-precip/drought/weekly-palmers/</a>

References and Resources	Website Link
USFS Wildland Fire Assessment System (WFAS) – Fire Danger Rating	<a href="http://www.wfas.net/index.php/fire-danger-rating-fire-potential-danger-32">http://www.wfas.net/index.php/fire-danger-rating-fire-potential-danger-32</a>
USFS – WFAS – Fire Weather	<a href="http://www.wfas.net/index.php/fire-weather-weather-35">http://www.wfas.net/index.php/fire-weather-weather-35</a>
<b>General Websites</b>	
National Integrated Drought Information System (NISDIS) – U.S. Drought Portal	<a href="https://www.drought.gov/drought/">https://www.drought.gov/drought/</a>
National Geographic Area Coordination Centers (GACC)	<a href="http://gacc.nifc.gov/">http://gacc.nifc.gov/</a>
US Forest Service – WFAS	<a href="http://www.wfas.net/">http://www.wfas.net/</a>
The National Oceanic and Atmospheric Administration (NOAA) – NWS – Storm Prediction Center (SPC)	<a href="http://www.spc.noaa.gov/">http://www.spc.noaa.gov/</a>

# APPENDIX H: STAFFORD ACT, PART 420, FIRE MANAGEMENT ASSISTANCE

This appendix provides a direct reference to SEC. 420. Fire Management Assistance (42 U.S.C. 5187).

## Sec. 420. Fire Management Assistance (42 U.S.C. 5187)

- (a) In General - The President is authorized to provide assistance, including grants, equipment, supplies, and personnel, to any state or local government for the mitigation, management, and control of any fire on public or private forest land or grassland that threatens such destruction as would constitute a major disaster.
- (b) Coordination with State and Tribal Departments of Forestry - In providing assistance under this section, the President shall coordinate with state and tribal departments of forestry.
- (c) Essential Assistance - In providing assistance under this section, the President may use the authority provided under section 5170b of this title [Section 403].
- (d) Hazard Mitigation Assistance - Whether or not a major disaster is declared, the President may provide hazard mitigation assistance in accordance with section 404 in any area affected by a fire for which assistance was provided under this section.
- (e) Rules and Regulations - The President shall prescribe such rules and regulations as are necessary to carry out this section.

# APPENDIX I: 44 CFR PART 204

This appendix lists the parts and subpart of Title 44: Emergency Management and Assistance, PART 204 Fire Management Assistance Grant Program.

## 44 CFR Part 204 Links

### [Subpart A—General](#)

- [§204.1 Purpose.](#)
- [§204.2 Scope.](#)
- [§204.3 Definitions used throughout this part.](#)
- [§§204.4-204.20 \[Reserved\]](#)

### [Subpart B—Declaration Process](#)

- [§204.21 Fire management assistance declaration criteria.](#)
- [§204.22 Submitting a request for a fire management assistance declaration.](#)
- [§204.23 Processing a request for a fire management assistance declaration.](#)
- [§204.24 Determination on request for a fire management assistance declaration.](#)
- [§204.25 FEMA-State agreement for fire management assistance grant program.](#)
- [§204.26 Appeal of fire management assistance declaration denial.](#)
- [§§204.27-204.40 \[Reserved\]](#)

### [Subpart C—Eligibility](#)

- [§204.41 Applicant eligibility.](#)
- [§204.42 Eligible costs.](#)
- [§204.43 Ineligible costs.](#)
- [§§204.44-204.50 \[Reserved\]](#)

### [Subpart D—Application Procedures](#)

- [§204.51 Application and approval procedures for a fire management assistance grant.](#)
- [§204.52 Application and approval procedures for a subgrant under a fire management assistance grant.](#)
- [§204.53 Certifying costs and payments.](#)
- [§204.54 Appeals.](#)
- [§§204.55-204.60 \[Reserved\]](#)

### [Subpart E—Grant Administration](#)

- [§204.61 Cost share.](#)
- [§204.62 Duplication and recovery of assistance.](#)
- [§204.63 Allowable costs.](#)
- [§204.64 Reporting and audit requirements](#)

## *Subpart A—General*

### **§204.1 Purpose.**

This part provides information on the procedures for the declaration and grants management processes for the Fire Management Assistance Grant Program in accordance with the provisions of section 420 of the Stafford Act. This part also details applicant eligibility and the eligibility of costs to be considered under the program. FEMA will actively work with State and Tribal emergency managers and foresters on the efficient delivery of fire management assistance as directed by this part.

### **§204.2 Scope.**

This part is intended for those individuals responsible for requesting declarations and administering grants under the Fire Management Assistance Grant Program, as well as those applying for assistance under the program.

### **§204.3 Definitions used throughout this part.**

*Applicant.* A State or Indian tribal government submitting an application to FEMA for a fire management assistance grant, or a State, local, or Indian tribal government submitting an application to the Recipient for a subgrant under an approved fire management assistance grant.

*Application for Federal Assistance.* The form the State submits to apply for a grant under a fire management assistance declaration.

*Declared fire.* An uncontrolled fire or fire complex, threatening such destruction as would constitute a major disaster, which the Administrator has approved in response to a State's request for a fire management assistance declaration and in accordance with the criteria listed in §204.21.

*Demobilization.* The process and procedures for deactivating, disassembling, and transporting back to their point of origin all resources that had been provided to respond to and support a declared fire.

*Fire complex.* Two or more individual fires located in the same general area, which are assigned to a single Incident Commander.

*Governor's Authorized Representative (GAR).* The person empowered by the Governor to execute, on behalf of the State, all necessary documents for fire management assistance, including the request for a fire management assistance declaration.

*Grant.* An award of financial assistance, including cooperative agreements, by FEMA to an eligible Recipient. The grant award will be based on the projected amount of total eligible

costs for which a State submits an application and that FEMA approves related to a declared fire.

*Hazard mitigation plan.* A plan to develop actions the State, local, or tribal government will take to reduce the risk to people and property from all hazards. The intent of hazard mitigation planning under the Fire Management Assistance Grant Program is to identify wildfire hazards and cost-effective mitigation alternatives that produce long-term benefits. FEMA addresses mitigation of fire hazards as part of the State's comprehensive Mitigation Plan, described in 44 CFR part 201.

*Incident commander.* The ranking official responsible for overseeing the management of fire operations, planning, logistics, and finances of the field response.

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

*Indian tribal government (tribal government).* An Indian tribal government is any Federally recognized governing body of an Indian or Alaska Native tribe, band, nation, pueblo, village, or community that the Secretary of Interior acknowledges to exist as an Indian tribe under the Federally Recognized Tribe List Act of 1994, 25 U.S.C. 479a. This does not include Alaska Native corporations, the ownership of which is vested in private individuals.

*Individual assistance.* Supplementary Federal assistance provided under the Stafford Act to individuals and families adversely affected by a major disaster or an emergency. Such assistance may be provided directly by the Federal Government or through State or local governments or disaster relief organizations. For further information, see subparts D, E, and F of part 206.

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

*Mitigation, management, and control.* Those activities undertaken, generally during the incident period of a declared fire, to minimize immediate adverse effects and to manage and control the fire. Eligible activities may include associated emergency work and pre-positioning directly related to the declared fire.

*Mobilization.* The process and procedures used for activating, assembling, and transporting all resources that the Recipient requested to respond to support a declared fire.

*Performance period.* The time interval designated on the Application for Federal Assistance for the Recipient and all subrecipients to submit eligible costs and have those costs processed, obligated, and closed out by FEMA.

*Pre-positioning.* Moving existing fire prevention or suppression resources from an area of lower fire danger to one of higher fire danger in anticipation of an increase in fire activity likely to constitute the threat of a major disaster.

*Principal advisor.* An individual appointed by the Forest Service, United States Department of Agriculture, or Bureau of Land Management, Department of the Interior, who is responsible for providing FEMA with a technical assessment of the fire or fire complex for which a State is requesting a fire management assistance declaration. The Principal Advisor also frequently participates with FEMA on other wildland fire initiatives.

*Project worksheet.* The form which identifies actual costs incurred by eligible applicants as a result of the eligible firefighting activities.

*Public assistance.* Supplementary Federal assistance provided under the Stafford Act to State and local governments or certain private, nonprofit organizations for eligible emergency measures and repair, restoration, and replacement of damaged facilities. For further information, see Subparts G and H of Part 206.

*Recipient.* The Recipient is the government to which a grant is awarded which is accountable for the use of the funds provided. The Recipient is the entire legal entity even if only a particular component of the entity is designated in the grant award document. Generally, the State, as designated in the FEMA-State Agreement for the Fire Management Assistance Grant Program, is the Recipient. However, after a declaration, an Indian tribal government may choose to be a Recipient, or it may act as a subgrantee under the State. An Indian tribal government acting as Recipient will assume the responsibilities of a “state”, as described in this Part, for the purpose of administering the grant.

*Regional Administrator.* The administrator of a regional office of FEMA, or his/her designated representative

*Subgrant.* An award of financial assistance under a grant by a Recipient to an eligible Subrecipient.

*Subrecipient.* An applicant that is awarded a subgrant and is accountable to the Recipient for the use of grant funding provided.

*Threat of a major disaster.* The potential impact of the fire or fire complex is of a severity and magnitude that would result in a presidential major disaster declaration for the Public Assistance Program, the Individual Assistance Program, or both.

*Uncontrolled fire.* Any fire not safely confined to predetermined control lines as established by firefighting resources.

## **§§204.4-204.20 [Reserved]**

### ***Subpart B—Declaration Process***

#### **§204.21 Fire management assistance declaration criteria.**

(a) *Determinations.* FEMA will approve declarations for fire management assistance when the Administrator determines that a fire or fire complex on public or private forest land or grassland threatens such destruction as would constitute a major disaster.

(b) *Evaluation criteria.* FEMA will evaluate the threat posed by a fire or fire complex based on consideration of the following specific criteria:

(1) Threat to lives and improved property, including threats to critical facilities/infrastructure, and critical watershed areas;

(2) Availability of State and local firefighting resources;

(3) High fire danger conditions, as indicated by nationally accepted indices such as the National Fire Danger Ratings System;

(4) Potential major economic impact.

#### **§204.22 Submitting a request for a fire management assistance declaration.**

The Governor of a State, or the Governor's Authorized Representative (GAR), may submit a request for a fire management assistance declaration. The request must be submitted while the fire is burning uncontrolled and threatens such destruction as would constitute a major disaster. The request must be submitted to the Regional Administrator and should address the relevant criteria listed in §204.21, with supporting documentation that contains factual data and professional estimates on the fire or fire complex. To ensure that FEMA can process a State's request for a fire management assistance declaration as expeditiously as possible, the State should transmit the request by telephone, promptly followed by written documentation.

#### **§204.23 Processing a request for a fire management assistance declaration.**

(a) In processing a State's request for a fire management assistance declaration, the Regional Administrator, in coordination with the Principal Advisor, will verify the information submitted in the State's request.

(b) The Principal Advisor, at the request of the Regional Administrator, is responsible for providing FEMA a technical assessment of the fire or fire complex for which the State is requesting a fire management assistance declaration. The Principal Advisor may consult with State agencies, usually emergency management or forestry, as well as the Incident Commander, in order to provide FEMA with an accurate assessment.

#### **§204.24 Determination on request for a fire management assistance declaration.**

The Administrator will review all information submitted in the State's request along with the Principal Advisor's assessment and render a determination. The determination will be based on the conditions of the fire or fire complex existing at the time of the State's request. When possible, the Administrator will evaluate the request and make a determination within several hours. Once the Administrator renders a determination, FEMA will promptly notify the State of the determination.

#### **§204.25 FEMA-State agreement for fire management assistance grant program.**

(a) After a State's request for a fire management assistance declaration has been approved, the Governor and Regional Administrator will enter into a standing FEMA-State Agreement (the Agreement) for the declared fire and for future declared fires in that calendar year. The State must have a signed and up-to-date FEMA-State Agreement before receiving Federal funding for fire management assistance grants. FEMA will provide no funding absent a signed and up-to-date Agreement. An Indian tribal government serving as Recipient, must sign a FEMA-Tribal Agreement, modeled upon the FEMA-State Agreement.

(b) The Agreement states the understandings, commitments, and conditions under which FEMA will provide Federal assistance, including the cost share provision and articles of agreement necessary for the administration of grants approved under fire management assistance declarations. The Agreement must also identify the State legislative authority for firefighting, as well as the State's compliance with the laws, regulations, and other provisions applicable to the Fire Management Assistance Grant Program.

(c) For each subsequently declared fire within the calendar year, the parties must add a properly executed amendment, which defines the incident period and contains the official declaration number. Other amendments modifying the standing Agreement may be added throughout the year to reflect changes in the program or signatory parties.

#### **§204.26 Appeal of fire management assistance declaration denial.**

(a) *Submitting an appeal.* When a State's request for a fire management assistance declaration is denied, the Governor or GAR may appeal the decision in writing within 30 days after the date of the letter denying the request. The State should submit this one-time request for reconsideration in writing, with appropriate additional information to the Administrator through the Regional Administrator. The Administrator will reevaluate the State's request and notify the State of the final determination within 90 days of receipt of the appeal or the receipt of additional requested information.

(b) *Requesting a time-extension.* The Administrator may extend the 30-day period for filing an appeal, provided that the Governor or the GAR submits a written *request for such an extension within the 30-day period.* The Administrator will evaluate the need for an extension based on the reasons cited in the request and either approve or deny the request for an extension.

#### **§§204.27-204.40 [Reserved]**

#### ***Subpart C—Eligibility***

#### **§204.41 Applicant eligibility.**

(a) The following entities are eligible to apply through a State Recipient for a subgrant under an approved fire management assistance grant:

- (1) State agencies;
- (2) Local governments; and
- (3) Indian tribal governments.

(b) Entities that are not eligible to apply for a subgrant as identified in (a), such as privately-owned entities and volunteer firefighting organizations, may be reimbursed through a contract or compact with an eligible applicant for eligible costs associated with the fire or fire complex.

(c) Eligibility is contingent upon a finding that the Incident Commander or comparable State official requested the applying entity's resources.

(d) The activities performed must be the legal responsibility of the applying entity, required as the result of the declared fire, and located within the designated area.

[66 FR 57347, Nov. 14, 2001, as amended at 82 FR 42, Jan. 3, 2017]

#### **§204.42 Eligible costs.**

(a) *General.*

- (1) All eligible work and related costs must be associated with the incident period of a declared fire.
- (2) Before obligating Federal funds the Regional Administrator must review and approve the initial grant application, along with Project Worksheets submitted with the application and any subsequent amendments to the application.
- (3) Recipients will award Federal funds to subrecipients under State law and procedure and complying with 2 CFR parts 200 and 3002.

(b) *Equipment and supplies.* Eligible costs include:

- (1) Personal comfort and safety items normally provided by the State under field conditions for firefighter health and safety.
- (2) Firefighting supplies, tools, materials, expended or lost, to the extent not covered by reasonable insurance, will be replaced with comparable items.
- (3) Operation and maintenance costs of publicly owned, contracted, rented, or volunteer firefighting department equipment used in eligible firefighting activities to the extent any of these costs are not included in applicable equipment rates.
- (4) Use of U.S. Government-owned equipment based on reasonable costs as billed by the Federal agency and paid by the State. (Only direct costs for use of Federal Excess Personal Property (FEPP) vehicles and equipment on loan to State Forestry and local cooperators may be eligible.)
- (5) Repair of equipment damaged in firefighting activities to the extent not covered by reasonable insurance. FEMA will use the lowest applicable equipment rates, or other rates that FEMA determines, to calculate the eligible cost of repairs.
- (6) Replacement of equipment lost or destroyed in firefighting activities, to the extent not covered by reasonable insurance, will be replaced with comparable equipment.

(c) *Labor costs.* Eligible costs include:

- (1) Overtime for permanent or reassigned State and local employees.
- (2) Regular time and overtime for temporary and contract employees hired to perform fire-related activities.

(d) *Travel and per diem costs.* Eligible costs include:

- (1) Travel and per diem of employees who are providing services directly associated with eligible fire-related activities may be eligible.

(2) Provision of field camps and meals when made available in place of per diem.

(e) *Pre-positioning costs.* (1) The actual costs of pre-positioning Federal, out-of-State (including compact), and international resources for a limited period may be eligible when those resources are used in response to a declared fire.

(2) The Regional Administrator must approve all pre-positioning costs.

(i) Upon approval of a State's request for a fire management assistance declaration by the Assistant Administrator for the Disaster Assistance Directorate, the State should immediately notify the Regional Administrator of its intention to seek funding for pre-positioning resources.

(ii) The State must document the number of pre-positioned resources to be funded and their respective locations throughout the State, estimate the cost of the pre-positioned resources that were used on the declared fire and the amount of time the resources were pre-positioned, and provide a detailed explanation of the need to fund the pre-positioned resources.

(iii) The State will base the detailed explanation on recognized scientific indicators, that include, but are not limited to, drought indices, short-term weather forecasts, the current number of fires burning in the State, and the availability of in-State firefighting resources. The State may also include other quantitative indicators with which to measure the increased risk of the threat of a major disaster.

(iv) Based on the information contained in the State's notification, the Regional Administrator will determine the number of days of pre-positioning to be approved for Federal funding, up to a maximum of 21 days before the fire declaration.

(3) Upon rendering his/her determination on pre-positioning costs, the Regional Administrator will notify the Assistant Administrator for the Disaster Assistance Directorate of his/her determination.

(f) *Emergency work.* FEMA may authorize the use of section 403 of the Stafford Act, Essential Assistance, under an approved fire management assistance grant when directly related to the mitigation, management, and control of the declared fire. Essential assistance activities that may be eligible include, but are not limited to, police barricading and traffic control, extraordinary emergency operations center expenses, evacuation, search and rescue, arson investigation teams, public information, and the limited removal of trees that pose a threat to the general public.

(g) *Temporary repair of damage caused by firefighting activities.* Temporary repair of damage caused by eligible firefighting activities listed in this subpart involves short-term actions to repair damage directly caused by the firefighting effort or activities. This includes minimal repairs to bulldozer lines, camps, and staging areas to address safety concerns; as well as minimal repairs to facilities damaged by the firefighting activities such as fences, buildings, bridges, roads, etc. All temporary repair work must be completed within thirty days of the close of the incident period for the declared fire.

(h) *Mobilization and demobilization.* Costs for mobilization to, and demobilization from, a declared fire may be eligible for reimbursement. Demobilization may be claimed at a delayed date if deployment involved one or more declared fires. If resources are being used on more than one declared fire, mobilization and demobilization costs must be claimed against the first declared fire.

(i) *Fires on co-mingled Federal/State lands.* Reasonable costs for the mitigation, management, and control of a declared fire burning on co-mingled Federal and State land may be eligible in cases where the State has a responsibility for suppression activities under an agreement to perform such action on a non-reimbursable basis. (This provision is an exception to normal FEMA policy under the Stafford Act and is intended to accommodate only those rare instances that involve State firefighting on a Stafford Act section 420 fire incident involving co-mingled Federal/State and privately-owned forest or grassland.)

#### **§204.43 Ineligible costs.**

Costs not directly associated with the incident period are ineligible. Ineligible costs include the following:

- (a) Costs incurred in the mitigation, management, and control of undeclared fires;
- (b) Costs related to planning, pre-suppression (*i.e.*, cutting fire-breaks without the presence of an imminent threat, training, road widening, and other similar activities), and recovery (*i.e.*, land rehabilitation activities, such as seeding, planting operations, and erosion control, or the salvage of timber and other materials, and restoration of facilities damaged by fire);
- (c) Costs for the straight or regular time salaries and benefits of a Subrecipient's permanently employed or reassigned personnel;
- (d) Costs for mitigation, management, and control of a declared fire on co-mingled Federal land when such costs are reimbursable to the State by a Federal agency under another statute (See 44 CFR part 51);
- (e) Fires fought on Federal land are generally the responsibility of the Federal Agency that owns or manages the land. Costs incurred while fighting fires on federally owned

land are not eligible under the Fire Management Assistance Grant Program except as noted in §204.42(i).

## **§§204.44-204.50 [Reserved]**

### ***Subpart D—Application Procedures***

#### **§204.51 Application and approval procedures for a fire management assistance grant.**

##### ***(a) Preparing and submitting an application.***

- (1) After the approval of a fire management assistance declaration, the State may submit an application package for a grant to the Regional Administrator. The application package must include the Application for Federal Assistance and Summary of Assurances—Non-construction Programs, as well as supporting documentation for the budget.
- (2) The State must submit its grant application within 9 months of the declaration. Upon receipt of the written request from the State, the Regional Administrator may grant an extension for up to 6 months. The State's request must include a justification for the extension.

##### ***(b) Fire cost threshold.***

- (1) FEMA will approve the initial grant award to the State when FEMA determines that the State's application demonstrates either of the following:
  - (i) Total eligible costs for the declared fire meet or exceed the individual fire cost threshold; or
  - (ii) Total costs of all declared and non-declared fires for which a State has assumed responsibility in a given calendar year meet the cumulative fire cost threshold.
- (2) The individual fire cost threshold for a State is the greater of the following:
  - (i) \$100,000; or
  - (ii) Five percent  $\times$  \$1.07  $\times$  the State population, adjusted annually for inflation using the Consumer Price Index for All Urban Consumers published annually by the Department of Labor.
- (3) The cumulative fire cost threshold for a State is the greater of the following:
  - (i) \$500,000; or

(ii) Three times the five percent  $\times$  \$1.07  $\times$  the State population as described in §204.51(b)(2)(ii)

- (4) States must document the total eligible costs for a declared fire on Project Worksheets, which they must submit with the grant application.
- (5) FEMA will not consider the costs of pre-positioning resources for the purposes of determining whether the grant application meets the fire cost threshold.
- (6) When the State's total eligible costs associated with the fire management assistance declaration meet or exceed the fire cost threshold eligible costs will be cost shared in accordance with §204.61.

(c) *Approval of the State's grant application.* The Regional Administrator has 45 days from receipt the State's grant application or an amendment to the State's grant application, including attached supporting Project Worksheet(s), to review and approve or deny the grant application or amendment; or to notify the Recipient of a delay in processing funding.

(d) *Obligation of the grant.* Before FEMA approves the State's grant application, the State must have an up-to-date State Administrative Plan and a Hazard Mitigation Plan that has been reviewed and approved by the Regional Administrator. Once these plans are approved by the Regional Administrator, the State's grant application may be approved, and FEMA may begin to obligate the Federal share of funding for subgrants to the Recipient.

(1) *State administrative plan.*

(i) The State must develop an Administrative Plan (or have a current Administrative Plan on file with FEMA) that describes the procedures for the administration of the Fire Management Assistance Grant Program. The Plan will include, at a minimum, the items listed below:

- (A) The designation of the State agency or agencies which will have responsibility for program administration.
- (B) The identification of staffing functions for the Fire Management Assistance Program, the sources of staff to fill these functions, and the management and oversight responsibilities of each.
- (C) The procedures for:
  - (1) Notifying potential applicants of the availability of the program;
  - (2) Assisting FEMA in determining applicant eligibility;
  - (3) Submitting and reviewing subgrant applications;

- (4) Processing payment for subgrants;
- (5) Submitting, reviewing, and accepting subgrant performance and financial reports;
- (6) Monitoring, close-out, and audit and reconciliation of subgrants;
- (7) Recovering funds for disallowed costs;
- (8) Processing appeal requests and requests for time extensions; and
- (9) Providing technical assistance to applicants and subgrant recipients, including briefings for potential applicants and materials on the application procedures, program eligibility guidance and program deadlines.

(ii) The Recipient may request the Regional Administrator to provide technical assistance in the preparation of the State Administrative Plan.

(2) *Hazard Mitigation Plan.* As a requirement of receiving funding under a fire management assistance grant, a State, or tribal organization, acting as Recipient, must:

- (i) Develop a Mitigation Plan in accordance with 44 CFR part 201 that addresses wildfire risks and mitigation measures; or
- (ii) Incorporate wildfire mitigation into the existing Mitigation Plan developed and approved under 44 CFR part 201 that also addresses wildfire risk and contains a wildfire mitigation strategy and related mitigation initiatives.

**§204.52 Application and approval procedures for a subgrant under a fire management assistance grant.**

(a) *Request for Fire Management Assistance.*

- (1) State, local, and tribal governments interested in applying for fire management assistance subgrants must submit a Request for Fire Management Assistance subgrant to the Recipient in accordance with State procedures and within timelines set by the Recipient, but no longer than 30 days after the close of the incident period.
- (2) The Recipient will review and forward the Request to the Regional Administrator for final review and determination. The Recipient may also forward a recommendation for approval of the Request to the Regional Administrator when appropriate.

(3) The Regional Administrator will approve or deny the request based on the eligibility requirements outlined in §204.41.

(4) The Regional Administrator will notify the Recipient of his/her determination; the Recipient will inform the applicant.

*(b) Preparing a Project Worksheet.*

(1) Once the Regional Administrator approves an applicant's Request for Fire Management Assistance, the Regional Administrator's staff may begin to work with the Recipient and local staff to prepare Project Worksheets.

(2) The Regional Administrator may request the Principal Advisor to assist in the preparation of Project Worksheets.

(3) The State will be the primary contact for transactions with and on behalf of the applicant.

*(c) Submitting a Project Worksheet.*

(1) Applicants should submit all Project Worksheets through the Recipient for approval and transmittal to the Regional Administrator as part of the State's application.

(2) The Recipient will determine the deadline for an applicant to submit completed Project Worksheets, but the deadline must be no later than six months from close of the incident period.

(3) At the request of the Recipient, the Regional Administrator may extend the time limitations in this section for up to 6 months when the Recipient justifies and makes a request in writing.

(4) Project Worksheets will not be accepted after the deadline in paragraph (c)(2) of this section has expired, or, if applicable, after an extension specified by the Regional Administrator in paragraph (c)(3) of this section has expired.

(5) *\$1,000 Project Worksheet minimum.* When the costs reported are less than \$1,000, that work is not eligible, and FEMA will not approve that Project Worksheet. This minimum threshold does not apply to Project Worksheets submitted for the direct and indirect costs of administration of a fire grant, as defined in §204.63.

**§204.53 Certifying costs and payments.**

(a) By submitting applicants' Project Worksheets to FEMA, the Recipient is certifying that all costs reported on applicant Project Worksheets were incurred for work that was performed in compliance with FEMA laws, regulations, policy and guidance applicable to the Fire Management Assistance Grant Program, as well as with the terms and conditions outlined

for the administration of the grant in the FEMA-State Agreement for the Fire Management Assistance Grant Program.

(b) Advancement/Reimbursement for State grant costs will be processed as follows:

- (1) Through the U.S. Department of Health and Human Services SMARTLINK system; and
- (2) In compliance with 2 CFR 200.305 and U.S. Treasury 31 CFR part 205, Cash Management Improvement Act.

#### **§204.54 Appeals.**

An eligible applicant, Subrecipient, or Recipient may appeal any determination FEMA makes related to an application for the provision of Federal assistance according to the procedures below.

(a) *Format and content.* The applicant or Subrecipient will make the appeal in writing through the Recipient to the Regional Administrator. The Recipient will review and evaluate all Subrecipient appeals before submission to the Regional Administrator. The Recipient may make Recipient-related appeals to the Regional Administrator. The appeal will contain documented justification supporting the appellant's position, specifying the monetary figure in dispute and the provisions in Federal law, regulation, or policy with which the appellant believes the initial action was inconsistent.

(b) *Levels of appeal.*

- (1) The Regional Administrator will consider first appeals for fire management assistance grant-related decisions under subparts A through E of this part.
- (2) The Assistant Administrator for the Disaster Assistance Directorate will consider appeals of the Regional Administrator's decision on any first appeal under paragraph (b)(1) of this section.

(c) *Time limits.*

- (1) Appellants must file appeals within 60 days after receipt of a notice of the action that is being appealed.
- (2) The Recipient will review and forward appeals from an applicant or Subrecipient, with a written recommendation, to the Regional Administrator within 60 days of receipt.
- (3) Within 90 days following receipt of an appeal, the Regional Administrator (for first appeals) or Assistant Administrator for the Disaster Assistance Directorate (for second appeals) will notify the Recipient in writing of the disposition of the appeal or of the need for additional information. A request by the Regional Administrator or Assistant Administrator for the Disaster Assistance Directorate for additional

information will include a date by which the information must be provided. Within 90 days following the receipt of the requested additional information or following expiration of the period for providing the information, the Regional Administrator or Assistant Administrator for the Disaster Assistance Directorate will notify the Recipient in writing of the disposition of the appeal. If the decision is to grant the appeal, the Regional Administrator will take appropriate implementing action.

(d) *Technical advice.* In appeals involving highly technical issues, the Regional Administrator or may, at his or her discretion, submit the appeal to an independent scientific or technical person or group having expertise in the subject matter of the appeal for advice or recommendation. The period for this technical review may be in addition to other allotted time periods. Within 90 days of receipt of the report, the Regional Administrator or Assistant Administrator for the Disaster Assistance Directorate will notify the Recipient in writing of the disposition of the appeal.

(e) The decision of the Assistant Administrator for the Disaster Assistance Directorate at the second appeal level will be the final administrative decision of FEMA.

#### **§§204.55-204.60 [Reserved]**

#### ***Subpart E—Grant Administration***

#### **§204.61 Cost share.**

(a) All fire management assistance grants are subject to a cost share. The Federal cost share for fire management assistance grants is seventy-five percent (75%).

(b) As stated in §204.25, the cost share provision will be outlined in the terms and conditions of the FEMA-State Agreement for the Fire Management Assistance Grant Program.

#### **§204.62 Duplication and recovery of assistance.**

(a) *Duplication of benefits.* FEMA provides supplementary assistance under the Stafford Act, which generally may not duplicate benefits received by or available to the applicant from insurance, other assistance programs, legal awards, or any other source to address the same purpose. An applicant must notify FEMA of all benefits that it receives or anticipates from other sources for the same purpose and must seek all such benefits available to them. FEMA will reduce the grant by the amounts available for the same purpose from another source. FEMA may provide assistance under this Part when other benefits are available to an applicant, but the applicant will be liable to FEMA for any duplicative amounts that it receives or has available to it from other sources and must repay FEMA for such amounts.

(b) *Duplication of programs.* FEMA will not provide assistance under this part for activities for which another Federal agency has more specific or primary authority to provide

assistance for the same purpose. FEMA may disallow or recoup amounts that fall within another Federal agency's authority. FEMA may provide assistance under this part, but the applicant must agree to seek assistance from the appropriate Federal agency and to repay FEMA for amounts that are within another Agency's authority.

(c) *Negligence.* FEMA will provide no assistance to an applicant for costs attributable to applicant's own negligence. If the applicant suspects negligence by a third party for causing a condition for which FEMA made assistance available under this Part, the applicant is responsible for taking all reasonable steps to recover all costs attributable to the negligence of the third party. FEMA generally considers such amounts to be duplicated benefits available to the Recipient or Subrecipient and will treat them consistent with (a) of this section.

(d) *Intentional acts.* Any person who intentionally causes a condition for which assistance is provided under this part shall be liable to the United States to the extent that FEMA incurs costs attributable to the intentional act or omission that caused the condition. FEMA may provide assistance under this part, but it will be conditioned on an agreement by the applicant to cooperate with FEMA in efforts to recover the cost of the assistance from the liable party. A person shall not be liable under this section as a result of actions the person takes or omits in the course of rendering care or assistance in response to the fire.

#### **§204.63 Allowable costs.**

2 CFR part 200, subpart E—Cost Principles establishes general policies for determining allowable costs.

(a) FEMA will reimburse direct costs for the administration of a fire management assistance grant under 2 CFR part 200.

(b) FEMA will reimburse indirect costs for the administration of a fire management assistance grant in compliance with the Recipient's approved indirect cost rate under 2 CFR part 200.

(c) Management costs as defined in 44 CFR part 207 do not apply to this section.

#### **§204.64 Reporting and audit requirements**

(a) *Reporting.* Within 90-days of the Performance Period expiration date, the State will submit a final Financial Status Report, which reports all costs incurred within the incident period and all administrative costs incurred within the performance period; and

(b) *Audit.*

(1) Audits will be performed, for both the Recipient and the subrecipients, under 2 CFR §200.500-200.520.

(2) FEMA may elect to conduct a program-specific Federal audit on the Fire Management Assistance Grant or a subgrant.

# APPENDIX J: MAP OF FEMA REGIONS

This appendix includes a map of the ten FEMA Regions, highlighting which states are included in each region.



Figure 7. The FEMA Regions



**FEMA**

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