

**§ 206.67 Requirement when limitation is exceeded.**

Whenever the limitation described in § 206.66 is exceeded, the Administrator must report to the Congress on the nature and extent of continuing emergency assistance requirements and shall propose additional legislation if necessary.

**§§ 206.68–206.100 [Reserved]****Subpart D—Federal Assistance to Individuals and Households****§ 206.101 Temporary housing assistance for emergencies and major disasters declared on or before October 14, 2002.**

(a) *Purpose.* This section prescribes the policy to be followed by the Federal Government or any other organization when implementing section 408 of the Stafford Act for Presidentially-declared emergencies and major disasters declared on or before October 14, 2002 (Note that the reference to section 408 of the Stafford Act refers to prior legislation amended by the Disaster Mitigation Act 2000).

(b) *Program intent.* Assistance under this program is made available to applicants who require temporary housing as a result of a major disaster or emergency that is declared by the President. Eligibility for assistance is based on need created by disaster-related unlivability of a primary residence or other disaster-related displacement, combined with a lack of adequate insurance coverage. Eligible applicants may be paid for authorized accommodations and/or repairs. In the interest of assisting the greatest number of people in the shortest possible time, applicants who are able to do so will be encouraged to make their own arrangements for temporary housing. Although numerous instances of minor damage may cause some inconvenience to the applicant, the determining eligibility factor must be the livability of the primary residence. FEMA has also determined that it is reasonable to expect applicants or their landlords to make some repairs of a minor nature. Temporary housing will normally consist of a check to cover housing-related costs wherever possible.

(c) *Definitions*—(1) *Adequate alternate housing* means housing that:

(i) Accommodates the needs of the occupants.

(ii) Is within reasonable commuting distance of work, school, or agricultural activities which provide over 25% of the household income.

(iii) Is within the financial ability of the occupant in the realization of a permanent housing plan.

(2) *Effective date of assistance* means the date the eligible applicant received temporary housing assistance but, where applicable, only after appropriate insurance benefits are exhausted.

(3) *Essential living area* means that area of the residence essential to normal living, i.e., kitchen, one bathroom, dining area, living room, entrances and exits, and essential sleeping areas. It does not include family rooms, guest rooms, garages, or other nonessential areas, unless hazards exist in these areas which impact the safety of the essential living area.

(4) *Fair market rent* means a reasonable amount to pay in the local area for the size and type of accommodations which meets the applicant's needs.

(5) *Financial ability* is the determination of the occupant's ability to pay housing costs. The determination is based upon the amount paid for housing before the disaster, provided the household income has not changed subsequent to or as a result of the disaster or 25 percent of gross post disaster income if the household income changed as a result of the disaster. When computing financial ability, extreme or unusual financial circumstances may be considered by the Regional Administrator.

(6) *Household* means all residents of the predisaster residence who request temporary housing assistance, plus any additions during the temporary housing period, such as infants, spouses, or part-time residents who were not present at the time of the disaster but who are expected to return during the temporary housing period.

(7) *Housing costs* means shelter rent and mortgage payments including principal, interest, real estate taxes, real

property insurance, and utility costs, where appropriate.

(8) *Occupant* means an eligible applicant residing in temporary housing provided under this section.

(9) *Owner-occupied* means that the residence is occupied by: the legal owner; a person who does not hold formal title to the residence and pays no rent but is responsible for the payment of taxes, or maintenance of the residence; or a person who has lifetime occupancy rights with formal title vested in another.

(10) *Primary residence* means the dwelling where the applicant normally lives during the major portion of the calendar year, a dwelling which is required because of proximity to employment, or to agricultural activities as referenced in paragraph (c)(1)(ii) of this section.

(d) *Duplication of benefits*—(1) *Requirement to avoid duplication.* Temporary housing assistance shall not be provided to an applicant if such assistance has been provided by any other source. If any State or local government or voluntary agency has provided temporary housing, the assistance under this section begins at the expiration of such assistance, and may continue for a period not to exceed 18 months from the date of declaration, provided the criteria for continued assistance in paragraph (k)(3) of this section are met. If it is determined that temporary housing assistance will be provided under this section, notification shall be given those agencies which have the potential for duplicating such assistance. In the instance of insured applicants, temporary housing assistance shall be provided only when:

- (i) Payment of the applicable benefits has been significantly delayed;
- (ii) Applicable benefits have been exhausted;
- (iii) Applicable benefits are insufficient to cover the temporary housing need; or
- (iv) Housing is not available on the private market.

(2) *Recovery of funds.* Prior to provision of assistance, the applicant must agree to repay to FEMA from insurance proceeds or recoveries from any other source an amount equivalent to the value of the temporary housing as-

sistance provided. In no event shall the amount repaid to FEMA exceed the amount recovered by the applicant. All claims shall be collected in accordance with agency procedures for debt collection.

(e) *Applications*—(1) *Application period.* The standard FEMA application period is the 60 days following the date the President declares an incident a major disaster or an emergency. The Regional Administrator may, however, extend the application period, when we anticipate that we need more time to collect applications from the affected population or to establish the same application deadline for contiguous Counties or States. After the application period has ended, FEMA will accept and process applications for an additional 60 days only from persons who can provide an acceptable explanation (and documentation to substantiate their explanation) for why they were not able to contact FEMA before the application period ended.

(2) *Household composition.* Members of a household shall be included on a single application and be provided one temporary housing residence unless it is determined by the Regional Administrator that the size of the household requires that more than one residence be provided.

(f) *General eligibility guidelines.* Temporary housing assistance may be made available to those applicants who, as a result of a major disaster or emergency declared by the President, are qualified for such assistance.

(1) *Conditions of eligibility.* Temporary housing assistance may be provided only when *both* of the following conditions are met:

(i) The applicant's primary residence has been made unlivable or the applicant has been displaced as the result of a major disaster or emergency because:

(A) The residence has been destroyed, essential utility service has been interrupted, or the essential living area has been damaged as a result of the disaster to such an extent as to constitute a serious health or safety hazard which did not exist prior to the disaster. The Regional Administrator shall prepare additional guidelines when necessary to respond to a particular disaster;

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(B) The residence has been made inaccessible as a result of the incident to the extent that the applicant cannot reasonably be expected to gain entry due to the disruption or destruction of transportation routes, other impediments to access, or restrictions placed on movement by a responsible official due to continued health and safety problems;

(C) The owner of the applicant's residence requires the residence to meet their personal needs because the owner's predisaster residence was made unlivable as a result of the disaster;

(D) Financial hardship resulting from the disaster has led to eviction or dispossession; or

(E) Other circumstances resulting from the disaster, as determined by the Regional Administrator, prevent the applicant from occupying their predisaster primary residence.

(ii) Insured applicants have made every reasonable effort to secure insurance benefits, and the insured has agreed to repay FEMA from whatever insurance proceeds are later received, pursuant to paragraph (d)(2) of this section.

(2) *Conditions of ineligibility.* Except as provided for in section 408(b), Temporary Housing Assistance shall not be provided:

(i) To an applicant who is displaced from other than their primary residence; or

(ii) When the residence in question is livable, i.e., only minor damage exists and it can reasonably be expected to be repaired by the applicant/owner or the landlord; or

(iii) When the applicant owns a secondary or vacation residence, or unoccupied rental property which meets their temporary housing needs; or

(iv) To an applicant who has adequate rent-free housing accommodations; or

(v) To an applicant who has adequate insurance coverage and there is no indication that benefits will be delayed; or

(vi) When a late application is not approved for processing by the Regional Administrator; or

(vii) To an applicant who evacuated the residence in response to official warnings solely as a precautionary

measure, and who is able to return to the residence immediately after the incident (i.e., the applicant is not otherwise eligible for temporary housing assistance).

(g) *Forms of Temporary Housing Assistance.* All proceeds received or receivable by the applicant under § 206.101 shall be exempt from garnishment, seizure, encumbrance, levy, execution, pledge, attachment, release, or waiver. No rights under this provision are assignable or transferable.

(1) Temporary Housing Assistance is normally provided in the form of a check to cover the cost of rent or essential home repairs. The exceptions to this are when existing rental resources are not available and repairs to the home will not make it livable in a reasonable period of time, or when the eligible applicant is unable to physically leave the home due to the need to tend crops or livestock.

(i) *Government-owned, private, and commercial properties.* When an eligible applicant is unable to obtain an available temporary housing unit, FEMA may enter into a leasing agreement for the eligible applicant. Rent payments shall be in accordance with the fair market rent (FMR) rates established for each operation for the type and size residence.

(ii) *Transient accommodations.* Immediately following a Presidentially declared major disaster or emergency, disaster victims are expected to stay with family or friends without FEMA assistance, or to make use of mass shelters to the fullest extent possible for short-term housing. Transient accommodations may be provided when individual circumstances warrant such assistance for only a short period of time or pending provision of other temporary housing resources. Transient accommodations may be provided for up to 30 days unless this period is extended by the Regional Administrator. Authorized expenditures for transient accommodations shall be restricted to the rental cost including utilities except for those which are separately metered. Payment for food, telephone, or other similar services is not authorized under this section.

(2) Mobile homes, travel trailers, and other manufactured housing units.

Government-owned or privately owned mobile homes, travel trailers, and other manufactured housing units may be placed on commercial, private, or group sites. The placement must comply with applicable State and local codes and ordinances as well as FEMA'S regulations at 44 CFR part 9, Floodplain Management and Protection of Wetlands, and the regulations at 44 CFR part 10, Environmental Considerations.

(i) A commercial site is a site customarily leased for a fee because it is fully equipped to accommodate a housing unit. In accordance with section 408(a)(2)(B), the Assistant Administrator for the Disaster Assistance Directorate has determined that leasing commercial sites at Federal expense is in the public interest. When the Regional Administrator determines that upgrading of commercial sites or installation of utilities on such sites will provide more cost-effective, timely, and suitable temporary housing than other types of resources, they may authorize such action at Federal expense.

(ii) A private site is a site provided or obtained by the applicant at no cost to the Federal Government. Also in accordance with section 408(a)(2)(B), the Assistant Administrator for the Disaster Assistance Directorate has determined that the cost of installation or repairs of essential utilities on private sites is authorized at Federal expense when such actions will provide more cost-effective, timely, and suitable temporary housing than other types of resources.

(iii) A group site is a site which accommodates two or more units. In accordance with section 408(a)(2)(A), locations for group sites shall be provided by State or local government complete with utilities. However, the Assistant Administrator for the Disaster Assistance Directorate may authorize development of group sites, including installation of essential utilities, by the Federal Government, based on a recommendation from the Regional Administrator; provided, however, that the Federal expense is limited to 75 percent of the cost of construction and development (including installation of utilities). In accordance with section 408(a)(4) of the Stafford Act, the State

or local government shall pay any cost which is not paid for from the Federal share, including long-term site maintenance such as snow removal, street repairs and other services of a governmental nature.

(3) *Temporary mortgage and rental payments.* Assistance in the form of mortgage or rental payments may be paid to or be provided on behalf of eligible applicants who, as a result of a major disaster or emergency, have received written notice of dispossession or eviction from their primary residence by foreclosure of any mortgage or lien, cancellation of any contract of sale, or termination of any lease entered into prior to the disaster. Written notice, for the purpose of this paragraph, means a communication in writing by a landlord, mortgage holder, or other party authorized under State law to file such notice. The purpose of such notice is to notify a person of impending termination of a lease, foreclosure of a mortgage or lien, or cancellation of any contract of sale, which would result in the person's dispossession or eviction. Applications for this type of assistance may be filed for up to 6 months following the date of declaration. This assistance may be provided for a period not to exceed 18 months or for the duration of the period of financial hardship, as determined by the Regional Administrator, whichever is less. The location of the residence of an applicant for assistance under this section shall not be a consideration of eligibility.

(4) *Home repairs.* Repairs may be authorized to quickly repair or restore to a livable condition that portion of or areas affecting the essential living area of, or private access to, an owner-occupied primary residence which was damaged as a result of the disaster. Installation of utilities or conveniences not available in the residence prior to the disaster shall not be provided. However, repairs which are authorized shall conform to applicable local and/or State building codes; upgrading of existing damaged utilities may be authorized when required by these codes.

(i) *Options for repairs.* Eligible applicants approved for repairs may be assisted through one or a combination of the following methods:

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(A) *Cash payment.* Payment shall be limited to the reasonable costs for the repairs and replacements in the locality, as determined by the Regional Administrator. This will be the method normally used, unless unusual circumstances warrant the methods listed under paragraph (g)(4), (i) (B) or (C) of this section.

(B) Provision of materials and replacement items.

(C) Government awarded repair contracts when authorized by the Assistant Administrator for the Disaster Assistance Directorate.

(ii) *Feasibility.* Repairs may be provided to those eligible applicants:

(A) Who are owner-occupants of the residence to be made livable;

(B) Whose residence can be made livable by repairs to the essential living area within 30 days following the feasibility determination. The Regional Administrator may extend this period for extenuating circumstances by determining that this type of assistance is still more cost effective, timely and otherwise suitable than other forms for temporary housing; and

(C) Whose residence can be made livable by repairs to the essential living area, the cost of which do not exceed the dollar limitations established by the Assistant Administrator for the Disaster Assistance Directorate. The Regional Administrator may, on a case-by-case basis, waive the dollar limitations when repairs are more cost effective and appropriate than other forms of housing assistance or when extenuating circumstances warrant.

(iii) *Scope of work.* The type of repair or replacement authorized may vary depending upon the nature of the disaster. Items will be repaired where feasible or replaced only when necessary to insure the safety or health of the occupant. Replacement items shall be of average quality, size, and capacity taking into consideration the needs of the occupant. Repairs shall be disaster related and shall be limited to:

(A) Repairs to the plumbing system, including repairs to or replacement of fixtures, providing service to the kitchen and one bathroom;

(B) Repairs to the electrical system providing service to essential living

areas, including repairs to or replacement of essential fixtures;

(C) Repairs to the heating unit, including repairs to duct work, vents, and integral fuel and electrical systems. If repair or replacement through other forms of assistance cannot be accomplished before the start of the season requiring heat, home repairs may be authorized by the Regional Administrator when an inspection shows that the unit has been damaged beyond repair, or when the availability of necessary parts or components makes repair impossible;

(D) Repairs to or replacement of essential components of the fuel system to provide for cooking;

(E) Pumping and cleaning of the septic system, repairs to or replacement of the tank, drainfield, or repairs to sewer lines;

(F) Flushing and/or purifying the water well, and repairs to or replacement of the pump, controls, tank, and pipes;

(G) Repairs to or replacement of exterior doors, repair of windows and/or screens needed for health purposes;

(H) Repairs to the roof, when the damages affect the essential living area;

(I) Repairs to interior floors, when severe buckling or deterioration creates a serious safety hazard;

(J) Blocking, leveling, and anchoring of a mobile home; and reconnecting and/or resetting mobile home sewer, water, electrical and fuel lines, and tanks;

(K) Emergency repairs to private access routes, limited to those repairs that meet the minimum safety standards and using the most economical materials available. Such repairs are provided on a one-time basis when no alternative access facilities are immediately available and when the repairs are more cost effective, timely or otherwise suitable than other forms of temporary housing.

(L) Repairs to the foundation piers, walls or footings when the damages affect the structural integrity of the essential living area;

(M) Repairs to the stove and refrigerator, when feasible; and

(N) Elimination of other health and safety hazards or performance of essential repairs which are authorized by the Regional Administrator as not available through emergency services provided by voluntary or community agencies, and cannot reasonably be expected to be completed on a timely basis by the occupant without FEMA assistance.

(iv) Requirements of the Flood Disaster Protection Act. FEMA has determined that flood insurance purchase requirements need not be imposed as a condition of receiving assistance under paragraph (g)(4) of this section. Repair recipients will normally receive assistance for further repairs from other programs which will impose the purchase and maintenance requirements. Home repairs may not be provided in Zones A or V of a sanctioned or suspended community except for items that are not covered by flood insurance.

(h) *Appropriate form of temporary housing.* The form of temporary housing provided should not exceed occupants' minimum requirements, taking into consideration items such as timely availability, cost effectiveness, permanent housing plans, special needs (handicaps, the location of crops and livestock, etc.) of the occupants, and the requirements of FEMA'S floodplain management regulations at 44 CFR part 9. An eligible applicant shall receive one form of temporary housing, except for transient accommodations or when provision of an additional form is in the best interest of the Government. An eligible applicant is expected to accept the first offer of temporary housing; unwarranted refusal shall result in forfeiture of temporary housing assistance. Existing rental resources and home repairs shall be utilized to the fullest extent practicable prior to provision of government-owned mobile homes.

(i) *Utility costs and security deposits.* All utility costs shall be the responsibility of the occupant except where utility services are not metered separately and are therefore a part of the rental charge. Utility use charges and deposits shall always be the occupants responsibility. When authorized by the Regional Administrator, the Federal Government may pay security depos-

its; however, the owner or occupant shall reimburse the full amount of the security deposit to the Federal Government before or at the time that the temporary housing assistance is terminated.

(j) *Furniture.* An allowance for essential furniture may be provided to occupants when such assistance is required to occupy the primary or temporary housing residence. However, loss of furniture does not in and of itself constitute eligibility for temporary housing assistance. Luxury items shall not be provided.

(k) *Duration of assistance—(1) Commencement.* Temporary housing assistance may be provided as of the date of the incident of the major disaster or emergency as specified in the FEDERAL REGISTER notice and may continue for 18 months from the date of declaration. An effective date of assistance shall be established for each applicant.

(2) *Continued assistance.* Predisaster renters normally shall be provided no more than 1 month of assistance unless the Regional Administrator determines that continued assistance is warranted in accordance with paragraph (k)(3) of this section. All other occupants of temporary housing shall be certified eligible for continued assistance in increments not to exceed 3 months. Recertification of eligibility for continued assistance shall be in accordance with paragraph (k)(3) of this section, taking into consideration the occupant's permanent housing plan. A realistic permanent housing plan shall be established for each occupant requesting additional assistance no later than at the time of the first recertification.

(3) *Criteria for continued assistance.* A temporary housing occupant shall make every effort to obtain and occupy permanent housing at the earliest possible time. A temporary housing occupant will be required to provide receipts documenting disaster related housing costs and shall be eligible for continued assistance when:

(i) Adequate alternate housing is not available;

(ii) The permanent housing plan has not been realized through no fault of the occupant; or

(iii) In the case of FEMA-owner leases, the occupant is in compliance

with the terms of the lease/rental agreement.

(1) *Period of assistance.* Provided the occupant is eligible for continued assistance, assistance shall be provided for a period not to exceed 18 months from the declaration date.

(m) *Appeals.* Occupants shall have the right to appeal a program determination in accordance with the following:

(1) An applicant declared ineligible for temporary housing assistance, an applicant whose application has been cancelled for cause, an applicant whose application has been refused because of late filing, and an occupant who received a direct housing payment but is not eligible for continued assistance in accordance with paragraph (k) of this section, shall have the right to dispute such a determination within 60 calendar days following notification of such action. The Regional Administrator shall reconsider the original decision within 15 calendar days after its receipt. The appellant shall be given a written notice of the disposition of the dispute. The decision of the Regional Administrator is final.

(2) An occupant who has been notified that his/her request to purchase a mobile home or manufactured housing unit or that a request for an adjustment to the sales price has been denied shall have the right to dispute such a determination within 60 business days after receipt of such notice. The Regional Administrator shall reconsider the original decision within 15 calendar days after receipt of the appeal. The appellant shall receive written notice of the disposition of the dispute. The decision of the Regional Administrator is final.

(3) Termination of assistance provided through a FEMA lease agreement shall be initiated with a 15-day written notice after which the occupant shall be liable for such additional charges as are deemed appropriate by the Regional Administrator including, but not limited to, the fair market rental for the temporary housing residence.

(i) *Grounds for termination.* Temporary housing assistance may be terminated for reasons including, but not limited to the following:

(A) Adequate alternate housing is available to the occupant(s);

(B) The temporary housing assistance was obtained either through misrepresentation or fraud; or

(C) Failure to comply with any term of the lease/rental agreement.

(ii) *Termination procedures.* These procedures shall be utilized in all instances except when a State is administering the Temporary Housing Assistance program. States shall be subject to their own procedures provided they afford the occupant(s) with due process safeguards described in paragraph (m)(2)(v)(B) of this section.

(A) *Notification to occupant.* Written notice shall be given by FEMA to the occupant(s) at least 15 days prior to the proposed termination of assistance. This notice shall specify: the reasons for termination of assistance/occupancy; the date of termination, which shall be not less than 15 days after receipt of the notice; the administrative procedure available to the occupant if they wish to dispute the action; and the occupant's liability after the termination date for additional charges.

(B) *Filing of appeal.* If the occupant desires to dispute the termination, upon receipt of the written notice specified in paragraph (m)(2)(i) of this section, he/she shall present an appeal in writing to the appropriate office in person or by mail within 60 days from the date of the termination notice. The appeal must be signed by the occupant and state the reasons why the assistance or occupancy should not be terminated. If a hearing is desired, the appeal should so state.

(C) *Response to appeal.* If a hearing pursuant to paragraph (m)(2)(ii) of this section has not been requested, the occupant has waived the right to a hearing. The appropriate program official shall deliver or mail a written response to the occupant within 5 business days after the receipt of the appeal.

(D) *Request for hearing.* If the occupant requests a hearing pursuant to paragraph (m)(2)(ii) of this section, FEMA shall schedule a hearing date within 10 business days from the receipt of the appeal, at a time and place reasonably convenient to the occupant, who shall be notified promptly thereof in writing. The notice of hearing shall specify the procedure governing the hearing.

(E) *Hearing*—(1) *Hearing officer*. The hearing shall be conducted by a Hearing Officer, who shall be designated by the Regional Administrator, and who shall not have been involved with the decision to terminate the occupant's temporary housing assistance, nor be a subordinate of any individual who was so involved.

(2) *Due process*. The occupant shall be afforded a fair hearing and provided the basic safeguards of due process, including cross-examination of the responsible official(s), access to the documents on which FEMA is relying, the right to counsel, the right to present evidence, and the right to a written decision.

(3) *Failure to appear*. If an occupant fails to appear at a hearing, the Hearing Officer may make a determination that the occupant has waived the right to a hearing, or may, for good cause shown, postpone the hearing for no more than 5 business days.

(4) *Proof*. At the hearing, the occupant must first attempt to establish that continued assistance is appropriate; thereafter, FEMA must sustain the burden of proof in justifying that termination of assistance is appropriate. The occupant shall have the right to present evidence and arguments in support of their complaint, to controvert evidence relied on by FEMA, and to cross examine all witnesses on whose testimony or information FEMA relies. The hearing shall be conducted by the Hearing Officer, and any evidence pertinent to the facts and issues raised may be received without regard to its admissibility under rules of evidence employed in formal judicial proceedings.

(F) *Decision*. The decision of the Hearing Officer shall be based solely upon applicable Federal and State law, and FEMA regulations and requirements promulgated thereunder. The Hearing Officer shall prepare a written decision setting forth a statement of findings and conclusions together with the reasons therefor, concerning all material issues raised by the complainant within 5 business days after the hearing. The decision of the Hearing Officer shall be binding on FEMA, which shall take all actions necessary to carry out the decision or refrain

from any actions prohibited by the decision.

(1) The decision shall include a notice to the occupant that he/she must vacate the premises within 3 days of receipt of the written notice or on the termination date stated in the original notice of termination, as required in paragraph (m)(2)(i) of this section, whichever is later. If the occupant does not quit the premises, appropriate action shall be taken and, if suit is brought, the occupant may be required to pay court costs and attorney fees.

(2) If the occupant is required to give a specific number of days' notice which exceeds the number of days in the termination notice, the Regional Administrator may approve the payment of rent for this period of time if requested by the occupant.

(n) *Disposition of temporary housing units*—(1) *Acquisition*. The Assistant Administrator for the Disaster Assistance Directorate may purchase mobile homes or other manufactured housing units for those who require temporary housing. After such temporary housing is vacated, it shall be returned to one of the FEMA-operated Strategic Storage Centers for refurbishment and storage until needed in a subsequent major disaster or emergency. When returning the unit to a Strategic Storage Center is not feasible or cost effective, the Assistant Administrator for the Disaster Assistance Directorate may prescribe a different method of disposition in accordance with applicable Federal statutes and regulations.

(2) *Sales*—(i) *Eligibility*. When adequate alternate housing is not available, the Regional Administrator shall make available for sale directly to a temporary housing occupant(s) any mobile home or manufactured housing unit acquired by purchase, in accordance with the following:

(A) The unit is to be used as a primary residence;

(B) The purchaser has a site that complies with local codes and ordinances as well as FEMA's floodplain management regulations at 44 CFR part 9 (in particular §9.13(e)); and



(C) The purchaser has sufficient funds to purchase and, if necessary, relocate the unit. The Assistant Administrator for the Disaster Assistance Directorate may approve the sale of a mobile home or manufactured housing unit to a temporary housing occupant when adequate alternate housing is available but only when such sales are clearly in the best interest of the Government.

(ii) *Sales price.* Units shall be sold at prices that are fair and equitable to the purchaser and to the Government, as determined by the Assistant Administrator for the Disaster Assistance Directorate. The purchaser shall pay the total sales price at the time of sale.

(iii) Adjustment to the sales price.

(A) Adjustments to the sales price may be provided only when both of the following conditions are met:

(1) There is a need to purchase the unit for use as the purchaser's primary residence because other adequate alternate housing is unavailable. Adequate alternate housing must meet the criteria in paragraph (c)(1) of this section, and may consist of:

(i) Existing housing;

(ii) Additional resources such as disaster-damaged rental accommodations which can reasonably be expected to be repaired and become available in the near future;

(iii) New housing construction or housing to be made available through Government subsidy which is included in the immediate recovery plans for the area; and

(iv) Residences which can be repaired by the predisaster owner/occupant through funds available from insurance, other disaster assistance programs, or through their own resources.

(2) In addition to his/her resources, the purchaser cannot obtain sufficient funds through insurance proceeds, disaster loans, grants, and commercial lending institutions to cover the sales price.

(B) To determine the adjusted sales price, the current available financial resources of the purchaser shall be calculated. If the financial resources are equal to or greater than the basic sales price, then no adjustment shall be approved. If the purchaser's financial resources are less than the basic sales

price, the sales price shall be adjusted to take into consideration the financial resources available but shall include some consideration. Deviations from this rule may be reviewed on a case-by-case basis by the Assistant Administrator for the Disaster Assistance Directorate.

(C) The Regional Administrator must approve all adjustments to the sales price of a mobile home.

(iv) Other conditions of sale.

(A) A unit shall be sold "as is, where is" except for repairs necessary to protect health or safety, which are to be completed prior to sale. There shall be no implied warranties. In addition, the purchaser must be informed that he/she may have to bring the unit up to codes and standards which are applicable at the proposed site.

(B) In accordance with the Flood Disaster Protection Act of 1973, Public Law 93-234, as amended, the sale of a unit for the purpose of meeting the permanent housing need of an individual or family may not be approved where the unit would be placed in a designated special flood hazard area which has been identified by the Administrator for at least 1 year as floodprone unless the community in which the unit is to be located after the sale is, at the time of approval, participating in the National Flood Insurance Program. The purchaser must agree to buy and maintain an adequate flood insurance policy for as long as the unit is occupied by the purchaser. An adequate policy for purposes of this paragraph shall mean one which provides coverage for the basic sales price of the unit. The purchaser must provide proof of purchase of the initial flood insurance policy.

(3) *Transfer.* The Assistant Administrator for the Disaster Assistance Directorate may lend temporary housing units purchased under section 408(a) of the Act directly to States, other governmental entities, or voluntary organizations. Such transfers may be made only in connection with a Presidential declaration of a major disaster or emergency. Donations may be made only when it is in the best interest of the Government, such as when future re-use by the Federal Government would not be economically feasible. As

a condition of such transfers, the Assistant Administrator for the Disaster Assistance Directorate shall require that the recipient:

(i) Utilize the units for the purpose of providing temporary housing for victims of major disasters or emergencies in accordance with the written agreement; and

(ii) Comply with the current applicable FEMA policies and regulations, including this section; 44 CFR part 9 (especially §§9.13 and 9.14), Floodplain Management and Protection of Wetlands; 44 CFR part 10, Environmental Considerations. The Assistant Administrator for the Disaster Assistance Directorate may order returned any temporary housing unit made available under this section which is not used in accordance with the terms of transfer.

(o) *Reports.* The Assistant Administrator for the Disaster Assistance Directorate, Regional Administrator, or Federal Coordinating Officer may require from field operations such reports, plans, and evaluations as they deem necessary to carry out their responsibilities under the Act and these regulations.

(p) *Federal responsibility.* The Federal financial and operational responsibility for the Temporary Housing Assistance program shall not exceed 18 months from the date of the declaration of the major disaster or emergency. This period may be extended in writing by the Assistant Administrator for the Disaster Assistance Directorate, based on a determination that an extension is necessary and in the public interest. The Regional Administrator may authorize continued use on a non-reimbursable basis of Government property, office space, and equipment by a State, other Government entity, or voluntary organization after the 18 month period.

(q) *Applicant notification*—(1) *General.* All applicants for temporary housing assistance will be notified regarding the type and amount of assistance for which they are qualified. Whenever practicable, such notification will be provided within 7 days of their application and will be in writing.

(2) Eligible applicants for temporary housing assistance will be provided information regarding:

(i) All forms of housing assistance available;

(ii) The criteria which must be met to qualify for each type of assistance;

(iii) Any limitations which apply to each type of assistance; and

(iv) The address and telephone number of offices responsible for responding to appeals and requests for changes in the type or amount of assistance provided.

(r) *Location.* In providing temporary housing assistance, consideration will be given to the location of:

(1) The eligible applicants' home and place of business;

(2) Schools which the eligible applicant or members of the household attend; and

(3) Agricultural activities which provide 25 percent or more of the eligible applicants' annual income.

(s) *Non-Federal administration of temporary housing assistance.* A State may request authority to administer all or part of the temporary housing assistance program in the Governor's request for a declaration or in a subsequent written request to the Regional Administrator from the Governor or his/her authorized representative. The Associate Director shall approve such a request based on the Regional Administrator's recommendation and based on a finding that State administration is both in the interest of the Federal Government and those needing temporary housing assistance. The State must have an approved plan prior to the incident and an approved operational annex within 3 days of the declaration in order to administer the program. When administering the program the State must comply with FEMA program regulations and policies.

(1) *State temporary housing assistance plan.* (i) States which have an interest in administering the Temporary Housing Assistance program shall be required to develop a plan that includes, at a minimum, the items listed below:

(A) Assignment of temporary housing assistance responsibilities to State and/or local officials and agencies;

(B) A description of the program, its functions, goals and objectives of the program, and proposed organization and staffing plan;

(C) Procedures for:

(1) Accepting applications at Disaster Application Centers and subsequently at a State established disaster housing office;

(2) Determining eligibility utilizing FEMA's habitability contract and notifying applicants of the determination;

(3) Preventing duplication of benefits between temporary housing assistance and assistance from other means, as well as a recoupment procedure when duplication occurs;

(4) Providing the various types of assistance (home repairs, existing rental resources, transient accommodations, and mobile homes);

(5) Providing furniture assistance;

(6) Recertifying occupants for continued assistance;

(7) Terminating assistance;

(8) Contracting for services and/or supplies;

(9) Quality control;

(10) Maintaining a management information system;

(11) Financial management;

(12) Public information;

(13) Processing appeals; and

(14) Arranging for a program review.

(i) The Governor or his/her designee may request the Regional Administrator to provide technical assistance in the preparation of an administrative plan.

(iii) The Governor or designee shall submit the plan to the Regional Administrator for approval. Plans shall be revised, as necessary, and shall be reviewed at least annually by the Regional Administrator.

(2) *Operational annex.* Prior to the State administering the program, the state must submit an operational annex which tailors the approved State plan to the particular disaster or emergency. The annex must be reviewed and approved by the Regional Administrator within 3 days of the declaration or the State shall not be permitted to administer the program. The operational annex shall include but not be limited to:

(i) Organization and staffing specific to the major disaster or emergency;

(ii) Pertinent goals and management objectives;

(iii) A proposed budget; and

(iv) A narrative which describes methods for orderly tracking and proc-

essing of applications; assuring timely delivery of assistance; identification of potential problem areas; and any deviations from the approved plan. The Regional Administrator may require additional annexes as necessary for subsequent phases of the operation.

(3) *Evaluation of capability.* State and local government assumption of the temporary housing assistance program for a particular disaster shall be approved by the Assistant Administrator for the Disaster Assistance Directorate based on an evaluation of the capabilities and commitment of the entity by the Regional Administrator. At a minimum, the evaluation shall include a review of the following:

(i) The State temporary housing assistance plan which has been approved by the Regional Administrator prior to the incident, and the specific operational annex which has been approved in accordance with paragraph (s)(2) of this section.

(ii) Past performance in administration of temporary housing assistance or other similar operations;

(iii) Management and staff capabilities; and

(iv) Demonstrated understanding of the tasks to be performed.

(4) *Grant application.* Approval of funding shall be obtained through submission of a project application by the State or local government through the Governor's Authorized Representative. The State shall maintain adequate documentation according to the requirements of 44 CFR part 13, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments, to enable analysis of the program. Final reimbursement to the State, or final debt collection, shall be based on an examination of the voucher filed by the State.

(5) *Authorized costs.* All expenditures associated with administering the program are authorized if in compliance with 44 CFR 13.22, Allowable Costs, and the associated OMB Circular A-87, Cost Principles for State and Local Governments. Examples of program costs allowable under the Temporary Housing Assistance program include home repairs, costs associated with rental payments, reimbursements for temporary

housing including transient accommodations and commercial site rental, mobile home installation and maintenance, mobile home private site development, cost of supplemental assistance, mortgage and rental payments, other necessary costs, when approved by the Assistant Administrator for the Disaster Assistance Directorate. All contracts require the review and approval of the Regional Administrator prior to award, in order to be considered as an authorized expenditure.

(6) *Federal monitoring and oversight.* The Regional Administrator shall monitor State-administered activities since he/she remains responsible for the overall delivery of temporary housing assistance. In addition, policy guidance and interpretations to meet specific needs of a disaster shall be provided through the oversight function.

(7) *Technical assistance.* The Regional Administrator shall provide technical assistance as necessary to support State-administered operations through training, procedural issuances, and by providing experienced personnel to assist the State and local staff.

(8) *Operational resources.* The Regional Administrator shall make available for use in State or locally administered temporary housing programs Federal stand-by contracts, memoranda of understanding with Government and voluntary agencies, and Federal property, such as government-owned mobile homes and travel trailers.

(9) *Program reviews and audits.* The State shall conduct program review of each operation. All operations are subject to Federal audit.

[55 FR 2296, Jan. 23, 1990, as amended at 61 FR 7224, Feb. 27, 1996; 64 FR 46853, Aug. 27, 1999; 67 FR 61460, Sept. 30, 2002; 74 FR 15347, Apr. 3, 2009]

**§§ 206.102–206.109 [Reserved]**

**§ 206.110 Federal assistance to individuals and households.**

(a) *Purpose.* This section implements the policy and procedures set forth in section 408 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5174, as amended by the Disaster Mitigation Act of 2000. This program provides financial assist-

ance and, if necessary, direct assistance to eligible individuals and households who, as a direct result of a major disaster or emergency, have uninsured or under-insured, necessary expenses and serious needs and are unable to meet such expenses or needs through other means.

(b) *Maximum amount of assistance.* No individual or household will receive financial assistance greater than \$25,000 under this subpart with respect to a single major disaster or emergency. FEMA will adjust the \$25,000 limit annually to reflect changes in the Consumer Price Index (CPI) for All Urban Consumers that the Department of Labor publishes.

(c) *Multiple types of assistance.* One or more types of housing assistance may be made available under this section to meet the needs of individuals and households in the particular disaster situation. FEMA shall determine the appropriate types of housing assistance to be provided under this section based on considerations of cost effectiveness, convenience to the individuals and households and the suitability and availability of the types of assistance. An applicant is expected to accept the first offer of housing assistance; unwarranted refusal of assistance may result in the forfeiture of future housing assistance. Temporary housing and repair assistance shall be utilized to the fullest extent practicable before other types of housing assistance.

(d) *Date of eligibility.* Eligibility for Federal assistance under this subpart will begin on the date of the incident that results in a presidential declaration that a major disaster or emergency exists, except that reasonable lodging expenses that are incurred in anticipation of and immediately preceding such event may be eligible for Federal assistance under this chapter.

(e) *Period of assistance.* FEMA may provide assistance under this subpart for a period not to exceed 18 months from the date of declaration. The Assistant Administrator for the Disaster Assistance Directorate may extend this period if he/she determines that due to extraordinary circumstances an extension would be in the public interest.

(f) *Assistance not counted as income.* Assistance under this subpart is not to

be counted as income or a resource in the determination of eligibility for welfare, income assistance or income-tested benefit programs that the Federal Government funds.

(g) *Exemption from garnishment.* All assistance provided under this subpart is exempt from garnishment, seizure, encumbrance, levy, execution, pledge, attachment, release or waiver. Recipients of rights under this provision may not reassign or transfer the rights. These exemptions do not apply to FEMA recovering assistance fraudulently obtained or misapplied.

(h) *Duplication of benefits.* In accordance with the requirements of section 312 of the Stafford Act, 42 U.S.C. 5155, FEMA will not provide assistance under this subpart when any other source has already provided such assistance or when such assistance is available from any other source. In the instance of insured applicants, we will provide assistance under this subpart only when:

- (1) Payment of the applicable benefits are significantly delayed;
- (2) Applicable benefits are exhausted;
- (3) Applicable benefits are insufficient to cover the housing or other needs; or
- (4) Housing is not available on the private market.

(i) *Cost sharing.* (1) Except as provided in paragraph (i)(2) of this section, the Federal share of eligible costs paid under this subpart shall be 100 percent.

(2) Federal and State cost shares for “Other Needs” assistance under subsections 408 (e) and (f) of the Stafford Act will be as follows;

(i) The Federal share shall be 75 percent; and

(ii) The non-federal share shall be paid from funds made available by the State. If the State does not provide the non-Federal share to FEMA before FEMA begins to provide assistance to individuals and households under subsection 408(e) of the Stafford Act, FEMA will still process applications. The State will then be obliged to reimburse FEMA for the non-Federal cost share of such assistance on a monthly basis. If the State does not provide such reimbursement on a monthly basis, then FEMA will issue a Bill for Collection to the State on a monthly

basis for the duration of the program. FEMA will charge interest, penalties, and administrative fees on delinquent Bills for Collection in accordance with the Debt Collection Improvement Act. Cost shared funds, interest, penalties and fees owed to FEMA through delinquent Bills for Collections may be offset from other FEMA disaster assistance programs (*i.e.* Public Assistance) from which the State is receiving, or future grant awards from FEMA or other Federal Agencies. Debt Collection procedures will be followed as outlined in 44 CFR part 11.

(j) *Application of the Privacy Act.* (1) All provisions of the Privacy Act of 1974, 5 U.S.C. 552a, apply to this subpart. FEMA may not disclose an applicant’s record except:

(i) In response to a release signed by the applicant that specifies the purpose for the release, to whom the release is to be made, and that the applicant authorizes the release;

(ii) In accordance with one of the published routine uses in our system of records; or

(iii) As provided in paragraph (j)(2) of this section.

(2) Under section 408(f)(2) of the Stafford Act, 42 U.S.C. 5174(f)(2), FEMA must share applicant information with States in order for the States to make available any additional State and local disaster assistance to individuals and households.

(i) States receiving applicant information under this paragraph must protect such information in the same manner that the Privacy Act requires FEMA to protect it.

(ii) States receiving such applicant information shall not further disclose the information to other entities, and shall not use it for purposes other than providing additional State or local disaster assistance to individuals and households.

(k) *Flood Disaster Protection Act requirement.* (1) The Flood Disaster Protection Act of 1973, Public Law 93-234, as amended (42 U.S.C. 4106), imposes certain restrictions on federal financial assistance for acquisition and construction purposes. For the purpose of this paragraph, *financial assistance for acquisition or construction purposes* means assistance to an individual or

household to buy, receive, build, repair or improve insurable portions of a home and/or to purchase or repair insurable contents. For a discussion of what elements of a home and contents are insurable, *See* 44 CFR part 61, Insurance Coverage and Rates.

(2) Individuals or households that are located in a special flood hazard area may not receive Federal Assistance for National Flood Insurance Program (NFIP)—insurable real and/or personal property, damaged by a flood, unless the community in which the property is located is participating in the NFIP (*See* 44 CFR part 59.1), or the exception in 42 U.S.C. 4105(d) applies. However, if the community in which the damaged property is located qualifies for and enters the NFIP during the six-month period following the declaration, the Governor's Authorized Representative may request a time extension for FEMA (*See* § 206.112) to accept registrations and to process assistance applications in that community.

(3) *Flood insurance purchase requirement:* (i) As a condition of the assistance and in order to receive any Federal assistance for future flood damage to any insurable property, individuals and households named by FEMA as eligible recipients under section 408 of the Stafford Act who receive assistance, due to flood damages, for acquisition or construction purposes under this subpart must buy and maintain flood insurance, as required in 42 U.S.C. 4012a, for at least the assistance amount. This applies only to real and personal property that is in or will be in a designated Special Flood Hazard Area and that can be insured under the National Flood Insurance Program.

(A) If the applicant is a homeowner, flood insurance coverage must be maintained at the address of the flood-damaged property for as long as the address exists. The flood insurance requirement is reassigned to any subsequent owner of the flood-damaged address.

(B) If the applicant is a renter, flood insurance coverage must be maintained on the contents for as long as the renter resides at the flood-damaged rental unit. The restriction is lifted once the renter moves from the rental unit.

(C) When financial assistance is used to purchase a dwelling, flood insurance coverage must be maintained on the dwelling for as long as the dwelling exists and is located in a designated Special Flood Hazard Area. The flood insurance requirement is reassigned to any subsequent owner of the dwelling.

(ii) FEMA may not provide financial assistance for acquisition or construction purposes to individuals or households who fail to buy and maintain flood insurance required under paragraph (k)(3)(i) of this section or required by the Small Business Administration.

(1) *Environmental requirements.* Assistance provided under this subpart must comply with the National Environmental Policy Act (NEPA) and other environmental laws and Executive Orders, consistent with 44 CFR part 10.

(m) *Historic preservation.* Assistance provided under this subpart generally does not have the potential to affect historic properties and thus is exempted from review in accordance with section 106 of the National Historic Preservation Act, with the exception of ground disturbing activities and construction related to §§ 206.117(b)(1)(ii) (Temporary housing), 206.117(b)(3) (Replacement housing), and 206.117(b)(4) (Permanent housing construction).

[67 FR 61452, Sept. 30, 2002; 67 FR 62896, Oct. 9, 2002]

#### § 206.111 Definitions.

*Adequate, alternate housing* means housing that accommodates the needs of the occupants; is within the normal commuting patterns of the area or is within reasonable commuting distance of work, school, or agricultural activities that provide over 50 percent of the household income; and is within the financial ability of the occupant.

*Alternative housing resources* means any housing that is available or can quickly be made available in lieu of permanent housing construction and is cost-effective when compared to permanent construction costs. Some examples are rental resources, mobile homes and travel trailers.

*Applicant* means an individual or household who has applied for assistance under this subpart.

*Assistance from other* means includes monetary or in-kind contributions from voluntary or charitable organizations, insurance, other governmental programs, or from any sources other than those of the applicant.

*Dependent* means someone who is normally claimed as such on the Federal tax return of another, according to the Internal Revenue Code. It may also mean the minor children of a couple not living together, where the children live in the affected residence with the parent or guardian who does not actually claim them on the tax return.

*Displaced applicant* means one whose primary residence is uninhabitable, inaccessible, made unavailable by the landlord (to meet their disaster housing need) or not functional as a direct result of the disaster and has no other housing available in the area, *i.e.*, a secondary home or vacation home.

*Effective date of assistance* means the date that the applicant was determined eligible for assistance.

*Eligible hazard mitigation measures* are home improvements that an applicant can accomplish in order to reduce or prevent future disaster damages to essential components of the home.

*Fair market rent* means housing market-wide estimates of rents that provide opportunities to rent standard quality housing throughout the geographic area in which rental housing units are in competition. The fair market rent rates applied are those identified by the Department of Housing and Urban Development as being adequate for existing rental housing in a particular area.

*Financial ability* means the applicant's capability to pay housing costs. If the household income has not changed subsequent to or as a result of the disaster then the determination is based upon the amount paid for housing before the disaster. If the household income is reduced as a result of the disaster then the applicant will be deemed capable of paying 30 percent of gross post disaster income for housing. When computing financial ability, extreme or unusual financial circumstances may be considered by the Regional Administrator.

*Financial assistance* means cash that may be provided to eligible individuals

and households, usually in the form of a check or electronic funds transfer.

*Functional* means an item or home capable of being used for its intended purpose.

*Household* means all persons (adults and children) who lived in the pre-disaster residence who request assistance under this subpart, as well as any persons, such as infants, spouse, or part-time residents who were not present at the time of the disaster, but who are expected to return during the assistance period.

*Housing costs* means rent and mortgage payments, including principal, interest, real estate taxes, real property insurance, and utility costs.

*Inaccessible* means as a result of the incident, the applicant cannot reasonably be expected to gain entry to his or her pre-disaster residence due to the disruption, or destruction, of access routes or other impediments to access, or restrictions placed on movement by a responsible official due to continued health, safety or security problems.

*In-kind contributions* mean something other than monetary assistance, such as goods, commodities or services.

*Lodging expenses* means expenses for reasonable short-term accommodations that individuals or households incur in the immediate aftermath of a disaster. Lodging expenses may include but are not limited to the cost of brief hotel stays.

*Manufactured housing sites* means those sites used for the placement of government or privately owned mobile homes, travel trailers, and other manufactured housing units, including:

(1) *Commercial site*, a site customarily leased for a fee, which is fully equipped to accommodate a housing unit;

(2) *Private site*, a site that the applicant provides or obtains at no cost to the Federal Government, complete with utilities; and

(3) *Group site*, a site provided by the State or local government that accommodates two or more units and is complete with utilities.

*Necessary expense* means the cost associated with acquiring an item or items, obtaining a service, or paying for any other activity that meets a serious need.

*Occupant* means a resident of a housing unit.

*Owner-occupied* means that the residence is occupied by:

- (1) The legal owner;
- (2) A person who does not hold formal title to the residence and pays no rent, but is responsible for the payment of taxes or maintenance of the residence; or
- (3) A person who has lifetime occupancy rights with formal title vested in another.

*Permanent housing plan* means a realistic plan that, within a reasonable timeframe, puts the disaster victim back into permanent housing that is similar to the victim's pre-disaster housing situation. A reasonable timeframe includes sufficient time for securing funds, locating a permanent dwelling, and moving into the dwelling.

*Primary residence* means the dwelling where the applicant normally lives, during the major portion of the calendar year; or the dwelling that is required because of proximity to employment, including agricultural activities, that provide 50 percent of the household's income.

*Reasonable commuting distance* means a distance that does not place undue hardship on an applicant. It also takes into consideration the traveling time involved due to road conditions, e.g., mountainous regions or bridges out and the normal commuting patterns of the area.

*Safe* means secure from disaster-related hazards or threats to occupants.

*Sanitary* means free of disaster-related health hazards.

*Serious need* means the requirement for an item, or service, that is essential to an applicant's ability to prevent, mitigate, or overcome a disaster-related hardship, injury or adverse condition.

*Significantly delayed* means the process has taken more than 30 days.

*Uninhabitable* means the dwelling is not safe, sanitary or fit to occupy.

*We, our, and us* mean FEMA.

[67 FR 61452, Sept. 30, 2002; 67 FR 62896, Oct. 9, 2002]

#### § 206.112 Registration period.

(a) *Initial period.* The standard FEMA registration period is 60 days following

the date that the President declares an incident a major disaster or an emergency.

(b) *Extension of the registration period.* The regional administrator or his/her designee may extend the registration period when the State requests more time to collect registrations from the affected population. The Regional Administrator or his/her designee may also extend the standard registration period when necessary to establish the same registration deadline for contiguous counties or States.

(c) *Late registrations.* After the standard or extended registration period ends, FEMA will accept late registrations for an additional 60 days. We will process late registrations for those registrants who provide suitable documentation to support and justify the reason for the delay in their registration.

[67 FR 61452, Sept. 30, 2002; 67 FR 62896, Oct. 9, 2002]

#### § 206.113 Eligibility factors.

(a) *Conditions of eligibility.* In general, FEMA may provide assistance to individuals and households who qualify for such assistance under section 408 of the Stafford Act and this subpart. FEMA may only provide assistance:

(1) When the individual or household has incurred a disaster-related necessary expense or serious need in the state in which the disaster has been declared, without regard to their residency in that state;

(2) In a situation where the applicant has insurance, when the individual or household files a claim with their insurance provider for all potentially applicable types of insurance coverage and the claim is denied;

(3) In a situation where the applicant has insurance, when the insured individual or household's insurance proceeds have been significantly delayed through no fault of his, her or their own, and the applicant has agreed to repay the assistance to FEMA or the State from insurance proceeds that he, she or they receive later;

(4) In a situation where the applicant has insurance, when the insured individual or household's insurance proceeds are less than the maximum



amount of assistance FEMA can authorize and the proceeds are insufficient to cover the necessary expenses or serious needs;

(5) In a situation where the applicant has insurance, when housing is not available on the private market;

(6) In a situation where the applicant has insurance, when the insured individual or household has accepted all assistance from other sources for which he, she, or they are eligible, including insurance, when the insured individual or household's insurance proceeds and all other assistance are less than the maximum amount of assistance FEMA can authorize and the proceeds are insufficient to cover the necessary expense or serious needs;

(7) When the applicant agrees to refund to FEMA or the State any portion of the assistance that the applicant receives or is eligible to receive as assistance from another source;

(8) With respect to housing assistance, if the primary residence has been destroyed, is uninhabitable, or is inaccessible; and

(9) With respect to housing assistance, if a renter's primary residence is no longer available as a result of the disaster.

(b) *Conditions of ineligibility.* We may not provide assistance under this subpart:

(1) For housing assistance, to individuals or households who are displaced from other than their pre-disaster primary residence;

(2) For housing assistance, to individuals or households who have adequate rent-free housing accommodations;

(3) For housing assistance, to individuals or households who own a secondary or vacation residence within reasonable commuting distance to the disaster area, or who own available rental property that meets their temporary housing needs;

(4) For housing assistance, to individuals or households who evacuated the residence in response to official warnings solely as a precautionary measure and who are able to return to the residence immediately after the incident;

(5) For housing assistance, for improvements or additions to the pre-disaster condition of property, except those required to comply with local

and State ordinances or eligible mitigation measures;

(6) To individuals or households who have adequate insurance coverage and where there is no indication that insurance proceeds will be significantly delayed, or who have refused assistance from insurance providers;

(7) To individuals or households whose damaged primary residence is located in a designated special flood hazard area, and in a community that is not participating in the National Flood Insurance Program, except that financial assistance may be provided to rent alternate housing and for medical, dental, funeral expenses and uninsurable items to such individuals or households. However, if the community in which the damaged property is located qualifies for and enters the NFIP during the six-month period following the declaration then the individual or household may be eligible;

(8) To individuals or households who did not fulfill the condition to purchase and maintain flood insurance as a requirement of receiving previous Federal disaster assistance;

(9) For business losses, including farm businesses and self-employment; or

(10) For any items not otherwise authorized by this section.

[67 FR 61452, Sept. 30, 2002; 67 FR 62896, Oct. 9, 2002]

**§ 206.114 Criteria for continued assistance.**

(a) FEMA expects all recipients of assistance under this subpart to obtain and occupy permanent housing at the earliest possible time. FEMA may provide continued housing assistance during the period of assistance, but not to exceed the maximum amount of assistance for the program, based on need, and generally only when adequate, alternate housing is not available or when the permanent housing plan has not been fulfilled through no fault of the applicant.

(b) *Additional criteria for continued assistance.* (1) All applicants requesting continued rent assistance must establish a realistic permanent housing plan no later than the first certification for continued assistance. Applicants will be required to provided documentation

showing that they are making efforts to obtain permanent housing.

(2) Applicants requesting continued rent assistance must submit rent receipts to show that they have exhausted the FEMA rent funds, and provide documentation identifying the continuing need.

(3) FEMA generally expects that pre-disaster renters will use their initial rental assistance to obtain permanent housing. However, we may certify them, during the period of assistance, for continued rent assistance when adequate, alternate housing is not available, or when they have not realized a permanent housing plan through no fault of their own.

(4) FEMA may certify pre-disaster owners for continued rent assistance, during the period of assistance, when adequate, alternate housing is not available, or when they have not realized a permanent housing plan through no fault of their own.

(5) Individuals or households requesting additional repair assistance will be required to submit information and/or documentation identifying the continuing need.

(6) Individuals or households requesting additional assistance for personal property, transportation, medical, dental, funeral, moving and storage, or other necessary expenses and serious needs will be required to submit information and/or documentation identifying the continuing need.

[67 FR 61452, Sept. 30, 2002; 67 FR 62896, Oct. 9, 2002]

#### § 206.115 Appeals.

(a) Under the provisions of section 423 of the Stafford Act, applicants for assistance under this subpart may appeal any determination of eligibility for assistance made under this subpart. Applicants must file their appeal within 60 days after the date that we notify the applicant of the award or denial of assistance. Applicants may appeal the following:

- (1) Eligibility for assistance, including recoupment;
- (2) Amount or type of assistance;
- (3) Cancellation of an application;
- (4) The rejection of a late application;

(5) The denial of continued assistance under § 206.114, Criteria for continued assistance;

(6) FEMA's intent to collect rent from occupants of a housing unit that FEMA provides;

(7) Termination of direct housing assistance;

(8) Denial of a request to purchase a FEMA-provided housing unit at the termination of eligibility;

(9) The sales price of a FEMA-provided housing unit they want to purchase; or

(10) Any other eligibility-related decision.

(b) Appeals must be in writing and explain the reason(s) for the appeal. The applicant or person who the applicant authorizes to act on his or her behalf must sign the appeal. If someone other than the applicant files the appeal, then the applicant must also submit a signed statement giving that person authority to represent him, her or them.

(c) Applicants must appeal to the Regional Administrator or his/her designee for decisions made under this subpart, unless FEMA has made a grant to the State to provide assistance to individuals and households under § 206.120(a), State administration of other needs assistance; then the applicant must appeal to the State.

(d) An applicant may ask for a copy of information in his or her file by writing to FEMA or the State as appropriate. If someone other than the applicant is submitting the request, then the applicant must also submit a signed statement giving that person authority to represent him or her.

(e) The appropriate FEMA or State program official will notify the applicant in writing of the receipt of the appeal.

(f) The Regional Administrator or his/her designee or appropriate State official will review the original decision after receiving the appeal. FEMA or the State, as appropriate, will give the appellant a written notice of the disposition of the appeal within 90 days of the receiving the appeal. The decision of the appellate authority is final.

[67 FR 61452, Sept. 30, 2002; 67 FR 62896, Oct. 9, 2002]

## § 206.116

## 44 CFR Ch. I (10–1–11 Edition)

### § 206.116 Recovery of funds.

(a) The applicant must agree to repay to FEMA (when funds are provided by FEMA) and/or the State (when funds are provided by the State) from insurance proceeds or recoveries from any other source an amount equivalent to the value of the assistance provided. In no event must the amount repaid to FEMA and/or the State exceed the amount that the applicant recovers from insurance or any other source.

(b) An applicant must return funds to FEMA and/or the State (when funds are provided by the State) when FEMA and/or the State determines that the assistance was provided erroneously, that the applicant spent the funds inappropriately, or that the applicant obtained the assistance through fraudulent means.

[67 FR 61452, Sept. 30, 2002; 67 FR 62896, Oct. 9, 2002]

### § 206.117 Housing assistance.

(a) *Purpose.* FEMA may provide financial or direct assistance under this section to respond to the disaster-related housing needs of individuals and households.

(b) *Types of housing assistance—(1) Temporary housing assistance—(i) Financial assistance.* Eligible individuals and households may receive financial assistance to rent alternate housing resources, existing rental units, manufactured housing, recreational vehicles, or other readily fabricated dwellings. FEMA may also provide assistance for the reasonable cost of any transportation, utility hookups, or installation of a manufactured housing unit or recreational vehicle to be used for housing. This includes reimbursement for reasonable short-term lodging expenses that individuals or households incur in the immediate aftermath of a disaster.

(A) FEMA will include all members of a pre-disaster household in a single registration and will provide assistance for one temporary housing residence, unless the Regional Administrator or his/her designee determines that the size or nature of the household requires that we provide assistance for more than one residence.

(B) FEMA will base the rental assistance on the Department of Housing and

Urban Development's current fair market rates for existing rental units. FEMA will further base the applicable rate on the household's bedroom requirement and the location of the rental unit.

(C) All utility costs and utility security deposits are the responsibility of the occupant except where the utility does not meter utility services separately and utility services are a part of the rental charge.

(D) The occupant is responsible for all housing security deposits. In extraordinary circumstances, the Regional Administrator or his/her designee may authorize the payment of security deposits; however, the owner or occupant must reimburse the full amount of the security deposit to the Federal Government before or at the time that the temporary housing assistance ends.

(ii) *Direct assistance.* (A) FEMA may provide direct assistance in the form of purchased or leased temporary housing units directly to individuals or households who lack available housing resources and would be unable to make use of the assistance provided under paragraph (b)(1)(i) of this section.

(B) FEMA will include all members of a pre-disaster household in a single application and will provide assistance for one temporary housing residence, unless the Regional Administrator or his/her designee determines that the size or nature of the household requires that we provide assistance for more than one residence.

(C) Any site upon which a FEMA-provided housing unit is placed must comply with applicable State and local codes and ordinances, as well as 44 CFR part 9, Floodplain Management and Protection of Wetlands, and 44 CFR part 10, Environmental Considerations, and all other applicable environmental laws and Executive Orders.

(D) All utility costs and utility security deposits are the responsibility of the occupant except where the utility does not meter utility services separately and utility services are a part of the rental charge.

(E) FEMA-provided or funded housing units may be placed in the following locations:

(1) A commercial site that is complete with utilities; when the Regional Administrator or his/her designee determines that the upgrading of commercial sites, or installation of utilities on such sites, will provide more cost-effective, timely and suitable temporary housing than other types of resources, then Federal assistance may be authorized for such actions.

(2) A private site that an applicant provides, complete with utilities; when the Regional Administrator or his/her designee determines that the cost of installation or repairs of essential utilities on private sites will provide more cost effective, timely, and suitable temporary housing than other types of resources, then Federal assistance may be authorized for such actions.

(3) A group site that the State or local government provides that accommodates two or more units and is complete with utilities; when the Regional Administrator or his/her designee determines that the cost of developing a group site provided by the State or local government, to include installation or repairs of essential utilities on the sites, will provide more cost effective, timely, and suitable temporary housing than other types of resources, then Federal assistance may be authorized for such actions.

(4) A group site provided by FEMA, if the Regional Administrator or his/her designee determines that such a site would be more economical or accessible than one that the State or local government provides.

(F) After the end of the 18-month period of assistance, FEMA may begin to charge up to the fair market rent rate for each temporary housing unit provided. We will base the rent charged on the number of bedrooms occupied and needed by the household. When establishing the amount of rent, FEMA will take into account the financial ability of the household.

(G) We may terminate direct assistance for reasons that include, but are not limited to, the following:

(1) The period of assistance expired under §206.110(e) and has not been extended;

(2) Adequate alternate housing is available to the occupant(s);

(3) The occupant(s) obtained housing assistance through either misrepresentation or fraud;

(4) The occupant(s) failed to comply with any term of the lease/rental agreement or other rules of the site where the unit is located.

(5) The occupant(s) does not provide evidence documenting that they are working towards a permanent housing plan.

(H) FEMA will provide a 15 day written notice when initiating the termination of direct assistance that we provide under our lease agreements. This notice will specify the reasons for termination of assistance and occupancy, the date of termination, the procedure for appealing the determination, and the occupant's liability for such additional charges as the Regional Administrator or his/her designee deems appropriate after the termination date, including fair market rent for the unit.

(I) Duplication of benefits may occur when an applicant has additional living expense insurance benefits to cover the cost of renting alternate housing. In these instances, FEMA may provide a temporary housing unit if adequate alternate housing is not available, or if doing so is in the best interest of the household and the government. We will establish fair market rent, not to exceed insurance benefits available.

(2) *Repairs.* (i) FEMA may provide financial assistance for the repairs of uninsured disaster-related damages to an owner's primary residence. The funds are to help return owner-occupied primary residences to a safe and sanitary living or functioning condition. Repairs may include utilities and residential infrastructure (such as private access routes, privately owned bridge, wells and/or septic systems) damaged by a major disaster.

(ii) The type of repair FEMA authorizes may vary depending upon the nature of the disaster. We may authorize repair of items where feasible or replacement when necessary to insure the safety or health of the occupant and to make the residence functional.

(iii) FEMA may also provide assistance for eligible hazard mitigation measures that reduce the likelihood of future damage to damaged residences, utilities or infrastructure.

(iv) Eligible individuals or households may receive up to \$5,000 under this paragraph, adjusted annually to reflect changes in the CPI, to repair damages to their primary residence without first having to show that the assistance can be met through other means, except insurance proceeds.

(v) The individual or household is responsible for obtaining all local permits or inspections that applicable State or local building codes may require.

(3) *Replacement.* FEMA may provide financial assistance under this paragraph to replace the primary residence of an owner-occupied dwelling if the dwelling was damaged by the disaster and there was at least \$10,000 of damage (as adjusted annually to reflect changes in the CPI). The applicant may either replace the dwelling in its entirety for \$10,000 (as adjusted annually to reflect changes in the CPI) or less, or may use the assistance toward the cost of acquiring a new permanent residence that is greater in cost than \$10,000 (as adjusted annually to reflect changes in the CPI). All replacement assistance awards must be individually approved by the Assistant Administrator for the Disaster Assistance Directorate. The Assistant Administrator for the Disaster Assistance Directorate may approve replacement assistance for applicants whose damages are less than \$10,000 in extraordinary circumstances where replacement assistance is more appropriate than other forms of housing assistance.

(4) *Permanent housing construction.* FEMA may provide financial or direct assistance to applicants for the purpose of constructing permanent housing in insular areas outside the continental United States and in other remote locations when alternative housing resources are not available and the types of financial or direct temporary housing assistance described at paragraph (b)(1) of this section are unavailable, infeasible, or not cost-effective.

(c) *Eligible costs.* (1) Repairs to the primary residence or replacement of items must be disaster-related and must be of average quality, size, and capacity, taking into consideration the needs of the occupant. Repairs to the primary residence are limited to res-

toration of the dwelling to a safe and sanitary living or functioning condition and may include:

(i) Repair or replacement of the structural components, including foundation, exterior walls, and roof;

(ii) Repair or replacement of the structure's windows and doors;

(iii) Repair or replacement of the structure's Heating, Ventilation and Air Conditioning System;

(iv) Repair or replacement of the structure's utilities, including electrical, plumbing, gas, water and sewage systems;

(v) Repair or replacement of the structure's interior, including floors, walls, ceilings, doors and cabinetry;

(vi) Repair to the structure's access and egress, including privately owned access road and privately owned bridge;

(vii) Blocking, leveling, and anchoring of a mobile home, and reconnecting or resetting mobile home sewer, water, electrical and fuel lines and tanks; and

(viii) Items or services determined to be eligible hazard mitigation measures.

(2) Replacement assistance, will be based on the verified disaster-related level of damage to the dwelling, or the statutory maximum, whichever is less.

(3) Permanent housing construction, in general, must be consistent with current minimal local building codes and standards where they exist, or minimal acceptable construction industry standards in the area, including reasonable hazard mitigation measures, and federal environmental laws and regulations. Dwellings will be of average quality, size and capacity, taking into consideration the needs of the occupant.

[67 FR 61452, Sept. 30, 2002; 67 FR 62896, Oct. 9, 2002]

#### § 206.118 Disposal of housing units.

(a) FEMA may sell housing units purchased under § 206.117(b)(1)(ii), Temporary housing, direct assistance, as follows:

(1) Sale to an applicant.

(i) Sale to the individual or household occupying the unit, if the occupant lacks permanent housing, has a site that complies with local codes and ordinances and part 9 of this Title.

(ii) Adjustment to the sales price. FEMA may approve adjustments to the

sales price when selling a housing unit to the occupant of a unit if the purchaser is unable to pay the fair market value of the home or unit and when doing so is in the best interest of the applicant and FEMA.

(iii) FEMA may sell a housing unit to the occupant only on the condition that the purchaser agrees to obtain and maintain hazard insurance, as well as flood insurance on the unit if it is or will be in a designated Special Flood Hazard Area.

(2) Other methods of disposal:

(i) FEMA may sell, transfer, donate, or otherwise make a unit available directly to a State or other governmental entity, or to a voluntary organization, for the sole purpose of providing temporary housing to disaster victims in major disasters and emergencies. As a condition of the sale, transfer, or donation, or other method of provision, the State, governmental entity, or voluntary organization must agree to:

(A) Comply with the nondiscrimination provisions of the Stafford Act, 42 U.S.C. 5151; and

(B) Obtain and maintain hazard insurance on the unit, as well as flood insurance if the housing unit is or will be in a designated Special Flood Hazard Area.

(ii) FEMA may also sell housing units at a fair market value to any other person.

(b) A unit will be sold “as is, where is”, except for repairs FEMA deems necessary to protect health or safety, which are to be completed before the sale. There will be no implied warranties. In addition, FEMA will inform the purchaser that he/she may have to bring the unit up to codes and standards that are applicable at the proposed site.

[67 FR 61452, Sept. 30, 2002; 67 FR 62896, Oct. 9, 2002]

**§ 206.119 Financial assistance to address other needs.**

(a) *Purpose.* FEMA and the State may provide financial assistance to individuals and households who have other disaster-related necessary expenses or serious needs. To qualify for assistance under this section, an applicant must also:

(1) Apply to the United States Small Business Administration’s (SBA) Disaster Home Loan Program for all available assistance under that program; and

(2) Be declined for SBA Disaster Home Loan Program assistance; or

(3) Demonstrate that the SBA assistance received does not satisfy their total necessary expenses or serious needs arising out of the major disaster.

(b) *Types of assistance.* (1) Medical, dental, and funeral expenses. FEMA may provide financial assistance for medical, dental and funeral items or services to meet the disaster-related necessary expenses and serious needs of individuals and households.

(2) Personal property, transportation, and other expenses.

(i) FEMA may provide financial assistance for personal property and transportation items or services to meet the disaster-related necessary expenses and serious needs of individuals and households.

(ii) FEMA may provide financial assistance for other items or services that are not included in the specified categories for other assistance but which FEMA approves, in coordination with the State, as eligible to meet unique disaster-related necessary expenses and serious needs of individuals and households.

(c) *Eligible costs*—(1) *Personal property.* Necessary expenses and serious needs for repair or replacement of personal property are generally limited to the following:

(i) Clothing;

(ii) Household items, furnishings or appliances;

(iii) Tools, specialized or protective clothing, and equipment required by an employer as a condition of employment;

(iv) Computers, uniforms, schoolbooks and supplies required for educational purposes; and

(v) Cleaning or sanitizing any eligible personal property item.

(2) *Transportation.* Necessary expenses or serious needs for transportation are generally limited to the following:

(i) Repairing or replacing vehicles; and

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(ii) Financial assistance for public transportation and any other transportation related costs or services.

(3) *Medical expenses.* Medical expenses are generally limited to the following:

- (i) Medical costs;
- (ii) Dental costs; and
- (iii) Repair or replacement of medical equipment.

(4) *Funeral expenses.* Funeral expenses are generally limited to the following

- (i) Funeral services;
- (ii) Burial or cremation; and
- (iii) Other related funeral expenses.

(5) *Moving and storage expenses.* Necessary expenses and serious needs related to moving and storing personal property to avoid additional disaster damage generally include storage of personal property while disaster-related repairs are being made to the primary residence, and return of the personal property to the individual or household’s primary residence.

(6) *Other.* Other disaster-related expenses not addressed in this section may include:

(i) The purchase of a Group Flood Insurance Policy as described in paragraph (d) of this section.

(ii) Other miscellaneous items or services that FEMA, in consultation with the State, determines are necessary expenses and serious needs.

(d) *Group Flood Insurance purchase.* Individuals identified by FEMA as eligible for “Other Needs” assistance under section 408 of the Stafford Act as a result of flood damage caused by a Presidentially-declared major disaster and who reside in a special flood hazard area (SFHA) may be included in a Group Flood Insurance Policy (GFIP) established under the National Flood Insurance Program (NFIP) regulations at 44 CFR 61.17.

(1) The premium for the GFIP is a necessary expense within the meaning of this section. FEMA or the State shall withhold this portion of the Other Needs award and provide it to the NFIP on behalf of individuals and households who are eligible for coverage. The coverage shall be equivalent to the maximum assistance amount established under section 408 of the Stafford Act.

(2) FEMA or the State IHP staff shall provide the NFIP with records of individuals who received an “Other Needs”

award and are to be insured through the GFIP. Records of “Other Needs” applicants to be insured shall be accompanied by payments to cover the premium amounts for each applicant for the 3-year policy term. The NFIP will then issue a Certificate of Flood Insurance to each applicant. Flood insurance coverage becomes effective on the 30th day following the receipt of records of GFIP insureds and their premium payments from the State or FEMA, and such coverage terminates 36 months from the inception date of the GFIP, which is 60 days from the date of the disaster declaration.

(3) Insured applicants would not be covered if they are determined to be ineligible for coverage based on a number of exclusions established by the NFIP. Therefore, once applicants/policyholders receive the Certificate of Flood Insurance that contains a list of the policy exclusions, they should review that list to see if they are ineligible for coverage. Those applicants who fail to do this may find that their property is, in fact, not covered by the insurance policy when the next flooding incident occurs and they file for losses. Once the applicants find that their damaged buildings, contents, or both, are ineligible for coverage, they should notify the NFIP in writing in order to have their names removed from the GFIP, and to have the flood insurance maintenance requirement expunged from the data-tracking system.

[67 FR 61452, Sept. 30, 2002; 67 FR 62896, Oct. 9, 2002]

**§ 206.120 State administration of other needs assistance.**

(a) *State administration of other needs assistance.* A State may request a grant from FEMA to provide financial assistance to individuals and households in the State under §206.119. The State may also expend administrative costs not to exceed 5 percent of the amount of the grant in accordance with section 408(f)(1)(b) of the Stafford Act. Any State that administers the program to provide financial assistance to individuals and households must administer the program consistent with §206.119 and the State Administrative Option and the State Administrative Plan

that we describe at paragraph (b) and (c) of this section.

(b) *State administrative options.* The delivery of assistance under §206.119 is contingent upon the State choosing an administrator for the assistance. The State may either request that FEMA administer the assistance or the State may request a grant from FEMA for State administration. The Governor or designee will execute the State Administrative Option annually. During non-disaster periods the State may submit any proposed amendments to the administrative option in writing to the FEMA Regional Administrator. FEMA shall review the request and respond to the Governor or his/her designee within 45 days of receipt of the proposed amendment;

(c) *State Administrative Plan (SAP).* The delivery of assistance by a State under this section is contingent upon approval of a SAP, which describes the procedures the State will use to deliver assistance under section 408 of the Stafford Act, 42 U.S.C. 5174, when a State requests a grant to administer Other Needs assistance. All implementation procedures must be in compliance with Federal laws and requirements, State laws and procedures, and paragraphs (c) and (d) of this section.

(1) *Timeframe for submission of SAP.* A signed SAP, or renewal, must be provided to the FEMA Regional Administrator prior to November 30 of each year. A SAP shall be effective for at least one year, and must be resubmitted in full every three years.

(2) *Renewals.* Annual updates/revisions to the SAP must be submitted by November 30 of each year for FEMA's review and approval by December 31. If the SAP does not need to be updated/revised, a letter from the State stating the SAP is still current must be submitted by November 30 to document the SAP submission requirement.

(3) *Amendments.* The State may request amendments to the SAP at any time. An amendment is effective upon signature by the FEMA Regional Administrator and the Governor or his/her designee. The State may request an amendment to the administrative plan as follows:

(i) *During non-disaster periods.* The State may submit any proposed amend-

ments to the SAP in writing to the FEMA Regional Administrator. FEMA shall review the request and respond to the Governor or his/her designee within 45 days of receipt of the proposed amendment;

(ii) *During Presidentially-declared disasters.* The State shall submit any proposed amendments to the SAP in writing to FEMA within three days after disaster declaration. FEMA shall review the request and respond to the Governor or his/her designee within three days of receipt.

(d) *State administrative plan requirements.* The State shall develop a plan for the administration of the Other Needs assistance that describes, at a minimum, the following items:

(1) Assignment of grant program responsibilities to State officials or agencies.

(2) Staffing Schedule that identifies the position, salary and percent of time for each staff person assigned to program administration and/or implementation.

(3) Procedures for interaction with applicants:

(i) Procedures for notifying potential applicants of the availability of the program, to include the publication of application deadlines, pertinent program descriptions, and further program information on the requirements which must be met by the applicant in order to receive assistance;

(ii) Procedures for registration and acceptance of applications, including late applications, up to the prescribed time limitations as described in §206.112;

(iii) Procedures for damage inspection and/or other verifications.

(iv) Eligibility determinations.

(A) *Under a cooperative agreement:* The procedure for eligibility determinations when the FEMA application and inspection systems are used by the State but additional eligibility criteria are necessary to make State eligibility determinations.

(B) *Under a grant:* The procedure for eligibility determinations when the FEMA application and inspection systems are not used by the State, including the method for determination of costs for personal property and provision of a standard list for personal



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property items with allowable costs identified for each item.

(v) Procedures for checking compliance for mandated flood insurance in accordance with § 206.110(k);

(vi) Procedures for notifying applicants of the State's eligibility decision;

(vii) Procedures for disbursement of funds to applicants;

(viii) Procedures for applicant appeal processing. Procedures must provide for any appealable determination as identified in § 206.115(a);

(ix) Procedures for expeditious reporting of allegations of fraud, waste or abuse to DHS Office of Inspector General.

(x) Capacity to investigate allegations of waste, fraud and abuse independently if requested by DHS OIG, or in conjunction with DHS OIG.

(xi) Provisions for safeguarding the privacy of applicants and the confidentiality of information, in accordance with § 206.110(j).

(xii) Provisions for complying with § 206.116(b), Recovery of funds.

(4) Procedures for financial management, accountability and oversight.

(i) Procedures for verifying by random sample that assistance funds are meeting applicants' needs, are not duplicating assistance from other means, and are meeting flood insurance requirements.

(ii) Provisions for specifically identifying, in the accounts of the State, all Federal and State funds committed to each grant program; and for immediately returning, upon discovery, all Federal funds that are excess to program needs.

(iii) Provisions for accounting for cash in compliance with State law and procedure and the Cash Management Improvement Act of 1990, as amended.

(iv) Reports.

(A) Procedures for preparing and submitting quarterly and final Financial Status Reports in compliance with 44 CFR 13.41.

(B) Procedures for submitting Program Status Reports in compliance with paragraph (f)(2)(iii) of this section.

(C) Procedures for preparing and submitting the PSC 272, Federal Cash Transactions Report.

(v) Procedures for inventory control, including a system for identifying and tracking placement of equipment purchased with grant funds or loaned by FEMA to the State for purposes of administering the Individuals and Households Program.

(vi) Procedures for return of funds to FEMA.

(vii) State criteria and requirements for closing out Federal grants.

(viii) Process for retention of records.

(e) *Application for assistance procedure.* This section describes the procedures that must be followed by the State to submit an application to administer the Individuals and Households Program through a Grant Award or a Cooperative Agreement.

(1) The State must submit an Other Needs assistance application to the Regional Administrator within 72 hours of the major disaster declaration before IHP assistance may be provided. FEMA will work with the State to approve the application or to modify it so it can be approved.

(2) The application shall include:

(i) Standard Form (SF) 424, Application for Federal Assistance;

(ii) FEMA Form (FF) 20–20 Budget Information—Non Construction Programs;

(iii) Copy of approved indirect cost rate from a Federal cognizant agency if indirect costs will be charged to the grant. Indirect costs will be included in the administrative costs of the grant allowed under paragraph (a) of this section; and

(iv) Disaster specific changes to the State Administrative Plan, if applicable.

(f) *Grants management oversight*—(1) *Period of assistance.* All costs must be incurred within the period of assistance, which is 18 months from the date of the disaster declaration. This period of assistance may be extended if requested in writing by the State and approved in writing by the Assistant Administrator for the Disaster Assistance Directorate. The State must include a justification for an extension of the assistance period.

(2) *Reporting requirements.* (i) The State shall provide financial status reports, as required by 44 CFR 13.41.

(ii) The State shall provide copies of PSC 272, Federal Cash Transactions Report to FEMA. The PSC 272 is required quarterly by the Department of Health and Human Services from users of its SMARTLINK service.

(iii) The State shall provide weekly program status reports which include the number and dollar amount of applications approved, the amount of assistance disbursed and the number of appeals received.

(3) *Ineligible costs.* Funds provided to the State for the administrative costs of administering Other Needs assistance shall not be used to pay regular time for State employees, but may be used to pay overtime for those employees.

(4) *Closeout.* The State has primary responsibility to closeout the tasks approved under the Grant Award. In compliance with the period of assistance, as identified in the award, the State must reconcile costs and payments, resolve negative audit findings, and submit final reports within 90 days of the end of the period of assistance. The State must also provide an inventory of equipment purchased with grant funds and loaned to it by FEMA for purposes of administering IHP, which lists the items, dates, and costs of equipment purchased.

(5) *Recovery of funds.* The State is responsible for recovering assistance awards from applicants obtained fraudulently, expended for unauthorized items or services, expended for items for which assistance is received from other means, and awards made in error.

(i) Adjustments to expenditures will be made as funding is recovered and will be reported quarterly on the Financial Status Report.

(ii) A list of applicants from whom recoveries are processed will be submitted on the quarterly progress report to allow FEMA to adjust its program and financial information systems.

(iii) The State will reimburse FEMA for the Federal share of awards not recovered through quarterly financial adjustments within the 90 day close out liquidation period of the grant award.

(iv) If the State does not reimburse FEMA within the 90 day close out liquidation period, a bill for collection will be issued. FEMA will charge inter-

est, penalties, and administrative fees on delinquent bills for collection in accordance with the Debt Collection Improvement Act. Recovered funds, interest, penalties, and fees owed to FEMA through delinquent bills for collection may be offset from other FEMA disaster assistance programs from which the State is receiving funds or future grant awards from FEMA or other Federal agencies. Debt collection procedures will be followed as outlined in 44 CFR part 11.

(6) *Audit requirements.* Pursuant to 44 CFR 13.26, uniform audit requirements apply to all grants provided under this subpart.

(7) *Document retention.* Pursuant to 44 CFR 13.42, States are required to retain records, including source documentation, to support expenditures/costs incurred against the grant award, for 3 years from the date of submission to FEMA of the final Financial Status Report. The State is responsible for resolving questioned costs that may result from an audit conducted during the three-year record retention period and for returning disallowed costs from ineligible activities.

[67 FR 61452, Sept. 30, 2002; 67 FR 62896, 62897, Oct. 9, 2002]

§§ 206.121–206.130 [Reserved]

### Subpart E—Individual and Family Grant Programs

#### § 206.131 Individual and Family Grant Program for major disasters declared on or before October 14, 2002.

(a) *General.* The Governor may request that a Federal grant be made to a State for the purpose of such State making grants to individuals or families who, as a result of a major disaster, are unable to meet disaster-related necessary expenses or serious needs for Presidentially-declared major disasters declared on or before October 14, 2002 (Note that the reference to section 411 of the Stafford Act refers to prior legislation amended by the Disaster Mitigation Act 2000). The total Federal grant under this section will be equal to 75 percent of the actual cost of meeting necessary expenses or serious needs of individuals and families, plus