

**Attachment I: FY 2004
Flood Mitigation Assistance Guidance**

- I. Purpose:** FMA provides funding to States and communities so that measures are taken to reduce or eliminate the long-term risk of flood damage to buildings, manufactured homes, and other structures insurable under the National Flood Insurance Program (NFIP).
- II. Authorities:** FMA was created pursuant to Section 1366 of the National Flood Insurance Act of 1968 (NFIA), (42 USC 4104c), as amended by the National Flood Insurance Reform Act of 1994 (NFIRA) with the goal of reducing or eliminating claims under the National Flood Insurance Program (NFIP). FMA regulations are in 44 CFR Part 78. The primary funding source for the National Flood Mitigation Fund (NFMF) is the National Flood Insurance Fund (NFIF). FMA funding is capped at \$20 million annually.
- III. Objectives and Processes:** FEMA distributes FMA funds to States that, in turn, provide funds to communities. The State serves as the grantee and program administrator for the FMA. There are statutory limits on the frequency of grants and the amount of funding that can be allocated to a State or community in any 5-year period. These limits are more specifically described in the FMA Program Guidance, FEMA 299, “Flood Mitigation Assistance Guidance.”
- IV. Funding Uses:** Three types of grants are available under FMA: Planning, Project, and Technical Assistance.
- FMA Planning Grants are available to States and communities to prepare Flood Mitigation Plans. Using the criteria specified in 44 CFR Part 201, Hazard Mitigation Planning, FMA Planning Grants may also be used to fund the flood hazard portion of State and local multi-hazard mitigation plans. These criteria are more stringent than the FMA planning regulations in 44 CFR Part 78.5; however, communities with Mitigation Plans that meet these criteria may be eligible for other types of grant assistance to fund mitigation activities (HMGP and PDM) in addition to FMA assistance.
 - FMA Project Grants are available to States and NFIP-participating communities to implement measures to reduce flood losses. In compliance with the NFIA, Section 1366(e), States and communities receiving FMA project funds must have FEMA-approved Flood Mitigation Plans (or multi-hazard plans which address flood hazards) in place prior to receiving FMA Project Grant funds.
 - Ten percent of the Project Grant allocation is made available as a Technical Assistance Grant to States, and to NFIP-participating Indian

Tribal governments and communities (acting as grantees) in States that do not receive annual FMA funding. These funds may be used to help administer the program. Technical Assistance Grant funds may be reallocated as FMA Project Grants to the same State. However, Technical Assistance Grant funds may not be reallocated as FMA Planning Grants because such an action may cause the FMA to exceed the annual national funding limit for planning grants of \$1.5 million.

- V. **FY 2004 Emphasis:** The FY 2004 emphasis provides that States shall only use FMA Planning, Project, and Technical Assistance Grant funds toward reducing the number of repetitive loss properties insured by the NFIP (except as required for Congressionally mandated projects). The FY 2004 emphasis supersedes sections of the FMA Guidance Handbook (FEMA 299) that discusses the prioritization of planning and project grant applications by States, Flood Mitigation Plan requirements, and the use of Technical Assistance Grant funds. This is consistent with the original legislative language of Section 1366(e)(4) of the NFIA, which states that: “The Director shall make every effort to provide mitigation assistance under this section for mitigation plans proposing activities for repetitive loss structures and structures that have incurred substantial damage.” More specifically, the emphasis is on addressing repetitive loss properties identified in the Agency’s Repetitive Loss Strategy. The repetitive loss property list is available to FEMA Regional Offices on the NFIP Bureau site <http://166.112.164.203/bureauet/>. More specific information about the appropriate use and protection of NFIP repetitive loss property data by Regions, States, and communities, is provided below.

1. **Privacy of Repetitive Loss Data.** Since States and communities cannot access Bureauet, it is the responsibility of Regional staff to provide repetitive loss property information on a regular basis. Regions provide this data to States and community governments for the specific purpose of mitigation planning, pursuant to notices in the Federal Register. When these records are provided to States and communities, Regions should notify recipients in writing that the records relating to individuals and individual properties are being made available through the FEMA routine use policy for the sole purpose of mitigation planning, that the records are protected pursuant to the Privacy Act of 1974 (5 USC 552a), and that the records should not be publicly disclosed. FEMA shares this information at its discretion and may choose not to provide this information in the future to States or communities if it finds unauthorized uses of this information have been made. While States and communities that receive FMA Planning Grant funds are required to consider repetitive loss properties and to explain these considerations in their Flood Mitigation or multi-hazard plans, they are not required to attach lists in the plans or otherwise make information relevant to individual

properties, such as property owner names, addresses, and claims data, available to the public. For example, State and community plans may refer to geographic areas or neighborhoods where concentrations of repetitive loss properties are located for the purpose of identifying and prioritizing areas for mitigation projects, or the plans may list the number of repetitive loss properties with aggregate loss repetitive data. Regional FMA Coordinators should use the FEMA plan review and approval process to ensure that future FMA plans do not contain data protected by the Privacy Act. Individuals may seek access to their own information from States and communities such as whether their property address is on the State or community repetitive loss list and their relative ranking (e.g., 15th out of 25 identified properties). The State should also check with its Attorney General about applicable State public records acts or privacy laws that may affect the disclosure and use of repetitive loss data.

2. **State Ranking of Planning Grants:** States shall give higher priority to Planning Grant applications from communities that specifically address NFIP repetitive loss properties.
3. **State Ranking Project Grants:** States shall focus the use of their Project Grant funds to assist communities that submit applications to mitigate NFIP repetitive loss properties. The list of eligible project grant activities remains the same, along with the minimum project eligibility criteria. However, we encourage States to prioritize the use of funds and focus strongly on projects that are most cost-effective and reduce damages to repetitive loss properties.
4. **State Use of Technical Assistance Grants:** States shall use of their Technical Assistance Grant funds to assist communities that submit applications to mitigate NFIP repetitive loss structures, and to support statewide efforts to reduce the number of repetitive loss structures. The list of eligible technical assistance activities remains the same.

VI. **Grantee Eligibility:**

- **Planning Grants:** Any State agency, NFIP-participating Indian Tribal government, or NFIP-participating community is eligible to receive FMA Planning Grant funds. However, communities or Indian Tribal governments that are suspended, withdrawn, or on probation from the NFIP are not eligible for FMA Planning Grants. There are limits on the frequency of FMA Planning Grants and the amount of funding that can be allocated to a State or community in any 5-year period, which are described Chapter 6 of FEMA 299, “Flood Mitigation Assistance Guidance.”

- **Technical Assistance Grants:** States, and NFIP-participating Indian Tribal governments and NFIP-participating communities (acting as grantees) in States that do not receive annual FMA funding, are eligible to apply for Technical Assistance Grants. Eligible States may allocate a portion of their Technical Assistance Grant funds to communities to support approved project and planning activities. However, the actual amount of Technical Assistance Grant funds allocated by eligible States to communities is limited to 10% of the funding approved for local project or planning activities.
- **Project Grants:** Any State agency, NFIP-participating Indian Tribal government, or NFIP-participating community is eligible to receive FMA Project Grant funds. However, communities that are suspended, withdrawn, or on probation from the NFIP are not eligible for FMA Project Grants. There are limits on the amount of FMA Project Grant funds that can be allocated to a State or community over any 5-year period, which are described Chapter 6 of FEMA 299. Additional eligibility criteria for all applicants for FMA Project Grants are the following:

A project must, at a minimum, be:

- Cost effective;
- Cost beneficial to the National Flood Insurance Fund;
- Technically feasible; and
- Physically located in a NFIP participating community or must reduce future flood damages in an NFIP-participating community.

A project must also conform with:

- The minimum standards of the NFIP Floodplain Management Regulations;
- The applicant's FEMA-approved Flood Mitigation Plan or flood hazard component of the applicant's 44 CFR Part 201compliant multi-hazard Mitigation plan; and
- All applicable laws and regulations such as Federal and State environmental standards and local building codes.

VII. Application Information: Because of differing performance periods for each grant type, it is recommended that State applicants submit separate SF 424(s) for Planning, Project, and Technical Assistance Grants. The e-Grants system includes of all necessary FEMA and other Federal Forms for completing grant applications. Paper-based application packages should include the following:

- Application for Federal Assistance, Standard Form 424;
- Budget Information – Non-Construction Program, FEMA 20-20;
- Summary Sheet for Assurances and Certification, FEMA 20-16;

- Assurances –Non Construction Program, FEMA 20-16A;
- Certification Regarding Lobbying, Debarment, Suspension and other Responsible Matters; and Drug-Free Workplace Requirements, FEMA Form 20-16C;
- Disclosure of Lobbying Activities, Standard Form LLL;
- FMA Grant Agreement Articles; and,
- Program Narrative identifying the activities for which FMA planning, project, or technical assistance funding is requested.

- VIII. Eligible and Ineligible Costs: FMA funds may not be used for flood studies or map modernization, which are covered by other FEMA programs.** FMA Technical Assistance Grant funds may be used to pay the federal share of the State FMA Point-of-Contact’s salary, and his/her FMA related training and travel expenses. States may use 15% of their FMA Technical Assistance Grant funds for purchasing computer equipment necessary to support their FMA-related NEMIS or e-Grants requirements.
- IX. Matching:** FEMA may contribute up to 75 percent of the total eligible project costs approved in the grant award. At least 25 percent of the total eligible costs must be provided by a nonfederal source. Of the 25 percent, no more that half can be provided as in-kind contributions.
- X. Cost Overruns and Underruns:** Regions should monitor and request States to inform them immediately if a cost underrun is anticipated for an obligated project. This way the Region can promptly deobligate grant funds and re-obligate them to another State if the funds are still within their two-year period of availability, or return expired funds to the NFIF. If cost overruns are anticipated for obligated projects, the State shall inform the Regional Director who will verify the circumstances and approve or disapprove requests for additional funding. Regions may prioritize the use of current year funding for such cases where overruns incurred due to unforeseen but technically valid circumstances that have changed the project’s course and required modifications to the original statement of work. When States receive additional FMA funds to absorb overruns, they must cost share these funds at the 25% level, of which half must be made as a cash contribution. If the Regional Director denies requests for additional FMA funds for projects that have incurred overruns, then the State may appeal to the Mitigation Planning and Delivery Division Director for a final review of the decision. If headquarters concurs with the Regional Director’s decision to deny the State’s request, the State or community cost sharing the original grant must pay for any overrun costs above the amount approved in the grant award.