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(b) Upon determining that the State's plan of self-insurance is inadequate, the Federal Insurance Administrator shall in writing reject the application for exemption and shall state in what respects the plan fails to comply with the standards set forth in § 75.11 of this subpart.

(c) Upon determining that the State's plan of self-insurance equals or exceeds the standards set forth in § 75.11 of this subpart, the Federal Insurance Administrator shall certify that the State is exempt from the requirement for the purchase of flood insurance for State-owned structures and their contents located or to be located in areas identified by the Federal Insurance Administrator as A, AO, AH, A1-30, AE, AR, AR/A1-30, AR/AE, AR/AO, AR/AH, AR/A, A99, M, V, VO, V1-30, VE, and E Zones. Such exemption, however, is in all cases provisional. The Federal Insurance Administrator shall review the plan for continued compliance with the criteria set forth in this part and may request updated documentation for the purpose of such review. If the plan is found to be inadequate and is not corrected within ninety days from the date that such inadequacies were identified, the Federal Insurance Administrator may revoke his certification.

(d) Documentation which cannot reasonably be provided at the time of application for exemption shall be submitted within six months of the application date. The Federal Insurance Administrator may revoke his certification for a State's failure to submit adequate documentation after the six month period.

[41 FR 46991, Oct. 26, 1976. Redesignated at 44 FR 31177, May 31, 1979, as amended at 48 FR 44544, Sept. 29, 1983; 49 FR 4751, Feb. 8, 1984; 49 FR 5621, Feb. 14, 1984; 50 FR 36029, Sept. 4, 1985; 59 FR 53601, Oct. 25, 1994; 62 FR 55719, Oct. 27, 1997]

§ 75.14 States exempt under this part.

The following States have submitted applications and adequate supporting documentation and have been determined by the Federal Insurance Administrator to be exempt from the requirement of flood insurance on State-owned structures and their contents because they have in effect adequate State plans of self-insurance: Florida,

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Georgia, Iowa, Kentucky, Maine, New Jersey, New York, North Carolina, Oregon, Pennsylvania, South Carolina, Tennessee, and Vermont.

[48 FR 44544, Sept. 29, 1983, as amended at 57 FR 19542, May 7, 1992]

PART 76 [RESERVED]

PART 77—FLOOD MITIGATION GRANTS

Sec.

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AUTHORITY: 6 U.S.C. 101 *et seq.*; 42 U.S.C. 4001 *et seq.*; 42 U.S.C. 4104c, 4104d.

SOURCE: 86 FR 50667, Sept. 10, 2021, unless otherwise noted.

§ 77.1 Purpose and applicability.

(a) The purpose of this part is to prescribe actions, procedures, and requirements for administration of the Flood Mitigation Assistance (FMA) grant program made available under the National Flood Insurance Act of 1968, as amended, and the Flood Disaster Protection Act of 1973, as amended, 42 U.S.C. 4001 *et seq.* The purpose of the FMA program is to assist States, Indian Tribal governments, and communities for planning and carrying out mitigation activities designed to reduce the risk of flood damage to structures insured under the National Flood Insurance Program (NFIP).

(b) This part applies to the administration of funds under the FMA program for which the application period opens on or after October 12, 2021.

§ 77.2 Definitions.

(a) Except as otherwise provided in this part, the definitions set forth in § 59.1 of this subchapter are applicable to this part.

(b) *Applicant* means the entity, such as a State or Indian Tribal government, applying to FEMA for a Federal award under the FMA program. Once funds have been awarded, the applicant

becomes the recipient and may also be a pass-through entity.

(c) *Closeout* means the process by which FEMA or the 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, "Closeout."

(d) *Community* means:

(1) A political subdivision, including any Indian Tribe, authorized Tribal organization, Alaska Native village or authorized native organization, that has zoning and building code jurisdiction over a particular area having special flood hazards, and is participating in the NFIP; or

(2) A political subdivision of a State or other authority that is designated by political subdivisions, all of which meet the requirements of paragraph (d)(1) of this section, to administer grants for mitigation activities for such political subdivisions.

(e) *Federal award* means the Federal financial assistance a recipient or subrecipient receives directly from FEMA or indirectly from a pass-through entity. The terms "award" and "grant" may also be used to describe a Federal award under this part.

(f) *Indian Tribal government* means 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 Indian Tribe List Act of 1994, 25 U.S.C. 5131. This does not include Alaska Native corporations, the ownership of which is vested in private individuals.

(g) *Pass-through entity* means a recipient that provides a subaward to a subrecipient to carry out part of the FMA program.

(h) *Recipient* means the State or Indian Tribal government that receives a Federal award directly from FEMA. A recipient may also be a pass-through entity. The term recipient does not include subrecipients.

(i) *Repetitive loss structure* means a structure covered under an NFIP flood insurance policy that:

(1) Has incurred flood-related damage on 2 occasions, in which the cost of repair, on average, equaled or exceeded

25% of the value of the structure at the time of each such flood event; and

(2) At the time of the second incidence of flood related damage, the contract for flood insurance contains increased cost of compliance coverage.

(j) *Severe repetitive loss structure* means a structure that is covered under an NFIP flood insurance policy and has incurred flood-related damage:

(1) For which 4 or more separate claims payments have been made under flood insurance coverage under subchapter B of this chapter, with the amount of each claim (including building and contents payments) exceeding \$5,000, and with the cumulative amount of such claims payments exceeding \$20,000; or

(2) For which at least 2 separate flood insurance claims payments (building payments only) have been made, with cumulative amount of such claims exceeding the value of the insured structure.

(k) *State* means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(l) *Subaward* means an award provided by a pass-through entity to a subrecipient, for the subrecipient to carry out part of a Federal award received by the pass-through entity. It does not include payments to a contractor or payments to an individual that is a beneficiary of a Federal program. A subaward may be provided through any form of legal agreement, including an agreement that the pass-through entity considers a contract.

(m) *Subapplicant* means a State agency, community, or Indian Tribal government submitting a subapplication to the applicant for assistance under the FMA program. Upon grant award, the subapplicant is referred to as the subrecipient.

(n) *Subrecipient* means the State agency, community, or Indian Tribal government that receives a subaward from a pass-through entity for the subrecipient to carry out an activity under the FMA program.

(o) *Administrator* means the head of the Federal Emergency Management

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Agency, or his/her designated representative.

(p) *Regional Administrator* means the head of a Federal Emergency Management Agency regional office, or his/her designated representative.

§ 77.3 Responsibilities.

(a) *Federal Emergency Management Agency (FEMA)*. Administer and provide oversight to all FEMA-related hazard mitigation programs and grants, including:

(1) Issue program implementation procedures, as necessary, which will include information on availability of funding;

(2) Award all grants to the recipient after evaluating subaward applications for eligibility and ensuring compliance with applicable Federal laws, giving priority to such properties, or to the subset of such properties, as the Administrator may determine are in the best interest of the NFIF;

(3) Provide technical assistance and training to State, local and Indian Tribal governments regarding the mitigation and grants management process;

(4) Review and approve State, Indian Tribal, and local mitigation plans in accordance with part 201 of this chapter;

(5) Comply with applicable Federal statutory, regulatory, and Executive Order requirements related to environmental and historic preservation compliance, including reviewing and supplementing, if necessary, the environmental analyses conducted by the State and subrecipient in accordance with applicable laws, regulations, and agency policy;

(6) Monitor implementation of awards through quarterly reports; and

(7) Review all closeout documentation for compliance and sending the recipient a request for additional supporting documentation, if needed.

(b) *Recipient*. The recipient must have working knowledge of NFIP goals, requirements, and processes and ensure that the program is coordinated with other mitigation activities. Recipients will:

(1) Have a FEMA approved Mitigation Plan in accordance with part 201 of this chapter;

(2) Provide technical assistance and training to communities on mitigation planning, mitigation project activities, developing subaward applications, and implementing approved subawards;

(3) Prioritize and recommend subaward applications to be approved by FEMA, based on the applicable mitigation plan(s), other evaluation criteria, and the eligibility criteria described in § 77.6;

(4) Award FEMA-approved subawards;

(5) Monitor and evaluate the progress of the mitigation activity in accordance with the approved original scope of work and budget through quarterly reports;

(6) Closeout the subaward in accordance with 2 CFR 200.344 and 200.345, and applicable FEMA guidance; and

(7) Comply with program requirements under this part, grant management requirements identified under 2 CFR parts 200 and 3002, the grant agreement articles, and other applicable Federal, State, Tribal and local laws and regulations.

(c) *Subrecipient*. The subrecipient (or subapplicant, as applicable) will:

(1) Complete and submit subaward applications to the recipient for FMA planning and project subawards;

(2) Implement all approved subawards;

(3) Monitor and evaluate the progress of the mitigation activity in accordance with the approved original scope of work and budget through quarterly reports;

(4) Comply with program requirements under this part, grant management requirements identified under 2 CFR parts 200 and 3002, the grant agreement articles, and other applicable Federal, State, Tribal and local laws and regulations; and

(5) Closeout the subaward in accordance with 2 CFR 200.344 and 200.345, and applicable FEMA guidance.

§ 77.4 Availability of funding.

(a) *Allocation*. (1) For the amount made available for the FMA program, the Administrator will allocate the available funds based upon criteria established for each application period. The criteria may include the number of NFIP policies, severe repetitive loss