

NAVARRO COUNTY COMMISSIONER'S COURT

A SPECIAL MEETING OF THE NAVARRO COUNTY COMMISSIONER'S COURT WAS HELD ON MONDAY 17th DAY OF SEPTEMBER, 2007 AT 8:30 A.M., IN THE NAVARRO COUNTY COURTHOUSE, CORSICANA, TEXAS. PRESIDING JUDGE H.M. DAVENPORT, COMMISSIONER'S PRESENT KIT HERRINGTON, FAITH HOLT, WILLIAM BALDWIN, AND JAMES OLSEN.

- 1. MOTION TO CONVENE BY BALDWIN SEC BY HERRINGTON
ALL VOTED AYE
- 2. PRAYER BY OLSEN

PLEDGE OF ALLEGIANCE
- 3. PRESENTATION BY PETER PETEMKIN OF ADJUSTERS
INTERNATIONAL
FEMA INFORMATION
- 4. MOTION TO ADJOURN BY HERRINGTON SEC BY HOLT
ALL VOTED AYE

THESE MINUTES ARE HEREBY APPROVED THIS _____ DAY OF SEPTEMBER 2007.

JUDGE HM DAVENPORT *H.M. Davenport*

COMR.PCT.1 KIT HERRINGTON *Kit Herrington*

COMR.PCT.2 FAITH HOLT *Faith D. Holt*

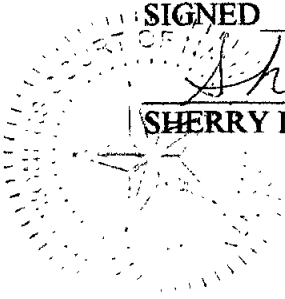
COMR.PCT.3 WILLIAM BALDWIN *William Baldwin*

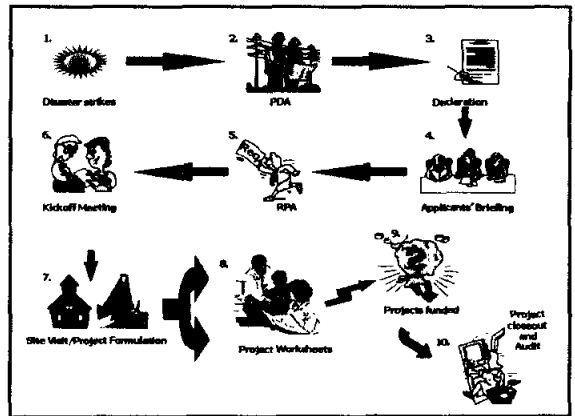
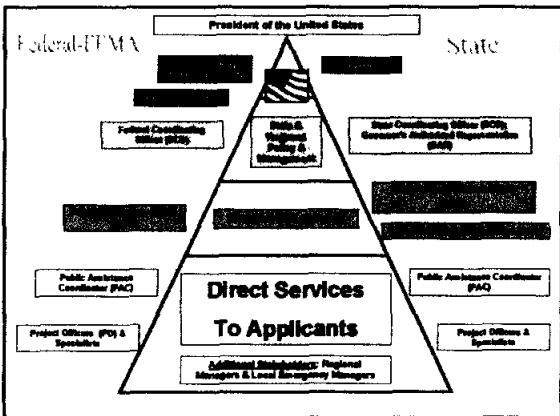
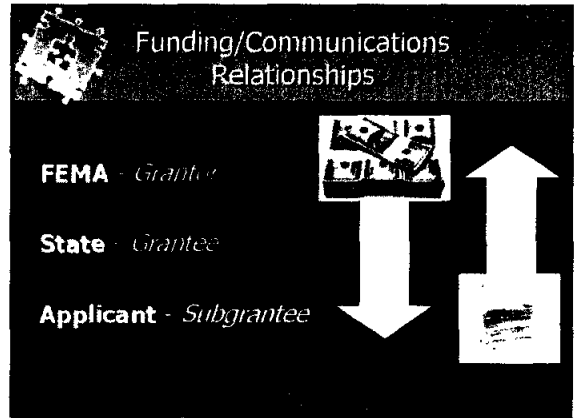
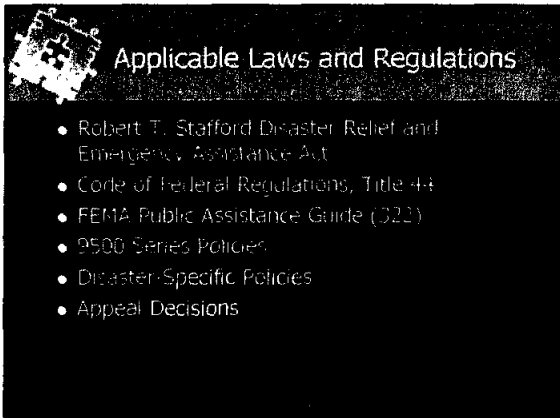
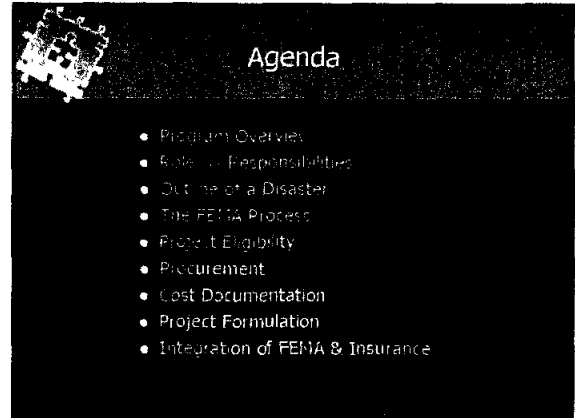
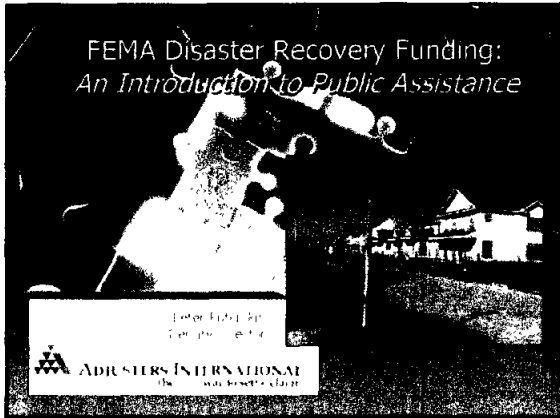
COMR.PCT.4 JAMES OLSEN *James Olsen*


I, SHERRY DOWD, NAVARRO COUNTY CLERK, ATTEST THAT THE FOREGOING IS A TRUE AND ACCURATE ACCOUNTING OF THE COMMISSIONERS COURT'S AUTHORIZED PROCEEDING FOR SEPTEMBER 17TH, 2007

SIGNED 21 DAY OF SEPTEMBER 2007

Sherry Dowd
SHERRY DOWD, COUNTY CLERK






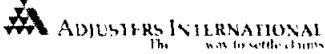



Administrative Deadlines



- **Request for Public Assistance:** 30 days after declaration
- **Small Project PWs:** 30 days after kick-off (20% "Validation")
- **List of Damages:** 60 days in writing after kick-off
- **Appeal:** 60 days following an action by FEMA
- **Progress Reports:** Quarterly to Grantee



Questions?

The FEMA Process


Key Acronyms

• A&E: Architect and Engineer	• OIG: Office of Inspector General
• CFR: Code of Federal Regulations	• OMB: Office of Management and Budget
• DFO: Design Federal Officer	• PA: Public Assistance
• DRM: Disaster Recovery Management	• PAC: Public Assistance Coordinator
• FCO: Federal Coordinating Officer	• PAP: Public Assistance Plan
• FEMA: Federal Emergency Management Agency	• PW: Public Works
• FIR: Federal Interagency Request for Proposal	• PAO: Public Assistance Officer
• GAR: Grant Agreement Request	• PW: Public Works
• RD: Request for Disaster Relief	• SHPO: State Historic Preservation Officer

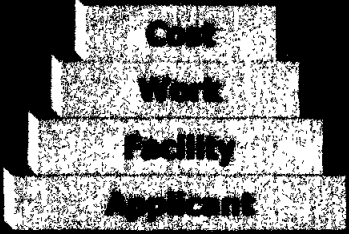



Applicant's Responsibilities

• Participate Drive	• May formulate small projects
• Applicant Briefing	• Drive formulation of large projects
• Request For Public Assistance (RPA)	• Identify Special Consideration Issues
• Kickoff Meeting	• Documentation
• List of damages	• Initiates closeout

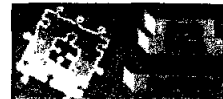


General Program Eligibility






- State government agencies or departments
- Local governments & authorities
- Indian tribal governments and Alaskan native villages
- Certain Private Non-Profit organizations




What is a Facility?

- Buildings
- Furniture & equipment
- Vehicles
- Contents
- Parks
- Roads
- Utilities
- Dams
- Library books
- Sewer & water lines




Eligibility Criteria

- Legal responsibility
- Other Federal Agencies (OFAs)
- Facility use
 - Active use
 - Alternate use
- Under construction
- Repair vs. Replacement




Eligibility Criteria

- Must be required as a direct result of the declared event
- Must be within the designated disaster area
- Must be the legal responsibility of an eligible Applicant



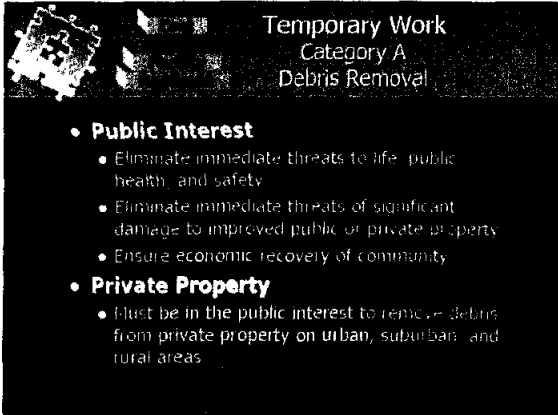
Categories of Work

- Emergency work / Temporary
 - Categories A and B
- Permanent work
 - Categories C, D, E, F, and G



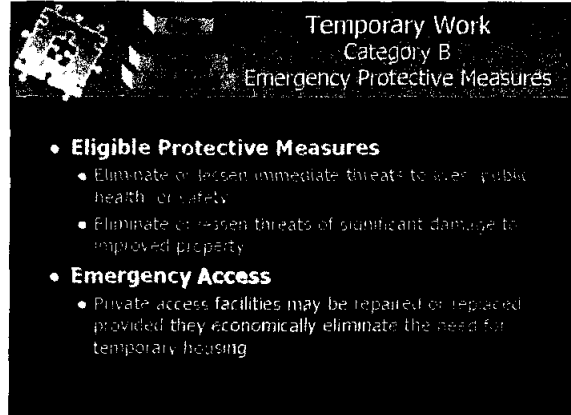
Categories of Work

- Category A: Emergency Work
- Category B: Emergency Work
- Category C: Road System Repairs
- Category D: Water Control Facilities
- Category E: Buildings and Equipment
- Category F: Public Utility Systems
- Category G: Parks, Recreation & Other



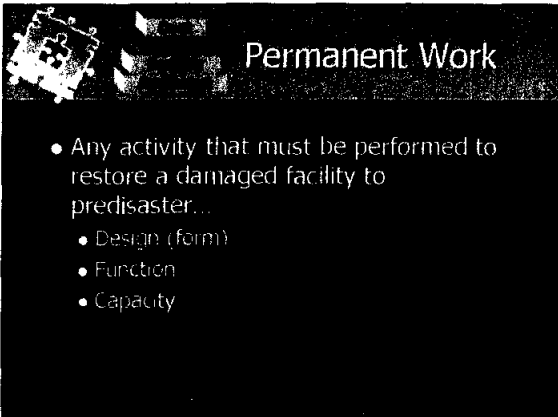
**Temporary Work
Category A
Debris Removal**

- **Public Interest**
 - Eliminate immediate threats to life, public health, and safety
 - Eliminate immediate threats of significant damage to improved public or private property
 - Ensure economic recovery of community
- **Private Property**
 - Must be in the public interest to remove debris from private property on urban, suburban, and rural areas



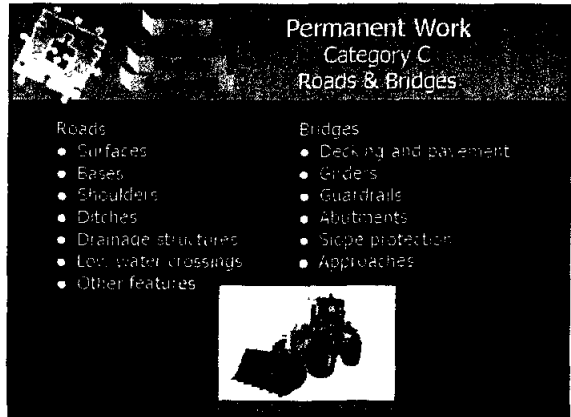
**Temporary Work
Category B
Emergency Protective Measures**

- **Eligible Protective Measures**
 - Eliminate or lessen immediate threats to life, public health, or safety
 - Eliminate or lessen threats of significant damage to improved property
- **Emergency Access**
 - Private access facilities may be repaired or replaced provided they economically eliminate the need for temporary housing




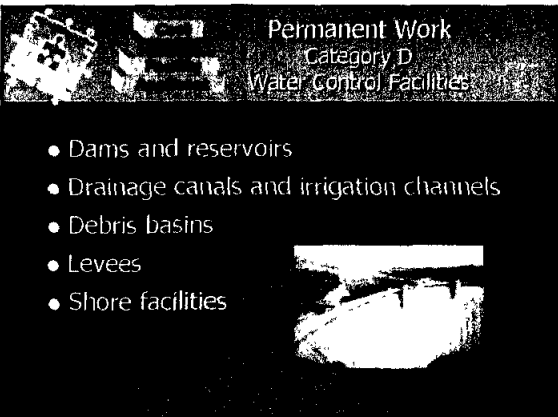
Permanent Work

- Any activity that must be performed to restore a damaged facility to pre-disaster...
 - Design (form)
 - Function
 - Capacity




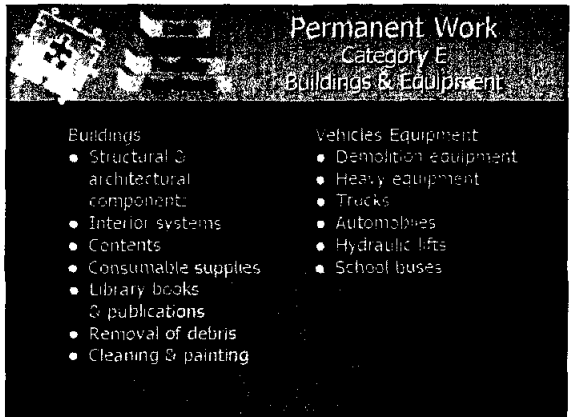
**Permanent Work
Category C
Roads & Bridges**

Roads	Bridges
<ul style="list-style-type: none"> • Surfaces • Bases • Shoulders • Ditches • Drainage structures • Low water crossings • Other features 	<ul style="list-style-type: none"> • Decking and pavement • Girders • Guardrails • Abutments • Sill protection • Approaches

**Permanent Work
Category D
Water Control Facilities**

- Dams and reservoirs
- Drainage canals and irrigation channels
- Debris basins
- Levees
- Shore facilities





**Permanent Work
Category E
Buildings & Equipment**

Buildings	Vehicles & Equipment
<ul style="list-style-type: none"> • Structural & architectural components • Interior systems • Contents • Consumable supplies • Library books & publications • Removal of debris • Cleaning & painting 	<ul style="list-style-type: none"> • Demolition equipment • Heavy equipment • Trucks • Automobiles • Hydraulic lifts • School buses

Permanent Work Category F Public Utilities

- Sanitary, Sewer & Water Lines
- Power Generation, Transmission & Distribution
- Telephone & Communication Systems
- Solid Waste Disposal
- Lift & Pump Stations
- Railroads




Permanent Work Category G Parks, Recreational, Other

- Playground equipment
- Ball fields & associated facilities
- Swimming pools
- Tennis courts
- Boat docks & ramps
- Piers
- Golf courses
- Public galleries
- Improved & maintained beaches

Timelines & Extensions

Statute of Limitations

Statutory	State	FEDIA
AOB (Temporary)		
C-G (Permanent)		



Other Considerations

- Imposition of Lien to 60th Project
- Handover - Kick The can
- Pre-incident Damage
- Bid and Delivery
- Code & Standards
- 30 - Rule (Repair vs. Replacement)
- Remediation

Questions?



ADJUSTERS INTERNATIONAL
The right way to settle claims™

Cost Eligibility

- Reasonable and necessary to complete work
- Compliant with Federal, State and Local requirements for procurement
- Restricted by all applicable credits including insurance proceeds and salvage values

What's Reasonable?

Reasonable costs. A cost is reasonable if, in its nature and amount, it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost.

— OMB Circular A-87

Eligible Cost

	Emergency Work Cat A, B	Permanent Work Cat C-G
Labor (reg)	NO	Yes
Labor (ot)	Yes	Yes
Equipment	Yes	Yes
Materials	Yes	Yes
Contracts	Yes	Yes

Labor Categories

Who – What – When – Where – Why

- Force Account labor
- Reassigned employees
- Temporary employees
- Volunteer labor

Labor Categories


- Regular time and overtime
- Compensatory time
- Force account mechanics
- Foremen and supervisors
- Fringe benefits

Employee (Fringe) Benefits

- Components
 - Retirement
 - Health
 - vision & Dental
 - Worker's Comp
 - Disability
 - Life Insurance
 - Unemployment Insurance
- Varying benefits
 - Full vs. part-time
 - Safety vs. non-safety
 - Regular vs. overtime



Other Considerations

- Equipment
- Contracts
- Materials




Summary of Eligible Costs

- Force account labor
- Force account equipment
- Force account materials
- Purchase orders and contracts
 - Rented equipment
 - Purchased materials
 - ASE consultants
 - Contractors

Procurement


- Contracts must be reasonable
- FEMA finds 4 methods of contracting acceptable:
 - Stream purchase procedures, \$100,000 or below, by obtaining price quotes from several vendors
 - Sealed bids
 - Competitive proposals, which are based more on unique qualifications



Procurement


Noncompetitive proposals

- Inadequate number of available contractors and to the extent that exhaustive methods to find competitors would be cost-prohibitive



Procurement


- FEMA reimburses for 3 types of contracts:
 - Lump Sum
 - Unit Price
 - Cost plus Fixed Fee (one of the 2 above with a contractor fee added to it)




Procurement

Time and materials contracts should be avoided.

- May be allowed if a clear scope is not possible
- Cost ceiling must be applied
- Applicant must monitor performance
- Limited to about 3 days of work



Questions?



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The *easy* way to settle claims™


Documentation

- Create a filing system
- Designate a specific person to coordinate the accumulation of records
- Separate disaster-related activities from normal activities – do not commingle disasters
- Summarize costs by category by PW by department

Physical Equipment	Materials	Transport
<ul style="list-style-type: none"> • Make sure all equipment is fully inventoried • Vendor name • Type of equipment used • Storage room • Make cost • Date and amount paid • A detailed description of the work to which the equipment was used and if what location it was used • Project/PW number 	<ul style="list-style-type: none"> • Make sure all materials are fully inventoried • Vendor name • Type of material • Quantity • Unit price • Total price • Date purchased • Details used • Used by • Size / location • Description of physical object • Project/PW number 	<ul style="list-style-type: none"> • Make sure all trucks, trailers, etc. are fully inventoried • Name of company • Date, length of time and hours worked on the project • Description of work performed • Date work performed • Description of work performed • Location of work performed • Project/PW number
Equipment Usage	Contractor Work	
<ul style="list-style-type: none"> • Make sure all equipment is fully inventoried • Type of equipment • Work performed • Employee • Employee using the equipment • Length of time used • Project/PW number 	<ul style="list-style-type: none"> • Make sure all contractor work is fully inventoried • Contractor name • Amount of contract • Date of contract • Description of work performed • Dates worked by contractor • Scope of work • Location of work performed 	<ul style="list-style-type: none"> • Make sure all contractor work is fully inventoried • Project/PW number • Make sure all contractor work is fully inventoried • Description of work performed • Dates worked by contractor • Scope of work • Location of work performed • Project/PW number

Documentation

- Audit trail tracking costs to the PW
- Cost summaries to source documents
- Filing system
- Reconciliation to accounting system



Audit Findings Resulting in Loss of Funding

- Failure to adequately describe work performed
- Claiming indirect costs
- Lack of documentation for fringe benefits
- Leave time
- Inability to reconcile equipment hours
- Failure to provide clear audit trail
- Failure to segregate ineligible work
- Applicant fails to gain permission for Alternate or Improved projects

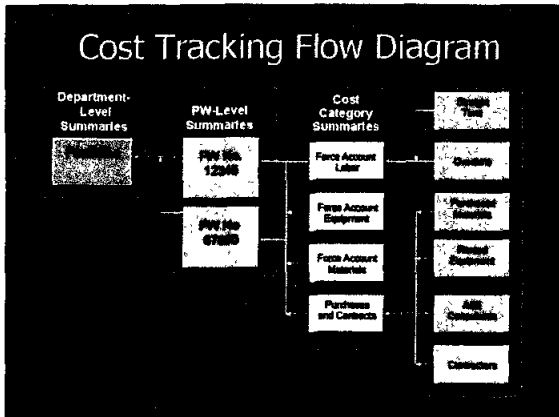
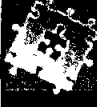
Records Retention

All records relating to the grant expenditures must be retained for 3 years from the date of final payment

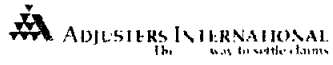


Administrative Allowance

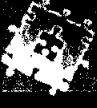
- First \$100,000 of net eligible costs: Allowance 3 percent of the net eligible costs (\$3,000)
- Next \$900,000 of net eligible costs: Allowance 2 percent of that \$900,000 (\$18,000)
- Next \$4,000,000 of net eligible costs: Allowance 1 percent of that \$4,000,000 (\$40,000)
- Eligible costs in excess of \$5,000,000: Allowance 1/2 percent of that excess

Questions?



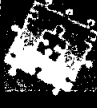
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Project Formulation

Objectives

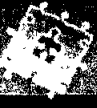
- Describe how projects are formulated.
- Explain roles and responsibilities.
- Discuss the various types of projects




What Is Project Formulation?

Using the *Project Worksheets* to:


- Combine **associated work** into projects
- Develop scopes of work & cost **estimates**
- Identify **Special Considerations**
- Prepare **documentation**



Who Is Involved?




Applicant State Federal



Project Worksheets


Project Worksheets are FEMA funding

Grant Applications




Project Worksheets

- Cannot be < \$1,000
- Damage Description
- Scope of Work
- Cost Estimate
- Preliminary Environmental Review Form
- Maps
- Sketches



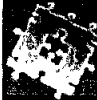
Project Worksheets

- Calculations
- Labor, Equipment, Materials
- Hazard Mitigation Proposal (HMP)
- Photos
- Back-up Documentation



The Project Worksheet


- Specific site
- Specific facility
- System/Works
- Type of damage
- Jurisdiction
- Method of work
- Complexity
- Special Considerations



Developing a Cost Estimate

Methods


- FEMA Cost Guides
- Time and materials - Unit cost
- Competitively bid contracts
- Historical
- National estimating guides: R.S. MEANS
- CEF - Cost Estimating Format



Types of Projects


Small Large

Improved Advanced




Small Projects

- Small Projects are for items or locations with eligible costs below \$59,700 (changes annually)
- Applicants may write Small PWs
 - Small Project PWs submitted within 30 days of the kick-off meeting are subject to 20 "Validation"
 - Those submitted later are all subject to review.
- Small Projects are obligated and funds are made available to the Applicant




Small Projects

- Unlike a Large Project, small projects are based on an estimate - drawings
 - Cost estimate
 - Cost uncertainty



Small Projects

- Advantages?
- Disadvantages?




Large Projects

- Large projects are for items of facilities with higher cost (greater than \$100,000)
 - Must have estimates and Scope of Work (SOW) prepared by contractor or other involved
 - Applicant draws down funds as the project is being completed
 - Once the project is complete, the State (via project-closeout) determines the final eligible cost and submits to FEMA




Large Projects

- Advantages?
- Disadvantages?




Special Considerations

- Does the damaged facility or item of work have insurance and/or is it an insurable risk?
- Is the damaged facility located within a floodplain or coastal high hazard area, or does it have an impact on a floodplain or wetland?
- Is the damaged facility or item of work located within or adjacent to a Coastal Barrier Resource System Unit or an Obsolete Protected Area?
- Will the proposed facility repairs contribute to enhance the pre-disaster conditions (e.g., footprint, material, location, capacity, use or function)?
- Does the applicant have a hazard mitigation proposal or would the applicant like technical assistance for a hazard mitigation proposal?



Special Considerations

- Is the damaged facility on the National Register of Historic Places or the state historic site or is it older than 50 years. Are there other similar buildings near the site?
- Are there any pre-disaster undisturbed areas (e.g., near the project site) Are there large tracts of forestland?
- Are there any hazardous materials or equipment at the damaged facility and/or item of work?
- Are there any other environmental or controversial issues associated with the damaged facility and/or item of work?

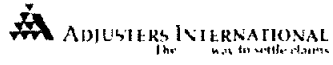


Grant Reviews - Obligation

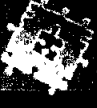
- Applicant Review
- General Review
- Technical Review
 - Regulations/Policies
 - A & E
 - Historic
 - Environmental
 - Insurance
- Mitigation (Section 406)
- NEMIS




Questions?



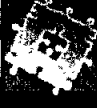
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The right way to settle claims™



The Integration of FEMA & Insurance




FEMA INSURANCE




Stafford Act, Section 312

- Disaster assistance will not be provided for damages or losses covered by insurance.
- Disaster assistance provided by FEMA is intended to **supplement financial assistance** from other sources.




Insurance Considerations

- No insurance
- Deductibles
- Self-Insured Retention (SIR)
- Mandatory reductions (NFIP/SFHA)
- Insurance apportionment




Insurance

- Eligible funds will be reduced by the amount of insurance recovery
 - FEMA must agree: settlement is reasonable
 - In the case of a "Blanket" policy, reductions will be based on FEMA's concept of "Apportionment"



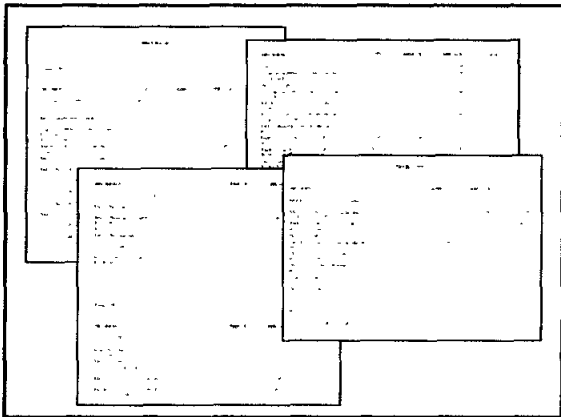

Insurance Apportionment

Insured FEMA-eligible	Insured FEMA-ineligible
Uninsured FEMA-eligible	Uninsured FEMA-ineligible




Insurance Settlement Documentation

- Details, specificity
- By damaged facility
- By coverage
- Direct & indirect losses
- By agent of loss (peril)


Clouded Settlements

- Raise questions only FEMA can resolve
 - Available insurance proceeds
 - Estimated insurance proceeds
 - Actual insurance proceeds




Flood Insurance

- In a Special Flood Hazard Area (SFHA), amount of eligible funding for damages caused by flood is reduced by the maximum amount of coverage available under NFIP "standard" flood insurance policy:
 - \$500,000 Building
 - \$500,000 Contents
 - \$5,000 deductible
- Damaged facilities are valued on an Actual Cash Value (ACV) basis




Stafford Act, Section 311

- ...with respect to any property to be replaced, restored, repaired, or constructed with such assistance, such types and extent of insurance will be **obtained and maintained** as may be reasonably available, adequate, and necessary, to protect against future loss to such property....




Insurance – Obtain & Maintain

- Applicants must obtain and maintain coverage for insurable items which receive Federal funding for repair/replacement
 - Damages must be greater than \$5,000
 - Waivers are available under certain parameters
 - Cost too great
 - Unavailable
 - Self-insurance – (States)

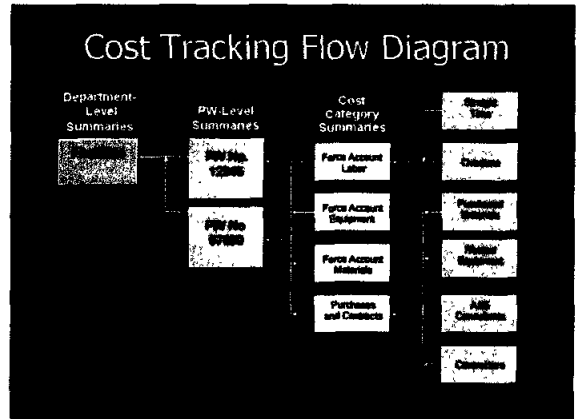



Close-out The End Game

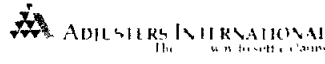


Accounting & Audit Requirements

- Documentation from Day One
- Filing system
- Ability to reconcile/track all costs associated with PWs
- Close-out vs. FEMA Office of the Inspector General (OIG) audit

Discussion




Adjusters International

www.adjustersinternational.com
800-382-2468



FEMA

Date: April 17, 2007
Contact: FEMA News Desk
202-646-4600

Fact Sheet

PUBLIC ASSISTANCE PILOT PROGRAM

The U.S. Department of Homeland Security's Federal Emergency Management Agency (FEMA) in coordination with State and local governments will conduct a Public Assistance (PA) Pilot Program designed to reduce the Federal costs of administering the PA Grant Program, increase flexibility in administering the PA Grant Program, and expedite the much-needed recovery dollars to the program's applicants following disasters.

FEMA is developing the PA Pilot Program in response to the 2007 DHS Appropriations Act. The Pilot procedures are applicable to debris removal and the repair, restoration, and replacement of damaged facilities.

Beginning in the summer of 2007, FEMA will implement the PA Pilot Program nationwide during disaster recovery operations. Participation in the PA Pilot Program is open to State and local governments on a voluntary basis.

FEMA expects to meet the goals of the Pilot Program by focusing on four key procedures:

- Providing grants on the basis of estimates.
- Increasing the Federal cost share to applicants that have a FEMA-approved debris management plan and at least two pre-qualified debris and wreckage removal contractor identified prior to a disaster.
- Allowing applicants to retain any revenue from recycling disaster debris as an incentive to recycle debris.
- Reimbursing the straight- or regular-time salaries and benefits of an applicant's permanently employed staff that performs debris-related activities.

GRANTS ON THE BASIS OF ESTIMATES

Following a Presidential disaster declaration, a Federal, State and local team formulates projects, emergency work, or the repair, restoration, or replacement of disaster-damaged debris removal, may include public buildings, utilities, and other infrastructure. The team identifies facilities. Facilities Project Worksheet (PW) for each project identified. Currently, FEMA reviews and approves a Federal share of projects with estimates greater than \$59,700 after applicants submit the costs.

FACT SHEET – PUBLIC ASSISTANCE PILOT PROGRAM

Under the Pilot Program, FEMA will pay the Federal share of project costs upon project approval. This will allow applicants greater flexibility in completing the projects. FEMA anticipates that paying grants on the basis of estimates will deliver Federal funds faster and more efficiently to the applicants recovering from a disaster.

DEBRIS REMOVAL

The Pilot Program will also test three additional procedures in the hopes of improving debris operations. These procedures are aimed at strengthening State and local capabilities, while increasing the efficiency of the PA program.

INCREASED FEDERAL SHARE INCENTIVE

Under this procedure, FEMA will increase the Federal cost share of debris removal work for State and local governments that have a FEMA-approved debris management plan and have pre-qualified two or more debris removal contractors before a disaster happens. This allows FEMA to provide a financial incentive for efforts to increase the efficiency of disaster recovery.

DEBRIS RECYCLING

Communities are encouraged to recycle debris as part of their overall debris operations. As a financial incentive to encourage recycling, communities will retain any funds generated from recycling debris.

FORCE ACCOUNT LABOR

Under the PA Pilot Program, applicants will be reimbursed for the straight-time salaries and benefits of their permanent employees that perform eligible debris work. Under the current PA Program, only overtime expenses of these employees are eligible. This procedure will provide an incentive to encourage communities to build their own capabilities for activities such as debris removal and monitoring of debris operations.

FEMA manages federal response and recovery efforts following any national incident, initiates mitigation activities and manages the National Flood Insurance Program. FEMA works closely with state and local emergency managers, law enforcement personnel, firefighters and other first responders. FEMA became part of the U.S. Department of Homeland Security on March 1, 2003.

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9526.1 Hazard Mitigation Funding Under Section 406 (Stafford Act)

Appendix (4/29/98)

The following potential mitigation measures (reference: See Paragraph 7.c. of the policy) are determined to be cost-effective if they:

- do not exceed 100% of project cost,
- are appropriate to the disaster damage,
- will prevent future similar damage,
- are directly related to the eligible damaged elements,
- do not increase risks or cause adverse effects to the property or elsewhere,
- meet standards of good professional judgment, and
- otherwise meet requirements stipulated in the policy on Hazard Mitigation Funding Under Section 406 (Stafford Act), RR Policy Number: 9526.1

This list will continue to be evaluated and will evolve over time as new information becomes available.

1. Infrastructure Systems:

A. Drainage/crossings and bridges

1. Drainage structures - When drainage structures are destroyed, replacing the structure with multiple structures or a larger structure. However, structures need to be considered with regard to a total drainage system and should not be replaced without a watershed hydrology study.
2. Low span bridges - Demolish/replace damaged low span bridges or other crossings that act to collect debris, increase flooding, and/or can be severely damaged.
3. Low-water crossings - Where traffic counts are low, replacing bridges with carefully placed low-water crossings.
4. Debris traps - Installing traps upstream of a culvert to prevent culverts from becoming clogged by vegetation.
5. Gabion baskets, riprap, sheetpiling, and geotextile fabric installation - Installation to control erosion.
6. Headwalls and wing walls - Installation to control erosion.
7. Restraining cables on bridges - Installation of cables to restrain a bridge from being washed off piers or abutments.

B. Sanitary and storm sewer systems

1. Access covers - When feasible, access covers can be elevated to the hydraulic grade line. There are a number of devices that prevent infiltration into access holes.
2. Sewer lines

- a. Repair, lining or encasement of damaged sections to prevent infiltration or structural collapse.
 - b. Relocating sections of damaged sewer lines to avoid damage from slip-out on roads or to avoid damage to lines crossing a stream or drainage area.
 - 3. Pump stations
 - a. Equipment or controls in a pump station that are subject to damage from the 100-year flood can be elevated. Pump station buildings can be dry floodproofed.
 - b. Installation of camlocks, transfer switches, and electrical panels to ease the hook-up of portable emergency generators.
- C. Wastewater treatment plants**
 - 1. Elevation of equipment and controls that can be elevated easily.
 - 2. Dry or wet floodproofing of buildings.
- D. Potable water**
 - 1. Well systems -
 - a. Reduction of infiltration and subsequent contamination of the aquifer. Methods include casing the well or raising the elevation of the well head.
 - b. Elevation of controls, mechanical equipment, or electrical service associated with use of the well to protect them from flood damage.
 - 2. Raw water intakes - Strengthening to prevent damage from erosion, scour and flood debris.
 - 3. Water treatment plants -
 - a. Elevation of equipment and controls that can be elevated easily.
 - b. Dry floodproofing.
- E. Electric power distribution**
 - 1. Pad-mounted transformers - elevating above the base flood elevation, or lowering them or burying them in non-flood, high-wind areas.
 - 2. Using multiple poles to support transformers.
 - 3. Burying lines.
 - 4. Anchoring or otherwise protecting fuel tanks from movement in a disaster.
 - 5. Replacing damaged poles with higher-class pole, or with a different material pole such as replacing wood poles with spun concrete.
 - 6. Adding guy wire or other additional support to power lines.
 - 7. Removing large diameter communication lines from power poles.
 - 8. Providing looped distribution service or other redundancies in the electrical service to critical facilities.

- F. **Above ground storage tanks** - Strengthening or stiffening base connections.
 - G. **Underground pipelines** - Installation of shut-off valves (based on accepted practice) so that damaged sections of pipeline can be isolated.
2. **Buildings - General**
- A. **General effects of flood damage** -
 - 1. Buildings substantially damaged under NFIP regulations - Repair, dry floodproofing, or elevation so they are protected to meet minimum NFIP regulations. If the building is replaced, rather than repaired, no Section 406 hazard mitigation funding is appropriate.
 - 2. Buildings not substantially damaged under NFIP regulations - If technically feasible, dry floodproofing. Electrical panels, machinery rooms, emergency generators can be elevated above the BFE or dry floodproofed. If dry floodproofing is not feasible, these buildings should be wet floodproofed.
 - B. **Roofs** - Because the failure of a roof covering can lead to extensive damage to contents and operation, damaged roofing should never be replaced with the same material unless the cause of failure has been identified and corrected.
 - 1. Low slope roofs - Replacement of the entire roof with a roof covering with a secondary membrane and a fully adhered roof covering that is not subject to progressive failure, such as a modified bitumen. Mechanically fastened insulation or membranes are not acceptable.
 - 2. Curbing and flashing - Single membrane and built up roofs can be susceptible to progressive failure from flashing and curbing failure. These items should be inspected and repaired or replaced. National Roofing Contractors can provide technical advice.
 - 3. Ballasted roof systems - Roof systems with gravel or other small ballast should be replaced with ballast of sufficient weight that it does not become airborne causing increased damages.
 - 4. Roof-mounted equipment should be attached to a foundation that will resist expected wind forces.
 - 5. Hurricane clips - Hurricane clips may be recommended for use in high-wind areas.
 - C. **Shutters** - In areas subject to hurricane winds, shutters are appropriate in the following areas:
 - 1. All windows on critical facilities such as hospitals.
 - 2. The lower floors of buildings with windows most likely to be struck by debris.
 - 3. Windows of buildings with very high value contents that can be damaged by water (such as libraries and document centers).
 - 4. Windows of buildings subject to debris from nearby ballasted roofs, metal buildings, manufactured homes or other structures likely to fail and result in debris.

- D. **Anchoring** - Anchoring of mechanical and electrical equipment in critical facilities.
- E. **Flexible piping** - Installation of flexible piping at pipe/conduit connections to equipment to accommodate expected movement in an earthquake.
- F. **Bracing** -
 - a. Bracing of overhead pipes and electrical lines to meet seismic loads.
 - b. Bracing interior walls and partitions that could collapse, preventing safe exit from the building.
 - c. Bracing parapets, anchoring veneer or cladding, and bracing other non-structural elements that could collapse and cause injury or block safe exit of a building during an earthquake.
- G. **Replacement of glass** - Replacement of glass (with break resistant material) in mullions to prevent breakage and fallout in the event of building movement.

Last Modified: Monday, 17-Apr-2006 15:10:55 EDT

Insurance Considerations For Applicants

Fact Sheet 9580.3

Overview

Insurance is an important element of the Public Assistance (PA) Program. The purpose of this Fact Sheet is to highlight for you, the Applicant, insurance considerations that will influence your PA grant.

Three key provisions in the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act), 42 U.S.C. 5121-5206, as amended, and 44 Code of Federal Regulations (CFR) §§ 206.250, 206.252, and 206.253 guide our insurance policies and procedures:

1. Disaster assistance provided by FEMA is intended to supplement financial assistance from other sources. Disaster assistance will not be provided for damage or losses covered by insurance. Insurance coverage must be subtracted from all applicable PA Grants in order to avoid duplication of financial assistance. When PA funds are inadvertently obligated for work that is covered by insurance, FEMA must de-obligate the funds. (Stafford Act, Sections 101(b)(4) and 312(c)).
2. The Applicant must obtain insurance on damaged insurable facilities (buildings, equipment, contents, and vehicles) as a condition of receiving PA grant funding. In addition, the Applicant must maintain insurance on those facilities in order to be eligible for PA funding in future disasters. (Stafford Act, Section 311).
3. FEMA will reduce the amount of eligible PA funding for flood losses in the Special Flood Hazard Area (SFHA) (Stafford Act, Section 406(d)). If an eligible insurable facility damaged by flooding is located in a SFHA that has been identified for more than one year by the Administrator and the facility is not covered by flood insurance (or is underinsured) on the date of such flooding, FEMA will reduce PA funding by the maximum amount of insurance proceeds that would have been received had the buildings and contents been fully covered under a National Flood Insurance Program (NFIP) standard flood insurance policy.

Applicant Responsibilities

You, the Applicant, need to:

1. Identify all damaged facilities that were covered by insurance at the time of the disaster and the type and amount of coverage (including deductibles and policy limits) for each.
2. Identify all damaged facilities for which PA funding was received previously and for which you were required to purchase insurance. Failure to maintain the

required insurance for the hazard that caused the disaster will render the facility ineligible for PA funding.

3. Provide all pertinent insurance information (policies, declarations, insuring agreements, conditions, exclusions, and "Statements of Loss") for each insured damaged facility to the State Public Assistance Officer (PAO) as soon as possible.
4. Pursue payment under your insurance policies to maximize potential benefits, thereby avoiding risk of delays or loss of Federal Assistance.
5. Identify all facilities (buildings, equipment, contents, and vehicles) located in the SFHA. If an eligible insurable facility and contents damaged by flooding are located in a SFHA that has been identified for more than one year by the Administrator and the facility is not covered by flood insurance (or is underinsured) on the date of such flooding, FEMA will reduce PA funding by the maximum amount of insurance proceeds that would have been received had the facility and its contents been fully covered under a National Flood Insurance Program (NFIP) standard flood insurance policy.

Insurance Requirements

Further, you, the Applicant:

1. Must purchase and maintain insurance coverage on facilities – buildings, equipment, contents, and vehicles - for the hazard that caused the damage in order to receive PA funding. Such coverage must, at a minimum, be in the amount of the eligible project costs. FEMA will not provide assistance for that facility in future disasters if the requirement to purchase and maintain insurance is not met.
2. Must document insurance coverage by an insurance policy or binder and submit it to FEMA before project approval.
3. Are exempt from this requirement for projects where the total eligible damage is less than \$5,000.

Frequently Asked Questions (FAQs)

1. **Are there pre-disaster insurance requirements for facilities that have not had any prior disaster assistance?**

No. State and local governments, Indian Tribal governments, and private nonprofit (PNP) organizations are not required to purchase insurance prior to a disaster. Note that Stafford Act, Section 406(d) reductions will apply to the facilities located in the SFHA.

2. **If the Applicant had insurance but certain items are not covered, will the PA Program provide funding for these items?**

Any eligible work not covered by an insurance policy may qualify for a PA grant, including non-recoverable depreciation and items exceeding the policy limit, but excluding items for which there was an insurance purchase requirement.

3. Where eligible and ineligible damage is insured in one policy, how will the insurance settlement proceeds be apportioned?

- If the Applicant's insurance policy specifies the amount of coverage for each type of loss, the proceeds will be apportioned according to the policy limits.
- If the insurer provides a Statement of Loss that specifies the amount of proceeds per type of loss, that will be used to determine the proceeds for eligible damage.
- If the Applicant's insurance covers eligible and ineligible damage (for example, property damage and business interruption losses respectively) without specifying limits for each type of loss, the proceeds will be apportioned based on the ratio of the Applicant's eligible to ineligible damage. For example, if the Applicant's total losses are 60 percent property damage and 40 percent business interruption, then 60 percent of the insurance proceeds would be applied to offset the eligible damage, since business interruption losses are not eligible for reimbursement under the PA Program.

4. Does the PA Program fund deductibles?

Yes. FEMA deducts the total insurance proceeds received or anticipated from the total eligible cost of the project. The remaining amount is reimbursed, which usually includes deductibles, non-recoverable costs, or uninsurable losses. However, a deductible is not eligible for the same facility in a subsequent disaster of the same type.

5. Where the deductible covers both eligible and ineligible damage, how will the deductible be apportioned?

Deductibles are apportioned in the same manner as insurance proceeds described in #3 above.

6. What facilities or items require the purchase of insurance as a condition of receiving PA funding from FEMA?

Insurance is required for damage to buildings, equipment, contents, and vehicles exceeding \$5,000.

7. Does the post-disaster insurance purchase requirement apply to a building that is outside of the Special Flood Hazard Area and damaged by flooding?

Yes. Prior to the approval of a PA grant, the Applicant must commit to obtain and maintain insurance to protect against future loss of a property whether the property is inside or outside the SFHA. Federal assistance will not be provided for any facility for which the Applicant has previously received Federal assistance, unless all insurance required as a condition for that assistance has been obtained and maintained.

8. Can self-insurance be used to satisfy the insurance purchase requirement?

Yes, however, self-insurance is an option only for States. The State must submit an established plan of self-insurance to be approved by FEMA's Assistant Administrator of the Disaster Assistance Directorate. Local and Indian Tribal governments and eligible private non-profit organizations may not satisfy the insurance purchase requirement with self-insurance. For flood disasters, State self-insurance plans must follow the standards established in 44 CFR §75.11. These standards will serve as the model for non-flood disaster self-insurance plans as well.

9. What if the Applicant cannot obtain insurance because the facility was destroyed by the disaster?

When a facility is damaged beyond the point of repair, and funding is needed for replacement of the damaged facility, an insurance commitment letter must be submitted by an Applicant to document the outstanding insurance requirement for the replacement facility. The Applicant must provide proof of insurance, for the rebuilt facility, to the State as soon as possible after the insurance is purchased. A project cannot be closed out without proof of purchase (either through policy or binder) of required insurance coverage.

10. Can the insurance requirements be waived?

Yes. If the State Insurance Commissioner certifies that the type and extent of insurance required is not reasonably available, the Regional Administrator may waive the requirement in conformity with the certification. The certification will be effective until the next major disaster. An insurance waiver should:

- a. Be based on a type or class of facility or on a facility-by- facility basis prior to project approval;
- b. Include the applicant's request for exemption, stating the reasons insurance is not reasonable;
- c. Provide information concerning the commercial availability of insurance based on types of risks, classification of facilities, extent of coverage limits, and related premium costs;
- d. Provide justification for certifying that the type and/or extent of insurance is not reasonable for the facility or facilities and hazard in question.

11. What are the consequences of not maintaining insurance on a facility as required by the Stafford Act?

The facility will be ineligible for Federal disaster assistance under the PA Program in future disasters.

12. If an Applicant's insurer is insolvent and is unable to make a full settlement of claims, will the Applicant's eligible damage still be funded by FEMA?

FEMA will fund all eligible costs minus actual or anticipated insurance recoveries. You are expected to take appropriate measures to recover payments owed by the insurer. If the insurer is determined to be legally insolvent, FEMA will consider this when determining PA funding.

13. Is there a requirement to purchase insurance beyond the NFIP maximum?

Yes. Regardless of the NFIP maximum policy amount (currently \$500,000), insurance is required at least up to the amount of eligible damage. Commercial flood insurance policies are readily available for this excess coverage.

//signed// 6/4/2007
David Garratt Date
Acting Assistant Administrator
Disaster Assistance Directorate

9526.1 Hazard Mitigation Funding Under Section 406 (Stafford Act)

1. **Date Signed:** August 13, 1998
2. **RR Policy Number:** 9526.1
3. **Subject:** Hazard Mitigation Funding Under Section 406 (Stafford Act)
4. **Purpose:** Provide guidance on the appropriate use of Section 406 hazard mitigation discretionary funding. This will ensure national consistency in the use of Section 406 mitigation funds; and promote measures that reduce future loss to life and property, protect the federal investment in public infrastructure, and, ultimately, help build disaster resistant communities.
5. **Scope and Audience:** This policy applies to all disasters declared after publication of this document. It is intended to guide all FEMA personnel responsible for the administration of the FEMA public assistance grant program.
6. **Background:**
 - a. The Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended, provides FEMA the authority to fund the restoration of eligible facilities which have sustained damage due to a Presidentially declared disaster. Within the enabling act, Section 406 also contains a provision for the consideration of funding additional measures, not required by applicable codes and standards (further described in 44 CFR 206.226) that will enhance a facility's ability to resist similar damage in future events.

In providing discretionary authority for the addition of hazard mitigation measures to permanent work restoration, Congress recognized that, during the repair of damaged components of facilities, there would be a unique opportunities to prevent recurrence of similar damage from future, similar disaster events. Such measures are in addition to any measures undertaken to comply with applicable codes and standards, although such compliance, itself, could be considered a form of mitigation.

- b. Section 406 hazard mitigation funding and Section 404 hazard mitigation funding are distinct. Proposals for measures intended to benefit undamaged facilities, and measures not directly related to the damaged elements for which restoration work on a facility is performed are candidates for funding under Section 404. Section 406 funding is more appropriately viewed as stemming from, and related directly to, the repair work required as a result of the disaster. If a combination of Section 404 and Section 406 funding is intended, the Section 404 application should be submitted in a timely manner.
- c. Section 406 hazard mitigation funding under the Stafford Act is a discretionary spending program. While the law provides that the President may authorize funds for eligible projects, it does not require funding. FEMA, Grantee and Subgrantee interests in disaster resistance must be

balanced with the supplemental nature of disaster assistance and FEMA's obligation for the prudent stewardship of Federal disaster funds.

- d. Only FEMA is authorized to interpret and implement the Stafford Act and regulations issued pursuant to the Stafford Act. Accordingly, only FEMA has the authority to determine which repairs (code/standard-mandated or otherwise) it will fund pursuant to the Stafford Act. The Stafford Act and applicable regulations cannot be read or interpreted as authorizing State or local building officials or agencies to determine the amount of Federal disaster assistance funds FEMA will contribute to a project.

7. Policy:

- a. Section 406 provides discretionary authority to fund mitigation measures in conjunction with the repair of damaged facilities. The mitigation measures must be related to eligible disaster-related damages and must directly reduce the potential of future, similar disaster damages to the eligible facility. These opportunities usually present themselves during the repair/replacement efforts.
- b. While all parties must remain mindful of relative costs and benefits and prudent use of Federal disaster funds, a calculation of benefits and costs, using the FEMA approved computer model, no longer is necessary for justification of Section 406 funds.
- c. Mitigation measures must be determined to be cost-effective. Any one of the following means may be used to determine cost-effectiveness:
 - 1. Measures may amount to up to 15% of the total eligible cost of the eligible repair work on a particular project.
 - 2. Certain mitigation measures (see Appendix A) will be determined to be cost-effective, as long as the mitigation measure does not exceed the eligible cost of the eligible repair work on the project.
 - 3. For measures that exceed the above costs, the Grantee or Subgrantee must demonstrate through an acceptable benefit/cost analysis that the measure is cost-effective.
- d. Proposed projects must be approved by FEMA prior to funding. They will be evaluated for cost effectiveness, technical feasibility, and compliance with statutory, regulatory and executive order requirements. In addition, the evaluation must ensure that the mitigation measures do not negatively impact a facility's operation or risk from another hazard.
- e. Costs of meeting applicable codes/standards in accordance with 44 CFR 206.226 is distinct from mitigation funding.
- f. There may be no duplication in funding between Sections 404 and 406. Therefore, the Grantee and Subgrantee must be able to identify specific hazard mitigation work that will be accomplished with funding through Section 406. Section 404 funding may not duplicate that work, although Section 404 may be additive and accomplished on Section 406 facilities. The appropriate split on a project between funds under Sections 404 and 406 is a FEMA decision.
- g. Costs approved for project-specific mitigation measures under Section 406 of the Stafford Act may not be applied to improved projects which will

involve the replacement of the disaster-damaged facility, whether on the same site or an alternate site. However, funds recommended for mitigation measures may be approved for an improved project which will include the work required to repair the disaster-damaged facility and restore its function, as well as improvements.

- h. The cost caps (15% or 100%) for Section 406 hazard mitigation measures related to windows will be based on the total cost of damage to: 1) the damaged element, and 2) the affected building contents.

8. Supersession:

- a. Paragraph 3.a) of October 14, 1994 Memorandum on "Benefit-cost Analysis in Support of Potential Hazard Mitigation Projects" directed to Regional Directors and Federal Coordinating Officers from Craig Wingo (RR) and Robert Shea (HM). The memorandum was published in Chapter 4511.600 of Public Assistance Policy and Guidance Compendium.
- b. References to Section 406 funding of March 1995 Memorandum on "Benefit-cost Analyses in Support of Potential Hazard Mitigation Projects" directed to Regional Directors and Federal Coordinating Officers from Craig Wingo (RR) and Robert Shea (HM). The memorandum was published in Chapter 4511.600 of Public Assistance Policy and Guidance Compendium.
- c. April 26, 1995 memorandum from Craig Wingo (RR) to William Tidball (FCO, DR-1008) on Section 406 Discretionary Hazard Mitigation Funding. Published in PA Compendium Chapter 4511.600

9. Authorities and References:

- a. Section 406 (e) of the Robert T. Stafford Act, as amended: "(1) General Rule. For purposes of this section, the cost of repairing, restoring, reconstructing, or replacing a public facility or private, nonprofit facility on the basis of the design of such facility as it existed immediately prior to the major disaster and in conformity with current applicable codes, specification, and standards (including floodplain management and hazard mitigation criteria required by the President or by the Coastal Barrier Resources Act (16 U.S.C. 3501 et seq.)) shall, at a minimum be treated as the net eligible cost of such repair, restoration, reconstruction, or replacement."
- b. Reference: March 24, 1995 memorandum entitled "ENVIRONMENTAL POLICY MEMO #3 Policy for Projects Completed Without Environmental Review Required by the National Environmental Policy Act (NEPA).

10. Originating Office: RR-IS

11. Review Date: Two years after publication

12. Signature:/signed/

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13. Distribution: Regional Directors, Regional and Headquarters RR Division Directors